

**CIVIL CODE
OF THE REPUBLIC OF ALBANIA**

**LAW
Nr. 7850, date 29.07.1994**

ON THE CIVIL CODE OF THE REPUBLIC OF ALBANIA

On the Basis of Article 16, Law No. 7491, date 29.04.1991 "On the main constitutional provisions", upon the proposal of the Council of Ministers,

**THE PEOPLE'S ASSEMBLY OF
THE REPUBLIC OF ALBANIA**

D E C I D E D:

**PART I
GENERAL PART**

**TITLE I
SUBJECTS OF CIVIL LAW**

**CHAPTER I
PHYSICAL PERSONS**

A. Legal Capacity

Article 1

Every physical/natural person shall enjoy full and equal capacity to have civil rights and duties, within the limits defined by law.

Article 2

Legal capacity begins at the birth of the alive person and ends upon death. A child when born alive shall enjoy legal capacity from the time of conception.

Article 3

Foreigners shall enjoy the same rights and duties as those recognized to the Albanian citizens, besides exceptions provided by law.

Article 4

Civil rights of a natural person cannot be limited, except as provided by law.
Any legal action putting limits to the legal capacity of a natural person is invalid.

B. The right to a name

Article 5

Every natural person shall have the right and duty to bear a/his name and a/his family name, which are given in accordance with the law. The person, whom their use is denied or adversely affected by the illegitimate use made of his name by others, may demand in a court the use of his name or surname, the end of the adverse affection as well as the compensation of the respective damage.

The same demand may be submitted also from persons, who although not bearing the name or surname which is adversely affected or illegitimately used, have familiar interests deserving/worthy of protection.

When accepting an action, the Court shall order the publication of the decision in the Official Gazette. Upon request of the plaintiff, the court may order the publication of its decision in other newspapers as well. Assumed names used by natural persons shall enjoy the same protection.

C. The legal competence

Article 6

Upon reaching the age of eighteen years, a person shall acquire the full capacity to win rights and undertake civil duties consequently to his own actions.

The wife who has not reached the age of eighteen years shall win the full legal competence through marriage. She shall not lose this competence even when the marriage is declared invalid or is solved before reaching the eighteen years of age.

Article 7

A minor, who has reached the fourteen years of age, may perform legal actions only upon previous/advance consent of his [her] legal representative. However, he may be member of social organizations, dispose what he earns from his work, deposit his savings and dispose/control these deposits himself.

Article 8

The minor, who has not reached age the fourteen years of age, shall have no legal competence. He may perform legal transactions that are suitable to his age and are fulfilled at instance, as well as legal transactions that bring benefits without any compensation. Otherwise, legal transactions are performed on his [minor's] behalf by his legal representative.

Article 9

The minor of fourteen to eighteen years, who is unable to look after his own affairs because of physical illness or mental underdevelopment, may be taken away his legal competence to perform legal transactions upon a court decision. These transactions may be performed only by his legal representative.

Article 10

The adult who by reason of physical illness or mental underdevelopment is completely or partially unable to look after his affairs, may be taken away or limited the legal competence by a decision of court.

Article 11

The legal transaction limiting the legal competence shall not be valid.

Ç. Residence and Reside-place/location

Article 12

Residence is the place where a person because of his work or permanent service, his property location or fulfillment of his interests, stays usually or for most of the time.

Every adult shall have the right to decide freely his residence.

A person may not have more than one residence at the same time.

This provision does not apply to the residence of the activity of a businessman.

Article 13

The minor of less than fourteen years of age, shall have the same residence of his parents.

When the parents have different residences, their child of less than fourteen years of age will have the residence of the living parent.

A person whom the legal competence is taken away, as well as children under custody, have the residence of their legal representative.

Article 14

The residing place is the place where the person stays to perform a job or specific tasks, to attend a school or specific course, to obtain medical care, to suffer a criminal sentence, and other cases of this nature.

D. Declaration of missing and of death of a person.

Article 15

A person missing from his residence or last residing-place on whom there are no news for more than two years, upon request of each concerned person may be declared missing by decision of the court.

When the date of the last news cannot be established, the above-mentioned term starts to run the first day of the month following the day the last news were learned. When the month cannot be established, term starts to run on January 1 of the following year.

Article 16

Upon declaration of missing of a person, a custody person is assigned to manage the wealth.

The decision of the court declaring a person missing, shall be published in the Official Gazette and is sent for registration to the respective registry office.

Article 17

A person declared missing, upon the request of each concerned person may be declared deceased by a court decision if for four years there have been no news from the date the person is declared missing.

Article 18

The person lost during military actions, with such missing certified by the competent military authorities, when there is no notice for two years from the peace establishing agreement has entered into force or three years from the end of military actions, may be declared deceased by decision of the court without being first declared missing.

Article 19

The person missing during a natural disaster or in circumstances which appear to show he is deceased, may be declared deceased by decision of the court, when there have been no notices from him for two years after the disaster has occurred, without necessarily being previously declared missing.

When the date of disaster is not established, the two-year term starts to run on the day 1 of the month following the month the disaster occurred and, when neither the month can be established, the term starts to run on the day 1 of January of the following year.

Article 20

When two or more persons are deceased and there is no evidence of whom died first, for legal purposes, they are considered to have died at the same time.

Article 21

When the death of a missing person is declared, the day of death shall be established also. When this date cannot be exactly certified, the court assigns it according to the rules provided in the provisions of this code.

Upon the demand of any person concerned, the court which has issued the decision may change the date of death, when is certified thereby that the person died in another date.

Article 22

Death declared by a court decision is equal in all legal consequences with the real death.

The decision of the court declaring a person deceased shall be published in the Official Gazette and is sent for registration to the respective registry office.

Article 23

When the person declared dead results alive, upon his request or of any other concerned person, the decision is annulled by the court who issued it.

When the person declared dead results alive, he is entitled to reclaim his property (wealth, belongings) and the property derived by the former, even from third persons who acquired such property from persons who took this property by reason of his declared death, in the limits and conditions provided by this Code and the Family Code.

CHAPTER II LEGAL PERSONS

A. General Provisions

Substance of legal personality/legal person

Article 24

Legal persons are public and private.

Article 25

Public legal persons are the state institutions and enterprises, which are self-financed or financed by the state budget, as well as other public entities recognized by the law as legal persons.

State agencies and entities, which do not follow economic purposes, are not registered.

Article 26

Private legal persons shall be the companies, associations, organizations, foundations, and other entities of private character, which acquire legal personality in the way provided by law.

Name of the legal person

Article 27

The legal person shall have a complete and an abbreviated name. The name of every company or other organization which pursues an economic activity shall be its signature, which shall express especially the purpose of this activity.

The headquarter of a legal person

Article 28

A legal person shall have the headquarter where its directing authority is located, except when by way of the statute or by the establishment act is provided otherwise.

The capacity of the legal person

Article 29

The legal person shall be entitled to earn rights and undertake civil obligations from the moment of its establishment and, when the law requires its registration, from the moment of registration.

Article 30

The legal person may conduct any legal action allowed by law on the establishment act or on the statute.

Article 31

The legal person shall act through his organs contemplated by law, establishment act or statute, which express its will.

The legal transactions performed by the organs of the legal person, within their competencies, shall be considered performed by the legal person itself.

Liability of the legal person

Article 32

The legal person shall be liable for damages caused by its organs while exercising their duties.

The legal person shall be liable for its obligations, within the limits of its property. Persons who acted in the quality of the organ of a legal person shall be personally liable to compensate any damages caused by their fault.

Article 33

The state and state legal persons shall not be liable for each-other's obligations, except when they accepted such liability or when this is expressly provided by law.

Termination of a legal person

Article 34

The legal person shall terminate in the way provided by in the respective establishment act, in the statute or on the law.

Article 35

Upon termination, the legal person shall cease its activity and shall undergo liquidation.

Article 36

The transfer of the rights and obligations in case of termination of the legal person, for which person the registration is required, shall create consequences from the moment of registration.

When a registration is not required, the assignment of the rights and obligations in cases provided in the paragraph above, shall bring about its consequences from the time of approval of the respective balance-sheet, in the manner contemplated by law, by the respective organ which has established it, or by statute.

Liquidation of a legal person

Article 37

The liquidation of a terminated legal person is executed through fulfillment of rights and the payment of obligations by the liquidators appointed by the same organ which decided for the termination.

The commission shall liquidate in conformity with the respective legal provisions, statute or the establishment act.

Article 38

When the legal person terminates because it has engaged in illegal activity, the property remaining after liquidation shall pass to the state.

The liquidation of a bankrupt legal person shall be regulated by law.

B. Associations

Establishment of Associations

Article 39

The Association is a juridical person that is created upon the free will of five or more physical persons or not less than two juridical persons following a special objective, legal, and to the good and benefit of the public or its members.

Article 39/1

An association has the right to own movable and immovable assets, to generate income through the management of these assets and to exercise other activities, in accordance with law and with the purpose and object of the activity of the association provided in its charter.

The income generated by the association shall be used only to accomplish activities provided in the purpose and object of the activity provided in its charter. It is not permitted for an association to perform profit-making activities

Article 40

The act for the creation of an association is registered in court on the application of its founders. The rules for the organization and functioning of an association are set out in its charter, which shall be drawn up in writing and shall in particular contain:

- a) the name and the purpose of the association, its headquarters and the territory where it will exercise its activity;
- b) the conditions of admission and removal of members, as well as their rights and obligations;
- c) the managing organs of the association, the way they are established and their competencies;
- ç) the terms, the means of notification and competencies of the general meetings and the delegates meetings;
- d) the source of its material means/funding, as well as the contributions and dues each member has to pay;
- dh) the way the statute shall be amended and the association shall terminate.

Article 41

An association is established by a meeting of the founders, where the charter is approved and its steering organs are elected. On its request, the association is registered in court in the manner provided by law.

The court shall check that the statute complies with the law.

Article 42

An association acquires the quality of a juridical person from the day it is registered in court. Until the day of registration, the founders of the association may perform the actions necessary to establish it and fulfill the conditions for its registration

Article 43

An association has the right to establish branches wherever it deems it reasonable to achieve the purpose and object of the activity of the association.

Article 43/1

The cases and the ways of the supervision of the activity of associations by the competent state organs are expressly provided by law

Organization of the Association

Article 44

The general meeting of the members or their representatives, is the highest organ of association.

It is convened by the managing organ, in accordance with the respective provisions of the statute, and when one fifth of the members demand it.

Article 45

The general meeting decides on the admission or removal of members and all other matters, not within the jurisdiction of any other organ of association.

In particular, it exercises the supervision of income and the activity of the association, as well as over the property objects of the association.

Article 46

All members of an association shall be entitled to an equal right to vote in the general meeting.

A member of an association does not take part in the discussion and voting in cases when he himself or his spouse, children, relatives or in-laws are in a conflict of interests with the association, related to an item on the agenda.

Decisions on amending the charter and dissolving the association are approved by a majority of all the members of the association, except when a higher voting majority is provided in the charter

Article 47

It shall be the right and duty of the managing organ to take care of the association's interests, to protect those, as well as to represent the association in conformity with the competencies provided in the statute.

Membership in the Association

Article 48

The admission of new members, who meet the necessary requirements, may be conceded at any time.

The right to resign is guaranteed, provided notice of resignation be presented at least six months before the end of the calendar year, or within the term specified in the statute.

Article 49

The rights to membership in an association may not be alienated or assigned by inheritance.

Article 50

A member who leaves or is expelled from an association is responsible for its obligations to third parties until the moment of leaving and has no rights to its movable and immovable assets.

Article 51

Each member shall be entitled to reject any decision of association which does not comply with the law or the statute.

Such rejection may be raised within a month from the day in which the member was notified on the decision.

Dissolution Article 52

An association is dissolved:

- a) on the decision of the general meeting of its members;
- b) when the number of its members is below the minimum required in this Code or in its charter;
- c) when the purpose of the association is fulfilled or can no longer be fulfilled;
- ç) when it is proved that the association has conducted illegal activities;
- d) in other cases provided by law.

In the cases provided by law, the court may decide on the dissolution of the association, on the request of any member of the association, its decision-making organs, or the competent state organs.

Article 53

When the dissolution of an association is decided, it is placed in liquidation and de-registered in accordance with the rules provided by law.

Article 53/1

After taking the opinion of the subject who has asked for the dissolution of the association, the court decides on the destination of the assets that remain after its dissolution, in conformity with the rules provided in its charter, and also taking account of their destination and the fundamental purpose for which the association was created.

FOUNDATIONS

Method of Formation/Establishment

Article 54

A foundation is a juridical person without membership having the object of achieving a lawful purpose by using its property for the good and in the interest of the public.

Article 55

Foundations are created by natural or juridical persons, by a notarized act or by a will.

The act of creation of a foundation, on the request of the founders, is registered in court.

An establishment act shall determine especially the names of founders, the purpose of the foundation, initial capital contributions (cash, vouchers, movable and real estate), sources and methods of financing, managing organs and their competencies, as well as the names of the members of the administration.

Article 56

A foundation acquires the quality of a juridical person from the day of its registration in the court. Until the day of its registration, the founders of the foundation or the executor of the will may perform actions necessary to establish it and to fulfill the conditions for its registration.

Article 56/1

A foundation has the right to own movable and immovable assets, to generate income by administering the assets and to exercise other activities, in conformity with law and the purpose and object of the activities provided in the charter of the foundation.

The income generated by the foundation shall be used only to accomplish activities provided in the purpose and object of the activity provided in its charter.

It is not permitted for a foundation to perform profit-making activities

Article 57

Prior to the registration or the start of the respective activity, the founders may repeal the establishment act of the foundation.

The heirs or the creditors of the founders may object the establishment act of the foundation.

Operation/Exercise of the activity of the foundation

Article 58

The establishment act of a foundation shall determine the organs of the foundation, their method of establishment, and their powers.

Every foundation exercises its activity based on the provisions of legislation in force and its establishment act.

Article 59

The cases and ways of supervision of the activity of foundations by the competent state organs by the state competent organs are expressly provided by law.

Article 60

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Article 61

Property disputes/conflicts, in which the foundation is a party, shall be resolved by the competent court.

Article 62

A foundation is dissolved:

- a) on the decision of its highest decision-making organ;
- b) when the purpose for which the foundation was established is fulfilled or can no longer be fulfilled;

- c) when it is proved that the foundation has begun to perform illegal activities;
- ç) in other cases provided by law.

In the cases provided by law, the court may decide on the dissolution of the foundation on the request of its founder, the decision-making organs of the association,¹ or the competent state organs.

Article 63

After taking the opinion of the subject who has asked for the dissolution of the foundation, the court decides on the destination of the assets that remain after its dissolution, in conformity with the rules provided in the charter, and also taking account of their destination and the fundamental purpose for which the foundation was established.

TITLE II REPRESENTATION

CHAPTER I

NOTION AND TYPES OF REPRESENTATION

NOTION OF REPRESENTATION

Article 64

By way of representation a person (representative) shall conduct within the titles provided by law, by proxy or court, legal transactions in the name and on the account of a third physical or legal person (the representee).

The representation shall not be allowed when the law requires a legal transaction to be conducted by the person himself.

A person who has not full legal capacity to act may not be a representative.

The limits and consequences of representation

Article 65

The titles of legal representation are established by the law dispositons that confer this capacity, while the titles of the representative appointed by the representee are defined by proxy.

The scope/titles of representation may be determined also by the circumstances in which the respective legal transactions are completed as well.

Article 66

The legal transactions completed/performed by the representative within the conferred scope create direct consequences for the representee.

Article 67

¹ Translator's note: yes, this word should have been "foundation" but the meaning is clear.

The representative may not perform legal transactions on behalf of the representee with himself or other others represented by him, except when the representee has expressly allowed this, or when the substance of the legal transaction does not adversely affect his interests.

Article 68

In the case two or more representatives are appointed to perform, complete/conduct a legal transaction, each of them may conduct it without the participation of the other representatives, except when the proxy provides differently/otherwise.

Article 69

The representative shall act personally and may not appoint substitutes, except when the representee allows it, when the property covered by the proxy is situated out of district where the representative lives and when the appointment of a substitute is necessary to protect the interests of the representee.

The representative shall immediately inform the representee on the substitute he has appointed, otherwise he shall be responsible for the acts of the substitute.

The representee or the appointing representative may dismiss the substitute at any time.

Representation by proxy Article 70

Proxy is the document through which the representee, by his free will determines the character and extent of the scope/titles of representation.

Article 71

By way of a general proxy the representee confers the representative the rights to conduct multiple legal transactions which involve an entirety/wholesome of rights of the representee, except for those he expressly excludes.

By way of a special proxy, the representee confers the representative the right/title/power to conduct one or several specific legal transactions, related by a common goal.

Article 72

The proxy is done made/always done in writing.

Every proxy released in order to sign a contract, which according to the law may be stipulated only through a notarized act, shall be drawn/compiled as such, otherwise shall not be valid. A proxy released for the conducting of acts in court and other state agencies shall also be made by way of a notarized act, except if the law allows for a simple document.

A proxy on behalf of public and private legal persons may be made by the simple signature of the person in charge and sealed accordingly, except when the law requires that such legal transaction be made on the basis of a notarized act.

Article 73

The proxy issued to withdraw postal-consignments or money from post offices or banks to an amount determined by them, the proxy issued for the withdrawal of salaries

and other rewards deriving from work relations, as well as the proxy issued to withdraw pensions, assistance and scholarships may be certified also by:

- a) the administrator of the quarter or the village elder;
- b) the person in charge of the legal person or of its branch, where the representee works or attends the school;
- c) the person in charge of the health care institution where the representee is recovered to receive treatment;
- d) the command of military unit where the representee is serving;
- dh) the person in charge of the institution where the representee is under arrest or suffers an imprisonment sentence.

Article 74

Third parties must be notified by proper means to any changes on the proxy. In absence of this notification, these changes may not be directed against third parties, except when is proved that, at the time the legal transaction was conducted, they were aware of the changes in the proxy.

Article 75

The representee may repeal the proxy and the representative may withdraw from it at any time. Any agreement in contrary shall be deemed invalid.

Termination of proxy

Article 76

The proxy terminates when:

- a) the representative conducts the legal transaction for which the proxy was conferred;
- b) the term within which proxy was conferred has expired;
- c) the representative or the representee die, or when one of them loses the capacity to act;
- d) the representative or the representee legal person terminates;
- dh) the representee repeals the proxy or the representative withdraws from it. After the proxy terminates upon demand of the representee, the representative shall give back to him the act of proxy.

Representation after the changes or termination of proxy

Article 77

The legal transactions conducted by the representative, after the proxy changes or terminates, in the case the third parties in such legal transactions are not aware of the changes or the termination of proxy, are mandatory for the representee or his heirs.

Representation without rights

Article 78

When a legal or physical person acts as representative without possessing/holding this quality, and when the representative has surpassed the rights conferred to him, the legal transaction conducted in these conditions shall not be mandatory for the person on whose behalf these acts are conducted, except when he approves it at a later time.

When no approval is given, the third person in good faith shall be entitled to seek the indemnification of damages from the representative.

**TITLE III
LEGAL TRANSACTIONS**

**CHAPTER I
GENERAL PROVISIONS**

DEFINITION OF LEGAL TRANSACTION

Article 79

The legal transaction is the legal expression of will by a physical or legal person, aiming to create, change or end civil rights and obligations.

The legal transaction can be one-sided/unilateral or mutual.

Forms of legal transaction

Article 80

A legal transaction may be made in writing, orally and in any other indisputable/certain/obvious expression of will.

The written document may be a simple or a notarized/public act.

Article 81

The legal transaction made through a written document shall be signed by the person who performs/completes/conducts it.

Article 82

The person who does not know to, or because of disease, or physical deficiency cannot sign, assigns another person to do it.

The signature of this person shall be verified by the notary, explaining the reason for which the person who has performed the legal transaction, was not able to sign it by himself.

Regarding actions performed in banks or other credit institutions, post or customs offices, the signature of this person is certified by an authorized official of these institutions.

Article 83

The legal transaction to transfer ownership of the real estates and the rights *in rem* over them, shall be done by a notarial act and shall be registered, otherwise it is not valid.

It is void the legal transaction which is not performed in the form expressly required by the law. In other cases the legal transaction is valid, but it cannot be proved by witnesses.

Conditional legal transactions

Article 84

The legal transaction is conditioned when the derivation or extinguishment/extinction of the rights and obligations provided by it depend from an event which is not known/sure if it would happen.

Article 85

The condition is suspensive when the rights and obligations derive in case the event happens. The condition is resolvable/dissolving when the rights and obligations extinguish in case the event happens.

Article 86

When the verification of the condition is prevented in bad faith by the party which would benefit from its non-verification, the condition is considered as verified.

When the verification of the condition is caused in bad faith from by party which would benefit from its verification, the condition is considered as not verified.

Article 87

When the right which depends from the verification of the condition is infringed or lost because of the actions of party obliged upon condition, the later shall compensate the damages caused in case the condition is verified.

Article 88

The consequences related to the verification of the condition begin from the moment the condition is verified, except when from the content of the legal transaction it follows that these consequences shall start at a previous time.

Legal transactions by term

Article 89

The term of the legal transaction is the defined moment from which its legal power or some of its effects begin or extinguish.

Article 90

The term is suspensive when the legal transaction provides that its consequences begin from a defined time.

The term is resolving when the legal transaction provides that its consequences extinguish at a defined time.

Calculation of terms of the legal transactions

Article 91

When the term is defined in days, it is not calculated the day when event took place or the time from which it shall start.

The term defined in weeks, months or years, ends by the termination of that day of the last week or the last month which has the same name or number with that of the day it has started. When such a day lacks in the last month, the term ends with the termination of the last day of the that month.

When the last day of term is a holiday, the term ends at the working day that follows the holiday.

CHAPTER II

Invalidity of legal transactions.

Article 92

The invalid/void legal transaction do not create any legal consequence.
Such ones are those which:

- a) conflict with an ordering provision of law;
- b) are performed to defraud the law;
- c) are performed by infants under the age of fourteen;
- d) are done in agreement between parties without aiming to bring legal consequences (fictive or simulated).

Article 93

When a legal transaction is performed with the aim to cover another legal transaction, than the later is valid if it fulfils all necessary requirements for its validity.

The simulated or fictive legal transaction does not harm third parties which, in good faith, have acquired rights based on it.

Article 94

Legal transactions declared invalid

Voidable are considered the legal transactions which are valid until the court, by the request of an interested person, declares them invalid. Such ones are the legal transactions performed by:

- a) infants over the age of fourteen, when the legal transaction is performed without the assent of the parent or tutor;
- b) persons whose [legal] capacity to act has been taken away or limited because of mental disease or incomplete mental capacity, when [they] have performed the legal transaction without the assent of the tutor;
- c) persons who at the moment of performance of the legal transaction were not aware of the importance of their acts, despite that their [legal] capacity to act was not taken away at that time;
- ç) the person who has performed the legal transaction being defrauded, under duress, mistake, or because of great necessity

The annulment of these transactions can be requested even after the death of the respective person, but only when it has been requested the lifting of his [legal] capacity to act.

Article 95

The fraud may cause that the legal transaction be declared invalid, when the lie used by one party to bring the other party into mistake is such that, without it, the party would not have performed the legal transaction.

When fraud is committed by third person, the defrauded party may request that the legal transaction be declared invalid only when at the moment of its performance the other party was aware or should have been aware of the fraud.

Article 96

Duress may cause that a legal transaction be declared invalid, when it is such as to scare the person that he himself, his spouse, his successors or predecessors will suffer an unjust and grave physical or material damage.

Duress may be performed by a third person who does not take part in the legal transaction.

Article 97

Mistake may cause that the legal transaction be declared invalid only if it is related to quality of thing, the identity or qualities of the other person, or circumstances as essential as in their absence, party would not have performed the legal transaction.

Article 98

Mistake in calculation does not bring about that the legal transaction be declared invalid, but only its rectification, except when the error in its amount was decisive for the agreement.

Article 99

The legal transaction may be declared invalid in the case when, because of great necessity, the obligations assumed by one party are insignificant compared to the benefits the other party gains from the legal transaction.

Article 100

The legal transaction performed by the representative may be declared invalid upon the request of the representee, when the will of the representative carries a vice.

When the vice has to do with elements defined by the represented person, the legal transaction may be declared invalid only when the will of the latter is affected by vice.

Article 101

When in the legal transaction it is important the definition of bad or good faith, knowledge or ignorance of certain circumstances, which are valid or invalid decisive requirements of the legal transaction, it is considered the person of representative, except when it is about circumstances defined by the representee.

The representee in bad faith in no case shall benefit from the ignorance or good faith of the representative.

Article 102

The legal transaction performed at the detriment of the representee because of a bad faith agreement between the representative and a third person, may be declared invalid for the representee.

The term of prescription of the law suit

Article 103

The action to request that a legal transaction be declared invalid, is prescribed within five years.

Article 104

The term to bring an action starts:

a) for legal transactions performed by persons whose legal capacity to act has been taken away or limited, from the day they become major or the capacity to act has been returned to them;

- b) for legal transactions performed under fraud, duress or mistake, from the day the fraud or mistake were revealed, or the duress ended, but in any case, not more than three years from the day the legal transaction was performed;
- c) for other cases, from the day the legal transaction was performed.

Article 105

The legal transaction declared invalid is considered as such from the moment it was performed.

Consequences of invalidity of the legal transaction.

Article 106

When the legal transaction is invalid because it contradicts the law, or it is performed with the intent to defraud the law, everything parties have given to each other shall be taken and pass to the income of state, and, when it is not possible to take the same thing, it is required its value.

When one of parties has acted in good faith, the court may decide that everything this party has given be returned to it [the party], and when it is not possible the return of the same thing, its value shall be paid to it [the party].

Article 107

When the legal transaction is declared invalid because of its performance by fraud, duress, great necessity or because there lacks the form required by the law, each party must return back to the other party everything taken away from it and, when it is not possible to return the same thing, than the value of it must be paid.

Article 108

When it is ascertained that the legal transaction is invalid because it is performed by an infant, who has not reached the age of fourteen, or is declared invalid because it is performed by an infant who has reached the age of fourteen, but without the consent of his parent or custody, each of the parties is obliged to return to the other party everything that has taken from it, and when it is not possible to return the same thing, to pay its value to it [the party]. Besides this, the party which has the capacity to act is obliged to pay the damages the minor has suffered because the legal transaction is ascertained to be or is declared invalid.

Article 109

When the legal transaction is declared invalid because it is performed by a person whose capacity to act has been completely taken away or because it is performed by a person whose capacity to act has been limited and without the consent of his tutor/custody, or because it is performed by person who, at the time of performance of the legal transaction, did not have the awareness of importance of his actions, each of the parties is obliged to return to the other party everything it has taken from it [the party], and, when it is not possible to return the same thing, to pay its value. Besides this, the party which had the capacity to act is obliged to pay to other party the damages it has suffered because of the legal transaction which is declared invalid, in case it knew or should have known that the other party did not have the capacity to act or did not have the conscience of importance of its acts.

Article 110

When the legal transaction is declared invalid because one of the parties was under mistake, each of the parties is obliged to return to the other party everything it has taken away from it, and when it is not possible to return the same thing, to pay its value to it. Besides this, the party that has requested that the legal transaction be declared invalid is obliged to pay to the other party the damages it has suffered because the legal transaction is declared invalid, except the case when it proves that it has no fault for falling under mistake, or that the other party knew or should have known about the mistake.

Article 111

When the cause of invalidity affects only one part of legal transaction, this remains valid for the other parts of it, besides when, according to the content of legal transaction, these parts represent indivisible relations with the invalid part of the legal transaction.

TITLE IV PRESCRIPTION OF LAWSUIT AND THE DECLINE OF RIGHTS

CHAPTER I GENERAL PROVISIONS

Content Article 112

The right to a lawsuit which is not exercised within the term defined by law, extinguishes and cannot be implemented any more through the court or another competent organ.

Lawsuits which are not prescribed Article 113

There are not prescribed:

- a) the lawsuit to reinstate or protect a personal non-property right, save the exceptions defined by law;
- b) the lawsuit for recognition;
- c) the lawsuit for partition between co-owners;
- ç) the lawsuit for the return of amounts deposited in a bank;
- d) other lawsuits provided by specific legal provisions;

Also there are not prescribed the requests for the mandatory execution of the decisions related to lawsuit, to which prescription does not apply.

Terms of prescription Article 114

When the law does not provide otherwise, all lawsuits between legal persons, between the later and natural persons, and also between natural persons themselves are prescribed within ten years.

Article 115

There are prescriptions of: a) six months for the lawsuits for payment of evaluating penal conditions;

- b) one year for the lawsuits that derive from the contracts of delivery;
 - c) six months for the lawsuits that derive from direct transportation of goods and travellers by means of railway, vehicle or airplane and one year for the same lawsuits that derive from shipments or mixed transportation;
 - ç) two years for the lawsuits for payment of compensations pursuant to the insurance and reinsurance contracts, as well as of the respective amount deriving from the mandatory insurance;
 - d) three years for the lawsuits for payment of rent of appartments, shops, bars and otherreal estates;
 - dh) three years for the lawsuits for payment of extra contractual damages and the lawsuits for the return of asset profits gained without a title;
- The other lawsuits are prescribed within specific terms defined in this Code or in other laws.

Article 116

It is invalid the agreement of parties to change the terms of prescription or any provision of this chapter.

Article 117

The term of prescription starts [running] from the day when the subject acquires the right to bring a lawsuit.

Article 118

In the contractual obligations entered determined under a term of execution, the prescription of the lawsuit starts [running] from the day when this term is completed.

When the obligation consists of periodical payments, for each of them the term of their prescription starts separately.

For the contractual obligations entered into without terms and the obligations which are executed upon the request of the creditor, the term of the prescription starts from the day when the obligation has arisen.

Article 119

Regarding the revendication of an object, the prescription of the lawsuit starts from the day when the owner was informed or should have been informed of the infringement of his right and the person who has infringed it.

Article 120

Regarding the request for the compensation of extra contractual damage, the prescription of the action starts [running] from the day when the adversely affected person was informed or must have been informed of the damage suffered or the person who has inflicted it.

Article 121

Regarding the restitution of the amount of money or object acquaired or saved without cause, the prescription of the lawsuit starts [running] from the day when the damaged person was informed or must have been informed of the acquiring or saving without cause which the respective person has carried out.

Article 122

Regarding the demand of inheritance, the prescription of the lawsuit starts [running] from the day when the inheritance is opened.

Article 123

Regarding the lawsuits for restitution, the prescription of the lawsuit starts [running] from the day when the plaintiff has voluntarily paid to a third person, pursuant to a legal or contractual obligation, because of fault on the part of the defendant, the amount of money or value of the object claimed by this lawsuit, or from the day the decision of the court or the respective arbitration, from which the lawsuit of regress derives, has been issued.

Article 124

The prescription of the lawsuit for the main request brings about that the lawsuits for the requests deriving from it be prescribed as well, although the respective time terms for the later have not yet expired.

The request of the interested party

Article 125

The completed prescription cannot be taken into consideration from the court or the other competent organ *suo sponte*, but only upon the request of the interested party.

Waiver of the prescription

Article 126

The waiver of the prescription is allowed only when its term has been completed.

Article 127

The claim that the term of the prescription is completed may be exercised by the creditors, as well as any interested person, in cases when the respective party has exercised it itself.

Fulfillment of the obligation after the completion of the term

Article 128

The debtor who has fulfilled his obligations after the completion of the prescription, cannot request the restitution of the amount of money or object, given voluntarily, even if he did not know that the term of the prescription was completed.

CHAPTER II

SUSPENSION AND INTERRUPTION OF THE PRESCRIPTION

A. Suspension of the prescription

Article 129

The prescription is suspended:

- a) between spouses until the day the judicial decision on the dissolution of the marriage has become final;
- b) between children and parents until the later exercise the parental right;

c) between persons who are under custody and their custodians until the custody goes on;

ç) regarding lawsuits of persons, whose property is put under administration, against the respective administrators appointed by the court or other competent organ of state, until the final account' report is approved;

d) regarding lawsuits of infants or other persons, who do not have capacity to act, until their representative is appointed or until they acquire this capacity, as well as for six months after the representative is appointed or they have acquired the capacity to act;

dh) regarding lawsuits of a legal person against its administrators, until they continue to exercise this duty near him;

e) regarding lawsuits having for object the respective recompensation, deriving from damaging of health or causing of death, the suspension of the prescription continues from the day when the request is submitted to the state social insurance organ until the day the pension is determined or that request is rejected;

ë) in case of *force majeure*.

Article 130

The period of suspension is not calculated for the term of prescription. When after the extinction of the suspensive cause, the remaining time for the completion of prescription is shorter than six months, it is prolonged up to six months.

B. The interruption of the prescription

Article 131

The prescription is interrupted:

a) by any act of the obligated natural or legal person, which expresses the exact and full recognition of the right of the creditor;

b) by submission of a lawsuit, of counter lawsuit, even to a court or arbitration which is not competent from the subject or territorial point of view for the examination of the case;

c) by any action which puts the debtor in delay;

ç) by the submission of the request for the mandatory execution of the respective judicial or arbitration decision, or any other executive title.

Article 132

The interrupted prescription against one of the solidary debtors or one of the spouses, of an indivisible obligation, is extended also to each of these other debtors.

Article 133

The interrupted prescription against the main debtor is extended also to the respective bailee.

Article 134

The time passed before the cause of interruption is verified is not calculated and after the extinction of this cause a new prescription term starts.

Article 135

When the prescription is interrupted because of the submission of the lawsuit or counter-lawsuit, the new prescription term starts from the day the decision on the merits of the case has become final.

When it is decided the rejection of the lawsuit without solving the case in the merits, or the termination of the judgment of the case, the prescription is not considered interrupted.

Calculation of prescription terms

Article 136

The term of the prescription of the lawsuit, which is defined in weeks, months, or years ends at the end of that day of the last month or the last year which has the same name or number with that of the day in which the term has started, and, when such a day is missing in the last month, the term ends by the passing of the last day of this month.

When the last day of time-bar term is a holiday, it is considered as last that working day that follows the holiday.

CHAPTER III

PRECLUVISITY (Decadence)

Article 137

When a right should be exercised within a preclusive term, the provisions that regulate the interruption of the prescription do not apply. Also, the suspensive causes do not apply, except for the exceptional cases, when the law itself permits the suspension of the preclusive term.

Article 138

Any agreement determining preclusive terms, which makes it very difficult for one of the parties to exercise their respective right, is invalid.

Article 139

The parties cannot change the mandatory legal provisions which regulate the preclusivity, and neither give up the completed preclusive term when this term is defined by specific legal provisions.

Article 140

The completed preclusive term is taken into consideration by the court or arbitration *suo sponte*, even without the request of the party concerned.

PART TWO

OBJECTS AND OWNERSHIP

TITLE I

OBJECTS

Article 141

Juridical meaning of the object

An object is everything that may constitute object of ownership or of any other right *in rem*.

Types of objects **Article 142**

Objects are movable and immovable/real.

Immovable objects are the soil, water sources and water courses, trees, buildings, other floating constructions attached to the soil and anything which is embodied permanently and continuously to the soil or buildings.

All other objects, including any other natural energy, are movable objects.

Article 143

The provisions concerning immovable objects shall also apply to rights *in rem* that have immovable property as object, as well as to the respective actions, unless the law provides otherwise.

The provisions concerning the movable objects shall apply for all other rights.

Registration of Objects **Article 144**

Immovable objects and rights *in rem* on them shall be registered in the immovable property registries.

Movable objects shall also be registered, if their registration is expressly required by law.

Fruits of an Object **Article 145**

Natural fruits of an object are the products derived from it.

Until separated from the object, they are component parts of it.

Civil fruits are derived from the objects as a result of the enjoyment of the rights, which persons have over those objects.

Civil fruits are acquired on basis of the duration of the rights and where the later can be claimed.

Component Parts of an Object **Article 146**

Anything attached to an object, which cannot be separated from it without causing essential damage is a component part of that object.

Accessory Objects **Article 147**

Accessory objects are those movable objects which are intended to serve in a permanent manner to a principal object or to decorate it.

This intended use will be defined by the owner of the principal object or by the person who has right *in rem* over it [the object].

Article 148

Every possession of the principal object includes also its accessories, except when provided otherwise.

The accessories may also be object of separate possession.

The accessory does not lose this feature in cases when it is temporarily separated from the principal object.

TITLE II "OWNERSHIP"

CHAPTER 1 GENERAL PROVISIONS

The contents of ownership Article 149

Ownership is the right to enjoy and possess objects freely, within the limits established by law.

Ownership over the component parts of the object

Article 150

The owner of an object is also the owner of its component parts.

Ownership over the fruits of the object Article 151

The natural fruits produced from the objects belong to the owner of the object, except when their ownership is passed to others. In this case, the ownership is gained after the separation of the products from the object.

The person who takes the fruits must, within the value of those fruits, repay the costs of their production and gathering.

Belonging of the objects Article 152

Objects belong to natural persons, legal persons, or the state.
Types of public property are defined by law.

The Rights and Duties of the Owner"

No one may be expropriated or have the right to exercise the right of property limited that is equivalent to expropriation, except when public interests require it and always against fair compensation.

Article 154

The right of ownership of the soil is extended to the height and into the depth necessary for its exercise, within the conditions established by the law.

Article 155

The owner of soil, after first asking the neighbour to cut the branches and roots of the trees which extend into his land, has the right to cut them himself, if they cause him damage, as well as collect the fruits and use them for his own benefit.

