

# **CIVIL CODE OF THE REPUBLIC OF BELARUS**

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## **SECTION I. GENERAL PROVISIONS**

### **SUBSECTION 1. BASIC PROVISIONS**

#### **CHAPTER 1**

#### **Civil Legislation**

##### **Article 1. Relations Regulated by Civil Legislation**

1. The civil legislation determines the legal status of participants of civil turnover, the grounds of arising and the procedure of the exercise of right of ownership and other real rights, the rights to the results of intellectual activity, regulates the relations between the persons carrying out the entrepreneurial activity, or the activity with their participation, contractual and other obligations, as well as other property relations and personal non-property relations connected with them.

The entrepreneurial activity is an independent activity of legal and natural persons, implemented by them in civil turnover under their personal name, at their risk and under their property liability, directed at systematic obtaining of profit from using of property, selling the things made, processed or gained by the before-mentioned persons for selling, as well as from performing of works or rendering the services, if these works or services are intended for realization to other persons and are not applied for own consumption.

The handicraft activity is an activity of natural persons on fabrication and realization of goods, performance of works, rendering of services, applying manual work and tools, including electrical tools, carried out independently without engaging other natural persons on labour and/or civil-law contracts and aimed at satisfying everyday needs of citizens.

The entrepreneurial activity does not comprise handicraft activity, activity on rendering services in the sphere of agroecotourism, activity of natural person on using own securities, bank accounts as a means of payment or of saving monetary gains, and also one-time realization by natural persons on trading places at markets and/or on other places at which trading may be carried out in accordance with legislation, of goods produced, processed or purchased by them (with the exception of excisable goods, goods subject to be marked by control (identification) stamps), which pertain to commodity groups determined by legislation (hereinafter -- person carrying out one-time realization of goods at market), advocacy, private notary's activities.

Family, labor, land relations, relations on using other natural resources and preservation of the environment, conforming the provisions specified in the first and the second parts of this Clause, are regulated by the civil legislation, unless otherwise is provided by the legislation on marriage and family, on labor and employment of the population, on protection and use of lands, and other special legislation.

2. The relations connected with exercise and defense of non-alienable rights and freedoms of the person and other intangible benefits (personal non-property relations, not connected with the property relations), are regulated by civil legislation, as far as otherwise does not follow from the essence of these relations.

3. The participants of relations, regulated by the civil legislation, are the citizens of the Republic of Belarus thereafter referred to as the citizens), legal persons of the Republic of Belarus thereafter referred to as the legal persons), the Republic of Belarus, administrative territorial units of the Republic of Belarus thereafter referred to as the administrative territorial units).

The rules, established by the civil legislation, are applied to the relations with participation of the foreign citizens, stateless persons, foreign and international legal persons (the organizations not being legal persons), foreign states, unless otherwise is determined by the Constitution of the Republic of Belarus and the treaties of the Republic of Belarus.

4. The civil legislation is not applied to the property relations based on administrative subordination, established by the legislation, of one party to another, including budget and tax relations, unless otherwise is provided by the legislation.

## **Article 2. Main Principles of Civil Legislation.**

The main principles of civil legislation include the system of principles, defining and regulating the civil relations.

The civil legislation is founded on the following principles:

all participants of the civil relations, including the state, its bodies and officials, act within the Constitution of the Republic of Belarus and acts of legislation enacted in conformity with it (the principle of supremacy of law);

the direction and co-ordination of state and private economic activity are provided by the state in social purposes (the principle of social orientation of regulation of economic activity);

the implementation of the civil rights shall not contradict the public benefit and safety, cause damage to the environment, historical and cultural values, infringe rights and interests of other persons protected by the law (the principle of priority of the public interests);

the subjects of the civil law participate in civil relations as equals, are equal before the law, cannot enjoy any advantages and privileges contradicting the law, and have the right, without any discrimination, to equal protection of the rights and legal interest (the principle of equality of participants of the civil relations);

the right of ownership, gained by legal way, is protected by the law and is preserved by the state, its inviolability is guaranteed, condemnation is allowed only on motives of the public

necessity, subject to conditions and procedures determined by the law, with timely and full indemnification of cost of alienated property, or in accordance with the decision of the court (the principle of inviolability of the property);

the citizens and legal persons are free in conclusion of the contract. Compulsion to conclusion of the contract is not allowed, with the exception of cases when the liability to conclude the contract is provided by the legislation or by voluntary obligation (the principle of freedom of the contract);

honesty and reasonableness of participant of civil legal relations is expected, as far as other is not revealed (the principle of honesty and reasonableness of participant of civil legal relations);

interference in private affairs is prohibited, with the exception of the cases when such interference is implemented on the grounds of legal norms in the interest of national security, public order, protection of moralities, health of the population, rights and freedoms of the other persons (the principle to inadmissibility of arbitrary interference in private affairs);

the citizens and legal persons have the right to implement protection of the civil rights in the court (the economic court) and by other ways provided by the legislation, as well as self-defense of the civil rights, subject to the limits determined in accordance with civil legal norms (the principle of free implementation of the civil rights, ensuring the recovering of the violated rights, judicial protection of rights);

other principle specified in the Constitution of the Republic of Belarus, other acts of legislation, as well as the principles following from the contents and sense of civil legal norms.

The participants of civil legal relations obtain and implement their own civil rights by their own will and in their own interests. They are free in establishing their rights and duties on the basis of the contract, and in determination of any terms and conditions of the contract not contradicting the legislation.

### **Article 3. Civil Legislation**

1. The civil legislation is a system of the normative legal acts containing civil law norms, including:

the legislative acts (the Constitution of the Republic of Belarus, this Code and laws of the Republic of Belarus, decrees and edicts of the President of the Republic of Belarus);

the orders of the President of the Republic of Belarus;

the decisions of the Government of the Republics of Belarus, enacted in accordance with the legislative acts;

the acts of the Constitutional Court of the Republic of Belarus, Supreme Court of the Republic of Belarus, Supreme Economic Court of the Republic of Belarus and National Bank of the Republic of Belarus, enacted within competence of these bodies for regulation of the civil relations established by the Constitution of the Republic of Belarus and other legislative acts enacted in accordance with it;

the acts of ministries, other Republic's bodies of state administration, local bodies of government and self-government, enacted in cases and within the limits provided by the legislative acts, orders of the President of the Republic of Belarus and decisions of the Government the Republic of Belarus.

2. In case of discrepancy of the legislative act with the Constitution of the Republic of Belarus, the Constitution prevails.

In case of discrepancy of the decree or edict of the President of the Republic of Belarus with this Code or another law, this Code or another law prevails only in cases when the authorities for enacting the decree or edict were provided by the law.

The norms of the civil law, contained in other laws, should conform to this Code. In case of discrepancy of those acts with this Code, the latter prevails.

In case of collision (discrepancy) of other acts of civil legislation, the rules established by the legislation of the Republic of Belarus on normative legal acts are applied.

#### **Article 4. Operation of Civil Legislation in Time**

Unless otherwise is provided by the Constitution and other legislative acts enacted in conformity with it, the acts of the civil legislation do not retroact and are applied to the relations which arose:

after putting into force of these acts;

before putting into force of these acts, in relation to the rights and duties which arose after putting into force of these acts.

The relations of the parties of a contract, concluded before putting into force of the act the civil legislation, are regulated in accordance with Article 392 of this Code.

#### **Article 5. Application of Civil Legislation by Analogy**

1. In cases when the relations provided by Article 1 of this Code are not regulated directly by acts of legislation or by agreement of the parties, the norm of the civil legislation regulating the similar relations (*analogia legis*) is applied to such relations, as far as such application does not contradict the essence of these relations.

2. In case of impossibility of application of *analogia legis* in the specified cases, the rights and duties of the parties are to be determined on the basis of main principles and the sense of the civil legislation (*analogia juris*).

3. It is not allowed to apply by analogy the norms limiting civil rights and establishing the liability.

#### **Article 6. Civil Legislation and Norms of International Law**

The Republic of Belarus recognizes the supremacy of generally recognized principles of international law and provides conformity of the civil legislations of the Republic of Belarus to these principles.

Provisions of the civil law, contained in the treaties of the Republic of Belarus, which have come into force, are the part of the civil legislation, which is valid on the territory of the Republic of Belarus, and subject to direct application, except for cases when it follows from the treaty that the enactment of the national legal act is required for application of these provisions. These provisions have the force of the legal act expressing the consent of the Republic of Belarus for the obligatoriness of the appropriate treaty for the Republic of Belarus.

Provisions of the civil law, contained in the treaties of the Republic of Belarus, which have not come into force, may be applied by the Republic of Belarus temporarily in accordance with the procedure established by the legislation on the treaties of the Republic of Belarus.

## **CHAPTER 2**

### **Origin of Civil Rights and Duties, and Exercise and Defense of Civil Rights**

#### **Article 7. Grounds for Civil Rights and Duties to Arise**

1. Civil rights and duties shall arise from the grounds provided for by the legislation, and also from the actions of citizens and legal persons, which although not provided for by a law or such acts but by virtue of the basic principles and sense of civil legislation give rise to civil rights and duties.

In accordance therewith civil rights and duties shall arise:

1) from contracts and other transactions provided for by the legislation, and also from contracts and other transactions which although not provided for by the legislation, are not contrary thereto;

2) from acts of state bodies and bodies of local administration and self-government which have been provided for by the legislation as a ground for civil rights and duties to arise;

3) from a judicial decision which has established civil rights and duties;

4) as a result of creation and acquisition of property on the grounds not prohibited by the legislation;

5) as a result of creation of works of science, literature, art, inventions, and other results of intellectual activity;

6) as a consequence of causing of harm to another person;

7) as a consequence of unfounded enrichment;

8) as a consequence of other actions of citizens and legal persons;

9) as a consequence of events with which the legislation connects the ensuing of civil-law consequences.

2. The rights to property subject to state registration shall arise from the time of registration of the respective rights thereto, unless otherwise established by the legislation.

### **Article 8. Exercise of Civil Rights**

1. Citizens and legal persons shall exercise the civil rights belonging to them at their discretion.

2. The refusal of citizens and legal persons to exercise rights belonging to them shall not entail the termination of those rights except for instances provided for by the legislation.

### **Article 9. Limits of Exercise of Civil Rights**

1. The actions of citizens and legal persons effectuated exclusively with the intention to cause harm to another person, and also abuse of right in other forms, shall not be permitted.

The use of civil rights for the purposes of limiting competition, and also abuse of a dominant position in the market, shall not be permitted.

2. In the event of the failure to comply with the requirements provided for by Clause 1 of this Article, a court, economic court, or arbitration court may refuse to defend the right belonging to the person.

3. The person abusing the right must restore the position of the person, suffered as a result of abuse, and compensate damage caused.

4. In instances when a law makes the defense of civil rights dependent upon whether these rights have been exercised reasonably and in good faith, the reasonableness of the actions and the good faith of the participants of civil legal relations shall be presupposed.

### **Article 10. Judicial Defense of Civil Rights**

1. Protection of violated or contested civil rights is effectuated by the court, the economic court, the arbitration court (hereinafter referred to as the court) in accordance with the jurisdiction established by the legislation on the legal procedure, or, in cases provided by the legislation, in accordance with the contract.

2. The legislation or the contract may include provisions stipulating the settlement of the dispute between parties before reference to the court, if such provision does not contradict the legislation.

3. Protection of the civil rights in administrative procedure is effectuated only in cases provided by the legislation. The decision adopted in the administrative procedure may be appealed in the court.

### **Article 11. Means of Defense of Civil Rights**

The defense of civil rights shall be exercised by means of:

- 1) recognition of the right;
- 2) restoration of the situation which existed before the violation of the right
- 3) suppression of actions violating a right or creating a threat to violate it;
- 4) recognition of a contested transaction to be invalid and the application of the consequences of the invalidity thereof; determination of the fact of nullity of the transaction and the application of the consequences of the invalidity thereof;
- 5) recognition of an act of a state body or body of local administration or self-government to be invalid;
- 6) self-defense of right;
- 7) awarding performance of a duty in kind;
- 8) compensation of losses;
- 9) recovery of a penalty;
- 10) compensation for moral harm;
- 11) termination or change of legal relation;
- 12) non-application by court of act of a state body or body of local administration or self-government which is contrary to the legislation;
- 13) other means provided for by the legislation.

### **Article 12. Recognizing the Act of State Body or Body of Local Administration or Self-government to be Invalid**

A non-normative act of a state body or body of local administration or self-government, and in instances provided for by the legislation, also a normative act, not corresponding to the legislations and violating civil rights and interests of a citizen or legal person, protected by the legislative acts, may be recognized by a court to be invalid, subject to the claim of the person, whose rights were violated, or, in cases provided by the legislation, subject to the claim of other persons. In the event that an act is recognized by a court to be invalid, the violated right shall be subject to restoration or to defense by other means provided for by Article 11 of this Code.

### **Article 13. Self-Defense of Civil Rights**

Defense of the civil rights by direct actions of the person, whose rights are violated, is

permissible, if such actions are not connected with breach of the legislation.

Self-defense of the civil rights, effectuated with causing damage in the situation of absolute necessity or necessary defense, is not considered as breach of the legislation, if the actions of the person carrying out the defense were proportional to the character and danger of the violation and did not exceed beyond the limits of prevention or suppression of the violation.

#### **Article 14. Compensation of Losses**

1. A person whose right has been violated may demand full compensation of losses caused to him unless compensation of losses in a lesser amount has been provided for by the legislation or contract.

2. By losses are understood the expenses which the person whose right has been violated made or must make in order to restore the violated right, loss or damage of his property (real damage), and also revenues not received which this person would have received under ordinary conditions of civil turnover if his right had not been violated (lost advantage).

If the person who has violated a right has received revenues as a consequence thereof, the person whose right was violated shall have the right to demand compensation, together with the other losses, for lost advantage in an amount of not less than such revenues.

#### **Article 15. Compensation of Losses Caused by State Bodies and Bodies of Local Administration or Self-government**

Losses caused to a citizen or legal person as a result of the illegal actions (failure to act) of state bodies, bodies of local administration or self-government, or officials of these bodies, including the issuance of the act of a state body or body of local administration or self-government which does not correspond to the legislation, shall be subject to compensation by the Republic of Belarus or by respective administrative territorial unit in accordance with the procedure provided by the legislation.

### **SUBSECTION 2. PERSONS**

#### **CHAPTER 3.**

#### **Citizens (Natural Persons)**

#### **Article 16. Legal Capacity of Citizens**

1. The capacity to have civil rights and to bear duties (civil legal capacity) shall be recognized in equal measure for all citizens.

2. The legal capacity of a citizen shall arise at the time of his birth and be terminated by death.



## **Article 17. Content of Legal Capacity of Citizens**

Citizens may, in accordance with the legislation, have property by right of ownership; inherit and bequeath property; to be engaged in entrepreneurial and any other activity not prohibited by the legislation; create legal persons autonomously or jointly with other citizens and legal persons; conclude any transactions which are not contrary to a legislation, and participate in obligations; select the place of residence; have the rights of authors to works of science, literature and art, inventions and other results of intellectual activity protected by the legislation; and have other property rights and personal non-property rights.

## **Article 18. Name of Citizen**

1.A citizen shall acquire and exercise rights and duties under his own name, including surname and own forename, and also patronymic (if any), unless it arises otherwise from the legislation.

A citizen may use a pseudonym (fictitious name) in the instances and in accordance with the procedure provided for by the legislation.

2.A citizen shall have the right to change his name in accordance with the procedure established by the legislation. The change of name by a citizen shall not be the ground for the termination or change of his rights and duties acquired under the previous name.

A citizen shall be obliged to take necessary measures in order to inform his debtors and creditors about the change of his name and shall bear the risk of the consequences caused by these persons lacking information about the change of his name.

A citizen who has changed name shall have the right to demand the making, at his expense, of respective changes in documents formalized in his previous name.

3. The name received by a citizen at birth, and also a change of name, shall be subject to registration in accordance with the procedure established for the registration of acts of civil status.

4. The acquisition of rights and duties under the name of another person shall not be permitted.

5. Harm caused to a citizen as a result of the incorrect use of his name shall be subject to compensation in accordance with this Code.

In the event of the distortion or of the use of the name of a citizen by means or in a form affecting his honour, dignity, or business reputation, the rules provided for by Article 152 of this Code shall apply.

## **Article 19. Place of Residence of Citizen**

1.The place of residence of a citizen shall be deemed the location (address) of dwelling, the

rights of possession, disposal and/or using of which have been accrued by a citizen on the grounds established by the legislative acts, or a populated locality where a citizen permanently or primarily resides, and if such locality is not established - the place of residence (in the absence thereof - the place of staying) specified in the identification document, or in another document on registration, or the place of location of the property of this person.

The place of residence of minors who have not attained fourteen years of age or citizens under trusteeship shall be deemed to be the place of residence of their legal representatives — parents, adoptive parents, or trustees.

### **Article 20. Active Legal Capacity of Citizens**

1. The capacity of a citizen by his own actions to acquire and exercise civil rights, to create civil duties for himself, and to perform them (civil active legal capacity) shall arise in full with the ensuing of majority, that is, upon attaining eighteen years of age.

2. When by the legislation the emancipation (Article 26 of this Code) or entry into marriage is permitted before attaining eighteen years of age, a citizen who has not attained eighteen years of age shall acquire civil active legal capacity in full from the time of adoption of the decision on emancipation or entering into marriage.

Active legal capacity acquired as a result of concluding a marriage shall be retained in full also in the event of dissolution of the marriage.

When deeming a marriage to be invalid a court may adopt a decision concerning the loss by the minor spouse of full active legal capacity from the time determined by the court.

3. All citizens shall have equal active legal capacity, unless otherwise established by the legislation.

### **Article 21. Inadmissibility of Deprivation and Limitation of Legal Capacity and Active Legal Capacity of Citizens**

1. No one may be limited in legal capacity and active legal capacity other than in the instances and in accordance with the procedure established by the legislation.

2. The full or partial renunciation, by a citizen, of legal capacity or active legal capacity, and other transactions, directed towards a limitation of legal capacity or active legal capacity, shall be void, except for instances when such transactions are permitted by the legislation.

### **Article 22. Entrepreneurial Activity of Citizen**

1. A citizen shall have the right to engage in entrepreneurial activity without the formation of a legal person from the time of state registration as an individual entrepreneur. The number of natural persons being engaged by the individual entrepreneur on the basis of civil-law and/or labour contracts for carrying out entrepreneurial activity and the amount of property, used for those purposes, as well may be restricted by legislative acts.

2. The rules of this Code which regulate the activity of legal persons that are commercial organizations shall apply respectively to the entrepreneurial activity of citizens effectuated without the formation of a legal person unless it arises otherwise from the legislation, or the essence of a legal relation.

3. A citizen carrying out entrepreneurial activity without the formation of a legal person in violation of the requirements of Clause 1 of this Article shall not have the right to refer with respect to transactions concluded by him to the fact that he is not an individual entrepreneur. A court may apply to such transactions the rules of this Code on obligations connected with the effectuation of entrepreneurial activity.

### **Article 23. Property Liability of Citizen**

A citizen shall be liable for his obligations with all of the property belonging to him except for property against which execution may not be levied in accordance with the legislation.

A list of the property of citizens against which execution may not be levied shall be established by the civil procedure legislation.

### **Article 24. Economic Insolvency (Bankruptcy) of Individual Entrepreneur**

1. An individual entrepreneur who cannot satisfy the demands of creditors connected with the effectuation by him of entrepreneurial activity may be deemed to be insolvent (bankrupt) by decision of a court.

From the time of rendering of such decision his registration as an individual entrepreneur shall lose force.

2. When effectuating the procedure for deeming an individual entrepreneur to be bankrupt his creditors with regard to obligations not connected with the effectuation of entrepreneurial activity by him also shall have the right to present their demands. The demands of the said creditors not declared by them in this procedure shall retain force after the completion of the bankruptcy proceeding of an individual entrepreneur.

3. The demands of creditors of an individual entrepreneur in the event of him being deemed bankrupt shall be satisfied at the expense of the property belonging to him against which execution may be levied.

4. After completing the settlement of accounts with creditors, the individual entrepreneur deemed to be bankrupt shall be relieved from the performance of residual obligations connected with his entrepreneurial activity and other demands presented for performance and taken into account when deeming the entrepreneur to be bankrupt.

The demands of citizens to whom the citizen declared to be bankrupt bears liability for causing harm to life or health, and also other demands of a personal character, shall retain force.

5. The grounds and procedure for a court to deem an individual entrepreneur to be bankrupt or the declaration by him of his own bankruptcy, and priority of satisfaction of the creditor's

demands shall be established by the legislation on economic insolvency (bankruptcy).

### **Article 25. Active Legal Capacity of Minors from Fourteen to Eighteen Years of Age**

1. Minors in age from fourteen to eighteen years shall conclude transactions, except those named in Clause 2 of this Article, with the written consent of their legal representatives—parents, adoptive parents, or guardian.

A transaction concluded by such a minor shall be valid also in the event of the subsequent written approval thereof by his parents, adoptive parents, or guardian.

2. Minors in age from fourteen to eighteen years shall have the right autonomously, without the consent of the parents, adoptive parents, and guardian, to:

1) dispose of their earnings, scholarships, and other revenues;

2) exercise the rights of an author of a work of science, literature or art, invention, or other result of his intellectual activity protected by the legislation;

3) make deposits in bank and non-bank credit and financial institutions and dispose of them in accordance with the legislation;

4) conclude petty domestic transactions and other transactions provided for by Article 27(2) of this Code.

Upon attaining sixteen years of age minors also shall have the right to be members of cooperatives in accordance with the acts of legislation on cooperatives.

3. Minors in age from fourteen to eighteen years shall bear property liability for transactions concluded by them in accordance with Clause 1 of this Article; subsidiary liability is imposed on the citizen who has given a written consent on execution of the before-mentioned transaction.

Minors in age from fourteen to eighteen years shall independently bear property liability for transactions concluded by them in accordance with Clause 1 of this Article.

For the harm caused by them such minors shall bear liability in accordance with Chapter 58 of this Code.

4. When there are sufficient grounds a court may, upon the petition of parents, adoptive parents, or guardian or the body of trusteeship and guardianship, limit or deprive a minor from fourteen to eighteen years of age of the right to autonomously dispose of his earnings, scholarship, or other revenues, except for instances when this minor acquired active legal capacity in full in accordance with Article 20(2) of this Code.

### **Article 26. Emancipation**

1. A minor who has attained sixteen years of age may be declared to have full active legal capacity if he works under a labor contract or, with the consent of parents, adoptive parents, or guardian, engages in entrepreneurial activity.

A minor shall be declared to have full active legal capacity (emancipation) by decision of an body of trusteeship and guardianship with the consent of both parents, adoptive parents, or the guardian, or in the absence of such consent, by decision of a court.

2. Parents, adoptive parents, and a guardian shall not bear liability for obligations of an emancipated minor, in particular, for obligations which arose as a consequence of causing of harm by him.

### **Article 27. Active Legal Capacity of Minors at Age Below Fourteen Years (Juveniles)**

1. Transactions, except for those specified in Clause 2 of this Article, may be concluded for minors who have not attained fourteen years of age (juveniles) only in their names by the parents, adoptive parents, or trustees.

The rules provided for by Article 35 (2) and (3) of this Code shall apply to transactions of the legal representatives of a minor with his property.

2. Juveniles in age from six to fourteen years shall have the right to conclude autonomously:

1) petty domestic transactions;

2) transactions directed towards receiving advantages without compensation which do not require notarial certification or state registration;

3) transactions relating to the disposition of assets granted by a legal representative or with the consent of the last by a third person for a specified purpose or for free disposition.

3. Property liability on the transactions carried out by the minor at the age below fourteen years, including the liability on the transactions made by these non-adults autonomously, is imposed on parents, adoptive parents or the trustee of the minor. Liability for the harm caused by the minor at the age below fourteen years, is determined in accordance with the rules of Chapter 58 of this Code.

### **Article 28. Right for Disposal of Bank Deposits on the Name of Juvenile**

The bank deposits made by anyone on the name of the juveniles, are in the disposal of their parents, adoptive parents or guardians, subject to the rules stipulated in Article 35 of this Code, and also of a depositor (in cases provided for in the legislation or in a contract).

### **Article 29. Deeming of Citizen to Lack Active Legal Capacity**

1. A citizen who as a consequence of mental insanity (mental disease or dementia) can not understand the meaning of his actions or direct these actions, may be deemed by a court to lack active legal capacity in accordance with the procedure established by the civil procedure legislation. A trusteeship shall be established over him.

2. Transactions in the name of a citizen deemed to lack active legal capacity shall be concluded by his trustee.

If the grounds by virtue of which a citizen was deemed to lack active legal capacity have disappeared, the court shall deem him to have active legal capacity. The trusteeship established over him shall be vacated on the basis of the decision of a court.

### **Article 30. Limitation of Active Legal Capacity of Citizens**

1. A citizen who as a consequence of abusing alcoholic beverages, narcotics or psychotropic substances places his family in a grave material position may be limited in active legal capacity by a court in accordance with the procedure established by civil procedure legislation. A guardianship shall be established over him.

Such citizen shall have the right autonomously to conclude petty domestic transactions.

He may conclude other transactions, and also receive earnings, pension, and other revenues and dispose of them only with the consent of the guardian. However, such citizen shall autonomously bear property liability for transactions concluded by him and for harm caused by him.

2. If the grounds by virtue of which a citizen was limited in active legal capacity have disappeared, a court shall vacate the limitation of his active legal capacity. The guardianship established over the citizen shall be vacated on the basis of the decision of a court.

### **Article 31. Limitation of Entrepreneurial Activity of Citizen**

In the cases provided by the legislative acts, entrepreneurial activity of the citizen (the individual entrepreneur, founder, participant, owner of the property, manager of the legal person etc.) can be judicially limited for the period up to three years.

The citizen, whose entrepreneurial activity is limited, during the full term of the limitation, can not:

implement entrepreneurial activity without establishing the legal person;

by the actions thereof, acquire and implement the rights, establish and fulfill the duties of the owner of the property (the founder, participant) of the legal person;

hold the positions in the executive bodies of the legal persons;

act as the manager of the enterprise and other property used for entrepreneurial activity.

The enterprise and other property, being in the ownership of before-mentioned citizen, can be used by such citizen during the period of limitation for the purposes of entrepreneurial activity solely by transferring this property under the trust.

### **Article 32. Trusteeship**

Trusteeship shall be established over juveniles, and also over citizens deemed by a court to lack active legal capacity as a consequence of mental insanity (mental disease or dementia).

Trustees shall be representatives of the wards by virtue of a law (legal representatives) and conclude all necessary transactions in their name and in their interests.

### **Article 33. Guardianship**

Guardianship shall be established over minors from fourteen to eighteen years of age, and also over citizens limited in active legal capacity by a court as a consequence of abusing alcoholic beverages, narcotics or psychotropic substances.

Guardians shall give consent to the conclusion of those transactions which citizens under guardianship do not have the right to conclude autonomously.

Guardians shall render assistance to wards in the exercise by them of their rights and the performance of duties, and also protect them against abuses on the part of third persons.

### **Article 34. Guardians and Trustees as Representatives of Wards**

The guardians and trustees are appointed in accordance with the procedure established by the legislation, and act as protectors of the rights and interests of their wards in relations with any citizens and organizations, e.g. in the court, without special authorization.

### **Article 35. Disposition of Property of Ward**

1. Revenues of a citizen under wardship, including revenues due to the ward from the management of his property, except for revenues which the ward has the right to dispose of autonomously, shall be expended exclusively by the trustee or guardian in the interests of the ward and with the prior authorization of the body of trusteeship and guardianship.

Without the prior authorization of the body of trusteeship and guardianship the trustee or guardian shall have the right to make expenses necessary to maintain the ward at the expense of amounts which are due to the ward as his revenue.

2. A trustee shall not have the right without the prior authorization of bodies of trusteeship and guardianship to conclude, and a guardian - to give consent to the conclusion of transactions relating to the alienation, including exchange or gift, of the property of the ward, hire (lease) thereof, use free of charge, or pledge, or transactions entailing a waiver of rights which belong to the ward, the separation of his property or an apportionment of a participatory share from it, and also any other transactions entailing a reduction of the property of the ward.

The procedure for the management by a trustee or guardian of the property of a ward shall be determined by the legislation.

3. A trustee and guardian, their spouses and close relatives shall not have the right to conclude transactions with a ward except for the transfer of property to the ward as a gift or for use free of charge, and also to represent the ward when concluding transactions or conducting judicial cases between the ward and a spouse of the trustee or guardian and their

close relatives.

### **Article 36. Trust Management of Property of Ward**

1. When the permanent management of immovable and valuable movable property of a ward is necessary, the body of trusteeship and guardianship shall conclude with the manager determined by this body a contract concerning trust management of such property (Chapter 52 of this Code). In this event the trustee or guardian shall retain his powers with respect to that property of the ward which is not transferred to trust management.

In the event of the effectuation by the manager of powers relating to the management of the property of the ward the operation of the rules provided for by Articles 35(2) and (3) of this Code shall extend to the manager.

2. The trust management of the property of a ward shall be terminated on the grounds provided for by Article 907 of this Code, and also in the instances of termination of the trusteeship and guardianship.

### **Article 37. Patronage of Citizens Who Has Active Legal Capacity**

1. At the request of a citizen who has reached majority and has active legal capacity and who by reason of state of health can not autonomously effectuate and defend his rights and perform duties, a guardianship in the form of patronage may be established over him.

2. The guardian assistant (the person carrying out a patronage) of a citizen who has reached majority and who has active legal capacity may be appointed by an body of trusteeship and guardianship only with the consent of this citizen.

3. The disposition of property belonging to a ward who has reached majority and who has active legal capacity shall be effectuated by the guardian assistant on the basis of a contract of commission or trust management concluded with the ward. The conclusion of domestic transactions and other transactions directed towards maintenance and the satisfaction of domestic requirements of the ward shall be effectuated by his guardian assistant with the consent of the ward.

4. Patronage over a citizen who has reached majority and who has active legal capacity established in accordance with Clause 1 of this Article shall be terminated at the demand of the citizen who is under patronage.

### **Article 38. Deeming of Citizen to be Missing**

A citizen may, upon the application of interested persons, be deemed by a court to be missing if within one year there is no information at his place of residence concerning his whereabouts. When it is impossible to determine the date of receipt of the last information concerning the absent person, the commencement of calculation of the Term for deeming a person to be missing shall be considered to be the first date of the month following that in which the last information was received concerning the missing person, and when it is



impossible to establish this month, the first of January of the following year.

### **Article 39. Consequences of Deeming Citizen to be Missing**

1. The property of a citizen deemed to be missing shall, when permanent management is necessary, on the basis of the decision of a court be transferred to the person who is determined by the body of trusteeship and guardianship and shall operate on the basis of a contract on trust management concluded with this body.

2. The trustee of the property belonging to the citizen deemed to be missing undertakes performance of this citizen's obligations, repays the debts of the citizen deemed to be missing at the expense of the property belonging to this citizen, manages this property on behalf of this citizen. Subject to the application of the interested persons, the allowance is paid for the citizens, which are subject to maintenance by the citizen deemed to be missing.

3. An body of trusteeship and guardianship may also before the expiry of a year from the date of receiving information about the whereabouts of the missing citizen appoint a manager of his property.

4. The consequences of deeming a person to be missing which are not provided for by this Article shall be determined by the legislation.

### **Article 40. Vacating the Decision on Deeming Citizen to be Missing**

1. In the event of the appearance or discovery of the whereabouts of a citizen deemed to be missing a court shall vacate the decision deeming him to be missing. The trust management of the property of this citizen shall be vacated on the basis of the decision of the court.

2. If, after three years after the day of appointment of the trustee, the decision on deeming the citizen to be missing was not vacated, and there was no application to the court for declaring the citizen to be deceased, the body of guardianship and trusteeship must apply to the court with the application for declaring the citizen to be deceased.

### **Article 41. Declaration of Citizen to be Deceased**

1. A citizen may be declared by a court to be deceased if there is no information at his place of residence concerning his whereabouts in the course of five years, and if he was missing under circumstances threatening death or giving grounds to suppose he perished from a specific accident, within six months.

2. A military serviceman or other citizen who is missing in connection with military actions may be declared by a court to be deceased not earlier than upon the expiry of two years from the date the military actions end.

3. The date of death of a citizen declared to be deceased shall be considered to be the date of entry into legal force of the decision of the court declaring him to be deceased. In the event a citizen is declared to be deceased who is missing under circumstances threatening death or giving grounds to suppose he perished in a specific accident the court may deem the date of

death of this citizen to be the date of the presupposed perishing.

4. Declaring the citizen to be deceased implies the same consequences in relation to the rights and duties of such citizen, as death of the citizen.

#### **Article 42. Consequences of Appearance of Citizen Declared to be Deceased**

1. In the event of the appearance or discovery of the whereabouts of a citizen declared to be deceased, the court shall vacate the decision declaring him to be deceased.

2. Irrespective of the time of his appearance, a citizen may demand from any person the return of property preserved which passed to this person without compensation after the declaration of the citizen to be deceased, except for instances provided for by Article 283(3) of this Code.

Persons to whom property of a citizen declared to be deceased has passed according to transactions for compensation shall be obliged to return this property to him if it is proved that, in acquiring the property, they knew that the citizen declared to be deceased is alive. If it is impossible to return such property in kind, the value thereof shall be compensated. If the property of the citizen, declared to be deceased, has been transferred to the state as escheat and was sold by the state with observance of conditions provided by this Article, then, after vacating of the decision on declaring the citizen to be deceased, the money sum earned as a result of selling of the property, shall be returned to the citizen.

#### **Article 43. Registration of Acts of Civil Status**

1. The following acts of civil status shall be subject to registration:

- 1) birth;
- 2) conclusion of marriage;
- 3) dissolution of marriage;
- 4) adoption;
- 5) establishment of maternity and/or paternity;
- 6) change of name;
- 7) death of a citizen.

2. Acts of civil status shall be registered by bodies registering acts of civil status by means of making respective entries in the book for the registration of acts of civil status and the issuance to citizens of certificates on the basis of these entries.

3. The correction and the changing of entries of acts of civil status shall be done by the body registering acts of civil status when there are sufficient grounds and the absence of a dispute between interested persons.

When there is a dispute between interested persons, or the refusal of an body for the registry

of acts of civil status to correct or change an entry, the dispute shall be settled by a court.

The annulment and restoration of entries of acts of civil status shall be done by the body for the registry of acts of civil status on the basis of the decision of a court.

4. Bodies registering acts of civil status, the procedure for the registration of these acts, the procedure for the change, addition, correction, restoration, and annulment of entries of acts of civil status, the forms of the books for registration of acts of civil status, the procedure and periods for storage of such books, as well as forms of certificates on the registration of acts of civil status shall be determined by the legislation.

## **CHAPTER 4**

### **Legal persons**

#### **§ 1. Basic Provisions**

##### **Article 44. Concept of Legal Person**

1. A legal person shall be deemed to be an organization which has solitary property in ownership, economic management, or operative administration and is liable for its obligations with such property and may, in its own name, acquire and exercise property rights and personal non-property rights, bear duties, and be a plaintiff or defendant in court, registered in the established order as a legal person or recognized as such by the legislative act.

2. In connection with participation in the formation of the property of a legal person its founders (participants) may have rights of obligations with respect to this legal person or rights to a thing with respect to its property.

To legal persons with respect to which the participants thereof have rights of obligations shall be relegated: economic partnerships and companies; production and consumer cooperatives. The participants of such legal persons can have rights to a thing only for the property, which they have transferred to the legal persons for using as contribution to the charter capital.

To legal persons with respect to whose property the founders thereof have the right of ownership or other right to in rem shall be relegated unitary enterprises, including subsidiary enterprises, and also state associations and institutions financed by the owner.

3. To legal persons with respect to which the founders (participants) thereof do not have property rights belong: social and religious organizations (associations); charitable and other funds; associations of legal persons and (or) of individual entrepreneurs (associations and unions), and other noncommercial organizations unless otherwise established by this Code, other laws or acts of President of the Republic of Belarus.

In the instances stipulated by the laws or acts of the President of the Republic of Belarus, the administrative and territorial units may have property rights in relation to commercial organization, including when they are not their founders (participants).

## **Article 45. Legal Capacity of Legal Person**

1. A legal person may have civil rights corresponding to the purposes of the activity provided for in its constituent documents and subject of activity specified in the constituent documents, and shall bear the duties connected with such activity. A legal person may engage in individual types of activity, a list of which is determined by the legislative acts, only on the basis of a special authorization (license).

2. A legal person may be limited in rights only in the instances and in the procedure provided for by the legislation. A decision concerning limitation of rights may be appealed by a legal person to a court.

3. The legal capacity of a legal person shall arise at the time of its creation (Article 47(2)) and shall terminate at the time of the completion of its liquidation (Article 59(8)).

The right of a legal person to carry out activity the engagement in which requires a special permit (license) shall arise from the time of the receipt of such special permit (license) or within the period specified therein and shall terminate upon the expiry of the period of its validity, unless otherwise established by the legislation.

## **Article 46. Commercial and Noncommercial Organizations**

1. Organizations pursuing the deriving of profit as the principal purpose of their activity (commercial organizations) or not having the deriving of profit as such purpose and not distributing profit received among the participants (noncommercial organizations) may be legal persons.

2. Legal persons which are commercial organizations may be created in the form of economic partnerships and companies, production cooperatives, unitary enterprises, and peasant (farming) households and in other forms stipulated by this Code.

The activity of peasant (farming) households is regulated by this Code and other acts of legislation.

3. Legal persons which are noncommercial organizations may be created in the form of consumer cooperatives, social or religious organizations (associations), institutions financed by the owner, charitable and other funds, and also in other forms provided for by the acts of legislation.

The noncommercial organizations can be formed for achievement of social, nature-protective, charitable, cultural, educational, scientific and managing purposes, health care, development of physical culture and sport, satisfaction of spiritual and other non-material needs of the citizens, protection of the rights and legal interests of the citizens and legal persons, solving of disputes and conflicts, rendering legal assistance in accordance with the legislation, and for other purposes, aimed on achievement of the public wealth.

The nonprofit organizations can be formed for satisfaction of material (property) needs of the citizens, or citizens and legal persons, in cases provided by this Code and other legislative acts.

The nonprofit organizations may effectuate entrepreneurial activity only insofar as this is necessary for their charter purposes for which these organizations were formed, correspond with these purposes and meet the subject of activity of the noncommercial organization, or insofar such activity is necessary for the accomplishment of missions meaningful for the state, stipulated in their constituent documents, corresponds with these missions and meets the subject of activity of these organizations. For some specific forms of noncommercial organizations, the requirements can be stipulated by the legislative acts, providing for the right for engaging in entrepreneurial activity only by means of forming of commercial organization and (or) participation in such organization.

4. It is permitted the creation of associations of commercial organizations and (or) of individual entrepreneurs, as well as associations of commercial and (or) noncommercial organizations in the form of associations and unions and associations of commercial organizations and (or) of individual entrepreneurs in the form of state association.

In accordance with the legislative acts, the legal persons may form the associations, including those with participation of the foreign legal persons, in the form of financial-industrial and other economic groups, in accordance with the procedure and subject to conditions determined by the legislation on such groups.

In the instances provided for by the legislative acts, the associations of commercial and noncommercial organizations and/or natural persons may be created in other forms.

#### **Article 47. State Registration of Legal Persons**

1. A legal person shall be subject to state registration in accordance with the procedure determined by the legislation. The data of state registration, including, for commercial organizations, the firm name, shall be included, in accordance with the legislation, in the Unified State Register Of Legal persons And Individual Entrepreneurs, which shall be available for general familiarization. A violation of the procedure established by the legislation for the formation of a legal person or the failure of its constituent documents to conform to law shall entail refusal of the state registration of the legal person. The refusal of state registration for reasons of unpracticality is not allowed unless otherwise provided by legislative acts. The refusal of state registration, and also the evasion of such registration, may be appealed to a court.

2. The legal person shall be considered to be created from the time of the state registration thereof, unless otherwise not established by the President of the Republic of Belarus.

3. The legal person shall be subject to re-registration in cases provided by the legislative acts.

4. The natural person or the legal person shall be entitled to obtain the information, being kept in the Unified State Register of Legal Persons and Individual Entrepreneurs, in accordance with the procedure and in cases defined by the legislation.

#### **Article 47<sup>1</sup>. Charter Capital of Commercial Organization**

1. At the formation of the commercial organization, the charter capital of this organization

shall be formed in accordance with the procedure established by the legislation. The amount of the charter capital for the commercial organization shall not be less than the minimum amount stipulated by the legislation.

2. The contribution in the charter capital of the commercial organization may include things, including money and securities, other property, including the property rights, or other alienable rights, having the evaluation of their value.

The evaluation of the non-monetary contribution in the charter capital of the commercial organization is subject to the expert verification of reliability of such evaluation in cases and in accordance with the procedure provided by the legislation.

The property cannot be contributed in the charter capital of the commercial organization, if the right for alienation of this property is limited by the owner, by the legislation or by the contract.

The legislative acts may establish other restrictions concerning the property contributed in the charter capital of the commercial organization.

3. If, after expiration of the second and of each following fiscal year, the cost of net assets of the commercial organization is less than the charter capital, such organization shall be obliged to declare and register, in accordance with existing procedure, the reduction of its charter capital. If the cost of these assets is less than the minimum amount of the charter capital stipulated by the legislative acts, the commercial organization is subject to liquidation in accordance with existing procedure.

#### **Article 48. Constituent Documents of Legal Person**

1. A legal person shall operate on the basis of a charter, or the Articles of Incorporation and a charter, or the Articles of Incorporation only.

The Articles of Incorporation of a legal person shall be concluded, and the charter shall be confirmed, by its founders (participants). The legislative acts may establish other procedure for the confirmation of the Articles of Incorporation of legal persons.

A legal person created in accordance with this Code by single founder shall operate on the basis of a charter confirmed by this founder.

2. The name of the legal person, its location, the purposes of activity, the procedure for the management of the activity of the legal person must be determined in the constituent documents of the legal person, and also they shall contain other information provided for by the law for legal persons of the respective type. The subject of activity of the legal person must be determined in the constituent documents of noncommercial organizations and unitary enterprises, and in the instances provided for by the legislation, also in the constituent documents of other commercial organizations. The subject of the activity of a commercial organization may be determined by the constituent documents of other commercial organizations also in instances when according to the legislation this is not obligatory.

In the Articles of Incorporation the founders shall undertake to create a legal person and determine the procedure for joint activity relating to its creation and the conditions for the transfer of their property to it and participation in its activity. The conditions and procedure

for distribution among the participants of profit and losses, the management of activity of the legal person, and the withdrawal of founders (participants) from the composition thereof shall also be determined by the Articles of Incorporation. Other terms and conditions can be included in the Articles of Incorporation, subject to the consent of the founders.

3. Changes of constituent documents shall acquire force for third persons from the time of state registration, and in the instances established by the legislation, from the time of informing the body carrying out state registration of such changes. However, legal persons and their founders (participants) shall not have the right to refer to the lack of registration of such changes in relations with third persons who have acted taking these changes into consideration.

Changes of constituent documents of Republic's state-social associations shall acquire force for third persons from the time of the entry into force of legal acts which approve such changes.

#### **Article 49. Bodies of Legal Person**

1. A legal person shall acquire civil rights and assume civil duties through its bodies operating in accordance with the legislation and the constituent documents. The procedure for the appointment or election of the bodies of a legal person shall be determined by the legislative acts and the constituent documents.

2. In the instances provided for by the legislative acts a legal person may acquire civil rights and assume civil duties through its participants.

3. A person who by virtue of a law or constituent documents of a legal person acts in its name must operate in the interests of the legal person represented by him in good faith and reasonably. He shall be obliged at the demand of the founders (participants) of the legal person, unless otherwise provided by the legislative acts or contract, to compensate losses caused by him to the legal person.

#### **Article 50. Name and Location of Legal Person**

1. A legal person shall have its own name containing an indication of its organizational legal form. The names of noncommercial organizations and unitary enterprises, and in the instances provided for by the legislative acts, of other commercial organizations, must contain an indication of the character of activity of the legal person.

Inclusion of the references to the official full or shortened name of the Republic of Belarus, words "national" and "Belarusian" in the name of the legal person, inclusion of such name or the elements of the national symbols in the requisites of the documents or in the advertising materials of the legal person is allowed in accordance with the procedure determined by the President of the Republic of Belarus.

2. The location of a legal person shall be determined by the location of its permanently acting executive body (an administrative and territorial unit, populated locality, and also a house, an apartment or another dwelling, if any), and in the case of absence of the permanently acting executive body - another body or a person entitled to act on behalf of a

legal person without authorization.

3. The name and location of a legal person shall be specified in its constituent documents.

### **Article 51. Representative Offices and Branches**

1. A solitary subdivision of a legal person situated outside the location thereof which represents the interests of the legal person and effectuates the defense thereof shall be a representative office.

2. A solitary subdivision of a legal person situated outside the location thereof and carrying out all or part of its functions, including the function of representative office, shall be a branch.

Representative offices and branches shall not be legal persons. They shall be endowed with property by the legal person which created them and shall operate on the basis of Regulations confirmed by it.

The property of the representative offices or branches of the legal person is considered separately on the balance of the legal person, which has created these representative offices or branches.

The heads of representative offices and branches shall be appointed by the legal person and operate on the basis of the power of attorney thereof.

Representative offices and branches must be specified in the constituent documents of the legal person which has created them.

### **Article 51<sup>1</sup>. Representative Offices of Foreign Organization**

The representative office of the foreign organization is the solitary subdivision of this organization, located on the territory of the Republic of Belarus, carrying out the defense and representation of interests of the foreign organization and other functions not contradicting the legislation.

Forming of the representative offices of the foreign organization, the activity of which is aimed on overthrowing or forcible change of the constitutional system, breach of integrity and safety of the state, propaganda of war or violence, promotion of national, religious and racial hostility, and of the foreign organizations, the activity of which can cause damage for the rights and legal interests of the citizens, is prohibited.

2. The representative office of the foreign organization is considered formed on the territory of the Republic of Belarus since the date of obtaining the permission for its formation in accordance with the procedure established by the legislation.

In the legislation, the restrictions on entrepreneurial and other activities of the representative offices of the foreign organizations can be stipulated.

3. The representative office of the foreign organization shall have the name, containing the indication of the foreign organization, which has formed this representative office.



## **Article 52. Liability of Legal Person**

1. Legal persons, except for those being financed by the owner of institutions, shall be liable for their obligations with all of the property belonging to them.

2. A fisc enterprise and an institution being financed by the owner shall be liable for its obligations in accordance with the procedure and on the conditions established by Article 113(5) and Articles 115 and 120 of this Code.

