

# **CIVIL CODE OF THE REPUBLIC OF ALBANIA**

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**Based on article 16 of law No. 7491 date 29.04.1991 “For the Main Constitutional Provisions≡, with the proposal of Council of Ministers.**

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

**DECIDED:**

**PART I**

**GENERAL PART**

**TITLE I**

**ASUBJECTS OF THE CIVIL RIGHTS≡**

**CHAPTER I  
PHYSICAL PERSONS**

**A. Juridical Capacity**

**Article 1**

Every physical person enjoys full and equal capacity in order to have civil rights and obligations, within the limits defined by the law.

**Article 2**

Juridical capacity is acquired at the time the person is born alive and ends with his death. When the child is born alive, it enjoys judicial capacity from the time of the pregnancy.

**Article 3**

The foreigners acquire the same rights and obligations as those recognized to the Albanian citizens, besides exceptions provided by the law.

**Article 4**

Civil rights of a physical person can not be limited, except exclusions provided by law. The juridical action that places limits to the legal capacity of a physical person is invalid.

## **B. The right of name**

### **Article 5**

Every physical person has the right and obligation to have his name and surname, which are put according to the law. The person, to whom their use is negated or intruded by the unjust use of the others made of his name, may demand from the court the use of his name or surname, end of the intrusion and re-compensation of the respective damages made to him.

This demand may be represented even from persons who although do not keep the name or surname which is intruded or unjustly used, have familiar interests worthy to be protected.

The court, when accepts the suit, orders the publication of the decision in the Official Gazette. Upon the request of the plaintiff, the court may order the publication of its decision even in other newspapers. The pseudonym used by the physical persons enjoys the same protection.

## **C. The capacity to act**

### **Article 6**

The person who reaches eighteen years old wins the full rights so that by his acts he gains rights and holds civil obligations.

The full capacity to act is gained through marriage by the wife who has not reached the age of eighteen years. She does not lose this capacity even when the marriage is declared invalid or divorced before reaching the age of eighteen years old.

### **Article 7**

The infant, who has not reached fourteen years old, can perform legal actions by the previous approval of his or her legal representative. However, he can be member of social organization, possess everything he gains by his work, to deposit his savings and to possess these deposits himself.

### **Article 8**

The infant, who has not reached fourteen years old, has no capacity to act. He can perform legal transactions that are suitable for his age and are fulfilled at instance, as well as legal transactions that bring benefits without any compensation. Other juridical transactions are performed on his behalf by his legal representative.

### **Article 9**

The infant of fourteen to eighteen years who is unable to carry out his own affairs because of psychic diseases or mental illness is deprived of the capacity to perform legal transactions a

court decision. These transactions can be performed through his legal representative.

#### **Article 10**

The full of age person who completely or partly has not the capacity to care for his own affairs because of a physic disease or mental illness can be deprived of or there can be placed limits to the capacity to perform legal transactions by the decision of court.

#### **Article 11**

The juridical transaction that limits the capacity to act is not valid.

### **C. Residence and Reside-place**

#### **Article 12**

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

Every full of age person has the right to decide freely for his residence. The person can not possess at the same time more than one residence. This provision is not applied for the residence of the activity of a businessman.

#### **Article 13**

The infant who has not reached the age of fourteen years has for residence that of his parents.

When parents possess several residences, their child under fourteen years has for residence the one of the parent he lives with.

The person to whom capacity to act is deprived and the children are under patronage, the last ones have for residence that of their legal representative.

#### **Article 14**

The residing place is the place where the person performs a work or other defined duties, to attend a respective school or course, to be given health care, to suffer a criminal sentence and other cases of this nature.

## **D. The announcement of disappearance and the death of a person.**

### **Article 15**

The person who has disappeared from his residence or his last residing place and for whom there is no news for more than two years, then by the demand of any interested person he can be declared a disappeared person by the decision of the court.

When the date of the last news can not be decided, the above mentioned term starts from the date of successor month during which is informed for the last time. When the month can be not decided, then the term begins from January 1 of the following year.

### **Article 16**

With the announcement of disappearance of a person there is appointed a tutor for the administration of the property.

The decision of the court by which a person is declared disappeared is published in the Official Gazette and is sent for registration to the respective registry office.

### **Article 17**

The person who is declared disappeared, with the demand of every interested person can be declared a dead person by the decision of the court when four years have passed without news from the date when he is declared disappeared.

### **Article 18**

The person missing in military action and this missing is verified by the competent military organs, in case when there have passed two years without news from the date when the agreement of peace has entered into force or three years from the end of military actions, then he can be declared dead by the decision of the court, without declaring him disappeared in advance.

### **Article 19**

The person missing during a natural disaster or in circumstances which make believe he is dead can be declared dead by the decision of court when there have passed two years without news from the date of disaster, without declaring him disappeared in advance.

When the date of disaster has not been decided, the two year term starts from date 1 of the month which comes after the one when disaster has taken place, and when even the month can not be decided, then the term starts from date 1 January of following year.

### **Article 20**

When two or more persons have died and it can be not proved as to who died first, then



for legal effect they are considered to have died at the same time.

### **Article 21**

When the death of a disappeared person is declared, there is decided the date when it happened. When this date can not be exactly verified, the court decides it according to the rules provided by the articles of this code.

Upon the demand of every interested persons, the court which has given the decision can change the date of death when there is verified that the person has died in another date.

### **Article 22**

The death announced by the decision of the court is equal to all legal consequences of the real death.

The decision of the court in which a person is declared dead is published in the Official Book and is sent for registration to the respective registry office.

### **Article 23**

When the person declared dead happens to be alive, by his or every interested person demand, the decision is renounced by the court which has issued it.

The person who is alive has the right to demand his property and the property gained by its means, even from third persons to whom this property has passed because of the death announcement, within the limits and conditions provided by this code or family code.

## **CHAPTER II JURIDICAL PERSONS**

### **A. General Provisions**

#### **Content of juridical personality**

### **Article 24**

Juridical personalities are public and private.

### **Article 25**

Public juridical personalities are the state institutions and enterprises which are self financed or from the budget of state, as well as other public institutions considered by the law as juridical personality.

State establishments and institutions, which do not follow economic purposes are not registered.

## **Article 26**

Private juridical personalities are the associations, organizations, foundations, companies and other establishments of private character which acquire juridical personality in the way provided by law.

### **Name of juridical personality**

## **Article 27**

The juridical personality has its own full and abbreviated name. The name of every company or other organization is its firm which especially must express the intention of this activity.

### **The residence of legal entity**

## **Article 28**

The residence of juridical personality is situated where its directing organ is, besides cases when it is differently provided for in the statute or establishment act.

### **The capacity of juridical personality**

## **Article 29**

The juridical personality has the capacity to gain rights and to carry civil obligations from the moment of its establishment and, when law provides that it must be registered, from the moment of registration.

## **Article 30**

The juridical personality can conduct any juridical action allowed by law, in the document of the establishment or in the statute.

## **Article 31**

The juridical personality acts through its organs provided by law, in the document of the establishment or in the statute, which expresses its will. The legal transactions performed by the organs of juridical personality, within their competence, are considered as performed by the

juridical personality itself.

### **Liability of juridical personality**

#### **Article 32**

The juridical personality is liable for the damages caused by its organs during the period of the fulfillment of their duties.

The legal entity is responsible for its obligations within limits of its property.

Persons who has acted with the quality of the organ of a juridical personality, have personal liability to re-compensate damages caused by their fault.

#### **Article 33**

The state and state juridical entities are not responsible for the obligations to each other, besides cases when it is accepted by them or expressly provided by law.

### **The termination of a juridical personality**

#### **Article 34**

The juridical personality terminates according to the way defined in document of establishment, in the statute or law.

#### **Article35**

With the termination, the legal entity stops its activity and is put under liquidation.

#### **Article36**

The exceed of rights and obligations in case of termination of legal entity, for which is required registratio, brings consequences from the time of registration.

When is not required registration, the exceed of rights and obligations in cases foreseen by the above mentioned paragraphe, brings consequences from time of approvement of the respective balance-sheet, at the way foreseen by law, from the respective organ which has established it or in atatute.

## **Liquidation of legal entity**

### **Article 37**

The liquidation of legal entity is done by the fulfilment of rights and payment of obligations from the commission of liquidation, decided by the organ which has decided its termination. The commission makes the liquidation in conformity with legal provisions, statute or instrument of incorporation.

### **Article 38**

When the legal entity terminates because of illegal activity, the remaining property after the liquidation goes to state.

The liquidation of the legal entity that has been bankrupt is regulated by law.

## **B. Associations**

### **Establishment of Associations**

#### **Article 39**

Associations are social organizations that pursue political, scientific, cultural, religious, charitable, or any other non-profit goals.

#### **Article 40**

The will of the founding members is expressed in the statute of the association, which must be in writing and must contain in particular:

- a) the name and purpose of the association, its center, and territory where it will conduct its activity;
- b) the conditions of admission and removal of members, as well as their obligations and rights;
- c) the management organs of the association, the manner of their establishment, and their competencies;
- ç) the terms, the manner of notification, and competencies of general meetings and the delegates;
- d) the sources of funding, as well as the contributions and dues which are required from each member.
- dh) the manner in which the statute is amended and the association is terminated.

#### Article 41

After a meeting of the founders has approved the statute and established its managing organ, the association must file a request for registration at the district court of the district where the association will center its activity.

The court checks statute for its conformity with law.

#### Article 42

The association is recognized as legal entity as of the date the competent court has approved and registered it. Until this date, the founders of the association may perform the acts that are necessary for its organization, such as summoning members, holding meetings of the founders, and establishing management organs.

#### Article 43

The associations can have their branches in those district, communes or cities where they have the number of members foreseen in their statute.

### **Organization of the Association**

#### Article 44

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

It is called by the managing organ in accordance with the respective provisions of the statute, and when it is demanded by 1/5 of its members.

#### Article 45

The general meeting decides upon the admission or expulsion of members and all other matters not specifically within the jurisdiction of any other organ of association.

In particular, it supervises the collection of income, the actions of the association, and the property of the association.

#### Article 46

All members of association have an equal vote in the general meeting.

Decisions are taken by the majority vote of the members present at the meeting. To amend the statute of the association, expel a member, or dissolve the association, at least 3/4 of the members must be present at the meeting, unless the statute provides otherwise..

#### Article 47

The management organ has the right to care for the interests of the association, to protect them, and to represent the association in conformity with the competencies provided in the statute.

### **Membership in the Association**

#### Article 48

Candidates for membership, who fulfil the necessary conditions, may be admitted at any time.

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

#### Article 49

The membership rights in an association cannot be alienated or transferred by inheritance.

#### Article 50

The members who have resigned or been expelled from the association have no right to the capital or basic property of the association. However, they do have the obligation to pay dues for the time period in which they were members of the association.

#### Article 51

Every member has the right to reject any decision of association which is contrary to law or the statute. Members have one month from the day they received notice of the decision to reject it.

### **Dissolution**

#### Article 52

An association may be dissolved by the following:

- a) a decision of a special session of the general meeting ;
- b) the number of members falls below the number specified in the statute, or when its purpose is fulfilled, or it has become impossible to fulfill it;
- c) the association becomes insolvent;
- ç) a competent court decides that the association does not intend to fulfill the purposes specified in the statute or the association has started an illegal activity .

## Article 53

When it is determined that an association should be dissolved, its registration is canceled, it ceases its activity, and it placed under liquidation by a commission of liquidation, which is established and acts according to the respective rules in force.

## **FOUNDATIONS**

### **Manner of Formation**

## Article 54

The foundation is established to achieve a specific, socially beneficial purpose. Foundations may be established by physical persons (natural persons) and legal entities, both native and foreign. They are established by a notarized act or by a will.

## Article 55

The founders register the statute of the foundation at the district court of the district where the foundation has its center.

The statute describes specifically the names of the founders, the purpose of the foundation, initial capital contributions (cash, vouchers, movable and immovable property), sources and methods of financing, management organs and their competencies, and the names of the administrators.

## Article 56

A foundation has a legal personality as of the day of its registration. Foundations are prohibited from engaging in profitable activities.

## Article 57

Prior to the registration or the start of the respective activity, the founders may cancel the statute of the foundation.

Heirs or creditors of the founders may object to the statute of the foundation.

### **Administration of the Foundation**

## Article 58

The statute of the foundation defines 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 statute.

#### Article 59

Foundations are supervised by the state institutions that are directly involved in their area of activity.

These state institutions are specifically charged with ensuring that the monetary funds and other property of the foundation are employed in accordance with the purposes of the foundation.

#### Article 60

The head of the supervising institution has the right to demand in the competent court that the decision of a foundation organ be annulled when it clearly contradicts the relevant purposes or legal provisions or the statute of the foundation.

The court can suspend the execution of this decision until the court renders a final decision.

#### Article 61

Property disagreements, to which the foundation is a party, are to be resolved in the competent court.

#### Article 62

A foundation is dissolved:

a) based on law, when the purpose for which it was established is fulfilled or can no longer be fulfilled;

b) by the decision of court when is verified that the foundation has started to engage in illegal or immoral activity;

The dissolution of a foundation can be sought by the head of the supervising institution or any other interested subject.

#### Article 63

For properties that remain following the dissolution of a foundation, at the request of the supervising institution or any other interested person, the court decides upon their disposition taking in consideration their uses and the main purpose for which the foundation was created.



## TITLE II

### ARAPRESENTATION≡

#### CHAPTER I

#### ACONCEPTATION AND KINDS OF REPRESENTATION≡

##### CONCEPTATION AND RAPRESENTATION

###### Article 64

By the representation a person (representative) performs within the rights given by law, by proxy or court, legal transactions in the name and for the account of a physical person or legal entity, another one (thee represented).

The representation is not permitted when the juridical transaction must be performed by the person himself, according to law.

The person who has not full capacity to act can be not a representant.

###### The limits and consequences of representation

###### Article 65

The rights of representation, legal one, are defined by provisions of law which give this quality, while the right of represntant appointed by the represented person are defined by proxy.

The rights of representation can be extracted even from the circumstances in which are performed the respective legal transactions.

###### Article 66

The legal transactions performed by the representant, within the given rights, create direct consequences for the represented person.

###### Article 67

The representant can not perform legal transactions on his or represented person=s name by himself or by other persons represented by him, beside cases when the represented person has allowed it expressively, or when the content of the legal transaction does not intrude his interests.

###### Article 68

When for the performance of a legal transaction are appointed two or more persons, each of them can perform it without the participation of the other representatives, wxcept when in proxy it is

differently foreseen.

#### Article 69

The representative is obliged to act personally and he can appoint no vice, except when it is allowed by the represented person, when the mentioned property in proxy is situated out of district where lives the representative, and when the appointment of vice is necessary for the protection of the interests of the represented person.