The fruits, which fall from the trees onto the land, belong to the owner of the soil where they have fallen.

Article 156

The owner of the soil neighbouring a stream or public source of water, has the right to use them as long as he does not harm the interests of owners of other lands, except when the use is arranged by special provisions.

Article 157

The owner of a land may at any time ask the owner of the neighbouring land, that with shared expenses, they put along the boundaries of their soils visible marks or fix them when they are damaged.

When the boundary between the two soils is not clear and when the owners do not define it themselves, each of them may request the court to certify it [the boundary].

Article 158

When trees and bushes are planted in the boundaries of properties, the owners are obliged to keep the distances defined by special legal provisions and, in case they lack, by the customs of the region, except when the neighbouring owner has permitted it himself or when the boundary is along a public road or stream of water.

In the absence of these rules, the distances are: three metres for high trunk trees and two metres for other trees.

These distances will not apply to trees and bushes, the height of which is not above the wall between the objects.

Article 159

The owner is free in the use of the object, without harming the rights of other persons and within the provisions defined by the law or by good customs. He must not cause such disturbance to neighbours such as noises, vibrations, infiltration of smoke, heat, steam, or other similar distributions, to hinder the enjoyment of their properties, changing the courses, the amount or the quality of the water which flows through his land or the underground water, as well as to use the waters which connect freely with the water of lands of others, except when these disturbances do not exceed the usual amount.

The owner when exercising his rights is obliged to take measures for the protection and preservation of the entouring environment.

Article 160

The owners must confine to rules defined in the territorial regulation plans or in special provisions, for constructing new buildings, for their building or changing, for the distances between buildings, for putting in windows, wells, holes in the ground and other works of this kind.

Article 161

The owner is obliged to gather the waters which run from the roofs of his houses, in such a way that they do not drop on the land of others.

The spilling of this water in a public stream can be done when it is not prohibited by the rules put by the competent authorities.

The owner is obliged to take care that the waters and garbage which come from his land do not spill onto the channels or the land of others, except when there is a contrary agreement between them.

CHAPTER II

ACQUISITION AND LOSS OF PROPERTY

Transfer of ownership Article 162

The right to property and other rights over objects are transferable, except when prohibited by law or by the nature of the right.

Ways of acquiring property Article 163

Property is acquired through ways defined in this Code and through other ways defined by specific law.

Acquisition of property by contract Article 164

Property is acquired by contract, without being necessary to hand the object. For the objects which are defined by number, weight or by mass, handing is required.

Acquisition of property by inheritance Article 165

Acquisition of property by inheritance is done according to the conditions contemplated in the provisions of the third part of this Code.

Acquisition in good faith of movable objects Article 166

The person who on the basis of a legal transaction for the passing of ownership has acquired against compensation, in good faith a movable object, becomes the owner of this object, even if the transferor was not the owner.

Nevertheless the acquirer, even if in good faith, does not become the owner of the object when this object is stolen.

The acquirer in good faith becomes the owner of money or vouchers valuable at the bringer, even if they were stolen to or lost by the owner or by the public juridical person.

The above mentioned provisions do not apply to movable objects which are reequired in public records.

The property is acquired free from the rights of the other over the object, in case these rights do not derive from the title and from good faith of the acquirer.

Article 167

In case property over a movable objects has been passed by means of contracts to several persons, the owner becomes the person who has acquired the disposition of the object in good faith, even if the contract is of a later date.

Gaining prescription Article 168

The person who acquires an object in good faith, on the basis of a legal transaction for the passing of ownership not prohibited by law, becomes the owner of this object, after continuous possession of five years when the object is movable and of 10 years when it is immovable.

When the possession is not in good faith, the terms of uninterrupted possession are doubled.

The possession is considered continuous even when the acquirer of the object has given the possession to another person.

An object in inalienable public property cannot be acquired by gaining prescription.

Article 169

The person who was in possession quietly and continuously, behaving like being the owner for 20 years over an immovable property, will become the owner.

Registration of object acquired by prescription Article 170

The person who has acquired an immovable object by prescription has the right to present a legal action against the previous person or his heirs for recognition of his ownership and, on the basis of the respective court decision, to request the registration of the object by the competent state agency.

The suspension and interruption of gaining prescription

Article 171

The provisions on suspension and interruption of prescription of legal action apply to the gaining prescription as well.

Gaining prescription is interrupted by loss of possession. It is not considered interruption when the possessor enters again into possession within six months or even later through a legal action raised within six months.

Objects without owner Article 172

Objects without owner are those which do not have an owner or whose owner has resigned from the ownership.

The objects without owner belong to the state. The transfer into the ownership of the state is done by the decision of the competent court.

Acquisition of ownership by unification, mixing and elaboration Article 173

Plants, as well as buildings and every other construction which are situated on or under the surface of the ground, belong to the owner of the land, except when differently provided by this Code and by other legal provisions.

Article 174

The owner of the land who has done constructions and other works and plantings with material owned by others, is obliged to pay their value, in the case their separation or restitution is not required and when this can be done without causing great harm to the constructions or plantings done.

When the separation of materials is possible and the owner of land has acted in bad faith, he has to compensate to the owner of the materials the value of the damages caused.

Article 175

When the constructions and other works and plantings are done by a third person with his own materials on the land of another person, the respective owner has the right to keep them or to request the obligation of the person who has done them to take them away with his own expenses, and when it is the case to compensate the damage caused.

When the owner of the land agrees to keep them, he is obliged to pay for the value of the materials and of the working force or the increase of value of the property.

The owner of the land cannot require the removal of the buildings and plantings done when they have been completed in his knowledge, or in good faith by the third person, as well as in case when there have passed six months from the day when the owner has been informed of the constructions or plantings being done.

When in good faith a construction has been built on the land of the other and its value is bigger than the value of the land, the person who has build the building can be recognised as owner even of the land, by decision of the competent court.

Article 176

When two or more movable objects which belong to different owners are unified or mixed into a single object and which cannot be separated without causing an essential damage to each other, or when the separation requires exaggerated work and expenses, the owners of each object become co-owners of the new object, proportionally with the value the parts of the object had at the moment of unification or mixing.

When a movable object is unified or mixed with another in such a way that it can be seen as an accessory part of it, the new object belongs to the owner of the main part, who is obliged to pay the respective value, and when it is the case to compensate the damage caused.

Acquisition of ownership through elaboration

Article 177

When a person by his work has created a new movable object using the raw materials belonging to another person, independently of whether the material can be transformed back to its original shape, becomes the owner of the new object if the value of the work is larger than the value of the material, provided that he pays the value of it.

In the opposite case the new object is acquired by the owner of the raw material, by paying the value of the work.

When the elaborator has acted in bad faith, by decision of the court the new object passes to the owner of the raw material even in case the value of the work is bigger than that of the raw material, but by paying the value of the latter.

Unification of lands through natural floding
Article 178

The filling with mud of land and addition of land that are formed in a natural way along the edges of rivers and streams, belong to the owner of the land, except when differently provided by law.

Lands released by flows of water
Article 179

The land which is released by a flow of water, land that is taken in a natural way from one bank and moves to the other bank, belongs to the owner of the land from where the flow is removed.

Lands created in the river beds
Article 180

Islands and filling of mud are created in the riverbeds are public property.

Article 181

When a river or stream changes its course leaving the old one, the land released is under property of the owners of the both banks (edges) of the river or stream, which divide it at the middle of the old bed along the course.

LOST OR FOUND OBJECTS

Notification for beeing found
Article 182

The person who has found a lost object, including all living things separated from the bunch, is obliged to inform immediately the owner or the person who has lost them and when that person is not known, to deliver it to the municipality or commune, in which territory the object was found.

The municipality or commune is obliged to proclaim immediately the founding of the object.

Taking of the object and payment of expenses
Article 183

The owner or the person who has lost the object, has the right to demnd it within six months from the day of the announcement of it being found is publicated in the respective municipality or commune, after having paid the expenses incurred for the preservation of the object and a reward of 10% of the value of the object for the person who has found the object, or the price obtained, when according to the actual circumstances, the sale has been indispensable.

When there are objections to the value of the object, the dispute is resolved by the court.

The Municipality or Commune can permit the provisional keeping of the found object by the person who found it, to whom will be paid the expenses for keeping the object.

The lost objects must be preserved and maintained with the due care.

Acquiring ownership by the person who has found the object
Article 184

When the owner or the person who has lost the object does not come to get the object within the time limits defined in Article 185, this object or the sale price of it will be passed under ownership of the person who has found it, who will pay the expenses of keeping it.

Objects found in locations
Article 185

The objects found in private or public places or in vehicles, must be immediately handed to the administration of the location or vehicle where found, which shall keep them for three days. When the owner or the person who has lost them does not present himself, the administration unit will deliver it to the respective municipality or commune.

The treasure
Article 186

Treasure is defined as any valuable object, which looks clearly to have been underground or hidden for a long time and to which the owner cannot be found.

The treasure belongs to the owner of the moveable or immovable object where the treasure is found, except for the case of objects with scientific, cultural, archeological etc. value, which are contemplated in Article 187 of this Code.

The person who finds the treasure, has the right to a reasonable reward which must not exceed half of the value of the treasure.

State ownership over a category of moveable objects
Article 187

The movable objects, with cultural, historical, archeological, ethnographic value, as well as rare natural objects with scientific importance which are discovered, taken away or extracted from the ground or from water, will pass under the ownership of the state.

The owner, in whose property such things are discovered, is obliged to allow the digging, compensating the damage caused.

The person who has discovered or found such objects, has the right to get a reasonable reward from the state.

Acquiring ownership through invasion
Article 188

Ownership over abandoned movable objects, as well as over wildlife, fowl, fish, wild fruit and over other movable natural things, can be acquired through invasion, in special conditions contemplated by law or by special provisions.

Swarm of Bees
Article 189

The owner of a swarm of bees has the right to follow the swarm and retrieve it from the land of the other, compensating him for the damage caused.

When the owner of a swarm of bees which has flown away has not followed it within three days, or when those bees have gone into a hive of bees, the ownership over the

swarm passes to the owner of the land where the bee has stayed or to the owner of the hive.

Acquiring Ownership through Expropriation Article 190

Articles may be expropriated only for public interests recognized by law and only against fair compensation. Such objects pass under the property of the state or of other public agencies, in which favour the expropriation is done.

Loosing of ownership Article 191

Ownership is lost when it is acquired by another person, or when renounced from it. The renouncement of the ownership over an immovable property in favour of someone else, is recognised when done through a public act and is registered.

CHAPTER III

REGISTRATION OF IMMOVABLE PROPERTIES (REAL ESTATES) Article 192

Immovable objects and the facts which are connected to their legal status shall be registered in the immovable property records.

Registration is done through a public act, a court decision or a decision of another competent public entity, and in other instances provided by law.

Article 193

The following must be registered in the immovable property records:

- a) contracts for passing the ownership over immovable objects and the acts for their voluntary partition;
- b) contracts by which are created, recognized, changed or terminated ownership rights over immovable objects, usufruct (using) rights, rights to utilize and reside in, emphyteutic and servitude rights, and other real rights;
- c) acts of renouncement of ownership rights mentioned above;
- ç) court decisions through which the quality of heir is recognized and by which inherited property is acquired;
- d) acts by which an association or another subject is created, which owns immovable properties or has other real rights over those properties;
- dh) court decisions and decisions of other public competent entities which comprise respectively the acquiring or recognition of property over immovable properties, the partition of immovable properties or which declare invalid legal transactions for the transfer of ownership properly registered previously, as well as acts by the judicial bailiff for sequestration of immovable property or its sale through auction.

Court certification of the fact of ownership is not registered.

Article 194

In a contract of gift of immovable property, the registration carries the date in which the acceptance is registered, in the case this acceptance is contained in a specific act.

Article 195

Immovable properties and the real rights over them which are acquired or recognized according to the provisions of this Code, cannot be alienated and when it is the case, charged with a burden, in case their registration in the records of the immovable property is not done.

Article 196

Courts, notaries, court bailiffs and other state agencies are obliged to send for registration to the office administering the record where the immovable properties are situated, copies of the decision or of the act which contain the acquisition, recognition, change, the terminating of ownership over immovable property, or a real right over it, or the declaration of invalidity of juridical transactions for transferring the ownership which is previously registered.

Article 197

The following must be registered as well:

- a) rental or lease contracts for immovable objects for a period exceeding 9 years;
- b) lawsuit requests for acquisition, recognition, change or termination of ownership rights or other real rights over immovable property;
- c) lawsuit for the partition of jointly owned immovable property.

Article 198

The Ministry of Justice administers the activity of the record of immovable property.

Conditions, ways of registration and organisation, as well as any procedure concerning this activity, is regulated by a special law.

TITLE III CO-OWNERSHIP

CHAPTER 1

Co-ownership in Shares

Definition and content

Article 199

There is co-ownership when one or several objects and other real rights belong jointly by two or more persons.

The shares of co-owners are equal, until the contrary is certified.

The rights and obligations of co-owners are defined in proportionality with the respective shares (they possess).

The rights of co-owners

Article 200

Each co-owner has these rights:

- (a) to benefit from the income derived from the co-owned object in proportion to his share;

(b) to use the co-owned object according to the defined purpose and in such a way as not to hinder the other owners to use the object according to their rights;

(c) to transfer the property or dispose in any other way his share in the co-owned object, but when this is an immovable object, he can sell his share only respecting the prior right of purchase which the other co-owners have according to Article 204 of this Code;

(ç) to ask for the partition of the co-owned object even if they have a adverse agreement, except when this partition excessively harms the respective purpose or is prohibited by law;

(d) to ask for the restitution not only of his part of the object, but of all of the co-owned object, provided that this object be delivered (handed) to all co-owners.

Obligations of the co-owner

Article 201

Each co-owner is obliged that in proportion with his share, to pay necessary expenses for the preservation and enjoyment of the co-owned object.

Article 202

When the co-owned object is used only by one or some of the co-owners, these are obliged to pay to the other co-owners a compensation for the use of their shares of the object from the day when the request for this compensation is notified in writing to them or from the date of the presentation of an indictment (action) in a competent court.

Administration of the co-owned object

Article 203

All co-owners, independently from the value of their share, have the right to take part in the administration of the co-owned object.

The co-owned object is administered according to the specified manner adopted by the agreement of all co-owners and when this agreement is not achieved, according to the defined manner by the decision of the co-owners who own more than half of the value of the object. The majority decision is binding also for the co-owners remaining in minority.

This majority can decide to put a mortgage or pledge over the co-owned object, when this is indispensable to provide the restitution of the sums borrowed for the maintenance and re-construction of it (the object).

When this majority is not achieved or when its decision is harming for the co-owned object, the competent court, upon request of each co-owner, decide the measures deemed necessary and, according to the case, will nominate a custody to administer the object.

The right of prior purchase

Article 204

The co-owner, before selling his share of an immovable object to a person who is not a co-owner, is obliged to notify in writing the other co-owners inquiring whether they wish to buy his share in the same conditions that he would sell to a third person. In the case they do not respond within three months that they want to buy the share, the co-owner is free to sell his share to a third persons.

The seller is obliged to get acquainted the new co-owner to the other co-owners.

The right of a creditor over the share of a co-owner

Article 205

Each creditor has the right to realise his credit over the share that belongs to the co-owner debtor to him, in the co-owned object.

Article 206

The creditors and heirs of some co-owner can intervene in the partition, with their expenses, but they cannot object to the any prior partition, except when they have notified their objections before the partition.

In the partition of the immovable property, the notification of the objections set out in the above paragraph, must be registered before the registration of the request for partition.

Also, in such partition it is necessary to convene all the creditors that have registered their requests or that have gained rights over the property to be divided, prior to the registration of the act of partition or the registration of the request for partition.

Partition of the co-owned object

Article 207

Partition of the co-owned object is done with the agreement of all of the co-owners. When the object is immovable the agreement must be done through a notherized act. When this agreement is not achieved, the partition of the object is done through the court, convening for the court all of the co-owners. The division of the co-owned object is done with it being divided *in nature* according to the shares of the co-owners, if this division is possible and does not harm the specific purpose of the object. Inequality of the shares, that result from the division *in nature* is compensated with reward in money.

When the co-owned object cannot be divided *in nature* the court orders that it be sold in auction and that its value be divided between the co-owners, according to their respective shares, calculating also the sums that they must pay to each other for the reason of the relationship in co-ownership.

However, instead of selling in auction, the court, when some of the co-owners request it, can order that the object be left to them, obliging them to pay to the co-owner, who demands the partition, the value of his share, according to the way and within the terms of time defined by the decision of the court.

When the object that can be divided in nature, is a housingresidence, the court leaves it in shares, according to the above mentioned conditions, to that co-owner who lives in that housing unit or who needs more than the others that living space.

The transfer of co-owned objects

Article 208

The alienation of the co-owned object can be done only with the consent of all of the co-owners.

CHAPTER II

CO-OWNERSHIP IN WHOLE

A. The Obligatory Co-ownership

Common objects of buildings

Article 209

On the floors or divided units of floors of a building that are in separate ownership of different owners, the objects which are in obligatory co-ownership, unless otherwise provided in the ownership act, are:

a) the soil over which the building is constructed, the foundations of the building, the main walls, the internal separating walls, the stairs, halls, the roof and terrace, chimney, as well as all those objects of the building of such character and which serve for common use;

b) wells, installments for water, installments of electricity, of gas, of telephony and central heating, including the pipes and respective lines, as well as different channels until the point of the start of the branches inside of the separated units of floors.

Article 210

The right of each co-owner over the objects mentioned in the above article, is in proportion with the value of floor or the parts of floor which belong to him, except when the title provides differently.

The renouncement from the right on the above-mentioned objects, does not free the owner from the obligation to contribute in their maintenance expenses.

Indivisibility of co-owned objects

Article 211

The co-owned objects of buildings are not allowed to be divided, except when the division of any one of them can be done without causing difficulties in its use to any of the co-owners.

The membership of the Assembly and the election of chairmanship

Article 212

The Assembly is formed by the owners of each floor or separated unit of each floor, who have in co-ownership the co-owned objects of the building.

In the first meeting of the Assembly its members chose, from among of them, the chairmanship, which is charged to do, on behalf and on the account of them all the necessary operations for the administration and normal maintenance of the co-owned objects, except those operations that are under the exclusive competence of the Assembly, and also to represent the Assembly before the competent courts and in arbitrage.

The Assembly Meetings and the Validity of Decisions

Article 213

After the first organisational meeting, the Assembly meetings are convoked once a year. Other meetings of the Assembly can be convoked by its chairmanship or with the initiative of not less than 20% of the members of the Assembly.

The Assembly meeting can be opened and can make decisions when there are personally present or represented by proxy the co-owners, who have at least two thirds of the total shares. When this number is not present, the meeting is postponed and the next meeting will be held if the normal majority of co-owners participates.

The Assembly decisions are made by a simple majority of votes of co-owners, except the cases when in the provisions of this Chapter or with special provisions is required a qualified majority. When the number of votes is equal, the vote of the chairman will be the decisive.

The Main Competencies of an Assembly

Article 214

The Assembly has these main powers:

1. Approve the regulations for administration of the building, which is compiled following the regulation-type passed by the Council of Ministers.
2. Create the reserve fund for common expenses, also determining its annual sum.
3. Approve the preventive of expenses which has decided to do during the year, as well as the division of their sum among co-owners.

The common expenses for maintenance, repairs and normal improvements of these objects are approved by the assembly through a simple majority vote, whereas the expenses for major improvements or qualitative renovations are decided by qualified majority of the co-owners who reach at least 75% of the shares.

4. Nominate, when deemed indispensable, the *consierge* of the building, defining his competences and his salary.

5. Authorise the chairmanship to assure, within reasonable bounds, the objects which are co-owned property, as well as to stipulate other other contracts necessary for maintenance, repairs, and usual improvements, or, depending on the case, of major improvements or renovation of these object.

Article 215

The decisions taken by the Assembly according the upper provisions are compulsory for all co-owners.

Legal claims against the Assembly Decisions

Article 216

When an assembly decision is illegal or adversely influences the interests of any of the co-owners of these objects, each co-owner has the right to present to a competent court an indictment for the invalidity of that decision, within 30 days from the date the decision is made. Presentation of the indictment does not suspend the application of the decision of the assembly, except when the court decides differently.

Obligations of Co-owners

Article 217

Each co-owner has the following obligations:

1. To pay the expenses for the protection and the enjoying of the common parts of the building, for the execution of services in the common good of all co-owners and for the changes decided by the majority of the co-owners, in proportion with the value of their share, except when there exists another agreement.

For the objects that serves the co-owners in different measures, the expenses are born in proportion with the use that each of them can make to it.

To pay the expenses for the preservation and enjoyment of the co-owned parts of the building, for carrying out services in the common good and for changes decided from the majority of co-owners in proportionality with the value of the share of each of them, except when there is different agreement.

2. Not to carry out on his floor or in the deviding part of the floor, that is under his specific ownership, constructions which can cause damage to the co-owned objects of the building.

3. To repair damage or to pay the expenses for its replacement, which he himself or a member of his family has caused by fault, to any co-owned object.

4. Not to carry out, without the prior permission of the assembly, on his floor or in his devided unit of the floor which is under his ownership, extensions or changes which can adversely affect the outside appearance of the building.

New Extensions over the last floor **Article 218**

The construction over the last/top floor of a building, of other floors or objects, can be realised with the decision of the majority of 3/4 of the co-owners of the building.

Article 219

It is prohibitted giving of permission to make extensions or such actions over the top floor if the statical conditions of the building do not allow it.

The co-owners can contest the permission given by the competent state agency for the construction of extensions or such actions over the top floor and when it is proved that these will decrease the amount of air or light for the lower floors or when they adversely affect the architectonic appearance of the building.

Article 220

They who are allowed to build extensions or other works over the top floor are obliged to reconstruct the terrace, which all or part of the co-owners had the right to use.

Total or Partial Demolition of the Building **Article 221**

When the building is totally demolished or in a part of it which is no less than three fourths of its total value, each of the co-owners can ask to sell by auction the soil and the materials, except whendifferently decided.

When the building is damagedin a small measure, the Assembly will decide for the reconstruction of the common objects of the building and each of the co-owners of them is obliged to contribute in proportion to his rights over those objects.

A co-owner who does not want to take part in the reconstruction of the building, must sell to other co-owners or to any one of them the objects, which are owned only by him, according to the valuation that will be done.

B. Joint Ownership among members of a farm family **Article 222**

The property over the wonership of the members of the farm family, is jointly owned by its members, who through their labors or other acquired rights, have contributed in the creation and keeping of the farm economy.

Article 223

The farm family is composed of persons who are related to each-other by kin, marriage, adoption/affiliation acceptance as family members.

Article 224

The farm family is represented in the property relationships with a third party by the head, who is elected by the family members.

Article 225

In the farm family's property are not included the objects of simply personal use of the members, as well as the things which the member has gained by his personal income, by donation or by inheritance.

Article 226

The farm family member cannot alienate any of the farm family property parts, until its partition has not been done.

Article 227

Every member of the farm family can demand his share in the farm family property. This is defined by considering especially:

- a) the family common property;
- b) the number of family members;
- c) his contribution in the creation or increase of the family property based on the quantity or the efficiency of this contribution, as well as by the work and means given in the creation and keeping of the farm economy.

Article 228

The allotment of the farm family property, is done according to the rules determined in Article 207 of this Code.

When the share is requested by single members of it, it is evaluated and given back in money.

When the allotment is requested by several members of the farm family, with the purpose to create another farm family, the share can be given *in nature*, provided that the agricultural land that remains to the divided family, should not be inferior to the minimum of the minimal unit of cultivation.

By minimal unit of cultivation is meant the agricultural land, that is necessary for the running of a farm economy, according to the natural conditions of the respective area or region.

Article 229

The farm family is responsible for the illicit acts carried out by its members, during the exercise of duties which derive from the economic activity of the farm family itself.

Article 230

The farm family is not responsible for the personal economical obligations of its members, including even its head. The creditors have the right to be paid from the share of the farm family income that belongs to the debtor member and from the share of the farm family property that belongs to him.

C. Co-ownership between spouses

Article 231

The co-ownership between spouses is regulated by provisions of the Family Code.

TITLE IV

USUFRUCT

CHAPTER I

GENERAL PROVISIONS

Content of usufruct Article 232

Usufruct is the right of a person (usufructar) to enjoy an object which is under the property of another, with the obligation of preserving and maintaining it.

The way of creation of usufruct Article 233

Usufruct is created by law or legal transaction. It can also be acquired by gaining prescription.

The duration of usufruct Article 234

Usufruct can be with or without terms, but in any case it can not exceed the lifetime of usufructar.

When the right of usufruct is enjoyed by a legal person, it can not last over 30 years.

The way of creation Article 235

The usufruct established by legal transaction must be done by a notherized act, while when it is acquired by will it is acted according to the appropriate provisions.

The usufruct over immovable object must be registered in records of immovable property.

Joint-usufruct Article 236

The usufruct can be in favour of more than one person. When the right of one of them ceases, it passes to other usufructars remaining, in proportion to their parts. It is continued this way until the ceasation of the right of the last remaining usufructar.

CHAPTER II

RIGHTS DERIVING FROM USUFRUCT

The limits of enjoyment of object in usufruct Article 237

The usufructar enjoys the property put in usufruct, but can not change the economic destination it has had at the beginning of usufruct, without the consent of owner or without the authorization of district court, when the owner and usufructar do not agree.

During the continuity of usufruct or when its ends, the usufructuary can take off the additions done to property, in the conditions of first paragraphe of this article, which (additions) can be cut off without damaging it, turning it back to its initial condition, except when differently provided in the act of establishment.

Improvements of object in usufruct **Article 238**

The usufructar at the termination of usufruct has no right to demand compensations for the improvement done to the object during the use even if its value is increased, except when differently provided in the act of establishment of usufruct.

The addition of value can be compensated with the damages that could have been caused to the object without the fault of usufructar.

When there is no place for compensation, the usufructar can remove the additions done, without damaging the object, except when the owner accepts to pay their value, as they were separated from the object.

Pertaining of fruits **Article 239**

To the usufructar belong the natural and civil fruits produced by the object during the term of continuity of usufruct.

The natural fruits which were not separated from the object at time of the beginning of usufruct, belong to usufructar and vice versa, when they are not separated from the object when usufruct ends, they belong to owner.

The transferr of the right of usufruct **Article 240**

The usufructar can transfer this right to another for a certain period of time or for all time being of it, except when in the establishment act it is provided differently.

The transfer must be announced in written to the owner, otherwise the former usufructar and the person who has acquired such right are solidary responsible to the owner.

The right of alienation **Article 241**

The usufructar has the right to alienate things object of usufruct in the measure they are intended to be alienated and in accordance to their nature.

In other cases the usufructar can not alienate things in usufruct without the consent of owner or without authorization of the district court, except when it is differently provided by the establishment act.

The authorization must be not given when the interests owner are adversely affected, to usufructar or third persons.

Replacement of object in usufruct **Article 242**

When objects in usufruct are alienated or replaced by others, these belong to the owner and simultaneously are object of usufruct.

The above mentioned rule is valid for anything which comes from the gathering of obligations object of usufruct, from the compensations for the repayment of damages or from the disvaluation of property, when they replace or improve the things object of usufruct.

Object of usufruct are as well, the objects that are gathered by the other benefits coming from usufruct, other than fruits.

Investments Article 243

The owner and usufructar must agree that the money object of usufruct be invested in a fruitful way or be expended in the interest of the other property in usufruct.

Giving in rent Article 244

The usufructar has the right to give in rent objects in usufruct except when differently provided in its establishment act.

When usufruct is over, the owner must respect the rent normally started before, except when the prolongation of its term is done without his consent. When the usufructar or the hirer have demanded the consent of owner for the renting and he has not replied in the defined term, the consent is deemed as given.

When the usufruct ceases, the rents for a term for over 5 years, are valid only for 5 years from the day the renting has started.

The enjoyment of servitudes Article 245

The usufructar enjoys the rights of servitudes related to the property over which he has usufruct as well as other rights in rem which were to be enjoyed by the owner himself, except the limitations provided by the establishment act or by law.

CHAPTER III

OBLIGATIONS COMING FROM USUFRUCT

Replacement of damages Article 246

The usufructar is obligated to compensate the value of the lost object or of damage caused to it, except when he proves that they are not caused because of his fault.

He is obliged to replace the objects that, according to usufruct, he had no right to consume.

Inventories Article 247

The usufructar takes in possession the objects in the condition they were before the beginning of usufruct. Objects in usufruct are taken in delivery by inventory done by a public act, in the presence of owner, after being announced in an appropriate term. It is the right of parties that in inventory to note all details which are related to the definition and condition of objects taken in usufruct.

The inventory can be also done by a private act, when the two parties come in agreement, who are present during its performance. The expenses for the performance of inventory are on the charge of usufructar, except when it is differently provided in the establishment act.

Periodical announcements Article 248

The usufructar is obligated to send to owner at the end of each year a detailed announcement in written signed by him, for objects which do not exist any more or for the objects which have replaced them, as well as other profits from objects in usufruct, which do not fall under the category of fruits.

Giving guarantee Article 249

The usufructuary is obligated to give to the owner a written guarantee for the fulfilment of obligations deriving from usufruct, except when in the act of establishment he is discharged from such obligation or when the interests of owner over things in usufruct are assured in a sufficient way from an institute charged with this task.

The parents who have the legal usufruct over objects under ownership of their children, are excluded from provision of such guarantee.

When the usufructar is discharged from the obligation of giving the guarantee, the owner acquires the right to demand from him to be told every year the things given to him in usufruct or to get acquaintance of an announcement of a credit institution for the money or vouchers deposited.

The usufructar can not acquire the possession over objects put in usufruct, without fulfilling the obligations which derive from this article.

Consequences of non-giving the guarantee Article 250

When the usufructuary does not give guarantee, there are measures taken for the administration of objects in usufruct. The immovable properties are given in rent or are entrusted to an administrator chosen of agreement between the owner and administrator and when such an agreement is not achieved, the district court appoints the administrator.

The usufructar has the right to keep as his own or as his family's habitation residence, an apartment included in usufruct.

The money which are included in usufruct are invested with interest.

The immovable properties which get old are damaged from the use or alimentation objects which risk to get rotten, are sold and their value is given with interest or is used for objects in usufruct.

The usufructar can require to be left to him movable objects sufficient for personal use.

The expenses for maintenance Article 251

The expenses necessary for protection, maintenance and administration of object are in charge of usufructar. On his charge are also the expenses for unusual repairs, when they are consequence of the unfulfilment of his obligations to the object in usufruct.

Extraordinary repairs are on the charge of owner. When the owner refuses to perform them or others charged to him, or delays without reason their performance, the usufructar makes them with his expenses, which are liquidated until the termination of usufruct. The usufructar has the right to keep the repaired object until the liquidation of his expenses.

The insurance of usufruct

Article 252

The usufructuary must insure things in usufruct in the favour of the owner for the risks they usually are to be insured or that are obligatory by law. In case of damage the usufruct is extended over the paid reward.

When usufruct does not fulfil such obligation, the owner has the right to do himself the insurance of property and the usufructar is obliged to pay him the respective expenses.

The expropriation of objects in usufruct

Article 253

When the property is expropriated for public interests, the usufruct passes over the respective compensation.

The payment of taxes and other obligations

Article 254

Taxes, imposts, compensations, land rents and other annual obligations which are connected to incomes during usufruct are on the charge of usufructuary.

Taxes, imposts and other obligations in charge of the property during usufruct, are on the charge of the owner.

CHAPTER IV

THE TERMINATION OF USUFRUCT

Article 255

Usufruct ends:

- by the death of usufructar or ceasation of usufructar legal person;
- by the termination of term defined in the establishment act;
- by the unification of qualities of owner and usufructar in a single person;
- by the complete destruction or the loss of object given in usufruct;
- by non usage of usufruct consequently for twenty years.

The ceasation of usufruct

Article 256

The usufruct can cease when the usufructar abuses with the rights or does not fulfil the obligations which derive from usufruct.

Still the court, according to the resulting circumstances can order the usufructar give him guarantee, in case he is discharged from such obligation, or upon the request of owner to be left to him the administration of property in usufruct or to another person or even the renting of the object.

The renouncement from usufruct

Article 257

The usufructuar can demand that, on his expenses, he renounces from usufruct because of the burdens and obligations which derive from it.

The return back of things in usufruct.

Article 258

When usufruct terminates, the usufructuar or his heirs are obliged to put at the disposal of owner the objects put in usufruct.

TITLE V

USE AND INHABITATION

Article 259

The person who has a simple right of usage over an object, uses it and enjoys its fruits in the measure he needs for himself and his family.

When the object of the right of usage is a residence, the person has the right to reside there according to his needs and his family's needs. The object or inhabitation which is use according to this provision can be not alienated, burdened nor used by other persons.

Article 260

Provisions related to usufruct apply also to the right of usage and inhabitation, as long as they comply with these rights.

TITLE VI SERVITUDES

CHAPTER I GENERAL PROVISIONS

Article 261

Servitude consists of a burden imposed on a property, for the utilization and utility of a property of another owner.

Article 262

Servitude is established by law or man's will.

Article 263

The owner of the serving property is not obliged to perform any action in order to make possible the exercise of servitude, except when by law or title, it is differently provided.

Article 264

The owner on whose favour servitude is put, is obliged to compensate to the owner of serving property the damage caused to him from the establishment of servitude.

CHAPTER II

COMPULSORY SERVITUDES

Article 265

The owner of a property that, according to law, has the right to demand from the owner of another property the establishment of servitude, in lack of agreement, can go to the court.

The compulsory servitude can be established also by the act of state agency, in cases provided by law.

The decision must define the rules of exercise of servitude and the compensation of the respective damage.

Flow of waters

Article 266

The owner is obliged to accept in his land water of the rain, snow and unexploited sources, which naturally flow from a land of higher level. The owner can not change this natural flow in the harm of another.

The water flowing on a lower land can be kept by the owner of the above land, only in the measure indispensable for that land.

Article 267

In cases when the slopes and sides of a property which served to prevent waters, are destroyed or damaged, and when it becomes necessary that because of waters to be constructed protectors and the owner of that property does not agree to construct or repair them, the harmed owners or the ones that risk to be harmed, can on their own expenses construct or repair them.

These constructions and repairs must be carried out without causing any damage to owner of serving land, and respecting the special rules, when such ones exist. When the owner of serving land has objections, the disagreement is solved by the court.

Article 268

The provisions of the above mentioned article are applied also when it becomes necessary to take off a barrier of materials formed in another property or gap, water flow or draining channel, which harm the neighbouring properties.

Article 269

The owner who has a source of water in his property is free in its use, but without harming the rights acquired by the owner of lower property on the basis of a title or by prescription.

Article 270

In case a flow of water prevent the neighbouring lands owners, the entrance in those or the continuity of draining or irrigation of waters, the ones who use this flow, are obliged that in proportion to profits earned by it (the water) to construct and maintain the bridges

and other communication means, in a proper and safe way, as well as the underground pipes or other works of this nature for continuing the drainage and irrigation.

Article 271

The owner of a land is obligated to accept without compensation the waters which come from drainage of an above land, when they flow naturally in his land.

When from this flow he is caused damage, he has the right to demand the compensation of the damage and the taking of measures for avoidance in the future.

Servitudes deriving from constructions Article 272

The rules for construction of inhabitations and other constructions, the distance between them, the prevention of light and sight, the settlement of balconies and other constructions of this nature, are regulated by special law respecting the rights of the owner provided in this Code and other special laws.

Servitudes which derive from reception of water Article 273

The pass of waters through the other's property must be done in the most appropriate and suitable way in order to cause the least of damages, but without preventing the normal exercise of servitude.

Article 274

When the pass of waters is demanded for a time not longer than 9 years, the payment of value and compensation of damages mentioned in the above provision is done in the half of this value, with the obligation that at termination of term everything is returned in the previous condition.

This servitude can become permanent when this is demanded before the termination of term, through the payment of the other half, of value together with the legal usuries, from the day the pass has started.

When the request is done after the termination of term, the payments are not taken in consideration for the temporary conference of this right.

Article 275

When the pass of waters must be carried out through public streets (ways) or rivers and other public constructions, there must be applied the rules provided in special provisions.

Article 276

When in a house or in its other environments there is lack of water necessary for the living of people and livestock and it can not be otherwise provided, or great expenses are needed, the owner of the neighbouring land must permit that a surplus quantity of the water to be used in the indispensable measure for the above mentioned necessities, the other party affording the value of the water required and expenses which must be done for this purpose, and when it is the case to compensate the damage which might be caused.

Servitude of passing through Article 277

The owner who has no communication with the public way and can not provide it except by great expenses and through difficulties, has the right to have a passing way from the neighbouring land, for a suitable use of his property.

The pass must consist in the shorter way to the public way and with less damages for the serving property.

This provision applies even when the owner, to whom is recognized the right of passing in the other's property, demands reasonable widening of the passing way for vehicles, including as well the pass of mechanic means.

Article 278

The owner must allow the neighbour to enter and pass in his land any time he needs to construct or repair a wall or another work. He must allow the person to look for and to take the livestock or any other of his things, which happen to be there occasionally or as a consequence of wind, water, avalanches and other major forces, things which are in his land or are united to his object.

The owner can not allow the entrance when he assumes to deliver by himself the object situated in his land. When it is the case the owner of land is compensated for the caused damage.