3. The founder (participant) of a legal person or the owner of its property shall not be liable for obligations of the legal person, and the legal person shall not be liable for the obligations of the founder (participant) or owner, except for the instances provided for by legislative acts or by the constituent documents of the legal person.

If the economic insolvency (bankruptcy) of a legal person has been caused by the owner of the property of the legal person, by the founders (participants) or by other persons, including the head of the legal person, who have the right to give instructions which are binding upon this legal person or have the possibility to determine otherwise its actions, subsidiary liability for its obligations may be placed upon such persons in the event of insufficiency of the property of the legal person.

## **Article 53. Reorganization of Legal Person**

1. The reorganization of a legal person (merging, affiliation, splitting-up, splitting-off, transformation) may be effectuated by decision of its founders (participants) or the body of the legal person authorized therefor by the constituent documents, and in the cases provided for in the legislative acts - by the decision of the authorized state bodies, including courts.

2. If the founders (participants) of a legal person, body authorized by them, or body of the legal person authorized to reorganize it by its constituent documents does not effectuate the reorganization of the legal person within the period specified in the decision of the authorized state body, the court upon the suit of the said state body shall appoint an external administrator of the legal person and charge him with carrying out the reorganization of this legal person. From the time of appointment of the external administrator to him shall pass the powers relating to managing the affairs of the legal person. The external administrator shall act in the name of the legal person in court, draw up the splitting balance sheet or the transfer act and transfer it for consideration of the court together with the constituent documents of the legal persons arising as a result of the reorganization. The confirmation by the court of the said documents shall be the grounds for state registration of the newly arisen legal persons.

3. In the instances established by the legislative acts the reorganization of legal persons may be effectuated only with the consent of authorized state bodies.

4. The legal person shall be considered to be reorganized, except for instances of reorganization in the form of affiliation, from the time of state registration of the legal persons which have arisen anew.

In the event of the reorganization of a legal person in the form of affiliation thereto of another legal person, the first of them shall be considered to be reorganized from the time of

making an entry in the Unified State Register of Legal persons and Individual Entrepreneurs concerning the termination of the activity of the affiliated legal person.

#### **Article 54. Legal Succession in Event of Reorganization of Legal persons**

1. In the event of merging of legal persons the rights and duties of each of them shall pass to the legal person which newly arises in accordance with the act of transfer.

2. In the event of affiliation of a legal person to another legal person, to the latter shall pass the rights and duties of the affiliated legal person in accordance with the act of transfer.

3. In the event of splitting-up of a legal person its rights and duties shall pass to the legal persons which newly arise in accordance with the splitting balance sheet.

4. In the event of splitting-off from a legal person of one or several legal persons, to each of them shall pass the rights and duties of the reorganized legal person in accordance with the splitting balance sheet.

5. In the event of transformation of a legal person of one type into a legal person of another type (change of organizational legal form), to the legal person which arises anew shall pass the rights and duties of the reorganized legal person in accordance with the act of transfer.

#### **Article 55. Act of Transfer and Splitting Balance Sheet**

1. The act of transfer and splitting balance sheet must contain provisions concerning legal succession regarding all obligations of the reorganized legal person with respect to all creditors and debtors thereof, including obligations being contested by the parties.

2. The act of transfer and splitting balance sheet shall be confirmed by the founders (participants) of the legal person or by the body which adopted the decision concerning reorganization of the legal persons and shall be submitted together with the constituent documents for the registration of the legal persons which newly arose or for making changes in the constituent documents of existing legal persons.

The failure to submit with the constituent documents the act of transfer or splitting balance sheet respectively, and also the absence therein of provisions concerning legal succession with regard to the obligations of the reorganized legal person, shall entail a refusal of state registration of the legal persons which newly arose.

#### **Article 56. Guarantees of Rights of Creditors of Legal Person in the Event of its Reorganization**

1. The founders (participants) of the legal person or body which adopted the decision concerning the reorganization of a legal person shall be obliged to inform in writing the creditors of the legal person being reorganized thereof.

The creditor of the legal person being reorganized shall have the right to demand for the termination or the performance of the obligation before due time, the debtor with regard to

which this legal person is, and for compensation of losses.

3. If the splitting balance sheet does not make it possible to determine the legal successor of the reorganized legal person, the legal persons which newly arose shall bear joint and several liability for the obligations of the reorganized legal person to its creditors.

### **Article 57. Liquidation of Legal Person**

1. The liquidation of a legal person shall entail the termination thereof without the transfer of rights and duties by way of legal succession to other persons.

2. A legal person may be liquidated by:

1) decision of its founders (participants) or the body of the legal person authorized by the constituent documents, including such decision in connection with the expiry of the term for which the legal person was created, achievement of the purpose for which it was created, or the deeming by a court of the registration of the legal person to be invalid in connection with violations of the legislations committed during its creation if such violations cannot be eliminated;

2) decision of a court in the event of

failure to adopt the decision on liquidation in accordance with Subclause 1 of this Clause because of expiration of the term, for which the legal person was created, or achieving the purposes, for which the legal person was created;

reduction of the cost of net assets of the commercial organization, in accordance with the results of the second and each following fiscal year, below minimum amount of the charter capital, established by the legislation;

effectuation of the activity without special permit (license), or activity prohibited by the legislation, or other repeated or gross violations of the legislation, or systematic effectuation of activity, contradictory to the statute purposes of the legal person, or declaring the registration of the legal person void and null by the court because of violations of the legislation, which were committed during creation of the legal person, and in other cases provided by the legislative acts;

3) decision of other bodies, in cases provided by the legislative acts.

3. A demand concerning liquidation of a legal person on the grounds specified in Clause 2 of this Article may be presented to a court by a state body or body of local administration or self-government to which the right to submit such demand has been granted by the legislation.

Duties relating to the effectuation of the liquidation of a legal person may be placed by decision of a court concerning the liquidation of a legal person on its founders (participants), or body authorized to liquidate the legal person by its constituent documents.

4. A legal person which is a commercial organization or operating in the form of a consumer cooperative, charitable or other fund shall also be liquidated in accordance with Article 61 of this Code as a consequence of its being deemed to be insolvent (bankrupt).

If the value of the property of such a legal person is insufficient to satisfy the demands of

creditors, it may be liquidated only in accordance with the procedure provided for by Article 61 of this Code.

The provisions on the liquidation of legal persons as a consequence of economic insolvency (bankruptcy) shall not extend to fisc enterprises.

5. In the instances established by the legislation the liquidation of legal persons may be carried out only with consent of authorized state bodies.

### **Article 58. Duties of Person Which Adopted Decision Concerning Liquidation of the Legal Person**

1. The founders (participants) of a legal person or body which adopted the decision concerning liquidation of the legal person shall be obliged to notify immediately, in writing, the body which effectuates the state registration of legal persons, which shall place the information in the Unified State Register of Legal persons and Individual Entrepreneurs, concerning the fact that the legal person is being liquidated.

2. The founders (participants) of a legal person or body which has adopted the decision concerning the liquidation of a legal person shall appoint by agreement with the body carrying out the state registration of legal persons a liquidation commission (liquidator) and establish in accordance with this Code the procedure and periods of liquidation.

3. From the time of the appointment of the liquidation commission the powers relating to the management of the affairs of the legal person shall pass to it. The liquidation commission shall act in the court in the name of the legal person being liquidated.

### **Article 59. Procedure for Liquidation of Legal Person**

1. The liquidation commission shall place in printed media in which the data concerning the registration of legal persons are published, a publication concerning liquidation of the legal person and the procedure and periods for declaring demands by its creditors. This period may not be less than two months from the time of the publication concerning liquidation.

The liquidation commission shall take measures to elicit creditors and receive debtor indebtedness, and also inform creditors in writing concerning the liquidation of a legal person.

2. After expiration of the term for submission of demands by creditors, the liquidation commission shall draw up the intermediate liquidation balance sheet, which shall contain information concerning the composition of the property of the legal person being liquidated, a list of demands submitted by creditors, and also the results of consideration of these demands.

The intermediate liquidation balance sheet shall be confirmed by the founders (participants) of the legal person or body which adopted the decision concerning the liquidation of the legal person.

3. If the monetary means of legal person being liquidated (except for institutions) are insufficient to satisfy the demands of creditors, the liquidation commission shall effectuate the sale of the property of the legal person at public sales in accordance with the procedure established for the execution of judicial decisions.

4. The payment of monetary amounts to creditors of a legal person being liquidated shall be by the liquidation commission in the order of priority established by Article 60 of this Code and in accordance with the intermediate liquidation balance sheet, starting from the date of its confirmation, except for creditors of the fifth priority, payment to whom shall be made upon the expiry of a month from the date of confirmation of the intermediate liquidation balance sheet.

5. After completion of the settlement of accounts with creditors, the liquidation commission shall draw up the liquidation balance sheet, which shall be confirmed by the founders (participants) of the legal person or by the body which adopted the decision concerning the liquidation of the legal person.

6. In the event that the property of a legal enterprise being liquidated, or the monetary means of the institution being liquidated are insufficient for satisfaction of the demands of creditors, the latter shall have the right to bring suit in a court to satisfy the remaining part of the demands at the expense of the owner of the property of this enterprise or institution.

7. The property of legal person, remaining after the satisfaction of the demands of creditors, shall be transferred to the founders (participants) thereof, having rights to a thing in this property or rights of obligations with respect to this legal person, unless otherwise provided by the legislative acts or the constituent documents of the legal person.

8. The liquidation of a legal person shall be considered to be completed and the legal person to have terminated existence after the making of entries thereof in the Unified State Register of Legal persons and Individual Entrepreneurs.

#### **Article 60. Satisfaction of Demands of Creditors**

1. When liquidating a legal person the demands of its creditors shall be satisfied in accordance with the following priority:

1) first, the demands of citizens to whom the legal person being liquidated bears liability for the causing of harm to life or health by means of capitalizing the respective time payments shall be satisfied;

2) second, accounts shall be settled with regard to the payment of severance benefits and the payment for labor with persons who work under a labor contract and with regard to the payment of remuneration under authors' contracts;

3) third, the indebtedness relating to obligatory payments to the budget and extrabudgetary funds shall be paid;

4) fourth, the demands of creditors relating to obligations secured by the pledge of property of the legal person being liquidated shall be satisfied;

5) fifth, accounts shall be settled with other creditors in accordance with the legislation.

The priority of satisfaction of demands of creditors in the course of liquidation of banks and non-bank credit and financial institutions is determined taking in account specific features stipulated by banking legislation.

2. The demands of each priority shall be satisfied after the full satisfaction of demands of the preceding priority.

3. In the event the property of a legal person being liquidated is insufficient, it shall be distributed among the creditors of the respective priority in proportion to the amounts of demands subject to satisfaction, unless otherwise established by the legislative acts.

4. In the event of the refusal of the liquidation commission to satisfy the demands of a creditor or the evasion of the consideration thereof, a creditor shall have the right before confirmation of the liquidation balance sheet of the legal person to bring suit against the liquidation commission in court. By decision of the court the demands of the creditor may be satisfied at the expense of the residual property of the legal person being liquidated.

5. Demands of a creditor submitted after the expiry of the term established by the liquidation commission for the submission thereof shall be satisfied from the property of the legal person being liquidated remaining after the satisfaction of the demands of creditors submitted within the specified term.

Demands of creditors not satisfied because of the insufficiency of the property of the legal person being liquidated shall be considered to be paid, except for the case provided for in the Article 62 of this Code. Demands of creditors not recognized by the liquidation commission, if the creditor has not brought suit in court, and also demands, the satisfaction of which has been refused to a creditor by decision of a court, also shall be considered to be paid.

#### **Article 61. Economic Insolvency (Bankruptcy) of Legal Person**

1. A legal person which is a commercial organization, except for a fisc enterprise, and also a legal person operating in the form of a consumer cooperative or charitable or other fund, may, by decision of a court, be deemed to be insolvent (bankrupt) if it can not satisfy the demands of creditors.

The deeming of a legal person to be bankrupt by a court shall entail its sanation, or, in case of impossibility or absence of grounds for continuation of its activity, liquidation.

In case of declaring the legal person to be economically insolvent (the bankrupt), the legal person is subject to the sanation, or, in case of impossibility or absence of grounds for continuation of the activity, the legal person is subject to the liquidation.

2. The grounds for deeming a legal person to be bankrupt by a court, or declaring its own bankruptcy, and also the procedure for its sanation or liquidation shall be established by the legislation on economic insolvency (bankruptcy).

#### **Article 62. Levying the Execution upon the Property Belonging to the Legal Person after the Liquidation of this Person**

If, after liquidation of the legal person, it would be proved that this legal person, with the purposes of avoidance of the liability to the creditors, has transmitted to other person or otherwise has intentionally hidden at least part of the property, the creditors, which have not obtained complete satisfaction of the claims within the limits of liquidation proceedings, have

the right to levy execution upon this property for the non-paid part of the debt. In this case, the provisions of Article 284 of this Code are accordingly applied. The person, to which the property was transferred, is considered to be unfair, if this person was informed or should have been informed on the intention of the legal person to hide the property from the creditors.

## **§ 2. Economic Partnerships and Companies**

### **1. General Provisions**

#### **Article 63. Basic Provisions on Economic Partnerships and Companies**

1. Commercial organizations with a charter capital divided into participatory shares (stocks) of the founders (participants) shall be deemed to be economic partnerships and companies. The property created at the expense of contributions of the founders (participants), and also produced and acquired by the economic partnership or company in the process of its activity, shall belong to it by right of ownership.

2. Economic partnerships may be created in the form of a general partnership and special partnership.

3. Economic companies may be created in the form of a joint-stock company, limited liability company, or additional liability company.

4. Individual entrepreneurs and (or) commercial organizations may be participants of general partnerships and may be general partners in special partnerships.

Citizens and/or legal persons may be participants of economic companies and contributors to special partnerships.

State bodies and bodies of local administration or self-government shall not have the right to act as participants of economic companies and contributors to special partnerships unless otherwise established by the legislation.

Unitary enterprises, state associations and institutions financed by owners may be participants of economic companies and contributors to special partnerships with the authorization of the owner (body authorized by the owner) unless otherwise established by the legislative acts.

The participation of individual categories of citizens in economic partnerships and companies may be prohibited or limited by the legislation.

5. Economic partnerships and companies may be the founders (participants) of other economic partnerships and companies except for instances provided for by the legislation.

6. Evaluation of the non-monetary contribution of a participant of an economic company shall be made by agreement between the founders (participants) of the company and in the cases provided for in the legislation shall be subject to expert verification of reliability of such evaluation.

7. Excluded.

#### **Article 64. Rights and Duties of Participants of Economic Partnership or Company**

1. The participants of an economic partnership or company shall have the right to:

1) participate in the management of the affairs of the partnership or company, except for instances provided for by Article 83(2) of this Code and by the legislative acts;

2) receive information concerning the activity of the partnership or company and familiarize themselves with its bookkeeping records and other documentation in accordance with the procedure established by the constituent documents;

3) take part in the distribution of profit;

4) receive in the event of the liquidation of the partnership or company the part of the property remaining after the settlement of accounts with creditors or the value thereof.

The participants of an economic partnership or company also may have other rights provided for by the legislation on economic partnerships and companies, or constituent documents of a partnership or company.

2. In case of withdrawal or expulsion of the participant from the business partnership or company (with the exception of the participant of the joint-stock company), the cost of the part of property of the company, corresponding to the share of this participant in the charter capital (unless otherwise is provided by the constituent documents) and the part of profit corresponding to the share of the participant, is paid to the participant. Subject to the agreement of the withdrawing (expulsed) participant with the remained participants of the business partnership or company, instead of payment of the cost of property, the property in kind can be delivered for the participant.

The part of property of the business partnership or company, which is due to the withdrawing (expulsed) participant, or the cost of this part is determined on the basis of the balance drawn up at the date of withdrawal (expulsion); the part of profit due to withdrawing (expulsed) participant is determined at the date of settlement.

Payment of the cost of property or delivering the property in kind to the withdrawing (expulsed) participant of the limited liability company is carried out after the expiration of the fiscal year and after the approval of the annual report for the year of withdrawal (expulsion) from the company, within twelve months from the date of submitting the application for withdrawal or making the decision on expulsion, unless otherwise is provided by the constituent documents.

3. The participants of an economic partnership or company shall be obliged to:

1) make contributions in accordance with the procedure and amounts, by the means, and within the periods provided for by the constituent documents;

2) not divulge confidential information concerning the activity of the partnership or company;

3) perform another duties provided by the legislative acts.



The participants of an economic partnership or company may also bear other duties provided for by its constituent documents.

## **Article 65. Transformation of Economic Partnerships and Companies**

1. Economic partnerships and companies of one type may be transformed into economic partnerships and companies of another type or into production cooperatives by decision of the general meeting of participants in cases and in accordance with the procedure, established by the legislative acts; also, the business partnerships and companies can be transformed to the unitary enterprises, when only one participant remains in the partnership or company.

In the event of the transformation of a partnership into a company, each full partner who has become a participant (stockholder) of the company shall for two years bear subsidiary liability with all of its property for obligations which passed to the company from the partnership. The alienation by a former partner of participatory shares (stocks) belonging to it shall not relieve it from such liability. The rules set out in this Clause shall apply respectively when transforming a partnership into a production cooperative or into unitary enterprise.

## **2. General Partnership**

### **Article 66. Basic Provisions on General Partnership**

1. A partnership whose participants (general partners) in accordance with a contract concluded between them engage in entrepreneurial activity in the name of the partnership and, jointly and severally with each other, bear subsidiary liability for its obligations with all of the property belonging to them, shall be deemed to be a general partnership.

2. A person may be a participant of only one general partnership.

3. The firm name of a general partnership must contain either the names of all its participants, and the words "general partnership", or the name of one or several participants with the addition of the words "and company," and the words "general partnership".

### **Article 67. Articles of Incorporation of General Partnership**

1. A general partnership shall be created and operate on the basis of the Articles of Incorporation. The Articles of Incorporation shall be signed by all of its participants.

2. The Articles of Incorporation of a general partnership must contain, in addition to the information specified in Article 48(2) of this Code, the conditions concerning the amount and composition of the charter capital of the partnership; the amount and procedure for changing the participatory shares of each of the participants in the charter capital; the amount, composition, periods, and procedure for making contributions by them; the liability of the participants for a violation of the duties relating to making contributions.

## **Article 68. Management in General Partnership**

1. The management of the activity of a general partnership shall be effectuated by the common consent of all the participants. Instances when a decision is adopted by a majority vote of the participants may be provided for by the Articles of Incorporation of the partnership.

2. Each participant of a general partnership shall have one vote unless another procedure for determining the number of votes of its participants has been provided for by the Articles of Incorporation.

3. Each participant of a partnership, irrespective of whether he is authorized to conduct the affairs of the partnership, shall have the right to familiarize himself with all of the documentation relating to conducting the affairs. A waiver of this right or limitation thereof, including those by agreement of the participants of the partnership, shall be void.

## **Article 69. Conducting the Affairs of General Partnership**

1. Each participant of a general partnership shall have the right to operate in the name of the partnership unless it has been established by the Articles of Incorporation that all of its participants conduct the affairs jointly, or the conducting of affairs has been entrusted by them to individual participants.

In the event of the joint conducting of the affairs of the partnership by its participants, the consent of all participants of the partnership shall be required in order to conclude each transaction.

If the conduct of the affairs of the partnership is entrusted by its participants to one or several of them, the remaining participants must, in order to conclude transactions in the name of the partnership, have a power of attorney from the participant(s) to whom the conducting of the affairs of the partnership has been entrusted.

In relations with third persons the partnership shall not have the right to refer to provisions of the Articles of Incorporation limiting the powers of the participants of the partnership, except for instances when the partnership proves that the third person at the time of concluding the transaction knew or knowingly should have known about the lack of the participant of the partnership's right to operate in the name of the partnership.

2. The powers to conduct the affairs of the partnership granted to one or several participants may be terminated by a court upon the demand of one or several other participants of the partnership when there are serious grounds, in particular, as a consequence of a flagrant violation by an authorized person(s) of his duties or of discovering that he is not capable of reasonably conducting affairs. Necessary changes shall be made in the Articles of Incorporation of the partnership on the basis of a judicial decision.

## **Article 70. Duties of Participant of General Partnership**

1. The participant of a general partnership shall be obliged to participate in its activity in

accordance with the conditions of the Articles of Incorporation.

2. The participant of a general partnership, shall be obliged to make not less than half of his contribution to the charter capital of the partnership at the time of registration thereof. The remaining portion must be contributed by the participant within the periods established by the Articles of Incorporation. In the event of the failure to fulfill the said duty the participant shall be obliged to compensate the losses caused to the partnership, unless other consequences have been established by the Articles of Incorporation.

3. The participant of a general partnership shall not have the right without the consent of the remaining participants to conclude in his name and in his interests or in the interests of third persons a transaction of the same nature as that which comprises the subject of activity of the partnership.

In the event of a violation of this rule, the partnership shall have the right at its discretion to demand from such participant either compensation for losses caused to the partnership, or the transfer to the partnership of all advantage acquired under such transactions.

#### **Article 71. Distribution of Profit and Losses of General Partnership**

1. Profit and losses of a general partnership shall be distributed between the participants thereof in proportion to their participatory shares in the charter capital unless otherwise provided by the Articles of Incorporation or other agreement of the participants. An agreement concerning the exclusion of any of the participants of the partnership from participation in the profits or in the losses shall not be permitted.

2. If as a consequence of losses incurred by the partnership, the value of its net assets becomes less than the amount of its charter capital, the profit received by the partnership shall not be distributed among the participants so long as the value of the net assets does not exceed the amount of charter capital.

#### **Article 72. Liability of Participants of General Partnership for its Obligations**

1. The participants of a partnership shall jointly and severally bear subsidiary liability with all of their property for the obligations of the partnership.

2. The participant of a general partnership who is not a founder thereof shall be liable equally with the other participants also for obligations which arose before his joining the partnership.

A participant who has withdrawn from the partnership shall be liable for the obligations of the partnership which arose before the time of his withdrawal equally with the remaining participants for two years from the date of confirmation of the report on the activity of the partnership for the year in which he withdrew from the partnership.

3. An agreement of the participants of the partnership concerning the limitation or elimination of the liability provided for in this Article shall be void.

### **Article 73. Change of Composition of Participants of General Partnership**

1. Changing the composition of participants of the general partnership does not mean liquidation of the general partnership, unless otherwise is stipulated in the Articles of Incorporation of the general partnership.

2. Changing the composition of participants of the general partnership can happen as a result of:

- 1) withdrawal of the participant;
- 2) expulsion of the participant;
- 3) concession of the participant's share to another person;
- 4) joining a new participant;
- 5) deeming the participant to be a bankrupt;

6) death of the participant, declaring the participant deceased, deeming the participant to be missing, deeming lack of active legal capacity or limitation of active legal capacity, or liquidation of the participant being a legal person.

3. In case of leaving of one of the participants from the general partnership, the shares of the remained participants in the charter capital of the general partnership are changed proportionally to the amount of contributions of these participants to the charter capital, unless otherwise is provided by the Articles of Incorporation or another agreement of the participants.

### **Article 74. Withdrawal of Participant from General Partnership**

1. The participant of a general partnership, founded without specification of the term of operation, shall have the right to withdraw therefrom, having declared his refusal to participate in the partnership not less than six months before the actual withdrawal from the partnership.

The pre-term refusal to participate in the general partnership, founded for a specific term, is allowed in cases specified in the Articles of Incorporation, or, if there are no such provisions in the Articles of Incorporation, only subject to justifiable reasons. In case of dispute, the matter on withdrawal is resolved judicially.

2. Any agreement between the participants of a partnership to waive the right to withdraw from the partnership shall be void.

### **Article 75. Expulsion of Participant from the General Partnership**

1. In case of non-fulfilling or improper fulfilling the duties by the participant of the general partnership, the participants of the general partnership have the right to appeal to the court for expulsion of such participant from the general partnership.

2. The expulsion of the participant from the general partnership takes place also in case of levying the execution upon the whole share of the participant in the general partnership. In such a case, the judicial decision on expulsion is not required.

#### **Article 76. Concession of Participatory Share in General Partnership to Another Person**

1. The participant of the general partnership has the right, subject to consent of all other participants, to transfer his share in the charter capital or part thereof to another participant of the general partnership participant or to the third party.

In such a case, other participants of the general partnership have the right of priority purchase of this share (part thereof) over other persons in accordance with the procedure determined by the Articles of Incorporation.

2. In case of transfer of the participatory share (part thereof) to another person, the liabilities of the participant transferring the participatory share (part thereof) are transferred, in full or in appropriate part, to the before-mentioned another person.

Transferring the participatory share in full by the participant of the partnership to another person means termination of participation in the partnership.

#### **Article 77. Joining New Participant to General Partnership**

The person has the right to become the participant of the general partnership, subject to consent of other participants of the general partnership, and subject to making a contribution to the charter capital of the general partnership in accordance with the Articles of Incorporation of the general partnership.

#### **Article 78. Changing the Composition of Participants of the General Partnership in Consequence of the Participant's Death,**

**Declaring the Participant to be Deceased, Deeming the Participant to be Missing, Lack of Active Legal Capacity or**

**Limitation of Active Legal Capacity, or Liquidation of the Participant Being a Legal Person**

1. In case of the participant's death or declaring the participant to be deceased, the heir of the participant has the right (but not obliged) to join the general partnership, subject to consent of other participants.

Settlements with the heir, not joined the general partnership, are carried out in accordance with Article 64(2) of this Code.

2. In case of liquidation of the legal person, being the participant of the general partnership, or deeming the participant to be missing or deeming lack of active legal capacity, or limitation

of active legal capacity of the participant, the participatory share of such participant in the general partnership is separated in accordance with Article 64(2) of this Code.

#### **Article 79. Levying Execution on Participatory Share of Participant in Charter Capital of General Partnership**

Levying execution on the participatory share of a participant in the charter capital of a general partnership regarding the own debts of the participant shall be permitted only when his other property is insufficient to cover the debts. Creditors of such a participant shall have the right to demand of the general partnership the apportionment of the part of the property of the partnership corresponding to the participatory share of the debtor in the charter capital for the purpose of levying execution on this property.

The part of the property of the partnership subject to apportionment or the value thereof shall be determined according to the balance sheet drawn up at the time of the creditors submitting the demand concerning the apportionment.

#### **Article 80. Liquidation of General Partnership**

A general partnership shall be liquidated on the grounds specified in Article 57 of this Code, and also when a sole participant remains in the partnership. Such participant shall have the right within three months from the time when he became the sole participant of the partnership to transform such partnership into a unitary enterprise in accordance with the procedure established by this Code.

### **3. Special Partnership**

#### **Article 81. Basic Provisions on Special Partnership**

1. A special partnership shall be deemed to be a partnership in which together with participants carrying out entrepreneurial activity in the name of the partnership and liable for the obligations of the partnership with their property (general partners) there are one or several participants (contributors, special partners) who shall bear the risk of losses connected with the activity of the partnership within the limits of the amounts of the contributions made by them and shall not take part in the effectuation by the partnership of entrepreneurial activity.

2. The status of general partners participating in a special partnership and their liability for the obligations of the partnership shall be determined by the legislation on the participants of a general partnership.

3. A person may be a full partner only in one special partnership.

A participant of a general partnership may not be a full partner in a special partnership.

A full partner in a special partnership may not be a participant of a general partnership.

4. The firm name of a special partnership must contain either the name(s) of all of the general partners and the words "special partnership", or the name of at least one full partner with the addition of the words "and company" and the words "special partnership". If the name of a contributor is included in the firm name of a special partnership, subject to the consent of this contributor, such contributor becomes a full partner.

5. The rules of this Code on the general partnership shall apply to a special partnership insofar as this is not contrary to the rules of this Code on the special partnership.

### **Article 82. The Articles of Incorporation of Special Partnership**

1. A special partnership shall be created and shall operate on the basis of the Articles of Incorporation. The Articles of Incorporation shall be signed by all of the general partners.

The Articles of Incorporation of a special partnership must contain, besides the information specified in Article 48(2) of this Code, the conditions concerning the amount and composition of the charter capital of the partnership; the amount and procedure for changing the participatory shares of each of the general partners in the charter capital; the amount, composition, periods, and procedure for the making of contributions by them, their liability for a violation of the duties relating to the making of contributions; the aggregate amount of the contributions to be made by the contributors.

### **Article 83. Management in Special Partnership and Conducting its Affairs**

1. The management of the activity of a special partnership shall be effectuated by the general partners. The procedure for the management and conducting of the affairs of such partnership by its general partners shall be established by them according to the legislation on the general partnership.

2. The contributors shall not have the right to participate in the management and conducting of the affairs of a special partnership, nor to act in its name, other than under a power of attorney. They shall not have the right to contest the actions of the general partners relating to the management and the conducting of the affairs of the partnership.

### **Article 84. Rights and Duties of Contributor to Special Partnership**

1. The contributor to a special partnership shall be obliged to make a contribution to the charter capital. Making of a contribution shall be certified by a certificate of participation issued to the contributor by the partnership.

2. The contributor to a special partnership shall have the right to:

1) receive part of the profit of the partnership due for his participatory share in the charter capital in accordance with the procedure provided for by the Articles of Incorporation;

2) familiarize himself with the annual reports and balance sheets of the partnership;

3) at the end of the financial year withdraw from the partnership and receive his contribution in accordance with the procedure provided for by the Articles of Incorporation;

4) transfer his participatory share in the charter capital or part thereof to another contributor or to a third person. The contributors shall enjoy a preferential right of purchase against third persons of the participatory share (part thereof) according to the conditions and procedure provided for by Article 92(2) of this Code. The transfer by the contributor of his entire participatory share to another person shall terminate his participation in the partnership.

Other rights of a contributor also may be provided for by the Articles of Incorporation of a special partnership.

### **Article 85. Liquidation of Special Partnership**

1. A special partnership shall be liquidated in the event of the withdrawal of all the contributors who participated therein. However, the general partners shall have the right instead of liquidation to transform the special partnership into a general partnership, or into the unitary enterprise, when only one participant remains in the partnership.

A special partnership shall be liquidated also on the grounds of liquidation of a general partnership (Article 80). However, a special partnership shall be preserved if at least one full partner and one contributor remain therein.

2. In the event of the liquidation of a special partnership, including in the event of economic insolvency (bankruptcy), contributors shall have the preferential right before the general partners to receive contributions from the property of the partnership remaining after the satisfaction of the demands of its creditors.

The property of the partnership remaining thereafter shall be distributed between the general partners and the contributors in proportion to their participatory shares in the charter capital of the partnership unless another procedure has been established by the Articles of Incorporation or by agreement of the general partners and the contributors.

## **4. Limited Liability Company**

### **Article 86. Basic Provisions on Limited Liability Company**

1. A limited liability company shall be deemed to be a company founded by one or several persons, the charter capital of which is divided into participatory shares of amounts determined by the constituent documents. The participants of a limited liability company shall not be liable for its obligations and shall bear the risk of losses connected with the activity of the company within the limits of the value of the contributions made by them.

The participants of a company who have not made contributions in full shall bear joint and several liability for its obligations within the limits of the value of the unpaid portion of the contribution of each of the participants.

2. The firm name of a limited liability company must contain the name of the company, and



also the words "limited liability company".

3. The legal status of a limited liability company and the rights and duties of its participants shall be determined by the legislation on limited liability companies.

### **Article 87. Participants of Limited Liability Company**

1. The number of participants of a limited liability company must not exceed the limit established by the legislative acts. Otherwise it shall be subject to reorganization within a year, and upon the expiry of this period, it shall be subject to liquidation in a judicial proceeding if the number of its participants is not reduced to up to the limit established by the legislative acts.

2. A limited liability company may not have a sole participant.

### **Article 88. Constituent Documents of Limited Liability Company**

1. The constituent documents of a limited liability company shall be the Articles of Incorporation signed by its founders and the charter confirmed by them.

2. The constituent documents of a limited liability company must contain, in addition to the information specified in Article 48(2) of this Code, conditions concerning the amount of the charter capital of the company; concerning the amount of the participatory shares of each participant; the amount, composition, periods, and procedure for the making of contributions by them, the liability of the participants for a violation of the duties relating to making the contributions; the composition and competence of the management bodies of the company, and the procedure for the adoption of decisions by them, including on questions with regard to which decisions shall be adopted unanimously or by a qualified majority of votes, and also other information provided for by the legislation on limited liability companies.

### **Article 89. Charter Capital of Limited Liability Company**

1. The charter capital of a limited liability company shall be comprised of the value of the contributions of its participants.

The charter capital shall determine the minimum amount of the property of the company guaranteeing the interests of its creditors.

2. The relieving of a participant of a limited liability company from the duty to make a contribution to the charter capital of the company, including by means of setting off demands against the company, shall not be permitted except for the instances established by the legislative acts.

3. The charter capital of a limited liability company must at the time of registration of the company be paid up by its participants by not less than half. The remaining unpaid portion of the charter capital of the company shall be subject to being paid up by its participants within one year of the activity of the company. In the event of a violation of this duty the company must either declare a reduction of its charter capital and register this reduction in the

established procedure, or terminate its activity by way of liquidation.

4. Deleted.

5. Reduction of the charter capital of a limited liability company shall be permitted after informing all of its creditors. The latter shall have the right in this event to demand the termination or performance, before due time, of the respective obligations of the company and the compensation of losses to them.

6. An increase of charter capital of the company shall be permitted after making of contributions in full by all of its participants.

### **Article 90. Management in Limited Liability Company**

1. The supreme body of the management of a limited liability company shall be the general meeting of its participants.

An executive body (collegial and(or) one-man) carrying out the current direction of its activity and accountable to the general meeting of its participants shall be created in a limited liability company. A one-man management body of the company also may be elected not from among its participants.

In the limited liability company may be created, by the decision of its founders (participants) in accordance with constituent documents, board of directors (supervisory board).

2. The competence of the management bodies of the company, and also the procedure for the adoption of decisions by them and acting in the name of the company, shall be determined in accordance with the legislation on limited liability companies and by the charter of the company.

3. There shall be relegated to the exclusive competence of the general meeting of participants of a limited liability company:

- 1) change of the charter of the company, change of the amount of its charter capital;
- 2) formation of executive bodies of the company and termination of their powers before time;
- 3) confirmation of the annual reports and bookkeeping balance sheets of the company and distribution of its profits and losses;
- 4) decision concerning the reorganization or liquidation of the company;
- 5) election of the audit commission (the auditor) of the company.

Deciding of other questions may be relegated also by the legislation on limited liability companies to the exclusive competence of the general meeting.

Questions relegated to the exclusive competence of the general meeting of participants of the company may not be transferred by it for decision of the executive body of the company.

4. In order to verify and confirm the correctness of the financial report of the limited

liability company, it has the right, and in cases provided for in the legislative acts, shall engage an auditing organization (an auditor – individual entrepreneur). The audit of the financial report of the company may also be carried out subject to the demand of any of its participants.

The procedure for conducting the audit of the activity of the company shall be determined by the legislation and by the charter of the company.

5. The information on the results of the company affairs (public accounting) is subject to publishing in cases provided by the legislation.

### **Article 91. Reorganization and Liquidation of Limited Liability Company**

1. A limited liability company may be voluntarily reorganized or liquidated by the unanimous decision of its participants.

Other grounds for the reorganization and liquidation of the company, and also the procedure for its reorganization and liquidation, shall be determined by the legislative acts.

2. A limited liability company may transform itself into a joint-stock company, additional liability company, economic partnership or production cooperative, and, if only one participant remains in the company, into the unitary enterprise.

### **Article 92 Transfer of Participatory Share in Charter Capital of Limited Liability Company to Another Person**

1. The participant of a limited liability company may sell or otherwise alienate his participatory share (part of the share) in the charter capital of the company to one or several participants of this company or the company itself.

2. The alienation by the participant of a company of his participatory share (part of the share) to third persons shall be permitted unless otherwise provided by the legislative acts or the charter of the company.

The participants of the company shall enjoy a preferential right to purchase the participatory share of the participant (part of the share) in proportion to the amounts of their participatory shares unless the charter of the company or an agreement of its participants has provided a different procedure for exercising this right, or unless otherwise provided for in laws and in the acts of the President of the Republic of Belarus. If the participants of the company refuse their preferential right or do not take advantage of their preferential right within a month from the date of notification or within another period provided for by the charter of the company or by agreement of the participants thereof, the participatory share (part of the share) of the participant may be alienated to the company itself. If the participants of the company do not take advantage of their preferential right or the company itself does not take advantage of the right to buy the participatory share (part of the share) of the participant, the participatory share (part of the share) of the participant may be alienated to a third person.

3. If in accordance with the charter of a limited liability company the alienation of the participatory share of a participant (part of the share) to third persons is impossible, and the

other participants of the company refuse to purchase it, the company shall be obliged to pay the participant its actual value or to issue the property in kind to him which corresponds to such value.

4. The participatory share of the participant of a limited liability company may be alienated until the payment thereof in full only in that part which has been already paid up.

5. In the event of the acquisition of the participatory share of a participant (part of the share) by the limited liability company itself, it shall be obliged either to distribute the participatory share which it bought out for its own funds among other participants in proportion to their shares or to realize it to the other participants or to third persons within periods and in accordance with the procedure provided for by the legislation on limited liability companies and by the constituent documents of the company, or to reduce its charter capital in accordance with Article 47<sup>1</sup> (3) and Article 89 (5) of this Code.

6. The participatory shares in the charter capital of a limited liability company shall pass to the heirs of citizens and to the legal successors of legal persons who are participants of the company unless the constituent documents of the company have provided that such transfer shall be permitted only with the consent of the other participants of the company. A refusal to consent to the transfer of a participatory share shall entail the duty of the company to pay to the heirs (legal successors) of that participant its real value or to issue property in kind to them for such value in accordance with the procedure and on the conditions provided for by the legislation on limited liability companies and the constituent documents of the company.

### **Article 93. Withdrawal of Participant of Limited Liability Company from the Company**

A participant of a limited liability company shall have the right at any time to withdraw from the company irrespective of the consent of its other participants.

## **5. Additional Liability Company**

### **Article 94. Basic Provisions on Additional Liability Company**

1. An additional liability company shall be deemed to be a company founded by one or several persons, whose charter capital has been divided into participatory shares of the amounts determined by the constituent documents. The participants of such a company shall bear subsidiary liability jointly and severally for its obligations with their property within the limits, defined by the constituent documents of the company, but not less than within the amount, established by the legislative acts. In the event of the economic insolvency (bankruptcy) of one of the participants, his liability for the obligations of the company shall be distributed among the remaining participants in proportion to their contributions unless another procedure for the distribution of liability has been provided for by the constituent documents of the company.

2. The firm name of an additional liability company must contain the name of the company and the words "additional liability company".

3. The rules of this Code on the limited liability company shall apply to the additional liability company insofar the legislative acts do not provide otherwise.

#### **Article 95. Change of Amount of Additional Liability**

The additional liability company has the right, subject to the notification of creditors, to reduce the amount of additional liability of the participants of the company (however, as a result of such reduction, the amount of additional liability of the participants should not become less than the amount established by the legislative acts), or to increase the amount of additional liability of the company participants.

The creditors of the additional liability company have the right, in case of reduction of the size of additional liability of participants of the company, to demand for the termination or the performance of the respective obligations of the company before due time, and for the compensation of losses.

### **6. Joint-Stock Company**

#### **Article 96. Basic Provisions on Joint-Stock Company**

1. A joint-stock company shall be deemed to be a company whose charter capital has been divided into a determined number of stocks having equal par value. The participants of a joint-stock company (stockholders) shall not be liable for its obligations and shall bear the risk of losses connected with the activity of the company within the limits of the value of the stocks belonging to them.

Stockholders who have not fully paid up stocks shall bear joint and several liability for the obligations of the joint-stock company within the limits of the unpaid portion of the value of the stocks belonging to them.

2. The firm name of a joint-stock company must contain its name and an indication that the company is a joint-stock company.

3. The legal status of a joint-stock company and the rights and duties of the stockholders shall be determined in accordance with the legislation on joint-stock companies.

#### **Article 97. Open and Closed Joint-Stock Companies**

1. A joint-stock company whose participants may alienate the stocks belonging to them without the consent of other stockholders to the non-limited set of persons, shall be deemed to be an open joint-stock company. Such a joint-stock company shall have the right to conduct an open subscription for the stocks issued by it and the free sale thereof on the conditions established by the legislation on securities, and in cases of placing of additionally issued stocks on the company's own account and/or on the account of its stockholders, in other cases specified in the legislative acts - the right for closed placing of additionally issued stocks (among limited number of persons).

An open joint-stock company is obliged to publish annually for general information a yearly report in the scope stipulated by the legislation.

2. The joint-stock company, the participant of which can alienate stocks belonging thereof only subject to the consent of other shareholders and (or) to the limited set of persons, shall be deemed to be a closed joint-stock company. Closed joint-stock company has the right to carry out only closed (among limited number of persons) placing of additionally issued shares.

3. The number of participants of a closed joint-stock company may not exceed the number established by the legislative acts. Otherwise it is to be reorganized within a year, and upon the expiry of this period, be liquidated in a judicial procedure unless the number of participants is reduced to the limit established by the legislative acts.

4. In the instances provided for by the legislative acts on joint-stock companies a closed joint-stock company may be obliged to publish the documents, specified in Clause 1 of this Article, for general information.

5. The stockholders of a closed joint-stock company shall have a preferential right to acquire stocks being sold by other stockholders of this company.

If nobody of the shareholders would take advantage of this preferential right within five days from the date of the notification or within other period established by the charter, the joint-stock company has the right to purchase itself these stocks at the price agreed with the holder of these stocks. In case of refusal of the joint-stock company to purchase the stocks, or in case of failure to come to an agreement on the price of the stocks, these stocks may be alienated to any third party.

6. In case of pledge of stocks of the closed joint-stock company and subsequent levying execution on these stocks by the pledgee, the rules of Clause 5 of this Article are accordingly applied. However, the pledgee has the right to keep the stocks, instead of alienation of the stocks to the third party.

7. The shares of the closed joint-stock company are transferred to the heirs of the citizen or the to the legal successors of the legal person, which was the stockholder, if there is no provision in the charter of the company specifying that such passing is permitted only subject to the consent of the company. In the latter case, in case of refusal in transferring the stocks, these stocks shall be purchased by other stockholders or by the company itself in accordance with the rules of Clause 5 of this Article. However, the heirs (legal successors) have the right to keep the stocks, instead of alienation of the stocks to the third party.

## **Article 98. Formation of Joint-Stock Company**

1. The founders of a joint-stock company shall conclude between themselves a contract determining the procedure for the effectuation by them of joint activity relating to the creation of the company; the amount of the charter capital of the company; the categories of stocks to be issued and the procedure for placing them, and also other conditions provided for by the legislation on joint-stock companies.

The contract concerning the creation of a joint-stock company shall be concluded in writing.

2. The founders of a joint-stock company shall bear joint and several liability for the obligations which arose before the registration of the company.

The company shall undertake liability for the obligations of the founders connected with its creation only in the event of subsequent approval of their actions by the general meeting of stockholders.

3. The constituent document of a joint-stock company shall be its charter, confirmed by the founders.

The charter of a joint-stock company must, in addition to the information specified in Article 48(2) of this Code, contain conditions concerning the categories of stocks to be issued by the company, their par value and quantity; the amount of the charter capital of the company; the rights of stockholders; the composition and competence of the management bodies of the company and the procedure for the adoption of decisions by them, including questions, the decisions regarding which shall be adopted unanimously or by a qualified majority of votes. The charter of the joint-stock company also must contain other data provided for by the legislation on joint-stock companies. The list of participants of the closed joint-stock company is enclosed with the charter.

4. The procedure for the performance of other actions relating to the creation of a joint-stock company, including the competence of the constituent meeting, shall be determined by the legislation on joint-stock companies.

5. The peculiarities of creating joint-stock companies in the event of privatization of state property shall be determined by the legislation on privatization.

6. A joint-stock company may not be created by one person or consist of one person. In case of acquisition of all the stocks of the company by one stockholder, the company is subject to liquidation or transformation to the unitary enterprise in accordance with the legislation.

### **Article 99. Charter Capital of Joint-Stock Company**

1. The charter capital of a joint-stock company shall comprise the par value of the stocks of the company. The charter capital of the company shall determine the minimum amount of the property of the company, guaranteeing the interests of its creditors.

2. Relieving a stockholder from the duty to pay up the stocks of the company, including relieving it of this duty by means of setting off demands against the company, is not permitted except for the instances established by the legislative acts.

3. An open subscription for the stocks of a joint-stock company shall not be permitted until the charter capital is fully paid up. When a joint-stock company is founded, all of its stocks must be distributed among the founders.

4. Deleted.

5. The legislative acts or the charter of the company may establish limitations on total par value and the number of common (ordinary) and/or privileged stocks belonging to one stockholder or on the share of stocks belonging to one stockholder in the total amount of the

charter capital of the joint-stock company.

#### **Article 100. Increase of Charter Capital of Joint-Stock Company**

1. A joint-stock company shall have the right by decision of the general meeting of stockholders to increase the charter capital by means of increasing the par value of the stocks or the issuance of additional stocks.

2. An increase of the charter capital of a joint-stock company shall be permitted after it is paid up in full. An increase of charter capital of the company in order to cover losses incurred by it shall not be permitted.

3. In the instances, provided for by the legislative acts, a preferential right of stockholders, who possess common (ordinary) or other voting stocks, to purchase stocks, additionally to be issued by the company, may be established by the charter of the company.

#### **Article 101. Reduction of Charter Capital of Joint-Stock Company**

1. A joint-stock company shall have the right by decision of the general meeting of stockholders to reduce the charter capital by means of reducing the par value of the stocks, or by means of purchasing a part of the stocks for the purposes of reducing the total number thereof.

A reduction of charter capital of a company shall be permitted after informing all of its creditors in accordance with the procedure determined by the legislation on joint-stock companies. In this connection the creditors of the company shall have the right to demand the termination and the performance, before the due time, of the respective obligations of the company and compensation of losses to them.

2. A reduction of the charter capital of a joint-stock company by means of purchasing a part of stocks by this company for the purposes or reducing their total number is permissible if such possibility has been provided for in the charter of the company.

#### **Article 102. Limitations on Issuance of Securities and Payment of Dividends of Joint-Stock Company**

1. The share of preferred stocks in the overall amount of the charter capital of a joint-stock company must not exceed 25%.

2. Limitations for a joint-stock company to issue bonds may be established by the legislative acts.

3. A joint-stock company has no right to adopt decision on declaring and paying dividends, as well as to pay dividends:

1) until all of the charter capital is paid up in full;

2) if the value of net assets of the joint-stock company is less than its charter capital and



reserve fund or becomes less than the amount thereof as a result of the payment of dividends;

3) in other instances provided for by the legislative acts.