The representative must inform at once the represented person about the vice he has appointed, otherwise he is responsible for the acts of his vice.

The vice can be drawn back at any time by the represented person or the representative who has appointed him.

#### Representation by proxy

#### Article 70

Proxy is the document in which the represented person, by his free will, has defined the character and volume of rights given to the respective.

#### Article 71

The proxy is general when the represented person has given to the representative the rights to perform different legal transactions which have to do with the entirety of rights of the represented person, besides the ones which are expressly excluded by him. Proxy is special when the represented has given to representative the right to perform one or some defined legal transactions which are characterized by a common aim.

The proxy is done always by official document.

#### Article 72

Every proxy to sign a contract, according to law can be done only by a notarial act, it must be compiled in this form, otherwise it is not valid. Even the proxy to perform the acts in court and other state institutions must be done by a notarial act, except when legal provisions allow it to be done by a simple official document. The proxy on the name of public or private legal entities can be done even by the signature of their director and the respective stamp, except when law demands that the legal transaction must be done by a notarial act.

#### Article 73

The proxy to take post dispatches or money from post offices or banks, until an amount defined by them, the proxy to take wages and other recompositions sourcing from the labour relations, and also the proxy to take pensions, aids, stipends, can be verified even by:

- a) the administrator of the quarter or the village dignitary;
- b) the director of legal entity or its branch, where the represented person works or attends the school;
- c) the director of medical institution where is given health attendance to the represented person;
- d) the command of military unit where serves the represented person;

dh)the director of the institution where the represented person is kept under arrest or suffers the condemn of imprisonment.

#### Article 74

Changes in proxy must known to third parties by the proper means.

In absence of this information, these changes can not go against third parties, except when it is proved that they knew the changes in the proxy at the time when was performed the legal transaction.

#### Article 75

The represented person can abrogate the proxy (make it not valid) and the representative can draw back from it at any time. Every contrary agreement is not valid.

#### Termination of proxy

#### Article76

The proxy ends when:

- a) Representative has performed the legal transaction for which the proxy was given;
  - b) Is fulfilled the term for which proxy was given;
  - c) When has died the representative or the represented, or when one of them has lost the capacity to act;
  - d) Has terminated the representative or the represented legal entity;
  - dh) When the represented has abrogated proxy or the representative has withdrawn from it;
- After the termination of proxy the representative, with the demand of the represented, must give back to him the act of proxy.

#### Article 77

Representation after the changes or termination of proxy

The legal transactions performed by the representative, after changes to proxy or after its termination, are obligatory for the represented or his heirs, in case when third parties with whom are performed the legal transactions were not informed of changes of proxy or termination of proxy.

#### Article 78

#### Representation without rights.

When a legal entity (juridical person) or physical person acts as representative without possessing this quality, and even when the representative has overcome rights given to him, then the legal transaction performed in these conditions is not obligatory for the person on whose name are performed the acts, except when he has approved it later.

When the approval is given, the third person who was in good will has the right to demand recompensation of the damages from the representative.

TITLE III  
LEGAL TRANSATIONS

CHAPTER I  
GENERAL PROVISIONS

DEFINITION OF LEGAL TRANSACTION

Article 79

The legal transaction is the legal expression of will of the physical person or legal entity, which aims to create, change or cease the civil rights and obligations.  
The legal transaction can be partial or bilateral.

Form of legal transaction.

Article 80

The legal transaction can be by hand writing, by speaking and any other undoubtful expression of will.  
The official document can be simple or notarial act.

Article 81

The legal transaction by official document must be signed by the person who performs it.

Article 82

The person who does not know, or because of diseases, or mental diseases can not sign, charges another person to do it. The signature of this person must be verified by the notary, explaining the reason for which the person has not signed himself the legal transaction performed by himself too.

For the acts in the bank or other credit institutions, in the post or customary offices, the signature of this person is verified by an official authorized by these institutions.

Article 83

The legal transaction to transfer ownership of the immovable properties and the rights in rem over them, must be done by a notarial act and registered, otherwise it is not valid.  
It is not valid the legal transaction which is not done in the form expressively demanded by law.  
In other cases the legal transaction is valid but it can be not proved by witnesses.

Conditional legal transactions.

Article 84

The legal transaction is conditioned when the derivation or extinguishment of rights and obligations foreseen in it depends from the event which is not known if it would happen.

#### Article 85

The condition is of a suspense character when the rights and obligations derive if the event would happen.

The condition is resolvable when the rights and obligations extinguish if the event would happen.

#### Article 86

When the verification of condition is prevented by bad faith from the party which would profit from the non verification, then the condition is considered verified.

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

#### Article 87

When the right which depends from the verification of condition is intruded or lost because of acts of obligated party with condition, then it must recompensate the damage in case when the condition is verified.

#### Article 88

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

### Legal transaction by term

#### Article 89

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

#### Article 90

The term is suspensive when in the legal transaction there is foreseen that its consequences start from a defined moment.

The term is resolvable when in the legal transaction is foreseen that its consequences extinguish at a defined moment.

#### Account of terms of the legal transactions.

#### Article 91

When there are decided the days of term it is not accounted the day when event took place or the time from which it must start.

The term decided by weeks, months or years, ends by the termination of that day of last week or

month which has the same name or number with the day when it has started. When such a day lacks, then the term ends at the last day of the last month.  
When last daay of term is holiday the termends at the coming working date, after that of holiday.

## CHAPTER II

In validity of legal transactions.

### Article 92

The ivalid legal transaction do not create any legal consequence.  
Such ones are those which:

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

### Article 93

When a legal transaction is performed with the aim to cover another legal transaction, then the last one is valid if it fulfils all necessary conditions for its validity. The simulated or fictive does not harm third parties who at good faith have acquired rights based on it.

### Article 94

#### Legal transactions declared as invalid

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

- a) Infants over age of fourteen, when the juridical transaction is performed without the assent of parent or tutor.
- b) Persons who because of mental diseases or defects have no capacity to act or it is taken off, when the legal transaction is performed by them without the assent of the protector.
- c) persons who at the moment of performance of the legal transaction were not conscient of importance of their acts, besides the fact that at that time there was not taken off the capacity to act.

The annulment of these acts can be demanded even after the death of respective person, but only when before deth was demanded the abolitio of the capacity to act.

D) person who has committed a legal transaction beeing defrauded, threatened, who has mistaken or because of great necessity.

### Article 95

The fraud cuses the declaration as invalid of a legal transaction, when the life of one party to bring the other party fall into error is as important as to perform the juridical transaction by it  
When defraud is committed by third party, the defrauded party can demand the invalidity of legal

transaction only when at the moment of its commitment the other party was informed or would have to be informed of the fraud.

#### Article 96

The threat brings the declaration of legal transaction as invalid, when it consists on grave and unjust physical and material harm and damage to spouse, forerunners and successors of family. The threat can be performed by a third party who does not take part in the legal transaction.

#### Article 97

The error (to go out of one's wits) can cause the declaration as invalid of legal transaction only when it is related to quality of thing, identity or quality of the other person or circumstances as essential as without them the party would have not performed the legal transaction.

#### Article 98

The error in the account does not bring the declaration as invalid of the legal transaction, but it brings only its correction, except when the error in its volume has been decisive for this agreement.

#### Article 99

The legal transaction can be declared invalid in the case when because of the great necessity, the obligations of one party are regardless compared with the profits the other party gains from the legal transaction.

#### Article 100

The legal transaction performed by the representative can be declared as invalid by the demand of the represented person when there is a vicious character in the will of the representative. When the vice has to do with elements defined by the represented person, the legal transaction can be declared as invalid only when under vice was the will of the last one.

#### Article 101

When in the legal transaction is important the definition bad or good faith, conscience or incoscience of certain circumstances which consist in valid or invalid decisive conditions of the legal transaction, there is kept in consideration the person of representative, except when it is about the circumstances defined by the represented.

#### Article 102

Legal transaction committed against the represented because of a bad faith agreement between the representative and third party can be declared as invalid for the represented.

#### Article 103

The action to demand the invalidity of a legal transaction is prescribed within five years.

#### Article 104

The term to bring an action starts:

- a) for legal transaction performed by persons without legal capacity or limited capacity to act, since the day they are full of age or when was given back the capacity to act;
- b) for legal transaction performed under defraud, threat or error, from the day when defraud or error was revealed, or the threat has ended, but for for any case not more than three years from the day when was performed the legal transaction;
- c) for the other cases, from the day when the legal transaction was performed.

#### Article 105

The legal transaction declared as 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 of reason that it comes against the law, or it is done with the aim to defraud the law, everything parties has given to each other will pass into the incomes of state and when it is not possible to get the proper, then there is demanded its value. When one of parties has transacted in good faith, the court can decide the return of things given by this party and when it is not possible there must be paid its value.

#### Article 107

When the legal transaction is declared invalid because of its performance by defraud, threaten, great necessity or because there lacks the form required by the law, each party must give back to the other party everything taken and when it is not possible to return the proper thng, then there must be paid the value of it.

#### Article108

When legal transaction is ascertained to be invalid because it is performed by an infant who has not accomplished the age of fourteen or is declared invalid because it is performed by an infant who has accomplished the age of fourteen but without the consent of parent or tutor, each of the parties is obligated to return back aeverything taken from the other, and when it is not possible, then there must be paid the value. Beside this the party which has the capacity to act is obligated to recompensate the damage to the infant which is caused to him 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 to whom is completely taken off the capacity to act or because it is performed by a person with limited capacity to act without the consent of his protector, or because it is performed by person without having the coscience of importnce of his acts, each is obligated to return back everything taken



from the other one and when its not possible to return the proper thing then there must be paid its value. Besides this the party which had the capacity to act is obligated to give back to other party the damage it has undergone because of the legal transaction which is declared invalid, in case when it was informed or could have been informed that the other side had no capacity to act or had no conscience of importance of its acts.

#### Article 110

When the legal transaction is declar3d invalid because one of the parties was in error, each of the parties is obligated to return back everything they have taken from each other and when there is not possibitity to return the proper thing then it must be paid. Beside this the party which has demanded the invalidity of legal transactions is obligated to recompensate the damage to the other party it has undergone because of the declaration of legal transaction as invalid, except the case when it proves that it has not fault for the fall into error or that the other party was informed or would have been infomed of the error.

#### Article 111

When the cause of invalidity influences only a part of legal transaction, this remains valid for the other parts, besides when according to the content of legal transaction these parts represent indivisible relation with the invalid part of the legal transaction.

### TITLE IV PRESCRIPTION OF ACTION AND DECADENCE OF RIGHTS CHAPTER I GENERAL PROVISIONS

#### Article 112

The right of action which is not exercised within the term defined by law extinguishes and can be not fulfilled any more through another court or competet organ.

#### Article 113

There are not prescribed:

- a) action to resettle or to protect a not property personal right, except excludings which are defined by law;
- b) action for the proportion between joint - owners;
- c) action to take back the amounts deposited in the bank;
- d) other actions foreseen by special provisions;

There are not prescribed even the demand for the obligatory execution of decisions linked with the action, for which is not applicated the prescription.

## Terms of prescription

### Article 114

When it is not differently foreseen by the law, there are prescribe all actions between legal entities within ten years, between them and physical persons and also between the physical persons.

### Article 115

There it is not prescribed within terms of:

- a) six months are actions for the payment of fines assessing penal conditions;
- b) one year are actions deriving from the contracts of spedition;
- c) six months are actions deriving from the direct transport of goods and travellers by railway, autoveicles or airplanes and the mixt ones.
- d) two years are actions for the oayment of recompensations after the insurance and reinsurance contracts and the respective amount deriving from the obligatory insurance;
- dh) three years are actions for payment of rent of appartments, shops, bars and other immovable properties;
- e) three years are actions for payment of non contractual damage and the actionsfor for the return of property profit without rights;

Other actions are prescribed within specialdefined term in this code or in other laws.

### Article 116

It is invalid the agreement of parties to change terms of prescription and any other aprovision of this chapter.

### Article 117

Term of prescription starts from the day when the subject acquires the right to bring into action.

### Article 118

In the contractual obligations signed under a term of execution, the prescription of the action starts from the daw when this term is over.

When the obligation consists on periodical payments, for each of them the term of prescription starts in a special manner.

For contractual obligations without terms and for the obligations which are executed with the request of creditor, the term of prescription starts from the day when the obligation was on.

### Article 119

For the demand of the thing, the prescription of action starts from the day when the owner was informed or must have been informed of the defraud and the defrauder of his right.

#### Article 120

For the demand of recompensation of non contractual damage the prescription of action starts from the day when the harmed person was informed or must have been informed of the damage he received or the person who has caused it.

#### Article 121

For the return of amount of money or thing saved or profited without reason, the prescription of action starts from the day when the damaged person was informed or must have been informed of the saving or profit without reason which is fulfilled by the respective person.

#### Article 122

For the demand of inheritance the prescription of action starts from the day when the inheritance is opened.

#### Article 123

For actions of return (regressive) the prescription of action starts from the day when the one who has brought to action has paid voluntarily, on basis of a legal or contractual obligation, to third person the amount of money or value of thing demanded by this action, because of fault of person who has received the action, or from the day when is given the decision of court or the respective arbitrage from which has derived the action of regress.

#### Article 124

The prescription of action for the main demand brings the prescription of other actions deriving from it, despite the fact that for these is not terminated the respective term.

#### Article 125

The completed prescription is not taken in consideration from the court or the other competent organ on their initiative, but only with the demand of the interested party.

#### Article 126

The withdrawal from prescription is allowed only when is fulfilled its term.

#### Article 127

The pretention that term of prescription is fulfilled can be exercised even by the creditors and any one interested, in cases when the respective party has exercised it itself.

#### Article 128

The debtor who has fulfilled his obligations after the completely of prescription can not demand the return of the amount of money or thing, given by him voluntarily, even if he did not know that the term of prescription was fulfilled.

## CHAPTER II SUSPENSION AND INTERRUPTION OF PRESCRIPTION

### Suspension of prescription.

#### Article 129

The prescription is suspended:

- a) between spouses until the day when is given the peremptory verdict by which is dissolved the marriage;
- b) between children and parents until the last ones exercise the right of parent;
- c) between persons who are under protectorship and protectors until the protectorship ends;
- d) for actions of persons, whose property is put under administration against the respective administrate appointed by the court or any other competent organ of state, until there is approved the final report of accounts;
- dh) for actions of infants and other persons, who have no capacity to act until the appointment of their representative or until they acquire this capacity, and also for six months after the day when is appointed their representative or they have acquired the capacity to act.
- e) for actions of legal entity against his administrators until they continue to work beside him.
- f) for action with the object of respective recompensation, deriving from bad health or death, the suspension of prescription starts from the day when is represented the demand to the state social insurance organs until the day when is fixed the pension or is refused the demand.
- g) when it has major power.