Article 279

The person who wants to pass in the other's land, must pay the value of the occupied land, without deducting the imposts and other burdens related to land, as well as the compensation for the caused damage including the damage which comes from the interruption of land, from its non usage, from the deposition of materials brought out and of residues. The owner of serving land has the right to remove the last ones and to make use of the surface of soil, but always without harming the normal exercise of servitude.

Servitude of putting cables, wires, tubes Article 280

The owner must allow other persons to construct in his immovable property canals or to put pipes for water and gas, as well as telegraphic or electric wires and cables and other installments of this nature, but only when there is no possibility to construct these things differently or to be done without great expenses. When to the owner is caused damage, he has the right to be compensated.

CHAPTER III

VOLUNTARY SERVITUDES

Article 281

The owner can establish on his properties or to their benefit, any kind of servitude, provided that it should not contradict the legal order.

The voluntary servitudes are created by contracts or by will.

Article 282

Servitudes are consecutive when their exercise is done without the need of time after time actions of man, as the water ditches, shelter points and others of this nature.

Servitudes are non-consecutive, when in their exercise is demanded the performance of present acts of man, as the right to get the water, pasturage of livestock and other of this nature.

The servitudes can be visible or invisible.

Invisible are the servitudes for which are not needed permanent and apparent works, necessary for their exercise.

Article 283

The consecutive and visible servitudes are created by title or by prescription of 10 years.

The invisible consecutive servitudes and non consecutive servitudes, apparent or not, can not be created otherwise but by title.

Article 284

When two properties cease to be under the ownership of a person, the servitude is considered that it exists in an active or passive way to the benefit or against every separated property, except when there is a contrary agreement.

CHAPTER IV

MANNERS OF EXERCISE OF SERVITUDES

Article 285

The right of servitude comprises everything necessary for its usage.

Article 286

The owner can not charge the property with servitudes, that harm the rights of usufructuary, without the consent of usufructuary.

Article 287

The servitude on a property which belongs to several persons in joint ownership can be established only with the approval of all the joint owners. The servitude established by only one or some joint owners, enters into force when the other joint owners together or separately, have given the approval for its establishment.

Article 288

The person who has a right of servitude must use it according to his title or his possession's title. When there are doubts about its extension and way of exercise, the servitude is considered to be established in such a way to fulfil the necessities of the dominant property, burdening to the least extent the serving property.

Article 289

The right of servitude must be exercised in the time and manner which brings less difficulties and troubles to owner of serving property.

Article 290

When the property on which benefit a servitude is established is divided, servitude will serve to each part, provided that the burden of serving property is not overcharged.

Article 291

The owner must not reduce or make difficult the usage of servitude by his acts or nonperformance of his acts.

Never the less, if the conditions have changed and the owner of serving property is burdened or prevented in the exercise of his ownership rights, he can demand to the owner, on whose benefit is put the servitude, the change of the place of servitude.

This right is possessed also by the owner of the other property, when proved that this change brings benefit and does not harm the serving property.

Protection of servitude Article 292

The person who exercises a servitude, has the right to demand judicially from anyone who contradicts this right, demanding according to the case its full reestablishment, the cease of adverse influence made to him as well as the compensation of the caused damage.

CAPTER V

EXTINGUISHMENT OF SERVITUDES

Article 293

Servitude extinguish:

a) when in a sole person is united the ownership of dominant property with that of serving property;

b) when there are used for no longer than ten years;

The term of prescription for non-continual servitude start to run from the day when the servitude has ceased its usage, whereas for the continual servitudes from the day when a work is completed or verified a fact which hinders the exercise of servitude. For the effect of extinguishment of servitude, is counted also the time that it was exercised by the above mentioned titular.

c) when things are damaged or consumed to that extent that they can be no more used for their destination.

The return in a condition to be used brings as consequence the resettlement of servitudes, except when this right is prescribed.

Article 294

When the dominant property is under joint ownership, the usage of servitude by one of joint owners, interrupts the prescription also toward the other joint owners.

Article 295

The suspension or interruption of prescription in favor of one of joint owners, has effects on favor of the others too.

TITLE VII

PROTECTION OF OWNERSHIP

Action for demanding of object Article 296

The owner has the right to bring action against in order to demand his property from any possessor or holder. This right belongs also to any joint owner for the joint property, in order that it be delivered to all joint owners.

The rights of possessor on the incomes Article 297

To the possessor in good faith belong the separate natural fruits and the gathered civil fruits which are rendered demandable until the day he has got acquaintance of the fact that he is illegal possessor, or announced of the action of owner for the demand of the thing. He is not obliged to compensate the owner for the loss, harm or impossibility of returning back the object for any other reason, but after that date he is responsible for the gathered fruits or the fruits which he should have gathered, by acting with care until the time of return of object, for the compensation of use of object, as well as for the loss, harm and impossibility of restitution because of his fault.

Article 298

The possessor in bad faith for all time of his possession, is obliged to return back to the owner together with the object also the separated natural fruits and the gathered civil fruits which have become demandable, and other incomes he should have gathered, as well as compensate the owner for the usage of thing and for the loss, harm and impossibility of returning back the object even without his fault.

He is discharged from responsibility when he proves that the damage would take place even if he delivered the object at proper time, except when it is taken through a penal act.

The right of possessor for expenses Article 299

The possessor in good faith has the right to demand the payment of necessary expenses done for the object and utility expenses, at the amount they increased its value, if it continues to be at the time of return of the object.

The possessor in good faith has the right to deduct from the incomes of the object, the expenses recognized to him according this provision. He has the right to keep the object, until are paid to him the necessary and utility expenses.

Article 300

The possessor in bad faith has the right to demand only the payment of necessary expenses done for the object.

Article 301

The possessor in good faith and the one in bad faith, except the expenses recognized to them according to the articles of this Code, have no right to demand the payment of other expenses done for the object, they have but the right to remove from the object what they united to it and which can be separated without harm, except when the owner accepts to pay their value.

Denying action Article 302

Owner has the right to demand from any one who adversely affects his property, but without divesting from the possession, to cease the adverse affection not to repeat it in future, and, when it is the case to compensate damages that he brought.

Denouncement of a new labor construction and of a possible damage Article 303

The owner, the person who enjoys another right in rem or the possessor, who have reasons to worry that by a new construction started from others in their or other's land, there can be caused harm to the object under his ownership or possession, can be appeal to the court provided that this operation is not completed or there is not a year passed from its start.

The court according to the case can decide the interruption of work, demolition or its reduction and when it is the case also the recompensation of damage or it reverses the action by ordering the compensation of damage when it results that the work was unjustly interrupted.

TITLE VIII

POSSESSION

CHAPTER I

GENERAL PROVISIONS

The definition of possession Article 304

The possession is the effective domination of a person over an object and the other rights in rem therein. The possession can be exercised directly or by a person who holds the object.

Kinds of possession Article 305

The possession of a not owner person can legal or illegal. The possession is legal when the possessor has the possession from the owner, based on a legal transaction, based on the law or an administrative act.

In all other cases the possession is illegal.

Article 306

The illegal possession can be in good faith or in bad faith.

The possession is in good faith when the possessor did not know or was not obliged to know that his possession is illegal.

The good faith is presumed and it is enough that it has been during the time of acquisition of possession.

Presumptions over possession

Article 307

Present possessor that has possessed during a previous time, is presumed that he have been possessing also in the intermediate time.

Article 308

The actual possession does not presume the previous possession, except when the possessor has a title which consist the basis of his possession.

In this case the possessor is presumed to have been possessed from the date of title.

Ways of the acquisition of possession

Article 309

The possession is acquired through legal transact, by inheritance or occupation.

The one who has acquired the possession in good faith, can join to his possession, also the time of possession in good faith of the person from whom he has acquired the thing.

CHAPTER II

THE PROTECTION OF POSSESSION AND MAINTENANCE

Protection of the same moment

Article 310

The possessor has the right to contradict at the moment, by using adequate protection, any act which intends adverse affection or divesting from possession. When the object is taken by force or hiddenly, the possessor has the right to take it immediately or during the chasing, but by avoiding acts of violence which do not comply with the circumstances of event.

Article 311

The right to protect the possession is recognized also to the holder of the object, against any other person, except towards the one from whom these rights derive.

Ceasing of adverse affection to possession

Article 312

The person who is adversely affected in the possession of an object, can demand within six months, the ceasing of adverse affection to possession and the non verification of it in future.

When the possession is acquired by force or hiddenly, the action can be brought against within six months from the day when force and hiddenness have ceased.

The cessation of adverse affection to possession can not be requested by the person who acquired the possession by force or hiddenly.

The resettlement in possession

Article 313

The possessor, who illegally is divested from possession, has the right to demand within six months, his resettlement in possession.

This right does not belong to the possessor who has acquired the possession by force or hiddenly.

When the divestment is done in secrecy, the term to demand the resettlement of possession starts running from the day the divestment was revealed.

Article 314

The resettlement can be demanded even against the one who has acquired the possession by means of a title, but who was informed of the divesting occurred.

Article 315

During the judgement of an action for the cease of the adverse affection or resettlement in possession, the plaintiff can not pretend that he himself is the owner or that he has a stronger right than that of the possessor.

PART III

TITLE I

GENERAL PROVISIONS

Meaning of inheritance

Article 316

Inheritance is the transfer by law or by will of the estate (inheritance) of a deceased person to one or more persons (heirs) according to the rules set in this Code.

Article 317

Inheritance by law applies when the testator has not made a will or has made one only for a part of his estate or when the will is entirely or partially invalid.

Time and place of opening the inheritance

Article 318

Inheritance is opened when the estate-leaver dies at the place of his last residence. If the latter [place] is unknown, the inheritance is opened at the place where all or most of his estate is located. It is governed by the law of the time of its opening.

Article 319

An agreement by which rights [to be] acquired from an unopened inheritance are disposed of or used shall be invalid.

Capacity to inherit

Article 320

A person who is alive at the time of the opening of the inheritance, or who has been conceived before the death of the estate-leaver and is born alive shall be capable to inherit.

It is presumed that who is born within 300 days from the death date of the estate-leaver had been conceived before the time of the opening of the inheritance.

Article 321

When two or more persons are called to inherit from each other and it is not proved which one died earlier, it is presumed that all died at the same time and no right is transferred from one to another.

Unworthiness

Article 322

The following are considered unworthy and cannot inherit:

- who has intentionally killed or attempted to kill the estate-leaver or his spouse, children or parents;
- who has committed perjury or has made false charges against the estate-leaver for the commission of a crime punishable by death or by more than ten years of imprisonment, if the perjury or false charges have been found in criminal proceedings;
- who has urged the estate-leaver through fraud, intimidation or violence to make, change or repeal his will or who has drafted a false will himself or has used one in his or others' interest;
- who has behaved toward the estate-leaver in a humiliating manner or has ill-treated him.

Article 323

Unworthiness of a parent or of another predecessor does not bar [from inheriting] a child or his descendants, both when they inherit themselves and when they inherit by substitution. In such case, the unworthy parent cannot enjoy over the share of the estate to which his children are entitled the rights of usufruct and administration granted by law to the parents over the property of their children.

Pardon of unworthiness

Article 324

The estate-leaver can pardon the person unworthy to inherit, provided that the pardon is made expressly by a notarized document or by will or that, although the pardon is not made expressly, the estate-leaver has written in his will that, despite being aware of the unworthiness, he has nevertheless appointed him as a heir.

Obligations of an unworthy heir

Article 325

The person barred from inheriting as unworthy must return the fruits and any other income accrued from the inheritance after its opening.

Substitution

Article 326

Substitution allows the stepping of substitutes into the place, degree and rights of the substituted person.

Article 327

Substitution in straight line of the descendants is unlimited and takes place in all cases, be it when the child of the estate-leaver inherits concurrently with the descendants of another child who has died earlier [than the estate-leaver], or when the children of the estate-leaver have died before the latter and the descendants of the former are of the same or of a different degree, or of their number according to birth.

Article 328

There shall be no substitution of predecessors in straight line; the closest exclude the others.

Article 329

In indirect line, substitution is accepted in favor of the children and the other descendants, of the siblings of the estate-leaver, even if they inherit concurrently with their uncles or aunts or with the descendants of the latter of the same or a different degree.

Acquisition of inheritance

Article 330

Inheritance is acquired with the death of the estate-leaver.

Article 331

With the opening of the inheritance, possession of the estate is transferred from the estate-leaver to the heir, without being necessary for him to seize it.

Article 332

A heir may acquire all the property of the estate-leaver or a part of it, or only a specific thing or other property right.

Renunciation of inheritance

Article 333

Renunciation of inheritance must be made by a written statement to be filed with the district court of the place where the inheritance is opened, or orally in a judicial process.

Renunciation may be also made through a representative with special power of attorney.

Article 334

A person that renounces the inheritance is deemed to have never been called to inherit. Renunciation of inheritance does not bar the heir from claiming legacies.

Article 335

Inheritance may be renounced within three months from the opening of the inheritance or, if the heir is abroad, not later than six months afterwards.

For the heir who was not born at the time of the opening of the inheritance, the time period for the renunciation starts running from the date of his birth.

The time period for renouncing the inheritance is suspended for the same reasons that are valid for a statutory barring of a lawsuit [*or statute of limitations of a lawsuit*].

Article 336

When it is not known whether there are any heirs, or when the heirs are missing and there is no news about them, the court of the district where the inheritance is opened, on its own motion or at the request of any interested party, determines a time period of not less than six months from the opening of the inheritance, within which they must declare whether they renounce the inheritance. If no such declaration is made within this time period, it is presumed that the estate-leaver has no heirs.

Article 337

A renunciation of inheritance made before the opening of the inheritance, or when it is conditional, or for a given period, or for a part of the estate, or in the benefit of one of the other heirs shall be invalid.

Article 338

Inheritance cannot be renounced if, during the three-month period, the heir has acted as an heir.

Actions performed only to safeguard the estate are not deemed as heir-like actions.

Heirs that have removed or concealed things from the estate forfeit the right to renounce and become heirs even if they have declared their renunciation from the inheritance.

Article 339

A heir that has duly declared that he has or has not renounced his inheritance cannot revoke that declaration later.

Article 340

If a heir dies before the expiration of the time period for the renunciation from the inheritance, the right to renounce is transferred to his heirs.

Payment of obligations

Article 341

The heirs are responsible for the obligations encumbering the estate in proportion to their shares, up to the value of the property they have inherited.

Obligations of the estate-leaver, the expenses of his funeral, and the expenses necessary for safeguarding and administering the estate until it is transferred to the respective heirs shall be deemed obligations encumbering the estate.

Article 342

If one or several immovable properties of an estate are encumbered by mortgage, every heir can request that these properties be relieved from mortgage before the succession shares are formed.

An heir who has performed the obligation secured by a mortgage placed on an immovable property belonging to his share has, nevertheless, the right to be compensated by the other heirs in proportion to their shares.

Measures to secure the estate **Article 343**

When it is considered necessary to protect the interests of the heirs, of persons who may benefit from the will, of the creditors of the estate-leaver or of the State, the court of the district where the inheritance is opened, on its own motion or at the request of any interested part, shall order the bailiff or a notary public to make an inventory of the estate.

The bailiff or the notary public appointed to make the inventory may appoint a trustee of the estate.

As long as the above measures remain in effect, an heir that may have started to administer the estate cannot transfer it without authorization of the court.

Article 344

When it is not known whether there are heirs, or when the heirs are missing and there is no news about them, or if the legal and testamentary heirs have renounced inheritance and their heirs are not known, the court of the district where the inheritance is opened shall appoint, on its own motion or at the request of the parties, a trustee of the estate.

A summary of the decision appointing a trustee shall be published in the Official Journal.

Article 345

The trustee requests that an inventory of the estate be made, takes measures to administer the estate, exercises the right of action and reacts to actions related to the estate, deposits in a bank account the money of the inheritance and that accrued from it, performs other similar actions and renders an account at the end of the administration.

Article 346

With authorization of the court, the trustee pays the obligations encumbering the estate, performs the obligations related to legacies and encumbrances and, if deemed necessary, transfers estate property.

Article 347

The duty of the trustee terminates with the appearance of an heir.

Certificate of inheritance **Article 348**

The quality of heir and their succession shares are determined by a certificate of inheritance issued by the court according to the rules of the Code of Civil Procedure.

Action for requesting the estate

Article 349

An heir may request by lawsuit that any one who possesses the estate property or a part of it recognize him as heir and deliver to him the estate property and any property acquired by means of the latter, in conformity with the rules on possession in good faith and in bad faith.

Article 350

An action for requesting the estate may be brought against a party that holds the estate property in accordance with a certificate of inheritance, including when that holder is the State. A person who has acquired in good faith any thing of the estate from such heir is not obligated to return the thing, even if it was acquired by giving value.

A possessor in good faith who has transferred in good faith things of the estate is obligated to return to the plaintiff heir only the price of the thing, attaching the invoice. If the latter has not been paid, the right to request payment passes on to the plaintiff heir.

Article 351

An action for requesting the estate is not barred by statute [*or subject to statute of limitations*], except for the effects of prescription [*usucapio*] for separate things.

Article 352

The provisions on possession shall apply also to the possession of the estate property with respect to the requesting of the fruits, to expenses incurred and improvements or additions made.

Division of inheritance

Article 353

Any one of the co-heirs has the right to request at any time the division of the estate, even if the estate-leaver provided otherwise.

Article 354

The division of the estate may be made by agreement of the heirs or, if they do not agree, by the competent court to hear inheritance actions.

Article 355

The division of the estate is made according to the rules set forth in article 207 of this Code and the other provisions of this chapter.

Article 356

Each of the respective shares must include, to the greatest possible extent, the same quantity of movable or immovable property, rights *in rem* or claims of the same value and kind.

Article 357

If creditors have sequestered movable property of the estate, or have opposed the division according to article 206 of this Code, or if the majority of the co-heirs consider it necessary to pay the obligations encumbering the estate, the movable property shall be sold at auction.

Article 358

The spouse of the estate-leaver has the right to claim the share belonging to him or her in the common property acquired through work during marriage.

The co-heirs that have contributed, through their work or income, to incrementing the estate have the right to claim their shares in the added property in proportion to their contributions.

Article 359

The share of a deceased member of an agricultural family in the property of the family passes on to his heirs, regardless of their membership in the agricultural economy.

When the last member of an agricultural economy dies, the estate passes on to his heirs according to the rules determined in this Code.

TITLE II

INHERITANCE BY LAW

Article 360

The legal heirs are the children, the children of the children, the spouse, the parents, the siblings and the children of the siblings deceased before, the grandparents and other predecessors, the persons unable to work and dependant on the estate-leaver, his other kin up to the sixth degree as well as the State. These are called to inherit in the order provided for in this Code.

Article 361

In the first row are called to inherit the children and the spouse able or unable to work, each inheriting in equal parts.

When one of the children has died before the estate-leaver, has become unworthy of inheriting, or has renounced the inheritance, his children take his place by substitution, and if they cannot be heirs for the same reasons, their descendants shall be called to inherit without limitation. In this case, the share of the parent who does not inherit is divided among his descendants in equal parts.

When there are no other heirs of the first rank besides the spouse, those of the succeeding rank contemplated in article 363 of this Code are called to inheritance, and when there are none such, the heirs of the next succeeding rank contemplated in article 364 of this Code are called.

In any case the spouse receives half of the estate.

If there are no heirs of the above-mentioned rows, the inheritance shall belong to the surviving spouse.

Article 362

Children born outside of marriage, when their paternity or maternity is duly recognized, and adopted children are equivalent to children born from a marriage.

An adopted child does not inherit from his family of origin, nor does the latter inherit from him.

Article 363

In the second row are called to inherit the parents of the estate-leaver and the persons unable to work who, at least one year before the death of the estate-leaver, lived together with him as dependent members of his family.

Article 364

In the third row are called to inherit the persons unable to work dependent on the estate-leaver as specified in article 363 of this Code when there are no other heirs of the second row, the grandparents, the siblings, as well as the children of the siblings that have died earlier. They inherit in equal parts, without making distinction among siblings of the same father or of the same mother, or between grandparents from the father's or mother's side.

Article 365

When the estate-leaver has left neither descendants, nor parents or predecessors, siblings, or descendants of the latter, the property of the estate-leaver passes on to his nearest kin, without distinguishing between his father's and mother's line, but in no case further than the sixth degree.

Article 366

When the estate-leaver has no heirs up to the sixth degree, the state is called to inherit.

Article 367

The state is not responsible for obligations of the estate-leaver in excess of the value of the inherited property.

Right of addition for household things

Article 368

The heirs who lived together with the estate-leaver at the time of his death shall receive, when called to inherit, and in addition to the share of the estate to which they are entitled, the household goods of common use, unless the estate-leaver has provided otherwise in his will.

Inheritance according to rows

Article 369

Heirs of a subsequent row are called to inherit only if there are no heirs of the preceding row, or if the latter have all become unworthy [to inherit], have renounced the

inheritance, or have been excluded from inheritance, except when there is a heir of the second row unable to work and there are heirs of the third row.

**Right of addition
Article 370**

When one of the co-heirs called to inherit has died before the estate-leaver, has become unworthy, has renounced the inheritance, or has been excluded from the inheritance and there are no persons who inherit by substitution, the share to which he is entitled shall be added to the shares of the co-heirs of the same row.

**Heir unable to work
Article 371**

Heirs unable to work are those who, at the time of death of the estate-leaver, have not reached the age of 16, or the age of 18 if they continue studies, the men that have reached the age of 60 and the women that have reached the age of 55, as well as the disabled persons of the first and second degrees, regardless of their age.

TITLE III

INHERITANCE BY WILL

**Meaning of the will
Article 372**

A will is an unilateral legal action [*Rechtsgeschäft*] taken by the estate-leaver, by means of which he disposes of his property for the time after his death.

A will cannot be made by two or more persons in the same document, or to the benefit of a third person, or by mutual provisions.

**Capacity to dispose by will
Article 373**

Any person that has reached the age of 18, as well as a younger, married woman, may make a will.

Minors from 14 to 18 years old may make will only for the property acquired through their own work.

A person deprived of capacity to act by court decision, as well as a person who, at the time of the making of the will, is unable to understand the importance of his action, cannot make a will.

**Capacity to acquire by will
Article 374**

Persons who are incapable to inherit by law shall be incapable to acquire by will, with the exception of the non-indirect children of a person, who was alive at the time of the death of the testator, even if those children were not yet conceived [at that time].

Article 375

The guardian can in no event acquire by means of the testamentary provisions of the ward made before the approval of the final accounts, even if the testator died after the approval of the final accounts.

Dispositions made in favor of the guardian are valid if the latter is a predecessor, descendant, sibling or spouse of the testator.

Article 376

Testamentary provisions in favor of the incapable persons contemplated in articles 374 and 375 of this Code shall be invalid even if concealed in the form of a contract for value or made in the name of an interposed person.

The following shall be interposed persons: the father, the mother, the descendants and the spouse of the incapable person.

Appointment of heirs

Article 377

An estate-leaver without surviving descendants, predecessors, or siblings has the right to dispose of his estate by will in favor of any natural or legal person.

Exclusion from inheritance

Article 378

An testator can exclude from legal succession one or more of his heirs, even if he has not appointed heirs in his will.

Legal reserve

Article 379

An testator cannot exclude from legal succession his minor children or other minor heirs who inherit by substitution (article 361, second paragraph), or his other heirs unable to work if they are called to inherit, nor affect by will in any manner the share to which those heirs are entitled as a matter of legal succession, unless they have become unworthy to inherit.

Article 380

When the testator disposes by will of a usufruct or a life tenancy, whose income exceed those of the disposable part, the heirs benefiting from the legal reserve may execute this provision or relinquish their rights over the disposable part.

Persons who benefit from the legal reserve have the same right of choice if the testator has disposed of the nude property of a part [of the estate] that exceeds the disposable part.

Substitution

Article 381

A testator may provide by will that, if an heir dies before him, becomes unworthy, or renounces the inheritance, the latter passes to one of the other heirs indicated in articles 361, 363 and 364 of this Code and, if there are none, to another person.

A testator cannot obligate an heir to safeguard and to transfer, after the latter's death, all or part of the inheritance he has received to another person.

Right of addition

Article 382

If the testator has bequeathed all his estate to the heirs appointed by will and one of those heirs dies before him, becomes unworthy, or renounces the inheritance and the testator has not appointed in such event another heir in lieu of him, as well as when one heir is excluded from succession, the share to which he was entitled shall be added to the shares of the other co-heirs appointed by will in proportion to their inheritance shares.

If a part of the estate has been jointly bequeathed to some of the heirs, additions shall apply only to those co-heirs.

Article 383

If the testator has bequeathed by will only a part of his estate, even if in this part he has jointly appointed several heirs, the share of one who for the reasons indicated in the preceding article cannot or does not want to be a heir, shall pass on to the legal heirs of the testator.

Legacy and burden

Article 384

An testator may charge the heir or the heirs appointed by will, as indicated in articles 361, 363 and 364 of this Code, to transfer to one or more legal heirs a property interest from the estate, without making them heirs (legacy).

If a testator without any surviving heirs [from among those] indicated in articles 361, 363 and 364 has appointed by will other persons as heirs, he may charge them with legacies to the benefit of any person.

Provisions on the capacity to inherit shall apply to the legatee.

Article 385

A legatee has the right to claim the fruits or the interest resulting from the legacy from the date set for the delivery of the legacy to him and, as the case may be, from the date the lawsuit was commenced by service of notice.

They may be claimed from the date of the death of the testator, if the testator has so provided expressly or if the legacy is a deposit in money.

Article 386

A testator may charge the heir or the heirs appointed by will to perform an action beneficial to the society or any other action, without giving any right to the person charged with this action (a burden).

When the testator bequeaths his estate by will to the State, its organs or instrumentalities, he shall be entitled to determine the purpose for which the property must be used.

Article 387

If a heir charged with a legacy or a burden has died before the testator, has become unworthy or has renounced the inheritance and the testator has not appointed another heir in his place, the co-heirs or the legal heirs, to whom the share of the one who, for [one of] the above reasons, cannot or does not want to be a heir is added or transferred, shall be charged with the performance of the corresponding obligations to the legacy or the burden.

If the performance of the corresponding obligations to a legacy or a burden is heavily dependent on the person that, for [one of] the above reasons, cannot or does not want to be a heir, the legacy or the burden shall become ineffective.

Article 388

If none of the heirs is charged by the testator to perform the legacy, each heir shall contribute to its performance in proportion to his share.

Article 389

When a thing given by legacy is indicated only in kind or in amount, the right of choice rests with the heir, but the quality of the thing cannot be below average.

Article 390

If the legatee dies before the testator, becomes unworthy or renounces the legacy, and the testator has not appointed another person in his place, the legacy shall be to the benefit of the heir charged with the legacy.

But if the legacy has been bequeathed to several persons jointly, the share of one who cannot or does not want to receive the legacy shall be added to the remaining joint holders in proportion to their shares.

Article 391

The legatee has the right to request from the charged heir the performance of the corresponding obligation to the legacy.

The performance of an heir's corresponding obligation to a burden may be requested by the executor of the will, the co-heirs, or the relevant state or private organizations.

The corresponding obligations to a legacy or a burden shall be performed after the obligations encumbering the estate are performed.

Forms of will

Article 392

A will is made in two forms: holographic or by notarized document.

Holographic will

Article 393

A holographic will is entirely written by the hand of the testator, including the date and his signature.

The date of the will must indicate the day, month and the year.

The signature is placed at the end of provisions.

Article 394

A person unable to read his own handwriting cannot make a holographic will.

Article 395

Persons who cannot hear (the deaf) or who cannot hear and speak (deaf-mute), may dispose by holographic will or by will received by a notary public, in conformity with the rules set forth in the law "On Notaries Public."

Article 396

A holographic will may be deposited with a notary public to be safeguarded in conformity with the provisions on the depositing of documents with notaries.

Will by notarized document

Article 397

A will by notarized document is drafted by a notary public and is signed by the testator in his presence.

If a testator does not know how to sign his name, or cannot sign due to illness or physical handicap, the will shall be signed in conformity with the rules set forth in the law "On Notaries Public."

Special wills

Article 398

In places without a notary public, wills may be certified by the mayor of the municipality or of the commune.

Article 399

The will of a person in military service may be certified by the commander of the military unit of which he is a member and, if hospitalized, by the director of the hospital.

Article 400

The will of a person on an Albanian ship which is sailing or has stopped in a foreign port may be certified by the captain of the ship.

Article 401

Disposition by will made with a suspending condition shall become ineffective if its beneficiary dies before the testator.

Revocation of will

Article 402

A will of a later date renders ineffective one of an earlier date, entirely or only in the part incompatible with the new will.

A will can also be revoked by means of a statement by the testator to a notary.

Invalidity of will Article 403

A will shall be invalid if made by a person that cannot make a will (article 373).

Article 404

A will shall be invalid if it is not made in the form required by law.

Article 405

A will shall be invalid if it makes dispositions to the benefit of persons who cannot inherit (articles 374 and 375).

Article 406

A will shall be invalid if its dispositions are inconsistent with articles 377 and 384 of this Code.

Article 407

A will shall be invalid if the dispositions made by the testator exclude from legal succession his minor heirs or those unable to work, or affect their legal shares.

Article 408

A will shall be invalid if its dispositions are made in violation of the law or defrauding the law.

Article 409

A will shall be invalid if its dispositions are made under the influence of fraud, duress or violence, or because of an error, in whose absence the testator would not have made such dispositions.

Article 410

If a will is found invalid by the court, the legal heirs shall be called to inherit, except in the case of addition to the benefit of the heirs appointed by will in accordance with article 381.

If only a part of the testamentary dispositions are found invalid, the other dispositions shall remain effective.

Article 411

An action for the invalidity of a will or of dispositions by will may be brought by an heir or any other interested person within three years from the opening of the inheritance.

Article 412

When testamentary dispositions are invalid because the dispositions of the testator have excluded from legal succession his minor heirs or those unable to work, or adversely affect their legal shares (article 407), the heir excluded from succession or whose legal share is affected shall have the right to request from the other heirs, as the case may be, the delivery or the completion of the share to which he is entitled as a legal successor.

Article 413

For the establishment of the latter share, the obligations encumbering the estate shall be deducted from the entire estate of the testator at the time of his death, and [the difference] shall be divided by the number of the heirs who would have been called to inherit if the testator had not made a will.

Testamentary Executor

Article 414

A testator may assign one or more persons to execute his will.

The appointment must be accepted by the executor in the will itself or by a separate statement attached to the will.

If the testator does not appoint a testamentary executor, the appointed heirs shall be responsible for the execution.

Article 415

The testamentary executor shall make an inventory of the estate, inviting the heirs and the other beneficiaries of the will to participate therein.

The testamentary executor shall administer the estate by performing actions necessary for the execution of the testamentary dispositions but cannot transfer property from the estate, except when the need arises and with authorization of the court, which decides after having heard the heirs.

Article 416

The district court, at the request of the heirs or interested persons, may discharge the testamentary executor for serious violations of his duty or for incompetence in administering the estate.

Article 417

The powers of the testamentary executor shall not be transferred to his heirs.

Article 418

If there are more than one testamentary executors, one of them may, in the absence of the others, act unilaterally but all of them are jointly responsible for the things entrusted, unless the testator has divided duties.

PART IV OBLIGATIONS

TITLE I GENERAL PROVISIONS

CHAPTER I MEANING AND CREATION OF OBLIGATIONS

Meaning of obligation Article 419

The obligation is a juridical relation through which a person (debtor) is obliged to give something or to perform or not perform a certain act on the utility of another person (creditor), who has, also, the right to demand to be given something, or the performance or nonperformance of the act.

Creation of obligations Article 420

Obligations derive from the contracts and law.

The economic nature of obligations Article 421

The object of the obligation must have an economic evaluation and must correspond to the interests even if no property ones of creditor.

Correctness of participants in obligation Article 422

The creditor and debtor must behave toward each other correctly, with impartiality and according to the requests of reason.

CHAPTER II SOLIDARY OBLIGATIONS

Article 423

The obligation is solidar when the creditor or each of the creditors has the right to demand the execution of the same obligation completely or partly either from the debtors together, or from each of them separately.

Article 424

The obligation is solidar when it arises from the will of parties or when provided by law.

Article 425

The obligation is solidar even when the debtors are obligated each in different ways or even when the common debtor is obliged in different ways towards each of the creditors.

Article 426

The execution of obligation from one of the solidar debtors discharges all other debtors.

The solidar debtors are discharged from the obligation even through the giving of an object in the execution of the obligation or compensation of the credit of one of the solidar debtors to the creditor.

Article 427

The delay of the creditor toward one of the solidar debtors extends the effect towards all other debtors.

The solidar debtor can not compensate his obligation with the credits which other debtors have toward the creditor.

The solidar debtor may not direct to creditor personal rejections of other debtors.

Anyone of the solidar debtors must not by his acts burden the position of others, except when it is differently provided by law.

Article 428

The debtor has the right to choose to pay one or another solidar creditor, except when he is previously prevented from through a written notice by one of them.

The creditors are solidar when each one of them has the right to claim the payment of the all obligation and the payment done to one of them, frees the debtor from all the creditors.

Article 429

The renewal of obligation made by the debtor with one of the creditors, discharges all other debtors, except when the creditor has preserved the rights towards them.

The dissolution of obligation done to one of the solidar debtors, discharges all other debtors. When it is dissolved only the part of a debtor, the obligation of other debtors is reduced to the measure of the dissolved part.

The unification of qualities of creditor with that of solidar debtor in a sole person, extinguishes the obligation of other debtors, for the part of this debtor.

Article 430

In relations between them the solidary debtors take part in the liquidation of obligation each according to his part.

The debtor who has executed a solidary obligation, has the right to demand from the other debtors the payment in equal shares of the obligation executed by him, except when by law or in contract it is provided differently.

When the solidary debtor, who has executed the obligation, did not manage to get from a debtor his part of obligation, it is divided depending from the case in equal shares or proportionally between the other debtors, including him.

Article 431

The solidary debtors are obliged to face in proportion to their shares all expenses verified to be necessary to be performed by the debtors who have executed the obligation.

Article 432

The solidary debtor who executes the obligation must direct to the creditor the common rejections for all debtors, otherwise he loses the right to demand from other debtors the share belonging to them for the liquidation of obligation.

He, also, loses this right even when he has not notified the other debtors that he has executed obligation and, as a consequence one of the other debtors has separately executed it himself.

Article 433

The interruption of prescription with acts of creditor toward one of the solidary debtors, as well as the interruption of prescription from one of solidary creditors toward the common debtor, has effect either to other debtors or to other creditors.

The suspension of prescription towards one debtor or towards one solidary creditor, has no effects towards the others.

The renunciation from prescription in accordance with article 106 of this Code done by one of solidary debtors, has no effect towards the others, whereas the renunciation from prescription by one of solidary creditors, has effects towards the others.

Article 434

The solidary debtor to whom is demanded the payment of his share from the obligation, can not direct to debtor, who has paid it, the prescription of action of creditor, except when he himself and the debtor who demands the share have had the opportunity to direct him the completed prescription.

This paragraph is not applied when by agreement the solidary debtors have decided differently.

Article 435

In case the execution of obligation becomes impossible, to the fault or during the duration of delay of one or some solidary debtors, the other debtors are not discharged from the obligation of fulfilling it.

The creditor can demand total compensation of caused damage for such a reason, only by solidary creditors or from each of them, to whose fault is made impossible the execution of obligation or who has been in delay. The other debtors remain solidary only for the first obligation.

The delay of one of solidary debtors does not bring any juridical consequence to the other debtors.

CHAPTER III ALTERNATIVE OBLIGATIONS

Article 436

The obligation is alternative when the debtor is discharged from it, by fulfilling one of its kind mentioned separately according to his wish, creditor's or a third person's wish. The debtor can not demand from creditor to accept the fulfilment of obligation partly from one kind and partly from the other kind.

Article 437

The right of choice belongs to the debtor, except when it is provided by the law or contract to be left to the creditor or third person.

The selection become irrevokable with the fulfilment of one of the forms of obligation, or by the notification of declaration of the election to the other party or both parties, when the right to of choice belongs to a third person.

When right of choice belongs to many persons and they do not agree, the court decides a term for them. When the choice is not made in the determined term, then the court does it.

Article 438

When in an alternative obligation, the debtor does not execute one of kinds of obligations in proper term, the right of choice passes to creditor.

In case the right of choice is left to creditor and he has not exercised it at the term defined in agreement or decided by debtor, the choice passes to the latter.

When the right of choice is left to a third person and he does not exercise it in proper term, the choice is made by the court.

When this right is left to several persons, the court assigns them a term. In case the choice is not made in proper term, it is done by the court.

Article 439

The alternative obligation is simple when one of two kinds of obligation can not become object of obligation, or when its fulfilment is made impossible without the fault of any of the parties.

Article 440

When the right of choice is left to the debtor, the alternative obligation becomes simple in case when one of two kinds of obligations becomes impossible also for his fault. In case this impossibility occurs for fault of creditor, the debtor is discharged from obligations when he does not accept to apply the other obligation and to demand the compensation of damage.

When the choice is left to creditor, the debtor is discharged from obligation when the impossibility of fulfilling one of two kinds of obligations occurred because of fault of creditor and he does not accept the execution of other kind of obligation and to demand the compensation of damage. In case the choice is left to creditor and impossibility is charged to debtor, the creditor can choose the other obligation or to demand the compensation of damage.

Article 441

When both kinds of obligation have become impossible and the debtor has to be responsible for one of them, he must pay the value of the obligation which became impossible the last, if the choice is left to him.