### **Article 103. Management in Joint-Stock Company**

1. The supreme management body of a joint-stock company shall be the general meeting of its stockholders.

There shall be relegated to the exclusive competence of the general meeting of stockholders:

1) change of the charter of the company, including change of the amount of its charter capital;

2) election of members of the board of directors (supervisory board) and inspection commission (inspector) of the company, and termination of their powers before the appointed time;

3) deleted

4) confirmation of the yearly reports; bookkeeping balance sheets, profits and losses accounts of the company, and distribution of its profits and losses;

5) decision concerning reorganization or liquidation of the company.

The deciding of other questions also may be relegated to the exclusive competence of the general meeting of stockholders by the legislative acts.

Questions relegated by the legislation to the exclusive competence of the general meeting of stockholders may not be transferred by them for decision of the executive bodies of the company.

2. In a company with more than 50 stockholders a board of directors (supervisory board) shall be created.

In the event a board of directors (supervisory board) is created, its exclusive competence must be determined by the charter of the company in accordance with the legislation on joint-stock companies. Questions relegated by the charter to the exclusive competence of the board of directors (supervisory board) may not be transferred by them for decision of executive bodies of the company.

3. The executive body of a company may be collegial (board, directorate) and(or) one-man (director, director general). It shall effectuate current direction over the activity of the company and be accountable to the board of directors (supervisory board) and general meeting of stockholders.

To the competence of the executive body of the company shall be relegated the deciding of all questions which do not constitute the exclusive competence of other management bodies of the company specified by the legislative acts or by the charter of the company.

By decision of the general meeting of stockholders the powers of an executive body of the company may be transferred under a contract to another commercial organization or

individual entrepreneur (manager).

4. The competence of the management bodies of a joint-stock company, and also the procedure for the adoption of decisions by them and of acting in the name of the company, shall be determined in accordance with the legislation on joint-stock companies and by the charter of the company.

5. A joint-stock company, obliged in accordance with the legislation on joint-stock companies to publish for general information the documents specified in part 2 of Article 97(1) of this Code, must annually conduct an audit of reliability of the annual financial report.

The audit of the activity of a joint-stock company, including those not obliged to publish for general information the documents specified in Article 97(1) of this Code, must be conducted at any time at the demand of the stockholders which possess in the aggregate ten percent or more of the stocks of this company.

The procedure for conducting the audit of the activity of a joint-stock company shall be determined by the legislation and by the charter of the company.

#### **Article 104. Reorganization and Liquidation of Joint-Stock Company**

1. A joint-stock company may be voluntarily reorganized or liquidated by decision of the general meeting of stockholders.

Other grounds and the procedure for reorganization and liquidation of the joint-stock company shall be determined by the acts of legislation.

2. A joint-stock company shall have the right to be transformed into a limited liability company, additional liability company, economic partnership or a production cooperative, and also into the unitary enterprise, if only one participant remains in the transformed company.

### **7. Subsidiary And Dependent Companies**

#### **Article 105. Subsidiary Economic Company**

1. An economic company shall be deemed to be a subsidiary if another (principal) economic company or partnership by virtue of predominant participation in its charter capital, or in accordance with a contract concluded between them, or otherwise has the possibility to determine the decisions adopted by that company.

2. A subsidiary company shall not be liable for the debts of its principal company (partnership).

The principal company (partnership) which has the right to give to the subsidiary company instructions binding upon it, including those under a contract with it, shall be liable jointly and severally with the subsidiary company with regard to transactions concluded by the latter in performance of such instructions.

In the event of the economic insolvency (bankruptcy) of the subsidiary company through the fault of the principal company (partnership) the latter shall bear subsidiary liability for its debts.

3. The participants (stockholders) of a subsidiary company shall have the right to demand compensation by the principal company (partnership) for losses caused through its fault to the subsidiary company unless otherwise established by the legislation on economic companies.

### **Article 106. Dependent Economic Company**

1. An economic company is deemed to be dependent if another economic company has the share in the charter capital (stocks) of this company corresponding twenty or more percent of votes of the total number of votes which it can use at the general meeting of the participants of such company.

2. The limits of mutual participation of economic companies in the charter capital of one another and the number of votes which one of such companies may use at the general meeting of participants or stockholders of the other company shall be determined by the legislative acts.

## **§ 3. Production Cooperatives**

### **Article 107. Concept of Production Cooperative**

1. A production cooperative (artel) shall be deemed to be a commercial organization, the participants of which should make the property share contributions, take personal labor participation in its activity and bear subsidiary liability on the obligations of the production cooperative in equal portions, unless otherwise is determined in the charter, within the limits, determined by the charter, but not less than the value of the annual income gained in the production cooperative.

2. The firm name of a cooperative must contain its name and the words "production cooperative" or "artel".

3. The legal status of production cooperatives and the rights and duties of their members shall be determined in accordance with the legislation on the production cooperatives.

### **Article 108. Formation of Production Cooperatives**

1. The constituent document of a cooperative shall be its charter, confirmed by the general meeting of its members.

2. The charter of a cooperative must contain, in addition to the information specified in Article 48(2) of this Code, the conditions concerning the amount of the charter capital, the amount of the share contributions of the members of the cooperative; the composition and procedure for the making of share contributions by members of the cooperative and their

liability for a violation of the obligation to make share contributions; the character and procedure of labor participation of its members in the activity of the cooperative and their liability for a violation of the obligation relating to personal labor participation; the procedure for the distribution of profits and losses of the cooperative; the amount and conditions of subsidiary liability of its members for the debts of the cooperative, the composition and competence of the management bodies of the cooperative and the procedure for the adoption of decisions by them, including on questions the decisions regarding which shall be adopted unanimously or by a qualified majority of votes.

3. The number of members of a cooperative must be not less than three.

### **Article 109. Property of Production Cooperative**

1. Property in the ownership of a production cooperative shall be divided into shares of its members in accordance with the charter of the cooperative.

It may be established by the charter of the cooperative that a determined part of the property belonging to the cooperative shall comprise the indivisible funds to be used for the purposes determined by the charter.

A decision concerning the formation of the indivisible funds shall be adopted by the members of the cooperative unanimously unless otherwise provided by the charter of the cooperative.

2. The member of a cooperative shall be obliged to contribute not less than 10% of his share contribution at the time of registration of the cooperative, and the remaining portion within a year from the time of registration, if the shorter period is not provided by the constituent document of the cooperative.

3. The profit of a cooperative shall be distributed among its members in accordance with their labor participation unless a different procedure has been provided by the legislation and by the charter of the cooperative.

The property remaining after the liquidation of the cooperative and the satisfaction of the demands of its creditors shall be distributed in accordance with the same procedure.

### **Article 110. Management in Production Cooperative**

1. The supreme management body of a cooperative shall be the general meeting of its members.

The executive bodies of a cooperative shall be the board and (or) its chairman. They shall effectuate current direction over the activity of the cooperative and shall be accountable to the supervisory board and the general meeting of the members of the cooperative.

Only members of the cooperative may be members of the supervisory board and board of the cooperative, and also the chairman of the cooperative. A member of the cooperative may not simultaneously be a member of the supervisory board and a member of the board or the chairman of the cooperative.

2. The competence of the management bodies of a cooperative and the procedure for the adoption of decisions by them shall be determined by the legislation and by the charter of the cooperative.

3. There shall be relegated to the exclusive competence of the general meeting of members of the cooperative:

change of the charter of the cooperative;

formation of the supervisory board and termination of the powers of its members, and also the formation and termination of powers of the executive bodies of the cooperative unless this right according to the charter of the cooperative has been transferred to the supervisory board;

admission and expulsion of members of the cooperative;

confirmation of the annual reports and bookkeeping balance sheets of the cooperative, distribution of its profits and losses;

decision concerning reorganization and liquidation of the cooperative;

The deciding of other questions also may be relegated to the exclusive competence of the general meeting by the legislation on production cooperatives and by the charter of the cooperative.

Questions relegated to the exclusive competence of the general meeting or supervisory board of a cooperative may not be transferred by them for decision of the executive bodies of the cooperative.

4. A member of a cooperative shall have one vote when decisions are adopted by the general meeting.

### **Article 111. Termination of Membership in Production Cooperative and Transfer of Share**

1. The member of a cooperative shall have the right at his discretion to withdraw from the cooperative. In this event the value of the share must be paid or the property corresponding to his share issued to him, and also other payments provided for by the charter of the cooperative effectuated.

The payment of the value of the share or the issuance of other property to a withdrawing member of a cooperative shall be done at the end of the financial year and after confirmation of the bookkeeping balance sheet of the cooperative unless otherwise provided by the charter of the cooperative. The payment of the value of the share or the issuance of other property to a withdrawing member of a production cooperative, who applies the simplified tax system without bookkeeping, shall be done at the end of the financial year without confirmation of the cooperative's bookkeeping balance sheet.

2. A member of a cooperative may be expelled from the cooperative upon the decision of the general meeting in the event of the failure to perform or the improper performance of the duties placed on him by the charter of the cooperative, and also in other instances provided for by the legislation on production cooperatives and by the charter of the cooperative.

A member of the supervisory board or executive body may be expelled from the cooperative by the decision of the general meeting in connection with his membership in the similar cooperative.

A member of a cooperative expelled therefrom shall have the right to receive the share and other payments provided for by the charter of the cooperative in accordance with Clause 1 of this Article.

3. The member of a cooperative shall have the right to transfer his share or part thereof to another member of the cooperative unless otherwise provided by the legislation and by the charter of the cooperative.

The transfer of a share (part thereof) to a citizen, who is not a member of the cooperative, shall be permitted only with the consent of the cooperative. In this event the other members of the cooperative shall enjoy the preferential right to purchase such share (part thereof).

4. In the event of the death of a member of a production cooperative his heirs may be admitted as members of the cooperative unless otherwise provided by the charter of the cooperative. Otherwise the cooperative shall pay to the heirs the value of the share of the deceased member of the cooperative.

5. The levying of execution on the share of a member of a production cooperative shall be permitted with regard to the own debts of a member of the cooperative, in accordance with the procedure provided for by the legislation and by the charter of the cooperative, only if his other property is insufficient to cover such debts. Execution may not be levied for debts of a member of a cooperative on the indivisible funds of the cooperative.

## **Article 112. Reorganization and Liquidation of Production Cooperatives**

1. A production cooperative may be voluntarily reorganized or liquidated by decision of the general meeting of its members.

Other grounds and the procedure for the reorganization and liquidation of a cooperative shall be determined by the legislation.

2. A production cooperative may, by unanimous decision of its members, be transformed into an economic partnership or company if less than three members remain in the cooperative, or into the unitary enterprise if only one member remains in the cooperative.

## **§ 4. Unitary Enterprises**

### **Article 113. Unitary Enterprise**

1. A commercial organization not endowed with the right of ownership to property consolidated to it by the owner shall be deemed to be a unitary enterprise. The property of a unitary enterprise shall be indivisible and may not be distributed according to contributions (participatory shares, shares), including distribution among the employees of the enterprise.

The charter of a unitary enterprise must contain, in addition to the information specified in Article 48(2) of this Code, information concerning the subject and purposes of activity of the enterprise, and also the amount of the charter fund of the enterprise and the procedure and sources for forming it.

The state (Republic's or communal) unitary enterprises or private unitary enterprises may be created in the form of unitary enterprises.

2. The property of the unitary enterprise shall be in the state ownership or private ownership of natural person or legal person.

The property of the Republic's unitary enterprise shall be in the ownership of the Republic of Belarus; this property shall belong to the enterprise by right of economic management or operative administration.

The property of the communal unitary enterprise shall be in the ownership of the administrative territorial unit; this property shall belong to the enterprise by right of economic management.

The property of the private unitary enterprise shall be in the private ownership of the natural person (joint ownership of the spouses or of the members of peasant (farming) household) or of the legal person; this property shall belong to the enterprise by right of economic management.

The property of the affiliated unitary enterprise shall be in the ownership of the owner of property of the founding enterprise; shall belong to the affiliated enterprise by right of economic management.

The shared ownership to the property of the unitary enterprise is not permitted.

In case of division of the property, being in joint ownership of the spouses or of the members of peasant (farming) household, as well as in case of transferring the right of ownership to the property of the unitary enterprise in accordance with the procedure of heir, legal succession or by other ways, not contradictory to the legislation, to two and more persons:

the unitary enterprise may be reorganized by splitting-up (splitting-off) or transformation into the business partnership or company in accordance with the procedure, established by the legislation and by the agreement of the parties;

the property of the unitary enterprise is transferred into the ownership of one legal person or natural person (into joint ownership of the spouses or of the members of peasant (farming) household) with payment of compensation to other persons in proportion to their share in the common property, determined in accordance with the rules, established for property, for which the shared ownership is permitted;

the unitary enterprise is subject to liquidation in accordance with the procedure, established by the legislation, if reorganization or transferring the property into the ownership of one person is contradictory with the legislation or impossible because of other reasons.

3. The firm name of a unitary enterprise must contain an indication of the pattern of ownership.

4. The body of a unitary enterprise shall be the head, who shall be appointed by the owner or by the body authorized by the owner and accountable to it.

5. A unitary enterprise shall be liable for its obligations with all of the property belonging to it.

A unitary enterprise shall not bear liability for the obligations of the owner of its property, except for the cases provided for by this Code.

6. The legal status of unitary enterprises shall be determined by the legislation on the unitary enterprises.

#### **Article 114. Unitary Enterprise Based on the Right of Economic Management**

1. The unitary enterprise based on the right of economic management shall be founded by the decision of the owner of its property, or of the unitary enterprise, based on the right of economic management, or of the authorized state body or local administrative or self-government body.

2. The constituent document of the unitary enterprise, based on the right of economic management, shall be its Charter, approved by the founder of the unitary enterprise.

3. Deleted.

4. Before the state registration of the unitary enterprise, based on the right of economic management, the charter capital of the enterprise must be paid in full by the owner of property of the enterprise.

5. Deleted.

6. In case of adoption of the decision by the founder of the unitary enterprise on reduction of the charter capital, the unitary enterprise shall notify its creditors about such decision in writing.

The creditor of unitary enterprise has the right to claim for the termination or performing of the obligations, for which the unitary enterprise is a debtor, before due date, and for the compensation of losses.

7. The unitary enterprise, based on the right of economic management, may form, as a legal person, subject to a consent of the owner of its property, another unitary enterprise by transferring the part of its property for economic management (the affiliated enterprise) in accordance with existing procedure.

The founder shall approve the charter of the affiliated enterprise and shall appoint its head.

8. The owner of property of the unitary enterprise, based on the right of economic management, is not liable for the obligations of the enterprise, with the exception of the cases, provided by Article 52(3) of this Code.

#### **Article 115. Unitary Enterprise , Based on Right of Operative Administration (Fisc**



## **Enterprise)**

1. In the instances provided for by the legislation on the unitary enterprises, by decision of the Government of the Republic of Belarus, a unitary enterprise based on the right of operative administration (fisc enterprise) may be formed on the base of property being in the ownership of the Republic of Belarus.

2. The constituent document of a fisc enterprise shall be its charter confirmed by the Government of the Republic of Belarus.

3. The firm name of the enterprise based on the right of operative administration must contain an indication that this enterprise is a fisc enterprise.

4. The rights of a fisc enterprise to the property consolidated to it shall be determined in accordance with Articles 277 and 278 of this Code.

5. The Republic of Belarus shall bear subsidiary liability for the obligations of the fisc enterprise if its property is insufficient.

6. A fisc enterprise may be reorganized or liquidated by decision of the Government of the Republic of Belarus.

## **§ 5. Noncommercial Organizations**

### **Article 116. Consumer Cooperative**

1. A voluntary association of citizens and legal persons on the basis of membership for the purpose of satisfying material (property) and other requirements of participants to be effectuated by means of combining the property share contributions of the members thereof shall be deemed to be a consumer cooperative.

2. The charter of a consumer cooperative must contain, in addition to the information specified in Article 48(2) of this Code, the conditions and the procedure of admission of members to the cooperative and of termination of membership in the cooperative; the rights and duties of the members of the cooperative; the conditions concerning the amount of share contributions of the members of the cooperative; the composition and procedure for making of share contributions by members of the cooperative and their liability for a violation of the obligation relating to making of the share contributions; the composition and competence of the management bodies of the cooperative and the procedure for the adoption of decisions by them, including on questions, the decisions regarding which are adopted unanimously or by a qualified majority of votes; and the procedure for the covering by members of the cooperative of losses incurred by it.

3. The name of the consumer cooperative must contain an indication of the principal purpose of its activity, and also either the word "cooperative" or the words "consumer union" or "consumer company".

4. The members of the consumer cooperative shall be obliged within three months after confirmation of the annual balance sheet to cover losses, which have formed, by means of additional contributions. In the event of the failure to fulfill this duty, the cooperative may be

liquidated in a judicial proceeding at the demand of the creditors.

The members of a consumer cooperative shall bear jointly and severally subsidiary liability for its obligations within the limits of the uncontributed portion of the additional contribution of each member of the cooperative.

5. The revenues and income received by the consumer cooperative may not be distributed among its members.

6. The legal status of consumer cooperatives (the consumer companies, or unions of such companies), shall be determined by this Code and other legislation on consumer cooperation.

The legal status of other consumer cooperatives (housing cooperatives, housing construction cooperatives, youth housing complexes, collectives of individual builders, garage cooperatives, gardening partnerships etc.) shall be determined by this Code and other legislation.

### **Article 117. Public and Religious Organizations (Associations)**

1. Public and religious organizations (associations) shall be deemed to be voluntary associations of citizens who have combined in accordance with the procedure established by legislation on the basis of their common interests in order to satisfy spiritual and other nonmaterial requirements.

Public and religious organizations shall be noncommercial organizations. They shall have the right to effectuate entrepreneurial activity only for the achievement of the purposes for which they were created; the entrepreneurial activity of such organizations shall comply with these purposes.

2. The participants (members) of public and religious organizations shall not retain rights to property transferred in ownership by them to such organizations, including membership dues. They shall not be liable for the obligations of public and religious organizations in which they participate as members, and the said organizations shall not be liable for the obligations of their members.

3. The peculiarities of the legal status of public and religious organizations as participants of civil relations shall be determined by the legislation.

### **Article 117<sup>1</sup>. Republic's State-social Associations**

1. Republic's state-social associations shall be deemed noncommercial organization based on the membership the purposes of which are the accomplishment of missions meaningful for the state.

2. Founders of a Republic's state-social association and its members may be natural and legal persons, as well as the Republic of Belarus in the person of authorized state bodies and legal persons acting on its behalf.

3. The charter of a Republic's state-social association is adopted by its founders or the highest body of this association and to be approved by the President of the Republic of

Belarus or, under his instructions, by the Government of the Republic of Belarus.

4. The creation of the Republic's state-social association is carried out by the decision of the founders or as the result of the reorganization of a existing noncommercial organization in the form of the public association on the conditions determined by the President of the Republic of Belarus or, under his instructions, by the Government of the Republic of Belarus.

5. The Republic's state-social association may create, in the established order, its organizational divisions, including in the form of legal persons, and create other legal persons or to participate in legal persons in accordance with the charter of the Republic's state-social association or other legislation.

6. The legal status of Republic's state-social associations is determined by this Code and other legislation on Republic's state-social associations.

### **Article 118. Funds**

1. For the purposes of this Code, a fund shall be deemed to be a noncommercial organization not having membership, founded by citizens (a citizen) and(or) legal persons (a legal person) on the basis of voluntary property contributions, and pursuing social, charitable, cultural, educational, sport-promoting, scientific and other publicly useful purposes specified in the charter of the fund.

The name of a fund shall contain the word “fund” and indication to the nature of activities and type of the fund.

The property transferred to the fund by its founder(s) shall belong to the founder(s) on the right of the ownership (right of economic management, operative administration), be necessary and appropriate for the use in the activities of the fund.

The sources of the formation of property of a fund are the property being transferred to the fund by its founder(s), proceedings from events held in accordance with the charter of the fund, incomes derived from entrepreneurial activity carried out in accordance with the charter and other proceeding not prohibited by legislation.

The property transferred to a fund by its founder(s) is the ownership of the fund. The founder(s) are not liable for the obligations of the fund created, and the fund is not liable for the obligations of its founder(s).

The rules effective in relation to creation, activity, reorganization and liquidation of funds, established by this Code, do not cover the funds created or being created according to a decision of the President of the Republic of Belarus, Parliament of the Republic of Belarus, Council of Ministers of the Republic of Belarus unless otherwise stipulated in acts of legislation on creation of such funds.

2. The fund shall use property for the purposes determined in its charter.

For carrying out entrepreneurial activity, funds are entitled to create unitary enterprises, economic companies or to participate in them, except for limited liability companies.

A fund is obliged to publish annually reports on the use of its property. The procedure for publication and the content of data are established by legislation.

3. The bodies of a fund are the board (council), directorate (director) and trustee council.

The charter of the fund may envisage other bodies necessary for carrying out its activity.

The board (council) of the fund is a highest collegiate body of the fund formed by its founder(s). The main function of the board (council) is to ensure observance by the fund of purposes for attainment of which it is created.

The exclusive competence of the board (council) includes:

making changes and/or additions to the charter of the fund;

formation (nomination) of an executive body of the fund – directorate (director) and premature termination of its powers;

creation and liquidation of representations, affiliates of the fund, determination of their terms of reference;

approval of the annual report and balance sheet of the fund;

reorganization of the fund if the possibility of a reorganization is stipulated by its charter.

The directorate (director) of the fund is an executive body of the fund carrying out current management of its activity. The directorate (director) of the fund is accountable in its activity to the board (council) of the fund.

The trustee council of the fund is a body effectuating control over activity of the fund, which is formed by its founder(s) at the moment of establishing the fund, and subsequently, if it is stipulated by the charter of the fund, by the board (council) of the fund.

The exclusive competence of the trustee council of the fund includes:

control over compliance of the activity of fund with legislation and the charter of the fund;

control over fulfillment of resolutions of the highest collegiate body of the fund, the executive body of the fund;

control over the use of monetary funds and other property of the fund in accordance with its charter objectives;

preliminary discussion of and consent to the annual report of the fund.

4. A fund acts on the basis of the charter approved by the founder(s) of the fund.

The charter of the fund must, in addition to the information specified in Article 48(2) of this Code, contain: data about founder(s) of the fund;

tasks and methods of activity of the fund;

composition and procedure for formation of the bodies of the fund;

procedure for the formation, terms of reference and term of powers of the trustee council of the fund;

procedure for the appointment and dismissal of officials of the fund;

procedure for introduction of changes and/or additions to the charter of the fund;

sources and procedure for the formation of fund property;

time period for which the fund is created or the indication to its activity unlimited in time;

data on representations and/or affiliates created by the fund, including the name of representations, affiliated and their location (governing bodies of representations, affiliates);

data on intended use of the property of the fund in the event of its liquidation. At that such property shall be intended for the purposes for the attainment of which the fund was created;

other provisions stipulated by legislation and not contradicting this Code.

5. Other provisions connected with creation, activity, reorganization and liquidation of a fund not stipulated by this Article and Article 119 of this Code are determined by legislative acts.

### **Article 119. Change of Charter and Liquidation of Fund**

1. The charter of a fund may be changed by the board of the fund in the order stipulated by the charter.

Respective changes and/or additions to the charter of the fund shall be introduced and presented in the established order for the state registration within a month period in the case of:

change of purposes of the fund;

change of the name of the fund;

change of the type of the fund;

change of location of the fund (governing body of the fund);

creation or liquidation of representations and/or affiliates of the fund;

change of data about bodies of the fund, including the trustee council, procedure for appointment and dismissal of officials of the fund, procedure for formation of the fund property, as well as about other factual circumstances the reference to which shall be contained in the charter of the fund in accordance with legislation;

change of legislation in accordance with which the introduction of changes and/or additions to the charter of the fund is required unless other periods are established by that legislation.

2. The reorganization of a fund if its possibility is envisaged by the charter of the fund may be carried out in the form of:

merger with another fund;

affiliation to another fund;

affiliation of another fund;

splitting-off from the fund of a legal person of any organizational and legal form;  
splitting-up in two or more funds.

A fund may not be reorganized in the form of transformation.

The cost of the remaining property of the fund reorganized in the form of splitting-off may not be less than the minimum amount necessary of the creation and activity of the fund.

3. A fund may be liquidated upon the application of the interested persons by a court decision:

in the case of non-presentation to the registering body of documents on the transfer by its founder(s) in the ownership of the fund of the property in the form of non-monetary contributions at the formation of the fund property in the amount not less than the minimum amount required for the creation and activity of the fund in full amount or in part in the form of non-monetary contributions within three months after the state registration of the fund;

in the case of non-fulfillment of the obligation on creation, in the established period after the state registration of the fund, of representations and/or affiliates and non-presentation for the state registration of changes and/or additions being introduced to the charter of the fund in connection with the change of its type;

if, at the end of a calendar year, the value of the fund property is less than the minimum amount required for the creation and activity of the fund, and that value has not been increase till the minimum amount required for its creation and activity;

if the purposes of the fund can not be attained, and necessary changes of those purposes can not be made;

in the case the fund evades in its activity from the purposes stipulated by the charter;

in the case of carrying out activity prohibited by legislation or activity with repeated or serious violations of legislation and the charter of the fund;

n other cases stipulated by the legislation.

4. The property remaining after the liquidation of a fund, including after the satisfaction of claims of creditors is to be used for the purposes for the attainment of which the fund was created. In the case when such use of the property is impossible it shall be transferred in equal parts to funds created for the attainment of similar purposes provided that the funds submitted written applications to the court which has taken the decision to liquidate the fund.

In the absence of such applications, the property remaining after the liquidation of the fund is to be transferred in the ownership of the Republic of Belarus and used for the purposes for the attainment of which the fund was created.

## **Article 120. Institutions**

1. An institution shall be deemed to be an organization created by the owner in order to effectuate management, social and cultural, or other functions of a noncommercial character, and financed by the owner wholly or partially.

The rights of an institution to property consolidated to it shall be determined in accordance with Article 279 of this Code.

2. An institution shall be liable for its obligations with the monetary means being at its disposal. The owner of the respective property shall bear subsidiary liability for obligations of the institution in the event of insufficiency of such monetary means.

3. The peculiarities of the legal status of individual types of state and other institutions shall be determined by the legislation.

### **Article 121. Associations of Legal Persons and(or) Individual Entrepreneurs (Associations and Unions)**

1. Commercial organizations and (or) individual entrepreneurs, for the purpose of coordination of entrepreneurial activity, and for representation and protection of their common property interests, may, by the contract between them, establish the associations in the form of associations or unions, being non-commercial organizations.

If by decision of the participants the conducting of entrepreneurial activity is placed on an association (union), such association (union) shall be transformed into an economic company or partnership in accordance with the procedure provided for by the legislation, or may create an economic company in order to effectuate entrepreneurial activity or participate in such company.

2. Public and other noncommercial organizations, including institutions, may voluntarily unite into associations (unions) of these organizations.

An association (union) of noncommercial organizations shall be a noncommercial organization.

3. Association (union) shall be a legal person.

Members of an association (union) shall retain their autonomy and rights of a legal person or individual entrepreneur.

4. An association (union) shall not be liable for the obligations of its members. Members of an association (union) shall bear subsidiary liability for its obligations in the amount and in accordance with the procedure provided for by the constituent documents of the association.

5. The name of an association (union) must contain an indication of the principal subject of the activity of its members with inclusion of the word "association" or "union".

### **Article 122. Constituent Documents of Associations and Unions**

1. The constituent documents of an association (union) shall be the Articles of Association, signed by its members, and the charter confirmed by them.

2. The constituent documents of an association must contain, in addition to the information specified in Article 48(2) of this Code, the procedure of forming the property of the association (union), the procedure of making changes in the constituent documents of the

association (union), the conditions concerning the composition and competence of managing bodies of the association (union) and the procedure of adoption of decisions by them, including questions, the decisions with regard to which shall be adopted unanimously or by a qualified majority of votes of members of the association (union), and the procedure for the distribution of property remaining after liquidation of the association (union).

### **Article 123. Rights and Duties of Members of Associations and Unions**

1. The members of an association (union) shall have the right to use its services free of charge.

2. The member of an association (union) shall have the right at its discretion to withdraw from the association (union) at the end of the financial year. In this event it shall bear subsidiary liability for obligations of the association (union) in proportion to its contribution for two years from the time of withdrawal, if these obligations arose during its membership in the association..

The member of an association (union) may be expelled therefrom by decision of the remaining participants in the instances and in accordance with the procedure established by the constituent documents of the association (union). Rules relating to withdrawal from an association (union) shall apply with respect to the liability of the expelled member of the association (union).

3. With the consent of the members of the association (union), a new participant may join. The joining of an association (union) by a new member may be conditioned by its subsidiary liability for obligations of the association (union) which arose before its joining.

## **§ 5. State Associations**

### **Article 123<sup>1</sup>. Basic Provisions on State Association**

1. A state association (concern; industrial, scientific and industrial or other association) shall be deemed an association of state legal persons, state and other legal persons, as well as state and other legal persons and individual entrepreneurs created on the decision of the President of the Republic of Belarus, Government of the Republic of Belarus, and , under their instruction (authorization), by other Republic bodies of state governance or by decisions of bodies of local government and self-government.

2. A state association shall be created, as a rule, on a industry branch principle for the purposes of carrying out general direction, general management of activities, coordination of activities and representation of interests of legal persons and individual entrepreneurs being part of the association.

3. A state association is subordinated to the Government of the Republic of Belarus, Republic body of state governance, body of local government and self-government or a state organization which executes certain functions of a Republic body of state governance.

4. State associations are noncommercial organization, except for the cases of adopting, in accordance with the legislation, decision on recognising them commercial organizations.



5. The owner of the property of a state association is not liable for the obligations of the state association except for cases stipulated by legislative acts.

6. The legal status of state associations, rights and duties of legal persons and individual entrepreneurs being their part shall be determined by this Code and other acts of legislation on such associations, and by their charters.

### **Article 123<sup>2</sup>. Participants of a State Association**

1. A state association may be joined by state unitary enterprises and (or) state institutions, on the decision of the body (official) which took the decision on the creation of the state association or of the body authorised by it, as well as by other organizations, individual entrepreneurs, voluntarily, on the conditions and according to the order determined by the charter of the state association. Legal persons may join the state association in accordance with the legislation.

The decision on the possibility of joining a state association by individual entrepreneurs and non-state legal persons is to be taken by the state body (official) which took decision on the creation of the state association or by a body authorised by it.

2. The participants of state associations retain rights of legal persons and individual entrepreneurs, which may be limited or otherwise changed in accordance with the legislation.

3. State unitary enterprises and state institutions being part of a state association on the decision of a state body (official) which took decision on the creation of the state association or by a body authorised by it may be excluded from it on the decision of this body (official).

4. Decisions of state associations on matters provided by charters of state associations and by acts of legislation on such associations are obligatory for their participants.

5. State associations are not liable for obligations of their participants, and participants of a state association are not liable for obligations of this state association except for the cases stipulated by the legislation.

### **Article 123<sup>3</sup>. Property of State Association**

1. The property of a state association is in the state ownership and belongs to it on the right of economic management or on the right of operative administration. The state body (official), which took the decision on the creation of the state association, or the body authorised by it, as well as the charter of the state association, shall determine the right on which the property belongs to the state association.

2. The property of the participants of a state association does not make part of the property of the state association.

### **Article 123<sup>4</sup>. Charter of State Association**

1. The charter of a state association shall be approved by the state body (official) which took decision on its creation or by a body authorised by it and is a constituent document of this association.

2. The charter of a state association shall determine the order and sources of the generation of the property of the state association.

3. The charter of the state association, which is a commercial organization, along with data specified in part one of Article 48 (2) of this Code shall contain the data on the subject of activities of the state association.

## **CHAPTER 5.**

### **Participation of the Republic of Belarus and its Administrative Territorial Units in Relations Regulated by Civil Legislation**

#### **Article 124. The Republic of Belarus, its Administrative Territorial Units as the Subjects of Civil Legislation**

1. The Republic of Belarus, its administrative territorial units shall participate in relations regulated by civil legislation on equal principles with other participants of these relations—citizens and legal persons.

2. Unless it arises otherwise from a legislation or the peculiarities of the particular subjects, the norms determining the participation of legal persons in relations regulated by civil legislation shall apply to the subjects of civil legislation specified in Clause 1 of this Article.

#### **Article 125. Procedure of Participation of the Republic of Belarus and its Administrative Territorial Units in Relations Regulated by Civil Legislation**

1. The state bodies within the frameworks of their competence established by acts determining the status of these bodies may by their actions acquire and exercise property rights and duties and personal non-property rights and duties and act in court in the name of the Republic of Belarus.

2. Bodies of local administration or self-government within the frameworks of their competence established by acts determining the status of these bodies may by their actions acquire and exercise the rights and duties specified in Clause 1 of this Article in the name of the administrative territorial units.

3. In the instances and in accordance with the procedure provided for by legislation of the Republic of Belarus, other state bodies (not mentioned in this Article), legal persons and citizens may act in the name of the Republic of Belarus and its administrative territorial units, subject to special order of the Republic of Belarus and its administrative territorial units.

#### **Article 126. Liability for Obligations of the Republic of Belarus and its Administrative Territorial Units**

1. The Republic of Belarus and its administrative territorial units shall be liable for its obligations with the property belonging to it by right of ownership, except for property which may be only in state or communal ownership.

2. The Republic of Belarus and its administrative territorial units shall not be liable for obligations of legal persons created by them except for instances provided for by the legislation.

3. The Republic of Belarus shall not be liable for obligations of administrative territorial units.

4. Administrative territorial units shall not be liable for obligations of one another, nor for obligations of the Republic of Belarus.

5. The rules of Clauses 2-5 of this Article shall not extend to instances when the Republic of Belarus has assumed a guarantee (suretyship) for the obligations of the administrative territorial unit or legal person, or the said subjects have assumed a guarantee (suretyship) with regard to the obligations of the Republic of Belarus.

#### **Article 127. Peculiarities of the Republic of Belarus and Administrative Territorial Units in Relations**

##### **Being Regulated by Civil Legislation with Participation of Foreign Legal Persons, Citizens, and States**

The peculiarities of the liability of the Republic of Belarus and the administrative territorial units in relations regulated by civil legislation with the participation of foreign legal persons, citizens, and states shall be determined by the legislative acts.

### **SUBSECTION 3. OBJECTS OF CIVIL RIGHTS**

#### **CHAPTER 6.**

##### **General Provisions**

#### **Article 128. Types of Objects of Civil Rights**

To objects of civil rights shall be relegated

things, including money and securities, other property, including property rights;

work and services;

protected information;

exclusive rights on the results of intellectual activity (intellectual property);

non-material benefits.

### **Article 129. Turnability of Objects of Civil Rights**

1. Objects of civil rights may be freely alienated or be transferred from one person to another by way of universal legal succession (inheritance, reorganization of legal person) or by other means unless they have been withdrawn from turnover or are limited in turnover.

2. Types of objects of civil rights whose being in turnover is not permitted (objects withdrawn from turnover) must be expressly specified in a law.

Types of objects of civil rights which may belong only to determined participants of turnover or being of which in turnover is permitted by a special authorization (objects of limited turnability) shall be determined in accordance with the procedure established by the legislation.

3. Land and other natural resources may be alienated or pass from one person to another by other means to the extent that their turnover is permitted by legislation on protection and use of lands and other legislation on protection of the environment and rational use of natural resources.

### **Article 130. Immovable and Movable Things**

1. To immovable things (immovable property, immovable) shall be relegated land plots, subsoil plots, solitary water objects, and all that is firmly connected with the land, that is, objects whose movement without incommensurate damage to the purpose thereof is impossible, including forests, perennial plantings, buildings, and installations.

To immovable things also shall be relegated the enterprise as a whole (as the property complex), the aircrafts and sea vessels subject to the state registration, inland vessels, river-marine vessels, and space objects. Other property also may be relegated by the legislation to immovable things.

2. Things which are not relegated to immovable, including money and securities, shall be deemed to be movable property. The registration of rights to movable things shall not be required except for instances specified in a law.

### **Article 131. State Registration of Immovable Property, Rights to It and Transactions with It**

1. The immovable property, rights to it and transactions with it are subject to the state registration in cases, provided by the legislative acts.

2. In the instances provided for by the legislation a special registration or recording of individual types of immovable property may be effectuated together with the state registration.

3. The body carrying out state registration of the immovable property, rights to it and transactions with it shall be obliged to certify the registration made by means of the issuance,

for the applicant, of the certificate (certification card) on the state registration, or by execution of the registration record on the original of the document, expressing the content of the registered transaction.

4. The state registration of the immovable property, rights to it and transactions with it shall be public. The bodies, carrying out the state registration of the immovable property, rights to it and transactions with it, shall be obliged to provide necessary information for any person only about the rights and restrictions (burdening) of the rights on the specific object of the immovable property, existing at the date of providing the information. Summary information on the rights on objects of the immovable property is delivered only in cases, provided by the legislative acts.

5. A refusal of state registration of the immovable property, rights to it or transaction with it or the evading of registration by the respective body may be appealed to a court.

6. The procedure for state registration and the grounds for refusal of registration shall be established by the legislation on registration of the rights to immovable property and transactions with it.

### **Article 132. Enterprise**

1. An enterprise as an object of rights shall be deemed to be a property complex used to effectuate entrepreneurial activity.

Within an enterprise as a property complex shall be all types of property intended for its activity, including land plots, buildings, installations, equipment, tools, raw material, products, rights of demand, debts, and also rights to designation which individualize the enterprise, its products, works and services (firm name, trademarks, service marks), and other exclusive rights, unless otherwise provided by the legislation or contract.

2. An enterprise as a whole or part thereof may be the object of a purchase-sale, pledge, lease, and other transactions connected with the establishment, change, and termination of rights to a thing.

### **Article 133. Indivisible Things**

A thing, the division of which in kind is impossible without changing the purpose thereof, shall be deemed to be indivisible.

The peculiarities of the partition of a share in the right of ownership to an indivisible thing shall be determined by Articles 255 and 261 of this Code.

### **Article 134. Complex Things**

If various thing form a single whole presupposing the use thereof for a common purpose, they shall be considered to be one thing (complex thing).

The operation of a transaction concluded with regard to a complex thing shall extend to all

of its parts unless otherwise provided by a contract.

### **Article 135. Principal Thing and Appurtenance**

A thing intended to serve another, principal thing and connected therewith by a common purpose (appurtenance) shall follow the fate of the principal thing unless otherwise provided by contract.

### **Article 136. Yield, Products, and Revenues**

Proceeds received as a result of the use of property (yield, product, revenues) shall belong to the person using this property on legal grounds unless otherwise provided by the legislation, or by the contract concerning the use of this property.

### **Article 137. Animals**

To animals shall apply the general rules on property insofar as not otherwise established by the legislation.

When exercising rights the cruel treatment of animals contrary to the principles of humaneness shall not be permitted.

### **Article 138. Individually-Determined Things and Things, Defined by Generic Attributes**

1. An individually-determined thing shall be deemed to be a thing, distinguished from the other things on the grounds of the attributes, peculiar to this thing only. Individually-determined things are irreplaceable.

2. Things defined by generic attributes shall be deemed to be the things, having the attributes, peculiar to all thing of the same kind, and defined by the number, weight or measure. The things defined by generic attributes are replaceable.

### **Article 139. Protected Results of Intellectual Activity**

In the instances and in accordance with the procedure established by this Code and other legislation an exclusive right (intellectual property) of a citizen or legal person shall be recognized to the protected results of intellectual activity and the means of individualization of the legal person equated to them or the means of individualization of a product or the work fulfilled or services (firm name, trademark, service mark, and others).

The use of the results of intellectual activity and means of individualization which are the object of exclusive rights may be exercised by third persons only with the consent of the possessor of the right.

#### **Article 140. Official Secret and Commercial Secret**

1. Information shall constitute an official or commercial secret when the information has real or potential commercial value by virtue of its being unknown to third persons, there is no free access to it on legal grounds, and the possessor of the information takes measures to protect its confidentiality. Information which cannot constitute an official or commercial secret shall be determined by the legislation.

2. Information constituting an official or commercial secret shall be protected by the means provided for by the legislation.

Persons who have received information which constitutes an official or commercial secret by illegal methods shall be obliged to compensate the losses caused. The same duty shall be placed on the employees who, contrary to the labor contract, have divulged an official or commercial secret, and on contracting parties who have done so despite a civil contract.

3. This Article is applied to protection of the state secrets, if it is not contradictory with the legislation on the state secret.

#### **Article 141. Money (Currency)**

1. The Belarusian Ruble shall be the legal means of payment obligatory for acceptance at nominal value throughout the entire territory of the Republic of Belarus.

Payments on the territory of the Republic of Belarus shall be effectuated in the form of cash and cashless settlements.

2. The instances, procedure, and conditions for the use of foreign currency on the territory of the Republic of Belarus shall be determined by the legislation.

#### **Article 142. Currency Valuables**

The types of property deemed to be currency valuables and the procedure for concluding transactions with them shall be determined by the legislation.

The right of ownership in currency valuables shall be defended in the Republic of Belarus on the common grounds.

### **CHAPTER 7**

#### **Securities**

#### **Article 143. Security**

1. A security shall be a document certifying, in compliance with the established form and

obligatory requisites, property rights, effectuation or transfer of which shall be possible only when presenting it. With the transfer of the security shall pass all rights in aggregate which are certified by it.

2. In the instances provided for by the legislation or in accordance with the procedure established by it, in order to exercise and transfer the rights certified by a security evidence of its being registered in a special register (ordinary or computerized) shall be sufficient.

#### **Article 144. Types of Securities**

There shall be relegated to securities: state bond, bond, bill of exchange, cheque, deposit certificate and savings certificate, bank savings book to the bearer, bill of lading, stock, privatization securities, and other documents which have been relegated to securities by the legislation on securities or in accordance with the procedure established by this legislation.

The securities may be issuing and non-issuing.

The issuing securities include bonds, stocks and other securities, relegated to such by the legislation.

This Code is applied to the relations connected with promissory notes and bills of exchange to the extent not regulated by norms of the legislative acts on promissory notes and bills of exchange.

#### **Article 145. Requirements for Security**

1. The types of rights which shall be certified by securities, the obligatory requisites of securities, the requirements for the form of a security, and other necessary requirements shall be determined by the legislation or in accordance with the procedure established by it.

2. The absence of obligatory requisites of a security or the failure of the security to conform to the form established for it shall entail the nullity thereof.

#### **Article 146. Subjects of Rights Certified by Security**

1. Rights certified by a security may belong to:

the bearer of the security (bearer security), or

the person named on the security (inscribed security), or

the person named on the security, who may himself exercise these rights or appoint by his instruction (order) another authorized person (order security).

2. The possibility of the issuance of securities of a specified type as inscribed, or (and) as order, or (and) as bearer securities may be excluded by the legislation.



### **Article 147. Transfer of Rights Certified by Security**

1. In order to transfer to another person the rights certified by a bearer security it shall be sufficient to hand over the security to this person.

2. The rights certified by an inscribed security shall be transferred in the procedure established for the assignment of demands (cession). In accordance with Article 361 of this Code a person who has transferred the rights certified by a security shall bear liability only for the invalidity of the respective demand, but not for the failure to perform it.

3. The rights certified by an order security shall be transferred by means of making an inscription of transfer on this security—an endorsement. The endorser shall bear liability not only for the existence of the right, but also for the effectuation thereof.

An endorsement made on a security shall pass all the rights certified by the security to the person to whom or to the order of whom the rights certified by the security are transferred—the endorsee. An endorsement may be in blank (without specifying the person to whom performance must be made) or to order (specifying the person to whom or to the order of whom performance must be made).

An endorsement may be limited only to a commission to exercise the rights certified by the security without the transfer of these rights to the endorsee (endorsement of entrustment). In this event the endorsee shall act as a representative.

### **Article 148. Performance Relating to Security**

1. The person who has issued a security and all the persons who have endorsed it shall be liable to the legal possessor thereof jointly and severally. In the event of the satisfaction of the demand of the legal possessor of the security concerning the performance of the obligation certified by it by one or several persons from among those who are obliged before him according to the security, they shall acquire the right of a demand for indemnification (regression) against the other persons who are obliged with regard to the security.

2. A refusal to perform an obligation certified by a security by referring to the absence of grounds of the obligation or to its invalidity shall not be permitted. The possessor of a security who has discovered a forgery or a counterfeit security shall have the right to submit to the person who transferred the security to him a demand for proper performance of the obligation certified by the security and for compensation of losses.

### **Article 149. Reinstatement of Security**

The rights relating to lost bearer securities and order securities shall be reinstated by a court in accordance with the procedure provided for by procedural legislation.

### **Article 150. Paperless Securities**

1. In the instances determined by the legislation or in accordance with the procedure

established by it, a person who has received a special permit (license) may fix the rights consolidated by an inscribed or order security, including such fixation in paperless form (with the assistance of computers etc.). The rules established for securities shall apply to this form of fixation of rights unless it arises otherwise from the peculiarities of the fixation.

The person who has effectuated the fixation of the right in paperless form shall be obliged upon the demand of the possessor of the right to issue a document to him certifying the consolidated right. The rights certified by means of the said fixation, the procedure for the official fixation of rights and rightholders, the procedure for the documentary confirmation of entries, and the procedure for performing operations with paperless securities shall be determined by the legislation.

2. Operations with paperless securities may be performed only by having recourse to the person who has officially performed the entry of the rights. The transfer, granting, and limitation of rights must be officially fixed by this person, who shall bear liability for the preservation of official entries, ensuring their confidentiality, the submission of correct data concerning such entries, and the performance of official entries concerning operations carried out.

## **CHAPTER 8**

### **Nonmaterial Benefits and Defense Thereof**

#### **Article 151. Nonmaterial Benefits**

1. Life and health, the dignity of the person, personal inviolability, honour and good name, business reputation, inviolability of private life, personal and family secrecy, the right of free movement, and choice of place of sojourn and residence, the right to name, copyright, other personal non-property rights and other nonmaterial benefits which belong to a citizen from birth or by virtue of the act of legislation shall be inalienable and not transferable by other means. In the instances and in accordance with the procedure provided for by the legislation, personal non-property rights and other nonmaterial benefits which belonged to a deceased person may be effectuated and defended by other persons, including heirs of the possessor of the right.

2. Nonmaterial benefits shall be defended in accordance with the civil legislation in the instances and procedure provided for by this legislation, and also in those instances and within those limits in which the use of the means of the defense of civil rights (Article 11) arises from the essence of the violated nonmaterial right and the character of the consequences of this violation.

#### **Article 152. Compensation of Moral Harm**

If moral harm has been caused to a citizen (physical or moral suffering) by actions violating his personal non-property rights or infringing on other nonmaterial benefits belonging to a citizen, and also in other instances provided for by the legislation, the citizen has the right to demand monetary compensation of the said harm from the offender.