#### Article 130

The period of suspension is not taken into the account of the term of prescription. When after the extinguishment of the reason of suspension, the remaining time for the completion of prescription is less than six months, then it is prolonged until six months.

### The interruption of prescription

#### Article 131

The prescription is interrupted:

- a) by any act of the obligated legal entity or physical person which expresses the exact and full recognition of the right of creditor.
- b) by the representation of action, counter action or rejection even to a court or arbitrage which is not competent from the subject and territorial point of view for the examination of the question.
- c) by any act which puts the debtor in retardation.

d) by the representation of demand for the obligatory execution of legal decision or any other executive title.

#### Article 132

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

#### Article 133

The interrupted prescription against the main debtor is extended even towards the respective custodian.

#### Article 134

The passed period before there was verified the interrupting reason is not accounted and after the extinguishment starts a new prescription term.

#### Article 135

When the interruption of prescription comes because there is presented an action or counteraction, then the new prescription term starts from the day when is given the peremptory verdict by which is solved the question in its essentiality.

When there is decided the withdrawal of action without solving the question in its essentiality, or the judgement of not considered interrupted.

### The account of prescription terms

#### Article 136

The term of the prescription of action, which is decided in weeks, months or years ends by the end of the day of the last month and year of the same name and number with those of the day in which the term has started, and when such a day is lacking at the last month, then the term ends by the last day of this month.

When the last day of the prescription term is holiday, the coming day is taken in consideration.

## CHAPTER II

### PRECLUSIVITY (Decadence)

#### Article 137

When a right must be exercised within a preclusive term there are not applicated the provisions which regulate the interruption of prescription. Also there are not applicated the suspansive reasons except excludingly cases when the law itself permits the suspension of preclusive term.

#### Article 138

There is not valid any agreement in which are decided preclusive terms, which make very difficult for one party to exercise their respective right.

#### Article 139

The parties can not change the legal orderings which regulate the preclusivity and can not renounce from the completed preclusive completed term when this term is decided by special legal provisions.

#### Article 140

The completed preclusive term is taken to consideration from the court or arbitrage by their own initiative, even if it is not demanded from the interested party.

### **PART TWO**

#### **"OBJECTS AND OWNERSHIP"**

##### **TITLE I**

##### **OBJECTS**

##### Article 141

##### **Juridical definition of objects**

An object is everything that can be owned or other real rights.

##### **Types of objects**

##### Article 142

Objects are movable and immovable.

Immovable objects are the land, the water sources and running water, trees, buildings, other floating buildings, attached to land and anything which is affixed permanently and continuously to the land or buildings.

All other objects, including any type of natural energy sources, are movable objects.

#### Article 143

The provisions which are applied to immovable objects will also be applied to real rights pertaining to immovable objects, as well as respective indictments, except when otherwise foreseen by law.

Provisions which are applied to movable objects will also be applied for all other rights.

#### Article 144

### **Registration of Objects**

Immovable objects and the real rights will be registered in the immovable property registries.

Even movable objects will be registered if required explicitly by law.

### **Fruits/Products of Objects**

#### Article 145

Natural fruits of a object are the products taken from it.

Up to the moment which these products are separated from the property, they are component parts of it.

Civil products come from the objects as a result of enjoying the rights which persons have over that object.

Civil products will be gained based on length of time the owner has these rights and from the time of requesting these rights.

### **Component Parts of an Object**

#### Article 146

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

### **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 improve its appearance.

This intended use will be defined by the owner of the principal object or by the a person who has real rights over that object.

## Article 148

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

The accessories can also be an object of separate possession.

The accessory does not lose this feature in the 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 to possess objects freely, within the provisions of the law.

#### **Ownership of the component parts of the object**

### Article 150

The owner of an object is the owner of the component parts of that property also.

#### **Ownership of the fruits of the object**

### Article 151

The natural fruits produced from the objects belong to the owner of the object, except in cases when the ownership of the fruits is passed to others. In this case, the ownership of the products will be 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 production and gathering of those fruits.



## **Pertaining to the objects**

### Article 152

Objects can belong to physical persons, juridical persons or the state.  
Types of public property are decided by law.

## **The rights and obligations of the owner**

### Article 153

Nobody can be deprived fully or partly of the ownership of their object, except when that property is required for legal public needs, and always with full and preliminary compensation.

### Article 154

The right of ownership of land is extended into the sky and into the earth as is profitable for its use, within the conditions foreseen by the law.

### Article 155

The owner of land, 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, and even to gather the fruits of the trees and use them for his own benefit.

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

### Article 156

The owner of land which is neighbouring on a stream or public source of water, has the right to use it as long as he does not damage the interests of owners of other land, except when the use is arranged by special provisions.

### Article 157

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

When the boundary between two objects is not clear and when the owners will not define the boundary themselves, each of them have the right to ask the court to determine the boundary.

#### Article 158

When trees and brush is planted near the boundary of objects, the owners are obliged to keep the distances defined by special legal provisions and when such provisions do not exist, by the customs of the area, except in case the neighbouring owners have permitted the planting of brush or trees themselves or when the boundary is along a public road or stream of water.

In the absence of these rules, the distances are three meters for large trees and two meters for other trees.

These distances will not be applied for trees and brush the height of which is not above the wall between the objects.

#### Article 159

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

The owner in the process of exercising his rights is obliged to take measures for the protection and preservation of the environment for the district.

#### Article 160

The owners must obey the rules defined in the territorial regulation plans or in special provisions, for constructing new buildings, reconstructing or changing them, the distances between buildings, for putting in windows, wells, holes in the ground, and other works of this nature.

#### Article 161

The owner is obliged to gather the waters which flow from the eaves of the house, 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 by the competent authorities.

The owner is obliged to take care that the waters and garbage which originate in his land do not spill onto the channels or the land of others, except when there is an mutual agreement to the contrary.

## **CHAPTER II**

### **ACQUISITION AND LOSS OF PROPERTY**

#### Article 162

The right of property and other rights to 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 other ways as defined in specific legislation.

#### **Acquisition of property by contract**

#### Article 164

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

#### **Acquisition of property by inheritance**

#### Article 165

Acquisition of property by inheritance occurs according to the conditions expressed in the dispositions of the third part of this Code.

#### **Acquisition by good faith of movable objects**

#### Article 166

The person who on the basis of a legal action for the passing of ownership has acquired against payment with good faith a movable object, becomes the owner of this object even if the first party was not the owner.

Although the acquirer, even with good faith, does not become the owner of the object when this object is stolen.

The acquirer with good faith becomes the owner of money or valuable paper as the

receiver, even though they were stolen or lost by the original owner or juridical person.

The above dispositions are not applied for movable objects which are recorded in the public registers.

The property is acquired free of the rights of others over the object, in case that these rights have not derived from the title and from good faith of the acquirer.

#### Article 167

In case that the property of the movable objects has been passed by contract of several persons, the person becomes owner who has obtained the possession of the object in good faith, even though the contract is of a later date.

### **Successful prescription**

#### Article 168

The person who acquires an object in good faith, based on a juridical action for passing of ownership and is not forbidden by law, becomes the owner of this object, after continuous possession for five years when the object is movable, and 10 years when the object is immovable.

When the possession is not in good faith, the time required for uninterrupted possession is double.

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

An object of public property cannot be acquired by prescription.

#### Article 169

The person who has possessed quietly and continuously, and with the belief of being the owner for 20 years, an immovable property, will become the owner.

### **Registration of objects acquired by prescription**

#### Article 170

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

## **The suspension and interruption of successful prescription**

### Article 171

The dispositions for suspending and interrupting the prescription legal demand are applicable even for the successful prescription claim.

Gaining property through prescription is terminated by losing possession. It is not called termination when the possessor enters again into possession within six months or even later through a legal demand presented within six months.

## **Objects without owner**

### Article 172

Objects without owner are those which do not have an owner or whose owner has rejected 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

The plantings, and also buildings and every other work which are on or under the surface of the land, belong to the owner of the land, unless defined differently in this Code and of dispositions of other legislation.

### Article 174

The owner of the land who has constructed other works and planted with material owned by others, is obliged to pay their value, in the case that their separation or returning it is not requested when this can be done without causing great destruction to the constructed items or plants.

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

### Article 175

When the constructions and other works and plantations have been done by a third person

with his own materials on the land of another owner, the owner has the right to keep them or to oblige the person responsible with his own expenses, and in certain cases to compensate for damages caused.

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

The owner of the land cannot require the removal of the buildings and plantations already completed when they have been done with his knowledge, or through good faith by the third person, as well as in the case where there have passed six months from the date when the owner has been informed of these constructions or plantations.

When through good faith a building has been built on the land of another and its value is more 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 unique object and 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 of the parts of the object they had at the moment of their unification or their 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, when it is required to pay any 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, independent of whether the raw material can be transformed back to its original state becomes the owner of the new object if the value of the work is larger than the value of the raw material, with the condition that he pays its value.

In the contrary 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 the case when the value of the work is more than that of the raw material, but by paying the value of the latter.

### **Unification of land through sedimentation**

#### Article 178

The filling with earth of land and addition of land that are formed in a natural manner

along the banks of rivers and streams, belong to the owner of the land, except when defined differently by law.

### **Land which is created by the flow of water**

#### Article 179

The land which is created by the 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 to which it becomes connected.

### **Lands created in the river bed**

#### Article 180

Islands and filling of earth that are created in the river bed are public property.

#### Article 181

When a river or stream changes its course leaving the old one, the land liberated is the property of the owners of the both banks of the river or creek, which are divided in the middle of the old course according to the width.

## **LOST OR FOUND OBJECTS**

### **Notification that they have been found**

#### Article 182

The person who has found a lost object, including all living things separated from others of their kind, is obliged to inform immediately the owner or the person who has lost the object, and when that person is unknown, to deliver the object to the Municipality or Commune, in the territory where the object was found.

The Municipality or Commune is obliged to announce immediately that the object was found.

### **The acquisition of the object and paying of expenses**

#### Article 183

The owner or the person who has lost the object, has the right to request it within six months from the day of the announcement of it being found in the respective Municipality or Commune, after having paid the expenses incurred for keeping the object and the reward for the person who has found the object of 10% of the value of the object, or the price to acquire it,

when according to the circumstances, its sale has been necessary.

When there are disputes about the value of the object, the issue is decided 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 kept and maintained with the required 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 transferred in ownership to the person who has found it, who will pay the expenses of keeping it.

### **Objects found in public places**

#### Article 185

The objects found in private or public places or in vehicles, must be immediately given to the administration of the place or vehicle where found, and this administrative unit will keep them for three days. When the owner or the person who has lost that object does not go to that administrative unit, then the unit will deliver it to the corresponding Municipality or Commune.

### **Treasure**

#### Article 186

Treasure is defined as any valuable thing, which seems clear to have been underground or hidden for a long time and for 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, archaeological, etc. value which are defined in Article 187 of this Code.

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

### **State Ownership of Certain Types of Moveable Objects**

#### Article 187

The movable things, with cultural, historical, archaeological, ethnographic value, as well as rare natural things with scientific importance which are found, taken, or extracted from the ground or from water will be owned by the state.

The owner, in whose property such things are found, is obliged to allow the digging,



getting a payment for the damage done to his property.

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

### **Acquiring ownership through possession**

#### Article 188

Ownership over abandoned movable objects, as well as over wildlife, fowl, fish, wild fruit, and over movable natural things, can be acquired through possession, in special conditions defined 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 another person, paying him for any damages 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 another person, the ownership of the swarm passes to the owner of the land where the swarm has stayed or to the owner of the hive.

### **Acquiring Ownership through Expropriation**

#### Article 190

Objects can be expropriated when required for a public purpose defined by law and with full and preliminary compensation to the owner. Such objects become property of the state or property of other public agencies, in whose favour the expropriation is done.

### **Loosing of ownership**

#### Article 191

Ownership is lost when it is acquired by another person, or when renounced.

The renouncement of the ownership over an immovable property in favour of someone else is recognised when done through a notarial act and is registered.

**CHAPTER III**  
**REGISTRATION OF IMMOVABLE PROPERTIES**

Article 192

Immovable objects and the facts which are linked with their legal status shall be registered in the immovable property registries.

Registration is done through a public act, a court decision or a decision of another competent public authority, and in other instances which are defined by law.

Article 193

The following must be registered in the immovable property registries:

- a) Contracts for transferring of the ownership of the immovable objects and the instruments for their voluntary subdivision;
- b) Contracts by which are created or known or changed or terminated the ownership rights over immovable objects, usufruct rights, rights to use 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 heirs are identified, and by which inherited property is acquired;
- d) Acts by which are created an association or another subject with rights which owns immovable properties or has other real rights over those properties;
- dh) Court decisions and decisions of other public competent authorities which recognise or awards the ownership of immovable properties or their subdivision or which declares invalid previous legal actions for the transfer of ownership which have been properly registered in the past, and the actions by the court bailiff for sequestered immovable property or its sale through auction.

Court verification of the fact of ownership is not registered.

Article 194

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

Article 195

Immovable property and the real rights over them which are acquired or made known according to the provisions of this Code, cannot be transferred and when it is the case, charged with a burden, if they are not recorded in the immovable property registries.

## Article 196

Courts, notaries, court bailiffs and other state agencies are obliged to send for registration to the responsible registration office copies, of the decision or act which contain the acquisition, recognition, changing, or terminating of ownership of immovable property, or a real right over that property, or the declaration of invalidity of juridical actions for transferring of the ownership which is previously registered.

## Article 197

The following also must be registered:

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

## Article 198

The Ministry of Justice administers the activities of the immovable property register for immovable property.

Conditions, means of registration and organisation as well as any procedure which is linked with this activity are regulated by a special law.

## **TITLE III**

### **CO-OWNERSHIP**

#### **CHAPTER 1**

#### **Co-ownership with Shares**

##### **Definitions and content**

## Article 199

There is co-ownership when the ownership over one or some objects and the other real rights are held jointly by two or more people.

The shares of co-owners are equal, unless the contrary is verified.

The rights and obligations of co-owners are defined in proportion with the shares they

possess.

### **The rights of co-owners**

#### Article 200

Each co-owner has these rights:

(a) To profit from the income derived from the co-owned object in proportion with his share;

(b) To use the co-owned object according to the defined purpose and in a way so to not constrain the other owners in the use of the object according to their rights;

(c) To transfer or dispose his share in the co-owned object in any other manner, 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 division of the co-owned object even when they have a contrary agreement, except when this division significantly destroys the proper purpose or is forbidden by law;

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

#### The obligations of the co-owner

#### Article 201

Each co-owner is obliged that in proportion with his share, to pay needed expenses for the protection 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 or from the date of the presentation of an indictment 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 with 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 have more than half of the value of the object. The majority decision is binding also for the co-owners being in the minority.