If the right of choice is left to the creditor, he has the right to ask the value of one or other kind of obligation.

CHAPTER IV DIVISIBLE AND INDIVISIBLE OBLIGATIONS

Divisible obligations Article 442

When many debtors or creditors participate in the same obligation and this divisible, each debtor is obliged to execute and each creditor has the right to demand an equal part of the obligation, except when the contract or the law provides differently.

Indivisible obligations Article 443

When there are many debtors in the same obligation, that is indivisible, all the debtors are called solidary debtors.

The obligation is indivisible from its own nature as such and from the purpose of the parties in contract. In such cases the obligation remains indivisible even for the heirs of the debtors.

Article 444

The indivisible obligations are regulated by provisions related to solidary obligations, except what is provided in this chapter.

CHAPTER V MONETARY OBLIGATIONS

Article 445

The obligation of the payment of a sum of money is liquidated with its nominal value, except when results differently by law or contract.

Article 446

The monetary obligation is accomplished in the currency unit in circulation in the state where the payment is done or in the currency unit accepted in the contract.

Article 447

When the creditor has a running account in the state where the payment must or may be done, debtor must accomplish the obligation by crediting in this running account the respective sum, except when the creditor has excluded the payment in this account.

The payment is considered accomplished at the moment of its crediting to the account.

Article 448

The payment is done at the place of residence of the creditor in the date of the payment. Creditor may establish another place within the borders of the state where he resides at the time of payment or of the creation of the obligation.

Article 449

In case the payment should be done in a place other than the residence of the creditor at the time of creation of obligation and the accomplishment of this obligation would become too difficult the debtor may suspend the payment until the creditor has fixed another place which would avoid the excessive expenditures.

Article 450

The compensation for the damage as a consequence of the delay in the payment of an amount of money, consists of matured interests, starting from the date of the beginning of the debtor's, in the official currency unit of the country where the payment is done. The rate of interest is defined by law.

At the end of each year the matured interests are added to the sum of the obligation on which base their calculation is done.

The legal interest is paid without the creditor being obliged to prove any damage. When the creditor proves that he has suffered a damage larger than the legal interest, debtor is obliged to pay him the other part of the damage.

Article 451

When the obligation is linked with the payment of an amount of money in a currency that has no official exchange rate in the country where the payment should be done, debtor has the right to execute the obligation in the currency that has an official exchange rate in the state where the payment should be done, except when provided differently by law or contract.

Article 452

When the obligation is linked with the payment of an amount of money in a currency different from the currency of the country where the payment should be done and the debtor pretends that he is not capable of liquidating the obligation in this currency, the creditor may accept the liquidation in the currency of the country where the payment takes place.

The above mentioned rule is applied also when the debtor is obliged to pay in the currency initially accepted.

Article 453

When the obligation must be executed in a currency different from the one accepted initially, the convert must be done in the official exchange rate of the day of payment.

Article 454

Article 450 of this Code does not remove the right to the creditor to request the compensation of the damage suffered by the fact that from the dya of putting in delay of the debtor has changed the exchange rate of the currency defined in the obligation.

TITLE II THE EXECUTION AND THE EXTINCTIONION OF THE OBLIGATIONS

CHAPTER I THE EXECUTION OF THE OBLIGATIONS

Article 455

The debtor and the creditor must show the due care and must be accurate in the accomplishment of the obligation according to its content.

Article 456

The obligation for the delivery of a certain object includes also the care it must be shown for its preservation in delivrance.

Article 457

When the object of the obligation is the delivery of objects defined only in their kind, their quality must not be niferior to the average quality.

Article 458

The delivery of the objects is done according to the way defined in the contract and when this is not defined it is done:

- a) by delivering them personally to the person who has acquired their property or to the person who relinquishes rights from it;
- b) by handing to the conveying person or the post office to deliver it to the winner, at the place shown by him.
- c) by delivering to the winner personally or by sending to him by mail, the documents that give him the right to dispose the goods.

Article 459

The debtor must not execute the obligation piece by piece even if this obligation is divisible, without the consent of the creditor.

Article 460

The obligation can be executed also by a third person, who is not a debtor, except when the creditor is interested to have the execution done by the debtor, or when the creditor is announced the rejection of the debtor.

The place of the obligatory execution

Article 461

In case the place where the execution of the obligation will be done is not defined in contract, in law or is not understood by the nature itself of the obligation, the execution is done:

a) at the place where the object is located, if the object to be delivered is immovable;

b) for the objects defined in an individual way, execution is done at the place they were when the obligation was created;

c) the delivery of an object defined in sort and quantity, the execution is done at the place where the debtor exercises his professional activity or at the place of his residence.

d) for the monetary obligations, the execution is done according to the rules defined in chapter V and IV of this Code.

Article 462

The creditor can not be obliged to accept a thing different from the one defined in the object of the obligation even if the value of the offered object is bigger.

Term of execution of obligation

Article 463

The execution of the obligation must be done within the term defined in the contract. When this term is not defined in the contract or when the execution of the obligation is left upon demand of the creditor, he may ask the execution any time and the debtor must execute it within 15 days from the day it was demanded.

Article 464

The deadline defined in contract is presumed to be defined in the benefit of the debtor, except when from the will of both parts or from the nature of the obligation, results differently.

The execution of the obligation before the end of the term is not considered invalid, except when the deadline is defined in the benefit of the creditor.

Article 465

The debtor can not claim the right of the term when:

a) he is bankrupt;

b) he has not given the promised guarantees;

c) the guarantees that ensure the credit are diminished to his fault, except when they remain, still constitute a sufficient guarantee for the execution of the obligation.

Execution towards the creditor Article 466

The execution of the obligation must be performed to the creditor himself or to his representative, or to a person authorised by the creditor, by law or by court.

The execution of the obligation performed to a person that is not authorised to accept it, discharges the debtor only in case the creditor has accepted later this execution, or if is verified that has benefited from it.

Execution towards a third person Article 467

The debtor who executes an obligation toward a person, who according to indisputable circumstances seems to be authorised to accept it, is discharged from the obligation if he proves to have been in good faith.

The person that has accepted the execution of the obligation, is obliged to restitute the real creditor, what he has taken from the execution of the obligation.

Execution towards an incapable creditor Article 468

When the execution of the obligation is done to a creditor who has no capacity to act, discharges the debtor in the same amount that has gone to the benefit of this creditor, or of his legal representative.

The execution for the account of many obligations Article 469

When the execution is done for the account of many obligations and towards the same creditor, the debtor may define in the time of execution which is the obligation he is executing.

When it does not exist a definition of the debtor for the order of the execution, first it is executed the obligation which deadline has expired, if there are several of them, the execution begins from the obligation with value and if there are some of this type, it begins with the oldest and when they have the same age, the execution is done proportionally.

Article 470

The execution in monetary value in the account of a certain obligation, includes initially the liquidation of the expenses, later the liquidation of matured interests and then the liquidation of the obligation of the usual interests on it.

The creditor may refuse the payment, in case the debtor defines a different order during the execution or he may not accept the full liquidation of

the value of the obligation; without gathering also the matured interests, those in continuity and the respective expenses.

Article 471

The creditor might not accept the execution of the obligation for the delivery of an object different from the one defined in contract even if the value of the offered object is equal or bigger.

Expenditures of the execution, the respective receipts

Article 472

The expenditures are in charge of the person who executes the obligation, whereas the expenses of the receipt are in charge of the person in whose benefit the receipt was released.

Article 473

The creditor issues a receipt for every payment done as execution of the obligation, except when it results differently from the contract.

In case the creditor owns a document from which content results the obligation, the debtor who has executed this obligation may require the restitution or the annulment of this document, except when the creditor has reasonable interests for its preservation (for keeping it), provided that he notes in the document the execution of the obligation.

When the creditor refuses to accomplish the obligation according to the above mentioned paragraph, the debtor may suspend the execution of the obligation. When the creditor pretends he has lost the document he is obliged to give to the debtor a written declaration where it is accepted the execution of the obligation. The declaration must be notarial when required by law.

Article 474

When the payments of same kind for liquidation of the obligation must be done periodically, the receipts issued for two consecutive payments presume that the previous payments are done.

The receipt issued from the creditor for the main obligation, presumes also that the expenditures and interests of this obligation are liquidated.

Liberation of objects from the guarantees

Article 475

The creditor that has accepted the execution of the obligation, must liberate the objects from the real guarantees given for the security of the execution of the obligation and from any other obstacle that may limit the use of the propriety.

CHAPTER II

EFFECTS OF NONEXECUTION OF THE OBLIGATIONS

GENERAL PROVISIONS

Article 476

Every deficiency in the execution of the obligations obliges the debtor to compensate the damage suffered by the creditor, except when he proves that non-fulfillment has not occurred due to his fault.

On this case the creditor has the right to:

- a) to ask the execution in nature of the obligation, especially the delivery of the object or conduction of works, as well as the compensation of the damage caused from the delay of the execution, or;
- b) compensation of the damage caused by non-execution of the obligation.

Article 477

The debtor who on the execution of the obligation uses the work of the third persons is responsible for their actions, committed on fault, as if they were his own.

Article 478

When the obligation is related to actions that may be committed also by other persons and the debtor does not execute the obligation, the creditor has the right to ask that he does it himself on the behalf of the debtor.

Article 479

Any agreement that excludes or limits the parties from the liability for the non-execution of the obligations is invalid.

Article 480

When the execution is made impossible due to the fault of the debtor, the creditor has the right to ask from him the compensation of the damage caused.

The debtor is guilty when, with intention or by negligence, has created circumstances that have made impossible the execution or when he has not taken measures to prevent it.

Delay of the Debtor

Article 481

The debtor who does not fulfill an obligations due on the right term, is regarded to be in delay (*morë*), except when non-execution is a consequence of the circumstances that are not related to the fault of the debtor.

The debtor is put in delay through a written notice.

It is not necessary the putting in delay when:

- a) the debtor has declared in written that he does not wish to execute the obligation;

- b) the period within which the execution was to be done has passed;

When the debtor dies and the term fixed for the execution of the obligation ends after his death, his inheritants are regarded to be in delay upon the end of the 15 days from the day of written notice from the creditor.

- c) when the obligation results from an illegal act.

Article 482

The debtor who is in delay is not relieved from the unexpected impossibility to fulfill the obligation, even if this were caused without his or creditor's fault, except when he proves that the object of the obligation would be destroyed or damaged even if it were under the custody of the creditor.

The loss or damage of the thing taken illegally, does not discharge the person who has taken it from the obligation to return its value.

Article 483

Provisions on the delay are not applied to obligations that contain non-actions. Any action to the contrary constitutes a non-fulfillment of the obligation.

Article 484

The creditor may not accept the offer of the debtor who is in delay for the execution of the obligation, in case it does not contain also the compensation of the damaged caused and expenses done during the delay, or when the creditor due to the delay of the debtor does not have interest in the execution the obligation.

Article 485

The debtor that has a credit who is demandable to his creditor, can suspend the implementation of the obligation up to the payment of the credit, provided that between the credit and obligation there should be a satisfactory connection, such as can be between other, the existence of a single juridical relation or relations the parties have had regularly.

Suspension of the execution of the obligation cannot be asked when:

- a) execution of the obligation by the other party is made impossible due to the delay of the creditor, or is permanently impossible;
- b) the other party's credit is unsequestrable.

Article 486

The damage to be compensated from the debtor for the non-execution of the obligation is composed of all the losses causes by the reduction of the property, as well as the profit that might have been extracted in normal conditions of the market (the missing profit). There belong in the compensation and repair of the damage also reasonable and necessary expenses to prevent or reduce the damage, that are related to the circumstances, on which the liability of the party is based, reasonable and necessary expenses to determine the damage and liability, as well as those that were needed to find an extra judicial solution of the fulfillment of the obligation.

Article 487

In contracts of mutual obligations, the parties should execute their obligation at the same time, except when from the contract or from the nature of the obligation results that one of the parties must execute its obligation before the other.

Article 488

When in a contract with mutual obligations, the execution of the obligations of one of the parties is made impossible without the fault of any of the parties, each of them has the right to ask from the other the execution of the obligation or the compensation of the damage, except when by law or contract is

provided differently. Each of the parties has the right to ask the other party to return which is given for the execution of the obligation.

Article 489

If in one mutual contract obligations, the execution of the obligation of one of the parties is made impossible, because the other party has become insolvent, or is bankrupt, or due to any other circumstance occurred verified due to his fault, the other party has the right not to execute its obligations, until the execution of the obligation to its benefit is guaranteed, or to ask for the compensation of the damage caused by the non execution of the contract.

Article 490

When it is decided that the creditor be paid the compensation for the non execution of the obligation or for the execution in delay, the court taking into account the property situation of the debtor, may fix another term for the payment of this compensation, or to allow to be paid in installments.

Delay of the Creditor

Article 491

The creditor is in delay when without any legal reason does not accept the execution of the obligation by the debtor, or due to the circumstances created due to his fault, does not fulfill the obligation towards the debtor, without which he cannot execute his obligation.

Article 492

When the creditor is in delay, the debtor has the right to ask for the compensation of the damage caused from it and is relived from the responsibility in case later on the execution of his obligation becomes impossible, except when the impossibility of the execution of the obligation occurs due to his fault.

In the moneatry obligations, when the creditor is in delay, the debtor does not pay interest.

Article 493

When the damage resulting from the non execution of the obligation is caused or increased also from the actions or non action with fault of the creditor, or when he has not shown the due care to reduce this damage, the court according to the case may limit the amount of the compensation of the damage or to completely discharge the debtor of the obligation to his compensation.

Article 494

The creditor during his delay cannot ask for the taking of the measures for an obligatory execution.

Article 495

When the creditor is in delay or cannot be found, the debtor has the right to execute the obligation by depositing the object to a person who conducts depositing activity or at a place determined by the court of the place of the

execution of the obligation. When the object of the obligation is money, papers or valued documents or precious objects, they are deposited in bank.

Upon deposition the interest is suspended.

In cases when the deposit requires great expenses, it is done with difficulty or the object put on deposit is destroyed quickly or due to its nature, it cannot be left in deposit, the debtor, after he informs the creditor, asks from the court that he be allowed to sell the above mentioned object and the value obtained from the sale to deposit in the state bank under the name of the creditor.

When the debtor withdraws the deposited object before it has been accepted by the creditor, the deposit is regarded as not completed.

The depositor hands over the object to the creditor only after he has liquidated all the expenses for the execution of the obligation.

CHAPTER III REPLACEMENT AND TRANSFER OF CREDIT

The substitution of the debtor Article 496

The substitution of the debtor with another person, who undertakes the obligation, may be done only with the consent of the creditor. The substituted debtor is discharged from his obligation towards the creditor.

The guarantees given by third persons for the obligation are cancelled, in case they have not given the consent that they remain also for the new debtor. The pledge or mortgage given by the previous debtor remain in power.

Article 497

The new debtor might direct against the creditor all the objections that derive from the obligation he has undertaken as well as those that could be claimed by the previous debtor, except those related with the person of the latter.

Article 498

The agreement by which the debtor and a third person become co-debtors in an obligation, when the consent of the creditor is taken, cannot be changed or annulled, without the consent of the creditor. Both co-debtors are solidarily liable to him.

Transfer of credits Article 499

The creditor may pass his credit to another person even without the consent of the debtor, provided that the credit has not a strict personal character and that this transfer is not prohibited by law. Especially it is not permitted the transfer of the credit to another person, when this results from causing of the death or harm of health, as well as of the credits that cannot be sequestrated.

The parts in an agreement may exclude the transfer of the credit, but the agreement cannot be directed against the person to whom the credit is transferred if it is not proved that he knew it at the moment of the transfer.

The dispositions for the transfer of the credit do not apply to the credits related to financial transactions on which security transactions are placed, pursuant to the criteria provided by special law.

Article 500

The credit is transferred together with the privileges, guarantees and other accessories, including the interests for the past time, except when provided differently in the contract.

The person that makes the transfer of the credit cannot transfer to the other person the possession of the object that is pledged without the consent of the other party (the pledger). To the contrary the creditor remains the guardian of the pledge.

Article 501

The transfer of the credit must be done in a written form, otherwise it is not valid.

Article 502

The transfer of the credit has effects over the debtor and third persons, from the day when the debtor has accepted or was informed by the previous creditor or by the new creditor.

The debtor who has executed his obligation, before he was announced for the transfer of the credit, is discharged by the obligation.

Article 503

When the credit has been transferred to some specific persons, it is preferred in liquidation the transfer that is previously notified to the debtor, or that is previously accepted by the debtor, with a document (written) bearing the exact date even if this is a later date.

Article 504

The transfer of the credit does not harm the protecting means of the debtor.

The debtor must claim against the new creditor the objections that he could have claimed against the previous creditor, at the time he was notified about the transfer of the credit.

He might ask to be compensated for a credit towards the first creditor, even if it was not possible to ask for it by that time, provided it did not become possible to ask for it after cession of the credit.

Article 505

When the transfer of the credit is done with a premier title the creditor guarantees the existence of the credit at the time of its transfer.

When the transfer is done free of charge, the creditor does not guarantee the existence of the credit.

Article 506

The creditor that transfers the credit is not responsible for incapability to pay of the debtor, except when he has taken the the charge of the guarantee.

In this case he is responsible for what he has taken. Apart from that he must be responsible for the interests, for the expenses of the transfer, and for the expenses done by the person to whom the credit has passed for the legal suits against the debtor and for compensation of the damage.

The agreement which aims to aggravate the responsibility of the person who passes the credit, is not valid. When the creditor who passes the credit guarantees the capability to pay of the debtor, the guarantee ceases, if the non execution of the credit for incapability to pay of the debtor has come because of the lack of attention of the new creditor to follow the issue towards the debtor.

Article 507

The creditor that makes the transfer of the credit must deliver to the other creditor the documents that prove the credit, which are in his possession.

When it has been passed only a part of the credit, the creditor is obliged to deliver to the other creditor an authentic copy of the documents.

CHAPTER IV EXTINCTION OF OBLIGATIONS

The renewal Article 508

The obligations extinguish with renewal, when the parties by agreement substitute the initial obligation, with another obligation different from the first one.

Article 509

The bail, pledge, and the mortgage of the initial credit extinguish except when the parties have explicitly agreed that they are conserved also for the new credit.

Article 510

The renewal is not valid if the initial obligation is not valid. When the initial obligation results from an annulable title, the renewal is valid, in case the debtor has taken charge of the new obligation, having recognized the vice of the initial title.

Forgiveness of obligation Article 511

Creditor's written declaration for forgiveness of the obligation, extinguishes when it is notified to the debtor, except when the latter declares within a definite term that he does not wish to benefit from the forgiveness.

Article 512

When the debtor owns the private document that proves the obligation, its extinguishment by forgiveness is presumed, except when it is proved that the document has not been restituted by the creditor by wish.

Article 513

The abolition of the guarantee to obligation, does not presume its forgiveness.

Compensation **Article 514**

When two persons are obliged towards each other in money or objects of the same kind and (which are) replaceable and their obligations are demandable, precise and determined in amount or quantity, the obligations of both parties extinguish, by making the compensation among them. The obligations are extinguished to the amount or quantity of the smallest obligation.

Article 515

The compensation annuls both of the obligations starting from the day they were joined.

When for one of the credits or for both of them the interest have been paid, compensation is done until the last term in which the interests are paid.

The prescription does not prevent the compensation, if it was not completed the day when both obligations were joined.

Article 516

The compensation is done by means of a declaration which one party sends to the other. The declaration cannot be done with a time limit or with a condition.

When compensation does not cover all the credit or when the creditor needs to hold the credit title in order to exercise his other rights, he can hold it provided that he notes in title the content of the declaration and to deliver a copy of credit title to the other party.

Article 517

When the declaration concerning the compensation given by one party, is not accepted by the other party, this party is obliged to give immediate notice to the party who has sent the declaration, by displaying the causes of refusal.

Article 518

It cannot be compensated without the consent of the creditor:

- a) the credits resulting by causation of death or health damage;
- b) credits which can not be sequestrated;
- c) credits deriving from taxes and duties.

Article 519

Compensation cannot be accomplished if it is in the harm of third persons who have gained rights of usufruct or pledge upon the credit.

Article 520

The bailiff can claim the compensation of the obligation of the creditor towards main debtor. Main debtor can not claim compensation of creditor's obligation towards the bailiff.

Article 521

When two obligations are not payable at one place, their compensation cannot be done, except after the calculation of the expenses necessary for their transfer in the place of execution.

Article 522

When the credits and monetary obligations are included in the same account, they are immediately compensated, according to the order the parties have accepted by agreement and to its absence, according to the rules provided in articles 469 and 470 of this Code.

The party who administers the account, after closing it by the compensation done, notifies to the other party what is the remaining, the precise date of calculation, as well as the consisting articles of the account and that were not yet communicated to the other party.

If the other party does not reject it within a reasonable term, the notified rest, is considered as accepted by parties.

Article 523

If in a declaration of compensation are not show in a sufficient way the obligations included in compensation, the rules provided in article 470 of this Code are applied.

Each party may oppose immediately the compensation done, in case the calculation of obligation, expenses and interests has not been carried out according to the above mentioned rules.

Unification of creditor's and debtor's qualities in a single one

Article 524

The obligation extinguishes when the qualities of the debtor and creditor are unified in a single person. When this unification is completed, the obligation arises again.

Article 525

The unification is not done if it harms third persons who have gained rights of usufruct or pledge upon the credit.

Extinguishment because of impossibility of execution

Article 526

The obligation extinguishes when its execution becomes impossible without the fault of the debtor and before he is put in delay.

The obligation extinguishes also when the debtor although in delay, proves that the impossibility would exist even if the creditor was in his place.

In such cases, debtor must reconstitute to the creditor what he gained without a cause.

Article 527

When the impossibility for the execution of the obligation is temporary, debtor is not liable for the delay of execution for the time it lasts.

But, the obligation extinguishes even when the impossibility lasts for as long as according to the title of obligation and its nature, the debtor cannot be obliged to accomplish it or the creditor has no interest any more.

Article 528

When the execution of the obligation becomes impossible only partially, the obligation is executed for the part which can be executed.

Article 529

When as object of obligation is the delivery of an object and this is completely damaged, or is lost without the fault of the debtor and before he is put in delay, creditor enters into the rights of the debtor concerning this object, depending of the facts that caused the impossibility of the execution of the obligation. The creditor has the right to ask from the debtor what he has received as result of compensation of the damages.

TITLE III

INSTRUMENTS SECURING PERFORMANCE OF OBLIGATIONS

CHAPTER I GENERAL PROVISIONS

Article 530

A creditor may be compensated with all the present and future property of his debtor, unless the law provides otherwise.

A property may be burdened by its owner for securing the payment of an obligation.

Article 531

Creditors have equal rights to be compensated out of the property of the debtor, except for lawful causes of priority.

Privileges, pledges, and mortgages are lawful causes of priority.

Article 532

A pledge or a mortgage may be imposed only for an effective obligation.

A pledge or a mortgage may be imposed for an obligation of both the pledgor or mortgagor and an obligation of a third person.

Article 533

A pledge or a mortgage may secure a present or future credit. The secured credit must be clearly defined.

A pledge or a mortgage may be also imposed for a conditional obligation.

Article 534

A pledge or a mortgage shall extend, respectively, upon all works that add value to the property, credits and compensations that are added to or replace the encumbered property, including the property that is compensated for depreciation.

Article 535

If things subject to pledge or mortgage are lost or depreciated, the sums due by insurers or third parties liable for indemnification are bound to secure satisfaction of the credits guaranteed by the pledge or mortgage, unless such sums are used to restore the loss or depreciation of the things.

Article 536

If a thing given in pledge or subjected to mortgage is lost or depreciated, including as a result of a fortuitous event, in order to preserve the rights of the creditor, the latter may request to be fully secured by other things and, in absence thereof, he may request immediate payment of his credit.

Article 537

Pledges and mortgages shall be indivisible even if the obligation is divisible.

Article 538

If a pledge or a mortgage is imposed to secure an obligation of a third person, the pledgor or mortgagor may raise against the creditor all the objections that the debtor might address [to the creditor], and may request the compensation of the obligation with credits held by the debtor against the creditor.

Article 539

If a creditor has not been paid completely by the pledge or mortgage, he shall be entitled to receive the unpaid portion of his credit from any other property of the debtor but he shall not have the right of priority over other creditors that he enjoyed over the pledge or mortgage.

Article 540

Any agreement establishing that, upon failure to pay the [secured] debt within the agreed time limit, ownership of the thing mortgaged or given in pledge passes to the creditor shall be invalid.

CHAPTER II PENALTY CLAUSES

Article 541

For non performance or improper performance of an obligation, the parties may establish in the contract that an amount of money be paid or a secondary obligation be performed in order to indemnify damages or to encite the performance of the obligation.

Article 542

A creditor cannot claim at the same time both payment of the penalty clause and the performance of the [primary] obligation.

Article 543

When a penalty clause has been agreed for cases of default and the debtor does not perform his obligation, the creditor has the right to claim the payment of the penalty clause as well as compensation of the portion of the damage exceeding the penalty clause.

When a penalty clause has been agreed for cases of improper performance, and the debtor does not perform his obligation properly, the creditor has the right to claim the performance of the obligation and the payment of the penalty clause, as well as compensation of the portion of the damage exceeding the penalty clause.

Article 544

When a penalty clause is exceedingly high compared to the damage suffered by the creditor, the court may, at the request of the debtor, reduce the penalty clause to the level of the damage suffered.

Article 545

The agreement for the penalty clause must be made in writing, regardless of its amount and the form requested for the main contract.

CHAPTER III-PLEDGES

Definition

Article 546

A pledge may be imposed on a movable property, over a right towards the bringer, or by order, or on the usufruct of such property or right. A pledge is established by placing the property or title in the possession of the creditor or a third person agreed between parties.

Provisions on pledges shall not apply to credits related to financial transactions that are secured in accordance with criteria set by special law.

Form of the contract

Article 547

A pledge contract must be made in writing or at a notary public, otherwise it is invalid. The contract must include a description of the pledged property. In case of pledge of an interest [in a company], the pledge must be registered in the

book of the company members. In case of pledge of shares, the pledge must be registered in the book of shareholders, under "pledged shares."

May be given in pledge all or a part of the assets used in an enterprise acting as an active concern. In such a case the pledge is effective if the assets are entrusted to a third party or a creditor, who shall manage them as an indivisible active concern.

Protection of creditor Article 548

A creditor who has been deprived of the possession of the thing received in pledge can bring, in addition to a possessory action, a revendication action, if the pledgor could bring such action.

Rights and obligations of parties Article 549

The creditor is bound to safeguard the thing received in pledge and is liable, in accordance with general rules, for its loss or deterioration.

The pledgor is bound to pay the expenses incurred for the protection and maintenance of the thing.

Article 550

Unless otherwise agreed, if the thing given in pledge produces fruits (*fructus*) or income, the creditor is entitled to appropriate them, imputing them first to expenses and the interest and then to the principal.

Article 551

The creditor cannot use the pledged thing without the consent of the pledgor, unless such use is necessary for its protection and maintenance.

He cannot give the thing in pledge or allow others to use it.

Article 552

If the creditor misuses the thing given in pledge, the pledgor can demand its sequestration.

Article 553

The pledgor cannot demand restitution of the thing unless the principal and interest have been completely paid up and the expenses related to the obligation and with the pledge have been reimbursed.

If the pledge was given by a debtor who has another obligation towards the same creditor, which was created after the establishment of the pledge and has matured before the previous obligation, the creditor is only entitled to retain the thing until both principals have been completely paid up.

Article 554

If the thing given in pledge deteriorates or depreciates in such a way as to cause concern that it may be insufficient security for the creditor, the latter, with advance notice to the pledgor, can request authorization from the court to sell the thing.

In its provision authorizing sale, the court also provides for the deposit of the purchase price to secure the claim.

The pledgor can avert the sale and claim in court the redemption of the pledge by offering other *in rem* security that the court finds adequate.

In case of deterioration or depreciation of the thing given in pledge, the pledgor can also demand authorization from the court to sell the property, if a favorable opportunity for sale arises.

In its provision authorizing the sale, the court also provides for the conditions of such sale and the deposit of the purchase price.

Article 555

If things given in pledge are destroyed, damaged or expropriated in the public interest, the creditors secured by pledge shall have the right to be paid with priority, according to the order of priority of their credits, from the amount of the compensation of the property, or from its expropriation price.

Sale procedure

Article 556

Before proceeding with the sale, the creditor shall submit to the debtor, through the court, a request for the payment of the debt and his accessories, and a warning that otherwise the thing will be sold. The notice shall also be submitted to the third person pledgor, if any.

If no objection is raised within five days from such notice, the creditor may auction the thing or, if it has a market price, [he can] sell it at that price through a person authorized to make such sales.

If more than one things are given in pledge, the court, acting upon the objection of the pledgor, shall limit the sale to one thing, whose value is sufficient to pay the debt.

The parties can agree on other procedures for the sale of the thing given in pledge.

Article 557

The pledgee is bound to collect at maturity the claim received in pledge, and if the latter consists of money or other fungible things, he shall deposit them, on its own motion or at the request of the debtor, in the place agreed upon or otherwise in the place determined by the court. If the claim secured by the pledge has matured, the creditor can retain from what he received an amount sufficient to satisfy his rights, returning the balance to the pledgor.

Article 558

The creditor can petition the court that the property be awarded to him in payment up to the payment of the debt, according to an appraisal made by the experts, or according to the market price if the thing has a market price.

Article 559

If the credit given in pledge is proved by a document, the pledgor is bound to deliver such document to the creditor.

CHAPTER IV–MORTGAGES

Definition of mortgage

Article 560

A mortgage is a right *in rem* that is imposed, to the benefit of the creditor, on a property of a debtor or a third party to secure the performance of an obligation.

Things that may be mortgaged Article 561

The following can be mortgaged:

- 1) immovables;
- 2) usufruct [rights] over such [immovable] things, except for legal usufruct [rights] of parents, and emphyteutic rights over such things.

Types of mortgages Article 562

A mortgage is established by contract or by law, after being inscribed. The contract must be notarized.

Legal mortgage Article 563

The following shall have a legal mortgage:

- a) a seller or other transferor, over the immovables transferred [by him], to secure the performance of the obligations arising from the transfer;
- b) the co-heirs, members of companies with economic activity and other copartners, over their jointly-owned immovables, in the amounts owed by them for the payment of adjustment of their shares.

Article 564

Easements inscribed after the inscription of a mortgage shall not be effective against the mortgagee.

This provision shall also apply to rights of usufruct, use and habitation.

Judicial Mortgage Article 565

A court decision ordering the payment of a sum of money, the performance of evaluated obligations, or the compensation of future damages constitutes a title for the inscription of a mortgage over the property of the debtor.

A mortgage can also be inscribed on the basis of an arbitration award that constitutes an executive title.

Article 566

If the mortgagor is not the owner of the [mortgaged] thing, inscription of such mortgage can be valid only after he has acquired the thing.

Mortgage of future things Article 567

A mortgage on future things can be inscribed only when such things come into existence.

Extension of mortgage

Article 568

A mortgage shall secure principal for its amount at the time of maturation, including interests, damages caused by delayed performance, as well as expenses incurred for recovering the credit.

Article 569

A mortgage imposed by one of the co-owners on his share shall be effective with regard of such property or such portion of it as will be assigned to him in the partition.

If in the partition, a co-owner is awarded property other than that mortgaged by him, the mortgage is transferred over such other property with the same order of inscription of the original one and to the extent of the value of the property previously mortgaged, provided that the mortgage is re-inscribed within 90 days from the inscription of the same partition.

Place of inscription

Article 570

Mortgages shall be registered with the Office for the Registration of Immovable Properties of the place where the immovable is located.

Article 571

Obligations deriving from titles by order or to bringer may be secured with a mortgage.

Effects of inaccuracies of the act

Article 572

A mortgage shall be invalid if the mortgage contract, the constitutive act for the imposition of the mortgage, or the application for imposing a legal mortgage contains inaccuracies as to the identity of the creditor, the debtor or the owner of the mortgaged thing, as to the thing or of the amount of the credit secured by the mortgage.

Inscription cost

Article 573

Unless otherwise agreed upon, the inscription costs for a mortgage shall be chargeable to the debtor, but shall be advanced by the applicant.

Rank of mortgages

Article 574

A mortgage becomes effective and ranks from the date of its inscription, even if the title involves a future or conditional credit.

Article 575

The serial number of the inscription determines the rank thereof.

If several persons simultaneously file a request for the inscription of a mortgage against the same person and over the same property, the inscription shall be made under the same [serial] number and the fact is specified in the receipt delivered by the registrar to each of the applicants.

Article 576

Mortgages inscribed with the same rank and over the same property concur one with the other in proportion to their respective amounts.

Article 577

Inscription of a credit places in the same rank [of priority] the expenses relating to the instrument [establishing the mortgage], those incurred for inscription and its renewal, and other expenses necessary for the enforcement proceedings.

The inscription of an interest-bearing monetary credit cause the interest thereof to be placed at the same rank of priority, provided that the interest is specified in the inscription.

In this case the interest is limited to the last two years as well as the year current on the date of attachment, and until the closing date of the forced execution.

Effects of the mortgage

Article 578

Registration of the mortgage is effective for a period of twenty years from the date of its performance. Effect ceases if it is not renewed before the expiration of this term. After the expiration of the term indicated above, the creditor can proceed with a new inscription, but in this case the mortgage ranks and becomes effective against the third parties according to the date of the new registration.

Article 579

Transferring an insured by mortgage credit to another person and imposing sequester on this credit becomes effective after the appropriate note is made in the mortgage register.

Article 580

If a creditor having mortgage on one or more properties is harmed because with their price is totally or partially paid a previous creditor, whose mortgage extended to other properties of the same debtor, he can be subrogated to the mortgage registered in favor of the paid creditor, for the purpose of exercising the mortgage action over those properties, by preference over other

creditors coming later in registration. Creditors who suffer losses for reason of said subrogation have the same right.

Reduction of mortgage Article 581

Reduction of mortgages is done by limiting only to a part of the property indicated in registration or by reducing the sum for which inscription was put.

Article 582

The demand for reduction of the mortgage according to the above mentioned article is not accepted, when such amount or sum has been fixed by agreement or by a court decision.

However, if partial payments are done, that extinguish at least one-fifth of the original obligation, a proportionate reduction of the sum can be demanded.

When a mortgage is put over a building, the mortgagor who after the registration has done constructions, can demand the mortgage to be reduced, so that to exclude the overconstructions.

Article 583

Mortgage extinguishes:

- a) by the extinguishment of the obligation;
- b) by the loss of the mortgaged object, by respecting the rights established by the article 536 of this Code;
- c) by the renunciation of the creditor;
- d) by the payment of the sale price by means of the obligatory execution, to the creditors ensured in mortgage, according to the rank of their registration;
- e) by the expiration of the term within which the mortgage was limited.

Cancellation of registration of the mortgage Article 584

The registration of mortgage is canceled:

- a) by consent of the creditor given by a notarized-act;
- b) by a final court decision act which orders the cancellation.

The cancellation of registration extinguishes the mortgage. When the cause of extinguishment of the obligation is declared invalid, the mortgage arises and is again registered, but the registration bares a new rank number.

CHAPTER V BAIL

Content Article 585

Bail is a judicial transaction through which a person (bailee), is obliged to ensure to the creditor the performance of the obligation of a third person (primary debtor).

Bail is valid even when the debtor has no knowledge of it.

Article 586

Bail stands only for an effective obligation.
Bail can be granted either for a future obligation, or for a conditional obligation.

Form and validity

Article 587

Bail should be made through a written act.

Article 588

Bail is not valid if the primary obligation is not valid
It can be granted either for the primary debtor, or for his bailor.

Effect of the suretyship and obligations of parties

Article 589

Bailee is reliable for the amount owed by the primary debtor, including also the payment of the interest, the compensation of the damage caused by the delay of execution and other expenses made by the contractor to recover his credit, except when in agreement is accepted that the bail should be granted even for a portion of the obligation, or under less burdensome conditions or fewer than the main obligation.

Bail which exceeds the obligation or which is given in more burdensome conditions than the main obligation, is valid to the extent of the latter.

Article 590

Bailiff is solidary obliged over the main debtor for the execution of the obligation, except when differently provided by agreement.

The parties can agree that the bailiff shall not be obliged to pay before the performance of all necessary operations, which force the debtor to pay the obligation. If the bailiff is sued and intends to use such a right, he must indicate the assets of the primary debtor which will undergo execution. The bailiff is obliged to pay in advance necessary expenses, unless the parties have not agreed differently.

Article 591

If several persons have become bailiffs for the same debtor, to ensure the same obligation, each of them is liable for the entire debt, unless there exist an agreement for its division.

Article 592

Bailiff has the right to direct against the creditor all the rejections that the debtor could direct to him and to ask the compensation of that which the creditor owes to the debtor even if he has given up from these rights or has accepted the obligation.

Article 593

Bailiff who has executed the obligation on behalf the debtor, substitutes the creditor to all his rights towards the debtor.

Article 594

When there are several primary debtors liable in solido for the same obligation, the bailiff who has guaranteed for all them, has the right of action for restitution from each of them to recover sum he has paid.

Article 595

When the bailiff has executed the obligation of the debtor without being sued in court and without notifying the primary debtor, the latter can direct against the bailiff all the rejections which he could have directed against the creditor at the time of the performance of the obligation.