When determining the amounts of contributory compensation of moral harm the court shall take into account the degree of fault of the offender and other circumstances deserving of

attention. The court must also take into account the extent of physical and moral suffering connected with the individual peculiarities of the person to whom harm was caused.

### **Article 153. Defense of Honour, Dignity, and Business Reputation**

1. A citizen shall have the right to demand through a court the refutation of information defaming his honour, dignity, or business reputation, unless the spreader of such information proves that it corresponds to reality.

Upon the demand of interested persons the defense of the honour and dignity of a citizen shall also be permitted after his death.

2. If information defaming the honour, dignity, or business reputation of the citizen has been spreaded in the mass media, it must be refuted in the same mass media.

If the said information is contained in a document issued by an organization, the document shall be subject to replacement or recall.

The procedure for refutation in other instances shall be established by a court.

3. A citizen with respect to whom the mass media have published information impinging upon his rights or interests protected by the legislation shall have the right to publication of his reply in the same mass media.

If the decision of a court has not been fulfilled, the court shall have the right to impose a fine on the offender to be recovered in the amount and in accordance with the procedure provided for by procedural legislation to the revenue of the Republic of Belarus. The payment of the fine shall not relieve the offender from the duty to fulfill the action provided for by the court decision.

5. A citizen with respect to whom information has been spreaded which defames his honour, dignity or business reputation shall have the right, together with the refutation of such information, to demand compensation of losses and moral harm caused by the spreading thereof.

6. If it is impossible to establish the person who has spreaded information defaming the honour, dignity, or business reputation of a citizen, the person with respect to whom such information has been spreaded shall have the right to apply to a court with a statement concerning recognition that the information being spreaded does not correspond to reality.

7. The rules of this Article concerning the defense of business reputation of a citizen respectively shall apply to the defense of the business reputation of a legal person, except for compensation of moral harm.

## **SUBSECTION 4.**

## **TRANSACTIONS AND REPRESENTATION**

### **CHAPTER 9**

#### **Transactions**

## **§ 1. Concept, Types, and Forms of Transactions**

### **Article 154. Concept of Transaction**

The actions of citizens and legal persons directed towards the establishment, change, or termination of civil rights and duties shall be deemed to be transactions.

### **Article 155. Contracts and Unilateral Transactions**

1. Transactions may be bilateral or multilateral (contracts), and unilateral.
2. A transaction, for the conclusion of which in accordance with the legislation or by agreement of the parties the expression of the will of one party is necessary and sufficient shall be considered to be unilateral.
3. The expression of the concordant will (actions) of two parties (bilateral transaction), or of three or more parties (multilateral transaction) shall be necessary for the conclusion of a contract.

### **Article 156. Duties Regarding Unilateral Transaction**

A unilateral transaction shall create duties for the person who has concluded the transaction. It may create duties for other persons only in the instances established by the legislative acts or by agreement with those persons.

### **Article 157. Legal Regulation of Unilateral Transactions**

The general provisions on obligations and on contracts shall apply to unilateral transactions respectively insofar as this is not contrary to a legislation or to the unilateral character and essence of the transaction.

### **Article 158. Transactions Concluded Under a Condition**

1. A transaction shall be considered to be concluded under a condition suspensive if the parties have made the arising of rights and duties dependent upon a circumstance relative to which it is unknown as to whether this will ensue or not.
2. A transaction shall be considered to be concluded under a condition resolutive if the parties have made the termination of rights and duties dependent upon a circumstance relative to which it is unknown whether this will ensue or not.
3. If the ensuing of the condition is obstructed by a party not in good faith for whom the ensuing of the condition is disadvantageous, the condition shall be deemed to have ensued.

If the ensuing of the condition is facilitated by a party not in good faith for whom the ensuing of the condition is advantageous, the condition shall be deemed not to have ensued.

#### **Article 159. Form of Transactions**

1. Transactions shall be concluded orally or in written form (simple or notarial).
2. A transaction which may be concluded orally shall be considered to be concluded also when from the behaviour of the person his will to conclude the transaction is obvious.
3. Silence shall be deemed to be an expression of will to conclude a transaction in the instances provided for by the legislation or by agreement of the parties.

#### **Article 160. Oral Transactions**

1. A transaction for which the written (simple or notarial) form has not been established by the legislation or by agreement of the parties may be concluded orally.
2. Unless otherwise established by agreement of the parties, all transactions to be performed by those who concluded them themselves may be concluded orally, except for transactions for which the notarial form has been established and transactions the failure to comply with the simple written form of which entails their invalidity.
3. Transactions in performance of a contract concluded in written form may, by agreement of the parties, be concluded orally unless this is contrary to the legislation and a contract.

#### **Article 161. Written Form of Transaction**

I. A transaction in written form must be concluded by means of drawing up a document reflecting the content thereof and signed by the person or persons concluding the transaction, or by persons duly authorized by them.

Bilateral (multilateral) transactions may be concluded by the means established by Article 404(2) and (3) of this Code.

Additional requirements to which the form of the transaction must conform may be established by the legislation, and by agreement of the parties (conclusion on a letterhead of a specified form, affixing of seal, and others), and consequences provided for the failure to comply with these requirements. If such consequences have not been provided, the consequences of the failure to comply with the simple written form of a transaction shall apply (Article 163(1)).

2. The use when concluding a transaction of a facsimile reproduction of a signature with the assistance of mechanical or other means of copying, electronic digital signature, or other analogue of a signature in one's own hand shall be permitted in the instances and procedure provided for by the legislation, or by agreement of the parties.

3. If a citizen as a consequence of physical defect, illness, or illiteracy can not sign in his

own hand, then at his request another citizen may sign the transaction. The signature of the last must be certified by a notary or by another official having the right to perform such a notarial action, specifying the reasons by virtue of which the person concluding the transaction could not sign it in his own hand. However, when concluding the transactions specified in Article 186(4) of this Code and powers of attorney to conclude them, the signature of he who signs the transaction may be certified also by the organization in which the citizen who can not sign in his own hand works or studies, by the organization which carries out the operation and maintenance of housing facilities in the place of residence or by the administration of the inpatient treatment institution in which the citizen undergoes treatment.

### **Article 162. Transactions Concluded in Simple Written Form**

There must be concluded in simple written form, except for transactions requiring notarial certification:

- 1) transactions of legal persons between themselves and with citizens;
- 2) transactions of citizens between themselves for an amount exceeding not less than ten times the basic value, established by the legislation, unless otherwise provided by the legislation.

Compliance with the simple written form shall not be required for transactions which in accordance with Article 160 of this Code may be concluded orally.

### **Article 163. Consequences of Failure to Comply with Simple Written Form of Transaction**

1. The failure to comply with the simple written form of a transaction shall deprive the parties of the right in the event of a dispute to refer in confirmation of the transaction and its conditions to witness testimony, but shall not deprive them of the right also to cite written and other evidence, not being the witness testimony.

2. In the instances expressly specified in a legislation or in the agreement of the parties the failure to comply with the simple written form of a transaction shall entail its invalidity.

3. The failure to comply with the simple written form of a foreign economic transaction shall entail the invalidity of the transaction

### **Article 164. Notarially Certified Transactions**

1. The notarial certification of a transaction shall be effectuated by means of the performing on the document of an endorsement of certification corresponding to the requirements of Article 161 of this Code by a notary or other official having the right to perform such a notarial action.

2. Notarial certification of transactions shall be obligatory:

- 1) in the instances specified in a legislation;
- 2) in the instances provided for by agreement of the parties, although according to a legislation for transactions of the particular type this form is not required.

### **Article 165. State Registration of Transactions**

1. Transactions with immovable property shall be subject to state registration in accordance with the procedure provided for by this Code and the legislation on the registration of immovable property, rights to it and transactions with it.

2. State registration of transactions with movable property of determined types may be established by the legislation.

### **Article 166. Consequences of Failure to Comply with Notarial Form of Transaction and Requirements for Registration Thereof**

The failure to comply with the notarial form or the requirements concerning state registration of a transaction shall entail its invalidity. Such a transaction shall be considered to be void.

If one of the parties wholly or partially has performed a transaction requiring notarial certification, and the other party has evaded such certification of the transaction, the court shall have the right at the demand of the party who performed the transaction to deem the transaction to be valid. In this event subsequent notarial certification of the transaction shall not be required.

If a transaction requiring state registration has been concluded in the proper form but one of the parties evades the registration thereof, a court shall have the right at the demand of the other party to render a decision concerning registration of the transaction. In this event the transaction shall be registered in accordance with the decision of the court.

In the instances provided for by Clauses 2 and 3 of this Article the party who unjustifiably evades notarial certification or state registration of a transaction must compensate the other party for losses caused by the delay in concluding or registering the transaction.

## **§ 2. Invalidity of Transactions**

### **Article 167. Contested and Void Transactions**

1. A transaction shall be invalid on the grounds established by this Code or other legislative acts by virtue of being deemed such by a court (contested transaction) or irrespective of such deeming (void transaction).

2. A demand to establish the fact of voidness of the transaction and to apply the consequences of the invalidity may be submitted by any interested persons. The court has the right to establish the fact of voidness of the transaction at its own initiative. In this case the

court applies the consequences of the invalidity of the void transaction.

3. A demand to invalidate a contested transaction may be brought by the persons specified in this Code or in other legislative act, establishing the contestability of the transaction.

#### **Article 168. General Provisions on Consequences of Invalidity of Transaction**

1. An invalid transaction shall not entail legal consequences, except for those which are connected with its invalidity, and shall be invalid from the time of its conclusion. However, If it follows from the content of the transaction that it may be only terminated for a future time, the court deeming the transaction to be invalid shall terminate its operation for a future time.

2. In the event of the invalidity of a transaction, each of the parties shall be obliged to return to the other everything received according to the transaction, and if it is impossible to return that received in kind (including when that received is expressed in the use of property, work fulfilled, or service rendered), to compensate its value in money, unless other consequences of the invalidity of the transaction have been provided for by this Code or other legislative acts.

#### **Article 169. Invalidity of Transaction Not Conforming to the Legislation**

A transaction not corresponding to the requirements of the legislation shall be void unless the legislation establishes that such a transaction is contestable or provides other consequences for the violation.

#### **Article 170. Invalidity of Transaction, Conclusion of Which is Prohibited by the Legislation**

A transaction conclusion of which is prohibited by the legislation, shall be void.

When both parties to such a transaction have intent, in the event of performance of the transaction by both parties, everything received by them under the transaction shall be recovered to the revenue of the Republic of Belarus, and in the event of the performance of the transaction by one party, from the other party, everything received and everything due from it to the first party (in compensation of that received) shall be recovered for the revenue of the Republic of Belarus.

When only one party of such a transaction has intent, everything received by it under the transaction must be returned to the other party, and everything received by the latter or due to it in compensation of that performed shall be recovered to the revenue of the Republic of Belarus.

#### **Article 171. Invalidity of Fictitious and Sham Transactions**

1. A fictitious transaction, that is, a transaction concluded only for form, without the intention to create legal consequences corresponding to it, shall be void.



2. A sham transaction, that is, a transaction which is concluded for the purpose of concealing another transaction, shall be void. To the transaction which the parties actually had in view, taking into account the essence of the transaction, shall apply the rules relevant thereto.

#### **Article 172. Invalidity of Transaction Concluded by Citizen Deemed to Lack Active Legal Capacity**

1. A transaction concluded by a citizen deemed to lack active legal capacity as a consequence of mental insanity shall be void.

Each of the parties to such a transaction shall be obliged to return to the other everything received in kind, and if it is impossible to return that received in kind, to compensate its value in money.

The party having active legal capacity shall be obliged, in addition, to compensate to the other party the real damage incurred by it if the party having active legal capacity knew or should have known about the lack of active legal capacity of the other party.

2. In the interests of a citizen deemed to lack active legal capacity as a consequence of mental insanity, the transaction concluded by him may, at the demand of his trustee, be deemed by a court to be valid if it was concluded to the advantage of this citizen.

#### **Article 173. Invalidity of Transaction Concluded by Minor Who Has Not Attained Fourteen Years of Age**

1. A transaction concluded by a minor who has not attained fourteen years of age (juvenile) shall be void. To such transaction shall apply the rules provided for by Article 172(1), parts two and three, of this Code.

2. In the interests of the juvenile, a transaction concluded by him may at the demand of his parents, adoptive parents, or trustee be deemed by a court to be valid if it was concluded to the advantage of the juvenile.

3. The rules of this Article shall not extend to petty domestic and other transactions of juveniles which they have the right to conclude autonomously in accordance with Article 27 of this Code.

#### **Article 174. Invalidity of Transaction of Legal Person Exceeding the Limits of Its Legal Capacity**

A transaction concluded by a legal person which is contrary to the purposes of its activity, or by a legal person not having a special permit (license) to engage in the respective activity, may be deemed by a court to be invalid upon the suit of the founder (participant) of this legal person, or the state body carrying out control or supervision over the activity of the legal person, if the other party to the transaction knew or was obliged to know, by virtue of the act of legislation, about the illegality of transaction, but has concluded the deal intentionally or by

negligence.

#### **Article 175. Consequences of Limitation of Powers to Conclude Transaction**

If the powers of a person to conclude a transaction have been limited by a contract, or the powers of the body of a legal person have been limited by its constituent documents, in comparison with those as determined in a power of attorney or in a legislation, or which may be considered to be obvious from the situation in which the transaction was concluded, and when concluding it such person or body exceeded these limitations, the transaction may be deemed by a court to be invalid upon the suit of the person in whose interests the limitations were established.

#### **Article 176. Invalidity of Transaction Concluded by Minor from Fourteen to Eighteen Years of Age**

A transaction concluded by a minor from fourteen to eighteen years of age without the consent of his parents, adoptive parents, or guardian, in the instances when such consent is required in accordance with Article 25 of this Code, may be deemed by a court to be invalid upon the suit of the parents, adoptive parents, or guardian. If such transaction is deemed to be invalid, the rules provided for by Article 172(1), paragraphs two and three, of this Code shall apply respectively.

#### **Article 177. Invalidity of Transaction Concluded by Citizen Not Capable to Understand the Meaning of His Actions or Guide These Actions**

1. A transaction concluded by a citizen, although having active legal capacity but being, at the time of concluding, in such a state that this citizen was not capable to understand the meaning of his actions or to guide these actions, may be deemed by a court to be invalid upon the suit of this citizen or other persons whose rights or interests protected by legislation have been violated as a result of the conclusion thereof.

2. A transaction concluded by a citizen who is subsequently deemed to lack active legal capacity may be deemed by a court to be invalid upon the suit of his trustee if it is proved that at the time of concluding the transaction the citizen was not capable to understand the meaning of his actions or guide these actions.

3. If a transaction is deemed to be invalid on the grounds of this Article, the rules provided for by Article 172(1), paragraphs two and three, of this Code shall apply respectively.

#### **Article 178. Invalidity of Transaction Concluded by Citizen Limited by Court in Active Legal Capacity**

1. A transaction relating to the disposition of property concluded without the consent of the guardian by a citizen limited by a court in active legal capacity as a consequence of the abusing alcoholic beverages, narcotics or psychotropic substances may be deemed by a court

to be invalid upon the suit of the guardian. If such transaction has been deemed to be invalid, the rules provided for by Article 172(1), paragraphs two and three, of this Code shall apply respectively.

2. The rules of this Article shall not extend to petty domestic transactions which a citizen limited in active legal capacity has the right to conclude autonomously in accordance with Article 30 of this Code.

### **Article 179. Invalidity of Transaction Concluded Under Influence of Delusion**

1. A transaction concluded under the influence of delusion having material significance may be deemed to be invalid by a court upon the suit of the party who acted under the influence of delusion.

Delusion relative to the essence of the transaction, the identity or such qualities of its subject which significantly reduce the possibility of using it for its purpose shall have material significance. Delusion relative to the motives for the transaction shall not have material significance.

2. If the transaction is deemed to be invalid as concluded under the influence of delusion, the rules provided for by Article 168(2) of this Code shall apply respectively.

In addition, the party at whose suit the transaction was deemed to be invalid shall have the right to demand from the other party compensation for real damage caused to it, if it would prove that the delusion arose through the fault of the other party. If this would not be proved, the party at whose suit the transaction was deemed to be invalid shall be obliged to compensate the other party at its demand for real damage caused to it, even if the delusion arose through circumstances not dependent upon the deluded party.

### **Article 180. Invalidity of Transaction Concluded Under Influence of Fraud, Coercion,**

#### **Threat, or Ill-intentioned Agreement of Representative of One Party with Other Party or Confluence of Grave Circumstances**

1. A transaction concluded under the influence of fraud, coercion, threat, or ill-intentioned agreement of a representative of one party with the other party, and also a transaction which a person was forced to conclude as a consequence of the confluence of grave circumstances on conditions extremely disadvantageous for himself which the other party took advantage of (bondage transaction) may be deemed by a court to be invalid upon the suit of any interested person.

2. If the transaction was deemed invalid on one of the grounds specified in Clause 1 of this Article, then the other party shall return to the victim everything received by it under the transaction, and if it is impossible to return everything received in kind, the value thereof shall be compensated in money. Property received under a transaction by the victim from the other party, and also that due to it in compensation of that transferred to the other party, shall be recovered to the revenue of the Republic of Belarus. If it is impossible to transfer the property to the revenue of the state in kind, the value thereof in money shall be recovered. In addition, the victim shall be compensated by the other party for real damage caused to it.

### **Article 181. Consequences of Invalidity of Part of Transaction**

The invalidity of part of the transaction shall not entail the invalidity of its other parts if it is possible to suppose that the transaction would have been concluded also without including the invalid part thereof.

### **Article 182. Periods of Limitations Regarding Invalid Transactions**

1. A suit concerning recognizing the fact that the transaction is void, and the application of the consequences of the invalidity of a void transaction may be brought within ten years from the date when the performance thereof commenced.

2. A suit to deem a contested transaction to be invalid or concerning the application of the consequences of its invalidity may be brought within three years from the date of the termination of the coercion or threat, under influence of which the transaction was concluded (Article 180(1)), or from the date when the plaintiff knew or should have known about other circumstances which are the grounds for deeming the transaction to be invalid.

## **CHAPTER 10.**

### **Representation. Power of Attorney**

#### **Article 183. Representation**

1. A transaction concluded by one person (representative) in the name of another person (person represented) by virtue of a power based on a power of attorney, legislation, or act of an authorized state body or body of local administration or self- government shall directly create, change, and terminate civil rights and duties of the person represented.

A power also may be obvious from the situation in which the representative acts (seller in retail trade, cashier, and others).

2. Persons acting, although in the interests of another but in their own name (executors in the event of inheritance, and so on), and also persons authorized to enter into negotiations relative to possible future transactions and temporal (anti-crisis) managers within the procedure of bankruptcy are not considered representatives.

3. A representative may not conclude transactions in the name of the person represented with respect to the representative himself personally. He also may not conclude such transactions with respect to another person whose representative he is simultaneously, except for instances of commercial representation.

4. The conclusion through a representative of a transaction which by its character may be concluded only personally, and likewise other transactions specified in a law, shall not be permitted.

### **Article 184. Conclusion of Transaction by Unauthorized Person**

1. In the absence of powers to act in the name of another person or in the event of exceeding such powers, the transaction shall be considered to be concluded in the name of and in the interests of the person who concluded it unless the other person (person represented) subsequently approves expressly the particular transaction.

2. Subsequent approval of a transaction by the person represented shall create, change, and terminate civil rights and duties for him with regard to the particular transaction from the time of its conclusion.

### **Article 185. Commercial Representation**

1. A person who permanently and autonomously is representing in the name of entrepreneurs when they conclude contracts in the sphere of entrepreneurial activity shall be a commercial representative.

2. The simultaneous commercial representation of various parties in a transaction shall be permitted with the consent of these parties and in other instances provided for by the legislation. In so doing, the commercial representative shall be obliged to perform the commissions given to him with the care of an ordinary entrepreneur.

A commercial representative shall have the right to demand the payment of stipulated remuneration and compensation for costs incurred by him when performing the commission from the parties to the contract in equal shares unless otherwise provided by agreement between them.

3. A commercial representation shall be effectuated on the basis of a contract concluded in written form and containing an indication of the powers of the representative, and in the absence of such indications, also a power of attorney.

A commercial representative shall be obliged to preserve the confidence of the information which became known to him concerning trade transactions also after the performance of the commission given to him.

4. The peculiarities of commercial representation in individual spheres of entrepreneurial activity shall be established by the legislation.

### **Article 186. Power of Attorney**

1. A power of attorney shall be deemed to be a written power issued by one person to another person for representation to third persons, certified in accordance with the procedure, provided by this Article. The written power to conclude a transaction by a representative may be presented by the person represented directly to the respective third person.

2. A power of attorney to conclude transactions requiring the notarial form must be notarially certified, except for instances provided for by the legislative acts.

3. There shall be equated to notarially certified powers of attorney:

1) powers of attorney of military servicemen and other persons being treated in military hospitals, sanatoriums, and other military medical institutions certified by the head of such institution, his deputy for medical affairs, the senior doctor or doctor on duty;

2) powers of attorney of military servicemen, and, in places of location of military units, formations, institutions, and military training establishments, where there are not state notarial offices or other bodies which perform notarial actions, also the powers of attorney of workers and employees, working in these military units, formations, institutions and establishments, members of their families and members of the families of military servicemen, certified by the commander (head) of this unit, formation, institution, or educational establishment;

3) powers of attorney of persons held in institutions for the service of punishment in the form of arrest, restriction of freedom, deprivation of freedom, or places of detention, certified by heads of the respective institutions for the service of punishment or chiefs of administrations of the places of detention;

4) powers of attorney of full-age citizens with active legal capacity being in institutions for the social protection of the populace, which are certified by the administration of these institutions or the directors (their deputies) of respective bodies of social protection of the populace.

4. A power of attorney to receive earnings and other payment connected with labor relations, to receive the remuneration of authors and inventors, pensions, benefits, and scholarships, deposits of citizens in banks and non-bank credit and financial institutions and to receive mail (including money, send by mail, and parcels), may be certified also by the organization in which the principal works or studies, the organization which carries out the operation and maintenance of housing facilities in his place of residence, and the administration of the inpatient treatment institution in which he is being treated.

The powers of attorney to receive by the citizens payments in banks and non-bank credit and financial organizations may be certified in the order established by the legislation, also by the bank or the non-bank credit and financial organization in which the current (clearing) account is open or the bank deposit is placed.

5. A power of attorney in the name of a legal person shall be issued over the signature of its director or other person authorized by the constituent documents to do so, with the seal of this organization affixed. A manager of a legal person operates, within the scope of its competent authority, on behalf thereof without a power of attorney.

A power of attorney in the name of a legal person based on the ownership of the Republic of Belarus or its administrative territorial units for the receipt or issuance of money and other property valuables must be signed also by the chief (senior) accountant of this organization.

### **Article 187. Term of Validity of Power of Attorney**

1. The term of validity of a power of attorney may not exceed three years. If the term has not been specified in the power of attorney, it shall retain force for a year from the date of the conclusion thereof. A power of attorney in which the date of its conclusion has not been specified shall be void.

2. A power of attorney certified by a notary and intended for the performance of actions abroad and not containing an indication of the term of its operation shall retain force until the revocation thereof by the person who has issued the power of attorney.

### **Article 188. Transfer of Power of Attorney**

1. A person to whom the power of attorney was issued must personally perform those actions for which he is authorized. This person may transfer the performing of these actions to another person if authorized to do so by the power of attorney or forced to do it by virtue of circumstances in order to protect the interests of the person who issued the power of attorney.

2. A power of attorney issued by way of transfer must be notarially certified, except for instances provided for by Article 186(4) of this Code.

3. A term of validity of a power of attorney issued by way of transfer may not exceed the term of validity of the power of attorney on the basis of which it was issued.

4. The person who transferred the power of attorney to another person must notify the person who issued the power of attorney thereof and communicate to him necessary information about the person to whom the powers have been transferred. The failure to perform this duty shall place on the person who transferred the power liability for the actions of the person to whom he transferred the power as they were his own.

### **Article 189. Termination of Power of Attorney**

1. The operation of a power of attorney shall terminate as a consequence of:

- 1) expiry of the term of validity of the power of attorney;
- 2) revocation of the power of attorney by the person who issued it;
- 3) renunciation by the person to whom the power of attorney was issued;
- 4) termination of the legal person in whose name the power of attorney was issued;
- 5) termination of the legal person to whom the power of attorney was issued;
- 6) death of the citizen who issued the power of attorney, deeming him to lack active legal capacity, limited active legal capacity, or to be missing;
- 7) death of the citizen to whom the power of attorney was issued, deeming him to lack active legal capacity, limited active legal capacity, or to be missing.

2. A person who issued the power of attorney may at any time revoke the power of attorney or the transfer of the power of attorney, and the person to whom the power of attorney was issued, may renounce it. An agreement concerning the waiver of these rights shall be void.

3. The transfer of a power of attorney shall lose force with the termination of the power of attorney.

## **Article 190. Consequences of Termination of Power of Attorney**

1. A person who has issued a power of attorney and subsequently revoked it shall be obliged to notify the person to whom the power of attorney was issued about the revocation thereof, as well as third persons known to him with respect to whom the power of attorney was issued for representation. The same duty shall be placed on the legal successors of the person who issued a power of attorney in instances of the termination thereof on the grounds provided for in Article 189(1), Subclauses (4) and (6), of this Code.

2. The rights and duties which arose as a result of the actions of the person to whom a power of attorney is issued before this person knew or should have known about its termination shall retain force for the person who issued the power of attorney and his legal successors with respect to third persons. This rule shall not apply if the third person knew or should have known that the operation of the power of attorney had terminated.

3. With regard to the termination of a power of attorney the person to whom it was issued or his legal successors shall be obliged immediately to return the power of attorney.

## **SUBSECTION 5**

### **TERMS. LIMITATION PERIOD**

#### **CHAPTER 11. Calculation of Terms**

### **Article 191. Determination of Term**

A term established by the legislation, a transaction, or designated by a court shall be determined by a calendar date or by the expiry of a period of time which shall be calculated by years, months, weeks, days, or hours.

A term may also be determined by specifying an event which must inevitably ensue.

### **Article 192. Commencement of Term Determined by Period of Time**

The running of a term determined by a period of time shall commence on the following day after the calendar date or ensuing of the event by which its commencement is determined.

### **Article 193. Ending of Term Determined by Period of Time**

1. A term calculated by years shall expire in the corresponding month and date of the last year of the term.

The rules for terms calculated by months shall apply to a term calculated by a half-year. For these purposes, a half-year is considered as equal to six months.



2. To a term calculated by quarters of a year shall apply the rules for terms calculated by months. The quarter shall be considered to be equal to three months, and the quarters shall be calculated from the beginning of the year.

3. A term calculated by months shall expire on the corresponding date of the last month of the term.

A term determined as a half-month shall be considered as a term calculated by days and shall be considered to be equal to fifteen days.

If the ending of a term calculated by months comes in such month in which there is no corresponding date, the term shall expire on the last day of that month.

4. A term calculated by weeks shall expire on the corresponding day of the last week of the term.

#### **Article 194. Ending of Term on Non-Working Day**

If the last day of a term comes on a non-working day, the next working day following shall be considered to be the day of ending of the term.

#### **Article 195. Procedure for Performing Actions on Last Day of Term**

1. If a term has been established for performing any action whatever, it may be fulfilled up to 24:00 of the last day of the term.

However, if this action had to be performed in an organization, the term shall expire at that hour when in this organization the respective operations terminate according to the established rules.

2. Written applications and notifications handed in to the post office, telegraph or other communication institution before 24:00 of the last day of the term shall be considered to be made within the term.

### **CHAPTER 12**

#### **Limitation Period**

#### **Article 196. Concept of Limitation Period**

The term for the defense of a right upon the suit of a person whose right has been violated shall be deemed to be a Limitation Period.

#### **Article 197. General Limitation Period**

The general limitation period shall be three years.

#### **Article 198. Special Limitation Periods**

1. Special limitation periods may be established for individual types of demands by the legislation which are reduced or extended in comparison with the general period.

2. The rules of Articles 199-208 of this Code also cover special limitation period unless otherwise established by the legislation.

#### **Article 199. Invalidity of Agreement to Change of Limitation Period**

Limitation periods and the procedure for their calculation may not be changed by agreement of the parties.

The grounds for the suspension and interruption of the running of limitation periods shall be established by the legislative acts.

#### **Article 200. Application of Limitation Period**

1. A demand concerning the defense of a violated right shall be accepted for consideration by a court irrespective of the expiry of the limitation period.

2. Limitation period shall be applied by a court only upon the declaration of the party to the dispute to be made before the court renders the decision.

The expiry of the limitation period, about the application of which the party to the dispute has made the declaration, shall be the ground for the court to render a decision to reject the suit.

#### **Article 201. Commencement of Limitation Period**

1. The limitation period shall commence on the day when the person knew or should have known about the violation of its right. Exceptions from this rule shall be established by the legislative acts.

2. With regard to obligations with a specified period of performance, the limitation period shall commence upon the end of the period of performance.

With regard to obligations the term for the performance of which has not been determined or has been determined by the time of demand, the limitation period shall commence when the right arises for the creditor to submit a demand concerning the performance of the obligation, and if the debtor is granted an exemption term for performance of such demand, the calculation of limitation period shall commence upon the ending of the said term.

3. With regard to regressive obligations the limitation period shall commence on the

moment of performance of the principal obligation.

### **Article 202. Limitation Period in Event of Change of Persons in Obligation**

The change of persons in an obligation shall not entail a change of the limitation period and the procedure for its calculation.

### **Article 203. Suspension of Limitation Period**

1. The limitation period shall be suspended;

1) if the bringing of suit has been hindered by an extraordinary and unavoidable circumstance under the particular conditions (force majeure);

2) if the plaintiff or defendant is in the Armed Forces of the Republic of Belarus, being under the martial law;

3) by virtue of a deferral for the performance of obligations established on the basis of a legislative act by the Government of the Republic of Belarus (moratorium);

4) by virtue of the suspension of the operation of the act of legislation regulating the respective relation.

2. The limitation period shall be suspended on condition that the circumstances specified in this Article arose or have continued to exist during the last six months of the limitation period, and if this period is equal to six months or less than six months, within the limitation period.

3. The running of the period shall continue from the date of termination of the circumstances being the grounds for suspension of the limitation. The remaining part of the period shall be extended up to six months, and if the limitation period is equal to six months or less than six months, up to the limitation period.

### **Article 204. Interruption of Running of Limitation Period**

The running of the limitation period shall be interrupted by bringing suit in the established procedure, and also by the performance of actions by the obliged person which testify to recognition of the debt.

After the interruption, the running of the limitation period shall commence anew. The time which elapsed before interruption shall not be taken into consideration in the new period.

### **Article 205. Running of Limitation Period in Event of Leaving Suit Without Consideration**

If a suit has been left without consideration by a court, then the running of the limitation period which commenced before bringing suit shall continue in the general procedure.

If a suit brought in a criminal case has been left by a court without consideration then the running of the limitation period which commenced before bringing suit shall be suspended until the entry into legal force of the judgment by which the suit was left without consideration. The time during which the limitation period was suspended shall not be included in the limitation period. In so doing, if the remaining part of the period is less than six months, it shall be extended up to six months.

#### **Article 206. Restoration of Limitation Period**

In exceptional instances, when the court deems the reason for the lapsing of the limitation period to be justifiable with regard to circumstances connected with the person of the plaintiff (grave illness, helpless state, illiteracy, and the like), the violated right of the citizen shall be subject to defense. The reasons for the lapse of a limitation period may be deemed to be justifiable if they occurred in the last six months of the limitation period, and if this period is equal to six months or less than six months, during the limitation period.

#### **Article 207. Performance of Duty Upon Expiry of Limitation period**

A debtor or other obliged person who has performed a duty upon the expiry of the limitation period shall not have the right to demand back that which has been performed, even though at the time of performance the said person did not know about the expiry of the limitation period.

#### **Article 208. Application of Limitation Period to Additional Demands**

The limitation period regarding additional demands (penalty, pledge, suretyship, and the like) shall expire with the expiry of the limitation period regarding the principal demand.

#### **Article 209. Demands to Which Limitation Period Do Not Extend**

Limitation period shall not extend to:

- 1) demands concerning the defense of personal non-property rights and other nonmaterial benefits, except for instances provided for by the legislation;
- 2) demands of depositors against a bank or a non-bank credit and financial organization concerning the issuance of deposits;
- 3) demands concerning compensation of harm caused to the life or health of a citizen. However, demands brought upon the expiry of three years from the time of the arising of the right to compensation for such harm shall be satisfied for not more than three years preceding the bringing of suit;
- 4) demands of the owner or other possessor concerning the elimination of any violations of his right, even though these violations were not connected with a deprivation of possession

(Article 285);

5) other demands in the instances established by the legislative acts.

## **SECTION II. RIGHT OF OWNERSHIP AND OTHER REAL RIGHTS**

### **CHAPTER 13**

#### **General Provisions**

##### **Article 210. Content of Right of Ownership**

1. The rights of possession, use, and disposition of his property shall belong to the owner.

2. The owner shall have the right at his discretion to perform with respect to property belonging to him any actions which are not contrary to a legislation, public benefit and security, not causing harm for the environment, historical and cultural valuables, not infringing the rights and the interests, protected by the legislation, of other persons, including the right to alienate his property in ownership to other persons, to transfer to other persons while remaining the owner the rights of possession, use, and disposition of the property, to pledge out property and to encumber it by other means, and to otherwise dispose of it.

The right of ownership of the property acquired by a unitary enterprise, state association or institution on contracts or other grounds is acquired by the owner of the property of this unitary enterprise, state association or institution.

3. The possession, use, and disposition of land and other natural resources to the extent that their turnover is permitted by the legislation shall be effectuated by the owner thereof freely unless this causes damage to the environment and violates the rights and legal interests of other persons.

4. The owner may transfer his property in trust management to another person (trustee manager). The transfer of property to trust management shall not entail the transfer of the right of ownership to the trust manager, who shall be obliged to effectuate the management of the property in the interests of the owner or a third person specified by the owner.

5. The right of ownership shall not be limited in time.

##### **Article 211. Burden of Maintenance of Property**

The owner shall bear the burden of maintenance of the property belonging to him unless otherwise provided by legislation or contract.

##### **Article 212. Risk of Accidental Perishing of Property**

The risk of accidental perishing or accidental damaging of property shall be borne by the

owner thereof unless otherwise provided by legislation or by contract.

### **Article 213. Forms and Subjects of Right of Ownership**

1. The property may be the state property or the private property.
2. The subjects of the right of the state property are the Republic of Belarus and administrative territorial units.
3. The subjects of the right of the private property are the natural persons and non-state legal persons.

The peculiarities of the acquisition and termination of the right of ownership to property and the possession, use, and disposition of it depending upon whether the property is in the ownership of a citizen or legal person or in the ownership of the Republic of Belarus or administrative territorial units, may be established by the legislation, or, in cases provided for by the Constitution of the Republic of Belarus, only by the law.

4. The rights of all owners shall be protected equally.

### **Article 214. Right of Ownership of Citizens and Legal Persons**

1. Any property may be in the ownership of citizens and legal persons, except for individual types of property which in accordance with the legislation may not belong to citizens or legal persons.

2. The quantity and value of property in the ownership of citizens and legal persons shall not be limited, except for instances when such limitations have been established by the law for the purposes of national security, public order, protection of moralities, health of the population, rights and freedoms of the other persons. For the legal persons, such limitations can be established by the legislative acts.

3. The property, transferred as contributions (dues) by the founders (the participants, the members) to the commercial and noncommercial organizations (with the exception of the property transferred to the unitary enterprises, state associations or to the institutions, financed by the owner), as well as property, acquired by these legal persons, is in the ownership of these legal persons.

4. The founders (the participants, the members) of the commercial organization, in relation to the property, being in the ownership of this organization, have rights of obligation, defined in the constituent documents of this organization.

5. Public and religious organizations, charitable and other funds shall be the owners of property acquired by them and may use it only in order to achieve the purposes provided for by the constituent documents thereof.

The founders (participants, members) of these organizations shall lose the right for property transferred by them to the ownership of the respective organization. In the event of the liquidation of such organization the property thereof remaining after satisfaction of the demands of creditors shall be used for the purposes specified in its constituent documents.

### **Article 215. Right of State Ownership**

1. The state property appears as the Republic's property (the property of the Republic of Belarus) and communal property (the property of administrative territorial units).

2. The Republic's property consists of the treasury of the Republic of Belarus and the property, consolidated to the Republic's legal persons in accordance with the acts of legislation.

The funds of the Republic's budget, gold and currency holdings, the other objects, being only in the ownership of the state, and other state property, not consolidated to the Republic's legal persons, form the treasury of the Republic of Belarus.

3. The communal property consists of the treasury of the administrative territorial unit and the property, consolidated to the communal legal persons in accordance with acts of legislation. The funds of the local budget and other communal property, not consolidated to the communal legal persons, form the treasury of the respective administrative territorial unit.

### **Article 216. The Property of the State Legal Persons**

The property, being in the state ownership, may be consolidated to the state legal persons by the right of economic management or operative administration.

### **Article 217. Real Rights of Persons Who Are Not Owners**

1. The rights to a thing, in addition to the right of ownership, are, in particular

1) the right of economic management and the right of operative administration (Articles 276 and 277);

2) the right of inheritable possession for life of a land plot;

3) the right of permanent use of a land plot and the right of temporary use of a land plot;

4) servitudes (Article 268).

2. The transfer of the right of ownership in property to another person shall not be grounds for the termination of other rights to a thing in this property.

3. The rights to a thing of a person who is not an owner shall be protected against the violation thereof in accordance with the procedure provided for by Article 286 of this Code.

### **Article 218. Privatization of State Property**

Privatization of the property, being in the state ownership, is effectuated in accordance with the procedure, provided by the legislation on privatization.

For privatization of the property, being in the Republic's and communal ownership, the provisions, provided for by this Code, regulating the procedure of the acquisition and termination of the right of ownership, shall apply unless the legislation on privatization provide otherwise.

## **CHAPTER 14**

### **Acquisition of Right of Ownership**

#### **Article 219. Grounds for Acquisition of Right of Ownership**

1. The right of ownership to a new thing manufactured or created by a person for himself in compliance with the legislation shall be acquired by this person.

The right of ownership to yield, products, and revenues received as a result of the use of property shall be acquired on the grounds provided for by Article 136 of this Code.

2. The right of ownership to property having an owner may be acquired by another person on the basis of a contract of purchase-sale, barter, gift, or other transaction concerning the alienation of this property.

In the event of the death of a citizen the right of ownership to the property belonging to him shall pass by inheritance to other persons in accordance with the will or a law.

In the event of the reorganization of a legal person the right of ownership to the property belonging to it shall pass to the legal persons - legal successors of the reorganized legal person (Article 54).

Alienation of property to other person against the will of the owner is not permitted, with the exception of cases, provided by the legislation.

3. In the instances and in accordance with the procedure provided for by the legislation, a person may acquire the right of ownership in property which has no owner, in property whose owner is unknown, or in property which the owner has renounced or to which the owner has lost the right of ownership on other grounds provided for by the legislation.

4. The member of a housing cooperative, housing construction cooperative, country cottage (dacha) cooperative, garage cooperative or other consumer cooperative, other persons having the right to accumulation of share, who have fully made their share contribution to an apartment, country cottage (dacha), garage, or other premise granted to these persons by the cooperative shall acquire the right of ownership to the said property since the time of registration of this right in accordance with existing procedure.

#### **Article 220. Arising of Right of Ownership in Newly Created Immovable Property**

1. The right of ownership in a buildings or installations under construction and other newly created immovable property shall arise from the time of the end of creation, unless otherwise established by the legislation.



2. In the instances when newly created immovable property is subject to the state registration, the right of ownership shall arise from the time of such registration, unless otherwise established by the legislation.

3. Before the end of creation of the immovable property, or, in the respective cases, before its state registration, the rules on the right of ownership in the materials and other property, of which the immovable property is created, are applied to the property, unless otherwise established by the legislation.

### **Article 221. Converting**

1. Unless otherwise provided by a contract, the right of ownership to a new movable thing manufactured by the person by means of converting materials which do not belong to him shall be acquired by the owner of the materials. However, if the value of the converting significantly exceeds the value of the materials, the right of ownership to a new thing shall be acquired by the person who, acting in good faith, has effectuated the converting for himself.

2. Unless otherwise provided by a contract, the owner of materials who has acquired the right of ownership in a thing, manufactured from these materials, shall be obliged to compensate the value of the converting to the person who has effectuated it, and in the event of the acquisition of the right of ownership to the new thing by this person, the latter shall be obliged to compensate the owner of the materials for the value thereof.

3. The owner of the materials who has lost them as a result of the actions not in good faith of the person who effectuated the converting shall have the right to demand the transfer of the new thing to his ownership and compensation of losses caused to him.

### **Article 222. Transferring to Ownership of Things Generally Accessible for Gathering**

In the instances when in accordance with the legislation, general authorization by a particular owner, or in accordance with local custom the gathering of berries, fishing, and gathering or extraction of other generally accessible things and fauna is permitted in forests, waters, or on other territories, the right of ownership in the respective things shall be acquired by the person carrying out the gathering or extraction thereof.

### **Article 223. Unauthorized Construction and Its Consequences**

1. Unauthorized construction is an activity of a person on creation or change of immovable property via construction, reconstruction (building extension, building addition, and rebuilding) of a capital construction (building, structure) if it is carried out:

1) on a wilfully occupied land plot;

2) on a land plot used not for its purpose or allotted by a state body which has no power to take a respective decision, and/or without holding an auction, when the allotment of the land plot is possible only on results of an auction, and/or allotted in violation of the established priority of allotting of land plots, and/or without a prior agreeing of the location of the land

plot if it is required in accordance with legislative acts;

3) without obtaining necessary permits for construction, reconstruction or without project documentation where the necessity of its developing is provided by legislation, or with considerable violations of town-planning and building regulations\*, unless otherwise provided by the President of the Republic of Belarus.

Immovable property created as a result of unauthorized construction is an unauthorized structure.

Unauthorized construction must be immediately suspended.

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\* Considerable violations of town-planning and building regulations mean violations which can create a potential threat of violation of rights and legitimate interests of other persons, to life or health of citizens, to property of citizens and legal persons, violate rules for using territories established by approved town planning documentation, and also to cause harm to the environment, decrease service ability of the object.

2. The person who carried out unauthorized construction does not acquire the ownership of the unauthorized structure in accordance with clauses one and 2 of Article 220 of this Code and are not entitled to enjoy and dispose of the unauthorized structure: to sell, donate, lease, and conclude other transactions.

3. In the event of unauthorized construction provided by subclause 1 of part one of this Article, the local executive and administrative body shall take, unless otherwise established by the President of the Republic of Belarus, a decision about the return of the wilfully occupied land plot, demolition of the unauthorized structure and bringing the land plot to a condition making it possible to be used according to the purpose, in the order provided by the legislation on protection and use of lands.

4. In the event of unauthorized construction, including when the person acquired a land plot with an unauthorized structure located on it (later on in this Article – the lawful acquirer), in cases provided by subclause 2 of part one of clause one of this Article, the regional (Minsk City) executive committee shall take a decision in relation to the land plot in the order provided by the legislation on protection and use of lands, and also, unless otherwise established by the President of the Republic of Belarus, one of the following decisions:

1) on demolition of the unauthorized structure and bringing the land plot to a condition making it possible to be used according to its purpose, along with determining in such a decision of terms for making those actions;

2) on bringing the unauthorized structure into the previous condition, existing prior to the unauthorized construction, along with determining in such a decision of terms for making those actions.

The person who carried out unauthorized construction on the land plot allotted into the private ownership or lifelong inheritable possession (including the legal acquirer) may be recognized, in the cases provided by subclause 2 of part one of clause one of this Article, on a court decision, as having the ownership of the unauthorized structure, unless the preservation of the unauthorized structure entails considerable violations of town-planning and building regulations.

The recognition by the court of the ownership of the unauthorized structure constitutes a ground for taking the decision on continuing the construction (on accepting the unauthorized structure into operation and its state registration in the established order) and on allotting the land plot in the order provided by the legislation on protection and use of lands.

Submission of an application on recognizing the ownership of the unauthorized structure to the court within the terms indicated in the decision of a regional (Minsk City) executive committee, or its appealing of such a decision in the established order suspends its implementation.

5. In the event of unauthorized construction, including in relation to a legal acquirer, when the legislation has been violated on the grounds specified in subclause 3 of part one of this Article, the local executive and administrative body shall take, unless otherwise established by the President of the Republic of Belarus, one of the following decisions:

1) on continuing the construction (on accepting the unauthorized structure into operation and its state registration in the established order), unless the preservation of the unauthorized structure entails considerable violations of town-planning and building regulations;

2) on demolition of the unauthorized structure and bringing the land plot to a condition making it possible to be used according to its purpose, along with determining in such a decision of terms for making those actions, if the preservation of the unauthorized structure entails considerable violations of town-planning and building regulations;

3) on bringing the unauthorized structure into the previous condition, preceding the unauthorized construction, along with determining in such a decision of terms for making those actions, if the preservation of the unauthorized structure entails considerable violations of town-planning and building regulations;

Appealing, in the established order, of the decision of the local executive and administrative body specified in subclauses 2 and 3 of part one of this clause suspends its implementation.

6. Demolition of the unauthorized structure and bringing the land plot to a condition making it possible to be used according to the purpose or bringing the unauthorized structure into the previous condition, preceding the unauthorized construction, on the basis of a decision of the local executive and administrative body, taken in accordance with part one of clause 4, and with subclauses 2 or 3 of part one of clause 5 of this Article, is performed by the person who carried out the unauthorized construction, or by the legal acquirer, or at the cost of such persons.

In the events of violation of the legislation on the grounds specified in subclauses 2 and 3 of part one of this Article, the legal acquirer which met the requirements provided by part one of this clause is entitled to lay a recourse claim for reimbursement of incurred expenses to the person who carried out the alienation of such land plot.

7. In the event of refusal of the person who carried out unauthorized construction or the legal acquirer to execute a decision of the local executive and administrative body, which entered into force, adopted in accordance with part one of clause 4 and with subclauses 2 or 3 of part one of clause 5 of this Article, or of the failure to execute that decision within the established term or in the event when the court has not recognized the ownership of the unauthorized structure in accordance with part 2 of clause 4 of this Article, the local executive and administrative body performs the demolition of the unauthorized structure and bringing

the land plot to a condition making it possible to be used according to the purpose or bringing the unauthorized structure into the previous condition, preceding the unauthorized construction, with the exception of the instances specified in clause 8 of this Article.

8. Refusal of the person who carried out unauthorized construction on a land plot being in the state ownership (with the exception of a land plot allotted into an lifelong inheritable possession) to execute a decision of the regional (Minsk City) executive committee, which entered into force, adopted in accordance with part one of clause 4 of this Article, or the failure to execute that decision within the established term is recognized as the refusal of the ownership of materials from which the unauthorized structure has been erected.