This majority can decide to have a mortgage or pledge over the co-owned object, when this is necessary to secure the repayment of the sums borrowed for the maintenance and reconstruction of the object.

When this majority is not achieved or when its decision is damaging to the co-owned object, the competent court, with the request of each co-owner, decide on the required measures that are assessed and, according to the case, will nominate a person who can 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 owners inquiring whether they wish to buy his share with 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 person.

The seller is obliged to make known 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 in the co-owned object.

#### Article 206

The creditors and heirs of any co-owner can intervene in a share of co-owned property, with their expenses, but they cannot object to the any prior subdivision, except when they have made known their objections before the subdivision.

In the case of 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 requested subdivision.

Also, in such partition it is necessary to notify all the creditors that have registered their requests, or that have gained the right to the property to be partitioned, prior to the registration of the act of partition, or the registration of the request for subdivision.

## **Division of the co-owned object**

### *Article 207*

Division 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 notarial act. When this agreement is not achieved, the division of the object is done by the court, having notified all of the co-owners. The division of the co-owned object is done with it being divided naturally according to the shares of the co-owners, if this division is possible and does not damage the specific purpose of the object. Inequality of the shares, that result from the natural division is compensated with compensation in money.

When the co-owned object cannot be divided naturally 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, can order that the object be left to them, obliging them to pay to the co-owner, who requests the division, the value of his share, according to the manner and within the periods of time defined by the decision of the court.

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

### **The transfer of co-owned objects**

#### Article 208

The complete transfer of the co-owned object can be done only with the agreement of all of the co-owners.

## **CHAPTER II**

### **CO-OWNERSHIP IN GENERAL**

#### **A. The Obligatory Co-ownership**

##### **Co-owned objects of buildings**

#### Article 209

In 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 determined in the ownership act, are:

a) the land 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, and also all those objects of the building which have such a character and serve for common use.

b) wells, installations for water, electricity, gas, telephone and central heating, including the pipes and lines and channels until the place of their branches inside of the individually units of floors.

#### Article 210

The right of each co-owner on the objects mentioned in the above article is in proportion to the value of floor or the part of floor which belongs to him, except when the title says differently.

The renouncement from the right on the above-mentioned objects, does not allow the

owner to refuse his obligation to pay for 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 for any of the co-owners.

### **The membership of the Assembly and the election of executive**

#### 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 the Assembly, the executive, which is charged to do in their name and on their account all the needed operations for the administration and normal maintenance of the co-owned objects, except those operations that are the exclusive competence of the Assembly, and also represent the Assembly in the levels of the competent court and in arbitration.

### **The Assembly Meetings and the Validity of Decisions**

#### Article 213

After the first organisational meeting, the Assembly meetings are organised at least once a year. Other meetings of the Assembly can be organised by its executive or with the initiative of not less than 20% of the membership 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 with a simple majority of votes of co-owners except in cases when in the provisions of this Chapter or with special provisions is required a specific majority. When the voting is tied, the vote of the chairman will be the deciding vote.

### **The Main Competencies of an Assembly**

#### Article 214

The Assembly has the following powers:

1. Approve the regulations for administration of the building, which is formed according



to the typical regulations approved by the Council of Ministers.

2. Create the reserve fund for common expenses, and determining its annual sum.

3. Approve the bids for expenses which has decided to do during the year, and also the division of their sum among co-owners.

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

4. Nominate when judged necessary, the person who cares for the building defining his competence and his salary.

5. Authorise the executive to insure, within reasonable bounds, the objects which are co-owned property, and also to make other needed contracts for maintenance, repairs, and normal improvements, or, in case, of major improvements or renovation of the object.

#### Article 215

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

### **Legal claims against the Assembly Decisions**

#### Article 216

When an assembly decision is illegal or touches 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 the decision, within 30 days from the date of the decision. Presentation of the indictment does not suspend the decision of the assembly, except when the court decides otherwise.

### **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 to the good of all co-owners and for the changes that are decided by the most 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 amounts, the expenses are divided in proportion with the use which is made by each of them.

2. Not to construct on his floor or in his part of the floor, that is specifically owned by

him anything, which can damage the co-owned objects of the building.

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

4. Not to do, without the prior permission of the assembly, in his floor or in his individual unit that is in his ownership, any extension or changes which can affect the outside appearance of the building.

### **The New Extensions over the top floor**

#### Article 218

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

#### Article 219

The giving of permission is expressly forbidden to undertake extensions or such actions over the top floor if the physical conditions of the building do not allow such extensions.

The co-owners can oppose the permission which is given by the competent state agency for the construction of extensions or other 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 negatively affect the architectural appearance of the building.

#### Article 220

They who are allowed to construct an extension or other actions 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 a part of it which is not less than three fourths of its total value, each of the co-owners can ask to sell by auction the land and the materials, except when decided otherwise.

When the building is damaged less than mentioned above, the Assembly will decide for the reconstruction of the common objects of the building and each of the co-owners is obliged to contribute in proportion to his rights over the 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 a valuation which is to be done.

## **B. Joint Ownership among members of a farm family**

### Article 222

The property of the farm family is jointly owned by its members, who through their labours or other means, have contributed in the creation and increase of the farm economy.

### Article 223

The farm family is composed of persons who are related by kin, marriage, adoption or through being accepted 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 simple things of the member's personal use, also 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, unless it has been allotted to the member as personal property.

### Article 227

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

- a) the family common property;
- b) the number of family owners;
- c) his contribution in the creation or increase of the family property based on its quantity or its efficiency and also the efficiency of work and assets rendered in the creation and preservation of the farm economy.

### Article 228

The allotment of the farm family property, is done according to the determined rules in

Article 207 of this Code.

When the share is requested by only one member it is valued and paid 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 kind, with the condition that the agricultural land that remains to the remaining family members should not be less than a minimal standard for cultivation.

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

#### Article 229

The farm family is responsible for the illegal acts done by its members, during the exercise of functions which derive from the economical 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 indebted 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 in the Family Code.

## TITLE IV

## AUSUFRUCT≡

### CHAPTER I

#### GENERAL PROVISIONS

#### THE CONTECT OF USUFRUCT

#### Article 232

Usufruct is the right of a person to enjoy a property which is under the possession of

another, with the obligation of a good maintenance of it.

The way of creation of usufruct.

#### Article 233

Usufruct is established (created) by law or legal transaction. It can be acquired even through the acquiring prescription.

The duration of usufruct

#### Article 234

Usufruct can be with or without terms, but in any case it can not overcome the life of usufruct.

When the right of usufruct is enjoyed by a legal person, it can be not longer than 30 years.

The way of establishment (creation).

#### Article 235

The usufruct established by legal transaction must be done by a notarial act, while when it is acquired by will there is acted according to the appropriate provisions. The usufruct over immovable property must be registered in public registries.

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 usufructuaries, remaining ones, in proportion to parts. It continues this way until the cessation of last usufructuary.

### CHAPTER II RIGHTS SOURCING FROM USUFRUCT.

The limitations of enjoyment of property in usufruct

#### Article 237

The usufructuary enjoys the property put in usufruct, but can not change the economic destination it has initially of usufruct without the assent of owner and without the authorization of court of district, when the owner and usufructuary do not agree.

During the continuity of usufruct or its end, the usufructuary can take off the additions done to property, in the conditions of first paragraph of this article, which (additions) can be taken off without damaging the thing, turning it back to its initial condition, except when it is

differently foreseen in the act of foundation.

#### Improvements of thing in usufruct.

##### Article 238

The usufructuary, at the termination of usufruct, has no right to demand recompositions for the improvement done to the thing during the use even if its value has increased, except when it is differently foreseen in the act of foundation.

The addition of value can be compensated with the damages that would be caused to the thing without the fault of usufructuary.

When there is no place for compensation, the usufructuary can take off the additions, without damaging the thing, except when the owner accepts to pay their value, as they would be separated from the thing.

Appertaining of fruits.

##### Article 239

To usufructuary belong the natural fruits and civil fruits produced by the thing during the continuity in time of usufruct.

The natural fruits which were not separated from the thing at time when started usufruct belong to usufructuary and vice versa when they are not separated when usufruct ends, they belong to owner.

#### The transferr of the right of usufruct

##### Article 240

The usufructuary can transfer to another this right for a certain period or for all time it is on, except when in the establishment act it is differently foreseen.

The transfer must be writtenly announced to owner, otherwise the former usufructuary and the person who has acquired such a right are solidary responsible to the owner.

#### The right of alienation (tjetersim, alb.)

##### Article 241

The usufructuary has the right to alienate things object of usufruct at the measure they have the destiny to be alienated and in accordance to their nature. In other cases the usufructuary can not alienate things in usufruct without the assent of owner or authorization of the district court, except when it is differently foreseen in the establishment act. The authorization must be not given when there are affected the interests of owner, usufructuary or third person.

#### The substitution of the thing in usufruct.

##### Article 242

When things in usufruct are alienated or substituted by other things these belong to the

owner and temporarily are object of usufruct. The above mentioned rule is valid for anything which comes from the gather of obligations object of usufruct, from the compensations for the recompensation of damages or from the disvaluation of property, when they substitute or improve the things object of usufruct.

Investment  
Article 243

The owner and usufructuary must be in accordance that the money object of usufruct will be invested in a fruitfull way or expesed in the interest of other property in usufruct.

The giving by rent.  
Article 244

The usufructuary has the right to give by rent things in usufruct, except when it is differently foreseen in the establishment act.

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

When the usufruct ceases, the rents for a term for more than 5 years are valid only for 5 years since the day the rent was on (or usufruct ceased).

The enjoyment of servitudes  
Article 245

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

### CHAPTER III

#### OBLIGATIONS SOURCING FROM USUFRUCT

The substitution of damages.

Article 246

The usufructuary is obligated to recompensate the value of the lost thing or of damage it received, except when he proves that they are caused not because of his fault. He is obligated to substitute things which according to usufruct he had no right to consume.

Inventories  
Article 247

The usufructuary takes the things in the conditions they are before usufruct. Things in usufruct are taken in delivery by inventory done with a notarial act or with the verification by notary, in the presence of owner, after he was announced in an appropriate term. It is the right of parties that in inventory must be noted all details which are related to the definition and condition of thing taken in usufruct.

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

Periodical announcements.  
Article 248

The usufructuary is obligated to send to owner at the end of each year a detailed written announcement from him for things which do not exist any more and for the things which have substituted them, and also for the profits from things in usufruct which do not enter in the category of fruits.

The giving of guaranty  
Article 249

The usufructuary is obligated to give to the owner a written guaranty for the fulfilment of obligations coming from usufruct, except when in the act of establishment is discharged this obligation, or when the interests of owner over things in usufruct are insured good enough from an institution charged with this duty.

The parents who have the legal usufruct over things under the ownership of their children are excluded from the giving of such a guaranty.

When the usufructuary is discharged from the obligation of giving the guaranty, the owner acquires the right to demand from him that he must be told every year the things given in usufruct or he must be informed by an announcement of credit institution for the money or vouchers which are deposited.

The usufructuary can not acquire the possession of things put in usufruct without fulfilling the obligations which source from this article.

The consequences of nongiving the guaranty.  
Article 250

When the usufructuary does not give guaranty, there are taken measures for the administration of things in usufruct. The immovable properties are given by rent or are entrusted to an administrator choosed in agreement between the owner and administrator, and when such



an agreement is not reached then the district court decides the administrator.

The usufructuary has the right to keep as his or family's habitation place, an apartment ( or smth like that ) which is included in usufruct. The money which are included in usufruct are invested with interests.

The immovable properties which are damaged or are old from the use or food properties which risk to go bad, are sold and their value is given with interest or is used for things in usufruct.

The usufructuary can require to be left to him movable property enough for personal use.

#### The expenses for maintenance

##### Article 251

The expenses needed for the maintenance, to keep and to administrate of property are on the charge of usufructuary. On his charge are also the expenses for unusual repairments, when they come from the unfulfilment of his obligations toward the thing 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, then the usufructuary makes them with his expenses which are liquidated until the termination of usufruct. The usufructuary has the right to keep the repaired thing until the liquidation of his expenses.

#### The insurance of usufruct.

##### Article 252

The usufructuary must insure things in usufruct on the favour of the owner for the risks they are usually insured or obligated by law. In case of damage the usufruct is extended over the paid recompensation (insurance).

When usufruct does not fulfil such an obligation, the owner has the right to do himself the insurance of property and the usufructuary is obligated to pay the respective (appertaining) expenses.

#### The expropriation of things in usufruct.

##### Article 253

When the property is expropriated for public interests, the usufruct passes over the appertaining recompensation.

#### The payment of taxes and other obligations.

##### Article 254

Taxes, imposts, recompensations, ground rents and other obligations, yearly ones, which are related to incomes during usufruct are on the charge of usufructuary.

## CHAPTER IV

### THE TERMINATION OF USUFRUCT.

#### Article 255

Usufruct ends:

- by the death of usufructuary or cessation of usufructuary legal entity;
- by the termination of term decided in the establishment act;
- by the unification of qualities of owner and usufructuary in a sole person;
- by the complete destruction or the loss of thing given in usufruct;
- by non usage of usufruct continuously for twenty years.

The cessation of usufruct.

#### Article 256

The usufruct can cease when the usufructuary abuses with the right and does not fulfil the obligations which source from usufruct. Otherwise, the court can order the usufructuary to give guaranty according to the circumstances, in case when he is discharged from such an obligation, or by the request of owner is left to him the administration of property in usufruct or to another person or even the giving by rent thing.

The renouncement from usufruct.

#### Article 257

The usufructuary can demand that by his expenses he is given the possibility to renounce from usufruct because of the burden of obligations which source from usufruct.

The return back of things in usufruct.

#### Article 258

When usufruct terminates, the usufructuary and his heirs are obligated to put at the disposal of owner the things put in usufruct.

## TITLE V

### USE AND ABITATION

#### Article 259

The person who has simply the right of usage over a thing uses it and enjoys its fruits at the amount he needs for himself and his family.

When the object of the right of usage is an habitation, the person has the right to habitate there according to necessities of his and his family. The thing or habitation which is under use according to this provision can be not alienated, burdened or used by other person.

## Article 259

Provisions related to usufruct are applied even for the right of usage and habitation, for so long these rights are in concordance.

## TITLE VI

### GENERAL PROVISIONS

#### Article 261

A predial servitude consists of a burden imposed on land for the utility of other land belonging to a different owner.

#### Article 262

Servitude is established by law or man=s will.

#### Article 263

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

#### Article 264

The owner on whose favour servitude is put is obligated to recompensate to the owner of servient property the damage caused to him from the establishment of servitude.

## CHAPTER II

### COMPULSORY SERVITUDES

#### Article 265

The owner of property according to law has the right to demand from the owner of another property the establishment of servitude, in lack of agreement he can be directed to the court.