Bailiff who has performed the obligation of the debtor has not the right to request with an action from the debtor what he has performed for him, in case the debtor himself has performed his obligation because the bailiff has not notified him for the performance of the obligation that he himself has performed.

In both cases, the bailiff has the right to sue the creditor and to request what he has performed for the primary debtor.

Article 596

The debtor who has executed the obligation is required to notify immediately the bailiff. In the contrary case, the bailiff, who has executed the obligation of the debtor, does not lose the right to ask from the debtor what he has executed for him. The debtor, in this case, is obliged to execute for the second time the obligation, but he has the right to sue the creditor for what he has gained without reason.

Extinguishment of Bail

Article 597

Bail is extinguished when the primary obligation extinguishment.

Article 598

Bailiff is released from his obligation if the creditor has given up the privileges, pledge and mortgage which were imposed to secure his credit and for this reason the bailiff cannot take his place in these rights.

Article 599

When a creditor accepts voluntarily a property, or any other thing for the payment of the primary obligation, the bailiff is released from his obligation even if an evincion cause would result to the creditor.

Article 600

Bail is extinguished if the creditor has not sued the bailiff within six months from the expiring day of the performance of the obligation.

When the deadline of the performance of the obligation is not set forth neither in the bail contract, nor in another agreement, the bail extinguishes after one year from the day of stipulation of the bail contract.

CHAPTER VI EARNEST AND PRIVILEGES

A. Earnest

Content Article 601

Earnest is a sum of money that one of parties gives to the other in the account of the sum that will be paid on the basis of the contract, for the purpose of certifying the stipulation of the contract and to secure its performance.

Legal Effects Article 602

If a contract is not performed because of the fault of the party who has given the earnest, this party loses the earnest; when the contract is not performed because of the fault of the party who has received the earnest, this party is obliged to pay back double the amount of the earnest. The party that has fault for the non-execution of the contract is obliged to compensate to the other party the damage, by calculating within the compensation of this damage also the sum of earnest, except when in the contract is provided differently.

B. Preferences (privileges)

Article 603

Preference is a right, which is granted by law taking into account the cause of the credit. Credits which are defined as preferred, have priority against all other claims. Among some privileged credits, the priority of the performance is established by law, according to the type of the privilege.

Article 604

Equally privileged credits, concur with each other in proportion to their respective amounts of each credit.

Order of preference Article 605

- Are paid by preference according to their order the following credits:
- a) credits of workers and employees deriving from labor relationships;
 - b) credits of social insurances from the non paid contributions together with interests, as well as credits of employees for damage resulting from the non-payment by employer of the above contributions;
 - c) credits deriving from compensations for cause of death and health damage;

- d) credits of authors and their heirs for compensations deriving from the total or partial transfer of their rights in intellectual field, for the obligations arisen in the last 2 years;
- e) credits of the state arising from obligations towards the budget and credits of the State Insurance Institute for compulsory insurances established by law;
- f) the compensation of the mediation, deriving from the contract of the agency, when it derives during the last year of the service;
- g) credits secured with pledge or mortgage, from the value of things given in pledge or mortgage;
- h) credits deriving from expenses of judgement for the preservation of the object and those for executive actions, done in the common interest of creditors, from the value of the sale of things;
- i) credits given from banks and credits deriving from voluntary insurances;
- j) credits for supplies of seeds, fertilizers, pesticides, irrigation waters and waters for the operations of cultivation and of gathering of the agricultural products, over the agricultural production (fruits) harvest of the year, for which the claims are used.

Claims mentioned in items "a", "b", "c" and "i" are paid by preference from all the property of the debtor.

Article 606

The creditor can retain the object subject to the privilege until he is compensated for his credit and can also sell it in accordance with definite rules for the sale of pledge.

Contestation of legal actions of the debtor Article 607

The creditor has the right to request to declare invalid legal transactions of the debtor intending to reduce the quantity or the value of his property to the detriment of the creditor, provided that the claim has been raised before the performance of the legal transaction.

When a legal transaction is made with compensation, is required that the person, with whom the debtor has performed this action, has been aware for the purpose of the detriment of the debtor. But when this person is a spouse, parent, grandparent, son or grandson, brother or sister of the debtor, the awareness of the intention of the detriment is presumed, until the contrary is proved.

The declaration as invalid of the legal transaction, does not aggrieve the rights gained by compensation by third persons in good faith before the sue for declaration of invalidity of the legal transaction was raised.

TITLE IV OBLIGATIONS RESULTING FROM THE CAUSING OF DAMAGE

CHAPTER I GENERAL PROVISIONS

Liability for causing the damage

Article 608

The person who, illegally and to his fault, causes a damage to th other to his person or to his property, is obliged to compensate the damage caused.

The person who has caused the damage is not liable if he proves that he is innocent. The damage is deemed illegal when it is a consequence of the violation or harm of the interests and rights of the other, which are protected by legal order or good custom.

Article 609

The damage must be an immediate and direct consequence of person's action or missed action.

The non hindrance of an event from the person who has the legal obligation to prevent it, charges him with resonsability for the damage caused.

Article 610

The agreement which preliminarily excludes or limits the liability of the person who has caused damage with fault is invalid.

Article 611

The person who causes damage to another person in order to defend himself or a third person is not liable.

Article 612

The person who has caused damage being forced by the circumstances to save himself or the others from a momentary risk of a heavy damage, what risk has not been caused by him or could not be avoided by him, is obliged to compensate the damage. Court, taking into account the special circumstances of the event, can discharge this person completely or partially from the obligation of damage compensation.

Damage caused by minors and the incapable to act

Article 613

Minors less than 14 years old and thetotally incapable to act persons are not liable for the damage caused.

Parents, tuto or those to who are in charge of supervise the incapable toact people, are liable for the damage caused by illegal actions of children below 14 years of age, of the persons under their tutorship and of those under which supervision they are and with whom they live, but that have no capacity to act, apart when they prove that they could not avoid the cause of damage.

Article 614

The minor who is above 14 years old, is liable for the illegal damage caused by him.

Parents or tutor are liable for the above mentioned damage when the minor does not earn income by work or has no property himself, except if they prove that they could not stop the damage caused.

Damage by persons under supervision Article 615

Teachers and other persons who have under supervision minors or persons who teach to others a profession or skill, are liable for the illegal damage caused to the others by the pupils or the persons they supervise, or the persons who learn a profession or skill near them, caused during the time they were under their direct supervision, except when they prove that they could not prohibit the causing of damage.

Article 616

The person who causes damage is liable even if during the moment of damage he was not conscious of his actions.

The court might reduce the measure of compensation, taking into consideration the age, consciousness level of the actions committed, as well as the economic conditions of parties, except when to his fault he brought himself to this condition.

Libelous and inaccurate publications Article 617

When it is certified that a person is liable towards another person, because he has published incorrect, incomplete and fraudulent data, the court upon request of the damaged person, obliges the other person to publish a confutation, in the way that it would consider it appropriate.

The court can order the publication of a confutation even when it is proven that the publication of data is not illegal and done by fault, if their author had no knowledge of the incorrect or incomplete character of this data.

Liability of employer Article 618

Employer is liable for the damages caused to third persons to the fault of the employees who are at his service, during the exercise of duties charged to them by him.

Juridical person is liable for the damage caused by his organs in the performance of their duties.

Article 619

If a person that exercises activities in the framework of another person's duty and according to his instructions, without being his employee, is liable for the damage caused during such activity towards a third person.

The other person is liable too, towards the third person.

Representative's liability Article 620

If the representative's activity in the exercise of the powers assigned to him, brings a wrongful liability towards a third person, the representative is also represented liable towards this person.

Liability resulting from use of animals Article 621

The owner of an animal or the one who uses it is liable for the damage caused by the animal, except when he proves that he had the control of the behavior of an animal by which the damage was caused and he could not avoid the damage.

Liability from the exercise of a dangerous activity Article 622

The person who performs activities that are dangerous by their nature or by the nature of the means (things) used and causes damage to other persons, is obliged to compensate for the damage, except when he proves that all the necessary and suitable precautions were taken to avoid the damage.

Article 623

The owner of a building or of a construction is liable for the damages caused by the defects or whatever other defect that is related to their construction or maintenance.

But the owner of a building or construction has the right to demand to the persons who are liable to him, to compensate the damages he suffered.

Liability concerning the environment Article 624

The person who wrongfully damages the environment, by deteriorating, changing or harming it, completely or partially, is obliged to compensate the damage caused.

Liability for non-property damage Article 625

The person who suffers damage, different by property damage, has the right to claim compensation if:

- a) he has suffered injury to his health or is harmed to his honor and personality;
- b) the memory of a dead person is desecrated and the spouse he lived with until the day of his death or his relatives up to the second scale, seek compensation, except when the offence is committed when the dead person was alive and he was recognized the right of compensation for the desecration done.

The right foreseen in the above mentioned paragraph is not hereditary.

**Joint liability
Article 626**

When damage is caused by many persons together, they are jointly liable to the damaged person.

**Suit of restitution
Article 627**

The person who has compensated the damage has the right to require from each of the other persons responsible for the damage his share in direct proportion to the level of responsibility of each person and of the wholesome of the resulting consequences. When each party's proportionate share cannot be defined, the range of guilt is presumed to be equal.

Parents or tutors who have paid compensation for the damage caused by minors or by people to whom is totally removed the ability to act, have no right to require from them the restitution of the compensation for the damage they paid.

**CHAPTER II
LIABILITY DERIVING BY PRODUCTS**

**A. Manufacturer liability
Article 628**

Manufacturer is liable for the damage caused by the defects of his products, except when:

- a) the manufacturer has not put the products into circulation;
- b) under proven circumstances, is evaluated that the defects that caused damages did not exist at the time when the product was put in circulation, or these defects appeared later;
- c) the product was not manufactured for the purpose of sale or for any other form of distribution, with a certain economic purpose of the manufacturer, neither produced or distributed in the framework of an enterprise or professional activity;
- d) the defects are consequences of the fact that the product was in compliance with the rules determined by public institutions;
- e) technical and scientific knowledge did not manage to discover the defects in the time the product was put into circulation;
- e) it is the matter of production of a raw material or the fabrication of a part of a product, which results with defect when the whole product is manufactured, or as result of erroneous guidelines given by the manufacturer of this product.

Article 629

The manufacturer's liability is reduced or removed when, according to circumstances, the damage is caused both by the product's defects, and the injured person's fault or of a person, for whom the damaged person is responsible. The manufacturer's liability is not reduced when the damage is a common result of the product's defects and the behavior of third parties.

Article 630

An object is considered defective when it does not give the security expected from it, taking into consideration all the circumstances and in particular:

- a) product's presentation;
- b) the reasonable use expected by the product;
- c) the time when the product is put into circulation.

The product cannot be considered defective starting by the fact that a more perfect product is put in circulation later than it.

Article 631

"Product" within the meaning of this Code is called a movable object even if it is incorporated in a movable or immovable object, including the electricity, except agricultural products or products resulting from hunting.

Agricultural products are considered land products, stock-breeding and fishing, except when they have undergone a first processing.

"Producer" within the meaning of this Code is called the producer of a completed product, of a raw material or the producer of a consistent part of the product, as well as every other person that is presented as such (producer), by putting on the product his name, his mark or another distinctive sign.

Without avoiding producer's liability, a "producer" is considered every person who imports a product for sale, rent, leasing, or another form of distribution, in the framework of his trade activity. In this case, his liability is equal to that of a producer.

Article 632

When the producer cannot be identified, every supplier will be considered a producer, except when within a reasonable term, he notifies the damaged person of the producer's identity or the identity of the person who has supplied the product.

Article 633

When, in the implementation of the first paragraph of article 628 of this Code, many persons are liable for the same damage, each of them is liable for the whole damage.

Article 634

The suit against producer for compensation of damages, in compliance with the first paragraph of article 628 of this Code, is prescribed within three years starting from the day when the damaged person had knowledge or should have had knowledge of the damage, defects and producer's identity.

The injured person's right against the producer for the compensation of the damage, under the first paragraph of article 628 of this Code, extinguishes 10 years from the day when the producer first put the product that caused the damage into circulation.

B. Fraudulent publication

Article 635

The person who publishes or causes the making public of a notice concerning the products or services, he himself offers within a professional activity, or of an enterprise, or of a person for whom he acts, commits an illegal action if the notice is fraudulent in one or several of the following respects:

- a) nature, content, quantity, quality, possible characteristics or use;
- b) origin, way or date of production;
- c) the quantity of its stock production;
- c) price or its method of calculation;
- d) the reason or the purpose of special offer;
- dh) attributed qualities, other evaluations or certifications done by third persons, or declarations they have delivered, used scientific or professional terminology, statistical and technical data;
- e) conditions of product's delivery, of exercise of services or performance of payment;
- f) extent, content and time limit of guarantee;
- g) identity, quality, competencies or obligations of the person who produces or has produced the products, who offers them or those of the person who provides the service, who directs, supervise or helps in these activities.
- gj) compares with other products and services.

Article 636

The person who has acted illegally according to the above mentioned provision, is liable for the damage caused, except when he proves that he is not guilty for the damage occurred.

Article 637

When the fraudulent publication, provided by article 635 of this Code, has caused or risks to cause damage to another person, the court, upon that person's request, orders its immediate cessation and the obligation of the person responsible to perform a public confutation, in a way that the court finds appropriate.

C. Unfair competition

Article 638

Depending on the provisions concerning the protection of distinctive marks and the rights of license, the acts of unfair competition are committed by anyone who:

1. uses the names or the distinctive marks that might lead to confusion with the names or distinctive marks used legally by others, or imitates the products of a competitor or commits acts that might lead to confusion with the products and activity of a competitor.
2. treats the qualities of the competitor's products or enterprise, as if they were his own.
3. uses by himself directly or indirectly every other means that does not comply with the principles of professional honesty and which might harm the activity of others.

Article 639

The decision that proves the acts of unfair competition stops these acts from continuing and determines the necessary measures aimed at eliminating the consequences.

If these actions are committed wrongfully, the person who has committed them must compensate the damage.

CHAPTER III DAMAGE COMPENSATION

Article 640

Compensation for property damage consists of the damage that has been caused and the missed profit.

Are compensated as well the expenses done reasonably to avoid or reduce the damage, those who were necessary to define the liability and the amount of damage, as well as the reasonable expenses done in order to obtain compensation through extra-judiciary ways.

Article 641

The person who has caused damage to the health of another person, is obliged to compensate for the damage, taking into consideration the loss or the reduction of working capabilities of the damaged person, the expenses of his medical treatment, and other expenses that relate to the damage caused.

Article 642

The amount of compensation for the damage might change in the future, depending on the improvement or aggravation of the health or of the increase or decrease of his working capabilities of the damaged, in comparison to the time when the compensation was determined and to the changes the salary of the damaged person might have had.

Article 643

When the death of a person is caused, the damage to be compensation consists of:

- a) living and nutrition expenses for his minor children, consort and parents unable to work who used to be under the responsibility of the dead person, completely or partially, and of the persons who used to live in the dead person's family and who had the right of nutrition by him;
- b) the necessary expenses of the dead's funeral, according to the personal and family circumstances of the dead person.

The person who has caused damage may claim the same protecting means that he would claim to the dead person.

The Court taking into consideration all the circumstances of the question, might decide the recompense to be given in nature, or in cash, at once or in trances (parts).

Article 644

When the person who has done the illegal action or illegal non action, except from causing damage, has had a significant benefit, under the request of the damaged party and taking into consideration the nature of the damage, the scale of liability and other circumstances of the question, the court may include in the calculation all or part of the profit for damage compensation.

Article 645

When death or injury to health has been caused to a person who profits by the social insurance, the damage is compensated in the way determined by law.

Article 646

For a person who has not been employed or has not been insured, the compensation of the damage caused by his death or health injury, is determined by the Court on the basis of the salary of a worker belonging to the same category where the job the dead person had done or could had done, would have been classified.

Article 647

When the damaged minor turns 16 years old and has no salary for his work, he has the right to require compensation for the loss of his working capabilities with the average salary of a worker, under the criteria of article 646 of this Code, instead of his present salary.

When he reaches 18 years old, he has the right to require compensation based on the average salary of a worker that belongs to the same category to which he would have belonged if his health had not been injured, instead of his present salary.

CHAPTER V MANAGEMENT OF THE OTHERS WORK

Article 648

The person who, without being obliged, undertakes consciously and for a reasonable purpose, the administration of the others interests or works, is obliged to continue it till the interested person is able to take care himself.

Article 649

The interested person must fulfil the obligations that administrator has undertaken on his behalf, he must exclude the administrator from the obligations he has undertaken on his behalf and pay him the necessary and useful expenses from the day they are done, and in case of damage caused as result of administration, he must pay the recompense, under the condition that the actions performed by administrator have not been prohibited by the interested person.

When the administrator except administration, needed to exercise another profession for that purpose, he has the right to be recompensed according to the tariffs established for such activities.

Article 650

Administrator has the right to take legal transactions on behalf of the interested person, in the measure that the interest of the latest is accomplished in a suitable way.

Article 651

Administrator undergoes the same obligations that derive by an ordering contract.

The court taking into consideration the circumstances which influenced to administrator, to undertake administration, may diminish the compensation for damage caused by his fault.

Article 652

The interested person by approving administrator's actions, might withdraw his right to be recompensed for the damage by administrator, according to the above mentioned provision. For this scope, a reasonable term must be given to the interested person.

CHAPTER VI NON OBLIGED PAYMENT

Article 653

Whoever has done a non - obligatory payment, has the right to ask for the restitution of what he/she has paid, and the right to enjoy the fruits (the results) and the interests from the day of payment, if the person who has received the payment is in bad faith, and from the day of the requirement for restitution, when the person is in good faith.

Article 654

The person who has paid the obligation of another believing he was a debtor, based on a non wrongful mistake, might receive back what he has paid, provided that the creditor has not been deprived in good faith from the title and the guarantees of the credit.

The restitution of the payment must be accompanied by the fruits and interests, in the conditions provided in the above mentioned provisions.

CHAPTER VII BENEFITTING WITHOUT REASON

Article 655

The person who, without any legal reason, has benefited or saved something causing a damage to another person, is obliged to pay back the last one for the property losses he has suffered, within the limits of the benefit.

Article 656

When the benefit without any legal reason has for object a determined thing, the person who has taken this object must restitute it in nature, together with the incomes he has earned or should have earned and has the right to require to be paid for all the expenditures he has done, based on provisions for the requirement of the object from the illegal possessor.

Article 657

It can not be asked the restitution of what a person has voluntarily given for the execution of an obligation, which, although nondemandable, is not invalid.

Article 658

The suit for benefit without reason cannot be made when the damaged person can make another suit to ask the compensation for the incurred damage.

PART V CONTRACTS

TITLE I CONTRACTS IN GENERAL

CHAPTER I PRELIMINARY PROVISIONS

Content of contract Article 659

Contract is the legal transaction through which one or more parties to establish, change or extinguish a legal relationship.

Article 660

Parties in contract freely determine the content, within the limits determined by law.

Bilateral and Unilateral Obligation Contracts Article 661

The contract is of unilateral obligation, when one of the parties undertakes obligations towards the other part, the latter not having any obligation towards them.

Article 662

The contract is bilateral when both parties have reciprocal obligations toward each other.

Necessary conditions for the stipulation and validity of contract Article 663

The requisites for the existence of the contract are: consent of the party that has undertaken the obligation, the legal motive of the obligation, the object that constitutes the content of the contract and the form as required by law.

Stipulation of the Contract

Article 664

When the contract contains only the obligation of the offeror, the offeree can reject the proposal within the term specified or that derives from the nature of the agreement. In the absence of such refusal, the contract is deemed to be stipulated.

Article 665

The offeror of the termination of a contract is bound by his proposal, except when such bind is excluded. When the offer is refused or is not accepted within the time provided, the offer lapses.

If no time limit is set for the acceptance, the offeror is bound by the offer made, until the time that is usually according to the circumstances, is necessary for the acceptance of the other party to reach him.

Article 666

The offer to stipulate a contract, made to a person that is present, without a term for its acceptance, loses its power, if this person present does not accept this offer immediately.

Article 667

When the offeror has specified a time limit for the acceptance, it is necessary for the acceptance to come within the term.

The offeror can treat a late acceptance as effective provided that he immediately so informs the other party.

When the acceptance is sent on time, but it reaches the offeror late, he should inform the offeree immediately, if he does not want to be bound by his offer any longer.

Article 668

An offer to stipulate a contract can be revoked if the offeror notifies the other party, before the offer reaches that party, that he has revoked the offer.

This rule is also applied to the revocation of acceptance by the other party.

Article 669

When at the request of the offeror, or by taking into account the nature of the agreement and circumstances related to it, results that it was not necessary to wait for an expressed acceptance, or the duty to be performed arises without a prior reply, the contract is concluded at the time and place in which performance begins.

The party performing the obligation must promptly give notice to the other party for the beginning of the performance of the contract, otherwise he is liable for compensation of damages.

Article 670

An acceptance that does not conform to the content of the offer, is deemed a rejection and at the same time as a new offer.

Article 671

The offer is valid as a proposal, when it incorporates the essential elements of the contract, that the parties seek to conclude, except when it results differently by the circumstances of the issue.

Article 672

The contracting party can resign from the contract, within seven days from its conclusion, without stating reasons, when:

- the contract is concluded at the work place or domicile of one of the parties, during an excursion organized in a public place, or in such conditions, that do not correspond to a normal negotiating situation;
- in a credit offering contract for the purchase of a consumable good, the seller should give the buyer written notice of the right to withdraw from the contract stipulated in the above conditions, otherwise the period for withdrawal is one year.

Article 673

An enterprise that has a dominant position in the market, is obliged to contract with anyone who seeks an obligation, within its field of activity, according to the good commercial laws and customs.

The completion of a contract cannot be refused without a legal reason.

Article 674

During the negotiation for the formation of the contract the parties must act in good faith with one another.

A party who knows, or should know, the existence of a reason for invalidity of the contract and does not give notice to the other party of it, is bound to compensate for the damage suffered by the latter, in relying, without fault, on the validity of the contract.

Article 675

If one of the contracting parties has professional knowledge and the other party gives to it complete reliance, the first is obliged to give to it in good faith, informations and instructions.

Article 676

The contract is stipulated when the parties have demonstrated their mutual will, agreeing to all the essential conditions of it.

This expression of will can be expressed or silent.

Unlawful Motive Article 677

In a contract, the motive is unlawful when it is contrary to the law, public order, or when the contract becomes a means to avoid the fulfillment of a rule.

Object of Contract

Article 678

The object of a contract should be possible, lawful, determined or determinable.

Article 679

A contract made subject to a suspensive condition or to a term, is valid if the obligation, which was originally impossible, becomes possible before fulfillment of the condition or expiration of the time limit.

Article 680

The contract can involve performance of cation for things in the future, except when expressly forbidden by law.

CHAPTER II

INTERPRETATION OF CONTRACT

Article 681

When interpreting a contract, the common and real intent of the parties must be certified, without limiting to the literal meaning of the words, as well as by evaluating their behavior in general, before and after the conclusion of the contract.

Article 682

Every clause of the contract is interpreted with reference to all the others, attributing to each the meaning resulting from the act as a whole.

The contract shall be interpreted in good faith by the parties.

Article 683

In case of doubt, the contract or the individual clauses shall be interpreted in the sense in which they may have some effect rather than a manner in which they would have no effect.

Article 684

Ambiguous closes are interpreted according to the general practice of the place where the contract was concluded.

When one of the parties is an enterprener, ambiguous clauses are interpreted according to the general practice of the place where the enterprise has its headquarters.

Article 685

In case of doubt, expressions which can have more than one meaning shall be understood in the sense most suitable to the nature and object of the contract.

General Conditions

Article 686

General conditions of the contract, prepared by one of the contracting parties, are effective to the other party, if at the moment of formation of the contract the latter knew of them or should have known them, by showing an extraordinary care.

The general provisions that bring about a loss or disproportional infringement of the interests of the contracting parties are invalid especially when they differ essentially from the principles of equality and impartiality provided for in the provisions of this Code that regulate the contractual relationships.

Conditions are ineffective when they establish in favor of him who has prepared them previously, limitations of liability, the power to withdraw from the contract, or to suspend its performance, or which imposes time limits involving forfeitures on the other party, limitations on the power to raise counterclaims, restrictions on contractual freedom in relations with the third parties, arbitration clauses, or derogations from the competence of the courts, except when adopted separately in written by the other party.

Article 687

In contracts made by subscribing to models or forms aimed at the purpose of regulating certain contractual relationships in a uniform manner, clauses added to such models or forms prevail over the original clauses of said models or forms, when they are incompatible with them, even though the latter have not been abrogated.

Article 688

In any case the conditions contained in the general conditions of a contract or in models or forms, which have been given by one of the contracting parties, in case of doubt, are interpreted in favor of the other party.

Article 689

When, notwithstanding the application of the rules contained in this chapter, the contract remains unclear, it shall be understood in the sense least burdensome for the obligor, if it is gratuitous, and in the case of non-gratuitous contract, in the sense which equitably reconciles the interests of the parties.

CHAPTER III

EFFECTS OF THE CONTRACTS

Article 690

A contract regularly stipulated has the force of law between the parties. It can be dissolved or changed by mutual consent of the parties or for a cause provided by law.

Article 691

A contract produces effects with respect to third parties in cases provided by law.

Article 692

Except when provided differently in the contract, its legal effect is extended to the heirs with universal title.

Article 693

A contract obliges the parties not only for what it provided in it, but also for the effects arising from the application of the law.

Contract in the benefit of a third person

Article 694

A contract in a third person's benefit is valid when the contractor has an interest therein.

The person that has accepted the promise in the interest of the third party or the third party itself, or persons that remove rights to him, have the right to ask the fulfillment of the contract, except when agreed otherwise.

The contract cannot be revoked or modified after the third person has declared that he intends to avail himself of the stipulation of contract, except when the promisor has reserved this right.

In case of revocation of the stipulation of the contract, or refusal of the third person to avail himself of it, the obligation for the performance of the benefit of the promisor remains, except when it results otherwise from the intention of the parties or the nature of the contract.

Article 695

The party that has made a promise to the benefit of the third person, can raise against him counterclaims derived from the contract, but not those deriving from relations with the other party.

Right of withdrawal from the contract

Article 696

If one of the parties has been given the right to withdraw from the contract, this right can be exercised as long as the contract has not started to be implemented.

In contracts with continuous or periodical implementation, this right can be exercised even further, but the withdrawal does not have effects for executions already done or that are in the process of execution.

When in the contract it is provided the payment of a compensation for the withdrawal, this has effect when the payment is done, except when there is contrary agreement.

Promise of fulfillment of an obligation

Article 697

The person that has promised to another that a third person will execute an obligation, or will do an action in his favor, is obliged to remunerate the other party, if the third person does not agree to execute the obligation or to do the promised action.

Dissolution of contract

Article 698

In contracts with mutual obligations, when one of the contracting parties fails to perform his obligations, according to the case, the other contracting party can demand performance of the obligation, or dissolution of the contract, besides compensation of the damage.

Article 699

A contract cannot be dissolved if the non-performance of the obligation from one of the contracting parties has slight importance for to the interest of the other party.

Article 700

The contracting party can notify in written the other party that has not fulfilled the obligation, to perform it within a convenient time limit, by declaring that, unless after such term the contract is not executed, the contract shall be deemed at any rate dissolved.

Article 701

If the time fixed for performance of the obligation of one of the parties must be considered essential for the interest of the other party, the latter if it wishes to demand performance of the obligation notwithstanding the expiration of term, must so notify the other party within three days, unless there is a contrary agreement.

Article 702

The parties can provide in the contract that the contract will be dissolved if a specific obligation is not fulfilled in the designated conditions.

In this case, the contract is dissolved when the interested party declares to the other party that it intends to avail himself of the dissolution clause.

Article 703

Dissolution of a contract for non-performance of the obligations has retroactive effect between the parties, except in the case of contracts of continuous or periodic performance with respect to which the effect of dissolution does not extend to actions already made.

Dissolution of the contract, even if with agreement between the parties, does not prejudice rights acquired by third persons, except for the effect of registration of the request for dissolution of the contract.

Article 704

General provisions of obligations apply for the dissolution of contracts except the provisions regulating specific contracts.

TITLE II SPECIFIC CONTRACTS

CHAPTER I SALE

GENERAL PROVISIONS

Article 705

The sales contract has as object the transfer of ownership of a thing or the transfer of a right towards the payment of a price.

Article 706

In a sale involving the acquiring in the future of an object or of a right, the acquisition of ownership occurs as soon as the object or the right are accepted to exist.

Except when parties intended to conclude a suspensive condition contract, the sale is void if the object is not accepted to exist.

Article 707

If the parties have neither determined the price nor agreed on the manner of determining it, and in absence of the absence of any act of the competent public organs, it is presumed that the parties intended to refer to the price normally set by the seller at the time when the contract was made.

In the case of objects having an exchange or market price, the price is taken from the quotation or price lists of the place in which the delivery will take place, or from those of the nearest market.

If the price is determined on basis of weight of the property, in case of doubt, calculation must be based on net weight.

The parties can entrust the determination of the price to a third person, appointed in the contract or to be appointed later.

Article 708

The expenses of the contracts of sale and other related expenses, are borne by the buyer, unless otherwise provided by agreement.

Specific prohibitions of the purchase

Article 709

The following cannot be purchasers, neither at the public auction, nor directly or through another person :

- a) administrators of property that is not their own according to the law or appointed by the State, with respect to property entrusted to their care;
- b) public officials charged with the obligation to execute sales, with respect to the property they are selling;
- c) judges, prosecutors, executors, notaries and lawyers, with respect to the property which is subject to a claim in the court in which they belong or exercise their functions, except when they are co-owners.

Obligations of Seller in Sales of Movable Property

Article 710

The principal obligations of the seller are:

- 1) to deliver the thing to the buyer;
- 2) when the acquisition of ownership over the object, or of the real rights over it, is not an immediate consequence of the contract, he must deliver all appropriate documents for the acquisition of their ownership, according to the conditions provided by the contract or the law;
- 3) to warrant the buyer against dispossession, vices and non compliance of the qualities of the object with the contract.

Article 711

The thing shall be delivered in the condition in which it was at the moment the contract was concluded. The thing shall be delivered together with the income accrued since the sale and accessories and fruits from the day of contract's conclusion, unless the parties provided otherwise in the contract.

If the seller is not obliged to hand over the goods in another specified place, he discharges his duty to deliver by handing the thing to the first forwarding agent for delivery to the buyer, when the sale contract includes the transportation of the property.

In case the contract does not include the transportation of the property and it refers to specific things individually or in kind or in quantity, and that must be taken from a certain quantity or must be fabricated or produced and if, at the moment the contract is made, the parties knew that the property was or must have been fabricated or produced in a certain place, the seller is obliged to put the things at the buyer's disposition at that place.

In the other cases, the seller is obliged to do the delivery at the place where the things were at the time of the sale or, when such a place cannot be determined at the place, where the seller had his domicile or where his enterprise had the headquarters of its activity.

Article 712

The seller must deliver the things:

- 1) on the date specified in the contract or that is determinable on the basis of the contract;
- 2) at any moment in the contract term that is specified or can be established according to the contract, except when as results from the circumstances it is left to the buyer can choose the date;
- 3) in any other case within a reasonable term prior from the termination of the contract.

Article 713

When the seller is obliged to give documents connected with the things, they are given at the time and place and in the form provided for in the contract. If these documents are issued before this moment, he can correct any defect in them up to the moment provided for their delivery, if the exercise of such a right

does not create problems for the buyer or result in any unreasonable expense. In these cases, he reserves the right to demand the compensation of the damages.

Article 714

In a sale by documents, the seller is released from his duty to deliver things sold when he turns over to the buyer the sales documents and other documents provided for in the contract or in law.

Article 715

The seller must deliver the things of the quality, quantity and sort specified in the contract, as well as placed and packed/labeled in the way determined by the contract.

It is deemed that things are not in accordance with the contract if they are not suitable for the specific use provided for in the contract, except when there is agreement to the contrary. When it is not possible to make this determination, it is said that things are not in accordance with the contract if they are not suitable for use the other things of the same sort are.

If the sale is made on basis of a model or sample, the seller must deliver things that have the same qualities as the model or sample.

If the contract does not mention rules for placing or packaging things, it can be said that these things are not in accordance with the contract if they are not placed or packed in the same way as is usually done for things of the same sort or, lack of a customary way, in a manner that is suitable to preserve and protect the objects.

The seller is not responsible for defects of the property which at the moment of concluding the contract, the buyer knew or he did not know because of his fault, except when the defects have to do with the quality of the things specified according to the contract or the notification of the seller.

Article 716

The seller is responsible for any defects or noncompliance that existed at the moment when the risk passed to the buyer, even when the defect appears after this moment.

The seller is responsible even for the noncompliance that is verified after the moment showed on the above paragraph and that comes from non-fulfillment of any obligation, including the warranty that the thing will be suitable for its common or specific usage for a certain period of time, or that will preserve its quality and specific characteristics.

Article 717

The buyer loses his right to challenge things for defects, if he does not notify the seller within ten days of their discovery, specifying their nature, except when the parties or the law provide for another term.

In any case, the buyer loses his right to reject things for defects if he does not exercise his right within two years from the date of delivery of such things to him, provided such term is not contrary with the duration of a contractual warranty.

Article 718

The seller cannot take advantage of the rules provided in the previous article if the defects concern facts within his knowledge or that could have not been unknown to him and they were not made known to the buyer.

Article 719

The seller shall deliver the thing free from any right or claim of third parties, except when the contract provides differently.

Article 720

The seller should notify the buyer about the rights or claims of the third parties on the things, specifying their nature, within a reasonable time from the moment that he became aware of them or that he should have been unaware of them, otherwise he loses the right provided in the above paragraph.

The seller can not use the dispositions of the above paragraph if he had knowledge of the rights or claims of the third parties, or of their nature.

Article 721

The buyer can suspend the payment of the price when he has reasons to fear the thing or a part of it can be reclaimed by the third parties, except when the seller gives the appropriate warranty.

The payment cannot be suspended if the risk was known to the buyer at the moment of the sale.

Article 722

In cases where delivery of defective property constitutes a substantial breach of contractual obligations, the buyer has the right to ask:

- 1) at the moment of the denunciation, provided in article 717 of this code or within a reasonable time from this denunciation, the delivery of a thing as addition or substitution;
- 2) elimination of the defects through repair when this is reasonable to be taken into account in all concrete circumstances. The demand for repairs must be done at the moment of denunciation provided in article 717 above or within a reasonable time from this denunciation;
- 3) to demand the reduction of price;
- 4) to declare the dissolution of the contract.

The buyer can give to the seller a reasonable time to fulfill these obligations. During this time, the buyer cannot use any legal means to address the nonfulfillment, except when he is notified by the seller that the seller will not fulfill the obligation within the term provided.

In any case, the buyer does not lose the right to demand the indemnity of the damage.

Article 723

When the delivery of the things with defects is not a substantial breach of the contract, the buyer can ask:

- 1) for the remove or repair of the defects of things delivered, or;
- 2) for a reduction of price.

The buyer can give the seller a reasonable term for the fulfillment of these obligations. During this term, the buyer cannot use any legal means to address the nonfulfilment except when he is notified by the seller that the seller will not fulfill the obligation within the term provided.

When the seller does not fulfill the demand provided for in point one of this article within the term established by the buyer, the latter can ask for a price reduction of the above mentioned objects.

In any case, the buyer does not loose the right to demand compensation of indemnity.

Article 724

Except the the contract's dissolution by law as a result of the existence of term as an essential condition, when the delivery of the thing is not made, the buyer can declare the contract dissolved if the seller does not deliver the thing within the additional term established by the buyer or if he declares that he will not complete delivery within this term.

Article 725

If the seller has delivered the thing, the buyer looses the right to declare the contract dissolved when:

- 1) in case of delayed delivery, the buyer has not demanded dissolution of the contract within a reasonable time, not more than 15 days from the moment that he became aware of the delivery;
- 2) in case of nonfulfilment other than the delayed delivery, within a reasonable time but not more than 15 days;
 - a) from the moment when he became or should have become aware of the nonfulfilment;
 - b) after the termination of the additional term eventually established by him in accordance with article 717 of this Code.

Article 726

If the seller delivers only a part of the things or only a part of the things delivered is in accordance with the contract, Articles 717 and 720 apply to the missing or non-conforming part.

The buyer can declare the contract completely dissolved only if the partial delivery or non-conformity to its conditions amounts to especially important or essential breach.

Article 727

If the buyer is taken the object as a result of rights enforced against him by a third person, the seller is bound to compensate the damage according to article 744.

In the case of partial dispossession of a thing when, according to the circumstances, he was going to conclude the contract, the above paragraph is applied.

Article 728

A buyer who is sued by a third person claiming rights over a thing sold shall convoke the seller in the question. If the buyer does not do so and final judgement is rendered against him, he loses his right of warranty for eviction against dispossession if the seller proves that sufficient grounds existed to cause the claim to be rejected.

A buyer who has voluntarily recognized the right claimed by a third person loses the right to warranty for eviction, if he does not prove that no sufficient reason existed to prevent dispossession of the object.

Article 729

If the buyer has prevented dispossession of a thing by paying a sum of money, the seller can free himself of all consequences by reimbursing the sum paid, the interest and all expenses.

Obligations of the buyer in the sale of movable property **Article 730**

The obligation of the buyer to pay the price includes taking measures and respecting the formalities required by the contract or special dispositions for payment execution.