In this case the local executive and administrative body (an organization authorized by it) performs one of the following actions:

performs demolition of the unauthorized structure or brings the unauthorized structure into the previous condition, preceding the unauthorized construction (if the preservation of the unauthorized structure entails considerable violations of town-planning and building regulations), and also brings the land plot to a condition making it possible to be used according to the purpose;

lodges an application to the court for recognizing the materials from which the unauthorized structure has been built as ownerless and recognizing the communal ownership of them (unless the preservation of the unauthorized structure entails considerable violations of town-planning and building regulations). After the entry of the court decision into force, the local executive and administrative body adapts a decision on subsequent use of the material from which the unauthorized structure has been built, including on continuing the construction (on accepting the unauthorized structure into operation and its state registration in the established order) and on allotting the land plot in the order provided by the legislation on protection and use of lands.

9. Recovery of expenses on performance of the demolition of the unauthorized structure or bringing the unauthorized structure into the previous condition, preceding the unauthorized construction, and bringing the land plot to a condition making it possible to be used according to the purpose, in accordance with clause 7 and indent 2 of part 2 of clause 8 of this Article is made in the court procedure.

10) In the event if the unauthorized construction has been carried out on a land plot allotted by a state body which has no powers to adapt a respective decision, and/or without holding an auction, when the allotment of the land plot is possible only as a result of an auction, and/or allotted with violation of the established priority for allotment of land plots, and/or without prior agreeing of the location of the land plot if it is required in accordance with legislative acts, the harm cause to the person as a result of illegal actions (omission) of state bodies or their officials is recovered in accordance with Article 938 of this Code.

## **Article 224. Time of Origin of Right of Ownership for Acquirer under Contract**

1. The right of ownership for the acquirer of a thing under a contract shall arise from the time of the transfer thereof unless otherwise provided by the legislation or by a contract.

2. In instances when the contract on alienation of property is subject to state registration, the right of ownership for the acquirer shall arise from the time of such registration, unless

otherwise established by the legislation.

### **Article 225. Transfer of Thing**

1. The handing over of a thing to the acquirer shall be deemed to be the transfer, and likewise the handing over to a carrier for dispatch to the acquirer, or to the handing over a communications office for sending to the acquirer of a thing alienated without the obligation of delivery.

A thing shall be considered to be handed over to the acquirer from the time of its actual receipt in the possession of the acquirer or person specified by him.

2. If at the time of concluding a contract on the alienation of a thing it is already in the possession of the acquirer, the thing shall be deemed to be transferred to him from this time.

3. The transfer of a bill of lading or other document of goods disposition therefor shall be equated to the transfer of a thing.

### **Article 226. Ownerless Things**

1. A thing which has no owner, or a thing the owner of which is unknown, or a thing, the right of ownership of which has been renounced by the owner, shall be ownerless.

2. Unless this is excluded by the rules of this Code on the acquisition of the right of ownership to a thing which the owner has renounced (Article 227), on find (Articles 228, 229), on neglected animals (Articles 231, 232), and treasure (Article 234), the right of ownership in ownerless movable things may be acquired by virtue of acquisitive prescription (Article 235).

3. Ownerless immovable things shall be accepted for recording by the bodies carrying out state registration of the immovable property, right to it and transactions with it upon the application of the respective state body, unless otherwise established by the legislative acts.

The communal right of ownership on the ownerless immovable property may be recognized by a court.

A ownerless immovable property not deemed by decision of a court to have entered into communal ownership may be accepted anew into the possession, use, and disposition of the owner who left it, or acquired in ownership by virtue of acquisitive prescription (Article 235).

4. The materials from which the unauthorized structure has been built are recognized as ownerless on grounds provided by Article 233 of this Code in the order established by the civil procedural legislation.

### **Article 227. Movable Things Which Owner Has Renounced**

1. Movable things abandoned by the owner or otherwise left by him (abandoned things) with a view to renouncing the right of ownership may be transferred by other persons into

their ownership in accordance with the procedure provided for by Clause 2 of this Article.

2. The person in whose ownership, possession, or use a land plot, water, or other object is, where the abandoned thing is situated, the value of which is obviously lower than an amount corresponding to five times the basic value, or abandoned scrap metal, defective products, the rejected products, the sunk logs (of wood floating), the dumps and the drains of mining, the production wastes and other kinds of wastes are located, has the right to transfer these things into the ownership thereof by starting to use them, or by performing the other actions, being the evidence of transferring the thing into ownership.

Other abandoned things shall enter into the ownership of the person who has entered into possession of them if they have been deemed to be ownerless by a court upon the application of this person.

### **Article 228. Find**

1. The finder of a lost thing shall be obliged immediately to inform the person who lost it thereof or the owner of the thing or some other person known to him as having the right to receive it and shall return the found thing to this person.

If a thing has been found in a premise or on transport it shall be subject to being handed over to a person representing the possessor of this premise or means of transport. In this event the person to whom the find has been handed over shall acquire the rights and bear the duties of the person who found the thing.

2. If the person having the right to demand the return of a found thing or his whereabouts are unknown, the finder of the thing shall be obliged to declare the find to the body of internal affairs or the body of local administration or self-government.

3. The finder of a thing shall have the right to keep it or to hand it over for storage to the body of internal affairs or the body of local administration or self-government or to a person specified by them.

A perishable thing or a thing, the costs for storage of which are incommensurately great in comparison with its value may be realized by the finder of the thing, with receiving written evidence certifying the amount of the receipts. The money obtained from the sale of a found thing shall be subject to return to the person authorized to receive it.

4. The finder of a thing shall be liable for its loss or damage only in the event of intent or gross negligence and within the limits of the value of the thing.

### **Article 229. Acquisition of Right of Ownership in Find**

1. If during six months from the time of declaring the find in the body of internal affairs or the body of local administration or self-government (Article 227(2)) the person authorized to receive the found thing has not been determined or does not himself declare his right to the thing to the person who found it, or to the militia or body of local administration or self-government, the finder of the thing shall acquire the right of ownership in it.

2. If the finder of a thing refuses to acquire the found thing in ownership it shall enter

communal ownership.

### **Article 230. Compensation for Expenses, Connected with Find, and Remuneration to Finder of Thing**

1. The finder and returner of a thing to the person authorized to receive it shall have the right to receive from this person, and in instances of the thing passing into communal ownership, from the respective body of local administration or self-government, compensation of necessary expenses connected with storage, handing over, or realization of the thing, and also expenditures for revealing of the person authorized to receive the thing.

2. The finder of a thing shall have the right to demand, from the person authorized to receive the thing, remuneration for the find in the amount of up to 20% of the value of the thing. If a found thing is of value only for the person authorized to receive it, the amount of remuneration shall be determined by agreement with this person, or, if the agreement cannot be reached, by the court.

The right to remuneration shall not arise if the finder of the thing has not declared the find or has attempted to conceal it.

### **Article 231. Neglected Animals**

1. A person who has detained neglected or stray livestock or other neglected domestic animals shall be obliged to return them to their owner, and if the owner of the animals or his whereabouts is unknown, not later than within three days from the time of detention to declare the animals found to the body of internal affairs or the body of local administration or self-government, which shall take measures to seek the owner.

2. During the search for the owner of the animals they may be left by the person who detained them with himself for maintenance and for use, or handed over for maintenance and use to another person having the necessary conditions for this. At the request of the person who detained neglected animals, the seeking of a person who has the necessary conditions for their maintenance and use and the transfer of the animals thereto shall be effectuated by the body of internal affairs or the body of local administration or self-government.

The person who has detained neglected animals and the person to whom they have been transferred for maintenance and use shall be obliged to maintain the animals properly and, if there is fault, shall be liable for the perishing and harm caused for the animals, within the limits of the value thereof.

### **Article 232. Acquisition of Right of Ownership to Neglected Animals**

1. If within six months from the time of declaring the detention of neglected domestic animals the owner of these animals is not discovered or he himself does not declare his right to the animals, the right of ownership to the animals shall be acquired by the person by whom these animals are kept for maintenance and use.

If this person refuses to acquire in ownership the animals maintained by him, these animals shall enter into communal ownership and be used in accordance with the procedure determined by the body of local administration or self-government.

2. In the event of the appearance of the former owner of the animals after transferring these animals into the ownership of another person, the owner shall have the right, when there are circumstances demonstrating that the animals have preserved the affection for the former owner, or the circumstances, indicating that the new owner treats the animals cruelly or otherwise improperly, to demand their return on the conditions determined by an agreement with the new owner, and in the event of the failure to reach agreement, by a court.

### **Article 233. Compensation of Expenses for Maintenance of Neglected Animals and Remuneration for These Animals**

1. The person who detained animals and the person by whom these animals were kept for maintenance and use, shall, in the event of the return of neglected domestic animals to the owner, have the right to compensation by their owner of necessary expenses connected with the maintenance of the animals, with setting off the advantages derived from the use thereof.

2. The person who has detained neglected domestic animals shall have the right to demand remuneration from the owner in accordance with Article 230(2) of this Code.

### **Article 234. Treasure**

1. Treasure, that is, money or valuable objects buried in the earth or concealed by other means, the owner of which can not be established or by virtue of a legislation has lost the right to these objects, shall enter into the ownership of the person to whom the property belongs (land plot, building etc.) where the treasure was concealed, and the person who discovered the treasure, in equal shares, unless otherwise established by an agreement between them.

When a treasure is discovered by a person who has made diggings or searches for the valuables without the consent of the owner of the land plot or other property where the treasure was concealed, the treasure shall be subject to transfer to the owner of the land plot or other property where the treasure was discovered.

2. In the event of the discovery of a treasure containing material objects having distinctive spiritual, artistic and/or documentary merits and meeting one of the criteria for the selection of material objects to be granted the status of an historic and cultural valuable such objects are to be transferred to state ownership. In so doing, the owner of the land plot or other property where the treasure was concealed and the person who discovered the treasure shall have the right to receive remuneration in the amount of 50% of the value of the treasure. The remuneration shall be distributed between these persons in equal shares unless otherwise established by an agreement between them.

In the event of the discovery of such treasure by a person who has made diggings or searches for valuables without the consent of the owner of the property where the treasure was concealed, the remuneration shall not be paid to this person and shall be paid to the owner in



full.

3. The rules of this Article shall not apply to persons within whose labor or employment duties are the conducting of diggings and searches directed towards the discovery of treasure.

### **Article 235. Acquisitive Prescription**

1. A person, citizen or legal person, who is not the owner of property but in good faith, openly, and uninterruptedly possesses as his own immovable property for fifteen years or, for other property, for five years, shall acquire the right of ownership in such property (acquisitive prescription).

The right of ownership in immovable property and other property subject to state registration shall arise for the person who acquired this property by virtue of acquisitive prescription from the time of such registration.

2. Until the acquisition of the right of ownership in property by virtue of acquisitive prescription, the person possessing the property as his own shall have the right to defend his possession against third persons who are not the owners of the property, and also who do not have the rights to possession thereof by virtue of another ground provided for by the legislation or contract.

3. A person referring to the prescription of possession may join to the time of his possession all of the time during which this property was possessed by that whom this person is the legal successor.

4. The running of the period of acquisitive prescription with respect to things kept by a person from whose possession they may be claimed in accordance with Articles 282-284 and 286 of this Code shall commence from the next day after expiry of the limitation period for the corresponding demands.

## **CHAPTER 15**

### **Termination of Right of Ownership**

#### **Article 236. Grounds for Termination of Right of Ownership**

1. The right of ownership shall terminate in the event of the alienation by the owner of his property to other persons, renunciation of the right of ownership by the owner, perishing or destruction of the property, and the loss of the right of ownership to property in other instances provided for by the legislation.

2. The compulsory withdrawal from the owner of property shall not be permitted except for instances when on the grounds provided for by the legislation, or in accordance with the court decision, it shall be carried out by:

1) levying execution on property for obligations (Article 238);

2) alienation of property which by virtue of the act of legislation can not belong to the

particular person (Article 239);

3) alienation of immovable property in connection with the withdrawal of a land plot (Article 240);

4) purchase of carelessly maintained cultural valuables (Article 241) and of domestic animals (Article 242);

5) requisition (Article 243);

6) confiscation (Article 244);

7) alienation of the property in the instance provided by clause 4 of Article 255 of this Code;

8) privatization (Article 218);

9) nationalization (Article 245).

### **Article 237. Renunciation of Ownership**

1. A citizen or a legal person may renounce the ownership of the property belonging to him by announcing it or making other actions which expressly evidence his abandonment of possession, enjoyment, and disposal of the property without intention to keep any rights to that property.

Refusal of the person who carried out unauthorized construction on a land plot being in the state ownership (with the exception of a land plot allotted into an lifelong inheritable possession) to execute a decision of the regional (Minsk City) executive committee, which entered into force, adopted in accordance with part one of clause 4 of this Article, or the failure to execute that decision within the established term is recognized as the renunciation of the ownership of materials from which the unauthorized structure has been erected.

2. Renunciation of the ownership, with the exception of the renunciation of the ownership of the materials from which an unauthorized structure has been erected, provided by part 2 of clause one of this Article, does not entail the termination of rights and duties of the owner in relation to the respective property till the moment of acquisition of the ownership of that property by another person, with the exception of the instances when the property has been subjected to utilization and destruction in accordance with legislation.

### **Article 238. Levy of Execution on Property for Obligations of Owner**

1. The withdrawal of property by means of levying execution on it with regard to obligations of the owner shall be done on the basis of the decision of a court, unless another procedure for levy of execution has been provided for by the legislation or by contract.

2. The right of ownership in property on which execution is levied shall terminate for the owner from the time of arising the right of ownership in the withdrawn property for the person to whom this property is transferred.

### **Article 239. Termination of Right of Ownership for Person in Property Which Can Not Belong to Him**

1. If on the grounds, permitted by a law, the property which by virtue of legislation can not belong to person, turns out to be in the ownership of a person, this property must be alienated by the owner within a year from the time of arising the right of ownership in the property, unless another term has been established by the legislation.

2. In instances when the property has not been alienated by the owner within the periods specified in Clause 1 of this Article, such property, taking into consideration its character and purpose, shall, by decision of a court rendered upon the application of a state body or body of local administration or self-government, be subject to compulsory sale, with transfer to the former owner of the amounts received, or the transfer to state or communal ownership, with compensation of the value of the property to the former owner, determined by a court. In so doing, the expenditures for alienation (safe custody) of the property shall be deducted.

3. If in the ownership of a citizen or legal person on the grounds permitted by the legislation there turns out to be a thing for acquisition of which a special authorization is necessary, the issuance of which has been refused for the owner, this thing shall be subject to alienation in accordance with the procedure established for property which can not belong to the particular owner.

In such case, alienation of the thing is permitted subject to observance of the procedure for turnover of the corresponding property, established by the legislation; the thing can be alienated only to the person, having the specified permission, or to the state.

### **Article 240. Alienation of Immovable Property in Connection with Withdrawal of Land Plot on Which It Is Situated**

1. When the withdrawal of a land plot for state or communal needs or in view of the improper use of land is impossible without the termination of the right of ownership in buildings, installations, or other immovable property situated on the land plot, this property may be withdrawn from the owner by means of the purchase by the state or sale at public sales in accordance with the procedure provided for by the legislation.

The demand to withdraw immovable property shall not be subject to satisfaction if the state body or body of local administration or self-government which has applied to a court with this demand does not prove that the use of the land plot for the purposes for which it is being withdrawn is impossible without terminating the right of ownership to the particular immovable property.

2. The rules of this Article respectively shall apply in the event of termination of the right of ownership to immovable property in connection with the withdrawal of mining allotments and other plots on which property is situated.

### **Article 241. Purchase of Carelessly Maintained Cultural Valuables**

In instances when the owner of cultural valuables relegated in accordance with the

legislation to the category of specially valuable and protected by the state carelessly maintains these valuables, which threatens them with their losing their significance, such valuables may by decision of a court be withdrawn from the owner through purchase by the state or sale at public sales.

In the event of the purchase of cultural valuables, their value shall be compensated for the owner in the amount established by agreement of the parties, and in the event of a dispute, by a court. In the event of the sale at public sales the amount obtained from the sale shall be transferred to the owner, less the expenses for holding the public sales.

#### **Article 242. Purchase of Domestic Animals in Event of Improper Treatment Thereof**

When the owner of domestic animals treats them in clear contravention of the requirements of the rules established on the basis of a legislation and the norms accepted in society for the humane attitude towards animals, these animals may be withdrawn from the owner by means of the purchase thereof by the person who has brought the respective demand in court. The price of the purchase shall be determined by agreement of the parties, and in the event of a dispute, by a court.

#### **Article 243. Requisition**

1. In instances of natural disasters, accidents, epidemics, epizootics, and other extraordinary circumstances, the property may, in the interests of society by decision of state bodies, be withdrawn from the owner in accordance with the procedure and on the conditions established by the legislation with payment of the value of the property to him (requisition).

2. The valuation according to which the value of the requisitioned property is compensated to the owner may be contested by the owner in a court.

3. The person whose property was requisitioned shall have the right, when the existence of the circumstances, in connection with which the requisition was made, has terminated, to demand in court for the return to him of the property which has been preserved.

#### **Article 244. Confiscation**

In the instances provided for by the legislation property may be withdrawn without compensation from the owner by decision of a court in the form of a sanction for committing a crime or other violation of legislation (confiscation). However, confiscation of property in the administrative procedure is permitted only subject to observance of the conditions and the procedure, provided by the law. The decision on the confiscation, adopted in the administrative procedure, may be appealed to the court.

#### **Article 245. Nationalization**

Transferring the property, being in the ownership of the citizens and the legal persons, into

the state property by means of its nationalization is permitted only on the grounds of the law on the procedure and conditions of nationalization of this property, and with timely and full compensation of the cost of property and of other losses, caused by the withdrawal, to the person, the property of which was nationalized.

## **CHAPTER 16**

### **Common Ownership**

#### **Article 246. Concept and Grounds of Origin of Common Ownership**

1. Property in the ownership of two or several persons shall belong to them by the right of common ownership.

2. Property may be in common ownership with the determination of the share of each of the owners in the right of ownership (share ownership) or without the determination of such shares (joint ownership).

3. Common ownership to property shall be share ownership, except for instances when the formation of joint ownership to this property has been permitted by the legislative acts.

4. Common ownership shall arise when two or several persons enter into the ownership of property which can not be divided without changing its purpose (indivisible things), or is not subject to division by virtue of a legislation.

Common ownership in divisible property shall arise in the instances provided for by the legislation or contract.

5. By agreement of the participants of joint ownership, and, in the event of not achieving consent, by decision of a court, the share ownership of these persons may be established for common property.

6. The legislative acts regulating the matters of dwelling reconstruction may provide for other rules than those specified in this Chapter.

#### **Article 247. Determination of Shares in Right of Share Ownership**

1. If the shares of the participants of share ownership can not be determined on the basis of the act of legislation and was not established by agreement of all of its participants, the shares shall be considered to be equal.

2. The procedure for the determination and change of their shares may be established by agreement of all the participants of share ownership depending upon the contribution of each of them in the formation and growth of the common property.

3. A participant of share ownership who has effectuated at his own expense while complying with the established procedure for the use of common property indivisible

improvements of this property shall have the right to a corresponding increase of his share in the right to common property.

Divisible improvements of common property, unless otherwise provided by agreement of the participants of the share ownership, shall enter into the ownership of those participants who produced them.

**Article 248. Consequences of rising, extension or reconstruction of the dwelling house or other structure, being in common share ownership**

If the owner, with observance of the established rules, at own expense, has enlarged the area of the house or other structure, being in the share ownership, by means of extension, rising or reconstruction, then, upon the demand of this owner, the shares in the common ownership in the house or construction and the procedure of using the premises in it are subjects to appropriate changes.

**Article 249. Disposition of Property in Share Ownership**

1. The disposition of property in share ownership shall be effectuated by agreement of all of its participants.

2. A participant of share ownership shall have the right at his discretion to sell, gift, bequeath, or pledge his share or to otherwise dispose of it while complying, in the event of alienation for payment, with the rules provided for by Article 253 of this Code.

**Article 250. Possession and Use of Property in Share Ownership**

1. The possession and use of property in share ownership shall be effectuated by the agreement of all its participants, and if consent is not achieved, in accordance with the procedure established by a court.

2. The participant of share ownership shall have the right for providing to him, in possession and using, of the part of the common property, proportional to the share of this participant, or, if this is impossible, has the right to claim for the appropriate compensation from the other participants, possessing and using the property which comprise the share of this participant.

**Article 251. Yield, Products, and Revenues from Use of Property in Share Ownership**

The yield, products, and revenues from the use of property in share ownership shall become part of the common property and be distributed among the participants of participatory ownership commensurately with their shares unless otherwise provided by the agreement between them.

### **Article 252. Expenses for Maintenance of Property in Share Ownership**

1. Each participant of share ownership shall be obliged, in proportion to their shares to participate in the payment of taxes, charges, and other payments relating to the common property, and also the costs for its maintenance and preservation, unless otherwise provided by the legislation or by the agreement.

2. The expenses, which are not necessary and are made by one of the owners without the consent of the others, shall fall on this owner only. Any disputes arising in this respect are subject to the settlement in the judicial procedure.

### **Article 253. Preferential Right of Purchase of the Share in the Right of Common Ownership**

1. In the event of the sale of a share in the right of common ownership to the third person the remaining participants of share ownership shall have the preferential right of purchase of the share being sold at the price for which it is being sold and on other equal conditions, except for sales at a public sale.

The public sale for the sale of the share in the right of common ownership may, in the absence of consent thereto of all the participants of share ownership, be held in the instances provided for by Article 258 of this Code, and in the other instances provided for by the legislation.

2. The seller of a share shall be obliged to notify in written form the remaining participants of share ownership of the intention to sell his share to the third person, specifying the price and other conditions on which he is selling it. If the other participants of share ownership refuse to purchase or do not acquire the share being sold in the right of ownership in immovable property within a month, and in the right of ownership in other property, within ten days from the date of notification, the seller shall have the right to sell his share to any person.

3. In the event of the sale of a share in violation of the preferential right of purchase, any other participant of share ownership shall have the right within three months to demand in a judicial proceeding the transfer to him of the rights and duties of the purchaser.

4. The assignment of a preferential right of purchase of the share shall not be permitted.

5. The rules of this Article shall apply also when alienating a share under a contract of barter.

### **Article 254. Time of Transfer of Share in Right of Common Ownership to Acquirer Under Contract**

The share in the right of common ownership shall pass to the acquirer under a contract from the time of conclusion of the contract unless otherwise provided by an agreement of the parties.

The time of transfer of a share in the right of common ownership under a contract subject to

state registration shall be determined in accordance with Article 224(2) of this Code.

### **Article 255. Division of Property in Share Ownership and Partition of Share Therefrom**

1. Property in common share ownership may be divided between its participants by an agreement between them.

2. A participant of common share ownership shall have the right to demand the partition of his share from the common property.

3. If the participants of share ownership do not reach agreement concerning the ways and conditions for the division of common property or partition of the share of one of them, the participant of share ownership shall have the right in a judicial proceeding to demand the partition of his share in kind from the common property.

If the partition of a share in kind is not permitted by the legislation or is impossible without incommensurate damage to property in common ownership, the partitioning owner shall have the right to payment to him of the value of his share by the other participants of share ownership.

4. The incommensurateness of property partitionable in kind to a participant of share ownership on the basis of this Article to his share in the right of ownership shall be eliminated by the payment of a corresponding monetary amount or other compensation.

The payment to a participant of share ownership by the remaining owners of compensation in place of the partition of his share in kind shall be permitted with his consent. In instances when the share of the respective owner is insignificant and can not be truly partitioned and he does not have a material interest in the use of the common property, a court may also, in the absence of the consent of this owner, oblige this owner to transfer his share, to the other participants, with payment of the compensation to this owner.

5. With the receipt of the compensation in accordance with this Article the owner shall lose the right to the share in the common property.

### **Article 256. Possession, Use, and Disposition of Property in Joint Ownership**

1. The participants of joint ownership, unless otherwise provided by agreement between them, shall possess and use common property in common.

2. The disposition of property in joint ownership shall be effectuated by the consent of all the participants, which shall be presupposed irrespective as to which of the participants has concluded the transaction with regard to disposition of the property. This rule does not cover immovable property for the disposition of which a written consent of all participants of joint ownership is required.

3. Each of the participants of joint ownership shall have the right to conclude transactions relating to the disposition of common property unless it arises otherwise from the agreement of all the participants. A transaction concluded by one of the participants of joint ownership which is connected with the disposition of common property may be deemed to be invalid at



the demand of the remaining participants for reasons that the participant who concluded the transaction lacked the necessary powers only if it is proved that the other party to the transaction knew or knowingly should have known about this (Article 175).

4. The rules of this Article shall apply insofar as not otherwise established for individual types of joint ownership by the legislation.

#### **Article 257. Division of Property in Joint Ownership and Partition of Share Therefrom**

1. The separation of common property between participants of joint ownership, and also the partition of the share of one of them, may be effectuated after the preliminary determination of the share of each of the participants in the right to common property.

2. In the event of the separation of common property and the partition of a share therefrom, unless otherwise provided by legislation or by agreement of the participants, their shares shall be deemed to be equal.

3. The grounds and procedure for the separation of common property and the partition of the share therefrom shall be determined according to the rules of Article 255 of this Code insofar as otherwise has not been established for individual types of joint ownership by the legislation and does not arise from the essence of the relations of the participants of joint ownership.

#### **Article 258. Levying Execution on Share in Common Property**

The creditor of a participant of share or joint ownership shall, in the event that the owner's other property is insufficient, have the right to submit a demand concerning partition of the share of the debtor in the common property in order to levy execution on it.

If in such instances the apportionment of the share in kind is impossible or the other participants of share or joint ownership raise objections to this, the creditor shall have the right to demand the sale by the debtor of his share to the other participants of common ownership at a price commensurate with the market value of this share, with the assets received from the sale being applied to repayment of the debt.

In the event of the refusal of the remaining participants of common ownership to acquire the share of the debtor, the creditor shall have the right to demand in court the levy of execution on the share of the debtor in the right of common ownership by means of the sale of this share at a public sale.

#### **Article 259. Common Ownership of Spouses**

1. Property acquired by spouses during marriage shall be in their joint ownership unless another regime for this property has been established by a contract between them.

2. The property which belonged to each of the spouses before marriage, and also received by one of the spouses during marriage as a gift or by way of inheriting shall be in his

ownership.

Things of individual use (clothing, footwear, and others), except for jewellery and other articles of embellishment, although acquired during the marriage at the expense of the common assets of the spouses, shall be deemed to be the ownership of that spouse who used them.

The property of each spouse may be deemed to be their joint ownership if it is established that during the marriage investments were made at the expense of the common property of the spouses or the personal property of the other spouse which significantly increased the value of this property (capital repair, reconstruction, re-equipping, and others). This rule shall not apply if a contract between the spouses has provided otherwise.

3. Execution may be levied with regard to the obligations of one spouse on property in his ownership, and also on his share in the common property of the spouses which would have been due to him in the event of separation of this property. Levying the execution on the property of the unitary enterprise, belonging to the spouses by the right of joint ownership, shall not be permitted.

3<sup>1</sup>. At the separation of property which is in common ownership of spouses, the spouse of a participant of an economic partnership, limited liability company or additional liability company has the right to demand, in court order, the recognition of his right to the due part of the share of the other spouse in the charter capital of the respective partnership or company.

In the case of recognition by the court of the right of the spouse of a participant of an economic partnership, limited liability company or additional liability company to the part of the share of the latter in the charter capital of the respective partnership or company which due to him, the former has the right, with consent of other participants of this partnership or company, to become its participant or to demand the payment of the value of the part of the share of his spouse in the charter capital or the delivery of the property of such value in kind. At that, the refusal to admit to participants of the respective partnership or company entails the obligation of this partnership or company to pay to the spouse the value of the part of the share of his spouse which is due to him or to deliver the property of such value in kind.

The determination of the value of the part of the share in the charter capital of the partnership or company and its payment or delivery of the property in kind of such value is performed in accordance with Article 64 (2) of this Code in the period stipulated by the constituent documents of this partnership or company, but not later than twelve months from the date of the presentation by the spouse of the corresponding demand.

The rules of parts one and two of this clause extend to the cases of separation of the property which is in joint ownership of spouses one of which is a participant of a productive cooperative. At that the determination of the value of the part of the share of the spouse in the property of the productive cooperative and its payment or delivery of the property of such value in kind are performed in accordance with Article 111 (1) of this Code in the period stipulated by the charter of the productive cooperative, but not later than twelve months from the day of the presentation by the spouse of the corresponding demand.

4. The rules for determining the shares of spouses in common property in the event of the separation thereof and the procedure for such separation shall be established by legislation on marriage and the family.

**Article 260.** [Excluded]

**Article 261.** [Excluded]

**CHAPTER 17**  
**Real Rights in Immovable Property**

**Article 262. Real Rights to Land Plots**

1. Land plots may be held by land users based on real rights in accordance with legislative acts on protection and use of lands and this Code.
2. The rights to land plots, and also restrictions (encumbrances) of rights to them arise, pass, and terminated in the order established by legislation on protection and using lands and civil legislation.

**Article 263. Land Plots of Common Use. Access to Land Plot**

1. Citizens shall have the right freely, without any authorizations whatever, to be on land plots not closed off for general access which are in the ownership of the Republic of Belarus, and to use natural objects on these plots within the limits permitted by the legislation.
2. If a land plot is not fenced off or the land user thereof has not clearly designated by other means that entry to the plot is not permitted without his authorization, any person may walk across this plot on condition that this does not cause damage or disturbance to the land user.

**Article 264.** [Excluded]

**Article 265.** [Excluded]

**Article 266.** [Excluded]

**Article 267. Transfer of Right to Land Plot in Event of Alienation of of Capital Constructions (Buildings, Structures) Located on It**

1. In the event of transfer of rights to capital constructions (buildings, structures), unfinished capital constructions prepared for preservation, the acquirers of those constructions receive rights, restrictions (encumbrances) of rights to land plots in the order established by

legislation on protection and use of lands.

2. In the event of transfer of rights to capital constructions (buildings, structures), unfinished capital constructions prepared for preservation, located on leased land plots, the acquirers of those constructions receive rights under respective contracts of lease of the land plot for the remaining term of the lease of the respective land in the order established by legislation on protection and use of lands.

#### **Article 268. Right of Limited Use of Another's Immovable Property (Servitude)**

1. The owner of immovable property is entitled to require the owner of neighbouring immovable property, and in necessary instances, the owner of another immovable property, to grant a right of limited use of immovable property (servitude).

2. Encumbrance of immovable property with a servitude does not deprive the owner of the immovable property of rights to possess, enjoy, and dispose of that immovable property.

3. A servitude is established on an agreement between the person requiring the establishment of the servitude and the owner of the immovable property and is subject to the state registration in the order established by legislation on state registration of immovable property, rights thereto and transactions therewith. In the event of failure to reach an agreement on establishing or on conditions of a servitude, the dispute is to be settled by the court on the claim of the person requiring to establish the servitude.

4. The owner of immovable property encumbered with a servitude is entitled, unless otherwise provided by legislation, to require other persons in the interests of whom the servitude is established to demand an adequate charge for using the immovable property.

5. Relations connected with the right of limited use of another's land plot (land servitude) is regulated by legislation on protection and use of lands. The right of limited use of another's land plot (land servitude) is established and terminated in accordance with legislation on protection and use of lands.

#### **Article 269. Preservation of Servitude in Event of Transfer of Rights to Land Plot**

A servitude shall be preserved in the event of the transfer of the rights to a land plot, which is encumbered by this servitude, to another person.

A servitude may not be an autonomous subject of purchase-sale or pledge and may not be transferred by any means whatever to persons who are not the owners of the immovable property, to ensure the use of which the servitude was established.

#### **Article 270. Termination of Servitude**

Upon the demand of the owner of a land plot encumbered by a servitude, the servitude may be terminated in view of the grounds for which the servitude was established having disappeared.

In instances when a land plot, belonging to a citizen or legal person, can not be used in accordance with its intended purpose as a result of being encumbered with a servitude, the owner shall have the right to demand in court the termination of the servitude.

**Article 271.** [Excluded]

## **CHAPTER 18**

### **Right of Ownership and Other Real Rights in Dwelling Premises**

#### **Article 272. Ownership in Dwelling House and Apartment**

1. The owner shall exercise the rights of possession, use, and disposition of a dwelling premise belonging to him in accordance with its intended purpose.

2. Dwelling premises are intended for the residence of citizens.

A citizen, being the owner of a dwelling premise, may use it for personal residence and the residence of members of his family.

Dwelling premises may be leased by their owners for residence on the basis of a contract.

3. The placing of industrial entities in dwelling houses shall not be permitted.

The placing of the organizations and their divisions by the owner in a dwelling premise, belonging to him, shall be permitted only after the transfer of such premise to non-residential. The transfer of premises from dwelling to non-residential shall be effectuated in accordance with the procedure determined by housing legislation unless otherwise provided by legislative acts.

#### **Article 273. Apartment as Object of Right of Ownership**

A share in the right of ownership to the common property of a house (Article 274) also shall belong to the owner of an apartment in an apartment house together with the premises, which belongs to him, occupied by the apartment.

#### **Article 274. Common Property of Owners of Apartments in Apartment House**

1. The common premises of the house, constructions of the house, mechanical, electrical, plumbing, and other equipment outside or inside the apartment, servicing more than one apartment, and other property in cases specified in the legislation or in a contract, shall belong by right of common share ownership to the owners of the apartments in the apartment house.

2. The owner of an apartment shall not have the right to alienate his share in the right of ownership to common property of a dwelling house, nor to perform other actions which entail

the transfer of this share separately from the right of ownership to the apartment.

3. The owners of apartments have the right, and in cases, specified in the legislation, are obliged, in order to ensure the operation of the apartment house and the use of the apartments and the common property thereof, to form partnerships of the owners. The partnership of owners shall be a noncommercial organization, formed exclusively for the purposes provided for by this Clause and operating in accordance with the legislation on such partnerships.

#### **Article 275. Rights of Members of Family of Owner of Dwelling Premise**

1. The members of the family of the owner residing in a dwelling premise belonging to him shall have the right to use this premise on the conditions provided for by housing legislation.

2. The transfer of the right of ownership to a dwelling house or apartment to another person shall not be a ground for termination of the right of use of the dwelling premise by members of the family of the former owner, unless otherwise established by the legislation.

3. The members of the family of the owner of the dwelling premise may demand the elimination of the violations of their rights to a dwelling premise from any persons, including the owner of the premise.

4. The alienation of the dwelling premise in which the minors reside, who are the members of the family of the owner, shall be permitted only with the consent of the body of trusteeship and guardianship.

### **CHAPTER 19**

#### **Right of Economic Management, Right of Operative Administration**

##### **Article 276. Right of Economic Management**

1. A unitary enterprise or a state association, and in cases specified by the President of the Republic of Belarus, another legal person to which property belongs by right of economic management, shall possess, use, and dispose of this property within the limits determined in accordance with the legislation.

2. The owner of property shall, in accordance with the legislation, decide questions of the creation of the unitary enterprise and determination of the subject and purposes of its activity, its reorganization and liquidation, appoint the head of the unitary enterprise, and shall effectuate control over its use in accordance with the intended purpose and control over preservation of property belonging to the unitary enterprise.

The owner of property in economic management effectuates control over its use in accordance with the intended purpose and over preservation of the property, and also has the right to receive a part of income from the use thereof.

3. The legal persons shall not have the right to sell immovable property belonging to them on right of economic management, lease it out, pledge it, contribute it as a contribution to the charter capital of economic companies and partnerships or by other means dispose of this

property without the consent of the owner.

The legal persons on the right of economic management shall autonomously dispose of the remaining property belonging to them, except for the instances established by the legislation and by the owner of property.

#### **Article 277. Right of Operative Administration**

1. A fisc enterprise, an institution or state association on which the property is settled on the right of operative administration shall effectuate with respect to property, settled on them, the rights of possession, use, and disposition thereof, within the limits, established by the legislation, and in accordance with the purposes of its activity, orders of the owner, and the intended purpose of the property.

2. The owner of the property settled on a fisc enterprise, institution or state association on the right of operative administration shall have the right to withdraw superfluous or unused property or property used not in accordance with its intended purpose, and to dispose of it according to own discretion.

3. The property of a Republic's state-social association vested on its organizational divisions in the form of legal persons belongs to them on the right of operative administration unless otherwise is stipulated by the charter of the Republic's state-social association.

The organizational divisions of a Republic's state-social association in the form of a legal person are covered by the rules stipulated by this Article, Articles 279, 280, 281(2) of this Code.

#### **Article 278. Disposition of Property of Fisc Enterprise and State Association on Which the Property Settled on the Right of Operative Administration**

1. A fisc enterprise shall have the right to alienate or by other means to dispose of property settled on it only with the consent of the owner of this property.

A fisc enterprise shall autonomously realize the product produced by it unless otherwise established by the legislation.

2. The procedure for the distribution of revenues of the fisc enterprise shall be determined by the owner of its property.

3. The rules provided by clauses 1 and 2 of this Article are to be applied to a state association on which the property is settled on the right of operative administration unless otherwise specified by acts of the President of the Republic of Belarus.

#### **Article 279. Disposition of Property of Institution**

1. An institution shall not have the right to alienate or by other means to dispose of property consolidated to it or acquired at the expense of means allotted to it, unless otherwise specified by the legislative acts.

2. If in accordance with the constituent documents the right to effectuate activity which brings revenues has been granted to the institution, the revenues received from such activity and the property acquired at the expense of such revenues shall be at the autonomous disposition of the institution and shall be taken into account on a separate balance sheet.

#### **Article 280. Acquisition and Termination of Right of Economic management and Right of Operative administration**

1. The right of economic management or the right of operative administration of property, with respect to which a decision has been adopted by the owner concerning the consolidation of this property to a unitary enterprise, institution or state association, shall arise for this enterprise, institution or state association from the time of the transfer of the property, unless otherwise established by the legislation.

2. The yield, products, and revenues from the use of the property in economic management or operative administration, and also the property acquired by a unitary enterprise, institution or state association under contract or other grounds, shall come in the economic management or the operative administration of the enterprise, institution or state association in accordance with the procedure established by the legislation for acquisition of the right of ownership.

3. The right of economic management and the right of operative administration of property shall terminate upon the grounds and in accordance with the procedure provided for by legislative acts for the termination of the right of ownership, and also in instances of the lawful withdrawal of the property from the enterprise, institution or state association by decision of the owner.

#### **Article 281. Retention of Rights to Property in Event of Transfer of Enterprise or Property of Institution to Another Owner**

1. In the event of the transfer of the right of ownership in a state or communal enterprise as a property complex to another owner of state or communal property, the legal person to which the enterprise belongs by the right of economic management, unless otherwise established by the President of the Republic of Belarus, shall retain the right of economic management in the enterprise belonging to it.

2. In the event of the transfer of the right of ownership in the property of an institution to another person, this institution shall retain the right of operative administration to the property belonging to it.

### **CHAPTER 20**

#### **Defense of Right of Ownership and Other Real Rights**

#### **Article 282. Demanding and Obtaining Property from Another's Illegal Possession**

The owner shall have the right to demand and obtain his property from another's illegal



possession.

### **Article 283. Demanding and Obtaining Property from a Good-Faith Acquirer**

1. If property has been acquired for compensation from a person who did not have the right to alienate it, of which the acquirer did not know and could not have known (good-faith acquirer), then the owner shall have the right to demand and obtain this property from the acquirer when the property has been lost by the owner or person to whom the property was transferred by the owner in possession, or stolen from one or the other, or left the possession thereof by means other than the will thereof.

2. If property was acquired without compensation from a person who did not have the right to alienate it, the owner shall have the right to demand and obtain the property in all instances.

3. Money, and also bearer securities, may not be demanded and obtained from a good-faith acquirer.

### **Article 284. Settlement of Accounts in Event of Return of Property from Illegal Possession**

When demanding and obtaining property from another's illegal possession, the owner also shall have the right to demand and obtain from a person, who knew or should have known that his possession is illegal (possessor not in good faith), the return or compensation of all revenues which this person derived or should have been derived throughout the entire period of possession, and from a good-faith possessor, the return or compensation of all revenues which he derived or should have derived from the time when he knew or should have known about the unlawfulness of the possession or received a writ relating to the suit of the owner for the return of the property.

A possessor (both good-faith possessor and possessor not in good faith), in turn, shall have the right to demand from the owner compensation for necessary expenditures, made by him on the property, for that time from which revenues from the property are due to the owner.

A possessor in good faith shall have the right to retain for himself the improvements made by him, if they can be separated without damaging the property. If such a separation of the improvements is impossible, a good-faith possessor shall have the right to demand compensation for expenditures made for the improvement, but not more than the amount of the increase of the value of the property.

### **Article 285. Defense of Rights of Owner Against Violations Not Connected with Deprivation of Possession**

The owner may demand the elimination of any violations of his right, even though these violations are not combined with deprivation of possession.

### **Article 286. Defense of Rights of Possessor Who is Not the Owner**

The rights provided for by Articles 282-285 of this Code shall belong also to a person who, although not the owner, is the possessor of the property by right of inheritable possession for life, economic management or operative administration or on another grounds provided for by the legislation or contract. This person shall have the right to the defense of his possession against the owner as well.

### **Article 287. Consequences of Termination of Right of Ownership by Virtue of Act of Legislation**

In the event of the adoption of the act of legislation, terminating the right of ownership, the losses caused to the owner as a result of the adoption of this act, including the value of the property, shall be compensated by the state. Disputes concerning compensation of losses shall be settled by a court.

## **SECTION III. GENERAL PART OF THE LEGISLATION OF OBLIGATIONS**

### **SUBSECTION 1. GENERAL PROVISIONS ON OBLIGATIONS**

#### **CHAPTER 21**

#### **Concept of and Parties to Obligation**

### **Article 288. Concept of Obligation and Grounds of its Origin**

1. By virtue of an obligation one person (the debtor) shall be obliged to perform to the benefit of another person (the creditor) a determined action, that is, to transfer property, fulfill work, pay money, and the like or to refrain from a determined action, and the creditor shall have the right to demand from the debtor the performance of his duty.

2. Obligations shall arise from a contract, as a consequence of causing of harm, unfounded enrichment, and from other grounds specified in this Code and other acts of legislation.

### **Article 289. Parties to Obligation**

1. One or simultaneously several persons may participate in an obligation as each of its parties, creditor or debtor.

The invalidity of the demands of the creditor with respect to one of the persons participating in the obligation as a debtor, and likewise the expiry of the limitation period with regard to the demand against such person, shall not in itself affect the creditor's demands against the other such persons.

2. If each of the parties to a contract bears a duty to the benefit of the other party, it shall be

considered to be the debtor of the other party in that which the former is obliged to do to the benefit of the latter, and simultaneously the creditor thereof in that which the former has the right to demand from the latter.

3. The obligation shall not create duties for the persons, not participating in it as the parties (for the third persons).

In the instances provided for by the legislation or by agreement of the parties, an obligation may create rights for third persons with respect to one or both parties to the obligation.

## **CHAPTER 22**

### **Performance of Obligations**

#### **Article 290. General Provisions**

Obligations must be performed duly in accordance with the conditions of the obligation and the requirements of the legislation, and in the absence of such conditions and requirements, in accordance with the requirements usually presented.

#### **Article 291. Inadmissibility of Unilateral Refusal to Perform Obligation**

A unilateral refusal to perform an obligation and a unilateral change of its conditions shall not be permitted unless it follows otherwise from a legislation or from the obligation.

#### **Article 292. Performance of Obligation in Parts**

A creditor shall have the right not to accept the performance of an obligation in parts unless otherwise provided by the legislation, or by the conditions of the obligation and does not arise from the essence of the obligation.

#### **Article 293. Performance of Obligation to Proper Person**

Unless otherwise provided by agreement of the parties and does not arise from the essence of the obligation, the debtor shall have the right, when performing the obligation, to demand evidence that performance is accepted by the creditor himself or by a person authorized by the creditor, and shall bear the risk of the consequences of the failure to submit such demand.

#### **Article 294. Performance of Obligation by Third Person**

1. Unless the duty of the debtor to perform an obligation personally arises from the legislation, the conditions of the obligation, or the essence thereof, the performance of the obligation may be placed by the debtor on a third person. In this event the creditor shall be

obliged to accept the performance offered by a third person for the debtor.

2. A third person, who is subject to the danger of losing his right to the property of the debtor (right of lease, pledge, or others) as a consequence of execution being levied by the creditor on this property, may at his own expense satisfy the demand of the creditor without the consent of the debtor. In such a case the rights of the creditor regarding the obligation shall pass to the third person in accordance with Articles 353-358 of this Code.

### **Article 295. Period for Performance of Obligation**

1. If an obligation provides for or enables to determine the date of its performance or the period of time during which it must be performed, the obligation shall be subject to performance on that day or, respectively, at any time within the limits of that period.

2. When an obligation does not provide for a period for its performance and does not contain conditions enabling to determine this period, it must be performed within a reasonable period after the origin of the obligation.

An obligation not performed within a reasonable period, and likewise an obligation, the period of performance of which has been determined by the time of demand, the debtor shall be obliged to perform within a seven-day period from the day of receipt of the written demand of the creditor concerning the performance thereof, unless the duty to perform within another period arises from the act of legislation, the conditions of the obligation or the essence of the obligation.

### **Article 296. Performance of Obligation Before Time**

The debtor shall have the right to perform an obligation before time unless otherwise provided by the legislation, or the conditions of the obligation, or does not arise from the essence thereof. However, the performance of an obligation before time connected with the effectuation of entrepreneurial activity by the parties thereof shall be permitted only in instances when the possibility to perform an obligation before time is provided for by the legislation, or by the conditions of the obligation, or arises from the essence of the obligation.

### **Article 297. Place of Performance of Obligation**

If the place of performance has not been determined by the legislation, or by contract and is not obvious from the essence of the obligation, performance must be made:

1) with regard to an obligation to transfer a land plot, building, installation, or other immovable property: at the location of the property;

2) with regard to an obligation to transfer a good or other property providing for the carriage thereof: at the place of handing over the property to the first carrier for delivery to the creditor;

3) with regard to other obligations of the debtor to transfer a good or other property: at the place of manufacture or storage of the property if this place was known to the creditor at the

time of origin of the obligation;

4) with regard to a monetary obligation: at the place of residence of the creditor at the time of origin of the obligation, and, if the creditor is a legal person, at its location at the time of origin of the obligation. If the creditor at the time of performance of the obligation has changed place of residence or location and notified the debtor thereof: at the new place of residence or location of the creditor, with charging the expenses, connected with the change of place of performance, to the account of the creditor;

5) with regard to all other obligations: at the place of residence of the debtor, and, if the debtor is a legal person, at its location.