The compulsory servitude can be established even by the act of state organ, in cases foreseen by law.

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

#### Flow of waters.

#### Article 266

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

The water flowing on a below land can be kept by the owner of the higher land at the quality which is enough and necessary for this land.

#### Article 267

In cases when the slopes and sides of a property which served to present waters are destroyed or damaged, and when it comes necessary that because of waters there must be constructed protecting units, and the owner does not accept to construct or repair, then the damaged owners can construct or repair them by their own expenses. These constructions and repairs must be done without causing any damage to owner of serviant land and respecting the special rules when such ones exist. When the owner of serviant land has contradictions, the disagreement is solved by the court.

#### Article 268

The provisions of the above mentioned article are applicated even when it is necessary to make off a barrier of materials formed in another property, or canal, flow of water, draining channel which damages the neighbouring properties.

#### Article 269

The owner who has a source of water in his property is free in its use, but without intruding the rights acquired by the owner of lower property according to title and prescription.

#### Article 270

In case when a flow of water prevent the neighbouring owners to enter in or prevents the contiunity of drainage or irrigation, the ones who use this flow are obligated that in proportion to profits earned by the water to construct and maintain the bridges and other communicating means, and also the subterranean pipes and other things of this nature in order to continue the drainage and irrigation.

#### Article 271

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

When from this flow come damages, he has the right to demand the recompensation and the taking of measures in order to avoid it in the future.

#### Servitudes sourcing from constructions.

#### Article 272

The rules for constructions of habitations and other constructions the distance between them, the receiving of light and sight, the settlement of balconies and other constructions of this nature are (regulated) provided by special law respecting the rights of the owner foreseen in this code and other certain special laws.

#### Servitudes which source from receive of water.

#### Article 273

The pass of waters through other's property must be done in the most appropriate and suitable way in order to cause less 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 recompenations mentioned in the above mentioned provision is done with the half of this value, with the obligation that at termination of term everything is resettled at the previous condition.

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

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

#### Article 275

When the pas of waters goes by penetrating public streets (ways) or rivers and other public constructions, there must be applicated the rule foressen in special provisions.

#### Article 276

When in a house or its environment there is lack of water necessary for the life of people and livestock, and there are no ways to secure it differently, or there are needed great expenses, the owner of the neighbouring land must permit that a surplus quantity of the water must be used for the above mentined necessities, affording the value of the required water and expenses which must be done for this aim and when there is the case he must recompesate the damage which can be caused.

#### Servitude of passing through Article 277

The owner who has no way out in the public way and can not secure it except by great and difficult expenses, has the right to have a passing way from the neighbouring land in order to make a suitable use of his property.

The pass must consist on the shorter way to the public way and with less damages for the servient land.

This provision is applicated even when the owner, to whom is recognized the right of passing in other=s property, demands the widening of the way for the means, including here even 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 thing. He must allow the person to search for and to take the livestock or any of his things which casually are there or as a consequence of wind, water, avalanches and other major forces, things which are in his land or are united to his things.

The owner can not allow the entrance when he assumes to deliver by himself the thing lost in his land. When there is the case, the owner of land is recompensated for the received damage.

#### Article 279

The person who wants to pass in the other's land must pay the value of the occupied land, without reducing other taxes and burdens related to land, and must pay the recompensation for the caused damage including the damage which comes from the interruption of land, from its non usage, from the deposition of materials and throwing of residues. The owner of servient 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 and telegraphic or electric wires and cables and other installments of this nature, but only when there are no other possibilities to construct these things or when they are done without grat expenses. When the owner receives damages, he has the right to be recompensated.

CHAPTER III

VOLUNTARY SERVITUDES

Article 281

The owner can establish on his properties or to their utility any kind of servitude, with the condition that it must not contradict the legal order (legislation in power).

The voluntary servitudes are created by contracts or by will.

Article 282

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

Servitudes are non continual when during their exercise is demanded the performance of present acts of man as the right to get the water pasturage of livestock and others of this nature.

The servitudes can be apparent or nonapparent.

Nonapparent are the servitudes for which are not needed permanent and visible works destined for their exercise.

Article 283

The continual and visible servitudes are created by title or by a limited period of 10 years.

The invisible continual servitudes and non continual servitudes, apparent or nonapparent, can not be created but only by title.

Article 284

When two properties extinguish being under the ownership of a person the servitude is considered that it exists in an active manner or passive manner to utility or against each separated property, except when there is a contrary agreement.

CHAPTER IV  
MANNERS OF EXERCISE OF THE SERVITUDE

Article 285

In the right of servitude is included everything which is necessary for its usage.

Article 286

The owner can not impose the property with servitudes, which intrude the right of usufructuary, without the assent of usufructuary.

Article 287

The servitude on a property which belongs to some 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 in force when the other joint - owners, together or separately, have given their approval for its establishment.

Article 288

The person who has a right of servitude must use it according to the title or possession of his. When there are doubts about its extension and manner of its exercise, the servitude is considered established in manner to fulfil the necessities of the dominant property, burdening as less as it is possible the servient property.

Article 289

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



## Article 290

When the property, on which utility the servitude is established, is to go under apportion, servitude will serve to each part, with the condition that the burden of servient land must be not more heavy.

## Article 291

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

But if the conditions have changed and the owner of servient property is burdened or prevented in the exercise of his ownership rights, he can demand to the owner on whose utility is put the servitude the change of the place of servitude.

This right is possessed even by the owner of the other property, when there is proved that this change brings utility and does not harm the servient property.

## The protection of servitude Article 292

The person who exercises a servitude has the right to demand judicially from anyone who contradicts this right, requiring according to the case its reestablishment (complete one), the cease of intrudes made to him and the re-compensation of the received damage.

## CAPTER V

### A EXTINGUISHMENT OF SERVITUDES A

## Article 293

Servitude extinguish:

- a) when in a sole person is united the ownership of dominant property in that of servient property;
- b) when there are used for no longer than ten years;

The term of prescription for non-continual servitude start to be on from the day when the servitude has ceased its usage, while for the continual servitude from the day when is done a work or is verified a fact which prevents the exercise of servitude.

For the effect of extinguishment of servitude is accounted even the time it was exercised by the above mentioned holder of title.

- c) when things are damaged or consumed at that degree to be no more used for their intention.

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

#### Article 294

When the domonat property is under joint - ownership, the usage of servitude by one of joint - owners interrupts the prescription even to the other joint - owners.

#### Article 295

The suspension or interruption of prescription on favor of one of joint - owner effects on the others too.

### TITLE VII

#### PROTECTION OF OWNERSHIP

##### THE ACTION FOR THE RETURN OF THING

#### Article 296

The owner has the right to bring into action against in order to demand his property from any ilegal possessor or holder. This right is possessed even by any joint - owner for the joint - property, in order to be given to all joint -owners.

#### The right of possession for the incomes

#### Article 297

The possessor in good faith deserves the separated natural fruits and the gathered civil fruits which are demandable until the day he is announced that he is not the legal possessor, or announced of the action of owner for the demand of the thing. He is not obligated to re-compensate the owner for the losses, damages, impossibility of returning back the thing for any other reason, but after that date he is responsible for the gathered fruits or the fruits which he had to gather, by acting with care until the time of return of thing, for re-compensation because of usage of thing and for the loss, harm and impossibility of returning back of thing because of his fault.

#### Article 298

The possessor in bad faith for all time of possession is obligated to return back to the owner together with the thing even the separated natural fruits and the gathered civil fruits which have become demandable, and other incomes he would gather, and re-compensate the owner for the usage of thing and for the loss, harm and impossibility of returning back the thing even if he has no fault.

He is discharged from the responsibility when he proves that the damage would take place even if he delivered the thing 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 thing and utility expenses, at the amount they increased its value, if it continues to be on the time of return of the thing.

The possessor in good faith has the right to reduce from the incomes of thing the expenses recognized to him according this provision. He has the right to keep the thing 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 thing.

Article 301

The possessor in good and bad faith, except the expenses recognized by this code articles, have no right to demand the payment of other expenses, but they have only the right to take off from the thing 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 intrudes his property, but without divesting from the possession, the cease of intrusion and that it will be not repeated in future, and, when it is the case the re-compensation of damages which he brought.

The denouncement of a new labor construction and of a possible harm.  
Article 303

The owner, the person who enjoys another right in rem or the possessor, who have reasons to be preoccupied by a new started construction of others in their or another=s land from which the thing under ownership or possession can receive harm, can be directed to

the court with the condition that this construction is not over or there has not pass a year from its start.

The court according to the case can decide the prevention of work, demolition or its reduction and when there is the case even the recompensation of damage, or it , the court, refutes the action by ordering the recompensation of damage when it results that the work was unjustly prevented.

## TITLE VIII

### POSSESSION

#### CHAPTER I

##### GENERAL PROVISIONS The definition of possession

###### Article 304

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

##### Kinds of possession.

###### Article 305

The possession of a not owner person can legal or illegal. The possession is legal when the possessor gets the possession from the owner, based on a legal transact 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 has not known or was not obligated to know that his possession was illegal.

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

Presumes over possession.  
Article 308

The nowadays possession does not presume the previous possession except when the possessor has a title which consist on basis of his possession.  
In this case the possessor is presumed that it was possessed from the date of title.

Manner of the acquisition of possession  
Article 309

The possession is acquired through legal transact, by inheritance or occupation.  
The possession continues to heir since the opening of inheritance.  
The one who has acquired the possession in good faith can unite to his possession even the time of possession in good faith of person from whom he has acquired the thing.

## CHAPTER II

### THE PROTECTION OF POSSESSION AND MAINTENANCE

#### Protection at the moment

##### Article 310

The possessor has the right to contradict at the moment, by applying protection, any act which intends intrusion or divesting from possession. When the thing is taken by violence or furtively the possessor has the right to take it immediately or during, but by avoiding acts of violence which do not agree with the circumstances of event.

##### Article 311

The right for the protection of thing is recognized even to the maintainer of the thing, against any other person, except against the one from whom these rights come from.

#### The cease of intrusion to possession Article 312

The person who is intruded during the possession of a thing can demand within six months the cease of intrusion to possession and that it must be no more repeated in future.

When the possession is acquired by violence or furtively, the action can be

brought against within six months from the day when furtivity and violence has ceased.

The cease of intrusion can not be demanded by the person who has violently and furtively acquired the possession.

The resettlement in possession.  
Article 313

The possessor who unjustly is disposed has the right to demand within six months the resettlement of him in possession.

This right does not belong to the possessor who has acquired the possession violently and furtively.

When the disposition is done in a conspirative manner, the term to demand the resettlement of possession starts from the day when was discovered the dispossession.

Article 314

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

Article 315

During the judgement of an action for the cease of the intrusion or resettlement in possession, the defendant can not pretend that he himself is the owner, or 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 property (inheritance) of the deceased person to one or more persons (heirs) according to the rules determined in this Code.

### **Article 317**

Inheritance by law is applied when the person leaving the inheritance has not made a will or has made it only for a part of his property or when the will is entirely or partially invalid.

### **Time and place of opening the inheritance**

#### **Article 318**

The inheritance is opened when the person leaving the inheritance dies, and it is opened in the place where he had his last residence. When that is not known, the inheritance is opened in the place where all or most of his property is located. It is regulated in conformity with the law of the time when it is opened.

#### **Article 319**

Any agreement by which rights issuing from an unopened inheritance are disposed of or used is invalid.

### **Capacity to inherit**

#### **Article 320**

A person has capacity to inherit who, at the time of the opening of the inheritance, is alive or has been conceived before the death of the person leaving the inheritance and is born alive.

It is presumed that a person has been conceived at the time of opening the inheritance when that person is born within 300 days from the death of the person leaving the inheritance.

#### **Article 321**

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

## **Unworthiness**

### **Article 322**

One is considered unworthy and cannot inherit when:

- one has intentionally killed or attempted to kill the person leaving the inheritance, his spouse, his children or his parents;
- one has given false evidence or has officially denounced the person leaving the inheritance for committing a penal act, when the penalty provided for by law for such penal act is the death penalty or ten years of deprivation of freedom, or when the denunciation or the evidence has been declared false by a penal trial;
- one who by deceit, under threat or by violence has urged the person leaving the inheritance to make, change or invalidate the will or who has himself drawn up a false will or has used it for his own interests or for those of others;
- one has behaved towards the person leaving the inheritance in a degrading manner or has maltreated him.

### **Article 323**

Unworthiness of the parent or of another person born earlier does not exclude a child or one born after him, when they inherit themselves as well as when they come to inheritance by substitution. In such an event, the unworthy parent cannot enjoy the rights of usufruct and administration, which the law grants to parents over the property of their children, over the inherited share which comes to his children.

## **Pardon of unworthiness**

### **Article 324**

The person leaving the inheritance has the right to pardon the person unworthy to inherit, on condition that the pardon is made expressly by notarial document or by will, or, although the pardon is not expressly made, the person leaving the inheritance has noted in his will that he has recognized the unworthiness and nevertheless appoints him as heir.

## **Liabilities of unworthy heir**

### **Article 325**

The person excluded from inheritance as unworthy is liable to return the fruits and any other income received after the opening of the will.



## **Substitution**

### **Article 326**

Substitution allows the placing of substitutes in the place, degree and with the rights of the person being substituted.

### **Article 327**

Substitution in straight line of those born after is made without limitation and in all events, be it when the child of the person leaving the inheritance competes with those born after another child who has died earlier, as well as when the children of the person leaving the inheritance have died before him and those born after them are or are not of the same degree, or of their number according to birth.

### **Article 328**

There is no substitution for the earlier born in straight line; the nearest excludes the others.

### **Article 329**

In indirect line, substitution is accepted in favor of the children of those born after, of the brothers and sisters of the person leaving the inheritance, even if they compete with their uncles or aunts or with those born after them of the same degree or not.

## **Inheritance entitlement**

### **Article 330**

Inheritance is gained on the death of the person leaving the inheritance.

### **Article 331**

On the opening of the inheritance, the right of possession of the person leaving the inheritance on the inheritance property is transferred to the heir, without the need for him to seize it.

### **Article 332**

The heir may gain all the property of the person leaving the inheritance or a part of it, or only a determined object or another property right.

## **Renunciation of inheritance**

### **Article 333**

Renunciation of inheritance must be made by a written statement, which is registered in the court of the district of the place where the inheritance is opened, or verbally in judicial minutes.

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

### **Article 334**

The person renouncing the inheritance is considered as to have never been called to inherit. Renunciation of inheritance does not exclude the heir from the right to request legacies.

### **Article 335**

Renunciation of inheritance may be made within three months from the opening of the inheritance and, when the heir is abroad, not later than within six months.