Article 731

In case the buyer is not obliged to pay the price in another defined place, he must make the payment at the domicile or place where the seller has the official center of his activity or, then the price is to be paid at the time of delivery, at the place of such delivery.

Article 732

In absence of an obligation that the price is to be paid in another defined moment, the buyer must make the payment at the time when seller places the things, or the documents that represent them, at his disposition. If the contract includes transport of the things, the seller can do the forwarding of the things on condition that the things or the representative documents are to be delivered to the buyer before payment.

Article 733

The buyer is bound to pay the price on the date established, or that can be established by the contract or law, without the necessity of the seller's demand.

Article 734

The obligation of the buyer to take delivery of the object involves the completion of every action that can be reasonably expected of him, for it permits the seller to make the delivery and the buyer take it.

Article 735

In case the contract provides that the buyer must define the form, size, or other characteristics of the things, and if he does not do it at the date provided, or within a reasonable time after the received demand of the seller, the seller may create this definition himself in accordance with buyers' demands for which he may have knowledge.

If the seller makes the definition himself, he must notify the buyer for the rules of this definition and put a reasonable term within which the buyer can make another definition. If after taking such a notice, the buyer does not use this possibility within the term established, the definition made by the buyer is binding.

Article 736

The seller can set to the buyer additional term for the fulfillment of his obligations. With the exception of cases where the seller has not received notice from the buyer that he will fulfill his obligation within the defined term, during this time, the seller cannot use any legal means for the indemnity of the loss caused by the delay in the fulfillment. However, the seller does not lose the right to demand compensation for damages caused by the delay in performance.

Article 737

The seller can consider the contract dissolved:

- 1) if the breach of buyer's contractual or legal obligation constitutes a nonfulfillment of particular and essential importance;
- 2) if the buyer does not fulfill his obligation to pay the price or to take delivery of the things within the additional term established by the seller, or declares that he is not going to do this within this term;

If the buyer has paid the price, the seller loses the right to declare the contract dissolved if this is not required:

- 1) in case of delayed fulfillment of a buyer's obligation, before he became aware of the execution of the obligation;
- 2) in case of another nonfulfillment different from delayed non-fulfillment, within a reasonable time:
 - a) from the moment when he knew or should have known of such nonfulfillment;
 - b) after the termination of the additional term established by him, or after the buyer has declared that he will not fulfill his obligations within this additional term.

Article 738

Except contrary agreements or commercial customs, if the things sold must be conveyed from one place to another, and the seller is not obliged to do the delivery at a place specified in the contract, the risk of loss passes on to the buyer when the thing is delivered to the first conveyer to deliver to the buyer, even if the things are loaded unpacked.

If the seller is obliged to deliver the things to the conveyer at a place specified in the contract, the risk of loss passes to the buyer only when the things are delivered to the carrier at the specified place. The fact that the seller is authorized to keep the representative documents of the things, does not influence the passing of the risk.

Article 739

In case of an essential nonfulfilment of the contract on behalf of the buyer, the provisions of the previous Article do not deprive the legal means the buyer is available of for nonfulfilment of contractual obligations.

Common provisions for obligations of the buyer and seller

Article 740

One of the parties can suspend fulfillment of its obligations if, after the conclusion of the contract, it is clear that the other party will not fulfill the essential part of its obligations as a consequence of:

- 1) a serious impossibility in its capacity to fulfill an obligation, or make payment.
- 2) the manner in which the party prepares to start or continue the execution of the contract. If the seller has sold the things before the conditions mentioned in the above paragraph appeared, he can oppose the delivery of the things to the buyer even if he possesses a document that authorizes him to take them.

Such opposition has an exclusive effect on the relationship between the buyer and the seller. The party that suspends the application must immediately give notice to the other party and should continue to fulfill the obligation if the other party gives and appropriate guaranty with regard to the fulfillment of his obligations.

Article 741

In case of sales contracts with partial delivery, when the nonfulfilment of one of the contracting parties towards one of its obligation related with the delivery, constitutes a nonfulfilment of a special importance of the contract related to this delivery, the other party can declare the contract dissolved as far as it concerns this delivery.

If the nonfulfilment by one contracting party of its obligations concerning a delivery, gives the other party reasons to judge that an essential breach will happen concerning future deliveries, this party can declare the contract dissolved for the future, as long as it does it within a reasonable time.

The buyer that declares the contract dissolved with regard to a delivery can, at the same time, declare dissolution for earlier of future deliveries if because of their interdependence these deliveries would not be used for the reason defined for by the parties in the contract.

Article 742

In case of dissolution of the contract, the seller must return the price paid and pay to the buyer the expenses and payments required by law.

The buyer must give back the thing if it is not lost or destroyed as result of its vices.

Article 743

If one of the parties is late in paying the price or any other amount, the other party has the right to ask the interest on these amounts without influencing indemnity of the damage.

Article 744

The seller must give back to the buyer the price paid, even if the value of the thing is reduced or if the thing is damaged. If the reduced value or damage come as the result of an action of the buyer, the above amount must be reduced by the profit the buyer has made, except as provided for in Article 640.

Article 745

If the contract is dissolved and if, in a reasonable manner and within a reasonable time after the dissolution, the buyer has made a purchase to substitute or the seller has resold the things, the party that asks for indemnity can take the difference between the price provided for in the contract and the price of the substituting purchase or sale, as well as every other recompense that can be required according to the previous Article.

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Sale with reserve of property

Article 746

When the price of the sale is paid on an installment basis, the buyer acquires ownership over the thing upon payment of the last installment, assuming the risk from the time of delivery. The delayed transfer of ownership with the above conditions must be reflected in the contract.

Article 747

The transfer of ownership according to the above provision, can be directed against creditors of the buyer, if it derives from a written document in a precise date prior to the measure for the insurance of the credit.

If object of the sale are immovables or movable registered things, the registration provisions are applied.

Article 748

Non payment of only an installment, which does not exceed one eighth of the price, does not comport the dissolution of the contract, and the buyer retains the right of the term for subsequent installments, notwithstanding any agreement to the contrary.

Article 749

If the contract is dissolved as a result of the buyer's nonperformance of obligations, the seller must return the installments done, except his right to compensation for use of the thing or compensation of damages.

If it was stipulated in the contract that the instalments paid should be retained by the seller with an indemnity title, the court according to the circumstances of the issue can reduce this indemnity.

Article 749/a

The rules provided in articles 746, 747, 748 and 749 do not apply to the sales with reservation of the property, related to financial transactions secured, for which special rules defined with special law apply.

Sale of immovable objects

Article 750

The sale of immovable objects is done according to the manner provided for by Article 83 of this Code, otherwise it is invalid.

Article 751

The conditional sale of immovables should be registered in the register of immovable property after the condition is verified.

Article 752

When a specific immovable has been sold, by having indicated its dimensions and a price established on the basis of a payment per unit of measurement, the buyer is entitled to a reduction if the price, if the effective measure of the immovable object is inferior to that indicated in the contract.

If the measurements are found to exceed the ones indicated in the contract, the buyer shall pay the supplement of price, but he has the right to withdraw from the contract if the excess is more than one-twentieth of the stated measurements.

Article 753

In cases in which the price has been determined in relation to the immovable object itself and not to its measurements, even if the measurements have been indicated, no reduction or supplement of the price is done, unless the real measure is inferior or superior to one-twentieth part of that indicated in the contract.

In cases in which a supplemental price is due, the buyer has the choice of withdrawing from the contract or paying the supplement.

Article 754

If two or more immovables have been sold in the same contract, each for the same and unique price, with an indication of the measurements of each, and the size is found to be smaller in one and larger in the other, a compromise is made till the necessary quantity; the right to a supplement or reduction of the price is regulated by the provisions set forth above.

Article 755

The right of a seller to a supplement and the right of the buyer to reduction of the price or to withdrawal from the contract lapse by prescription two years from the delivery of the immovable object.

Article 756

The right of the buyer to oppose defects of the immovables, lapses by prescription five years from delivery of the immovable.

CHAPTER II EXCHANGE

Article 757

Exchange is contract which has as its object the reciprocal transfer of the ownership of things or of other rights from one contracting party to the other.

Article 758

If the exchanger has suffered eviction of a thing and does not intend to retake it, he is entitled to take its value, in accordance with provisions established for sales, as well as indemnity of damage.

Article 759

The expenses of the exchange and other additional expenses are borne by the two parties in equal shares, unless otherwise agreed.

Article 760

The rules governing sale contracts apply also to the exchange contracts, for as long as they are compatible.

Article 761

A gift is a contract is one by which one party transfers in ownership gratuitously to the other party a certain thing or a real right, which this party accepts.

It is not a gift the withdrawal from a right before this right is acquired, or withdrawal from the inheritance.

Article 762

The gift can not contain other than present property of the donor. If the gift contains future property, that gift is void with regard to such (future) property.

Article 763

A gift that has as object periodic obligations, is extinguished with the death of the donor, except the cases when provided differently in the contract.

Article 764

The gift of the immovable things must be done through a public act and be registered, otherwise it is void.

The acceptance can be made in the same act, or by a latter act. In this case the gift is considered completed from the moment when the act of acceptance is notified to the donor.

If it has as its object movable things, it is valid when they are specified by showing their value at the contract of the gift.

The contract is considered formed from the moment of the delivery of the thing.

Before the contract is formed, the donor or the donee of the gift can revoke their declaration.

Article 765

The gift can be opposed for error of the cause, when this is connected to the fact or the right, if the cause derives from the act and has encouraged the donor to do the gift.

Article 766

The donor is responsible for the non-fulfilment or the delay of the gift, only for actions done on purpose or by gross negligence.

Article 767

The donor can put as a condition the return of the objects donated, either because of the previous death of the donee, or for the pervious death of his descendants.

The return can occur only in the favour of the donor. The agreement in favour of the others is considered as non-existent.

Article 768

The gift can be charged with condition or with burdeon. The donor is obliged to fulfil the burdeon within the limits of the value of the thing donated.

For fulfilling the charge can act, besides the donor anybody else interested. The dissolution of the gift contract for the nonfulfilment of the burdeon can be demanded by the donor or his heirs, if it is provided in the act of the gift.

The unlawful or impossible obligation is considered non-existent, it however makes the gift non-existent if it constituted the only determining cause of the contract.

Article 769

The donor is bound to give guarantee to the donee for the belonging of the thing donated and for the devestion that might suffer from the others for the things donated, in the following cases:

- 1) if he expressly promised the guarantee;
- 2) if the eviction of the thing depends on the fraud or his personal behaviour;
- 3) if the gift imposes an burdeon to the donee, or if the donation has is because the remuneration, in which cases the guarantee is put up to the amount of the burdeon or of the whole of promises taken from the donor.

Article 770

The guarantee of the donor does not extend to the defects of that which is donated, unless the donor has acted with fraud, as well as when a special agreement exists.

Article 771

The donor, can demand the revocation of the gift, for the donations that are not usual or for those that are not done with a remuneration, when the person that has taken the gift:

- a) willingly has murdered or attempted to murder the donor, his consort or children, or parents;
- b) unjustly does not give to the donor food when he is obliged by law:

The claim for the revocation of the gift should be raised within one year from the day that the donor has received notice for the causes that give him the right to demand the revocation of the gift.

The claim started can be continued even by the heirs of the donor or can be brought by them themselves, if the donor has died within the year, from the day when the cause for bringing the claim has risen.

The advance withdrawing from the claim is void.

The revocation of the gift does not adversely affect the rights that third parties have acquired on the object donated before the claim is brought.

CHAPTER IV SUPPLY

Article 772

Supply is a contract by which one party is bound, to do in favor of the other party continuous or periodical supplies of things, in return of a price.

The things supplied can be movables or immovables, as well as in the form of the energy or credit titles.

Article 773

When the amount of supply is not established it is implied that the agreement is meant for the quantity that corresponds to the normal needs of the supplied party till the time of termination of the contract.

If the parties have established only a maximum and a minimum limit for the entire supply contract or for the separate services, it belongs to the person having the supply right to decide within the upper limits for the due quantity.

If the quantity to be supplied is to be determined according to needs on a minimum quantity determined by contract, the supplied party is liable for the corresponding quantity according to his needs if the minimum quantity is exceeded.

Article 774

If the price in a periodic supply contract is to be determined according to the provisions of the article 707 of this Code, the termination time of the separate supplies and the place where they are to be delivered shall be taken into account.

Article 775

In the supply of periodic contracts, price corresponds with the document of the separate supplies.

In supplies with continuous character the price is paid according to the customary terms.

Article 776

The time established for separate supplies is presumed to have been put in the interest of both parties.

If to the supplied party is given the right to determine the term for separate supplies, it shall notify the date to the supplier through a warning in a reasonable time.

Article 777

In case of non-performance by one of the parties of separate obligations, the other party can demand the dissolution of the contract, if the nonfulfilment has a special importance and is such as to harm the confidence in the certainty of subsequent performances.

Article 778

If the party having the right to be supplied has failed to perform the obligation and the nonperformance is of slight importance, the supplier cannot suspend the application of the contract without giving reasonable advance notice.

Article 779

If in a contract is put the exclusivity clause in favor of the supplier, the other party can not profit supplies of the same kind by third parties or neither can

it carry out, on its own means, the production of the objects forming the object of the contract, unless otherwise agreed or provided by law.

Article 780

If the exclusivity clause is put in favor of the party bearing the right to be supplied, the supplier cannot do neither directly or indirectly supplies of the same kind forming the object of the contract, within the zone for which the exclusivity was granted and within the term of the contract.

The exclusivity clause, contained in a supply contract, constitutes a binding clause which requires specific written approval.

Article 781

The party bearing the right to be supplied, when it assumes the obligation to increase the sale of the things for which he has exclusivity, within the zone assigned to him, is liable for damages caused by non-performance of the obligation, even if he has performed the contract for the minimum quantity determined.

Article 782

If the duration of the supply is not established, each of the parties can withdraw from the contract, by giving advance notice to the supplier within the term agreed upon by them and, in absence thereof, within a reasonable term, by taking into account the nature of supply as well.

Article 783

To the supply contract apply as well the provisions regulating the contract for special supplies, as long as they do not come into conflict with the above provisions.

CHAPTER V ENPHYTEOSIS

Meaning of emphyteosis

Article 784

Emphyteosis is a contract, through which is given to a person a right to use and to improve an immovable property, towards a periodic compensation in cash or in nature.

Article 785

The duration of the emphyteusis is defined in the contract.

Article 786

The emphyteusis should be done in the required form for the transfer of the property for the immovable ownerships.

Rights and obligations of the owner and emphyteusis receiver

Article 787

Emphyteusis receiver enjoys the object like the owner, except for the limitations provided for in the contract for the creation of emphyteusis.

However he cannot, without consent of the owner, to use the object in another destination.

Article 788

To the emphyteusis receiver belong the separated natural fruits, civil fruits that have become demandable during emphyteusis and the rights to use the underground in the limits provided by law, except when in contract is provided otherwise.

Article 789

When the property in emphyteusis is lost entirely, the emphyteusis extinguishes and the emphyteusis receiver is released from the corresponding obligation for the future.

When the property is lost or damaged in visible and important parts of it, to the extent that not enough revenues can be accrued in order to compensate as provided in contract, a reduction of it may be demanded or the dismissal of the contract, parties liquidating their reciprocal obligations.

Request should be made within one year from the day when the loss or damage of the property on emphyteusis has occurred.

Emphyteus receiver cannot ask the discharge from the obligation for the payment of the compensation or its reduction, because of non-production or loss of fruits, even for fate case.

Article 790

It is not allowed to give the property in emphyteusis.

Article 791

Emphyteusis receiver may ask at any time the dissolution of the contract and termination of the emphyteusis, except when provided differently in the contract.

Emphyteusis giver may ask for the dissolution of the contract and termination of the emphyteusis, when the emphyteusis has liquidated the corresponding obligation for two periods in a row, damages or does not maintain and improve the property and does not fulfill in a visible way the obligations deriving from the contract.

Article 792

Taxes and other obligations pending on the property are in charge of emphyteusis receiver, except when the law provides otherwise.

When on the contract these obligations are left on the charge of the owner, they cannot pass the determined compensation for the emphyteusis.

Article 793

In case of alienation of emphyteusis, the new emphyteusis receiver and the previous one, are obliged in solido for the unpaid compensation of the emphyteusis, except when the previous emphyteusis receiver is notified the act of alienation from the emphyteusis giver.

In case of alienation of such a right from the owner, the winner cannot ask for the fulfillment of the obligations from the emphyteusis receiver before he is informed of the act of the alienation.

Article 794

When it is not provided otherwise in the contract, emphyteusis receiver during the duration of the emphyteusis or when it ceases, has the right to remove constructions, other works and plantings done outside the terms of the emphyteusis or that are bought to the owner, but at any case without damaging the property and returning it to the previous condition.

Article 795

When the contract is dissolved, to the emphyteusis receiver belongs the value of improvements done in the degree that value of the property has been increased, when it exists at the time of its return.

Article 796

The emphyteusis receiver has the right to keep the thing given in emphyteusis, till the credits that derive from it are liquidated. Every agreement to the contrary is invalid.

The owner has the right to keep the things that belong to the emphyteusis receiver till the liquidation of the obligations towards him.

Article 797

When there arises the need for extraordinary repairs to be done in the property given in emphyteusis, the emphyteusis receiver is obliged to notify the owner and to give him the possibility to perform them.

The emphyteusis giver is not obliged to perform any usual repair.

Article 798

Persons that enjoy all together an emphyteusis right are liable in solido to pay the compensation of the emphyteusis.

When the property given on emphyteusis is divided and they enjoy parts of it, each of them is responsible for the obligations deriving from the emphyteusis, in proportion with the value of the part that he enjoys.

Article 799

The dispositions of this chapter are applied also when the enfiteosis is enjoyed by one or several juridical persons, except when it is prohibited by law.

Article 800

The enfiteosis receiver can acquire in favor of the ownership active servitudes and charge it with passive servitudes, for time anticipated in the contract, by always notifying the enfiteosis giver in writing.

CHAPTER VI LEASE

GENERAL PROVISIONS

Article 801

Lease is a contract through which one party (the lessor) binds himself to give the other party (the lessee) determined thing, for temporary enjoyment towards a determined compensation.

Article 802

The lessor shall:

- 1) deliver the thing to the lessee in the time fixed and in condition that can permit the use agreed upon by the parties;
- 2) take care to maintain the object in the same condition;
- 3) guarantee peaceful enjoyment during the period of the lease.

Article 803

Lease contract cannot be stipulated for a period exceeding thirty years, unless the law provides otherwise. If it is stipulated for a longer period or without a term, it has force only for the above given term.

For the dwelling buildings, the lease contract cannot be stipulated for a period longer than five years.

For movable things given as an equipment of an immovable object, the term is equal to that of the duration of the lease of the latter.

The lease contract, with a term longer than one year, must be done in writing.

Article 804

The lessee that has executed correctly the obligations deriving from the contract, has the right of first refusal against the other persons if, on termination of this lease period, a new contract will be entered into.

Rights and Obligations of Lessor

Article 805

The lessor shall make all the repairs during the lease period, except for daily maintenance works, which are to be made by the lessee.

In case of movable goods, the expenses of preservation and of ordinary maintenance are borne by the lessee, unless otherwise provided by agreement.

If the good given in lease needs to be repaired, which are not chargeable to the lessee, the lessee is obliged to give notice to the lessor.

If urgent repairs needed, the lessee can make them himself, upon reimbursement provided that he immediately notifies to the lessor.

Article 806

If, at the time of delivery, the leased good has defects that reduce considerably the agreed value of use, the lessee could request the dissolution of the contract, or the reduction of the lease payment, except if he knew about the defects or it was easily distinguishable.

The lessor is obliged to compensate the lessee for damages caused by defects in the good given in lease, unless he proves that, without his fault, he was not aware of these defects at the time of delivery.

If the defects of the good given in lease expose the lessee or his family or employees health to serious danger, the lessee can demand the dissolution of the contract, even if he knew about defects.

Article 807

The agreement excluding or limiting the liability of the lessor for goods defects has no effect, if the lessor omitted in bad faith to mention such defects to the lessee, or if the defects are such as to impede the enjoyment of the good.

Article 808

The provisions to the preceding articles are applicable, even if the defects occurred after the commencement of the lease.

Article 809

If during the lease period, the good is in need of urgent repair, the lessee must allow them to be made. If the good is not repaired within a reasonable time, the lessee is entitled to a proportionate reduction of the rent.

Article 810

The lessor is obliged to warrant the lessee against disturbances which diminish the use or the enjoyment of the good, caused by third persons claiming rights on the same good.

The lessor is not obliged to warrant the lessee against disturbances caused by third persons who do not claim rights on the good. In this case the lessee, has the power to bring action against them in his own name.

Article 811

If third persons that cause disturbances, claim rights in the good given in lease, the lessee is obliged, under penalty of liability for damages, to give prompt notice to the lessor.

If the third persons resort to court action, the lessor is obliged to participate in the litigation, if he is summoned in the proceedings.

Rights and Obligations of the Lessee

Article 812

The lessee must:

1) take delivery of the good and use it for the purpose specified in the contract and when no specified, pursuant to the purpose which can be presumed from the nature of the good;

2) make the payment at the terms agreed upon.

Article 813

The lessee is liable for the loss of and damage to the good that occur during the lease contract.

Article 814

The lessee shall return the good to the lessor in the same condition in which he received it, pursuant to what the parties have foreseen in the contract, except the damage or normal consume of the good from its use pursuant to the contract.

In the absence of a description in the contract the lessee is presumed to have received the good in a good state of use.

The lessee is not liable for loss or damage due to natural decay and age. Movable goods shall be returned at the places where they were delivered.

Article 815

A lessee who is in delay in returning the good is obliged, until re-delivery, to pay the lessor the agreed rental, without affecting his liability to make compensation for the respective damage.

Article 816

The lessee is not entitled to indemnification for improvements made to the good leased, unless otherwise provided by law, but, if he had the consent of the lessor, he is obliged to indemnify in an amount corresponding to the least sum between the total expenditures and the value of the useful improvement at the time of re-delivery.

When the lessee is not entitled to an indemnity, the value of the improvements can offset the damages, which have occurred because of gross negligence of the lessee.

Article 817

The lessee who made adding to the leased good has the right to remove them at termination of the lease, when this can be effected without damaging the good, unless the owner accepts to retain them. In the latter case, he must compensate the lessee with an amount equal to the least sum of the expenditure and the value of the adding at the time of re-delivery.

If the adding cannot be separated without damaging the leased good and constitute an improvement of it, the provisions of Article 810 apply.

Article 818

The lessee has the right to sublease the good leased, unless otherwise agreed, but he cannot assign the contract to third persons without the consent of the lessor.

The movable goods may be subleased upon consent of the lessor.

Article 819

The lessor, without prejudice to his rights against the lessee, may file a lawsuit against the sublessee to require payment of the sublease, which he still owes at the time the action is brought, and to oblige him perform all the other obligations deriving from the contract of the sublease.

The nullity or dissolution of the lease contract and any judgment rendered in litigation between the lessor and the lessee is also effective against the sublessee.

Termination of the Lease Contract

Article 820

A lease for a time defined by the parties ends at the expiration of the term, without having the need to notify the termination.

A lease for an indefinite time does not end if, prior to the term provided in Article 803 of this Code one of the parties gives notice to the other that it withdraws from the lease.

Renewal of the Lease Contract

Article 821

A lease is renewed, if after the expiration of its term, the good in lease is left in possession of the lessee without any objection by the lessor.

The new of lease is regulated by the same conditions as the preceding one, but its duration is defined by the rules relating to lease for a defined time.

Relationships with Third Parties

Article 822

A lease contract can be pleaded against a third person that has acquired the leased good, provided that the contract has an exact date which precedes the alienation of the good.

The provisions of the previous paragraph do not apply to the lease of movables not registered in public registers, if the third person has acquired possession of the movable in good faith.

Non-transcribed leases of immovable cannot be pleaded against a third person that acquired it only with respect to a period of nine years from the commencement of the lease.

In all cases the winner is obliged to respect the lease if he has assumed the obligation towards the seller.

Article 823

If the lease does not have an exact date, but the lessee prior to the property transformation, the winner is not obliged to abide by the lease, only for a period corresponding to the duration of lease for an indefinite time.

Article 824

If the lessee is excepted from those who could be winner, because the contract did not have exact date prior to the property transfer, the lessor is obliged to indemnify the damage.

Article 825

The winner is obliged to abide by the lease contract, from the day of his acquisition, to the rights and obligations deriving from the lease contract.

A. Lease of Immovable Properties with Agricultural Nature

GENERAL PROVISIONS

Article 826

The lease contract of immovable property that serves for the agricultural cultivation for a nine years time must be done with a notarial act and be registered at the public register.

Article 827

The lessor through an inventory delivers to the lessee the immovable property such as the agricultural land, pastures, dwelling houses and those used in function of the agricultural and stock-breeding activity, as well as immovable in use of this activity. The right of opposition of the content of the inventory and the presumption of its accuracy is regulated by the provisions of this Article.

Article 828

The lessor has to pay the obligations and financial taxes on the movable property.

Article 829

The lessor in any time has the right to control the property leased, in order to see whether the lessee acts according to the agreement for the fulfillment of the obligations provided in the contract, according to the agro technical rules and nature.

Article 830

The lessee pays the price for the lease at the time and manner provided in the contract. The lease payment can be in kind or money.

Right of Cultivation

Article 831

The right of cultivation implies the right of one of the contracting parties to decide what to cultivate during one period or another. This right is regulated by agreement of the parties.

When the lease price consists totally or partially of agricultural products from those cultivated on the leased immovable property, the right for the cultivation belongs to the lessor, unless provided differently in the contract or by usage of the country.

When the price of the lease consists totally or partially of an amount of money given to the lessor, the right of cultivation belongs to the lessee, unless provided differently in the contract or by usage of the country.

Article 832

The party that has the right of cultivating, when does not give notice to the other party the project of cultivating within the time provided for and when further expectation of this notice can influence seriously the agricultural cultivation, this right belongs to the other party.

Time and the Expenses of Cultivation

Article 833

The lessee is responsible himself to decide the time when to make the cultivation activity as well as the manners and agro-technical inventions that he is going to use. The lessee has only the right to make recommendations in this direction.

Article 834

The lessee is responsible for the expenses necessary for the cultivation. When the price of the lease consists totally or partially of the cultivated product, the lessor pays in advance without interest to the lessee those expenses that are needed for the cultivation, if the latter cannot afford to pay them himself.

The advance payment shall be restituted to the lessor from the future product.

Payment of the Lease Price

Article 835

The payment of the lease price is paid according to the provisions of the contract. In case of absence of such provisions, the payment is done at the end of each year of the contract, when the price is paid with banknotes.

The year of the lease contract commences the day when the property leased is delivered to the lessee.

Article 836

When the lease price consists of a part of agricultural production or in proportion with it, the lessor is delivered the part that belongs to him according to his demand, after the products have been collected.

Unless an agreement exists the custom of that place is respected.

Article 837

The lessee can ask for the reduction of the price of the lease or the postponement of its payment, when unforeseen circumstances or extraordinary events have decreased the productivity of one year in at least half of the normal product.

Article 838

The lessee can demand that the lease price is reviewed in his favor, keeping account of the normal productivity, the importance of the loss suffered, the profits that he had in the previous years and those that he can have during the time that the contract is effective.

Article 839

In case the contract is dissolved, the lessee is not obliged to leave the seeds for the next sown crops, unless provided differently from the contract or the customs of the country.

Article 840

The lessee does not have the right to collect the fruits that at the time when the contract was terminated were not gathered. But the court can accept that the lessee is paid the expenses that might have been done for the cultivation of the fruits. However this remuneration cannot exceed the value of the fruits made by the lessee.

B. Lease of Productive Property

Article 841

When a lease contract has its object the enjoyment of a productive movable or immovable good, the lessee shall look after the management of such property in accordance with its economic destination.

Article 842

If the parties have not fixed the duration of the lease, each party can withdraw from the contract by giving reasonable advance notice to the other party.

Article 843

The lessor shall:

- 1) deliver the good, with its accessories in a condition suitable for the use and production for which it is intended.
- 2) do with his own expenses the extraordinary repairs which the good needs during the duration of the lease.

Article 844

The lessor can request the termination of the contract if the lessee fails to devote the necessary means to the management of the good, if it does not follow the technical rules and if permanently alters the economic destination of the good.

Article 845

The lessee can take appropriate measures to increase the profits of the good leased, provided that such measures do not entail obligations on the part of the lessor or are not prejudicial to his rights.

Article 846

If pursuant to a law or decision obligatory concerning the productivity management of the good the contractual relationship is substantially changed, in such a way as to cause a loss to one party and the profit of the other party, an increase or reduction of the rent, or depending on the circumstances, termination of the contract, can be demanded, unless otherwise provided in the law.

Article 847

The lessee shall not sublease the property without the permission of the lessor.

If the lessee infringes such obligation, the lessor can ask the termination of the contract.

The power to assign the lease contract includes even the power to sublease, unless provided differently in the contract.

Article 848

The provisions for the lease contract apply for the lease of productive good as well, at the extent that they are in accordance with them.

C. Leasing (financial rent)

Article 849

In a leasing contract, one party is obliged to devote to the other party, for a certain time, a movable or immovable thing, towards a payment in installments, provided for in accordance with the value of the thing, duration of the contract and eventually with other elements according to the agreement of the parties.

The good must have been acquired or build by the lessor according to the wish and the description of the latter, and the lessee has the right to win the property, at the end of the contracts term, towards he payment of a certain predetermined amount.

The lessor is responsible to the lessee according to the general provisions for the non-delivery of the good or the delay on such delivery as well as for the defects of the thing.

With agreement can be provided that the lessee, before asking his rights to the lessor must address to the person who gave him the good (the supplier) for his rights or these that have been passed to him.

CHAPTER VII INDEPENDENT CONTRACTING (UNDERTAKING)

Content

Article 850

An independent contract is a contract through which one party the (the independent contractor) is obligated using its means and assuming the risk, complete a work (job) or provide a service or independently perform a specified job, while the other party is obligated to accept it, paying the price defined in the contract.

Determination of Compensation (price)

Article 851

When the parties have not defined the compensation in the contract and have not defined the way to establish it, it is calculated on the basis of existing rates or the local customs. In cases of disagreement, the court has the authority to set it.

Supplying Materials

Article 852

The materials required to perform the work must be provided by the independent contractor, if the agreement does provide otherwise.

Rights and Obligations of the Independent Contractor

Article 853

The independent contractor must give timely notice to the customer:

a) when the material provided by the customer for the work does not have a good quality, if it is discovered during the course of work and damages the quality of the work;

b) when the instructions of the customer cannot be implemented or when their implementation makes the work inadequate or unsuitable;

c) when there are circumstances unrelated to the independent contractor which influence the work and cause it to be inadequate or unsuitable;

The independent contractor is responsible for the damage caused to the customer if he fails to provide notice of the above.

Article 854

The independent contractor has the right to renounce application of the contract and demand compensation for damages when the customer fails to substitute the material with a bad or unsuitable quality, or does not change the instructions for the performance of work, despite the fact that he has received timely notice.

Article 855

The independent contractor is responsible for loss or damage of materials provided to him by the customer, except when it is proved that the loss or damage of materials has occurred because the materials were defective or unsuitable or due to execution of the instructions of the customer for performance of the work, notwithstanding the fact that the independent contractor has provided timely notice to the customer.

Article 856

The independent contractor has the right to request payment for work completed by him when the work, before it is delivered to the customer, is lost or damaged because the material has been defective or unsuitable or due to execution of the instructions of the customer for performance of the work, notwithstanding the fact that the independent contractor has provided timely notice to the customer.

Article 857

An independent contractor cannot subcontract the performance of work or services unless he has been authorized by the customer.

Article 858

An independent contractor cannot differ from the stipulated manner the contract for the performance of the work, without the consent in writing of the customer. Even when the consent had been given, the contractor is not entitled

to any compensation for such variations or additions, if the price of the entire work had been determined in a lump sum, unless otherwise agreed.

Article 859

If in order to carry out the work according to the standards of the trade, it is necessary to make variations in the plans, and the parties fail to agree in that respect, the dispute is resolved by the court.

If the amount of the variations exceeds one-sixth of the price agreed upon, the contractor can withdraw from the contract and can, according to the circumstances, require a proper indemnity.

If variations are of considerable importance, the customer can withdraw from the contract and is obliged to pay a proper indemnity.

Rights and Obligations of the Customer

Article 860

The customer can make variations in the plan, provided that they do not involve an amount in excess of one-sixth of the total price agreed upon. The independent contractor is entitled to be compensated for the additional work performed by him, even if the price for the work has been determined in a lump sum.

The preceding paragraph is not applicable when the variations, even though contained within the above limits, involve considerable changes in the nature of the work or in the amount of specific category of work provided for in the contract for the performance of the same work.

Article 861

The customer has the right to inspect the progress of the work and their conditions at his own expense.

When, in the course of the work, it is ascertained that the performance is not proceeding in accordance with the conditions established by the contract and according to the standards, the customer can establish a suitable time limit within which the contractor must conform to such conditions. When such time limit expires without results, the contract is terminated without prejudice to the right of the customer to be compensated for damages.

Article 862

If as a result of unforeseeable circumstances, there have occurred such increases or reductions in the cost of the materials or of labor as to cause an increase or reduction by more than one-tenth of the total price agreed upon, the independent contractor or the customer can request that the price be revised. This revision can only be granted for that part of the difference, which exceeds one-tenth.

If in the course of work difficulties are revealed deriving from geological conditions, water, or other similar causes not foreseen by the parties, which made the performance of the contractor considerably more difficult, he is entitled to proper compensation therefore.

Article 863

The customer has the right to test the completed work before taking delivery.

The testing shall be done by the customer as soon as the contractor makes it possible for him to do so.

If notwithstanding the request made to him by the contractor, the customer fails, without justifiable reason, to proceed with testing, or if he fails to make known the result thereof within a short time, the work is considered to have been accepted.

If the customer takes delivery of the work without reservation, such work is considered to have been accepted even if there was no testing.

The contractor is entitled to payment of the price when the work has been accepted by the customer, unless except as otherwise agreed.

Guarantee and denunciation of the defects of the work Article 864

The independent contractor is obliged to give a guarantee for the deformations and the defects of the work. The guarantee is not necessary when the principal accepted the work and the deformities or the defects were known to him or were obvious, unless when those were maliciously hid by the undertaker.

The principal shall notify the undertaker for the deformation and defects within 60 days from their discovery with a decadence condition that brings the loss of such a right. The notice is not necessary when the undertaker knew and for the deformation and the defects or when he has hid them.

The claim against the undertaker shall be prescribed within two years from the day of the date of delivery of the work. A principal who is sued for the payment can be notified within 60 days from the day of the discovery and before two years have passed from the date of delivery.

Article 865

The customer can demand that the non-conformities or the defects be eliminated at the expense of the contractor or that the price be reduced proportionally, saving the right for the compensation of damages in case of fault of the contractor.

However, if the non-conformity or the defects of the work are such as to render it completely inadequate for its purpose, the customer can demand the dissolution of the contract.

Article 866

If the undertaking has as its object buildings or other immovable goods which, by their nature have a long term destination, if from a period of ten years from the termination, the work, because of the land or defects of construction, is destroyed totally or partially, or it is in an obvious risk of being destroyed or other serious defects, the contractor is liable to the customer and the parties that are given rights from him with the condition that their claim is done within one year from the discovery.

The right of the customer is prescribed within one year from the denouncement.

Article 867

The contractor, in order to exercise the right of the claim for the restitution against the subcontractors, shall notify them for the denouncement within sixty days from receiving notice upon the decadence condition that brings the loss of such right.

Dissolution of the Contract and Legal Consequences

Article 868

The customer can withdraw from the contract even when the work or the service has started to perform, with the condition that the contractor is compensated for the expenses, work done and the absent profit.

Article 869

When the contract is dissolved because the performance of the work is made impossible as a result of a cause that can not be attributed to any of the parties, the contractor pays for the part of the work limits within which it is useful for him, in proportion with the price determined for the whole work.

Article 870

When the material that is given to the contractor from the customer or, when the work prepared with this material is lost or damaged, as well as the performance of the work becomes impossible without the fault of either of them, but in any case after the contractor is in delay for the delivery of the work, he is obliged to compensate to the customer the value of the material and it has not the right to demand from him to be paid for the work done.

Article 871

When the work performed with the material of the contractor is lost or destroyed, as well as when its performance becomes impossible before the term for the delivery of the work is over, but in any case without the fault of either of them, the contractor has no right to demand to the customer the value of the material and the work done.

Article 872

When the work performed with the materials of the contractor is lost or is damaged, as well as when its performance becomes impossible without the fault of the contractor or customer, but after the customer is in delay of taking delivery of the work, he is obliged to pay to the contractor the value of the material and that of the work done.

Article 873

The undertaking contract is not dissolved by the death of the contractor, except when the contractor was considered indispensable for the performance of the work. The customer can always withdraw from the contract, if he cannot

trust the heirs of the contractor for the good performance of the work or the service.

Article 874

In the case of the dissolution of the contract because of the contractor death, the customer is obliged to pay to the heirs the value of the work done based on the price established, as well as the expenses for the completion of the part remaining, but only within the limits in which the work done or the expenses made are useful to him. The customer has the right to demand the delivery towards a proper compensation of the value of the materials prepared and of the projects on the way of their performance, for as far as the rules for the protection of inventions and intellectual property allow.