### **Article 298. Currency of Monetary Obligations**

1. Monetary obligations must be expressed in Belarusian Rubles (Article 141).

It may be provided in a monetary obligation that it shall be subject to payment in Belarusian Rubles in an amount equivalent to a determined amount in foreign currency or in conventional monetary units (Special Drawing Rights, and others). In this event the amount subject to payment in Rubles shall be determined according to the official exchange rate of the respective currency or conventional monetary units on the day of payment, unless other exchange rate or another date for determining it has been established by the legislation or by agreement of the parties.

2. The use of foreign currency and of payment documents in foreign currency shall be permitted when carrying out the settlement of accounts on the territory of the Republic of Belarus with regard to obligations in the instances, in accordance with the procedure and on the conditions determined by the legislation.

### **Article 299. Increase of Amounts Payable for Maintenance of Citizen**

An amount payable with regard to a monetary obligation directly for the maintenance of a citizen in compensation of harm caused to life or health, under a contract of maintenance for life, and in other instances, shall be increased in proportion with an increase of the basic value established by the legislation.

### **Article 300. Priority of Payment of Demands Relating to Monetary Obligation**

The amount of payment made, which is insufficient for the performance of a monetary obligation in full, shall be used, unless otherwise provided by the President of the Republic of Belarus, for payment of:

first, the expenses of the creditor with regard to the receipt of performance;

second, the principal amount of the debt and interests for using the monetary means, which are subject to payment upon the monetary obligation (the loan, credit, advance etc.);

third, the interests, provided by Article 366 of this Code for non-performance or delayed

performance of the monetary obligation, and the penalty.

### **Article 301. Performance of Alternative Obligation**

The right of choice, unless it arises otherwise from the legislation or the conditions of the obligation, shall belong to the debtor who is obliged to transfer to the creditor one or another property or to perform for the creditor one of two or several actions.

### **Article 302. Performance of Obligation in Which Several Creditors or Several Debtors Participate**

If several creditors or several debtors participate in an obligation, each of the creditors shall have the right to demand performance, and each of the debtors shall be obliged to perform the obligation in equal share with the others insofar as it does not arise otherwise from the legislation or the conditions of the obligation.

### **Article 303. Joint and Several Obligations**

A joint and several duty (liability) or a joint and several demand shall arise if the joint-and-several nature of the duty or demand has been provided for by a contract or established by the legislation, in particular, when the subject of the obligation is indivisible.

The duties of several debtors relating to an obligation connected with entrepreneurial activity, and likewise the demands of several creditors in such obligation, shall be joint and several unless otherwise provided by the legislation or by the conditions of the obligation.

### **Article 304. Rights of Creditor in Event of Joint and Several Duty**

1. In the event of joint and several duty of debtors, the creditor shall have the right to demand performance both from all of the debtors jointly or from any of them individually, either for the whole debt or for part of the debt.

2. A creditor who has not received full satisfaction from one of the joint and several debtors shall have the right to demand that which has not been received from the other joint and several debtors.

Joint and several debtors shall remain obliged as long as the obligation is not performed in full.

### **Article 305. Objections Against Demands of Creditor in Event of Joint and Several Duty**

In the event of the joint and several duty a debtor shall not have the right to raise objections against the demand of a creditor based on those relations of other debtors with the creditor in

which the said debtor does not participate.

### **Article 306. Performance of Joint and Several Duty by One of Debtors**

The performance of a joint and several duty in full by one of the debtors shall relieve the other debtors from performance to the creditor.

Unless it arises otherwise from relations between the joint and several debtors:

1) the debtor who has performed the joint and several duty shall have the right of a regressive demand against the other debtors in equal shares, with the deduction of the share falling on this debtor himself;

2) that unpaid by one of the joint and several debtors to the debtor who has performed the joint and several duty shall fall in equal shares on this debtor and on the remaining debtors.

The rules of this Article shall apply respectively when terminating the joint and several obligation by setting-off the counter-demand of one of the debtors.

### **Article 307. Joint and Several Demands**

In the event of the joint and several nature of a demand, any of the joint and several creditors shall have the right to submit the demand to the debtor in full.

Until the demand is submitted by one of the joint and several creditors, the debtor shall have the right to perform the obligation to any of them at his discretion.

The debtor shall not have the right to raise objections against the demand of one of the joint and several creditors, based on those relations of the debtor with another joint and several creditor in which the particular creditor did not participate.

The performance of the obligation in full to one of the joint and several creditors shall relieve the debtor from performance to the other creditors.

A joint and several creditor who has received performance from the debtor shall be obliged to compensate that which is due to the other creditors in the equal shares, unless it arises otherwise from the relations between the creditors.

### **Article 308. Performance of Obligation by Placing Debt on Deposit**

1. A debtor shall have the right to place money or securities, due from him, on the deposit of a notary, a diplomatic agent of the diplomatic representation of the Republic of Belarus or a consular official of the consular office of the Republic of Belarus, and in the instances established by the legislation, on the deposit of a court, if the obligation can not be performed by the debtor as a consequence of:

1) the absence of the creditor or person authorized by him to accept performance at the place where the obligation must be performed;

- 2) the lack of active legal capacity of the creditor and absence of his representative;
- 3) the evident lack of certainty as to who is the creditor with regard to the obligation, in particular, in connection with a dispute in this regard between the creditor and other persons;
- 4) evading by the creditor of accepting performance or other delay on the part of the creditor.

2. The placing of a monetary amount or securities on deposit of a notary, a diplomatic agent of the diplomatic representation of the Republic of Belarus, a consular official of the consular office of the Republic of Belarus or of a court shall be considered to be performance of the obligation.

The notary, a diplomatic agent of the diplomatic representation of the Republic of Belarus, a consular official of the consular office of the Republic of Belarus, or the court to the deposit of which the money or securities have been placed, shall notify the creditor thereof.

### **Article 309. Counter Performance of Obligations**

The performance of an obligation by one of the parties which in accordance with a contract is conditioned by the performance by the other party of its obligations shall be deemed to be counter performance.

In the event of the failure of an obliged party to provide the performance of an obligation stipulated by the contract or of the existence of circumstances obviously testifying that such performance will not be made within the established period, the party on whom counter performance lies shall have the right to suspend the performance of its obligation or to waive the performance of this obligation and demand compensation of losses.

If the performance of an obligation stipulated by a contract was not made in full, the party on whom the counter performance lies shall have the right to suspend the performance of his obligation or to waive performance in that part corresponding to the performance not provided.

If counter performance of an obligation has been made regardless of the failure of the other party to provide performance of its obligation stipulated by the contract, this party shall be obliged to provide such performance.

The rules provided for by Clauses 2 and 3 of this Article shall apply unless otherwise provided by the contract or by the legislation.

## **CHAPTER 23**

### **Securing Performance of Obligations**

#### **§ 1. General Provisions**

### **Article 310. Means of Securing the Performance of Obligations**



The performance of obligations may be secured by a penalty, pledge, retention of property from the debtor, suretyship, bank guarantee, deposit, and other means provided for by the legislation or by a contract.

The invalidity of an agreement to secure the performance of an obligation shall not entail the invalidity of this obligation (principal obligation).

The invalidity of the principal obligation shall entail the invalidity of the obligation securing it unless otherwise established by the legislation.

## **§ 2. Penalty**

### **Article 311. Concept of Penalty**

1. A penalty (fine, forfeit) shall be deemed to be a monetary amount determined by the legislation or by the contract, which the debtor shall be obliged to pay to the creditor, unless otherwise is provided by the legislative acts, in the event of the failure to perform or the improper performance of an obligation, in particular in the event of the delay of performance. With regard to a demand concerning payment of a penalty the creditor shall not be obliged to prove causing of losses to him.

2. A creditor shall not have the right to demand payment of a penalty unless the debtor bears liability for the failure to perform or the improper performance of the obligation.

3. Legislative acts may provide for the particularities of payment (collection) of a penalty (fine, forfeit).

### **Article 312. Form of Agreement on Penalty**

An agreement concerning a penalty must be concluded in written form irrespective of the form of the principal obligation.

The failure to comply with the written form shall entail the invalidity of the agreement concerning the penalty.

### **Article 313. Legal Penalty**

1. The creditor shall have the right to demand the payment of a penalty specified by the legislation (legal penalty) irrespective of whether the duty to pay it has been provided for by agreement of the parties.

2. The amount of a legal penalty may be increased by agreement of the parties, if the legislation does not prohibit so.

### **Article 314. Reduction of Penalty**

If a penalty subject to payment is obviously incommensurate to the consequences of the violation of the obligation, a court shall have the right to reduce the penalty.

The rules of this Article shall not affect the rights of the debtor to the reduction of the amount of his liability on the grounds of Article 375 of this Code and the rights of the creditor to compensation of losses in the instances provided for by Article 365 of this Code.

## **§ 3. Pledge**

### **Article 315. Concept and Grounds for Arising of Pledge**

1. By virtue of a pledge the creditor with regard to an obligation secured by a pledge (pledgeholder) shall have the right, in the event of the failure of the debtor to perform this obligation, to receive satisfaction from the value of the pledged property preferentially before other creditors of the person (pledgor) to whom this property belongs, with the exception of cases provided for by the legislation.

2. A pledge of land plots, enterprises, buildings, installations, apartments, and other immovable property (mortgage) shall be regulated by the legislation on mortgage. The general rules on pledge contained in this Code shall apply to mortgage in the instances when other rules have not been established by the legislative acts on mortgage.

3. A pledge shall arise by virtue of a contract. Pledge also shall arise on the ground of the act of legislation when the circumstances specified therein ensue, if it is provided in the legislation, which property and for securing the performance of which obligation there is deemed to be a pledge.

The rules of this Code on pledge arising by virtue of contract shall respectively apply to a pledge arising on the ground of the act of legislation unless otherwise established by the legislation.

### **Article 316. Pledgor**

1. Either the debtor himself or a third person may be a pledgor.

2. The pledgor of a thing may be the owner thereof or a person having the right of economic management over it. The person to whom a thing belongs by right of economic management shall have the right to pledge it without the consent of the owner only in the instances provided for by Article 276(3) of this Code.

3. The pledgor of a right may be the person to whom the pledged right belongs

The pledge of the right of lease or other right to another's thing shall not be permitted without the consent of its owner or the person having the right of economic management over it, if the alienation of this right without the consent of the said persons has been prohibited by the legislation or by the contract.

### **Article 317. Subject of Pledge**

1. Any property, including things and property rights (demands), may be the subject of a pledge except for property withdrawn from turnover, demands inseparably connected with the person of the creditor, in particular, demands concerning alimony, compensation for harm caused to life or health, and other rights, assignment of which to another person has been prohibited by the legislation.

2. The pledge of individual types of property, in particular the property of citizens against which levy of execution is not permitted, may be prohibited or limited by the legislation.

### **Article 318. Demand Secured by Pledge**

Unless otherwise provided by a contract, a pledge shall secure a demand in that amount which it has at the time of satisfaction, in particular, interest, penalty, compensation of losses caused by delay of performance, and also compensation of necessary expenses of the pledgeholder for maintenance of the pledged thing and expenses relating to recovery.

### **Article 319. Pledge With and Without Transfer of Pledged Property to Pledgeholder**

1. Pledged property shall remain in the disposal of the pledgor unless otherwise provided by the contract.

Property on which a mortgage is established, and also pledged goods in turnover, shall not be transferred to the pledgeholder.

2. The subject of a pledge may be left in the disposal of the pledgor under lock and seal of the pledgeholder.

The subject of a pledge may be left in the disposal of the pledgor with the imposition of marks testifying the pledge (firm pledge).

3. The subject of a pledge, transferred by the pledgor for a time in possession and use to the third person, shall be considered to be left in the disposal of the pledgor.

4. In the event of the pledge of a property right certified by a security, it shall be transferred to the pledgeholder or to the deposit of a notary, unless otherwise provided by the contract.

### **Article 320. Contract on Pledge, Its Form and Registration**

1. In the contract on pledge, the subject of pledge and its value, the essence, amount, and period for performance of the obligation, secured by the pledge, must be specified. The contract must also contain an indication of the party, in the disposal of which the pledged property is situated.

2. A contract on pledge must be concluded in written form.

A contract on the pledge of property or rights to property to secure obligations under a contract, which must be notarially certified, shall be subject to notarial certification.

3. A contract on mortgage must be registered in accordance with the procedure established for the registration of transactions with the respective property. A contract on mortgage, providing for the pledge of the immovable property, which shall be transferred to the pledgor in the future and which, at the time of conclusion of the contract, does not considered to be created in accordance with the legislation, shall not be subject to the state registration and shall be considered to be concluded since the time of its drawing-up in written form.

4. The failure to comply with the rules contained in Clauses 2 and 3 of this Article shall entail the invalidity of the contract on pledge.

### **Article 321. Property to Which Right of Pledgeholder Extends**

1. The right of the pledgeholder (right of pledge) to a thing which is the subject of pledge shall extend to its appurtenances unless otherwise provided by contract.

The right of pledge shall extend to yield, products, and revenues received as a result of the use of the pledged property in the instances provided for by contract.

2. In the event of the mortgage of an enterprise or other property complex as a whole the right of pledge shall extend to all of its property, movable and immovable, including the rights of demand and exclusive rights, including those acquired during the period of the mortgage, unless otherwise provided by the legislative acts or contract.

3. The mortgage of a building or installation shall be permitted only with the simultaneous mortgage, under the same contract, of the land plot on which this building or installation is located, or the part of this plot functionally ensuring the pledged object, or the right of lease, which belongs to the pledgor, of this plot or corresponding part thereof.

4. In the event of the mortgage of a land plot, the right of pledge shall extend to the permanent structures (buildings, installations), located or being under construction on this plot, or the permanent structures under suspended construction, unless otherwise provided by the legislative acts.

If there is no such condition in the contract, the pledgor shall, in the event of levying the execution on the pledged land plot, retain the right of limited use (servitude) of that part thereof which is necessary for the use of the building or installation in accordance with its intended purpose. Conditions for the use of this part of the plot shall be determined by agreement of the pledgor with the pledgeholder, and, in the event of a dispute, by a court.

5. If a mortgage has been established on a land plot, on which a building or installation is located, which belongs not to the pledgor, but to another person, then when the pledgeholder levies execution on this plot and in the event of its sale at a public sale, the rights and duties which the pledgor had with respect to this person, shall pass to the acquirer of the plot.

6. The pledge of things and property rights, which the pledgor will acquire in the future, may be provided for by the contract on pledge, and, with respect to a pledge arising on the ground of the act of legislation, by the legislation.

### **Article 322. Origin of Right of Pledge**

1. The right of pledge shall arise from the time of conclusion of the contract on pledge, and with respect to the pledge of property which is subject to transfer to the pledgeholder, from the time of transfer of this property, unless otherwise provided by the contract on pledge, or, in cases when registration of the contract is required, from the time of registration of the contract.

2. The right of pledge to goods in turnover shall arise in accordance with the rules of Article 338(2) of this Code.

### **Article 323. Subsequent Pledge**

1. If property under pledge becomes the subject of yet another pledge to secure other demands (subsequent pledge), the demands of the subsequent pledgeholder shall be satisfied from the value of this property after satisfaction of the demands of preceding pledgeholders.

2. A subsequent pledge shall be permitted if it is not prohibited by the preceding contracts on pledge.

3. The pledgor shall be obliged to inform each subsequent pledgeholder about all of the existing pledges of the particular property provided for by Article 320(1) of this Code and shall be liable for losses caused to pledgeholders by the failure to fulfill this duty.

### **Article 324. Maintenance and Preservation of Pledged Property**

1. The pledgor or pledgeholder, depending upon in which disposal is the pledged property (Article 338), shall be obliged, unless otherwise provided by legislation or contract, to:

1) insure pledged property at its full value at the expense of the pledgor against risks of loss and damage, or, if the full value of the property exceeds the amount of the demand secured by the pledge, for an amount not lower than the amount of the demand;

2) take measures necessary in order to ensure the preservation of the pledged property, including those for defense of property against infringements and demands on the part of third persons;

3) inform immediately the other party concerning the arising of the threat of loss or damage to the pledged property.

The pledgeholder and the pledgor shall have the right to verify, by documents and actually, the existence, quantity, state, and conditions of storage the pledged property, which is in disposal of the other party.

In the event of gross violation by the pledgeholder of the duties specified in Clause 1 of this Article, creating a threat of loss or damage of the pledged property, the pledgor shall have the right to demand the termination of the pledge before time.

### **Article 325. Consequences of Loss of or Damage to Pledged Property**

1. The pledgor shall bear the risk of accidental perishing or accidental damage to pledged property unless otherwise provided by the contract on pledge.

2. The pledgeholder shall be liable for the full or partial loss of or damage to the subject of pledge transferred to him unless he would prove that he may be relieved of liability in accordance with Article 372 of this Code.

The pledgeholder shall be liable for the loss of the subject of pledge in the amount of its value, taking into account the inflation, and for the damaging thereof, in the amount by which the value was reduced irrespective of its value specified in the contract.

If as a result of damage to the subject of pledge it has so changed that it can not be used for its intended purpose, the pledgor shall have the right to reject it and to demand compensation for the loss thereof.

The duty of the pledgeholder to compensate the pledgor for other losses caused by the loss of or damage to the subject of pledge may be provided for by a contract.

The pledgor who is a debtor with regard to the obligation secured by a pledge shall have the right to set off the demand against the pledgeholder concerning compensation of losses caused by the loss of or damage to the subject of pledge in repaying the obligation secured by the pledge.

### **Article 326. Substitution and Restoration of Subject of Pledge**

1. The replacement of the subject of pledge shall be permitted with the consent of the pledgeholder unless otherwise provided by legislation or by contract.

2. If the subject of pledge is lost or damaged or the right of ownership therein or the right of economic management has been terminated on the grounds established by the legislation, the pledgor shall have the right within a reasonable period to restore the subject of pledge or substitute other property of equal value unless otherwise provided by the contract.

### **Article 327. Use and Disposition of Subject of Pledge**

1. The pledgor shall have the right, unless otherwise provided by contract and unless follows otherwise from the essence of the pledge, to use the subject of pledge in accordance with its intended purpose, including to derive yield and incomes from it.

2. Unless otherwise provided by the legislation or contract and unless follows otherwise from the essence of the pledge, the pledgor shall have the right to alienate the subject of pledge, to transfer it on lease or for use without compensation to another person, or otherwise to dispose of it only with the consent of the pledgeholder.

An agreement limiting the right of the pledgor to bequeath pledged property shall be void.

3. The pledgeholder shall have the right to use the subject of pledge transferred to him only

in the instances provided for by contract, regularly submitting a report on use to the pledgor. The duty may be placed under a contract on the pledgeholder to derive yield and incomes from the subject of pledge for the purposes of repaying the principal obligation or in the interests of the pledgor.

#### **Article 328. Defense by Pledgeholder of His Rights to Subject of Pledge**

1. The pledgeholder, in whose disposal the pledged property is or should be, shall have the right to demand and obtain it from another's illegal possession, including from the possession of the pledgor (Articles 282, 283 and 286).

2. In instances when, in accordance with the conditions of the contract, the right to use a subject of pledge, transferred to the pledgeholder, has been granted to him, he may demand from other persons, including from the pledgor, the elimination of any violations of his right, even though these violations were not connected with deprivation of possession (Articles 285, 286).

#### **Article 329. Grounds for Levying Execution on Pledged Property**

1. Execution may be levied on pledged property in order to satisfy the demands of the pledgeholder (creditor) in the event of the failure to perform or the improper performance by the debtor of an obligation, secured by the pledge, for the reasons for which the debtor is liable.

2. Levying execution on pledged property may be refused, if the violation of the obligation, secured by the pledge, which was committed by the debtor, is extremely insignificant, and the amount of the demands of the pledgeholder as a consequence thereof is clearly incommensurate with the value of the pledged property.

#### **Article 330. Procedure for Levying Execution on Pledged Property**

1. The demands of the pledgeholder (creditor) shall be satisfied from the value of pledged immovable property by decision of a court.

The satisfaction of the demand of a pledgeholder at the expense of the pledged immovable property without recourse to a court shall be permitted on the basis of notarially certified agreement of the pledgeholder with the pledgor concluded after the grounds arise to levy execution on the subject of pledge. Such an agreement may be deemed by a court to be invalid upon the suit of the person whose rights were violated by such agreement.

2. The demands of the pledgeholder at the expense of pledged movable property shall be satisfied by decision of a court unless otherwise provided by agreement of the pledgor with the pledgeholder. However, execution may be levied on the subject of a pledge, transferred to the pledgeholder, in accordance with the procedure established by the contract on pledge, unless a different procedure has been established by the legislation.

3. Execution may be levied on the subject of pledge only by decision of a court in instances

when:

1) in order to conclude a contract on pledge, the consent or authorization of another person or body was required;

2) property having significant historical, artistic, or other cultural value for society is the subject of pledge;

3) the pledgor is absent and it is impossible to establish his whereabouts;

4) the subject of pledge is property with limited turnability.

4. The satisfaction of demands of the pledgeholder (creditor) on the repayment of a bank credit at the expense of the pledged property is performed, without recourse to a court and holding a public competition, on the basis of notarially certified contract of the pledgeholder with the pledgor concluded after the grounds established by the legislation for the levy of execution upon the subject of pledge. At that, the contract may not stipulate the transfer of the ownership of the pledged property to the pledgeholder.

The pledged property recoverable by the decision of a court and related to fixed assets of the pledgeholder may not be subject to the levy of execution in the order established by part one of this clause.

### **Article 331. Realization of Pledged Property**

1. Realization of the pledged property, on which execution is levied in accordance with Article 330 of this Code, shall be effectuated by means of sale at public sale in accordance with the procedure established by procedural legislation unless a different procedure has been established by this Code and other acts of legislation.

2. At the request of the pledgor the court shall have the right, in decision to levy execution on pledged property, to defer the sale thereof at public sale for period of up to one year.

The deferral shall not affect the rights and duties of the parties with regard to an obligation secured by the pledge of this property and shall not relieve the debtor from compensating the losses of the creditor and the penalty which accrued during the period of deferral.

3. The initial sale price of pledged property at which the public sale begins shall be determined by decision of a court in the instances of levying execution on property in a judicial proceeding or by agreement of the pledgeholder with the pledgor in other instances.

The pledged property shall be sold to the person who offered the highest price at the public sale.

4. When a public sale is declared to be not effectuated, a pledgeholder shall have the right by agreement with the pledgor to acquire the pledged property and to set off against the purchase price his demands secured by the pledge. The rules concerning the contract of purchase-sale shall apply to such an agreement.

In the event a second public sale is declared to be not effectuated, the pledgeholder shall have the right to retain the subject of pledge, valuing it in an amount of not more than 10% less than the initial sale price at the second public sale.



If the pledgeholder does not take advantage of the right to retain the subject of pledge within a month from the date of announcement of the second public sale being not effectuated, the contract on pledge shall terminate.

5. If the amount received when realizing the pledged property is insufficient to cover the demand of the pledgeholder, he shall have the right, in the absence of any other indication in the legislation or in the contract, to receive the amount in arrears from other property of the debtor, not taking advantage of preference based on pledge.

6. If the amount received at realization of the pledged property exceeds the amount of the demand of the pledgeholder secured by the pledge, the difference shall be returned to the pledgor.

7. A debtor and pledgor, being a third person, shall have the right at any time before the sale of the subject of pledge to terminate the levying of execution on it and the realization thereof, by performing the obligation secured by the pledge or that part thereof, the performance of which has been delayed. An agreement limiting this right shall be void.

### **Article 332. Performance of Obligation Secured by Pledge Before Time and Levying Execution on Pledged Property**

1. A pledgeholder shall have the right to demand the performance before time of an obligation, secured by pledge, in the following instances:

1) the subject of pledge departed from the possession of the pledgor, in which disposal it was left, not in accordance with the conditions of the contract on pledge;

2) a violation, by the pledgor, of the rules concerning substitution of the subject of pledge (Article 326);

3) loss of the subject of pledge under circumstances for which the pledgeholder is not liable, if the pledgor has not taken advantage of the right provided for by Article 326(2) of this Code.

2. The pledgeholder shall have the right to demand the performance before time of the obligation secured by pledge and, if this demand is not satisfied, to levy execution on the subject of pledge in the following instances:

1) a violation by the pledgor of rules concerning subsequent pledge (Article 323);

2) the failure of the pledgor to fulfill the duties provided for by Article 324(1), Subclauses (1) and (2), and Article 324(2) of this Code;

3) a violation by the pledgor of the rules concerning the disposition of pledged property (Article 327(2)).

### **Article 333. Termination of Pledge**

1. A pledge shall terminate:

1) with the termination of the obligation secured by the pledge;

2) upon the demand of the pledgor when there are the grounds provided for by Article 324(3) of this Code;

3) in the event of perishing of the pledged thing or termination of the right of pledge, unless the pledgor has taken advantage of the right provided for by Article 326(2) of this Code;

4) in the event of the sale of pledged property at public sale, and also when the realization thereof has proved to be impossible (Article 331(4)).

2. Termination of mortgage shall be registered in accordance with the legislation.

3. In the event of termination of pledge as a consequence of the performance of the obligation secured by the pledge or at the demand of the pledgor (Article 324(3)), the pledgeholder, in whose disposal is the pledged property, shall be obliged immediately to return it to the pledgor.

#### **Article 334. Preservation of Pledge in Event of Transfer of Right to Pledged Property to Another Person**

1. In the event of the transfer of the right of ownership to pledged property or the right of economic management from the pledgor to another person as a result of the alienation of this property, with or without compensation, or by way of universal legal succession, the right of pledge shall retain force.

The legal successor of the pledgor shall take the place of the pledgor and shall bear all the duties of the pledgor, unless otherwise established by an agreement with the pledgeholder.

2. If the property of the pledgor, which is the subject of pledge, has passed by way of legal succession to several persons, each of the legal successors (acquirers of the property) shall bear the consequences, arising from the pledge, for the failure to perform the obligation secured by the pledge, commensurate with the part of the said property which has passed to this legal successor (acquirer). However, if the subject of the pledge is indivisible, or it remains in the common joint ownership of the legal successors on other grounds, they shall become joint and several pledgors.

#### **Article 335. Consequences of Compulsory Withdrawal of Pledged Property**

1. If the right of ownership of a pledgor to property which is the subject of pledge terminates on the grounds and in accordance with the procedure established by the legislation as a consequence of the withdrawal (purchase) for state needs, requisition or nationalization, and other property or respective compensation is granted to the pledgor, the right of pledge shall extend to the property granted instead or, respectively, the pledgeholder shall acquire the right of preferential satisfaction of his demand from the amount of compensation due to the pledgor. The pledgeholder also shall have the right to demand the performance before time of the obligation secured by the pledge.

2. In the instances when property which is the subject of pledge is withdrawn from the pledgor in accordance with the procedure established by the legislation because the owner of this property is really another person (Article 282), or in the form of a sanction for the

commission of a crime or another violation of legislation (Article 244), the pledge with respect to this property shall terminate. In these instances the pledgeholder shall have the right to demand performance before time of the obligation secured by the pledge.

### **Article 336. Cession of Rights Regarding Contract on Pledge**

A pledgeholder shall have the right to transfer his rights under a contract on pledge to another person while complying with the rules on the transfer of the rights of a creditor by means of cession of a demand (Articles 353-361).

The cession by the pledgeholder of his rights under a contract on pledge to another person shall be valid if the rights of demand against the debtor regarding the principal obligation, secured by pledge, have been transferred to the same person.

Unless proved otherwise, the cession of rights under a contract on mortgage shall also mean the cession of rights relating to the obligation secured by the mortgage.

### **Article 337. Transfer of Debt Regarding Obligation Secured by Pledge**

With the transfer of a debt regarding an obligation secured by a pledge to another person, the pledge shall terminate unless the pledgor has given consent to the creditor to be liable for the new debtor.

### **Article 338. Pledge of Goods in Turnover**

1. A pledge of goods while leaving them in the disposal of the pledgor and granting to the pledgor the right to change the composition and natural form of the pledged property (goods inventories, raw material, substances, semi-finished products, finished products, and the like) on condition that their total value shall not become less than that specified in the contract on pledge, shall be deemed to be a pledge of goods in turnover.

A reduction of the value of the pledged goods in turnover shall be permitted commensurately with the performed part of the obligation secured by pledge unless otherwise provided by the contract.

2. Goods in turnover alienated by a pledgor shall cease to be the subject of pledge from the time of their transfer into ownership, economic management, or operative administration of the acquirer, and goods acquired by the pledgor which are specified in the contract on pledge shall become the subject of pledge from the time the right of the pledgor arises to ownership or economic management.

3. The pledgor of goods in turnover shall be obliged to keep a register book of pledges in which entries are made concerning the conditions of the pledge of goods and all operations entailing change of the composition or natural form of the pledged goods, including the processing thereof, on the day of the last operation.

4. In the event of a violation by the pledgor of the conditions of pledge of goods in turnover, the pledgeholder shall have the right by placing his marks and seals on the pledged goods to

suspend operations with these goods until the violation is eliminated.

### **Article 339. Pledge of Things in Pawnshop**

1. The acceptance from citizens on pledge of movable property intended for personal consumption to secure short-term loans may be effectuated as entrepreneurial activity by specialized organizations, pawnshops.

2. A contract on the pledge of things in a pawnshop shall be formalized by the issuance of a pledge ticket by the pawnshop.

3. The pledged things shall be transferred to the pawnshop.

The pawnshop shall be obliged to insure, to the benefit of the pledgor, at the expense of the pawnshop, the things accepted on pledge for the value as established in accordance with prices for things of this type and quality commonly established in trade at the time of their acceptance on pledge.

The pawnshop shall not have the right to use and dispose of pledged things.

4. The pawnshop shall bear liability for loss of and damage to pledged things unless it would prove that the loss or damage occurred as a consequence of force majeure.

5. In the event of the failure to return, within the established period, the amount of the loan secured by the pledge of things to the pawnshop, the pawnshop shall have the right on the ground of an executive endorsement of a notary upon the expiry of a grace period, equal to one month, to sell this property in accordance with the procedure established for the realization of pledged property (Article 331(3)(4)(6) and (7)). After this, the demands of the pawnshop against the pledgor (debtor) shall be considered to be paid, even if the amount received when realizing the pledged property is insufficient for the full satisfaction thereof.

6. The rules for granting loans to citizens by pawnshops under pledge of things belonging to citizens shall be established in accordance with the legislation.

7. The conditions of a contract on pledge of things in a pawnshop limiting the rights of the pledgor in comparison with the rights granted to him by the legislation shall be void. In place of such conditions the respective provisions of the legislation shall be applied.

## **§ 4. Retention**

### **Article 340. Grounds of Retention**

1. A creditor, in whose disposal is a thing, which is subject to transfer to a debtor or to a person specified by the debtor, shall have the right in the event of the failure of the debtor to perform the obligation relating to payment for this thing within the specified period or to compensate the creditor for expenses and other losses connected therewith, to retain it for so long as the respective obligation is not performed.

2. The retention of a thing may also secure demands that, although not connected with the

payment for the thing or compensation of expenses therefor and other losses, but arose from an obligation, the parties to which act as entrepreneurs.

3. The creditor may retain a thing, being in his disposal, regardless of the fact that after this thing came into the possession of the creditor, the rights thereto have been acquired by a third person.

4. The rules of this Article shall apply unless otherwise provided by a contract.

5. The demands of a creditor who is retaining a thing shall be satisfied from the value thereof in the amount and in accordance with the procedure provided for the satisfaction of demands secured by a pledge.

## **§ 5. Suretyship**

### **Article 341. Contract of Suretyship**

1. Under a contract of suretyship, the surety shall undertake to the creditor of another person to be liable for the performance by the latter of his obligation in full or in part.

2. A contract of suretyship may be concluded also in order to secure an obligation which shall arise in future.

3. The President of the Republic of Belarus and (or) laws may establish a special order for granting and discharging of sureties of local executive and dispositive bodies.

### **Article 342. Form of Contract of Suretyship**

A contract of suretyship must be concluded in written form. The failure to comply with the written form shall entail the invalidity of the contract of suretyship.

### **Article 343. Liability of Surety**

1. In the event of the failure to perform or the improper performance by the debtor of an obligation secured by a suretyship, the surety and the debtor shall be liable to a creditor jointly and severally unless subsidiary liability of the surety has been provided for by the legislation or by the contract of suretyship.

2. The surety shall be liable to the creditor in the same amount as the debtor, including the payment of interest, compensation for court costs relating to recovery of the debt, and other losses of the creditor caused by the failure to perform or the improper performance of the obligation by the debtor unless otherwise provided by the contract of suretyship.

3. Persons who have given a suretyship jointly shall be liable to the creditor jointly and severally unless otherwise provided by the contract of suretyship.

#### **Article 344. Right of Surety to Objections Against Demand of Creditor**

1. The surety shall have the right to raise the objections against the demand of the creditor, which the debtor could raise, unless it arises otherwise from the contract of suretyship. The surety shall not lose the right to these objections even if the debtor waived them or has acknowledged his debt.
2. If the suit is submitted against the surety, the latter is obliged to involve the debtor in participation in the case.
3. If the surety has not performed the duty, specified in Clause 2 of this Article, the debtor shall have the right to raise, against the surety's regressive demand, the objections which he had against the creditor.

#### **Article 345. Rights of Surety Who Has Performed Obligation**

1. To a surety who has performed an obligation shall pass the rights of the creditor with regard to this obligation and the rights which belonged to the creditor as pledgeholder in that amount in which the surety satisfied the demand of the creditor. The surety also shall have the right to demand from the debtor the payment of interest on the amount paid to the creditor and compensation for other losses incurred in connection with liability for the debtor.
2. Upon performance by the surety of the obligation the creditor shall be obliged to hand over to the surety the documents certifying the demand against the debtor and to transfer the rights which secure this demand.
3. The rules established by this Article shall be applied unless otherwise provided by the legislation, or by the contract of surety with the debtor and does not arise from the relations between them.

#### **Article 346. Notification of Surety about Performance of Obligation by Debtor**

The debtor who has performed an obligation secured by a suretyship shall be obliged immediately to notify the surety thereof. Otherwise the surety who in turn has performed the obligation shall have the right to recover from the creditor that unjustifiably received or to submit a regressive demand against the debtor. In the last instance the debtor shall have the right to recover from the creditor only that unjustifiably received.

#### **Article 367. Termination of Suretyship**

1. A suretyship shall terminate with the termination of the obligation secured by it, and also in the event of a change thereof entailing an increase of liability or other unfavorable consequences for the surety without the consent of the latter.
2. A suretyship shall terminate with the transfer to another person of the debt relating to the obligation secured by the suretyship unless the surety has given consent to the creditor to be

liable for the new debtor.

3. A suretyship shall terminate if the creditor has refused to accept proper performance offered by the debtor or the surety.

4. A suretyship shall terminate upon the expiry of the period for which it was given, specified in the contract of suretyship. If such period has not been established, it shall terminate, if the creditor within a year from the date of ensuing the term of performance of the obligation, secured by the suretyship, has not brought a suit against the surety. When the period of performance of the principal obligation has not been specified and can not be determined or is determined by the time of demand, the suretyship shall terminate if the creditor has not brought a suit against the surety within two years from the date of concluding the contract of suretyship.

## **§ 6. Guarantee**

### **Article 348. Concept of Guarantee**

1. By virtue of guarantee, the guarantor shall undertake to the creditor of other person (debtor) to be liable for the performance of obligation of this person in full or in part.

2. The guarantee obligation may arise on the grounds of a contract.

3. Only valid demands may be secured by the guarantee.

4. The rules of Article 342, Article 343(2)(3), Articles 344-347 of this Code shall extend to the guarantees, unless otherwise provided by the legislation.

The President of the Republic of Belarus and (or) laws may establish a special order for granting and discharging of guarantees of the Government of the Republic of Belarus, guarantees of local executive and dispositive bodies, other organizations, including companies with a share of the state in charter capitals.

### **Article 349. Subsidiary Liability of Guarantor**

1. In the event of non-performance of the obligation, the guarantor shall be liable to the creditor as a subsidiary (secondary) debtor.

2. After performance of the obligation, the guarantor shall not acquire the right of the regressive demand to the debtor for return of the amount paid.

### **Article 350. Specific Features of Bank Guarantee**

Specific features of the bank guarantee and of its individual kinds shall be defined by the legislation.

## **§ 7. Deposit**

### **Article 351. Concept of Deposit. Form of Agreement on Deposit**

1. A deposit shall be deemed to be a monetary amount issued by one of the contracting parties on the account of payment due from this party to the other party under a contract, as evidence of the conclusion of the contract and to secure its performance.

2. An agreement on deposit, irrespective of the amount of the deposit, must be concluded in written form.

3. In the event of doubt as to whether the amount is paid on the account of payments due from a party under the contract as a deposit, in particular as a consequence of the failure to comply with the rule established by Clause 2 of this Article, this amount shall be considered to be paid as an advance unless proved otherwise.

### **Article 352. Consequences of Termination and Failure to Perform Obligation Secured by Deposit**

1. In the event of the termination of the obligation before the commencement of the performance thereof by agreement of the parties or as a consequence of the impossibility of performance (Article 386) the deposit must be returned.

2. If the party, which gave the deposit, is liable for the failure to perform the contract, the deposit shall remain with the other party. If the party, which received the deposit, is liable for the failure to perform the contract, it shall be obliged to pay the other party twice the amount of the deposit.

In addition, the party liable for the failure to perform the contract shall be obliged to compensate the other party for losses, setting off the amount of the deposit, unless otherwise provided in the contract.

## **CHAPTER 24**

### **Change of Persons in Obligation**

#### **§ 1. Transfer of Rights of Creditor to Another Person**

### **Article 353. Grounds and Procedure for Transfer of Rights of Creditor to Another Person**

1. The right (demand) belonging to creditor on the ground of an obligation may be transferred by him to another person with regard to the transaction (cession of demand) or pass to another person on the ground of the act of legislation.

The rules concerning the transfer of the rights of a creditor to another person shall not apply



to regressive demands.

2. The consent of the debtor, unless otherwise provided by the legislation or by the contract, shall not be required for the transfer of the rights of the creditor to another person.

3. If the debtor was not informed in writing about the transfer of the rights of the creditor to another person, the new creditor shall bear the risk of the unfavorable consequences caused by this for him. In this event the performance of the obligation to the initial creditor shall be deemed to be performance to a proper creditor.

#### **Article 354. Rights Which May Not Pass to Other Persons**

The transfer to another person of the rights inseparably connected with the person of the creditor, in particular, demands concerning alimony and compensation of harm caused to life or health, shall not be permitted.

#### **Article 355. Amount of Rights of Creditor Passing to Another Person**

Unless otherwise provided by the legislation or by contract, the right of the initial creditor shall pass to the new creditor in that amount and on those conditions which existed at the time of transfer of the right. In particular, to the new creditor shall pass the rights securing the performance of the obligation, and also other rights connected with the demand, including the right to unpaid interest.

#### **Article 356. Evidence of Rights of New Creditor**

1. The creditor who has assigned a demand to another person shall be obliged to transfer to him the documents certifying the right of demand and to provide information having significance for the effectuation of the demand.

2. The debtor shall have the right not to perform the obligation to a new creditor until the submission to him of evidence of the transfer of the demand to this person.

#### **Article 357. Objections of Debtor Against Demands of New Creditor**

The debtor shall have the right to raise objections against the demand of a new creditor, which he had against the initial creditor at the time of receipt of notification concerning the transfer of the rights regarding the obligation to the new creditor.

#### **Article 358. Transfer of Rights of Creditor to Another Person on Ground of Act of Legislation**

The rights of a creditor relating to an obligation shall pass to another person on the ground of the act of legislation and ensuing of the circumstances specified therein:

- 1) as a result of universal legal succession to the rights of the creditor;
- 2) by decision of a court concerning the transfer of the rights of the creditor to another person when the possibility of such transfer has been provided for by the legislation;
- 3) as a consequence of the performance of the obligation of the debtor by his surety or by a pledgor who is not the debtor with regard to this obligation;
- 4) in the event of the subrogation to an insurer of the rights of the creditor against the debtor who is liable for the ensuing of an insured accident;
- 5) in the other instances provided for by the legislation.

#### **Article 359. Conditions of Cession of Demand**

1. The cession of demand by the creditor to another person shall be permitted if this is not contrary to the legislation or the contract.
2. The cession of demand regarding an obligation in which the person of the creditor has material significance for the debtor without the consent of the debtor shall not be permitted.

#### **Article 360. Form of Cession of Demand**

1. The cession of demand based on a transaction concluded in simple written or notarial form must be concluded in the respective written form.
2. The cession of demand relating to a transaction requiring state registration must be registered in accordance with the procedure established for registration of such transaction unless otherwise established by the legislation.
3. The cession of demand regarding an order security shall be concluded by means of an endorsement on this security (Article 147(3)).

#### **Article 361. Liability of Creditor Who Has Ceded Demand**

The initial creditor who has ceded a demand shall be liable to the new creditor for the invalidity of the demand transferred to him but shall not be liable for the failure to perform this demand by the debtor except when the initial creditor assumed a suretyship for the debtor to the new creditor.

### **§2. Transfer of Debt**

#### **Article 362. Condition and Form of Transfer of Debt**

1. The transfer by the debtor of his debt to another person shall be permitted only with the

consent of the creditor.

2. The rules contained in Article 360(1) and (2) of this Code shall apply respectively to the form of the transfer of the debt.

### **Article 363. Objections of New Debtor Against Demands of Creditor**

The new debtor shall have the right to raise objections against the demand of the creditor, based on relations between the creditor and the initial debtor.

## **CHAPTER 25**

### **Liability for Violation of Obligations**

#### **Article 364. Duty of Debtor to Compensate Losses**

1. A debtor shall be obliged to compensate the creditor for losses caused by the failure to perform or improper performance of an obligation.

2. Losses shall be determined in accordance with the rules provided for by Article 14 of this Code.

3. Unless otherwise provided by the legislation or by contract, when determining losses, the prices shall be taken into account, which exist in that place, where the obligation shall be performed, on the date of voluntary satisfaction by the debtor of the demand of the creditor, or, if the demand was not voluntarily satisfied, on the date of bringing the suit. Taking into consideration the circumstances, a court may satisfy the demand to compensate losses by taking into account the prices existing on the day of adoption of the decision.

4. When determining lost advantage, the measures undertaken by the creditor to receive it and the preparations made for this purpose shall be taken into account.

#### **Article 365. Losses and Penalty**

1. If a penalty has been established for the failure to perform or for improper performance of an obligation, the losses shall be compensated in the part not covered by the penalty.

Instances may be provided for by the legislation or by contract: when the recovery of only a penalty is permitted, but not of losses; when losses may be recovered in full above the penalty; when at the choice of the creditor either a penalty or losses may be recovered.

2. When limited liability (Article 371) was established for the failure to perform or improper performance, the losses subject to compensation in the part not covered by the penalty or above or in place of it may be recovered up to the limits established by such limitation.

### **Article 366. Liability for Failure to Perform Monetary Obligation**

1. For the use of another's monetary means as a consequence of unlawful retention, avoidance of the return thereof, other delay in the payment thereof or the unjustified receipt or saving thereof at the expense of another person, interest shall be subject to payment on the amount of these means. The amount of interest shall be determined at the refinance rate of the National Bank of the Republic of Belarus on the day of performance of the monetary obligation or respective part thereof, except for the recovery of a debt in a judicial proceeding, if the court has satisfied the demand of the creditor, using the refinance rate of the National Bank on the date of adoption of the decision.

These rules shall apply unless another amount of interest has been established by the legislation or by the contract.

In the case when a monetary obligation, in accordance with the legislation, is subject to payment in Belarusian Rubles in an amount equivalent to a determined amount in foreign currency or in conventional monetary units the interests is to be calculated on the sum in Belarusian Rubles determined at the official exchange rate of the respective currency or conventional monetary unit on the day of performance of the monetary obligation or of its corresponding part and, in the case of recovery of the debt in the court order, on the day of rendering decision by the court.

2. If the losses caused to a creditor by the unlawful use of his monetary means exceed the amount of interest due to him on the grounds of Clause 1 of this Article, the creditor shall have the right to demand from the debtor compensation of losses or debt, increased taking into account the inflation, in that part exceeding this amount.

3. Interest for the use of another's means shall be recovered for the period up to the day of payment of the amount of these means to the creditor unless a shorter period has been established for calculating interest by the legislation or by the contract.

### **Article 367. Liability for Failure to Perform Obligation in Kind**

1. The payment of a penalty and compensation of losses in the event of the improper performance of an obligation shall not relieve the debtor from performance of the obligation in kind unless otherwise provided by the legislation or by the contract.

2. The compensation of losses in the event of the failure to perform an obligation and the payment of a penalty for the failure to perform shall relieve the debtor from the performance of the obligation in kind unless otherwise provided by the legislation or by the contract.

3. The refusal of a creditor to accept performance which as a consequence of delay has lost interest for him (Article 376(2)), and also the payment of a penalty established as release-money (Article 380), shall relieve the debtor from performance of the obligation in kind.

### **Article 368. Performance of Obligation at Expense of Debtor**

In the event of the failure to perform an obligation by a debtor to manufacture and transfer a

thing in ownership, economic management, or operative administration, or to transfer a thing for use to a creditor, or to fulfill specified work or to render a service for the creditor, the creditor shall have the right within a reasonable period to commission the fulfillment of the obligation to the third persons for a reasonable price or to fulfill it by his own efforts unless it follows otherwise from the legislation, the contract, or the essence of the obligation, and to demand from the debtor compensation for necessary expenses and other losses incurred.

### **Article 369. Consequences of Failure to Perform Obligation to Transfer Individually-Specified Thing**

In the event of the failure to perform an obligation to transfer an individually-specified thing in ownership, economic management, operative administration, or use for compensation to a creditor, the latter shall have the right to demand that this thing be taken away from the debtor and the transfer thereof to the creditor on the conditions provided for by the obligation. This right shall disappear if the thing already has been transferred to a third person having the right of ownership, economic management, or operative administration. If the thing has not yet been transferred, those creditors to whose benefit the obligation arose earlier shall have priority, and, if this is impossible to establish, the creditor who has brought suit earlier.

The creditor shall have the right to demand compensation of losses instead of a demand to transfer the thing to him which is the subject of the obligation.

### **Article 370. Subsidiary Liability**

1. Before bringing the demand against the person who in accordance with the legislation, or with the conditions of an obligation bears liability additionally to the liability of another person, who is the principal debtor (subsidiary liability), the creditor must submit the demand to the principal debtor.

If the principal debtor refused to satisfy the demand of the creditor or the creditor has not received a reply from him within a reasonable period to the demand submitted, this demand may be submitted to the person who bears subsidiary liability.