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

The time period for renouncing the inheritance is suspended for reasons that are valid for a statutory barring of the lawsuit.

### **Article 336**

When it is not known whether there are 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 or on the request of any interested person, determines a time period, not less than six months from the opening of the inheritance, within which they must declare if they renounce from inheritance. If no such declaration is made within this time period, it is presumed that the person leaving the inheritance has left no heirs.

### **Article 337**

Renunciation of inheritance, made before the opening of the inheritance, or when it is made on condition, or under a time period, or for a part of the inheritance, or to the benefit of one of the other heirs, is invalid.

### **Article 338**

No renunciation of inheritance can be made when, during the three month time-period, the heir through his actions has behaved as heir.

Actions performed only to safeguard the inheritance property are not considered as actions of an heir.

Heirs who have removed or hidden objects from the inheritance lose the right to renounce and remain heirs even if they have declared renunciation from the inheritance.

### **Article 339**

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

### **Article 340**

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

## **Payment of liabilities**

### **Article 341**

The heirs are responsible for the liabilities on the inheritance property in proportion to their shares, up to the value of the inheritance property they have received.

Liabilities on the inheritance property are considered to be those liabilities of the person leaving the inheritance, the expenses for his burial, and the expenses necessary for the safeguarding and administration of the inheritance property until it is transferred to the respective heirs.

## **Article 342**

When, in an inheritance, one or several immovable properties are burdened by mortgage, each heir has the right to request that these properties be relieved from mortgage before the composition of the inheritance shares are made.

Nevertheless, an heir who has fulfilled a liability issuing from a mortgage placed on an immovable property in his inheritance share, has a right of return from the other heirs, in proportion to their shares.

## **Measures to secure the inheritance property**

### **Article 343**

When it is considered necessary to protect the interests of the heirs, or of persons who may benefit from dispositions by will, or of the creditors of the person leaving the inheritance or of the state, the court of the district where the inheritance is opened, on its own or on the request of any interested person, shall order the executor or a notary to make an inventory of the inheritance property.

The executor or the notary who makes the inventory may appoint a person as guardian of the inheritance property.

As long as the above measures have not been removed, an heir who may have started to administer the inheritance property cannot alter that property, except by permission 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 when the legal heirs or heirs by will have renounced their inheritance and their heirs are not known, the court of the district where the inheritance is opened, on its own or on the request of the parties, shall appoint a guardian for the inheritance.

A summary of the decision to appoint a guardian is published in Fletorja Zyrtare.

### **Article 345**

The guardian demands the making of an inventory of the inheritance property, takes measures to administer the property, exercises the right of lawsuit and answers the lawsuits related to such a property, deposits in the bank the money of the inheritance or

which results from it, performs other similar actions and renders an account at the end of administration.

#### **Article 346**

With the approval of the court the guardian pays the liabilities burdening the inheritance property, executes the liabilities related to legacies and burdens and, when considered necessary, even alters inheritance property.

#### **Article 347**

The task of the guardian ceases with the appearance of the heir.

### **Proof of inheritance**

#### **Article 348**

The right to be an heir, and the heir's share in the inheritance are determined in the proof of inheritance, issued by the court according to rules determined in the Code of Civil Procedure.

### **Lawsuit to request inheritance**

#### **Article 349**

The heir may request, by lawsuit from anyone who possesses inheritance property entirely or in part, his acknowledgement as heir and the delivery of the inheritance property and of any property earned through it, in conformity with the rules on possession in good faith and in bad faith.

#### **Article 350**

A lawsuit for requesting the inheritance may also be brought against the person who holds the inheritance property based on provisions of the will, even when that holder is the state. The person who has gained in good faith any thing of the inheritance property from such an heir is not obligated to return the thing even if it were gained by counter-compensation.

The possessor in good faith who has altered also in good faith things from the inheritance property, is obligated to return to the plaintiff heir the price of the thing accompanied by the relevant invoice. When the latter has not been paid, the right to request payment passes on to the plaintiff heir.

### **Article 351**

A lawsuit for requesting inheritance is not barred by statute, except for the effects of statutory limitations for separate properties.

### **Article 352**

Provisions related to possession are applied also for the possession of property in inheritance with regard to the request for the fruits, for the expenses made or for the 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 inheritance property, even if the person leaving the inheritance ordered differently.

#### **Article 354**

The division of the property may be made by agreement of the heirs and, when they do not agree, by the competent court for the consideration of lawsuits resulting from inheritance.

#### **Article 355**

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

#### **Article 356**

In the composition of the belonging shares, each of them must, to the degree possible, be constituted by the same quantity of movable or immovable property, real rights or credits, which have the same value in kind.

#### **Article 357**

When creditors have sequestered the movable property of the inheritance property, or have opposed the division according to article 206 of this Code, or the majority of the

heirs consider it necessary to pay the liabilities burdening the inheritance, the movable property shall be sold at auction.

#### **Article 358**

The spouse of the person leaving the inheritance has the right to request the share belonging to him in the common property gained by work during marriage.

The co-heirs, who by their work or their income have helped in incrementing the property left as inheritance, have the right to request their share in the above-mentioned incremented property, according to contribution made.

#### **Article 359**

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

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

### **TITLE II**

#### **INHERITANCE BY LAW**

#### **Article 360**

The legal heirs are children, the children of the children, the spouse, parents, brothers and sisters and children of brothers and sisters deceased before, grandfather and grandmother and other persons born before, persons unable to work in charge of the person leaving the inheritance, his other kin up to the sixth degree as well as the state. These are called in inheritance according to the order determined in this Code.

#### **Article 361**

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

When one of the children has died before the person leaving the inheritance, has become unworthy of inheritance, has renounced inheritance, his children take his place by substitution and, when for the above reasons there cannot be heirs, those born after them

come into inheritance without limitation. In such an event, the share of the parent who does not inherit is divided among those born after him in equal parts.

When besides the spouse there are no other heirs of the first row, those of the succeeding row as set forth in article 362 of this Code are called in inheritance and, when there are no such, heirs of the next succeeding row as set forth in article 363 of this Code are called.

In any event the spouse receives 1/2 of the inheritance.

When there are no heirs of the above-mentioned rows, the inheritance remains to the spouse living afterwards.

#### **Article 362**

Children born outside marriage, when parenthood is duly recognized, as well as adopted children, are equal to legitimate children.

The adopted child does not inherit from the family of his origin, nor does it inherit from him.

#### **Article 363**

In the second row, the parents of the person leaving the inheritance and the persons unable to work, who, at least 1 year before the death of the person leaving the inheritance, lived together with him as members of his family and in his charge, are called in inheritance.

#### **Article 364**

In the third row are called in inheritance the persons unable to work in charge of the person leaving the inheritance who are mentioned in article 363 of this Code, when there are no heirs of the second row, the grandfather, the grandmother, brothers and sisters, as well as the children of the brothers and sisters who have died before. The above-mentioned inherit in equal parts, without making distinction between brothers and sisters of the same father or of the same mother, between the grandfather and the grandmother on the father's or mother's side.

#### **Article 365**

When the person leaving the inheritance has left neither persons born after, nor parents or other persons born before, nor brothers or sisters, nor persons born after them, the property of the person leaving the inheritance passes on to his nearest kin, without



distinguishing between father's and mother's line, but in any event not further than the sixth degree.

#### **Article 366**

When the person leaving the inheritance has not left any heirs up to the sixth degree, the state is called in inheritance.

#### **Article 367**

The state is not responsible for the liabilities of the person leaving the inheritance beyond the value of the property gained.

### **Right of addition for household things**

#### **Article 368**

The heirs who lived together with the person leaving the inheritance at the time of his death, when called in inheritance, besides the share belonging to them take the commonly-used household goods, except when the person leaving the inheritance has otherwise disposed in the will.

### **Inheritance according to rows**

#### **Article 369**

Heirs of a succeeding row are called in inheritance only when there are no heirs of the preceding row or when all of them have become unworthy or have renounced from inheritance or have been excluded from inheritance, except when from the heirs of the second row remains the heir unable to work and there are heirs of the third row.

### **Right of addition**

#### **Article 370**

When one of the co-heirs called in inheritance has died before the person leaving the inheritance, or has become unworthy, or has renounced from inheritance, or has been excluded from inheritance and there are no persons who inherit by substitution, the share that belongs to him is added to the shares of the co-heirs of that row.

## **Heir unable to work**

### **Article 371**

Heirs unable to work are those who at the time of death of the person leaving the inheritance have not completed sixteen years, or eighteen years when they continue studies, males who have completed sixty years and females who have completed fifty-five years, as well as, regardless of age, those of the first and the second group who are disabled.

## **TITLE III**

### **INHERITANCE BY WILL**

#### **Meaning of the will**

##### **Article 372**

The will is a one sided legal act performed by the person leaving the inheritance himself, by means of which he disposes of his property for the time after his death.

The will cannot be made by two or more persons in the same document, nor to the benefit of a third person, nor by reciprocal dispositions.

#### **Capacity to dispose by will**

##### **Article 373**

Any person who has completed eighteen years as well as a woman under that age, when she is married, may make a will.

Minors between fourteen and eighteen years may make a will only for the property gained by his work.

The person to whom the court has removed the capacity to act, as well as the person who at the time of making the will is not in condition to understand the meaning of his action, cannot make a will.

## **Capacity to gain by will**

### **Article 374**

Persons are incapable of gaining by will who are incapable to inherit by law except the non-indirect children of a determined person and alive at the time of the death of the testator even if those children were not yet conceived.

### **Article 375**

The guardian cannot in any event gain by the testamentary dispositions of the person in guardianship when they have been made before the approval of the final calculation, even if the testator had died after the approval of the final calculation.

Dispositions made in favor of the guardian are valid when he is born before, after, or is the brother, sister or spouse of the testator.

### **Article 376**

Testamentary disposition in favor of the incapable persons mentioned in article 374 and 375 of this Code is invalid even if it was hidden under a form of contract with compensation or if it was made under the name of an interposed person.

Interposed persons are called: the father, the mother, those born after and the spouse of the incapable person.

## **Appointment of the heir**

### **Article 377**

The person leaving an inheritance who does not have persons born after him or before him, or brothers or sisters, has the right to dispose of his property by will in favor of any natural or juridical person.

## **Exemption form inheritance**

### **Article 378**

The person leaving an inheritance, even without appointing heirs in the will, may exclude from legal inheritance one or more of his heirs.

## **Legal reservation**

### **Article 379**

The person leaving an inheritance can neither exclude from legal inheritance his minor children or other minor heirs who inherit by substitution (article 363, second paragraph), as well as his other heirs unable to work if they are called in inheritance nor affect by will in whatever manner the part which belongs to those heirs on basis of legal inheritance, except when they have become unworthy to inherit.

### **Article 380**

When the testator disposes by testament a usufruct or a life rent, income from which exceeds those of the disposable part, the heirs who have the right to legal reservation may execute this disposition or may resign from the rights to the disposable part.

The same right of choice have also the persons who benefit from the legal reservation in the event the testator has disposed the divested property of a part which exceeds the disposable amount.

## **Substitution**

### **Article 381**

The person leaving the inheritance may determine in the will that, if the heir dies before him or becomes unworthy, or renounces from the inheritance, the inheritance be taken by one of the other heirs indicated in articles 361, 363, 364 of this Code and, when there is no one of them, by another person.

But the person leaving the inheritance cannot obligate the heir to safeguard and, after his death, to deliver to another person all or part of the inheritance he has received.

## **Right of addition**

### **Article 382**

When the person leaving the inheritance has left all his property to the heirs appointed in the will and one of these heirs has died before him, or has become unworthy, or has renounced from the inheritance and the person leaving the inheritance has not appointed in such event another heir in lieu of him, as well as when one heir is excluded from inheritance, the share that belongs to him is added to the shares of the other co-heirs appointed in the will in the proportion of their inheritance shares.

If some of the heirs have been appointed jointly to a part of the property, the addition is made only between those co-heirs.

### **Article 383**

When the person leaving the inheritance has left by will only a part of his property, even if in this part he had appointed jointly many heirs, the share of one who for the reasons indicated in the preceding article cannot be or does not want to be a heir, passes on to the legal heirs of the person leaving the inheritance.

## **Legacy and burden**

### **Article 384**

The person leaving the inheritance may charge the heir or the heirs appointed in the will, from those indicated in articles 361, 363, 364 of this Code, to give to one or more legal heirs a property benefit from the inheritance, without making them heirs (legacy).

When the person leaving the inheritance, who does not have heirs from those indicated in articles 361, 363, 364, has appointed other persons as heirs in the will, he may charge them with legacies to the benefit of any person.

The provisions of capacity to inherit are valid also for the person to whom the legacy is left.

### **Article 385**

The legatee has the right to request the fruits or the interest resulting from the legacy, from the day appointed to deliver the legacy to him and, in its absence, from the day the lawsuit was commenced by service of notice.

They may be requested from the day of the death of the person leaving the inheritance, when the person leaving the inheritance has expressly disposed or when the legacy is a deposit in money.

#### **Article 386**

The person leaving the inheritance may charge the heir or the heirs appointed in the will to perform any action beneficial to the society or any other action, without giving any right to the person charged for this action (burden).

When the person leaving the inheritance leaves by will his property to the state, its organs, or different entities, he has the right to determine the purpose for which the property must be used.

#### **Article 387**

When the heir charged with the legacy or the burden has died before the person leaving the inheritance, or has become unworthy or has renounced from the inheritance and the person leaving the inheritance has not appointed another heir in his place, for the execution of the liabilities in relation to the legacy or the burden are charged the co-heirs or the legal heirs, to whom are added or are transferred the share of the one who for the above reasons cannot or does not want to be a heir.

If the execution of the liabilities related to the legacy or the burden is closely related to the person who for the above reasons cannot or does not want to be a heir, the legacy or the burden remains without effect.

#### **Article 388**

If among the heirs, none of them is charged by the testator to fulfill the legacy, each heir is obligated to contribute for the fulfilment of his share according to the belonging share.

#### **Article 389**

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

### **Article 390**

When the person to whom the legacy is left has died before the person leaving the inheritance or has become unworthy or has renounced the legacy, and the person leaving the legacy has not appointed another person in his place, the legacy goes to the benefit of the heir charged with that legacy.

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

### **Article 391**

The person to whom the legacy is left has the right to request from the charged heir the execution of the liability in relation to the legacy.

The execution of the liability of the heir related to the burden may be requested by the executor of the will, by the co-heirs, by the relevant state or private organisations.

The liabilities related to the legacy and the burden are executed after the liabilities burdening the inheritance property are executed.

## **Forms of the will**

### **Article 392**

The will is made in two forms: by holograph and by notarial document.

## **Holographic will**

### **Article 393**

The 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 dispositions.

### **Article 394**

The person who is not able to read his own handwriting cannot make a holograph will.