Article 875

The persons whom by being dependant from the contractor have exercised their activity for the performance of the work or the service, can make a claim directly to the customer in order to take what belongs to them until the performance of the obligation that the customer has towards the contractor at the time when they bring the claim.

Referring Provision Article 876

When the undertaking has as its object the performance of continuous or periodical services, the provisions of this title and those of the supply contracts are applied as far as they are applicable.

CHAPTER VIII TRANSPORT/CONVEY

A. Transportation of Persons

Article 877

In the contract for the transportation of the persons, the carrier undertakes to transport people from one place to another.

Article 878

In addition to liability for delay and non-performance in providing transportation, the carrier is liable for misfortunes that strike the passenger during the voyage, and for the loss or damage to the good that the passenger has with him, unless he proves that it took all the appropriate measures to prevent the damage, and according to the special circumstances of the case.

Are void the conditions restricting the liability of the carriers for the risks that strike the passenger. This provision applies even in the free-transport contracts

Article 879

In the transport with itineraries that are connected with each other, each carrier is responsible for his own part of transport.

However, the damage for delay or interruption of the voyage is calculated considering the entire route.

B. Transportation of Goods

Article 880

In the contract for the goods transportation, the carrier undertakes to transport goods from one place to another.

Article 881

The carrier has to make available the goods transported to the consignee, at the place, on the time and in the ways provided for by the contract.

If the delivery must not be made at the place of the consignee, the carrier must notify him immediately for the arrival of the goods transported.

If from the shipper is given an accompanying document, the carrier has to show it to the consignee.

Article 882

The shipper shall accurately tell the carrier the name of the consignee and the destination, the nature, weight, quantity and number of the goods to be transported, and such other information as it is necessary to effect the transportation.

If particular documents are required to effect transportation, the shipper must give them to the carrier at the time the goods to be transported are delivered.

Damages arising from the omissions or inaccuracies of the information in or caused by the failure to deliver or the irregularity of the documents, shall be borne by the shipper.

Article 883

The shipper shall, on request of the carrier, issue an accompanying document his signature, containing his name, headquarters or place of work, place and date of issuance, date and the conditions agreed upon for the transportation.

When the accompanying document is given in several copies, the number of copies must be shown in each counterpart. The remaining copies lose their value after the goods are delivered to the bearer of the title.

This information is considered believable until the contrary is not proved against the carrier, who has the right to verify them applying the professional care.

The carrier, at the request of the shipper, issues a duplicate of the accompanying document with his signature or, if no accompanying document was released, a shipping receipt, containing the same information.

Article 884

The contract of transportation has effect from the moment when the transportation document is made and the shipper of the goods has made the payment for the transportation, unless otherwise provided by contract or law.

Article 885

If the commencement or continuance of the transportation are seriously impeded or delayed for causes which can not be imputed to the carrier, the latter shall immediately request instructions from the shipper, taking measures for the custody of the goods consigned to him.

The carrier is entitled to the right of the reimbursement for the expenses.

If transportation has begun, he is also entitled to the payment of the price in proportion with the route covered, unless the interruption of the transportation is caused by the total loss of the goods as a result of a fortuitous event.

If circumstances make impossible the receiving of the instructions from the shipper, or if such instructions cannot be carried out, the carrier can deposit the goods, or if they are in the risk of being damaged or are of a serious risk for the security of the places they have been deposited, he can take measures to sell them for the best price attainable.

The carrier shall notify the shipper promptly for such deposit or sale.

The above-mentioned rules are applied also when the consignee cannot be found or, refuses or, delays in demanding the delivery of the goods, as well as when a disagreement arises among some consignees or, for the right of the consignee to take delivery or for its execution.

Article 886

The shipper can suspend the transportation and demand the return of the goods, or order that delivery be made to a consignee other than the one originally indicated, or decide otherwise, subject always to the obligation of the reimbursement of expenses and compensation for damages arising from such second order.

If the carrier has issued a duplicate of an accompanying document or a shipping receipt to the shipper, the shipper cannot dispose of the goods delivered for transportation unless he offers such duplicate or receipt to the carrier to show the new data. The carrier shall sign these as well.

The shipper cannot dispose of goods transported after the moment when they have been put at the disposal of the consignee.

Article 887

Rights deriving from the transportation contract towards the carrier are transferred to the consignee from the moment when, after arrival of the goods at the destination or after the expiration of the time limit within which they should have arrived. The consignee requests the carrier to deliver them, the consignee cannot exercise the rights arising from the contract, except when it pays the carrier the credits arising from the transport and the accompanying document accompanying the transported goods. In case of disagreement as to the amount due, the consignee shall deposit the disputed difference with a third person.

Article 888

A carrier, who delivers the goods to the consignee without collecting his own credits or the bills accompanying the transported goods, or without requiring the deposit of the disputed amount, is liable to the shipper for the amount due to him and cannot demand payment of his own credits. However, the right of action against the consignee is saved to the latter.

Liability for Loss or Damage of goods during the Transportation

Article 889

The carrier is liable for loss or damages of goods delivered to him, from the time that he receives the goods to the time when he makes delivery to the consignee, unless he proves that such loss or deterioration was the result of a fortuitous event or, to an act of the shipper, of the consignee or of the owner of the goods sent, the damage, or the kind and the defects of the goods themselves.

If the carrier accepts without reservation the goods to be transported, it is presumed that they do not have any visible defects in packing.

The carrier, on the request of the consignee, is obliged to keep a record for the loss or damage of the goods delivered for transportation.

Article 890

The carrier shall notify the carrier promptly and before the delivery of the goods, for the deterioration that the goods might have had.

Article 891

If the goods have been lost or damaged, the damage is evaluated, unless a contrary agreement exists, on the basis of their prices at the time of loading from the carrier. If the goods have deteriorated, the carrier has to compensate the damage at the amount of the difference between the value of the goods at the moment of the loading and their value at the moment of delivery.

Article 892

The consignee has the right to be insured, with his own expenses, before the taking of delivery, for the identity and the state of the goods transported.

Article 893

The acceptance, without reservation, of delivery of the transported goods paying of what is due to the carrier, extinguishes causes of action arising from the contract, except in case of fraud or gross negligence of the carrier. Actions on the grounds of partial loss or of damage not detectable at the time of delivery are not affected, provided that the carrier is notified reported as soon as the damage is made known and not more than 20 days after receiving delivery.

Article 894

If the carrier is bound to forward the goods transported beyond his own lines by means of consecutive carriers, without requiring from the shipper a direct accompanying damage to the final place of destination, it is presumed that he has assumed the duties of a forwarding agent for such shipment beyond his own lines.

Transportation Done by Several Carriers/Conveyers Article 895

If several consecutive carriers undertake the transportation of goods collectively under a contract, the carriers are liable *in solid* for the performance of the contract, from the original point of departure to the place of destination.

A carrier that is sued for an action for which he is not responsible, he can have a course of action against the other carriers, either individually or collectively. If it becomes clear that the harmful event occurred on the route of one of the carriers, that carrier is liable for the entire compensation; otherwise, all the carriers are liable for such compensation in proportion to their own section of the route, except those carriers who prove that the damage did not occur in their own route.

Article 896

Consecutive carriers have the right to declare, in the accompanying document or in a separate document, the situation of the goods to be transported at the time they are delivered to them.

In the absence of such declaration, it is presumed they have received delivery in good condition and in conformity with the accompanying document.

Responsibility of the Shipper and Carrier for the Delay Article 897

When the delivery of the goods for transportation or the delivery of the goods to the consignee is not done within the terms decided for in the contract, the party that has caused the delay is liable for the respective damage.

Article 898

The credits deriving from the transportation are privileged towards the goods transported until they remain with the carrier. The carrier can keep the good under such privilege until his credit is fulfilled, and also he can sell it according to the rules for the sale of the pledge.

Responsibility of the Last Carrier Article 899

The last carrier represents the preceding ones both in collecting the respecting credits deriving from the transportation contract, and in the exercise of the privileges attached on the transported goods. If he fails to collect the credits

or to exercise the privilege, he is liable for the sums owing to the preceding creditors, saving his cause of action against the consignee.

Referring Provision

Article 900

For transportation by water, air or railway and postal routes, the provisions of this part are applied, if no specific legislation exists.

CHAPTER IX

BORROWING/LENDING

Article 901

In the borrowing/lending contract one party (the lender) gives to the other party (the borrower) without a counter-payment a certain good, to use it temporarily, and this party is obliged to turn that good within the term fixed in the contract. When no term is decided, on the request of the party that gave the good.

Article 902

The contract of borrowing/lending has effect from the moment the good is delivered.

Article 903

The borrower is obliged to keep and maintain the good carefully. He cannot use it differently from the use provided for by the contract or the nature of the good. The borrower cannot give the good to a third person for use without the lender's consent.

When the lender does not fulfill the above-mentioned obligations, the lender can ask the immediate return of the good except the indemnification of the damage.

Article 904

The borrower is liable for losing or damaging the thing, except when it proves that lose or damage caused to the good, would have happened even if the good was not lend.

Article 905

If the borrower uses the good differently from how is provided in the contract or its nature and for a longer period than necessary, is responsible even for the loss caused by forfeitous case, except when it proves that the good would have been last anyway even if used differently or returned within the time provided for in the contract.

Article 906

The borrower cannot ask the payment of the expenses made in order to use the thing.

Article 907

If within the time limit or before that the borrower has ceased to use the good according to the contract, the lender is in front of an emergency and unforeseen need of the good, he can ask the dissolution of the contract and the immediate return of the good.

Article 908

If the borrower dies, the lender can ask the immediate return of the good from the heirs even if a certain term is settled.

Article 909

The borrower is obliged to make with his own expenses the usual repairs of the borrowed good, except when provided differently in the contract, while, the other repairs are made by the lender.

Article 910

If during the borrowing/lending contract the borrower is obliged to do extraordinary expenses that are necessary and immediate to keep the good safe, and if it was not possible for him to give notice to the lender, the last should pay them to the borrower.

Article 911

If the borrowed/lent good had such defects that damage the person who uses that, the lender is obliged to pay indemnity for the damage caused as long as knowing these defects has not warned the borrower.

Article 912

When the term of the borrowing/lending contract has come to an end, or when the contract is dissolved before that term, the borrower is obliged to give the good back to the lender in the same condition it were when lent except the ordinary changes caused from the use, or in the condition provided by the contract. Unless the contrary is proved, it is presumed that the good is taken in good conditions.

CHAPTER X MANDATE/ORDONANCE

GENERAL PROVISIONS

Article 913

The mandate is a contract whereby one party binds himself to accomplish one or more legal transactions for the account of the other party.

Article 914

If the mandatory has been given the power to act in the name of the principal, the provisions on the agency apply.

Article 915

A mandatory acting in his own name acquire rights and assumes duties arising from transactions made with third persons, even if the later had knowledge of the mandate.

Third persons have no relationship with the principal. However, the principal can, by substituting the mandatory, exercise the credit rights arising from the performance of the mandate, except when he might impair the rights attributed to the mandatory by the provisions of the following provisions.

Article 916

The mandatory is obliged to do the works and the legal actions for which he is charged with according to the instructions of the principal. He can ignore these instructions only when it is indispensable to protect the principal interests and cannot communicate to him before.

Article 917

The mandate covers not only the acts for which was granted, but also those acts necessary to perform them.

The general mandate does not cover acts, which exceed the ordinary course of business, unless they are expressly indicated.

Article 918

The principal can claim movable goods acquired for his account by the mandatory that has acted in his own name, without prejudice to the rights of third persons as result of good faith possession.

If the goods acquired by the mandatory consist of immovable or movables inscribed in public registers, the mandatory is obliged to return them to the principal.

Article 919

The creditors of a mandatory cannot enforce their rights on property which the mandatory has acquired in his own name in carrying out the mandate, provided that in the case of purchase of movable property or credits, the mandate be evidenced by writing bearing a certain date prior to the attachment of the property or, in case of immovable property or movable property inscribed in public registers, the transcription of the transaction effecting the transfer of the ownership or of the judicial petition for the purpose of obtaining said transfer be of a date prior to such attachment.

Article 920

A mandate is presumed to be non-gratuitous. If the parties have not established the amount of compensation, it is determined on the basis of trade rate or of usage and in their absence, it is determined by the court.

Article 921

The mandatory is obliged to perform the mandate faithfully and with diligence. He must make known to the principal any supervening circumstances, which might cause its revocation.

The mandatory is also bound to perform the mandate personally, except when authorized to give it to a third person, obliged by the circumstances, or while protecting the interests of the principal.

Article 922

The mandatory shall provide for the custody of the goods delivered for the account of the principal, and shall protect the rights of the letter against the carrier, if the goods show signs of damage or were delayed in arriving.

Article 923

In the absence of an agreement to the contrary, the principal is obliged to furnish the mandatory with the means necessary to perform the mandate and to fulfill the obligations, which the mandatory has undertaken in his own name.

Article 924

The mandatory is obliged to give to the principal when he requires them all the information related to the performance of the mandate together with the justificatory documents and report to him as soon as the mandate is performed, and return over to him all that he has received as a result of the mandate.

Article 925

The principal shall reimburse the mandatory for the sums advanced by the latter, together with the interests at the legal rate computed from the day on which such sums were advanced, and he shall pay the mandatory the remuneration to which he is entitled.

Article 926

The credits in cash derived from his works and actions, have priority to those of the principal and his creditors.

Extinguishments of Mandate/Ordination

Article 927

The mandate is extinguished by the death, legal incapacity or bankruptcy of the principal or the mandatory, except on contrary agreement, or when it results differently from the nature of the present circumstances.

However, when the extinguishment of the mandate might infringe the interests of the principal, the mandatory, the heirs or the representatives are obliged to keep on running the administration until the principal, his heirs or representatives are able to deal with the matter directly.

Withdrawal from the Mandate and the Legal Effects

Article 928

The mandatory can withdraw from the contract, but if it was agreed differently, he is liable for damages, unless the withdrawal is made for just cause.

A mandate given in the interest of a mandatory or of third persons is not extinguished by revocation by the principal, unless it is otherwise agreed by contract or unless there is just cause, but it is not extinguished by the death or the incapacity to act of the principal.

Article 929

The appointment of a new mandatory for the same transaction, or its completion by the principal implies a revocation of the mandate, and takes effect from the day on which the mandatory has been notified thereof.

Article 930

The revocation of a non-gratuitous mandate, given for a specified period of time or for a specified transaction, renders the principal liable for damages if was made before the expiration of the time limit or before the completion of the transaction, unless there is just cause.

In case of a mandate for an indefinite time, revocation makes the principal liable for damages if no adequate advance notice is given, unless there is just cause for revocation.

Article 931

A mandatory who renounces the mandate without just cause must compensate the principal for damages. In case of a mandate for an indefinite time, the mandatory who renounces the mandate without just cause is liable for damages, unless he gives adequate advance notice.

In all cases, except in the case of grave difficulty for the mandatory, the renunciation must be made in such manner and in such time as will enable the principal to make other arrangements.

Article 932

If the mandate is given by several persons but in the same document and for a matter of common interest, the withdrawal has not effect when it is not done by all the mandatory, unless there is just cause to withdraw.

Article 933

The actions that the mandatory has done before he takes notice of the revocation are valid against the principal and his heirs.

Article 934

The mandate given to several persons that are thought to work jointly, is revoked even if the reason for the revocation has to do only with one of the mandatory, unless when provided differently in the agreement.

CHAPTER XI COMMISSION

Content Article 935

A commission contract is a mandate concerning the purchase or the sale of goods for the account of the principal and in the name of the commission agent.

Rights and Obligations of the Parties Article 936

The principal is obliged to pay to the commission agent all the expenses that he has done for the accomplishment of the mandate and the compensation that is provided for in the contract of commission, as well as setting the commission agent free from all the obligations that he has undertaken towards other people for the accomplishment of the commission.

Article 937

In absence of another decision from the principal, a commission agent is presumed to be authorized to allow delays in payment according to the customs in the place where the transaction is made.

If the mandatory, notwithstanding a prohibition of the principal or the customs of the place; allows delay in the payment, the principal can demand immediate payment from him, except the commission's agent right to any advantage deriving from granting the delay in payment.

The commissioner who has permitted a delay in payment shall disclose to the principal the party with whom he contracted and the term granted, otherwise, the transaction is considered as made without permitting any delay, and the preceding paragraph applies.

Article 938

The commission agent is not responsible for the execution from the third party of the contract that the commission agent has done with him for the account of the principal, except when otherwise provided by the commission contract itself.

Article 939

When the commission agent has done the legal action in conditions more favorable from those in the instructions of the principal, everything that the commission agent has won in this case, goes to the principal.

Article 940

The commissioner has the right to not comply with the instructions that the principal has given to him only when, because of the change in the circumstances, such noncompliance is necessary for the interests of the principal, and the commissioner can not communicate before with the principal or, when, even though he has asked him he did not have any answer on time.

Article 941

The commissioner is bound to enter into a contract of insurance for the goods of the principal that he has, only if it is provided for in the commission contract, or if the insurance is obligatory according to the law.

Article 942

The principal can change the row of concluding the agreement for as long as the commission agent has not finished it. In this case the commission agent has the right to a part of the reward for the mediation that is defined by keeping in mind the expenses and the work done.

Article 943

Unless otherwise directed by the principal, under commission to buy or sell goods, titles, currency or other values having a list price or a price decided by government bodies, the commission agent can include at the same price fixed at the moment of the execution of the mandate the goods that he has to buy, or to buy for the goods he has to sell themselves, saving his right to the commission for the mediation.

Referring Provision Article 944

The provisions on the mandate are applicable to the commission as well, unless otherwise provided in this chapter.

CHAPTER XII FORWARDING CONTRACT

Content Article 945

A forwarding contract is a mandate by which a forwarding agent undertakes the obligation, in the name and for the account of the principal, to enter into a contract of carriage and to perform all accessory operations.

Rights and Obligations of the Parties Article 946

Until the forwarding agent has not entered into the transportation contract with the carrier, the sender can revoke the order for forwarding, reimbursing the agent for his expenses and giving him fair compensation for his services.

Article 947

In choosing the route, the means, and the mode of transportation of the goods, the forwarding agent is obliged to follow the instructions of the principal and, in their absence, to act in the best interest of the principal.

Compensations, cut-rates and tariff profits obtained by the forwarding agent shall be credited to the principal, unless provided differently by agreement.

Article 948

The amount of compensation due to the forwarding agent for performance of the undertaking is determined, in the absence of agreement, in accordance with professional rates, or in their absence, in accordance with the customs of the place where the forwarding is made.

Advance payments and compensation for accessory services performed by the agent shall be settled on the basis of the justificatory documents, unless an all inclusive amount was agreed upon previously for such compensation and reimbursement.

Article 949

Forwarding agent, who, wholly or in part, undertakes the carriage with his own or other persons' means has rights and obligations of a carrier.

CHAPTER XIII CONTRACT OF AGENCY

GENERAL PROVISIONS

Article 950

By the contract of agency one party permanently undertakes, upon a remuneration, to enter into the contracts for the account of the person, within a specified territory.

Each party is entitled to a copy of the contract signed by the other party.

Article 951

The principal cannot employ more than two agents at the same time in the same area and in the same line of business, nor can the agent undertake to transact business in the same area and in the same line the agreements of several enterprises in competition with each other.

Article 952

The agent is not entitled to receive the credits of the principal.

If this power has been granted to him, he cannot grant discounts or delay without special authorization.

Article 953

All declarations concerning performance of the contract entered into through an agent, and all complaints relating to non-performance of such contract, can validly be made to the agent.

The agent can demand precautionary measures in the interest of the principal and submit claims, which are necessary to preserve the rights of the latter.

Rights and Obligations of the Parties

Article 954

The agent shall fulfill the task entrusted to him in accordance with the instructions received and shall give his principal all information concerning market conditions in the area assigned to him, property situation of the possible clients, as well as any other information which can be useful in appraising the advantages of individual transactions.

He shall likewise conform to the duties incumbent on commission agents insofar as such duties are not excluded by the nature of the agency contract. Unless a contrary agreement exists, the agent cannot deposit or register the distinguishable signs identifying the activity of the principal.

Article 955

The agent who is not in a position to fulfill the task entrusted to him shall immediately notify his principal, otherwise he is liable for damages.

Article 956

The agent is entitled to receive a commission for mediation only for agreements, which have been regularly completed. If an agreement is only partially completed, the agent is entitled to a commission proportional to that part which was completed.

The commission is also paid for agreements to be performed in the area reserved to the agent, which has been directly entered into by the principal, except when provided differently in the contract.

The agent is entitled to the commission for the completed agreements even if the contract is dissolved, if the completed is especially the result of his activity.

The agent is not entitled to reimbursement for expenses connected with the agency.

The principal should give to the agent the necessary documents for the property or the services and the necessary information for the execution of the contract. The principal should especially give notice to the agent within a reasonable time from the moment he foresees that the volume of the commercial operations is much lower than that of what the agent would normally expect. The principal should also give notice to the agent within a reasonable time for the acceptance or refusal and non-performance of an agreement provided by the agent.

The principal delivers to the agent an extract of the account for the commission belonging to him not later than the last day of the following month after the trimester during which it was profited. The extract account must show substantial elements based on which the commission was calculated

Within the same term, the liquidated commission should be effectively paid to the agent. The agent is entitled to all the information, especially to an extract of the accounting books necessary to certify the amount of the liquidated commission.

Article 957

The agent is entitled to the commission even for those transactions, which have not been completed due to causes imputed to the principal. If the principal and the third party agree on the full or partial non-fulfillment of the contract, the agent has the right to get a reduced commission for the part not fulfilled at the measure provided upon agreement, pursuant to the usage or as decided by the courts.

Article 958

When the contract of agency with a fixed term keeps on running even after its termination, it becomes a contract with an indefinite term. If the contract of agency is with an indefinite term, each of the parties can withdraw from this contract after giving notice to the other party within a time limit.

The term for giving preliminary notice cannot however be less than one month for the first year of the contract, two months for the second year, three months for the third year, for months for the fourth, five months for the fifth year, and six month for the sixth year and for all further years.

The parties can agree for the longest term during which notice should be given, but the principal cannot use a shorter term than the agent.

Except when otherwise agreed by the parties, the termination of the preliminary notice must coincide with the last day of the calendar year.

Article 959

On the termination of the agency contract, the principal should pay to the agent a commission in the measure even when:

- the agent has found new clients for the principal or has notably developed the agreements with the existing clients and the principal has still considerable profits deriving from the agreements with these clients;
- the payment of this commission is said to be suitable when all occasional circumstances have been kept into account, especially the commission that the agent loses from the agreements with these clients.

A commission is not paid when:

- the principal dissolves the contract for reason of a non-fulfillment attributed to the agent, which for reason of its measures, does not permit even the temporary continuation of the agreement;
- the agent withdraws from the contract except in case when the withdrawal is justified from the circumstances pertaining to the agent, like for example the age, temporary disability or any illness for which in a reasonable way would not be asked the continuation of activity;
- according to an agreement with the principal, the agent gives to a third party the rights and obligations that he has from the contract of agency.

The measure of the commission cannot be larger than the annual amount of the commission calculated on basis of the annual average of the commissions that the agent has received during the last five years and if the duration of the contract is less than five years then the calculation is done as to the average of this period.

The award of the commission does not deprive the agent from the right of the indemnity for damages.

The agent loses the right of indemnity provided for in this article if he gives notice to the principal for its demands within one year from the interruption of the agreement.

Article 960

The agreement that limits the competition from the agent after the dissolution of the contract must be done in writing. This must treat the same area of clients and goods, property or services for which the contract of agency was entered into and its duration cannot be longer than the following two years from its dissolution.

Referring Provision Article 961

The provisions of this chapter should be used even if the principal gives to the agent the right of representation for formation of contracts.

CHAPTER XIV TRANSFER THE PROPERTY TO THE CREDITORS

GENERAL PROVISIONS

Article 962

The transfer of the property is that contract by which the debtor assigns his creditors or some of them to liquidate all or some of his activities, to distribute among them the profits made during the fulfillment of their credits.

Article 963

The transfer of the property must be done in writing otherwise it is invalid.
If among the properties transferred are even credits, then the provisions of article 502 and 503 of this Code apply.

Article 964

The administration of the transferred property belongs to the respective creditors.

They can make claims for all the property matters related to that property, including the claims for the protection of the possession.

Article 965

The debtor cannot dispose the goods that are transferred to the creditors.
The creditors, whose credits existed before the transfer of the property and that have not interfered, can ask the execution for all this property.

The creditors to whom the property has been transferred, if the transfer has as its object only some activities of the debtor cannot ask the execution for other activities, before the liquidation of those related to the property transfer.

Rights and Obligations of the Parties Article 966

The creditors that have entered into the contract or have taken part on it should make advanced payment for the necessary expenses for the liquidation and have the right to take back the amount from the income deriving from liquidation.

Article 967

The creditors should distribute among each other the income that derives from the liquidation in proportion with the credits, except on cases when the right of first refusal applies. The difference belongs to the debtor.

Article 968

The debtor is entitled to control the administration and have reports on the financial condition at the end of the liquidation, or at the end of each year, if the administration is longer than one year.

If a liquidator has been nominated he must give the report also to the debtor.

Article 969

The debtor is free from his creditors, only from the day when they receive their part from the income resulting from the liquidation and only on the limits of the amount they have received, except when a contrary agreement exists.

Article 970

The debtor can withdraw from the contract by offering to pay the obligations and the interests to those with whom he has been contracted or that have joined this contract. The withdrawal has effect from the day when the payment is made.

The debtor is obliged to pay the expenses of the actions made for the administration of the property.

Dissolution of Contract

Article 971

The contract can be dissolved if the debtor, after declaring that has transferred all his property, has concealed a considerable part of it, or if he has concealed the losses or has showed losses that did not exist.

Article 972

The contract can be dissolved for reason of non-fulfillment according to the general rules.

CHAPTER XV BROKERS

The content Article 973

A person, who places two or more parties in contract for completing an agreement, without being connected with either of such parties by way of collaboration, employment or representation, is a broker.

Commission

Article 974

In the absence of agreement, or when the professional fee or customs do not establish it, the court determines the amount of such commission and the proportion in which it is chargeable to each of the parties.

Rights and Duties of the Parties

Article 975

The right of the broker for the commission arises when the contract of brokerage brings its effects notwithstanding its latter events.

The previous paragraph is not applied when the broker contract can be declared invalid, because the broker had notice of the reason for such invalidity.

Article 976

The broker has the right to be paid for the expenses by the person for whom these expenses were done even when the agreement was not concluded, except when otherwise resolved by agreement or customs.

Article 977

If an agreement is concluded through the intervention of some brokers, each of them is entitled to a share of the commission.

Article 978

The brokers must inform the parties of all facts known to him, which concern the valuation, and security of the agreement, which can influence its conclusion.

The broker is answerable for the authenticity of the signature of the documents and for the last endorsement of the titles transmitted through him.

Article 979

The duties of a professional broker of goods or titles are:

- 1) to retain the sample where goods are sold by sample, as long as there is a possibility of controversy about the identity of the goods;
- 2) to give the buyer a signed list of the titles traded, indicating their series and numbers;
- 3) to record in the respective book the essentials of the contract that is stipulated through his intervention and to give the parties a signed copy of every such record.

Article 980

The broker can be charged by one of the parties to represent him in he activities connected with the performance of the contract entered into through his intervention.

Article 981

A broker who fails to reveal the name of one contracting party to the other is answerable for the performance of the contract and, after performance takes the rights against the undisclosed contracting party.

If after the conclusion of the contract the undisclosed contracting party reveals himself to the other or is named by the broker, each contracting party has a direct cause of action against the other, but the responsibility of the broker remains unaffected.

CHAPTER XVI DEPOSIT

GENERAL PROVISIONS

Article 982

Deposit is a contract by which one of the parties receives a movable good from the other under a duty to keep custody of it and return it in kind.

Article 983

The contract of deposit is concluded from the moment when the good is deposited for custody.

Article 984

A deposit is presumed to be non-gratuitous unless a different intention of the parties should be inferred from the professional status of the depositary or other circumstances.

Rights and Obligations of the Parties

Article 985

The depositary shall custody the good with care. He cannot make use of it himself and he cannot transfer the deposit to others without the consent of the depositor. If he uses the good without the consent of the depositor, the depositary is responsible for its loss or damage up to the time of the fortuitous event.

If urgent circumstances demand it, the depositary can exercise the custody in a manner different from the agreement, giving notice to the depositor as soon as possible.

Article 986

The depositary is bound to return the good deposited at any time that the depositor requests it, even in case a term is established for its return, unless the time limit was in the favor of the depositary.

Restitution of the good deposited shall be done at the place where the good has to have been kept in custody, except the accomplishment of the parties the restitution is done with the expenses of the depositor.

Article 987

If the deposit is gratuitous, the court can reduce the amount of indemnity for the damage.

Article 988

The depositor is obliged to reimburse the depositary for the expenses incurred for the preservation of the thing, if these are not included in the remuneration.

Article 989

When a term is not established for the restitution of the good left in deposit, the depositary has the right to ask at any time that he is relieved from the obligation for the custody of the good, by informing the depositor to take the good back within a sufficient term that he himself establishes.

Article 990

The depositor is bound to indemnify the damage that is caused to the depositary from the hideous defects of the thing, if knowing this, he did not tell that to the depositary.

Article 991

When the depositaries of a good are more than one and they do not agree for its return, the court decides.

It is acted in this way even a single depositor has left some heirs, if the good cannot be divided.

When the depositaries are more than one, the depositor has the right to demand the restitution from the person that keeps the good, who should immediately announce the others.

Article 992

If the good was deposited also in the interest of a third person and this person has notified the depositors and the depositaries of his approval, the depositary is not released by returning the good to the depositor without the consent of the third person.

Article 993

The depositary is bound to return the fruits of the thing, which he has collected.

Article 994

The heir of the depositary, who in good faith has transferred the good, not knowing that it was held in deposit, is only obliged to restore the commission received.

If it has not been paid, the depositor takes the rights of the seller.

Article 995

The depositary shall return the good to the depositor or to the person named to receive it, without the need of the depositor to prove that he is the owner.

If the depositary is sued by a person claiming ownership of the good or claims the rights therein, the depositary shall denounce the dispute to the depositor and demand that he be expelled from the judgment by showing the person himself, otherwise he is obliged to pay the damages. In this case he can be relieved from the obligation to restitute the thing, by depositing it according to the manners provided by the court with the expenses of the depositary.

Article 996

If custody of the good is taken from the depositary by a cause not imputable on him, he is released from the obligation to return the good, but he shall give the depositor immediate notice of the facts that caused the loss, otherwise he has to pay for the damages.

The depositor is entitled to receive what the depositary as a result of such facts has collected and taken the rights belonging to the latter.

Article 997

The credits deriving from the deposit in favor of the depositor are privileged towards the good given on deposit. The depositor can keep the good that is privileged until he is compensated for his credit and he can as well sell it according to the provisions for the pledge.

Article 998

When the good deposited is not taken back on the time settled in the contract or after the announcement of the depositary, he is not responsible for the loss or the damage of the good that happens after the time limit has passed, unless the loss or the damage has been caused on purpose or because of his gross negligence.

In cases mentioned above, the depositor has the right to demand from the court to allow the sale of the good left on deposit according to the rules of obligatory execution.

The amounts deriving from the sale of the thing, after the amount that the depositary would take are reduced, are given to the depositor or are deposited in the bank, on his name.

Referring Provision

Article 999

If the deposit has as its object an amount of money or equivalent goods, and the depositary has the right to use them, he acquires the ownership and is obliged to return the same amount of the same kind or quality.

In this case the provisions for the loans are applied, when they are not contrary to the provisions regulating the deposit.

A. Deposit in general Warehouses/Stores

Article 1000

General warehouses (store-house) that act as depositaries, are responsible for the preservation of the goods deposited, unless it is proved that

the damage was due to a fortuitous event, to the nature of the goods or defects in goods or their packing.

The depositary must in any case exercise the necessary activity for the limitation of the damage.

Article 1001

The depositary warehouses must preserve the goods deposited separately from each other, as well as giving them recognizable signs, which will show the belonging of the good to the depositor.

Except on cases of expressed approval of the depositor, they cannot mix among them equal goods of the same kind and quality.

The depositor has the right to inspect the deposited goods and to take back the samples of usage.

Article 1002

When the general warehouses have delivered a representing title of the goods deposited, the depositary should return the goods back only to the creditor who is legitimated by the title.

Article 1003

The general warehouses, after notifying the depositor, can start to sell the goods at higher price if, at the termination of the contract the goods are not retaken, or if the deposit is not renewed, and in any case, when the goods are in risk to be lost or if they are a big danger for the security of the places where deposited.

The proceeds of sale, after deducing the cost and the remaining expenses of the deposit, shall be delivered without delay to the depositor.

B. Deposit in Hotels

Article 1004

Hotelkeepers are liable for the damage, destruction or the loss of goods that the clients have brought into the hotel.

Are considered as brought into the hotel:

1) the goods situated in the hotel during the time that the client is accommodated there;

2) the goods which the hotelkeeper, a member of his family or one of his assistants take the responsibility to custody, outside the hotel, during the period in which the client is accommodated there;

3) the goods of which the hotelkeeper, a member of his family or his assistant, take custody both in the hotel and outside the hotel, during a reasonable period of time prior or after the client has arrived;

The responsibility provided for in this article is limited to the value of what is stolen, damaged or lost up to the equivalent of one hundred times the price of rental of the accommodation per one day.

Article 1005

The responsibility of the hotelkeeper is unlimited:

1) when the goods are consigned to him in custody;

2) when he refused to take in custody goods which he had an obligation to accept. The hotelkeeper is under an obligation to accept securities, money in cash and objects of value; he can refuse to receive them only if they are dangerous objects or which, taking into account the importance and the operating conditions of the hotel, have an excessive value or cumbersome dimensions.

The hotelkeeper may require that the good consigned to him be contained in a closed or sealed wrapping.

Article 1006

The hotelkeeper is not responsible when the theft, damage or loss is due:

1) to the guest, persons accompanying him, employed by him or visiting him;

2) to *force majeure*;

3) to the nature of the goods.

Article 1007

The hotelkeeper is liable without revoking the limitation contemplated in the last paragraph of article 1004, when the theft, damage or the loss of the goods brought into the hotel by client is due to his own fault; to the members of his family, or of his assistants.

Article 1008

Except in the case contemplated in article 985 the client may not use the preceding provisions if, after having ascertained the theft, damage or loss, he reports the fact to the hotelkeeper upon an unjustifiable delay.

Article 1009

The agreements or declarations intended to exclude or limit in advance the responsibility of the hotelkeeper are void.

Article 1010

The above-mentioned provisions do not apply to the vehicles, goods left in them or to live animals.

Article 1011

For the evaluation of the responsibility, or for drawing the limit of compensation, the provisions for the deposits in the hotels are also applied to the undertakers of public or private medical clinics, to the institutions for public performances, holiday houses, hotel pensions, restaurants, and for all the cases in which from the special activity itself exercised by the undertaker, the client cannot take care himself of the goods.

Article 1012

The credits of the hotelkeeper for the services done to the clients have privilege to the goods brought by them in the hotel and under his supervision and that are still there.

The privilege has effect against the third persons that have rights themselves on these goods, on the condition that the hotelkeeper has notice for these rights at the time that the goods are brought to the hotel.

CHAPTER XVII CURRENT ACCOUNT

Article 1013

A contract of current account is one by which the parties undertake to enter in one account reciprocal credits, considering it in-collectable and not transferable until the account is closed.

The balance of the account is collectable on the expiration of the term. If payment is not demanded, the balance is considered renewed for an indefinite time.

Article 1014

Credits, which cannot be compensated, are excluded from the current account. When the parties to the contract are undertakers, are excluded from the current account the foreign credits for the respective enterprises.

Article 1015

The actual amount has interests at the rate established by the contract or in its absence from the law, but always within the limits defined by it.

Article 1016

For the current accounts the commission is paid as well as the expenses done for the actions related to the remittances. These rights are not part of the account, unless otherwise provided by agreement.

Article 1017

The inclusion of a credit in the current account does not prevent the exercise of the right of action or the other rights, related to the transaction from which the credit arises.

When the above transaction is void or is declared as such, or dissolved, the corresponding amount of money is expelled from the current account.

Article 1018

If a credit included in the account is secured by a real or personal guarantee, the client has the right to use this guarantee for the balance existing in his favor from the closing of the account up to the encasement of the guaranteed claim.

The previous paragraph applies even if for the credit there is an *in solido* obligation.

Article 1019

Unless parties have agreed otherwise in the contract, the inclusion in the current account of a credit against a third person is presumed as done, with the condition that it is paid. In case the credit is not fulfilled, the receiver has the right to act for the collection, withdrawing the amount of money from the account, by reintegrating the one who has done the remittance. This amount can be taken away from the account even after exercising without any results his rights against the debtor.

Article 1020

If the creditor of one of the clients has sequestered the eventual balance of the account that belongs to his debtor, the other client cannot by new remittances prejudice the rights of the creditor. There are not considered as new remittances those made depending from the rights deriving before the sequestration.

The client against whom the sequestration is done or against whom the pledge is taken must notify the other party. Each of them can withdraw from the contract.

Article 1021

The closing of the account and the liquidation of the balance are done at the expiration of the terms stipulated in the contract and, in their absence at the end of each period of 6 months computable from the date of the contract.