2. The creditor shall not have the right to demand satisfaction of his demand against the principal debtor from a person bearing subsidiary liability if this demand can be satisfied by means of the set-off of the counter demand against the principal debtor, or by the uncontested recovery of means from the principal debtor.

3. The person who bears subsidiary liability must, before satisfaction of the demand submitted to him by the creditor, warn the principal debtor thereof, and if the suit is brought against such person, to involve the principal debtor in the case. Otherwise the principal debtor shall have the right to raise the objections against the regressive demand of the person bearing subsidiary liability, which he had against the creditor.

### **Article 371. Limitation of Amount of Liability for Obligations**

1. The right to full compensation of losses may be limited (limited liability) by the

legislation with regard to individual types of obligations and with regard to obligations connected with the determined kind of activity.

2. An agreement concerning the limitation of the amount of liability of a debtor under a contract of adhesion or other contract, in which the citizen acting as a consumer is a creditor, shall be void if the amount of liability for the particular type of obligations or for the particular violation has been determined by the legislation.

### **Article 372. Grounds of Liability for Violation of Obligation**

1. A person who has not performed an obligation or who performed it improperly shall bear liability when there is fault (intent or negligence) except for instances when other grounds of liability have been provided for by the legislation or by the contract.

The person shall be deemed to be not at fault if with that degree of concern and attentiveness which is required of this person according to the character of the obligation and conditions of civil turnover the person has taken all measures for proper performance of the obligation.

2. The absence of fault shall be proved by the person who has violated the obligation.

3. Unless otherwise provided by the legislation or by the contract, the person who has not performed or who has improperly performed an obligation shall, when carrying out entrepreneurial activity, bear liability unless this person would prove that proper performance proved to be impossible as a consequence of force majeure, that is, the circumstances that are extraordinary and unavoidable under the particular conditions.

4. An agreement concluded earlier concerning the elimination or limitation of liability for an intentional violation of an obligation shall be void.

### **Article 373. Liability of Debtor for His Employees**

The actions of the employees of a debtor relating to the performance of his obligation shall be considered to be the actions of the debtor. The debtor shall be liable for these actions if they entailed the failure to perform or the improper performance of the obligation.

### **Article 374. Liability of Debtor for Actions of Third Persons**

A debtor shall be liable for the failure to perform or the improper performance of the obligation by third persons on whom performance has been placed unless it has been established by the legislation that liability shall be borne by the third person who is the immediate performer.

### **Article 375. Fault of Creditor**

1. If the failure to perform or improper performance of an obligation has occurred through

the fault of both parties, a court shall respectively reduce the amount of liability of the debtor.

A court also shall have the right to reduce the amount of liability of the debtor if the creditor has intentionally or through negligence facilitated the increase of the amount of losses caused by the failure to perform or improper performance, or has not taken reasonable measures to reduce them.

2. The rules of Clause 1 of this Article shall respectively apply also in instances when the debtor, by virtue of the legislation or the contract, bears liability for the failure to perform or improper performance of an obligation irrespective of the fault.

### **Article 376. Delay of Debtor**

1. A debtor who has delayed performance shall be liable to the creditor for losses caused by the delay and for the consequences of the impossibility of performance, which incidentally ensued during the delay.

2. If, as a consequence of delay of the debtor, the performance has lost interest for the creditor, he may refuse to accept performance and demand compensation of losses.

3. The debtor shall not be considered to be delayed if the obligation can not be performed as a consequence of delay by the creditor.

### **Article 377. Delay of Creditor**

1. The creditor shall be considered to have delayed if he refused to accept proper performance offered by the debtor or did not perform actions provided for by the legislation, or by the contract, or arising from the essence of the obligation, before the performance of which the debtor could not perform his obligation.

The creditor shall be considered to have delayed also in the instances specified in Article 379(2) of this Code.

2. The delay of the creditor shall give the debtor the right to compensation of losses caused by the delay if the creditor would not prove that the delay occurred through circumstances, for which neither the creditor himself nor those persons, on whom the acceptance of performance was placed by virtue of the legislation or the commission of the creditor, are liable.

3. With regard to a monetary obligation the debtor shall not be obliged to pay interest for the time of delay by the creditor.

## **CHAPTER 26**

### **Termination of Obligations**

#### **Article 378. Grounds for Termination of Obligations**

1. An obligation shall terminate wholly or in part on the grounds provided for by this Code, other acts of legislation or contract.

2. Termination of an obligation at the demand of one of the parties shall be permitted only in the instances provided for by the legislation or by the contract.

### **Article 379. Termination of Obligation by Performance**

1. Proper performance shall terminate an obligation.

2. A creditor accepting performance shall be obliged, at the demand of the debtor, to issue him a receipt or other document of receiving performance fully or in respective part.

If a debtor has issued a debt document to a creditor in certification of the obligation, then the creditor, at accepting performance, must return this document, and if it is impossible to return, specify this on the receipt issued by him. A receipt may be replaced by an inscription on the returned debt document. The debt document being with the debtor shall certify, unless proven otherwise, the termination of the obligation.

If the creditor refuses to issue the receipt, to return the debt document, or to note on the receipt the impossibility of the return thereof, the debtor shall have the right to withhold performance. In these instances the creditor shall be considered to have delayed.

### **Article 380. Release-Money**

By agreement of the parties an obligation may be terminated by granting release-money in place of performance (payment of money, transfer of property, etc.). The amount, periods, and procedure for granting release-money shall be established by the parties.

### **Article 381. Termination of Obligation by Set-Off. Instances of Inadmissibility of Set-Off**

1. An obligation shall be terminated wholly or in part by the set-off of a counter demand of the same type, the period for which has ensued or the period of which has not been specified or is determined by the time of demand. The statement of one party is sufficient for set-off.

2. The set-off shall not be permitted for the following demands:

1) if, according to the statement of the other party, the limitation period is subject to application to the demand, and this period has expired;

2) concerning compensation of harm caused to life or health;

3) concerning the recovery of alimony;

4) concerning maintenance for life;

5) in other instances provided for by the legislation or by a contract.



### **Article 382. Set-Off in Event of Cession of Demand**

In the event of cession of demand the debtor shall have the right to set-off, against the demand of the new creditor, his counter demand against the initial creditor.

The set-off shall be made if the demand arose on a grounds which existed at the time of receipt by the debtor of notification concerning the cession of demand, and the period of the demand ensued before receiving it or this period was not specified or is determined by the time of demand.

### **Article 383. Termination of Obligation by Coincidence of Debtor and Creditor in One Person**

An obligation shall terminate by the coinciding of the debtor and the creditor in one person.

### **Article 384. Termination of Obligation by Novation**

1. An obligation shall be terminated by agreement of the parties concerning the substitution of the initial obligation which existed between them by another obligation between the same persons providing for another subject or means of performance (novation).

2. Novation shall not be permitted with respect to obligations relating to compensation for harm caused to life or health and relating to the payment of alimony.

3. Novation shall terminate additional obligations connected with the initial one unless otherwise provided by agreement of the parties.

### **Article 385. Forgiveness of Debt**

An obligation shall be terminated by the release of the debtor by the creditor from the duties laid on him, unless such release violates the rights of other persons with respect to the property of the creditor.

### **Article 386. Termination of Obligation for Impossibility of Performance**

1. If in the bilateral contract the performance became impossible for one of the parties as a consequence of the circumstances, for which neither of the parties is liable, this party shall have no right to demand satisfaction under the contract from the other party, unless there are other provisions in the legislation or in the contract. Each of the parties has the right to demand from the contractor to return all that was performed by this party without receiving the counter satisfaction.

2. If in the bilateral agreements the performance became impossible for one of the parties

by virtue of the circumstances, for which this party is liable, the other party has the right to deviate from the contract and to recover the losses caused by the failure to perform, unless there are other provisions in the legislation or in the contract

3. If in the bilateral agreements the performance became impossible for one of the parties by virtue of the circumstances, for which the other party is liable, the former party shall preserve the right for counter satisfaction with offsetting the advantages, saved or acquired by it as a result of relieving from the obligation.

#### **Article 387. Termination of Obligation on Grounds of Act of State Body**

1. If as a result of the issuance of an act of a state body the performance of an obligation becomes impossible wholly or partially, the obligation shall terminate wholly or in respective part.

The parties which have incurred losses as a result thereof shall have the right to demand compensation thereof in accordance with the legislation.

2. In the instance when the act of the state body, on the basis of which an obligation has terminated, is deemed in accordance with the established procedure to be invalid, the obligation shall be restored unless it arises otherwise from an agreement of the parties or the essence of the obligation, and if performance has not lost interest for the creditor.

#### **Article 388. Termination of Obligation by Death of Citizen**

1. An obligation shall be terminated by the death of the debtor if performance can not be made without the personal participation of the debtor or the obligation is otherwise inseparably connected with the person of the debtor.

2. An obligation shall be terminated by the death of the creditor if the performance was intended personally for the creditor or the obligation was otherwise inseparably connected with the person of the creditor.

#### **Article 389. Termination of Obligation by Liquidation of Legal Person**

An obligation shall be terminated by the liquidation of a legal person (debtor or creditor) except for instances when by the legislation the performance of an obligation of a liquidated legal person is placed on another person (relating to demands concerning compensation of harm caused to life and health, and in other events).

### **SUBSECTION 2. GENERAL PROVISIONS ON CONTRACT**

#### **CHAPTER 27**

## **Concept and Conditions of Contract**

### **Article 390. Concept of Contract**

1. A contract shall be considered to be an agreement of two or several persons concerning the establishment, change, or termination of civil rights and duties.
2. The rules concerning bilateral and multilateral transactions provided for by Chapter 9 of this Code shall apply to contracts.
3. The general provisions on obligations (Articles 288-389) shall apply to obligations which arose from a contract unless otherwise provided by rules of this Chapter and by rules on individual types of contracts contained in the legislation.
4. The general provisions on contract shall apply to contracts concluded by more than two parties unless this is contrary to the multilateral character of such contracts.

### **Article 391. Freedom of Contract**

1. Citizens and legal persons shall be free in concluding a contract.

Coercion to conclude a contract shall not be permitted except for instances when the duty to conclude a contract has been provided for by the legislation, or by an obligation voluntarily accepted.

2. The parties may conclude a contract which contains elements of various contracts provided for by the legislation (mixed contract). The rules on contracts, the elements of which are contained in a mixed contract, shall apply to the relations of the parties under a mixed contract, unless it arises otherwise from the agreement of the parties or the essence of the mixed contract.

3. The conditions of a contract shall be determined by discretion of the parties except for instances when the content of the respective condition has been prescribed by the legislation (Article 392).

In instances when conditions of a contract has been provided for by a norm which applies insofar as not otherwise established by agreement of the parties (dispositive norm), the parties may by their agreement establish a condition which differs from that provided therein, if this is not contrary to the legislation. In the absence of such agreement, the condition of the contract shall be determined by the dispositive norm.

### **Article 392. Contract and Legislation**

1. A contract must correspond to rules established by the legislation, which are binding upon the parties.
2. If after the conclusion of a contract and before its termination, the act of legislation is adopted which establishes rules binding upon the parties other than those which were in action when concluding the contract, the conditions of the contract concluded shall be brought

to conformity with the legislation, unless otherwise provided by the legislation.

### **Article 393. Contracts For and Without Compensation**

1. A contract under which a party must receive payment or other counter-provision for the performance of its duties shall be a contract for compensation.

2. A contract under which one party undertakes to grant something to the other party without receiving payment or other counter-provision from it shall be deemed to be a contract without compensation.

3. A contract shall be presupposed to be a contract for compensation unless it arises otherwise from the legislation, or the content or essence of the contract.

### **Article 394. Price**

1. The performance of a contract shall be paid for at the price established by agreement of the parties.

In the instances provided for by the legislation the prices (tariffs, price scales, rates, etc.) established or regulated by duly authorized state bodies shall be applied.

2. A change of the price after the conclusion of a contract shall be permitted in the instances and on the conditions provided for by contract, by the legislation, or in accordance with the procedure established by the legislation.

3. In instances when in a contract for compensation the price has not been provided for and may not be determined on the grounds of the conditions of the contract, the performance of the contract must be paid for at the price which under comparable circumstances usually recovered for similar goods, work, or services.

### **Article 395. Operation of Contract**

1. A contract shall enter into force and become binding for the parties from the time of its conclusion.

2. The parties shall have the right to establish that the conditions of a contract concluded by them shall apply to their relations which arose before the conclusion of the contract.

3. It may be provided by the legislation or by contract that the ending of the period of operation of a contract shall entail the termination of the obligations of the parties under the contract.

A contract in which there is no such a condition shall be deemed to be in force until the time of the ending of performance of the obligation by the parties determined therein.

4. The ending of the period of operation of a contract shall not relieve the parties from liability for the violation thereof.

### **Article 396. Public Contract**

1. A contract concluded by a commercial organization and establishing its duties relating to the sale of goods, fulfillment of work, or rendering of services which this organization by the character of its activity must effectuate with respect to everyone who has recourse to it (retail trade, carriage by common-use transport, communications services, electric power supply, medical, hotel servicing, obligatory insurance, and so forth) shall be deemed to be a public contract.

A commercial organization shall not have the right to prefer one person to others with respect to the conclusion of a public contract except for the instances provided by the legislation.

2. The price of goods, work, and services, and also other conditions of a public contract, shall be established identically for all consumers except for instances when the granting of privileges for individual categories of consumers is permitted by the legislation.

3. A refusal of a commercial organization to conclude a public contract when it is possible to grant the respective goods or services to the consumer or to fulfill the respective work for him shall not be permitted.

In the event of an unjustified evasion by a commercial organization from the concluding of a public contract the provisions provided for by Article 415(4) of this Code shall apply.

4. In instances provided for by the legislative acts, the Government of the Republic of Belarus may issue rules binding upon the parties when concluding and performing public contracts (standard contracts, statutes, etc.), unless otherwise established by the President of the Republic of Belarus.

5. The conditions of a public contract which do not correspond to the requirements established by Clauses 2 and 4 of this Article shall be void.

### **Article 397. Model Conditions of Contracts**

1. It may be provided in a contract that its individual conditions shall be determined by model conditions worked out for contracts of the respective type and published in the press.

2. Model conditions may be set out in the form of a model contract or other document containing these conditions.

### **Article 398. Contract of Adhesion**

1. A contract of adhesion shall be deemed to be a contract, the conditions of which have been determined by one of the parties in records or other standard forms and which can be accepted by the other party not other than by means of adhering to the contract being offered as a whole.

The contract of adhesion in the insurance sphere shall be deemed a contract the conditions of which have been determined in rules for respective kinds of insurance approved by the insurer or by an association of insurers and agreed with the body carrying out the state supervision of the insurance activity and which can be accepted by the other party not other than by means of adhering to the insurance contract.

2. A party which has adhered to the contract shall have the right to demand dissolution or change of the contract if the contract of adhesion, although not contrary to the legislation, deprives this party of the rights usually granted under contracts of that type, excludes or limits the liability of the other party for a violation of obligations, or contains other conditions clearly burdensome for the adhering party which it, proceeding from its own reasonably understandable interests, would not accept if it had the opportunity to participate in determining the conditions of the contract.

3. When the circumstances are present provided for in Clause 2 of this Article, the demand concerning dissolution or change of the contract presented by a party which has adhered to a contract in connection with the effectuation of its entrepreneurial activity shall not be subject to satisfaction, if the adhering party knew or should have known on what conditions the contract is concluded.

#### **Article 399. Preliminary Contract**

1. Under a preliminary contract the parties shall be obliged to conclude in the future a contract (principal contract) on the conditions provided for by the preliminary contract.

2. The preliminary contract shall be concluded in the form established for the principal contract, and, if the form of the principal contract has not been established, in written form. The failure to comply with the rules concerning the form of the preliminary contract shall entail its nullity.

3. A preliminary contract must contain conditions enabling to determine the subject and the other significant conditions of the principal contract.

4. A preliminary contract shall specify the period in which the parties are obliged to conclude the principal contract.

If such period has not been defined in the preliminary contract, the principal contract shall be subject to conclusion within a year from the time of concluding the preliminary contract.

5. In instances when a party, which has concluded a preliminary contract, evades the conclusion of the principal contract, the provisions established for conclusion of contracts in obligatory procedure (Article 415(4)) shall apply.

6. The obligations provided for by a preliminary contract shall terminate if until the ending of the period in which the parties must conclude the principal contract it would not be concluded, and neither of the parties would send to the other party an offer to conclude this contract.

#### **Article 400. Contract to Benefit of Third Person**

1. A contract to the benefit of a third person shall be deemed to be a contract in which the parties have established that a debtor is obliged to make performance not to the creditor, but to a third person specified or not specified in the contract and having the right to demand performance of the obligation to its benefit from the debtor.

2. Unless otherwise provided by the legislation or a contract, from the time of the expression by the third person to the debtor of an intention to take advantage of his right under the contract, the parties may not dissolve or change the contract concluded by them without the consent of the third person.

3. The debtor in the contract shall have the right to raise against the demand of the third person objections which he could raise against the creditor.

4. When a third person waives a right granted to him under the contract, the creditor may take advantage of this right unless this is contrary to the legislation and to the contract.

#### **Article 401. Interpretation of Contract**

In the event of the interpretation of the conditions of a contract by a court the literal meaning of the words and expressions contained therein shall be taken into account. The literal meaning of the condition of a contract in the event of its ambiguity shall be determined by means of comparing with the other conditions and with the sense of the contract as a whole.

If the rules contained in the first part of this Article do not enable to determine the content of the contract, the true common will of the parties must be elicited by taking into account the purpose of the contract. In so doing, all the respective circumstances, including negotiations preceding the contract, correspondence, practice being established in the mutual relations of the parties, and the subsequent conduct of the parties, shall be taken into account.

### **CHAPTER 28**

#### **Conclusion of Contract**

##### **Article 402. Basic Provisions on Conclusion of Contract**

1. A contract shall be considered to be concluded when agreement regarding all the significant conditions of the contract has been reached in the form required in appropriate instances.

Conditions concerning the subject of the contract, conditions which are named in the legislations as significant, necessary or obligatory for contracts of the particular type, and also all those conditions in relation to which an agreement must be reached according to the statement of one of the parties, shall be significant conditions.

2. A contract shall be concluded by means of sending an offer (proposal to conclude a contract) by one party and its acceptance (acceptance of the proposal) by the other party.

### **Article 403. Time of Conclusion of Contract**

1. A contract shall be deemed to be concluded at the time of receipt of acceptance by the person who has sent an offer.

2. If in accordance with the legislation the transfer of property also is necessary in order to conclude a contract, the contract shall be considered to be concluded from the time of the transfer of the respective property (Article 225).

3. A contract subject to state registration shall be considered to be concluded from the time of the registration thereof, or, if the notarial certification and registration is necessary, from the time of registration of the contract, unless otherwise established by the legislative acts.

4. A contract concluded at the exchange shall be deemed concluded from the moment determined by the legislation regulating activities of such exchange or by the rules effective at the exchange.

### **Article 404. Form of Contract**

1. A contract may be concluded in any form provided for in order to conclude transactions unless a determined form has been established by this Code and by other acts of legislation for contracts of the particular type.

If, in accordance with the legislation, the notarial form is not necessary for the particular type of contracts, but the parties have agreed to conclude it in the notarial form, the contract shall be considered to be concluded from the time of imparting the notarial form to it.

If, in accordance with the legislation, the written form (simple or notarial) is not necessary for the particular type of contracts, but the parties have agreed to conclude it in the simple written form, the contract shall be considered to be concluded from the time of imparting the simple written form to it.

2. A contract in written form may be concluded by means of drawing up one document signed by the parties, and also by means of the exchange of documents by means of postal, telegraph, teletype, telephone, electronic, or other communications, enabling it to be reliably established that the document comes from a party under the contract.

3. The written form of the contract shall be considered to be complied with if the written offer to conclude a contract has been accepted in accordance with the procedure provided for by Article 408(3) of this Code.

### **Article 405. Offer**

1. A proposal addressed to one or several specific persons which is sufficiently definite and expresses the intention of the person who has made the proposal to consider himself to have concluded a contract with the addressee who will accept the proposal shall be deemed to be an offer.



An offer must contain the significant conditions of the contract.

2. An offer shall bind the person who sent it from the time of its receipt by the addressee. If notice of the revocation of an offer has been received earlier than or simultaneously with the offer itself, the offer shall be considered to be not received.

#### **Article 406. Irrevocability of Offer**

An offer received by the addressee may not be revoked within the period established for its acceptance unless otherwise stipulated in the offer itself or does not arise from the essence of the proposal or situation in which it was made.

#### **Article 407. Invitation to Make Offers**

1. An advertisement and other proposals addressed to an indefinite group of persons shall be regarded as an invitation to make offers unless expressly specified otherwise in the proposal.

2. A proposal, from which the will of the person making the proposal is seen to conclude a contract on the conditions specified in the proposal with anyone who responds, and containing all the significant conditions of a contract, shall be deemed to be a public offer.

#### **Article 408. Acceptance**

1. The reply of a person to whom an offer has been addressed concerning the acceptance thereof shall be deemed to be an acceptance.

An acceptance must be full and unconditional.

2. Silence shall not be an acceptance unless it arises otherwise from a legislation or agreement between the parties.

3. The performance by a person who has received an offer, within the period established for its acceptance, of actions relating to the fulfillment of the conditions of the contract specified therein (shipment of goods, rendering of services, fulfillment of work, payment of respective amount etc.) shall be considered to be an acceptance unless otherwise provided by the legislation or specified in the offer.

#### **Article 409. Revocation of Acceptance**

If notice of the revocation of an acceptance has been received by the person, by whom the offer was sent, earlier than or simultaneously with the acceptance itself, the acceptance shall be considered to be not received.

#### **Article 410. Conclusion of Contract on Basis of Offer Determining Period for Acceptance**

When a period for acceptance is determined in an offer, a contract shall be considered to be concluded if the acceptance was received by a person who has sent the offer within the limits of the period specified therein.

#### **Article 411. Conclusion of Contract on Basis of Offer Not Determining Period for Acceptance**

1. When a written offer does not determine the period for acceptance, the contract shall be considered to be concluded if the acceptance was received by the person who has sent the offer before the end of the period established by the legislation, and if such a period has not been established, during the time normally necessary for this.

2. When an offer has been made orally without specifying the period for acceptance, the contract shall be considered to be concluded if the other party immediately declared its acceptance thereof.

#### **Article 412. Acceptance Received Late**

1. In the instances when a notification of acceptance sent in good time has been received late, the acceptance shall not be considered to be late if a party who has sent the offer would immediately inform the other party about the late receipt of the acceptance.

2. If a party who has sent an offer immediately informs the other party about the accepting of its acceptance which has been received late, the contract shall be considered to be concluded.

#### **Article 413. Acceptance on Other Conditions**

A reply concerning consent to conclude a contract on conditions other than those proposed in the offer shall not be an acceptance.

Such a reply shall be deemed to be a refusal to accept and, at the same time, a new offer.

#### **Article 414. Place of Conclusion of Contract**

Unless the place of conclusion has been specified in the contract, a contract shall be deemed to be concluded at the place of residence of a citizen or location of the legal person which sent the offer.

#### **Article 415. Conclusion of Contract in Obligatory Procedure**

1. In instances when in accordance with this Code or other acts of legislation the conclusion of a contract for one of the parties to whom an offer (draft contract) is obligatory, this party must send to the other party a notification concerning acceptance, or rejection of acceptance, or acceptance of the offer (draft contract) on other conditions (protocol of disagreements to draft contract) within 30 days from the date of receipt of the offer.

A party who has sent an offer and received from the party, for whom the conclusion of the contract is obligatory, a notification of its acceptance on other conditions (protocol of disagreements to draft contract), shall have the right to transfer disagreements, which have arisen when concluding the contract, for consideration of a court within 30 days from the date of receipt of such notification or the expiry of the period for acceptance.

2. In instances when in accordance with this Code or other legislation the conclusion of a contract is obligatory for the party who has sent an offer (draft contract) and a protocol of disagreements to the draft contract is sent to it within 30 days, this party shall be obliged within 30 days from the date of receipt of the protocol of disagreements to notify the other party about acceptance of the contract in the wording thereof or about rejection of the protocol of disagreements.

In the event the protocol of disagreements is rejected, or non-receiving of notice concerning the results of the consideration thereof within the specified period, the party which sent the protocol of disagreements shall have the right to transfer the disagreements which arose when concluding the contract for the consideration of a court.

3. The rules concerning the periods, provided for by Clauses 1 and 2 of this Article, shall apply unless other periods have been established by the legislation, or have not been agreed by the parties.

4. If a party for which in accordance with this Code or other acts of legislation the conclusion of the contract is obligatory evades the conclusion thereof, the other party shall have the right to apply to a court with a demand to compel the contract to be concluded.

The party which has unjustifiably evaded the conclusion of the contract must compensate the other party for losses caused by this.

#### **Article 416. Precontractual Disputes**

In the instances of the transfer of disagreements, which arose when concluding a contract, for the consideration of a court on the basis of Article 415 of this Code or by agreement of the parties, the conditions of the contract with regard to which the parties had disagreements shall be determined in accordance with the decision of the court.

#### **Article 417. Conclusion of Contract at Public Sale**

1. A contract may, unless it arises otherwise from the essence thereof, be concluded by means of holding public sales. The contract shall be concluded with the person who has won the public sale.

2. The owner of the thing or the possessor of the property right or a specialized organization

may act as the organizer of a public sale. A specialized organization shall operate on the ground of a contract with the owner of the thing or the possessor of the property right and shall act in their name or in its own name.

3. In the instances specified in this Code or in another acts of legislation, contracts concerning the sale of a thing or property right may be concluded only by means of holding public sales.

4. A public sale (tender) shall be held in the form of an auction or a competition. The person who has won the public sale at an auction shall be deemed the person who has proposed the highest price, and at a competition, the person who in accordance with the opinion of a competition commission, previously appointed by the organizer of the public sale, proposed the best conditions.

5. An auction or competition in which only one participant took part shall be deemed to be not effectuated.

6. The rules provided for this Code shall apply to a public sale held by way of execution of the decision of a court unless otherwise provided by procedural legislation.

#### **Article 418. Organization and Procedure for Holding Public Sale**

1. Auctions and competitions may be open and closed. Any person may participate in an open auction or open competition. Only persons specially invited for this purpose shall participate in a closed auction or closed competition.

2. Unless otherwise provided by the legislation, a notice concerning the holding of a public sale must be made by the organizer not less than thirty days before holding it. The notice must in any event contain information concerning the time, place, and form of the public sale, the subject thereof and the procedure for holding it, including the formalization of participation in the public sale, determination of the person who wins the public sale, and also information concerning the starting price.

If the subject of the public sale is only the right to conclude a contract, the period granted for this must be specified in the notice of the forthcoming public sale.

3. Unless otherwise provided in a legislation or in the notice on holding the public sale, the organizer of an open public sale who has given notice shall have the right to refuse to hold an auction at any time, but not later than three days before the date of its holding, and for a competition, not later than thirty days before holding the competition.

In instances when the organizer of an open public sale refuses to conduct it in violation of the specified periods, he shall be obliged to compensate participants for real damage incurred. The organizer of a closed auction or closed competition shall be obliged to compensate the invited participants for real damage irrespective of when the refusal to hold the public sale followed the sending of the notice.

4. The participants of a public sale shall make a deposit in the amount, within the periods, and in accordance with the procedure specified in the notice on holding the public sale, in the account of performance of the obligations under the contract, which can be concluded at the public sale.

5. A person who has won a public sale and the organizer of the public sale shall sign, at the day of holding the auction or competition, a protocol concerning the results of the public sale, which shall have the force of a contract. If the person who won the public sale evading the signing of the contract, this person shall lose the deposit made by him. If the organizer of a public sale evading the signing of the protocol, he shall be obliged to return the deposit in double the amount, and also to compensate the person who won the public sale for losses caused by participation in the public sale in that part exceeding the amount of the deposit.

If only the right to conclude a contract was the subject of a public sale, such contract must be signed by the parties not later than twenty days or other period specified in the notice after the completion of the public sale and drawing up of the protocol. If one of the parties evading the conclusion of the contract, the other party shall have the right to apply to a court with a demand to compel the contract to be concluded, and also for compensation of losses caused by evading the conclusion thereof.

6. The legislative acts may provide for another order of organization and holding tenders.

#### **Article 419. Consequences of Violation of Rules for Holding Public Sale**

1. A public sale held in violation of the rules established by the legislation may be deemed by a court to be invalid upon the suit of an interested person.

2. The deeming of a public sale to be invalid shall entail the invalidity of the contract concluded with the person who won the public sale.

### **CHAPTER 29**

#### **Change and Dissolution of Contract**

#### **Article 420. Grounds for Change and Dissolution of Contract**

1. Change and dissolution of a contract shall be possible by agreement of the parties unless otherwise provided by this Code, by other acts of legislation, or by the contract.

2. Upon the demand of one of the parties a contract may be changed or dissolved by decision of a court only:

1) in the event of a significant violation of the contract by the other party;

2) in other instances provided for by this Code, by other acts of legislation, or by the contract.

A violation of a contract by one of the parties which entails for the other party such damage that this party is deprived in significant degree of that which it had the right to count on when concluding the contract shall be deemed to be significant.

3. In the event of a unilateral refusal to perform a contract wholly or partially, when such refusal is permitted by the legislation or by agreement of the parties, the contract shall be

considered to be dissolved or changed respectively.

#### **Article 421. Change and Dissolution of Contract in Connection with Significant Change of Circumstances**

1. A significant change of circumstances from which the parties proceeded when concluding a contract shall be a grounds for the change or dissolution thereof unless otherwise provided by the contract or it arises from the essence thereof.

A change of circumstances shall be deemed to be significant when they have changed such that if the parties could reasonably foresee this, the contract would not have been concluded at all by them or it would have been concluded on significantly differing conditions.

2. If the parties have not reached agreement concerning the bringing of the contract in conformity with the significantly changed circumstances or the dissolution thereof, the contract may be dissolved, and on the grounds provided for by Clause 4 of this Article, changed by a court at the demand of the interested party when the following conditions simultaneously exist:

1) at the time of concluding the contract the parties proceeded from the fact that such a change of circumstances would not occur;

2) the change of circumstances has been caused by reasons which the interested party could not overcome after they arose with that degree of concern and care which are required for this party by the character of the contract and the conditions of civil turnover;

3) the performance of the contract without a change of its conditions would so violate the relation of property interests of the parties, corresponding to the contract, and entail for the interested party such damage that it would be deprived to a significant degree of that which it had the right to count on when concluding the contract;

4) it does not arise from the essence of the contract that the risk of the change of circumstances is borne by the interested party.

3. In the event of the dissolution of a contract as a consequence of significant change of circumstances the court, upon the demand of any of the parties, shall determine the consequences of the dissolution of the contract by proceeding from the need for a just distribution of the expenses, incurred by the parties in connection with the performance of this contract, between these parties.

4. The change of a contract in connection with a significant change of circumstances shall be permitted by decision of a court in exceptional instances when dissolution of the contract is contrary to the public interests or entails damage for the parties which significantly exceeds the expenditures needed to perform the contract on the conditions changed by the court.

#### **Article 422. Procedure for Change of and Dissolution of Contract**

1. An agreement concerning change of or dissolution of a contract shall be concluded in the same form as the contract unless it arises otherwise from the legislation or the contract. This Code, other laws and acts of the President of the Republic of Belarus may establish another

order of dissolution of a contract.

2. A demand concerning change of or dissolution of a contract may be submitted by a party in the court only after receipt of a refusal of the other party to the proposal to change or dissolve the contract or after non-receiving a reply within the period specified in the proposal or established by the legislation or by the contract, and if this period is not specified, within a thirty-day period.

### **Article 423. Consequences of Change of and Dissolution of Contract**

1. In the event of dissolution of the contract the obligations of the parties shall terminate.

2. In the event of change of a contract, the obligations of the parties shall be preserved in the changed form.

3. In the event of change of or dissolution of a contract, the obligations shall be considered to be changed or terminated from the time of the conclusion of an agreement of the parties concerning the change of or dissolution of the contract unless it follows otherwise from the agreement or the character of the change of the contract, and in the event of change of or dissolution of a contract in a judicial proceeding, from the time of coming the decision of the court on change of or dissolution of the contract into legal force.

4. The parties shall not have the right to demand the return of that which was performed by them under the obligation before the time of change or dissolution of the contract, unless otherwise established by the legislation or by the agreement of the parties.

If a significant violation of the contract by one of the parties was the ground for change of or dissolution of a contract, the other party shall have the right to demand compensation of losses caused by change of or dissolution of the contract.

## **Part Two**

### **SECTION IV. INDIVIDUAL TYPES OF OBLIGATION**

#### **CHAPTER 30**

#### **Purchase-Sale**

#### **§ 1. General Provisions on Purchase-Sale**

#### **Article 424. Contract of Purchase-Sale**

1. Under a contract of purchase-sale one party (seller) shall undertake to transfer a property (thing, good) to the ownership, economic management or operative administration (hereinafter, for the purposes of this Section, referred as transfer to the ownership, unless it arises otherwise from the essence of the obligation or from the status of the party under the

obligation) of the other party (purchaser), and the purchaser shall undertake to accept this property and to pay for it the determined monetary amount (price).

2. The provisions provided for by the present paragraph shall apply to the sale of securities and currency valuables, unless special rules have been established for the purchase-sale thereof by the legislation.

3. In the instances provided for by this Code or other acts of legislation, the peculiarities of the purchase and sale of goods of individual types shall be determined by the legislation.

4. The provisions provided for by the present paragraph shall apply to the sale of property rights unless it arises otherwise from the content or character of these rights.

5. Unless otherwise provided by rules of this Code and other acts of legislation concerning these types of contracts, the provisions provided for by this paragraph shall apply to individual types of contract of purchase-sale (retail purchase-sale, delivery of goods, delivery of goods for state needs, agricultural procurement contract, electric power supply, sale of immovable property, sale of enterprise).

#### **Article 425. Condition of Contract on Good**

1. Any things may be a good under a contract of purchase-sale in compliance with the rules provided for by Article 129 of this Code.

2. A contract may be concluded for the purchase-sale of a good which the seller has in his disposal at the time of concluding the contract, and also a good which will be created or acquired by the seller in the future, unless otherwise established by the legislation or unless it so arises from the character of the good.

3. The condition of a contract of purchase-sale concerning a good shall be considered to be agreed if the contract enables to determine the name and quantity of the good.

#### **Article 426. Duties of Seller Relating to Transfer of Good**

1. The seller shall be obliged to transfer to the purchaser the good provided for by the contract of purchase-sale.

2. Unless otherwise provided by the contract of purchase-sale, the seller shall be obliged simultaneously with the transfer of the thing to transfer to the purchaser the appurtenances thereto, as well as the documents relating thereto (technical passport, certificate of quality, operating instructions etc.) provided for by the legislation or by the contract.

#### **Article 427. Period for Performance of Duty to Transfer Good**

1. The period for the performance by the seller of the duty to transfer the good to the purchaser shall be determined by the contract of purchase-sale, and if the contract does not enable to determine this period, it shall be determined in accordance with the rules provided for by Article 295 of this Code.



2. A contract of purchase-sale shall be deemed to be concluded with a condition of the performance thereof within a strictly determined period if it clearly arises from the contract that in the event of a violation of the period for the performance thereof the purchaser loses interest in the contract.

The seller shall have the right to perform such contract before the ensuing or after the expiry of the period determined therein only with the consent of the purchaser.

#### **Article 428. Time of Performance of Duty of Seller to Transfer Good**

1. Unless otherwise provided by the contract of purchase-sale, the duty of the seller to transfer the good to the purchaser shall be considered to be performed at the time of:

1) handing over the good to the purchaser or person specified by him if the duty of the seller relating to the delivery of the good has been provided for by the contract;

2) placing the good at the disposition of the purchaser if the good must be transferred to the purchaser or person specified by him at the location of the good. A good shall be considered to be placed at the disposition of the purchaser when within the period provided for by the contract the good is ready for transfer in the proper place and the purchaser is informed, in accordance with the conditions of the contract, about the readiness of the good for transfer. A good shall not be deemed to be ready for transfer if it is not identified for the purposes of the contract by means of marking or in other form.

2. In the instances when the duty of the seller relating to delivery of a good or transfer of a good at its location to the purchaser does not arise from a contract of purchase-sale, the duty of the seller to transfer the good to the purchaser shall be considered to be performed at the time of handing over the good to the carrier or communications organization for delivery to the purchaser, unless otherwise provided by the contract.

#### **Article 429. Transfer of Risk of Accidental Perishing of Good**

1. Unless otherwise provided by the contract of purchase-sale, the risk of accidental perishing or accidental damage of a good shall pass to the purchaser from the time when in accordance with the legislation or the contract the seller is considered to have performed his duty relating to transfer of the good to the purchaser.

2. The risk of accidental perishing or accidental damage of a good sold while en route shall pass to the purchaser from the time of the conclusion of the contract of purchase-sale unless otherwise provided by such contract.

The condition of the contract that the risk of accidental perishing or accidental damage of the good passes to the purchaser from the time of handing over the good to the first carrier may, at the demand of the purchaser, be deemed by a court to be invalid if at the time of concluding the contract the seller knew or should have known that the good has been lost or damaged and have not informed the purchaser about this loss or damage.

### **Article 430. Duty of Seller to Transfer Good Free of Rights of Third Persons**

1. The seller shall be obliged to transfer a good to the purchaser free from any rights of third persons, except for the instance when the purchaser has agreed to accept the good encumbered by the rights of third persons.

The failure of the seller to perform this duty shall give the purchaser the right to demand a reduction of the price of the good or dissolution of the contract of purchase-sale unless it is proved that the purchaser knew or should have known about the rights of third persons to this good.

2. The rules provided for by Clause 1 of this Article shall apply respectively also when with respect to the good at the time of its transfer to the purchaser there are claims of third persons, which were known to the seller, if these claims subsequently were deemed to be lawful in accordance with the established procedure.

### **Article 431. Liability of Seller in Event of Seizure of Good from Purchaser**

1. In the event of the seizure of the good from the purchaser by third persons on grounds which arose before the performance of the contract of purchase-sale, the seller shall be obliged to compensate the purchaser for losses incurred by him except for the instance when the purchaser knew or should have known about the existence of these grounds.

2. An agreement of the parties concerning relieving the seller from liability in the event a property acquired is demanded and obtained from the purchaser by third persons or a limitation of such liability shall be invalid.

### **Article 432. Duties of Purchaser and Seller in Event of Bringing of Suit Concerning Seizure of Good**

If a third person on grounds which arose before performance of the contract of purchase-sale brings suit against the purchaser concerning seizure of the good, the purchaser shall be obliged to involve the seller in the case, and the seller shall be obliged to appear in this case on the side of the purchaser.

The failure of the purchaser to involve the seller in the case shall relieve the seller from liability to the purchaser, if the seller would prove that, by participation in the case, he could avert the seizure of the good from the purchaser.

The seller involved by the purchaser in a case but not taken part therein shall be deprived of the right to prove the incorrectness of the conducting of the case by the purchaser.

### **Article 433. Consequences of Refusal of Seller to Transfer Good**

1. If the seller refuses to transfer the good sold to the purchaser, the purchaser shall have the right to refuse to perform the contract of purchase-sale.

2. In the event of the refusal of the seller to transfer an individually-specified thing, the purchaser shall have the right to submit the demand to the seller provided for by Article 369 of this Code.

#### **Article 434. Consequences of Failure to Fulfill Duty to Transfer Appurtenances and Documents Relating to Good**

If the seller does not transfer or refuses to transfer to the purchaser appurtenances or documents relating to the good which he should transfer in accordance with the legislation or the contract of purchase-sale (Article 426(2)), the purchaser shall have the right to designate a reasonable period for the seller to transfer thereof.

When appurtenances or documents relating to a good have not been transferred by the seller within the specified period, the purchaser shall have the right to reject the good unless otherwise provided by the contract.

#### **Article 435. Quantity of Good**

1. The quantity of a good subject to transfer to a purchaser shall be provided for by the contract of purchase-sale in respective units of measurement or in monetary expression. The condition concerning the quantity of a good may be agreed by means of establishing, in the contract, the procedure for determining it.

2. If the contract of purchase-sale does not enable to determine the quantity of the good subject to transfer, the contract shall not be considered to be concluded.

#### **Article 436. Consequences of Violation of Condition Concerning Quantity of Good**

1. If the seller, in violation of the contract of purchase-sale, has transferred to the purchaser a lesser quantity of the good than that has been determined by the contract, the purchaser shall have the right, unless otherwise provided by the contract, either to demand to transfer the short quantity of the good, or to reject the good transferred and refuse to pay for this good, and if the good has been paid for, to demand the return of the monetary amount paid.

2. If the seller has transferred to the purchaser a good in a quantity exceeding that specified in the contract of purchase-sale, the purchaser shall be obliged to notify the seller thereof in accordance with the procedure provided for by Article 453(1) of this Code. When within a reasonable period after receipt of the notification of the purchaser the seller does not dispose of the respective part of the good, the purchaser shall have the right, unless otherwise provided by the contract, to accept the whole quantity of good.

In the event of the acceptance of the good by the purchaser in a quantity exceeding that specified in the contract of purchase-sale (Clause 2 of this Article), the good additionally accepted shall be paid for at the price determined for the good accepted in accordance with the contract unless another price has been determined by agreement of the parties.

### **Article 437. Assortment of Goods**

1. If under the contract of purchase-sale goods are subject to transfer in a specified relation with regard to types, models, dimensions, colours, or other indicia (assortment), the seller shall be obliged to transfer the goods to the purchaser in the assortment agreed by the parties.

2. If the assortment is not determined in a contract of purchase-sale, and the procedure for the determination thereof has not been established in the contract but it arises from the essence of the obligation that the goods must be transferred to the purchaser in an assortment, the seller shall have the right to transfer the goods to the purchaser in an assortment by proceeding from the requirements of the purchaser which were known to the seller at the time of conclusion of the contract, or to refuse to perform the contract.

### **Article 438. Consequences of Violation of Condition on Assortment of Goods**

1. In the event of the transfer by the seller of goods provided for by the contract of purchase-sale in an assortment which does not correspond to the contract, the purchaser shall have the right to refuse to accept and to pay for these goods, and if these goods have been paid for, to demand the return of the monetary amount paid.

2. If the seller has transferred to the purchaser, together with goods, the assortment of which corresponds to the contract of purchase-sale, goods in violation of the conditions concerning the assortment, the purchaser shall have the right, at own discretion, to:

1) accept the goods corresponding to the conditions concerning the assortment and reject the other goods;

2) reject all of the goods transferred;

3) demand the replacement of the goods, which do not correspond to the condition concerning the assortment, with goods in the assortment provided for by the contract;

4) accept all the goods transferred.

3. In the event of the rejection of goods, the assortment of which does not correspond to the condition of the contract of purchase-sale, or of submission of demand concerning replacement of the goods which do not correspond to the condition concerning the assortment, the purchaser shall have the right also to refuse to pay for these goods, and if they have been paid for, to demand the return of the monetary amount paid.

4. Goods which do not correspond to the condition of the contract of purchase-sale concerning assortment shall be considered to be accepted if the purchaser within a reasonable period after the receipt thereof does not notify the seller concerning rejection of the goods.

5. If the purchaser has not rejected goods, the assortment of which does not correspond to the contract of purchase-sale, he shall be obliged to pay for them at the price agreed with the seller. When necessary measures have not been taken by the seller to agree the price within a reasonable period, the purchaser shall pay for the goods at the price which at the time of concluding the contract under comparable circumstances were commonly recovered for similar goods.

6. The rules of this Article shall apply unless otherwise provided by the contract.

### **Article 439. Quality of Good**

1. The seller shall be obliged to transfer to the purchaser a good, the quality of which corresponds to the contract of purchase-sale.

2. If there are no conditions concerning the quality of a good in a contract of purchase-sale, the seller shall be obliged to transfer to the purchaser a good fit for the purposes for which a good of such nature is usually used.

If the seller, when concluding the contract, was informed by the purchaser about the specific purposes of the acquisition of the good, the seller shall be obliged to transfer to the purchaser a good fit for use in accordance with these purposes.

3. In the event of the sale of a good by sample and(or) description, the seller shall be obliged to transfer to the purchaser a good which corresponds to the sample and(or) description.

4. If obligatory requirements for the quality of a good being sold have been provided in accordance with the procedure established by the legislation, then the seller, carrying out entrepreneurial activity, shall be obliged to transfer a good to the purchaser, which corresponds to these obligatory requirements.

By the agreement between the seller and the purchaser a good may be transferred which corresponds to higher quality requirements in comparison with the obligatory requirements, established in accordance with the procedure provided for by the legislation.

### **Article 440. Guarantee of Quality of Good**

1. A good which a seller is obliged to transfer to a purchaser must correspond to the requirements provided for by Article 439 of this Code at the time of the transfer to the purchaser unless another time of determining the conformity of the good to these requirements has been provided for by the contract of purchase-sale, and within the limits of a reasonable period must be fit for the purposes for which the goods of such nature are usually used.

2. When the legislation or a contract of purchase-sale stipulate that the seller shall provide a guarantee of the quality of a good, the seller is obliged to transfer to the purchaser a good which must correspond to the requirements provided for by Article 439 of this Code during a calendar period established in days, months, years, or lifelength established in hours, operation cycles, kilometres of distance or similar parameters (guarantee period).

3. A guarantee of the quality of a good also shall extend to all parts comprising it (components) unless otherwise provided by the contract of purchase-sale.

### **Article 441. Calculation of Guarantee Period**

1. A guarantee period shall begin to run from the time of the transfer of the good to the purchaser (Article 428) unless otherwise provided by the legislation or the contract of purchase-sale.

2. If a purchaser is deprived of the possibility to use the good, with respect to which a guarantee period has been established by the contract, under circumstances within the control of the seller, the guarantee period shall not run until the elimination of the respective circumstances by the seller.

Unless otherwise provided by the contract, a guarantee period shall be extended for the time during which the good could not be used because of defects revealed therein, on condition of the notification of the seller about the defects of the good in accordance with the procedure established by Article 453 of this Code.

3. Unless otherwise provided by the contract of purchase-sale, a guarantee period for components shall be considered to be equal to the guarantee period for the principal good and shall begin to run simultaneously with the guarantee period for the principal good.

4. For a good (component) transferred by the seller in place of a good (component) in which, during the guarantee period, defects were revealed (Article 446), a guarantee period shall be established of the same duration as for replaced good (component), unless otherwise provided by the contract of purchase-sale.

#### **Article 442. Period of Fitness of Good**

1. The legislation or other mandatory rules may determine a period upon the expiry of which goods shall be considered to be unfit for use for intended purpose (period of fitness).

2. Goods for which a period of fitness has been established, shall be transferred by the seller to the purchaser so that it may be used for its intended purpose before the expiry of the period of fitness.