### **Article 395**

Persons who cannot hear (deaf) or who cannot hear and speak (deaf-mute), may dispose by holographic will or by will taken by the notary, in conformity with the rules set forth in the law On Notary.

### **Article 396**

The holographic will may be deposited with the notary for safeguarding in conformity with the provisions of the deposition of documents with the notary.

### **Will by notarial document**

#### **Article 397**

The will by notarial document is edited by the notary and is signed by the person leaving the inheritance in the presence of the notary.

When the person leaving the inheritance does not know how to sign his name, or due to illness or physical handicap cannot sign, the will is signed in conformity with the rules set forth in the law On Notary.

### **Special wills**

#### **Article 398**

In the places where there is no notary, the will may be certified by the chairman or the secretary of the municipality or of the commune.

#### **Article 399**

The will of a person who is in the military service may be certified by the commander of the military unit in which he is a member and when he is hospitalised for cures, by the director of the hospital.

#### **Article 400**

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



### **Article 401**

Disposition by will made on a suspending condition, remains without effect when the person, in whose favor it has been made, dies before the person leaving the inheritance.

### **Revocation of the will**

#### **Article 402**

The will of a later date revokes that of an earlier date entirely or only for the part that is not compatible with the new will.

The will also can be revoked by means of a statement made at the notary by the person leaving the inheritance.

### **Invalidity of the will**

#### **Article 403**

The will is invalid when it is made by a person who cannot make a will (article 373).

#### **Article 404**

The will is invalid when it is not made in the form required by law.

#### **Article 405**

The will is invalid when dispositions are made by will to the benefit of persons who cannot inherit (articles 374, 375).

#### **Article 406**

The will is invalid when disposition by will is contrary to articles 377 and 384 of this Code.

#### **Article 407**

The will is invalid when disposition by will of the person leaving the inheritance exempts from legal inheritance his heirs who are minor or unable to work or affects their legal part.

#### **Article 408**

The will is invalid when disposition by will is made contrary to the law or deceiving the law.

#### **Article 409**

The will is invalid when disposition by will is made under the influence of deceit, threat or violence, or while mentally ill, without which the person leaving the inheritance would not have made such a disposition

#### **Article 410**

When the will is declared invalid by the court, legal heirs are called in inheritance, except when it is the case of addition to the benefit of the heirs appointed in the will according to article 381.

When only some of the dispositions of the will are declared invalid, the other dispositions remain in effect.

#### **Article 411**

The lawsuit on the invalidity of the will or of the disposition by will may be brought by the heir and by any other interested person within three years from the opening of the inheritance.

#### **Article 412**

When disposition by will is invalid because the disposition by the person leaving the inheritance has excluded by legal inheritance his heirs who are minors or unable to work or affects their legal share (article 407), the heir who is excluded from the inheritance or whose legal share is affected, has a right to request to the other heirs, as the case may be, the delivery or the fulfillment of the share belonging to him on the basis of the legal inheritance.

### **Article 413**

For the determination of this share is joined the whole property that the person leaving the property had at the time of his death, deducting from it the liabilities burdening the inheritance and dividing it by the number of the heirs who would have been called in inheritance if the person leaving the inheritance would not have made a will.

### **Executor of the will**

#### **Article 414**

The person leaving the inheritance may charge one or more persons to execute the will.

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

If the person leaving the inheritance does not appoint an executor of the will, its execution is charged to the heirs appointed in it.

#### **Article 415**

The executor of the will must make the inventory of the inheritance property, by inviting to participate the heirs and the persons who benefit from the will.

The executor of the will administers the inheritance property, by performing the action necessary for the execution of the dispositions of the will, but cannot alter the inheritance property, except when the need arises and with the permission of the court, which decides after having first listened to the heirs.

#### **Article 416**

The district court, on the request of the heirs or of the persons having an interest, may discharge from his duty the executor of the will for serious violations of his duty or for incapability in administering the inheritance property.

#### **Article 417**

The powers of the executor of the will are not transferred to his heirs.

## Article 418

When there are several testamentary executors, one of them may, in the absence of the others, act alone, but all of them are jointly responsible for the things entrusted to them, except when the testator has divided the duties.

### PART IV

#### AOBLIGATIONS≡

##### TITLE I

#### AGENERAL PROVISIONS≡

##### CHAPTER I

The definition and derivation of obligations.  
Definition of obligation.

##### Article 419

The obligation is a juridical term through which a person (debtor) is obligated to give something or to perform a certain act on the utility of another person (creditor), who has also the right to demand in order to be given something or to demand the performance or nonperformance of the act.

The derivation of obligations.

##### Article 420

Obligations source from the contracts and law.  
The economic nature of obligation.

##### Article 421

The object of the obligation must have an economic evaluation and must respond to the

interests, even if there are not property ones, of creditor.

The correctness of participants in obligation.

Article 422

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

## CHAPTER II

Solidary obligations

Article 423

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

Article 424

There is solidary obligation only when it comes from the will of parties or when foreseen by law.

Article 425

The obligation is solidary even when the debtors are each of them obligated in different manners or even when the common debtor is obligated in different manners to each of the creditors.

Article 426

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

The solidary debtors are discharged from the obligation even through the giving of a thing on the execution of the obligation from one of the solidary debtors to the creditor.

Article 427

The retardiness of the creditor toward one of the solidary debtors extends the effect to all other debtors.

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

The solidary debtor may not assert personal defences of other debtors to creditor.

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

Article 428

The debtor has the right to make choice for paying one or another solidary creditor, except when he is not prevented before through a written announcement by any one of them.

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

#### Article 429

The renoual of obligation made by the debtor with one of the creditors discharges all other debtors, except when the creditor has kept the rights toward them.

The donation of obligation made to one of the debtors discharges all other debtors. When there is donated part of debtors discharges all other debtors. Are reduced for that much as it is the donated part.

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

#### Article 430

In relations between each other the solidary debtors take part in the liquidation of obligation according to the part each one has.

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

When the solidary debtor who has executed the obligation has not reached to get the part of obligation from a dentor, then it is devided depending from the case between him and other debtors in equal shares.

#### Article 431

The solidary debtors are obligated to face in proportion to their parts all expenses verified as necessary to perform the execution of obligation.

#### Article 432

The solidary debtor who executes the obligation must assert the common defences for all debtors to the creditor, otherwise he losses the right to demand from other debtors the part for the liquidation of obligation they deserve.

Also he losses this right even when he has not announced the other debtors that he has executed obligation and as consequence of this one of debtors has separately executed it himself.

#### Article 433

The interruption of prescription with acts of creditor toward one of the solidary debtors, and the interruption of prescription from one of solidary creditors toward co debtor effect even the other debtors and even the other creditors.

The sopsension of prescription towards one debtor or one creditor, solidary ones, has no effects towards the oters.

The give up from prescription in accordance with article 106 of this Code done from one of solidary debtors does not effect others, while the give up (retire) from prescription by one of solidary creditors has effects toward others.

#### Article 434

The solidary debtor to whom is demanded the payment of his part of obligation, can not assert to debtor who has paid it the prescription of action of creditor, except when he himself and the debtor who seeks the share had the possibility to assert the completed prescription. This paragraphe is not applicated when by agreement the solidary debtors have decided differently.

#### Article 435

In case when the execution of obligation becomes impossible attributable or during the continuity of tardy 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 harm for this reason only by solidary creditors or from each of them, whose fault made impossible the execution of obligation or who have been in tardy. The other debtors remain solidary only for the first obligation.

The retardiness of one of solidary debtors brings no juridical consequences for 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 mentioned kinds separately according to his, creditor=s or a third=s wish. The debtor can not demand from creditor to accept the fulfilment of obligation partly from one kind and partly from its other kind.

#### Article 437

The right of choice belongs to the debtor, except when the law or contract foresees to leave it to the creditor or third person.

The election with the fulfilment of one of the obligation=s forms or by the onnouncement of the election=s declaration to the other part or both parts when the right to be elected belongs to a third.

When right of choice belongs to many persons and they do not agree, then the court decides a term for them. When the choice is not performed during the decided term, then the court performs it.

#### Article 438

1. When in an alternative obligation, the debtor does not execute any of kinds of obligations in proper term, the right of choice passes to creditor.
2. In case when the right of choice is left to creditor and he has not exercised it at the decided term (period) in agreement or decided by debtor, then the choice passes to the last one.
3. When the right of choice is left to a third person and he does not exercise in proper

term, then the choice is made by the court.

When this right is left to some persons, the court decides a term for them. In case when the choice is not made in proper term, then it is performed by court.

#### Article 439

The alternative obligation is simple when one of two kinds of obligation can not become an obligation object and when its fulfilment is made impossible because of the fault of no one from 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 and for his fault. In case when this impossibility occurs because of fault of creditor, the debtor is discharged from obligations when he does not accept to apply the other obligation and demands the compensation of harm.

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 seeks compensation of harm. In case when choice is left to creditor and impossibility is charged to debtor, the creditor can make the other choice or seeks the complete compensation of harm.

#### 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 for this is left to him.

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

### **CHAPTER IV APPORTIONED AND UNAPPORTIONED OBLIGATIONS**

#### **Apportioned obligations**

#### **Article 442**

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



**Unapportioned obligations**  
**Article 443**

When there are many debtors in the same obligation, which is an unapportioned one, all the debtors are called solidary debtors.

The obligation is unapportioned from its own nature and from the aim of the parts in the contract. In such cases the obligation remains unapportioned even for the heirs of the debtors.

**Article 444**

The unapportioned obligations are regulated by regulations that deal with solidary obligations, apart from 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 own nominal value, except when results differently by law or contract.

**Article 446**

The monetary obligation is accomplished in the currency of the country in which the payment is done or in the currency accepted in the contract.

**Article 447**

When the creditor has an open account at the state where the payment shall or might be done, debtor must accomplish the obligation by crediting to this open account the respective sum, except when the creditor has excluded the payment from this account.

The payment is considered made at the moment of its credit to the account.

**Article 448**

The payment is done at the place of residence of the creditor on the date of the payment.

Creditor may establish another place within the borders of the country in which he was resident at the time of payment or at the time in which the obligation was created.

#### **Article 449**

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

#### **Article 450**

The recompense for the damage caused by the delay of the payment of a certain amount of money, consists of matured interests, from the day the debtor's delay began, in the official currency of the country where the payment is done. The percentage of interest is defined by law.

At the end of each year, the matured interests are added to the sum of the obligation upon which 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 incurred a damage greater 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 must be done, debtor has the right to execute the obligation in the currency that has an official exchange rate in the country where the payment must 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 must be done, and when the debtor pretends that he cannot liquidate 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 even when the debtor is obliged to pay in the currency accepted initially.

### **Article 453**

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

### **Article 454**

Article 450 of this Code doesn't take away the right to the creditor to require the recompense for the damage caused by the fact the exchange rate of the defined currency might have changed from the day in which started the delay.

## **TITLE II THE EXECUTION AND THE LIQUIDATION OF THE OBLIGATIONS CHAPTER I THE EXECUTION OF THE OBLIGATIONS**

### **Article 455**

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

### **Article 456**

The obligation for the delivery of a certain object, includes even the care to be taken for its preservation.

### **Article 457**

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

### **Article 458**

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

- a) by delivering to the person who has won their property or to the person who relinquishes his rights.
- b) by charging either the person making the delivery or the post office to make the delivery to the winner, at the place shown by him.
- c) by delivering to the winner or by sending to him by mail, the documents and certification that give him the right to possess the objects.

### **Article 459**

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

### **Article 460**

The obligation may be executed also by a third person, that is not a debtor, except when the creditor is interested to have the execution done by the debtor, or when the creditor is informed about the objection 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 must not be obliged to accept an object different from the one defined in the object of the obligation even if the value of the offered object is bigger.

## **The deadline of the execution of the obligation**

### **Article 463**

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

### **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, it's otherwise.

The execution of the obligation before the end of the deadline is not considered of no value, except when the deadline is defined in the benefit of the creditor.

### **Article 465**

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

- a) he is bankrupt;
- b) he has not given the promised guarantees;
- c) the guarantees that ensure the credit are diminished for 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 done to the creditor himself, to his representative, or to a person authorised by the creditor, by law or by court.

The execution of the obligation done 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 that executes an obligation to a person who according to indubitable circumstances seems to be authorised to accept it, is discharged from the obligation if he proves he has been in good faith.

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

### **The execution towards an unable creditor**

#### **Article 468**

When the execution of the obligation is done to a creditor that is not able to act, the debtor is discharged in the same amount that has gone to the beneficial of the 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 of which deadline has expired, if they are many 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 for 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 and 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 getting 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.

### **The 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 who benefits from this receipt.

#### **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 whose content makes evident 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), with the condition that he writes down 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 declaration in a written form where it is accepted the execution of the obligation. The declaration must be notarial when demanded by law.

#### **Article 474**

When the same kind of payments 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 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 guaranties given for the security of the execution of the obligation and from any other obstacle that may limit the use of the propriety.

## **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 valid.

#### **Article 497**

The new debtor might claim 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 last person.

#### **Article 498**

The agreement by which the debtor and a third person become co-debtors for 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 jointly and severally liable to him.

#### **Transfer the credits**

#### **Article 499**

The creditor may pass his credit to another person even without the consent of the debtor, with the condition that the credit has not a strict personal character and that this transfer is not prohibited by law. In a special way is not permitted the pass of the credit to another person, when this results from the death or harm of health, and 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.

#### **Article 500**

The credit transfers together with the privileges, guarantees and other rights, including the interests for the past time, except when provided differently in the contract. The person that transfers the credit cannot transfer to the other person the possession of the object that is pledged without the consent of the other party. On 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 is not valid.



### **Article 502**

The transfer of the credit affects the debtor and third persons, from the day when the debtor accepted or was informed by the previous creditor or by the new creditor.

The debtor that has executed his obligation before he was informed 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 that the transfer that was notified previously to the debtor, or that was accepted previously by the debtor, with a document where the exact date is written 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 giving the credit.

### **Article 505**

When the transfer of the credit is done with a *baresor [?]* 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 transfer the credit is not responsible for incapability to pay of the debtor, except when he has taken the responsibility to 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 recompense 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 guaranties the capability to pay of the debtor, the guaranty disappears, if the non execution of the credit for incapability of the debtor to pay has come because the new creditor did not pay attention to follow the issue towards the new creditor.

#### **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 THE ANNULMENT OF THE OBLIGATION**

#### **The renewal**

#### **Article 508**

The obligations are annulled with renewal, when the parts by agreement substitute the initial obligation with another obligation different from the first one.

#### **Article 509**

The guarantee [?], pledge, and the mortgage of the first credit are annulled except when the parts explicitly agree for their conservation 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 a title which can be annulled, the renewal is valid in case the debtor has accepted the new obligation, having knowledge of the defects of the initial title.