Article 1022

The transfer of the transaction from one client to another is considered approved if not contested within the time agreed by the parties or within the term that can be considered suitable in the circumstances.

Approval of the transaction does not include the right to attack the account for errors in writing or calculation, for omissions or duplications.

The contestation must be done within 6 months from the date of the receipt of the statement of account rendered in connection with the closing liquidation, which statement will be sent by registered mail. Replacement in the term is not allowed.

Article 1023

When the contract is formed for an indefinite time, either party can withdraw from the contract at any closing of the account, by giving at least ten days advance notice.

In case of termination of the exercise of this activity, of the incapability of action, of the incapability of payment or the death of one of the parties, each of them, or their heirs, have the right to withdraw from the contract.

The termination of the contract prohibits the inclusion in the account of the new amounts, but the payment of the balance cannot be demanded only after the expiration of the term set in the article 1021.

CHAPTER XVIII BANKING CONTRACTS

Bank Deposits

Article 1024

When an amount of money is deposited in a bank, it acquires the ownership and is obliged to return the same kind of money at the expiration of the agreed term or on demand of the depositor, observing the period of notice established by the parties or by the bank customs.

Article 1025

If the bank issues a saving account passbook, deposits and withdrawals shall be entered in such passbook.

Entries made in the passbook signed by the bank clerk assigned to this duty, constitute full evidence between the bank and the depositor.

Any agreement to the contrary is void.

Article 1026

If the passbook is payable to the bearer, the bank that without will or without gross fault does the service toward the possessor, is not responsible, even if such holder is not the depositor.

The same provision applies if a passbook payable to the bearer is issued in the name of a specific person.

The provisions of special laws are excluded.

Article 1027

The bank that receives and accepts a deposit of securities to administer shall retain the custody of such securities by collecting the interests or dividends, verify the trade for the prize or repayment of principal, taking care for the collection of the income for the account of the depositor, and generally provide for the protection of the rights relating to such securities. The sums collected shall be credited to the depositor's account.

If for the securities deposited, an option right should be exercised, the bank shall request in time the necessary instructions from the depositor and shall carry them out, if in case of need has taken the necessary funds. In absence of such instructions, the option rights shall be sold for the account of the depositor through a stock exchange broker.

The bank is entitled to a compensation in the amount set by the agreement of the parties or that normally used, except the payment of the expenses made by it.

Any agreement by which the bank is excluded from the custody and administration of securities with a reasonable care is void.

B. Banking Service and Safe Deposits

Article 1028

The bank for the services of safe deposit boxes is answerable to the user for the payment ability, the custody of the premises and for the safekeeping of the box, except for fortuitous events.

Article 1029

If the safe deposit box is registered in the name of several persons, each is entitled to open it, subject to contrary agreement.

In case of death of the single entitled person or of one of the entitled persons the bank which has received notice can permit the opening of the box with the agreement of all those who are entitled, or according to the manner provided for by the court.

Article 1030

When the term of the contract has expired the bank, after giving notice to the entitled person, or after the elapse of six months from the date of expiration, can request from the court the authorization to open the safe deposit box. The notice can be given even by registered letter with the return receipt requested.

The opening is done in the presence of a notary, keeping in mind the measures that the court regards as necessary. The court can order the necessary measures to be taken for the preservation of the objects found including here even the sale of a part of them, which is necessary to satisfy the expenses done by the bank.

C. Opening of a Bank Credit

Definition Article 1031

The opening of a bank credit is a contract by which the bank undertakes to keep a sum of money at the disposal of the other party for a defined period or for an indefinite time.

Article 1032

Unless otherwise agreed, if it is not agreed otherwise, the creditor can use the credit several times, according to the forms of use, and can reestablish his disposal by further remittances.

Unless otherwise agreed by the parties, remittances and withdrawals shall be made in the same bank where this relationship was established.

Article 1033

If the opening of a bank credit is secured by a real or personal guaranty, this is not extinguished merely because of the fact that the party who received credit, at the moment of the expiration of such relationship ceased to be a debtor of the bank. When the guaranty becomes insufficient, the bank may require an additional guaranty or the replacement of the guarantor.

When the person receiving the credit fails to comply with the requests, the bank reduces the credit in proportion to the diminished value of the guarantee, or can withdraw from the contract.

Article 1034

The bank cannot withdraw from the contract before the expiration of the term of the contract except for a reasonable cause or in case of existence of another agreement. Withdrawal suspends immediately the right to use the credit, but the bank should allow a period of at least fifteen days for restitution of the sums used and those additional ones.

When the giving of the credit is for an indefinite time, each party can withdraw from the contract by giving notice within the time fixed in the contract, normally used or, in their absence within fifteen days.

Ç. Bank Advancements

Disposability of Goods Pledged Article 1035

In the bank advancement of funds on the pledge of the titles or goods, a bank cannot dispose of the goods pledged if it has issued a document in which these goods are individualized.

The agreement to the contrary shall be evidenced in writing.

Article 1036

The bank shall provide for the account of the contractor for insurance of the pledged goods, if, their nature, value or location, make such insurance a normal precautionary measure.

Article 1037

A bank, in addition to the compensation payable to it, has the right to be reimbursed for expenses incurred in the custody of the goods and titles, unless it has undertaken such a thing.

Article 1038

The contractor, even before the termination of the contract, can withdraw the titles or the goods pledged, subject to a prior proportional payment of the sums taken in advancement and the other amounts that belong to the bank according to the previous article, if the balance of the credit results sufficiently non-secured.

Article 1039

If the value of the guarantee is diminished by at least one-tenth of the value it had at the time of the contract, the bank can request the debtor an additional guarantee, with the warning that otherwise the pledged titles or goods shall be sold. If the debtor fails to comply with the request, the bank can proceed with the sale under the provisions for the pledge.

The bank has a right to the immediate repayment of the balance of the account that is not satisfied completely from the proceeds of the sale.

Article 1040

If by the guarantee of one or more credits are blocked deposits of money, goods or titles which have not been identified or for which the bank is given the possibility to disposal, the bank shall return only that sum or that share of goods or titles which is in excess of the amount of the secured credits. This excess is determined on the basis of the goods or titles value at the time of the end of the credits.

D. Bank Transactions with Current Accounts

Article 1041

When a deposit, opening of credit or other banking transactions are regulated in the current account, the client can dispose at any time the amounts resulting in his credit, unless the reserve of the term is provided for in the agreement.

Article 1042

If between the bank and the client exist some relationships or some accounts, and in different currencies, the positive and negative balance are compensated in a reciprocal way, unless there is a contrary agreement.

Article 1043

If the current account is on the name of some persons, each with the power to effect transactions individually, such persons are considered creditors or debtors *in solido* with respect to the balance of the account.

Article 1044

If the transactions in the current account are for an indefinite time, each party can withdraw from the contract by giving notice to the other party within the term provided for in the contract or in its absence within 15 days.

Article 1045

The bank is responsible according to the provisions that regulate the contract of mandate for the execution of the obligations taken by the depositor or another client.

If this obligation has to be carried out at a place where there are no branches of the bank, this can charge with the execution another bank.

Article 1046

Articles 1016, 1019, 1022 apply for the current account as well.

E. Bank Discount

Definition Article 1047

Discount is the contract by which a bank, by applying the interest, gives to the client, through a transfer, the value of a credit against a third party that is not yet finished.

Discount of Bills of Exchange Article 1048

If the discount is made through endorsement of a bill of exchange or a bank check, the bank, in case of non-payment, in addition to the rights deriving from the title, has a right to restitution of the sum advanced.

The provisions of special laws concerning the check and the bill of exchange are unaffected.

Article 1049

A bank that has discounted the documented bills of exchange has the same privileges in the goods as the mandatory, while it holds the representing title of possession.

CHAPTER XIX LOAN AGREEMENTS

Article 1050

With the loan agreement one party (the lender) gives in ownership to the other party (the borrower) a certain amount of money or fungible goods in weight or measure, and the borrower is obliged to return to the lender the equal amount of money and goods of the same kind and quality, within the term provided for in the contract, or when no such term is provided for, on the request of the lender.

Article 1051

The borrower is bound to pay interests to the lender, unless otherwise agreed by the parties.

The agreed interests are paid once a year, unless parties have agreed otherwise.

Non-payment of the interests is considered an essential non-fulfillment of the obligation.

Article 1052

If the parties agreed on repayment in installments of the money or goods and the borrower is in default in payment of two installments, or is in default of three months in the payment of even one installment, the lender can demand that the entire money or goods be returned to him at once.

Article 1053

If the return of the goods lent has become impossible or very difficult for a cause not imputable to the borrower, he is only bound to pay their value, having regard to the time and place where repayment was to have been made.

Article 1054

The lender is liable for damage caused to the borrower by defects in the goods lent, unless he proves to have been, without fault, ignorant to such defects.

If the loan agreement is gratuitous, the borrower is responsible only when knowing the defects, he failed to warn the borrower.

Article 1055

One who promised to enter in a loan agreement can refuse to perform his obligation if the financial condition of the other party has become such as to make repayment very difficult and no adequate security is offered.

CHAPTER XX FRANCHISING

Definition Article 1056

The franchising contract contains an account of continuous obligations by which independent enterprises are obliged to stimulate and develop together the commerce and the completion of services, in application of separate obligations.

Obligations of the Franchiser Article 1057

The franchiser is obliged to give to the franchisee a standard complex of immaterial rights, samples, charts, ideas on profit, trade, organization and other suitable knowledge for the development of the trade.

At the same time he is obliged to protect all this program of obligations from infringements by other third parties, to develop it continuously and support its fulfillment from the franchisee with instructions, information and perfection.

Pre-contractual Relationships

Article 1058

In the mediation for conclusion of the contract, the parties have to show to each other the condition of commercial affairs that deal with the franchising contract and especially with the program of franchise obligations, as well as informing each other on fiduciary basis. They are obliged to keep the secret of confidential information even if the contract is not formed.

Who infringes this obligation is liable to indemnify for the damage caused. This right lapses by prescription after three years from the day of the negotiations.

The party that was part of the negotiations can ask for the payment of the expenses done with a legal confidence in the formation of a contract, which was not formed because of an intentional course of action of the other party.

Form of Contract

Article 1059

The franchising contract should be made in writing including an unanimous definition of the collateral obligations of the parties, the duration of the contract and other substantial elements. The text of the contract should contain a full description of the program and franchise obligations.

Withdrawal from the Contract

Article 1060

The duration of the contract is decided with agreement of the parties, respecting the demands deriving from the trade and respective services.

When the contract does not provided for a term or the term is more than ten years, each party has the right to withdraw from the contract giving notice to the other party one year in advance.

In case of termination of the contract as result of the termination or withdrawal and before the representation of the actual report of the affairs, the parties, based on principles of good faith, try once more to agree for the renewal of the contract with the same or different conditions.

Restriction on the Competition

Article 1061

Even after the termination of the contract the parties have reciprocally the obligation for a fair competition.

On this basis the franchisee can be imposed the restriction of a local competition for a period up to one year.

If from the restriction on the competition results a decrease of its professional activity, the franchisee is given an equal financial compensation without taking into account the termination of the contract.

Responsibility of the Franchisee

Article 1062

The franchiser is responsible for the existence of the rights and knowledge of the program of the franchise obligations. If the rights did not exist or if the

franchisor would infringe other contractual obligations with fault, the franchisee has the right to reduce the compensation. An impartial expert must decide the amount reduced with competence. The franchisee can ask for the indemnity of the damage caused from the non-existence of the elements of the program of obligations or from the infringement with fault of the contract from the franchisor.

Article 1063

The franchisor can ask for the indemnity of the damage caused by the infringement with fault of the contract, and especially from the insufficient application of the program of the franchise obligations from the franchisee.

Withdrawal Article 1064

If case of infringement of the contractual obligations that put in a serious risk the scope of the trade activity, the contracting party has the right of withdrawal without referring to the term.

CHAPTER XXI LIFE ANNUITY

Article 1065

A life annuity can be established towards compensation (with obligatory title) by the transfer of movable or immovable property or an amount of money.

A life annuity can also be created by a gift or will, respecting the rules of law for such legal actions.

Article 1066

A life annuity can be established for the life of the beneficiary or of another person. It can also be established for the lives of more than one person.

Article 1067

If the life annuity is established in favor of more than one person, in absence of contrary agreement, the share of a predeceased creditor accrues to the benefit of the other creditors.

Article 1068

The life annuity contract is void if it is established for the life of a person who was already deceased at the time of the contract.

Effects of the Life Annuity Contract

Article 1069

The person on whose favor the life annuity contract was created, with an obligatory title, can demand the dissolution of the contract, if the person who gives the annuity, does not give or reduces the guaranties given in the agreement.

Article 1070

The nonpayment of due installments of life annuities does not give the right to the person on whose favor the annuity is created to demand the dissolution of the contract, but he can only demand the sequestration and the sale of the property of his debtor and from the proceedings of sale an adequate amount can be used for the payment of the rent.

Article 1071

The debtor of a life annuity cannot be set free from the obligation of paying it even if he offers the payment of the money or of the good taken, even if he waives recovery of the annual payments already made.

The above is bound to pay the annuity for the whole time for which it was established, regardless of how burdensome the performance may have become, unless there is a contrary agreement.

Article 1072

A life annuity is given to the person who benefits from it in proportion to the number of days lived by the person. If in the agreement is provided that the payment will be done in installments, each of them is won from the day that payment becomes due.

Article 1073

If the life annuity is created on gratuitous basis, it can be provided (or decided) that this is not possible to be sequestered.

CHAPTER XXII

SIMPLE PARTNERSHIPS

GENERAL PROVISIONS

Article 1074

The partnership is a contract by which two or more persons agree to exercise an economic activity, with the purpose to divide the profits deriving from it.

The person who is a member of the partnership should put in disposal of this activity, money, goods or services.

Article 1075

The contract of a simple partnership is not object of any special form, unless required by the nature of the joined goods.

The partnership is simple, when it does not show the distinguished characteristics of the commercial company regulated by the Commercial Code.

Relationships among the Members

Article 1076

The member is obliged to pay the contributions defined by the partnership contract. It is presumed that the members are bound to contribute in equal parts among them, at the measure necessary to achieve the scope of the partnership, unless the contract provides otherwise.

Article 1077

The partnership contract may be amended only upon agreement of all partners, if not agreed otherwise in the agreement.

Article 1078

For goods given in ownership, the guaranty demanded by the member, and the risk transfers are regulated by the provisions on sales.

Article 1079

The member that has contributed in credits is responsible for the debtor's payment incapacity, within the limits provided in Article 506 of this Code for the case of taking the guaranty by agreement.

Article 1080

Unless provided differently by agreement, the administration of the partnership belongs to each of the members separately from the others.

If the administration belongs separately to some of the members, each of them has the right to oppose the action that another wants to perform, before this action is performed.

The majority of members, defined according to the part of each member in the profit, resolve the dispute.

Article 1081

If the administration belongs jointly to some members, it is necessary the agreement of all the administrator partners for the performance of the partnership's transactions.

If it is decided that for the administration or certain transactions the consent of the majority is necessary, this is defined according to the last paragraph of Article 1080 of this Code.

In the cases provided by this Article, separate administrators cannot do any transaction alone, except on urgent cases, when a damage that threatens the partnership should be avoided.

Article 1082

The dismissal of the appointed administrator by the partnership contract can be done for a just cause.

The administrator appointed with a separate act can be dismissed according to the provisions of the contract on mandate. In such case each member as well can require his dismissal in a legal way.

Article 1083

The provisions on mandate regulate the rights and obligations of the administrators. The administrators are jointly responsible towards the partnership for the fulfillment of the obligations provided by law or by the partnership contract, unless they prove to be not guilty.

Article 1084

The members not taking part in administration have the right to be notified from administrators for the business ongoing of the partnership, to consult the documents dealing with the administration and to be provided with a report when the business for which the partnership was created are completed.

If the completion of the partnership business lasts more than one year, the members have the right to be provided with the report of the administrate at the end of each year, unless the contract provides for another term.

Article 1085

Each member has the right to take his part of the profit after the approval of the report, unless contrary agreed.

Article 1086

The parts belonging to the members on the profits or losses are presumed in proportion with the quota they have contributed. If the value of the contributions is not established by the contract, the court establishes it. If the contract provides only for the part of each member on the profits, it is presumed that the same part should be established for the loss.

Article 1087

Any agreement that excludes one or more members from the participation on the profits or losses is invalid.

Relationships with the Third Parties

Article 1088

The partnership acquires rights and takes over obligations through the members that have the right to represent it.

On the absence of other provisions in the contract, the representation belongs to each administrator member and is extended to all the documents included in the object of the partnership. The provisions on presentation regulate the changes and the distinction of the representation rights.

Article 1089

The partnership creditors may claim their partnership rights on the property.

For the partnership obligations are also responsible personally or jointly the members who acted in the name and on account of the partnership, and, if there exists another agreement, the other members as well.

The agreement must be made known to the third parties with appropriate means, an absence of taking such notice, the limitation of responsibility or the exclusion from the joint responsibility can not be set against those who have been notified for it.

Article 1090

The member, to whom the payment of the partnership obligations is required, can require the preliminary execution towards the property of the partnership, even when the partnership is in liquidation, indicating the goods that can best compensate the creditor.

Article 1091

He, who becomes a member in a partnership established before, is responsible together with the other members for the partnership obligations before he is qualified as a member.

Article 1092

A separate creditor of the member, until the partnership exists, can claim his rights on the profits belonging to the debtor, as well as require that maintaining (conservative) measures are taken for the quota that belong to the latter on the event of the liquidation.

If other goods of the debtor are insufficient to compensate his credits, the separate creditor of the member can claim, except this, at any time the liquidation of his debtor's quota. The quota must be liquidated within three months from the presentation of the request, unless the partnership dissolution is decided.

Article 1093

It is not accepted the compensation between the obligation of a third party to the partnership and his credit toward a member.

Dissolution of the Partnership

Article 1094

The partnership is dissolved:

- 1) at the termination of the duration;
- 2) upon realization of partnership the object or because of the impossibility to its realization;
- 3) upon the free will of all the members;
- 4) for other reasons provided for in the contract of partnership.

Article 1095

The partnership contract is extended silently for an indefinite time, even if the established time limit provided for by the contract has lapsed, the members continue to perform the partnership transactions.

Article 1096

After the partnership dissolution the administrator members keep the power of administration only for urgent matters, until the necessary transactions for the liquidation are undertaken.

Article 1097

If the contract does not provide for the manner of the property liquidation and the members do not agree on defining it, the liquidation is done by one or more liquidators, appointed upon agreement of all the partners, or in case, of disagreement by the court.

The liquidators can be revoked by the will of all the partners and in any case by the court upon reasoned request of one or some of the members.

Article 1098

The obligations and responsibilities of the liquidators are regulated according to the rules decided by the administrators, as long as it is not provided differently by the following provisions, or by the partnership contract.

Article 1099

Administrators should deliver to the liquidators the partnership goods and documents, and present to them the administration accounts for the period following the last report.

The liquidators should take delivery of the partnership goods and documents and draft together with the administrators the inventory from which should result the active and passive situation of the partnership property. The administrators and the liquidators must sign the inventory.

Article 1100

The liquidators can perform the necessary transactions for the liquidation and if the members have not provided otherwise, can even sell the total partnership property and enters into agreements and compromises.

They represent the partnership even in the legal process.

Article 1101

The liquidators cannot undertake new transactions. On contrary they are personally and jointly responsible for the works commenced.

Article 1102

The liquidators cannot divide among the members, even partially, the partnership property until the partnership creditors are paid, or until the necessary amounts to pay them are not taken aside.

If the funds available are insufficient for the payment of the partnership obligations, the liquidators can ask the members to make the payments they still have to do in the respective quotes, and if necessary, the necessary amounts on the limits of respective responsibility and in proportion with each ones part on the loss. At the same proportion the member's obligation with the inability to pay is divided among the members.

Article 1103

The members that have contributed in property to be used have the right to take it back in the actual condition. If the goods are lost or damaged for reasons that make liable the administrators the members have the right to be compensated for the damage on the partnership property, unless a claim can be filed against the administrators.

Article 1104

After the partnership obligations are paid, the remaining asset is destined for the payment of the contributions quota. The possible surplus is divided among the members in proportion with their part on the profit.

The value of the quota of the contributions that do not have as their object amounts of money is established according to the evaluation made in the contract or, in its absence according to the value they had at the moment they were delivered.

Article 1105

If the agreement provides that the distribution of the goods is done in kind, the provisions on the distribution of goods on common ownership apply.

Resignation of a Member from the Partnership

Article 1106

Each member can retire from the partnership when that partnership is formed for an indefinite period or for the life of one of the members.

Besides, he can retire on occasions provided for in the partnership contract or when a just cause exists.

In cases provided for by the first paragraph, the retirement should be communicated to the other members at least three months in advance.

Article 1107

Unless otherwise provided by the partnership contract, in case of death of one of the members. The others should liquidate the quota in favor of the heirs, unless they prefer to dissolve the partnership or to continue with the heirs themselves, and they give their consent.

Article 1108

The expulsion of a member can occur because of an important non-fulfillment of the obligations deriving from the law or from the partnership contract, as well as for his detention, incapacity or his conviction with a measure that includes the detention, even if temporary, from official duties.

The member, who contributed to the partnership with his work or enjoyment of a good, can be expelled even for the immediate unsuitability to do the given work, or for the loss of the good, which happened for reasons not attributable to the administrators.

The member that contributed through the transfer of a good property can also be expelled if the good lost before it is acquired by the partnership.

Article 1109

The expulsion is decided by the majority of the members, not including in their number the member who has to be expelled and it has effect 30 days from the day when the expelled member is notified.

Within this term the expelled member can bring a counterclaim to the court, which can suspend the execution of the decision.

If the partnership is composed of two members, the court on the request of one makes the expulsion of the other.

Article 1110

Are expelled from the partnership as well:

a) members who has been declared bankrupt:

b) members towards whom a certain creditor of his has succeeded in having the right of the liquidation of the quota according to article 1092 of this Code.

The expulsion provided by the first paragraph of this article is not applied when the bankruptcy of the member is a result of the partnership bankruptcy.

Article 1111

If only one member leaves the partnership, he and his heirs have the right only of a certain amount of money that represent the value of the quota.

The liquidation of the quota is done according to the property balance of the partnership at the day when this member leaves it.

If there are transactions going on, the member and his heirs have a part in the profits and losses that have to do with these transactions. Besides what is provided in article 1092, the quota payment belonging to the partner should be done within 6 months from the day of his leaving.

Article 1112

If only one member leaves the partnership, he or his heirs are responsible towards third parties for the partnership obligations from the day he left.

The leaving should be made known to the third parties with suitable means; otherwise it cannot be claimed against the third parties who, not for their fault, did not know it.

CHAPTER XXIII INSURANCE

GENERAL PROVISIONS

Article 1113

In a contract of insurance, one party (the insurer), if the event contemplated in the contract is verified to exist, must:

a) in the case of property insurance, compensate the other party or a third person, for whose benefit the contract was entered into, for the damage suffered within the limits of the sum that is provided in the contract;

b) in the case of personal insurance, pay the other party or a third person, for whose benefit the contract was entered into, the amount of insurance provided in the contract.

The insured must pay the premium (price of insurance) set in the contract. The insurer may be a public or private person.

Article 1114

The contract of insurance must be done in writing, by an affidavit of insurance (insurance policy) that the insurer issues to the insured otherwise it is invalid.

Article 1115

In the affidavit of insurance there shall especially be shown:

a) the name of the insurer;

b) the name of the person insured in the case of personal insurance, the property insured and the place where this property is located in the case of property insurance;

c) the event with the verification of which the insurer shall satisfy the obligation undertaken in the contract;

ç) the beginning and termination of the insurance contract (term of the insurance);

d) the time when the liability of the insurer begins;

e) the property value in those cases when this is required for a particular kind of insurance;

ë) insurance premiums and the times for their payment.

When according to law or the contract the insurance proceeds or amounts of insurance are to be paid not only to the insured but also to a third person, for whose benefit the contract was entered into, this condition, shall be shown in the insurance affidavit.

Article 1116

When the insurance affidavit is lost, the insurer, at the request and at the expense of the insured, shall issue a duplicate of it.

Article 1117

The insured shall notify to the insurer, with the entrance into contract, all the circumstances of which he has knowledge and which have fundamental importance for the determination of the nature and measure of the risk.

All circumstances about which the insurer has asked the insured in writing are considered to have fundamental importance.

A contract of insurance entered into without receiving an answer to any of these questions may not be invalid for that reason.

Article 1118

When after the insurance contract is entered into it turns out that the insured knowingly has given inexact information in the request or in documents presented by him and on the basis of which the insurance contract has entered into, the insurer within three months from receiving notice has the right:

a) to change the amount of the insurance premium, the amount of insurance or the term of insurance;

b) to dissolve the insurance contract if the circumstances are such that the insurer would not have entered into the contract if he had known about them. In this case, the insurance premiums up to the time when the breach of the contract is sought, and in any case the insurance premium to be paid in the first year of the contract, shall not be returned to the insured.

If the event of insurance is verified before the term indicated in the above paragraph begins, the insurer is not obligated to pay the insurance amount.

When the insurance contract is entered into for more than one person or goods, it remains valid for those persons or goods, which the incorrect declarations or silence do not refer to.

Article 1119

Giving inexact information in the application or in the documents presented, on the basis of which the insurance contract was entered into, or failure to disclose information when it is verified that they were not done willfully or in gross negligence, does not constitute cause to dissolve the contract, but the insurer may renounce the contract, notifying the insured in writing, within 3 months from receiving knowledge of them.

If the insurance event is verified before the incorrectness of information or the failure to disclose them is known by the insurer, or before the renunciation from the contract has been declared, the amount required is reduced in

proportion to the difference between the sum set in the contract and that which would have applied, if the true -facts had been known.

Article 1120

When the insurance contract is entered into in the name and for the account of third persons and they have knowledge of the incorrectness of the declarations or failures to disclose in connection with the risk (the event of insurance), the provisions of article 1118,1119 of this Code are applied in favor of the insurer.

Article 1121

The insurance contract is invalid if it is verified that the insured risk never existed or has ceased before the conclusion of the contract.

Article 1122

The insurance contract is dissolved if the insured risk ceases to exist after the conclusion of the contract, but the insurer has the right to the payment of premiums until he has been notified that the insured risk ceased to exist or he has been made aware in another way.

Article 1123

The insured during the time of the insurance contract is in force shall notify the insurer of all changes in circumstances of which he has received notice after the insurance contract was entered into and that may influence to increase the risk.

If the insured does not give the above notice, the insurer has the right, from the moment the risk increased, to amend the amount of the insurance premium, of the insurance amount, the term of insurance or to dissolve the contract.

When the insured does not accept the amendment or the dissolution of the contract, he has the right to bring a lawsuit in court.

Article 1124

The insurance contract is effective at 12 midnight on the day the contract is concluded and ends at 12 midnight on the last day of the contract duration.

When the contract duration is more than 10 years, the parties when this time passes and if they have no agreement to the contrary, have the right to withdraw from the contract, giving six months' prior notice.

The contract may be extended in silence one or several times, but in each case not for more than two years.

This provision is not applicable for the life insurance contract.

Article 1125

The contracting party shall pay the insurance premium to the insurer in the time periods specified in the contract. If the premium or first installment of it

is not paid on time, the insurance is suspended until 12 midnight on the day when the contracting party pays the sum required.

When the contracting party continues not to pay the premiums, according to the set times, the insurance is suspended from 12 midnight of the fifteenth day after the end of the term for payment and the insurer has the right to seek dissolution of the contract.

Article 1126

When the insurance event is verified, the insured is obliged to notify the insurer within the time period specified in the contract. If the insured does not make this notification, the insurer has the right not to pay the insurance compensation or the insurance amount.

Article 1127

The insured or third person in whose benefit the insurance contract was entered into, is obliged to prove that the event of insurance has happened, and, in property insurance also prove the amount of the damage, as well as notify the insurer, at his request, all information he knows and that has to do with the insured event. In the case of personal insurance, when the loss of ability to work is verified, medical expertise is also done.

When the above duties are not fulfilled, the insurer has the right not to pay the insurance compensation or the insurance amount.

Article 1128

The insurance compensation or amount to be paid not to the insured, but to a third person, in whose benefit the contract was entered into, may not be sequestered for the debts of the insured.

The insurer has the right to keep from the compensation or insurance amount what the insured has to take from the same insurance contract (premium etc.).

Article 1129

The insurer may claim against the person in whose benefit the contract was entered into, all the reservations that he could claim against the insured from the same insurance contract.

Article 1130

When a person enters into an insurance contract in the name of another person, without being given such a right by him, the latter may accept the contract entered into even after verification of the insured event.

The person who has entered into the contract is obliged to implement himself the obligations that flow from the contract, until the moment when the insured has received notification for its acceptance or not, from the person in whose name the contract was entered into.

The price of the insurance is paid to insurer by the above contracting party for the entire period up to the moment when the insurer has received notice of the non-acceptance of the contract.

Article 1131

The insurer is not liable when the death or loss of capacity to work of the insured, as well as the loss of or damage to property, was caused directly by acts of war, except when it is otherwise provided in the contract of insurance.

Article 1132

The conditions for the various kinds of voluntary insurance of property and person are defined in the contract.

Article 1133

The provisions of this chapter do not extend to obligatory insurance, which is regulated by separate provisions.

Maritime insurance is regulated by the Maritime Code.

Property insurance

Article 1134

A person who enters into a contract of property insurance or a third person for whose benefit the contract is entered into, must have a property interest in the insured object otherwise the insurance contract is invalid.

Article 1135

When, after the insurance contract is entered into, the property interest of the insured or of the third person for whose benefit the contract was entered into ceases, the contract is considered dissolved.

Article 1136

The amount of insurance may not be more than the value of the property. This value, for several kinds of insurance, might be defined in the insurance contract and through the valuation of the property.

With value is understood the biggest value that the property had at the time of verification of the forfeitous fact.

In the insurance of the land products, the damage is set in relation to the value that the products would have had at the time of their ripeness, or when they were normally collected.

When only a part of the value of the property is insured, the amount of insurance may not be larger than the value of the part of the insured property.

When the above terms are violated, the insurance contract is valid, as the case may be, for a sum equal to the value or the part of the insured property value.

Article 1137

When the insured property is lost or damaged, as the case may be, its value is compensated within the limits of the insurance amount or the decrease in

the property value, except when it is provided otherwise in the insurance contract.

The insurer is responsible for lost profit, only if it is expressly provided in the contract.

Article 1138

When the property insured has been lost in part or is damaged and therefore the partial insurance amount is paid, the property that has remained is considered insured until the end of the term set in the contract for an amount equal to the difference between the amount of the insurance and the compensation that has been paid.

Article 1139

When the insurance amount is less than the insured property value, the compensation for the damage is set in proportion with the ratio between the insurance amount and the insured property value, except when otherwise specified in the contract.

Article 1140

The insured must take care of the insured property, according to the provisions against fire, agronomic and veterinary provisions. The insurer has the right to check the insured property and to request the insured to take measures to protect the property well and remove irregularities observed. When the insured violates the above obligation, the insurer has the right to dissolve the insurance contract.

Article 1141

When the insured event is verified, the insured must take all the measures depending on his to save and keep the insured property with the aim of avoiding or reducing the damage.

The insurer is not obligated to pay compensation for that part of the damage, which was caused by the failure of the insured to take the measures that could have been taken by him to save and protect the insured property.

The insurer is obligated to pay compensation for necessary measures that were taken to save and protect the insured property, regardless whether the purpose was achieved or not, except when the insurer proves that the means used and expenses incurred, were used or done carelessly. The insurer is responsible for the materials damage caused to the goods insured by the means used by the insured to avoid or lessen the damages that occurred upon the insured event, except when he proves that such means were used carelessly and without being necessary.

Article 1142

An insurer who has paid the insurance compensation has the right to seek the return of the sum paid from the persons who are responsible for causing the damage.

Article 1143

The insurer is discharged from the obligation to pay insurance compensation, if the insured event is caused willfully or by gross negligence of the insured or the person for whose benefit the contract of insurance was entered into.

In insuring the property of persons, the insurer is also discharged from the obligation to pay compensation of insurance when the insured event is caused willfully or by gross negligence of grown members of the insured family.

Article 1144

When the ownership of the insured property is transferred to another person, the contract of insurance is considered dissolved. In this case the premium paid is returned to the insured in proportion with the time remaining until the termination of the insurance contract.

Article 1145

When for the same insured risk several insurance contracts are entered into separately with various insurers, the insured shall notify each insurer, for all the insurance.

When the insured purposely does not give the above notice, the insurers are not obligated to pay compensation for damage.

When the insured event is verified, the insured shall notify all insurers, giving each the name of the other insurers.

The insured has the right to seek from each insurer the satisfaction of the damage pursuant to the contract, but the sums paid all together shall not exceed the amount of the damage.

Article 1146

The insurer who has paid the amount of the damage has the right to recourse to the other insurers for a sharing of the amount required according to the respective contracts.

When an insurer is insolvent, his part is divided among the other insurers.

Article 1147

Insurance of goods against risks of transportation by land, internal waterways and air includes all damage that the goods may suffer during their transportation, except when specified otherwise by law.

Article 1148

The insurance contract for goods against transportation risks is effective from the moment that the goods are delivered to the transporter and continues until they are handed over to the recipient, unless otherwise specified in the contract.

Article 1149

When the goods transported are taken over by the recipient without a minutes being kept on this occasion, the insurer is not responsible for damage or absence of the goods, unless otherwise specified by law.

Insurance of the person

Article 1150

A contract of personal insurance may be entered into for the occasion of the verification of events that have to do with the life and ability to work of the insured.

Article 1151

In a personal insurance contract the amount of insurance is set by agreement of the parties and according to the other provisions on insurance.

Article 1152

The insurance contract is valid even when the life of a third party is insured. The designation of the person is done in the insurance contract, or with a later written declaration, made known to the insurer, or by will.

Article 1153

The insured may designate in the insurance contract that, in case he dies, the insurance amount shall be paid to a member of his family, another person, the state, or another juridical public person.

Article 1154

During the time the insurance contract is in force, the insured has the right to substitute with another the person he has designated to receive the insurance amount. For this the insured shall give written notice to the insurer and present the insurance affidavit to make the necessary notes.

Article 1155

The designation of the beneficiary may be revoked by the contracting party in the form and manner used to designate him.

The heirs may not do the revocation after the death of the contractor, after the insured event has been verified and the person has declared that he desires this benefit.

The renunciation of the contracting party and declaration of the beneficiary must be notified in writing to the insurer.

Article 1156

The designation of the beneficiary, although it may be irrevocable, does not have effect when the case contemplated in letter "a" of article 771 of this Code exists.

Article 1157

When in the insurance affidavit the person who may take the insurance amount is not indicated, as well as when the person shown has died before the insured, without being substituted by another person, or when he has willfully killed or tried to kill the insured, the amount of insurance is paid to the insured, and if he has died, to his legal heirs or by will.

Article 1158

When more persons are designated to receive the amount of insurance and several of them have died before the insured, or several of them have willfully killed or tried to kill the insured, the parts that belong to them are divided among the other persons designated to receive sums of insurance in proportion to the part that has been assigned to each of them.

If the parts of the persons designated in the contract to receive the insurance amount are not mentioned, it is presumed that they are equal.

Article 1159

Changes in the profession or activity of the insured when they bring the cessation of the insurance effects, if they do not increase the risk in such a manner that, if this new state had existed at the time the contract was entered into the insurer would not have entered into it.

If the changes were of such a nature that even if the new situation had existed at the time the contract was entered into, the insurer would have entered into the contract for a higher price; the payment of the insurance amount is reduced in proportion with the lowest price set in proportion with the price set initially.

If the insured notifies the insurer of the above changes, the latter, within 15 days shall declare whether he will dissolve the contract or decrease the amount of insurance or increase the price.

The insured, within 15 days, shall declare whether he accepts the above changes in the contract.

If the insured declares that he does not accept them, the contract is dissolved.

Article 1160

The insurance amount that after the death of the insured is set to be paid to the person for whose benefit the contract of insurance was entered into is not included in the inheritable property of the insured.

Article 1161

The insurance amounts deriving from insurance contracts of a person are paid regardless of the sums that may be paid by social security.

TITLE III TRANSITIONAL AND FINAL PROVISIONS

Article 1162

The Civil Code of the Republic of Albania is applicable for juridical relations established after its effective date.

Article 1163

For the prescription of a lawsuit and positive prescription that have begun to run before the effective date of this Code, but which have not been fulfilled according to the prior provisions, the latter shall apply.

Article 1164

The provisions of this Code related to possession are also applicable for possessions that have begun prior to its effective date.

Article 1165

The juridical regulation of the term and price of a residential lease shall continue to be done according to the prior provisions, until the full liberalization of this contract by specific provisions.

Article 1166

Particular contracts entered into before its effective date and that continue to be used shall be regulated according to the provisions of this Code.

Article 1167

Law No. 6340, dated 26.06.1981, "On the Civil Code," except for the provisions concerning the joint ownership between spouses, law No. 2362, dated 16.11.1956, "On social organizations that do not follow economic aims," law No. 7688, dated 13.03.1993, "On joint ownership in residences," law No. 7695, dated 7.04.1993, "On foundations" articles 1-15, decree No. 600, dated 22.07.1993, "On pledges and mortgages," approved with changes by law No. 7753, dated 30.09.1993, are repealed.

Article 1168

The Civil Code of the Republic of Albania shall enter into force on November 1, 1994.

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