#### **The donation of obligation**

#### **Article 511**

Creditor's written declaration of obligation's donation, annuls it if to debtor has been given notice about that, apart when the debtor declares within a certain time limit that he does not like to benefit from this donation.

### **Article 512**

When the debtor owns the private document that proves the obligation, its annulment by donation is presumed, except when it is proved that the document has not been restituted by the creditor in purpose.

### **Article 513**

The abolition of the guarantee to obligation, does not presume its donation.

### **Compensation**

#### **Article 514**

When two persons are obliged towards each other in money or things which are of the same sort and which are replaceable and if their obligations can be required, precise and determined in amount or quantity, the obligations of both parties are annulled, by making the compensation among them. The obligations are annulled up to the amount or quantity of the smallest obligation.

#### **Article 515**

The compensation annuls both 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 deadline in which the interests are paid.

The prescription does not stop the compensation if it is not compiled the day when both obligations are 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 by the condition to note down 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 immediately a notice to the party who has sent the declaration, by expressing the reasons of refusal.

### **Article 518**

It cannot be compensated without the creditor's consent:

- a) the credits resulting by death or health damage;
- b) credits which can not be sequestrated;
- c) credits resulting by taxes or imposts.

### **Article 519**

Compensation cannot be accomplished if it results in harm of third persons who have won rights of “usufruct” or pledge upon the credit.

### **Article 520**

The guarantor can claim the creditor's compensation of the obligation towards main debtor. Main debtor can not claim compensation of creditor's obligation towards the guarantee.

### **Article 521**

When two obligations are not payable at one place, their compensation cannot be done except after completing the calculation concerning those expenses for the transfer to the place of execution.

### **Article 522**

When the credits and monetary obligations are included in the same account, they are compensated immediately according to the order that parties have accepted in agreement, and to its absence, according to the rules foreseen in articles 469 and 470 of this Code.

The party who administers the account, after closing this account by the compensation which has been done, gives a notice to the other party about the remaining, the precise date of calculation and the issues of the account which have not been communicated yet to the other party.

If the other party does not oppose within a certain time limit, the remaining which has been noticed, is considered accepted by parties.

### **Article 523**

If a declaration of compensation does not show in a sufficient way the obligations included in compensation, the rules provided in article 470 of CC are implemented.

Each party may oppose immediately to the compensation done in case the calculation of obligation, expenses and interests, has not been done according to the above mentioned regulations.

### **Combining of creditor's and debtor's characteristics**

#### **Article 524**

The obligation is annulled when the characteristics of the debtor and creditor are combined in one person. The obligation is created again when this combination ends.

#### **Article 525**

The combination cannot be done if to do so would harm third persons who have won the rights of "usufruct" or pledge upon the credit.

### **Annulment because of impossibility of execution**

#### **Article 526**

The obligation is annulled when its execution becomes impossible, not for the fault of the debtor, and before the debtor has been delayed.

The obligation is annulled also when the debtor, although delayed, proves that the impossibility would exist even if the creditor had been in the place of the debtor.

In such cases, debtor must remit his windfall to the creditor.

#### **Article 527**

When the impossibility of obligation's execution is temporary, debtor is not liable for the delay of execution for the time it lasts.

But the obligation is annulled even when the impossibility lasts as long as the debtor, according to the title of obligation and its nature, is not obliged to accomplish it, or the creditor has no interest any more.

#### **Article 528**

When the execution of the obligation is only partially impossible, the obligation is executed for the part which can be executed.

#### **Article 529**

When as object of obligation is the delivery of a object which is completely damaged, or

is lost, not for the debtor's fault and before the debtor has been put in delay, creditor enters in to the debtor's rights concerning this object, depending from the facts that caused the impossibility to execute the obligation. The creditor has the right to ask from the debtor what he has received as result of the recompense of the damage.

**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 for his fault, causes a damage to another person or to his property, is obliged to recompense the damage caused.

The person who has caused the damage is not liable if he proves that he is innocent. The damage is illegal when it results from the violation of the interests and rights of the other person, which are protected by law, judicial order, or custom.

**Article 609**

The damage must be an immediate and direct consequence of person's action or missed action.

If a person who has the legal obligation of avoiding a certain event, does not act to avoid it, he is liable for the damage caused from it.

**Article 610**

The agreement which preliminarily excludes or limits the liability of the person who has caused damage wrongfully is not valid.

**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 and if this risk has not been caused by him or could not be avoided by him, is obliged to recompense the damage. Court, taking into consideration the special circumstances of the event, might discharge this person completely or partially from the obligation of damage recompense.

**Damage caused by minors and the physically and mentally handicapped**  
**Article 613**

Minors less than 14 years old, and the physically and mentally handicapped, are not liable for the damage they cause.

Parents, tutors, or persons who supervise the unable people, are liable for the damage caused by illegal actions of children below 14 years of age, of the persons under their tutor ship, and of persons under their supervision and with whom they live apart when they demonstrate that they could not avoid the damage caused.

**Article 614**

The minor who is above 14 years old is liable for the illegal damage he caused.

Parents or tutor are liable for the above mentioned damage if the minor does not earn income by work or has no property himself, apart if they prove that they could not stop the damage caused.

**The damage caused by supervised persons**  
**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, apart when they prove that they could not avoid the 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 recompense taking into consideration the age, consciousness level of the actions done and the economic conditions of parties, except when the person is responsible for these conditions.

**Libelous, false and inaccurate publications**  
**Article 617**

When the liability of a person towards another person concerning the publication of incorrect, incomplete, or fraudulent data, is proved, the court, at the request of the damaged

person, obliges the other person to publish a correction deemed appropriate by the court.

The court can order the publication of a correction even if it is proven that the publication of data is not illegal and done deliberately, if their author had no knowledge of the incorrect or incomplete nature of this data.

### **Employer's liability 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 they perform.

Juridical person is liable for the damage caused by his organs, during the performance of their duties.

### **Article 619**

If a person performs activities in the framework of another person's duty, and under the instructions of the other person, without being his employee, is liable for the damage caused to a third person during this performance.

The other person is liable too, in front of the third person.

### **Representative's liability Article 620**

If the representative's activity during the exercise of the powers he has assumed, brings a wrongful liability towards a third person, the person who is represented is also liable to this person.

### **Liability resulting from use of animals Article 621**

The owner of an animal or the one who uses the animal, is liable for the damage caused by the animal, except when he proves that he had the control of the animal's behavior but could not avoid the damage.

### **The liability resulting from the performance of 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 damage caused by the defects or whatever 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 for the damage he suffered.

### **Liability concerning the environment**

#### **Article 624**

The person who wrongfully damages the environment, by worsening, changing or harming it, completely or partially, is obliged to compensate for the damage caused.

### **Liability concerning the 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 harm to his honor;
- 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 through the second scale, seek compensation, except when the injury has been done when the dead person was alive and he was given the right of compensation for the desecration done.

The right foreseen in the above mentioned paragraph is not hereditary.

### **Joint and several liability**

#### **Article 626**

When damage is caused by many persons together, they are jointly and severally liable to the damaged person.

### **The 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 of the damage, in direct proportion to the level of responsibility of each person and of the resulting consequences. When each party's proportionate share cannot be defined, the guilt is presumed to be equal.

Parents or tutors who have paid compensation for the damage caused by minors or by people unable to act, have no right to require from them the restitution of the compensation for the damage they paid.

**CHAPTER II**  
**LIABILITY RESULTING 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 to circulation, or these defects subsequently appeared;
- 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 under 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 could not discover the defects when 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 in the 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 annulled when, according to circumstances, the damage is caused both by the product's defects and the injured person, or by a person to 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 unrelated third parties.

**Article 630**

An object, is considered defective when it does not deliver the guarantee expected from it, taking into consideration all the circumstances, in particular:

- a) product appearance;
- b) the reasonable use of the product;
- c) the time when the product is put into circulation.

The product cannot be considered defective only by the fact that a more perfect product is circulated later.

### **Article 631**

"Product," within the meaning of this Code, is called a movable object, even if 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 the first processing.

"Producer," within the meaning of this Code, is called the producer of a finished product, of a raw material, or the producer of a part of the product, and every other person that appears as such, by putting on the product his name, his mark or another distinctive mark.

Without avoiding producer's liability, a "Producer" is every person who imports a product for sale, lease, or another form of distribution, under his trade activity. In this case, his liability is the same as that of a producer.

### **Article 632**

When the producer cannot be identified, every supplier will be considered a producer, except when, within a reasonable time limit, he notifies the damaged person of the producer's identity or the identity of the person who has supplied the product.

### **Article 633**

If, during 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 a producer for compensation for damage, according to the first paragraph of article 628 of this Code, must be brought 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 is prohibited from seeking compensation from the producer, under the first paragraph of article 628 of this Code, 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 makes public 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 works, commits an illegal action if the notice is fraudulent in one 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, declarations they have delivered, used scientific or professional terminology, statistical and technical data;
- e) conditions of product's delivery, performance of services or 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 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 the above mentioned provision, is liable for the damage caused, except when he proves that he is not guilty for the damage.

### **Article 637**

When the fraudulent publication, foreseen by article 635 of this Code, has caused or may cause damage to another person, the court, at that person's request, orders its immediate cessation and the obligates the person who is liable to publicly correct the publication 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 quality of the competitor's products or enterprise as if they were his own.
3. uses by himself directly or indirectly every other means that do not agree 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 expected profit.

The expenses done reasonably to avoid or reduce the damage are compensated, as are those necessary to define the liability and the amount of damage and 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, the increase or decrease of his working capabilities, 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 to be fed by him;
- b) the necessary expenses of 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, once altogether 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**

If a person 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 from 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**  
**"GJERIMI "OF THE OTHERS WORK [ASSUMPTION]**  
**Article 648**

The person who, without being obliged, undertakes consciously and for a reasonable purpose, the "gjerimin" 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 "gjeruesi" has undertaken on his behalf, he must exclude "geruesin" 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 "gjerimit", he must pay the recompense, under the condition that the actions performed by "gjeruesi" have not been prohibited by the interested person.

When "gjeruesi" except "gjerimit", needed to exercise another profession for that purpose, he has the right to be recompensed according to the prizes established for such activities.

**Article 650**

"Gjeruesi" has the right to take legal actions on behalf of the interested person, in the measure that the interest of the latest is accomplished in a suitable way.

**Article 651**

"Gjeruesi" respects the same obligations that result by an ordering contract.

The court taking into consideration the circumstances which influenced to "gjeruesi" to undertake "gjerimin", may diminish the recompense of damage caused by his fault.

**Article 652**

The interested person by approving "gjeruesi's" actions, might withdraw his right to be recompensed for the damage by "gjeruesi", according to the above mentioned provision. For this scope, a reasonable time limit must be given to the interested person.

## **CHAPTER VI NON OBLIGED PAYMENT**

### **Article 653**

Whoever has done a non obliged 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 not in good 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, if the creditor is given the good faith from the title and the guaranties of the credit.

## **CHAPTER VII THE BENEFIT (taking advantage) 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 incurred, within the limits of the benefit.

### **Article 656**

When the benefit without any legal reason is on an object, the person who has gotten this object must retribute it physically and he must retribute also all 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 to the illegal owner.

### **Article 657**

It can not be asked the restitution of what a person has voluntarily given for the execution of an obligation, which although can not be asked, 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.



### **Article 659**

A contract is the agreement of two or more parties to establish, regulate or extinguish a legal relationship.

### **Article 660**

The parties can freely determine the contents of the contract within the limits imposed by law.

### **Article 661 Bilateral and Unilateral Contracts**

The contract is unilateral when one of the parties has obligations and the other does not have any other obligations.

### **Article 662**

The contract is bilateral when both parties have reciprocal obligations toward each other.

### **Article 663 Requisites of Contracts**

The requisites of the contract are: agreement of the party that has undertaken the obligation, the motive for the obligation, the object that forms the content of the contract, and the form as prescribed by law.

### **Article 664 Formation of the Contract**

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 formed.

### **Article 665**

The offeror is bound by his proposal except when provided differently. When the offer is refused or 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 for the time that is usually, or according to the circumstances, necessary, for the acceptance of the other party to reach him.

### **Article 666**

The offer of a contract made to a person that is present without a term for its acceptance, loses its power if this person 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 that time.

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 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.

### **Article 669**

When at the request of the offeror or taking into account the nature of the transaction and circumstances connected to it, results that it is not necessary to wait for an expression of acceptance, or the duty to perform arises without a prior reply, the contract is concluded at the time and place in which performance begins.

The party beginning performance must promptly give notice to the other party and, otherwise he is liable for compensation of damages.

### **Article 670**

An acceptance that does not conform to the offer is a rejection and equivalent to a new offer.

### **Article 671**

The offer is valid when it incorporates the essential elements of the contract that the

parties seek to conclude, except when under the circumstances it produces a different result.

#### **Article 672**

The contracting party can withdraw from the contract within seven days of 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 contract for the purchase of a consummable good, the seller should give the buyer written notice of the right to withdraw from the contract with 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 a contract within its field of activity, according to the laws and commercial customs.

The completion of a contract cannot be refused without a legal reason.

#### **Article 674**

During the negotiation and 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 is bound to compensate for the damage suffered by the latter in replying, without fault, on the validity of the contract.

#### **Article 675**

If one of the contracting parties has professional knowledge and the other party has complete reliance, the first is obliged to give in good faith information and instructions.

#### **Article 676**

The contract is completed when the parties have demonstrated their mutual will, agreeing to all the essential conditions.

This expression of will can be expressed or silent.

#### **Article 677 Unlawful Motive**

In a contract, the motive is unlawful when it is contrary to mandatory rules, public policy, or when the contract becomes a means to avoid the fulfillment of a rule.

### **Article 678 Object of Contract**

The object of a contract must be possible, lawful, determined, or determinable.

### **Article 679**

A contract made subject to a cancellation condition or time limit is valid if its performance, which was originally impossible, becomes possible before fulfillment of the condition or expiration of the time limit.

### **Article 680**

The contract can involve performance matters in the future things, 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 sought, not limited to the literal meaning of the words, and including their overall understanding 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 according to good faith.

### **Article 683**

In case of doubt, the contract or the individual clauses shall be interpreted in a manner which they may have some effect, rather than a manner in which they would have none.

## Article 1167

Law No. 6340, dated 26.6.1981 For the Civil Code except the provisions for joint ownership between spouses, Law No. 2362, dated 16.11.1956 For Non-profit Social Organizations, Law No. 7688, dated 13.3.1993, For the Joint Ownership of Homes, Law No. 76965, dated 7.4.1993, For Foundations, articles 1-15, and Decree No. 600, dated 22.7.1993, For Pledges and Mortgages, approved with changes by Law No. 7753, 30.9.1993, are repealed.