#### **Article 443. Calculation of Period of Fitness of Good**

The period of fitness of a good shall be determined by the period of time, calculated from the date of its manufacture, during which the good is fit for use, or by the date, until which the good is fit for use.

#### **Article 444. Verification of Quality of Good**

1. The verification of the quality of a good may be provided for by the legislation, or by the contract of purchase-sale. The procedure for verification of the quality of goods shall be established by the legislation, or by the contract. If the procedure for verification has been established by the legislation, the procedure for verification of the quality of goods determined by the contract must correspond to these requirements.

2. If the procedure for the verification of the quality of a good is not established in

accordance with Clause 1 of this Article, the quality of a good shall be verified in accordance with commonly used conditions for the verification of a good, which is subject to transfer under a contract of purchase-sale.

3. If the duty of the seller to verify the quality of a good transferred to the purchaser (test, analysis, inspection etc.) has been provided for by the legislation, or by the contract of purchase-sale, the seller must provide to the purchaser the evidence of effectuation of verification of quality of the good.

4. The procedure and other conditions for verification of quality of a good, to be effectuated both by the seller and by the purchaser, must be the same.

#### **Article 445. Consequences of Transfer of Good of Improper Quality**

1. If the defects of a good were not stipulated by the seller, the purchaser to whom the good of improper quality was transferred shall have the right, at own discretion, to demand from the seller:

- 1) commensurate reduction of the purchase price;
- 2) elimination of the defects of the good within a reasonable period without compensation;
- 3) compensation of the purchaser's expenses for elimination of defects of the good.

2. In the event of significant violation of the requirements for the quality of a good (reveal of unrepairable defects, defects which can not be eliminated without disproportionate expenses or expenditures of time or are elicited repeatedly, or appear anew after their elimination, and other similar defects), the purchaser shall have the right, at own discretion, to:

- 1) refuse to perform the contract of purchase-sale and to demand the return of the monetary amount paid for the good;
- 2) demand the replacement of the good of improper quality by a good corresponding to the contract.

3. Demands concerning the elimination of defects or replacement of a good specified in Clauses 1 and 2 of this Article may be submitted by the purchaser unless it arises otherwise from the character of the good or the essence of the obligation.

4. In the event of the improper quality of part of the goods which are part of a set (Article 449), the purchaser shall have the right to exercise, with respect to this part of the goods, the rights provided for by Clauses 1 and 2 of this Article.

5. The rules provided for by this Article shall apply unless otherwise established by this Code or another acts of legislation.

#### **Article 446. Defects of Good for Which Seller is Liable**

1. The seller shall be liable for the defects of a good if the purchaser would prove that the

defects of the good arose before the transfer thereof to the purchaser or for reasons which arose before this time.

2. With respect to a good for which a guarantee of quality has been granted by the seller, the seller shall be liable for defects of the good, unless the seller would prove that the defects of the good arose after the transfer thereof to the purchaser as a consequence of a violation, by the purchaser, of the rules for the use of the good or the storage thereof, or the actions of third persons, or force majeure.

#### **Article 447. Periods for Revealing Defects in Transferred Good**

1. Unless otherwise established by the legislation or by a contract of purchase-sale, the purchaser shall have the right to submit demands connected with the defects of a good, on condition that they were revealed within the periods established by this Article.

2. If a guarantee period or a period of fitness has not been established for a good, demands connected with defects of a good may be presented by the purchaser on condition that the defects in the good sold were revealed within a reasonable period, but within the limit of two years from the date of the transfer of the good to the purchaser, or a longer period, when such period was established by the legislation or by a contract of purchase-sale. The period for eliciting the defects of a good subject to carriage or to dispatch by post shall be calculated from the date of delivery of the good at the place of its destination.

3. If a guarantee period has been established for a good, the purchaser shall have the right to submit demands connected with defects of the good in the event the defects are revealed during the guarantee period.

When a guarantee period has been established in a contract of purchase-sale for components, which is less in duration than that for the principal good, the purchaser shall have the right to submit demands connected with the defects of the components, if they are revealed during the guarantee period for the principal good.

If a guarantee period has been established in a contract for components which is of lesser duration than that for the principal good, the purchaser shall have the right to submit demands connected with defects of the components, if they are revealed during the guarantee period for it, irrespective of the expiry of the guarantee period for the principal good.

4. With respect to a good for which a period of fitness has been established, the purchaser shall have the right to submit demands connected with defects of the good if they were revealed within the period of fitness of the good.

5. In instances when the guarantee period, provided for by a contract, is less than two years, and the defects of a good are revealed by the purchaser after the expiry of the guarantee period but within the limit of two years from the day of transfer of the good to the purchaser, the seller shall bear liability if the purchaser would prove that the defects of the good arose before the transfer of the good to the purchaser or for reasons which arose before this time.

#### **Article 448. Completeness of Good**



1. The seller shall be obliged to transfer to the purchaser a good which corresponds to the conditions of the contract of purchase-sale concerning completeness.

2. When the completeness of a good has not been determined by a contract of purchase-sale, the seller shall be obliged to transfer to the purchaser a good, the completeness of which is determined by commonly presented requirements.

#### **Article 449. Complete Set of Goods**

1. If the duty of the seller to transfer to the purchaser a determined set of goods in a complete set (complete set of goods) has been provided for by a contract of purchase-sale, the obligation shall be considered to be performed from the time of the transfer of all goods included in the complete set.

2. Unless otherwise provided for by the contract of purchase-sale and does not arise from the essence of the obligation, the seller shall be obliged to transfer to the purchaser simultaneously all goods which comprise the complete set.

#### **Article 450. Consequences of Transfer of Incomplete Good**

1. In the event of the transfer of an incomplete good (Article 448) the purchaser shall have the right, at own discretion, to demand from the seller:

- 1) commensurate reduction of the purchase price;
- 2) making the good complete within a reasonable period.

2. If the seller within a reasonable period has not fulfilled the demand of the purchaser to make the good complete, the purchaser shall have the right, at own discretion, to:

- 1) demand replacement of the incomplete good by a complete one;
- 2) refuse to perform the contract of purchase-sale and demand the return of the monetary amount paid.

3. The consequences provided for by Clauses 1 and 2 of this Article shall also apply in the event of a violation by the seller of the duty to transfer a complete set of goods (Article 449) to the purchaser unless otherwise provided by the contract of purchase-sale and does not arise from the essence of the obligation.

#### **Article 451. Packaging and Packing**

1. Unless otherwise provided by the contract of purchase-sale and does not arise from the essence of the obligation, the seller shall be obliged to transfer the good to the purchaser in packaging and(or) packing, except for a good which by its character does not require packaging and(or) packing.

2. Unless the requirements for packaging and packing have been determined by the contract

of purchase-sale, the good must be packaged and(or) packed by the means usual for such good, and in the absence of such, by means ensuring the preservation of goods of such nature under the usual conditions for storage and transportation.

3. If in accordance with the procedure, established by the legislation, obligatory requirements for packaging and(or) packing have been provided for, the seller, who effectuates entrepreneurial activity, shall be obliged to transfer to the purchaser the good in packaging and(or) packing, which corresponds to these obligatory requirements.

#### **Article 452. Consequences of Transfer of Good Without Packaging and(or) Packing or in Improper Packaging and(or) Packing**

1. In instances when a good which is subject to packaging and(or) packing is transferred to the purchaser without packaging and(or) packing or in improper packaging and(or) packing, the purchaser shall have the right to demand of the seller to package and(or) to pack the good or to replace the improper packaging and(or) packing unless it arises otherwise from the essence of the obligation or the character of the good.

2. In the instances provided for in Clause 1 of this Article, the purchaser shall have the right instead of submission of demands to the seller which are specified in this Clause to submit to him demands arising from the transfer of a good of improper quality (Article 445).

#### **Article 453. Notification of Seller About Improper Performance of Contract of Purchase-Sale**

1. The purchaser shall be obliged to notify the seller about a violation of the conditions of the contract of purchase-sale concerning quantity, assortment, quality, completeness, packaging and(or) packing of the good within the period provided for by the legislation, or the contract, and if such period is not established, within a reasonable period after such violation of the respective condition of the contract should have been revealed, taking into consideration the character and intended purpose of the good.

2. In the event of the failure to fulfill the rules provided for by Clause 1 of this Article, the seller shall have the right to refuse, wholly or partially, to satisfy the demands of the purchaser concerning the transfer to him of the short quantity of the good, replacement of the good which does not correspond to the conditions of the contract of purchase-sale concerning quality or assortment, elimination of the defects of a good, to make the good complete or to replace a good which is not complete with a complete (one), the packaging and(or) packing of a good or the replacement of improper packaging and(or) packing of a good, if the seller would prove that the failure to fulfill these rules by the purchaser has entailed the impossibility of satisfying his demands or entails for the seller incommensurate expenses in comparison with those which he would bear if he had been notified in good time about the violation of the contract.

3. If the seller knew or should have known that the goods transferred to the purchaser do not correspond to the conditions of the contract of purchase-sale, he shall not have the right to refer to the provisions provided for by Clauses 1 and 1 of this Article.

#### **Article 454. Duty of Purchaser to Accept Good**

1. The purchaser shall be obliged to accept a good transferred to him except for instances when he has the right to demand the replacement of the good or to refuse performance of the contract of purchase-sale.

2. Unless otherwise provided by the legislation, or by the contract of purchase-sale, the purchaser shall be obliged to perform actions which, in accordance with requirements usually presented, are necessary on his part in order to ensure the transfer and receipt of the respective good.

3. In instances when the purchaser, in violation of the legislation or contract of purchase-sale, does not accept a good or refuses to accept it, the seller shall have the right to demand that the purchaser accept the good or to refuse performance of the contract.

#### **Article 455. Price of Good**

1. The purchaser shall be obliged to pay for a good at the price provided for by the contract of purchase-sale or, if it is not provided for by the contract and may not be determined by proceeding from the conditions thereof, at the price determined in accordance with Article 394(3) of this Code, and also to perform, at own expense, actions which in accordance with the legislation, the contract, or requirements usually presented, are necessary in order to effectuate payment.

2. When the price has been established depending on the weight of the good, it shall be determined according to net weight unless otherwise provided by the contract of purchase-sale.

3. If the contract of purchase-sale provides that the price of a good is subject to change depending upon indicators which condition the price of the good (cost of production, expenditures etc.) but does not determine the means for revision of the price, the price shall be determined by proceeding from the relation of these indicators at the time of conclusion of the contract and at the time of transfer of the good. In the event of delay by the seller of performance of the duty to transfer the good, the price shall be determined by proceeding from the relation of these indicators at the time of conclusion of the contract and at the time of transfer of the good provided for by the contract, and if it is not provided for by the contract, at the time determined in accordance with Article 295 of this Code.

The rules provided for by this Clause shall apply unless established otherwise by this Code, another acts of legislation or the contract and does not arise from the essence of the obligation.

#### **Article 456. Payment for Good**

1. The purchaser shall be obliged to pay for the good directly before or after the transfer of the good to him by the seller unless otherwise provided by this Code, another acts of legislation or by the contract of purchase-sale and does not arise from the essence of the obligation.

2. Unless payment by installment for a good has been provided by the contract of purchase-sale, the purchaser shall be obliged to pay to the seller the price of the transferred good in full.

3. If the purchaser does not pay in timely way for the good transferred in accordance with the contract of purchase-sale, the seller shall have the right to demand payment for the good and the payment of interest in accordance with Article 366 of this Code.

4. If the purchaser, in violation of the contract of purchase-sale, refuses to accept and to pay for the good, the seller shall have the right, at own discretion, to demand payment for the good or to refuse performance of the contract.

5. In instances when the seller, in accordance with the contract of purchase-sale, is obliged to transfer to the purchaser not only goods which are not paid for by the purchaser, but also other goods, the seller shall have the right to suspend the transfer of these goods until the full payment for all goods previously transferred, unless otherwise provided by the legislation or contract.

#### **Article 457. Preliminary Payment for Good**

1. In instances when the duty of the purchaser to pay for a good wholly or partially before the transfer of the good by the seller (preliminary payment) has been provided for by the contract of purchase-sale, the purchaser must make payment within the period provided for by the contract, and if such period has not been provided by the contract, within the period determined in accordance with Article 295 of this Code.

2. In the event of the failure of the purchaser to perform the duty to pay in advance for the good, the rules provided for by Article 309 of this Code shall apply.

3. In an instance when a seller who has received the amount of preliminary payment does not perform the duty to transfer the good within the established period (Article 427), the purchaser shall have the right to demand the transfer of the good paid for or the return of the amount of preliminary payment for the good not transferred by the seller.

4. Unless otherwise provided by the contract of purchase-sale, in an instance when the seller does not perform the duty relating to the transfer of the good paid for in advance, the amount of preliminary payment shall be subject to the payment of interest in accordance with Article 366 of this Code from the date when, under the contract, the transfer of the good should have been made, up to the date of the transfer of the good to the purchaser or the return to him of the amount paid in advance by him. The duty of the seller to pay interest on the amount of the preliminary payment, commencing from the date of receipt of this amount from the purchaser, may be provided for by the contract.

#### **Article 458. Payment for Good Sold on Credit**

1. In an instance when payment for a good over a determined time after the transfer thereof to the purchaser (sale of good on credit) has been provided for by the contract of purchase-sale, the purchaser must make payment within the period provided for by the contract, and if such period is not provided for by the contract, within the period determined in accordance with Article 295 of this Code.

2. In the event of the failure of the seller to perform the duty to transfer the good, the rules provided for by Article 309 of this Code shall apply.

3. In an instance when the purchaser, which received the good, does not perform the duty with regard to payment within the period established by the contract of purchase-sale, the seller shall have the right to demand payment of the good transferred or return of the goods not paid for.

4. Unless otherwise provided by this Code or by the contract of purchase-sale, in an instance when the purchaser does not perform the duty with regard to payment for the good transferred within the period established by the contract, interest shall be subject to payment on the delayed amount in accordance with Article 366 of this Code from the date when under the contract the good should have been paid for up to the date of payment for the good by the purchaser. The duty of the purchaser to pay interest on the amount corresponding to the price of the good, commencing from the date of transfer of the good by the seller, may be provided for by the contract.

5. Unless otherwise provided by the contract of purchase-sale, from the time of transfer of the good to the purchaser and up to the payment for it a good sold on credit shall be deemed to be under pledge to the seller in order to secure performance by the purchaser of its duty with regard to payment for the good.

#### **Article 459. Payment for Good by Installment**

1. Payment for a good by installment may be provided for by a contract concerning the sale of a good on credit.

A contract concerning the sale of a good on credit with a condition concerning installment payment shall be considered to be concluded if, together with the other significant conditions of the contract of purchase-sale, the price of the good and the procedure, periods, and amounts of payments have been specified.

2. When a purchaser does not make a regular payment within the period established by the contract for a good sold by installment and transferred to him, the seller shall have the right to refuse performance of the contract and to demand the return of the good sold, except for instances when the amount of payments received from the purchaser exceeds half of the price of the good.

3. The rules provided for by Article 458 (2), (4) and (5) of this Code shall apply to a contract concerning the sale of a good on credit with a condition concerning installment payment.

#### **Article 460. Insurance of Good**

The duty of the seller or purchaser to insure a good may be provided for by the contract of purchase-sale.

In an instance when a party obliged to insure a good does not effectuate insurance in accordance with the conditions of the contract, the other party shall have the right to insure

the good and demand from the obliged party compensation of expenses for the insurance or to refuse performance of the contract.

#### **Article 461. Preservation of Right of Ownership for Seller**

In instances when it is provided by a contract of purchase-sale that the right of ownership in a good transferred to the purchaser shall be preserved for the seller until payment for the good or the ensuing of other circumstances, the purchaser shall not have the right before transfer of the right of ownership to him to alienate the good or otherwise dispose of it unless otherwise provided by the legislation or contract or does not arise from the intended purpose and properties of the good.

In instances when within the period provided for by the contract the transferred good is not paid for and other circumstances do not ensue under which the right of ownership passes to the purchaser, the seller shall have the right to demand from the purchaser to return the good to him unless otherwise provided by the contract.

### **§ 2. Retail Purchase-Sale**

#### **Article 462. Contract of Retail Purchase-Sale**

1. Under a contract of retail purchase-sale the seller carrying out entrepreneurial activity relating to the sale of goods on retail, or a person carrying out handicraft activity or a one-time realization of goods at market shall be obliged to transfer to the purchaser a good intended for personal, family, home, or other use which is not connected with entrepreneurial activity.

2. A contract of retail purchase-sale shall be a public contract (Article 396).

3. The legislation concerning the defense of the rights of consumers shall apply to relations under a contract of retail purchase-sale with the participation of a citizen-purchaser, which are not regulated by this Code.

#### **Article 463. Form of Contract of Retail Purchase-Sale**

Unless otherwise provided by the legislation or a contract of retail purchase-sale, including the conditions of standard contracts or other standard forms to which the purchaser adheres (Article 398), a contract of retail purchase-sale shall be considered to be concluded in proper form from the time of the issuance by the seller to the purchaser of a cashier or goods cheque or other document confirming payment of the good. The absence of the said documents with the purchaser shall not deprive him of the possibility to refer to witness testimony in confirmation of the conclusion of the contract and its conditions.

#### **Article 464. Public Offer of Good**

1. The proposal of a good in its advertisement, catalogues, and descriptions of the goods addressed to an indefinite group of persons shall be deemed to be a public offer (Article 407(2)) if it contains all the significant conditions of the contract of retail purchase-sale.

2. Exhibition at the place of sale (on counters, in showcases, and so forth) of goods, the demonstration of models thereof, or the granting of information concerning goods being sold (descriptions, catalogues, photographs, and so forth) at the place of sale thereof shall be deemed to be a public offer irrespective of whether the price and other significant conditions of the contract of retail purchase-sale have been specified, except for an instance when the seller visibly determined that the respective goods are not intended for sale.

#### **Article 465. Granting of Information Concerning Good to Purchaser**

1. The seller shall be obliged to grant to the purchaser necessary and reliable information concerning the good proposed for sale which corresponds to the requirements established by the legislation, and those usually presented in retail trade for the content and means of granting such information.

2. The purchaser shall have the right before the conclusion of a contract of retail purchase-sale to inspect the good and demand the conducting in his presence of a verification of the properties or demonstration of the use of the good unless this is precluded in view of the character of the good and is not contrary to the rules accepted in retail trade.

3. If the purchaser has not been granted the possibility to receive information immediately at the place of sale, concerning the good, specified in Clauses 1 and 2 of this Article, he shall have the right to demand from the seller the compensation of losses caused by unfounded avoidance of conclusion of the contract of retail purchase-sale (Article 415(4)), and if the contract has been concluded, within a reasonable period to refuse performance of the contract and to require the return of the amount paid for the good and compensation of other losses.

4. A seller who has not granted the purchaser the possibility to receive respective information concerning a good shall bear liability also for defects of the good which arose after its transfer to the purchaser with respect to which the purchaser would prove that they arose in connection with the absence of such information.

#### **Article 466. Sale of Good with Condition Concerning Acceptance Thereof by Purchaser Within Determined Period**

A contract of retail purchase-sale may be concluded with a condition concerning acceptance by the purchaser of the good within a period determined by the contract during which this good may not be sold to another purchaser.

Unless otherwise provided by the contract, the failure of the purchaser to appear or the failure to perform other necessary actions in order to accept the good within the period determined by the contract may be considered by the seller as the refusal of the purchaser to perform the contract.

Additional expenses of the seller relating to ensuring the transfer of the good to the purchaser within the period determined by the contract shall be included in the price of the

good unless otherwise provided by the legislation or contract.

#### **Article 467. Sale of Goods by Samples**

1. A contract of retail purchase-sale may be concluded on the basis of familiarizing the purchaser with a sample of the good (description thereof, catalogue of goods, and so forth) proposed by the seller.

2. Unless otherwise provided by the legislation or the contract, a contract of purchase-sale for a good by a sample shall be considered to be performed from the time of delivery of the good to the place specified in the contract, and if the place of transfer of the good is not determined by the contract, from the time of delivery of the good to the purchaser at the place of residence of the citizen or location of the legal person.

3. A purchaser before the transfer of the good shall have the right to refuse performance of a contract of retail purchase-sale on condition of compensation to the seller for necessary expenses incurred in connection with the performance of actions relating to fulfillment of the contract.

#### **Article 468. Sale of Goods With Use of Automatic Machines**

1. In the instances when goods are sold with the use of automatic machines, the possessor of the automatic machines shall be obliged to bring information to purchasers concerning the seller of the goods by means of placing on the automatic machine or granting to the purchasers by other means information concerning the name (firm name) of the seller, location, work regime, and also actions which are necessary to be performed by the purchaser in order to receive the good.

2. A contract of retail purchase-sale with the use of automatic machines shall be considered to be concluded from the time of the performance of actions by the purchaser which are necessary in order to receive the good.

3. If the purchaser has not been granted a good paid for, the seller shall be obliged at the demand of the purchaser to grant the good at once to the purchaser or to return the amount paid by him.

4. In instances when an automatic machine is used to change money, or for the acquisition of banknotes for payment, or for the currency exchange, the rules concerning retail purchase-sale shall apply unless it arises otherwise from the essence of the obligation.

#### **Article 469. Sale of Good with Condition of Delivery Thereof to Purchaser**

1. In an instance when a contract of retail purchase-sale has been concluded with a condition concerning delivery of the good to the purchaser, the seller shall be obliged within the period established by the contract to deliver the good at the place specified by the purchaser, and if the place of delivery is not specified by the purchaser, at the place of residence of the citizen or location of the legal person which is the purchaser.



2. A contract of retail purchase-sale shall be considered to be performed from the time of handing of the good over to the purchaser, and in the event of his absence, to any person submitting the receipt or other document testifying to the conclusion of the contract or formalization of the delivery of the good, unless otherwise provided by the legislation or the contract or does not arise from the essence of the obligation.

3. In an instance when the time for delivery of a good for handing over to its purchaser is not determined by the contract, the good must be delivered within a reasonable period after receipt of the demand of the purchaser.

#### **Article 470. Price and Payment for Good**

1. The purchaser shall be obliged to pay for a good at the price declared by the seller at the time of concluding the contract of retail purchase-sale unless otherwise provided by the legislation, or does not arise from the essence of the obligation.

2. In an instance when preliminary payment for a good (Article 457) has been provided for by the contract of retail purchase-sale, the failure of the purchaser to pay for the good within the period established by the contract shall be deemed to be repudiation of the contract by the purchaser unless otherwise provided by agreement of the parties.

3. The rules provided for by Article 458(4) of this Code shall not be subject to application to contracts of retail purchase-sale on credit, including with a condition for payment by the purchaser for the goods by installment.

The purchaser shall have the right to pay up for the good at any time within the limits of the installment period for payment for the good established by the contract.

#### **Article 471. Contract of Hire-Sale**

It may be provided by a contract that before the transfer of the right of ownership to a good to the purchaser (Article 461) the purchaser shall be the hirer (lessee) of the good transferred to him (contract of hire-sale).

Unless otherwise provided by the contract, the purchaser shall become the owner of the good from the time of paying up the good.

#### **Article 472. Exchange of Good**

1. The purchaser shall have the right within fourteen days from the time of the transfer to him of a non-foodstuff good, unless a longer period is declared by the seller, to exchange a good bought at the place of purchase and other places declared by the seller for similar good of another size, form, dimension, style, colour, or complement, making the necessary settlement with the seller in the event of a difference in price.

If the seller does not have the good necessary for the exchange, the purchaser shall have the right to return the acquired good to the seller and to receive the monetary amount paid for it.

The demand of the purchaser concerning an exchange or return of the good shall be subject to satisfaction if the good was not used, has retained its consumer proper ties, and there is evidence of its acquisition from the particular seller.

2. A list of goods not subject to exchange or return on the grounds specified in this Article shall be determined in accordance with the procedure established by the legislation.

### **Article 473. Rights of Purchaser in Event of Sale to Him of Good of Improper Quality**

1. A purchaser to whom a good of improper quality was sold, unless its defects were stipulated by the seller, shall have the right, at own discretion, to demand:

- 1) replacement of the poor-quality good by a good of proper quality;
- 2) commensurate reduction of the purchase price;
- 3) immediate elimination of the defects of the good without compensation;
- 4) compensation of expenses for elimination of the defects of the good.

The purchaser shall have the right to demand the replacement of a technically sophisticated or expensive good in the event of a significant violation of the requirements for quality (Article 445(2)).

2. In the event of revealing of defects of a good whose properties do not enable them to be eliminated (foodstuffs, domestic sundries, and so forth) the purchaser shall have the right, at own discretion, to demand the replacement of such good by a good of proper quality or commensurate reduction of the purchase price.

3. Instead of presenting the demands provided for by Clauses 1 and 2 of this Article, the purchaser shall have the right to refuse performance of the contract of retail purchase-sale and to demand the return of the monetary amount paid for the good.

In so doing, the purchaser must, at the demand of the seller and at his expense, return the good of improper quality received.

In the event of the return to the purchaser of the monetary amount paid for the good, the seller shall not have the right to retain from it the amount by which the value of the good was lowered because of the full or partial use of the good, loss of goods appearance, or other similar circumstances.

### **Article 474. Compensation of Difference in Price in Event of Replacement of Good, Reduction of Purchase Price, and Return of Good of Improper Quality**

1. In the event of the replacement of a poor-quality good not corresponding to the contract of retail purchase-sale with a good of proper quality, the seller shall not have the right to demand compensation of the difference between the price of the good established by the contract and the price of the good existing at the time of replacement of the good or rendering by a court of a decision concerning replacement of the good.

2. In the event of the replacement of a poor-quality good by the similar good of proper quality, different in dimension, style, quality, or other indicia, the difference between the price of the good being replaced at the time of replacement and the price of the good being transferred in place of the good of improper quality shall be subject to compensation.

If the demand of the purchaser is not satisfied by the seller, the price of the good being replaced and the price of the good being transferred in place of it shall be determined at the time of rendering of the decision by a court concerning replacement of the good.

3. In the event a demand is presented concerning a commensurate reduction of the purchase price of the good, the price of the good at the time of presenting the demand concerning the price reduction shall be taken into consideration, and if the demand of the purchaser is not satisfied voluntarily, at the time of rendering of a decision by a court, concerning the commensurate reduction of the price.

4. In the event of the return to the seller of a good of improper quality the purchaser shall have the right to require compensation for the difference between the price of the good established by the contract of retail purchase-sale and the price of the respective good at the time of voluntary satisfaction of his demand, and if the demand is not satisfied voluntarily, at the time of the rendering of a decision by the court.

#### **Article 475. Liability of Seller and Performance of Obligation in Kind**

In the event of the failure of the seller to perform an obligation under the contract of retail purchase-sale, compensation of losses and the payment of a penalty shall not relieve the seller from performance of the obligation in kind.

### **§ 3. Delivery of Goods**

#### **Article 476. Contract of Delivery**

Under a contract of delivery the supplier-seller carrying out entrepreneurial activity shall be obliged to transfer goods produced or purchased by him within the stipulated period(s) to the purchaser for use in entrepreneurial activity or for other purposes not connected with personal, family, home, and other similar use.

#### **Article 477. Settlement of Disputes When Concluding Contract of Delivery**

1. In an instance when in concluding a contract of delivery disputes arose between the parties with regard to individual conditions of the contract, the party proposing to conclude the contract and receiving a proposal from the other party to agree these conditions must within thirty days from the date of receipt of this proposal, unless another period has been established by the legislation or has been agreed by the parties, take measures relating to agreeing the respective conditions of the contract or inform the other party in writing of his refusal to conclude it.

2. The party who received the proposal relating to respective conditions of the contract but did not take measures relating to agreeing the conditions of the contract of delivery and did not inform the other party about the refusal to conclude the contract within the period provided for by Clause 1 of this Article shall be obliged to compensate the losses caused by the avoidance of agreeing the conditions of the contract.

#### **Article 478. Periods for Delivery of Goods**

1. In an instance when the delivery of goods has been provided for by the parties within the period of operation of the contract of delivery by individual lots and the periods of delivery of the individual lots (delivery periods) have not been determined therein, the goods must be delivered in lots of equal measure monthly unless it arises otherwise from the legislation or from the essence of the obligation.

2. Together with the determination of the periods of delivery a delivery schedule for the goods (ten-day, twenty-four hour, hour, and so forth) may be established in the contract of delivery.

3. Goods may be delivered before time with the consent of the purchaser.

Goods delivered before time and accepted by the purchaser shall be credited to the quantity of goods subject to delivery within the following period.

#### **Article 479. Procedure for Delivery of Goods**

1. The delivery of goods shall be effectuated by the supplier by means of shipment (transfer) of the goods to the purchaser who is a party to the contract of delivery or to the person specified in the contract as the recipient.

2. In an instance when the right of the purchaser has been provided for by the contract of delivery to give an instruction to the supplier concerning the shipment (transfer) of the goods to the recipients (shipment order), the shipment (transfer) of the goods shall be effectuated by the supplier to the recipients specified in the shipment order.

The content of a shipment order and the period for sending it by the purchaser to the supplier shall be determined by the contract. If the period for sending the shipment order is not provided for by the contract, it must be sent to the supplier not later than thirty days before the ensuing of the delivery period.

3. The failure of the purchaser to submit the shipment order within the established period shall give the supplier the right either to refuse performance of the contract of delivery or to require payment for the goods from the recipient. In addition, the supplier shall have the right to require compensation of losses caused in connection with the failure to submit the shipping order.

#### **Article 480. Delivery of Goods**

1. The delivery of goods shall be effectuated by the supplier by means of the shipment thereof by transport provided for by the contract of delivery and on the conditions determined in the contract.

In instances when what type of transport or on what conditions the delivery shall be effectuated is not determined in the contract, the right of choice of the type of transport or determination of the conditions of delivery of the goods shall belong to the supplier unless it arises otherwise from the legislation or the essence of the obligation.

2. The receipt of goods by the purchaser (recipient) at the location of the supplier (selection of goods) may be provided for by the contract of delivery.

If the period of selection is not provided for by the contract, the selection of goods by the purchaser (recipient) must be made within a reasonable period after the receipt of the notice of the supplier concerning the readiness of the goods.

#### **Article 481. Augmentation of Short Deliveries of Goods**

1. The supplier who has permitted a short delivery of goods in an individual period of delivery shall be obliged to augment the short-delivered quantity of goods within the following period(s) within the limits of the period of operation of the contract of delivery unless otherwise provided by the contract.

2. In an instance when goods have been shipped by the supplier to several recipients specified in the contract of delivery or shipment order of the recipient, the goods delivered to one recipient in excess of the quantity provided for in the contract or shipment order shall not be credited to cover the short delivery to other purchasers unless otherwise provided by the contract.

3. The purchaser shall have the right, having informed the supplier, to refuse acceptance of the goods which delivery has been delayed unless otherwise provided in the contract. The goods delivered before receipt of the notice by the supplier the purchaser shall be obliged to accept and to pay for.

#### **Article 482. Assortment of Goods When Augmenting Short Delivery**

1. The assortment of goods whose short delivery is subject to augmentation shall be determined by agreement of the parties. In the absence of such agreement the supplier shall be obliged to augment the short-delivered quantity of the goods in the assortment established for that period in which the short delivery was committed.

2. The delivery of goods of one name in a larger quantity than is provided for the contract of delivery shall not be credited towards covering the short delivery of goods of another name within the same assortment and shall be subject to augmentation except for instances when such delivery was made with the prior written consent of the purchaser.

#### **Article 483. Acceptance of Goods by Purchaser**

1. The purchaser (recipient) shall be obliged to perform all necessary actions ensuring the acceptance of goods delivered in accordance with the contract of delivery.

2. Goods accepted by the purchaser (recipient) must be inspected by him within the period determined by the legislation or the contract of delivery.

The purchaser (recipient) shall be obliged within the same period to verify the quantity and quality of the goods accepted in accordance with the procedure established by the legislation or the contract and to inform the supplier about elicited nonconformities or short deliveries of goods immediately in writing.

3. In the event of the receipt of goods delivered from a transport organization, the purchaser (recipient) shall be obliged to verify the conformity of the goods to the information specified in the transport and accompanying documents, and also to accept these goods from the transport organization in compliance with the rules provided for by the legislation regulating the activity of transport.

#### **Article 484. Custody of Good Not Accepted by Purchaser**

1. When the purchaser (recipient) in accordance with the legislation, or contract of delivery refuses a good transferred by the supplier, he shall be obliged to ensure the preservation of this good (custody) and immediately notify the supplier.

2. The supplier shall be obliged to remove the good accepted by the purchaser (recipient) for custody or to dispose of it within a reasonable period.

If the supplier within this period does not dispose of the good, the purchaser shall have the right to realize the good or to return it to the supplier.

3. Necessary expenses incurred by the purchaser in connection with the acceptance of the good for custody, realization of the good, or the return thereof to the seller shall be subject to compensation by the supplier.

In so doing, that received from the realization of the good shall be transferred to the supplier, deducting that due to the purchaser.

4. In instances when the purchaser does not accept a good from the supplier or refuses acceptance thereof without grounds established by the legislation or the contract, the supplier shall have the right to require payment for the good from the purchaser.

#### **Article 485. Selection of Goods**

1. When the selection of goods by the purchaser (recipient) has been provided for by the contract of delivery at the location of the supplier (Article 480(2)), the purchaser shall be obliged to effectuate the inspection of the goods to be transferred to the place of their transfer unless otherwise provided by the legislation, or it does not arise from the essence of the obligation.

2. The failure of the purchase (recipient) to select goods within the period established by the

contract of delivery, and in the absence thereof within a reasonable period after receipt of the notice of the supplier concerning the readiness of the goods shall give the supplier the right to refuse performance of the contract or to require payment for the goods from the recipient.

#### **Article 486. Settlement of Accounts for Goods to be Delivered**

1. The purchaser shall pay for delivered goods in compliance with the procedure and form for the settlement of accounts provided for by the contract of delivery. If the procedure and form for the settlement of accounts has not been determined by agreement of the parties, the settlement of accounts shall be effectuated by payment orders.

2. If it is provided by a contract of delivery that the payment for goods is effectuated by the recipient (payer) and the latter unfoundedly has refused to pay or did not pay for the goods within the period established by the contract, the supplier shall have the right to require payment for the goods delivered from the purchaser.

3. In an instance when the delivery of goods by individual parts within a set is provided for in a contract of delivery, payment for the goods by the purchaser shall be made after the shipment (selection) of the last part within the set unless otherwise established by the contract.

#### **Article 487. Packaging and Packing**

Unless otherwise established by the contract of delivery, the purchaser (recipient) shall be obliged to return to the supplier nondisposable packaging and means of packing in which the good arrived in accordance with the procedure and within the periods established by the legislation.

Other packaging, and also packing, of the good shall be subject to return to the supplier only in the instances provided for by the contract.

#### **Article 488. Consequences of Delivery of Goods of Improper Quality**

1. The purchaser (recipient) to whom the goods of improper quality are delivered shall have the right to submit demands to the supplier provided for by Article 445 of this Code except for the instance when the supplier who received the notice of the purchaser concerning defects of the delivered goods replaces without delay the goods delivered with goods of the proper quality.

2. The purchaser (recipient) carrying out the sale of goods delivered to him at retail shall have the right to demand the replacement of a good of improper quality, returned by a consumer, within a reasonable period, unless otherwise provided by the contract of delivery.

#### **Article 489. Consequences of Delivery of Incomplete Goods**

1 The purchaser (recipient) to whom goods have been delivered in violation of the

conditions of a contract of delivery, the requirements of the legislation, or requirements usually presented for completeness shall have the right to submit the demands to the supplier provided for by Article 450 of this Code, except for the instance when the supplier who has received notice of the purchaser concerning the incompleteness of the delivered goods without delay makes the goods complete or replaces them with complete goods.

The purchaser (recipient) carrying out the sale of goods at retail shall have the right to demand replacement of the incomplete goods, returned by a consumer, within a reasonable period with complete ones, unless otherwise provided by the contract of delivery.

## **Article 490. Rights of Purchaser in Event of Failure to Deliver Goods, Failure to Fulfill Requirements**

### **Concerning Elimination of Defects of Goods or Completing Sets of Goods**

1. If the supplier does not deliver the quantity of goods provided for by the contract of delivery or did not fulfill the demands of the purchaser concerning the replacement of poor-quality goods or concerning the completion of the sets of goods within the established period, the purchaser shall have the right to acquire the nondelivered goods from other persons, relegating to the supplier all necessary and reasonable expenses for the acquisition thereof.

2. The calculation of the expenses of the purchaser for the acquisition of goods from other persons in instances of the short delivery thereof by the supplier or the failure to fulfill the demands of the purchaser concerning elimination of the defects of the goods or concerning the completion of sets of the goods shall be made according to the rules provided for by Article 494(1) of this Code.

3. The purchaser (recipient) shall have the right to refuse to pay for goods of improper quality and incomplete goods, and if such goods have been paid for, to require the return of the paid amounts until elimination of the defects and completion of the sets of the goods or the replacement thereof.

## **Article 491. Penalty for Short Delivery or Delay of Delivery of Goods**

The penalty established by the legislation or contract of delivery for the short delivery or delay of delivery of goods shall be recovered from the supplier until the actual performance of the obligation within the limits of his duty to augment the short-delivered quantity of goods within subsequent delivery periods unless another procedure for payment of the penalty has been established by the legislation or the contract.

## **Article 492. Cancellation of Obligations of Same Kind Under Several Contracts of Delivery**

1. In instances when the delivery of goods of the same name is effectuated by the supplier to the purchaser simultaneously under several contracts of delivery and the quantity of goods delivered is insufficient in order to cancel the obligations of the supplier under all the contracts, the goods delivered must be credited to the performance of the contract specified by



the supplier when carrying out delivery or without delay after the delivery.

2. If the purchaser paid the supplier for goods of one name received under several contracts of delivery and the amounts of payment are insufficient to cancel the obligations of the purchaser under all the contracts, the amount paid must be credited to performance of the contract specified by the purchaser when carrying out payment for the goods or without delay after payment.

3. If the supplier or purchaser did not take advantage of the rights granted respectively by Clauses 1 and 2 of this Article, the performance of the obligation shall be credited to cancellation of the obligations under the contract whose period of performance ensued earlier. If the period of performance of obligations under several contracts has ensued simultaneously, the performance granted shall be credited in proportion to the cancellation of obligations under all the contracts.

### **Article 493. Unilateral Refusal of Performance of Contract of Delivery**

1. A unilateral refusal of performance of a contract of delivery (wholly or partially) or a unilateral change thereof shall be permitted in the event of a material violation of the contract by one of the parties (Article 420(2)).

2. A violation of a contract of delivery by the supplier shall be presupposed to be material in instances of:

the delivery of goods of improper quality with defects which can not be eliminated within a period acceptable to the purchaser;

the repeated violation of the periods for delivery of goods.

3. The violation of a contract of delivery by the purchaser shall be presupposed to be material in instances of:

the repeated violation of the periods for the payment of goods;

the repeated failure to select goods.

4. A contract of delivery shall be considered to be changed or dissolved from the time of receipt by one party of notice by the other party concerning the unilateral refusal of performance of the contract wholly or partially unless another period for dissolution or change of the contract is provided for in the notice or has been determined by agreement of the parties.

### **Article 494. Calculation of Losses in Event of Dissolution of Contract**

1. If within a reasonable period after dissolution of the contract as a consequence of a violation of an obligation by the seller the purchaser has bought from another person a good at a higher but reasonable price in place of that provided for by the contract, the purchaser may submit a demand to the seller concerning compensation of losses in the form of the difference between the price established in the contract and the price of the transaction concluded in lieu.

2. If within a reasonable period after dissolution of the contract as a consequence of a violation of an obligation by the purchaser the seller has sold the good to another person at a lower but reasonable price than that provided for by the contract, the seller may submit a demand to the purchaser concerning compensation of losses in the form of the difference between the price established in the contract and the price for the transaction concluded in lieu.

3. If after the dissolution of a contract on the grounds provided for by Clauses 1 and 2 of this Article a transaction has not been concluded in place of the dissolved contract and for the particular good there is a current price, a party may submit a demand concerning compensation of losses in the form of the difference between the price established in the contract and the current price at the time of dissolution of the contract.

The current price shall be deemed to be the price usually recovered under comparable circumstances for an similar good at the place where the transfer of the good should have been effectuated. If a current price does not exist at that place, the current price applied in another place may be used which may serve as a reasonable replacement, taking into account the difference in expenses for the transportation of the good.

3. Satisfaction of the demands provided for by Clauses 1, 2, and 3 of this Article shall not relieve the party which did not perform or which improperly performed the obligation from compensation of other losses caused to the other party on the basis of Article 14 of this Code.

#### **§ 4. Delivery of Goods for State Needs**

##### **Article 495. Grounds for Delivery of Goods for State Needs**

1. The delivery of goods for state needs shall be effectuated on the basis of a state contract for the delivery of goods for state needs, and also contracts for delivery of goods concluded in accordance therewith for state needs (Article 499(2)). state needs shall be deemed to be requirements of the Republic of Belarus or its administrative territorial units determined in accordance with the procedure established by the legislation which are ensured, as a rule, at the expense of assets of the budgets and extrabudgetary sources of financing.

2. The rules concerning the contract of delivery (Articles 476-493) shall apply to relations relating to the delivery of goods for state needs unless otherwise provided by this Code or other acts of legislation.

The legislation on the delivery of goods for state needs shall apply to relations relating to the delivery of goods for state needs in the part not regulated by the present paragraph.

3. The legislative acts may provide for another order of delivery of goods for state needs.

##### **Article 496. State Contract for Delivery of Goods for State Needs**

Under a state contract for the delivery of goods for state needs thereafter referred to as state contract), the supplier (executor) shall be obliged to transfer the goods to the state customer or at his instruction to another person, and the state customer shall be obliged to

ensure payment for the goods delivered.

#### **Article 497. Grounds for Conclusion of State Contract**

1. A state contract shall be concluded on the basis of the order of a state customer for the delivery of goods for state needs accepted by the supplier (executor).

The conclusion of a state contract shall be obligatory for the state customer which placed the order accepted by the supplier (executor).

2. The conclusion of a state contract shall be obligatory for the supplier (executor) only in the instances established by the legislation and on condition that the State customer will compensate all losses which may be caused to the supplier (executor) in connection with the fulfillment of the state contract.

3. The condition concerning compensation of losses provided for by Clause 2 of this Article shall not apply with respect to a fisc enterprise.

4. If the order for the delivery of goods for state needs is placed according to a competition, the conclusion of a state contract with the supplier (executor) who is declared the winner of the competition shall be obligatory for the state customer.

#### **Article 498. Procedure for Conclusion of State Contract**

1. The draft state contract shall be worked out by the state customer and sent to the supplier (executor) unless otherwise provided by agreement between them.

2. The party who has received the draft state contract shall sign it within not later than a thirty-day period and return one example of the state contract to the other party, and if there are disagreements regarding the conditions of the state contract shall draw up within the same period a protocol of disagreements and send it together with the signed state contract to the other party or inform it of the refusal to conclude the state contract.

3. The party who has received the state contract with the protocol of disagreements must within thirty days consider the disagreements, take measures to agree them with the other party, and inform the other party about the acceptance of the state contract in the wording thereof or reject the protocol of disagreements.

In the event of the rejection of the protocol of disagreements or expiry of this period, the unsettled disagreements with regard to the state contract whose conclusion is obligatory for one of the parties may be transferred by the other party within not later than thirty days for the consideration of a court.

4. In an instance when a state contract is concluded according to the results of a competition for the placement of an order for the delivery of goods for state needs, the state contract must be concluded not later than twenty days from the date of conducting the competition.

5. If the party for which the conclusion of a state contract is obligatory evades the conclusion thereof, the other party shall have the right to apply to a court with the demand to compel this party to conclude the state contract.

#### **Article 499. Conclusion of Contract for Delivery of Goods for State Needs**

1. If it is provided by a state contract that the delivery of goods shall be effectuated by a supplier (executor) determined by the state customer to the purchaser under contracts for delivery of goods for state needs, the state customer shall not later than a thirty-day period from the date of signing of the state contract send notice to the supplier (executor) and to the purchaser concerning the attachment of the purchaser to the supplier (executor).

The notice concerning the attachment of the purchaser to the supplier (executor) issued by the state customer in accordance with the state contract shall be grounds for the conclusion of the contract for delivery of goods for state needs.

2. The supplier (executor) shall be obliged to send the draft contract for delivery of goods for state needs to the purchaser specified in the notice concerning the attachment not later than thirty days from the date of receipt of the notice from the state customer unless another procedure for the preparation of the draft contract is provided for by the state contract or the draft contract is not submitted by the purchaser.

3. The party who has received the draft contract for delivery of goods for state needs shall sign it and return one example to the other party within thirty days from the date of receipt of the draft, and if there are disagreements with regard to the contract to draw up within this same period a protocol of disagreements and send it together with the signed contract to the other party.

4. The party who has received the signed draft contract for delivery of goods for state needs with the protocol of disagreements must within thirty days consider the disagreements, take measures to agree the conditions of the contract with the other party, and notify the other party about the acceptance of the contract in the wording thereof, or about rejection of the protocol of disagreements. The unsettled disagreements within a thirty-day period may be transferred by the interested party for consideration of a court.

5. If the supplier (executor) evades conclusion of the contract for delivery of goods for state needs, the purchaser shall have the right to apply to a court with a demand concerning compelling the supplier (executor) to conclude the contract on the conditions of the draft contract worked out by the purchaser.

#### **Article 500. Refusal of Purchaser to Conclude Contract for Delivery of Goods for State Needs**

1. The purchaser shall have the right wholly or partially to refuse goods specified in the notice concerning attachment and to refuse to conclude the contract for the delivery thereof.

In this event the supplier (executor) must immediately inform the state customer and shall have the right to demand from him notice concerning attachment to another purchaser.

2. The state customer shall not later than thirty days from the date of receipt of the notification of the supplier (executor) either issue the notice concerning attachment of another purchaser to him or send to the supplier (executor) a shipment order specifying the recipient of the goods or communicate his consent to accept and to pay for the goods.

In the event of the failure to fulfill the duties provided for by Clause 2 of this Article by the state customer, the supplier (executor) shall have the right either to require the state customer to accept and pay for the good or to realize the good at his discretion, relegating reasonable expenses connected with the realization thereof to the state customer.

#### **Article 501. Performance of State Contract**

1. In instances when in accordance with the conditions of the state contract the delivery of goods is effectuated directly to the state customer or at his instruction (shipment order) to another person (recipient), the relations of the parties with regard to the performance of the state contract shall be regulated by the rules provided for by Articles 476-493 of this Code.

2. In instances when the delivery of goods for state needs is effectuated by the recipient specified in the shipment order, the goods shall be paid for by the state customer unless another procedure for the settlement of accounts is provided for by the state contract.

#### **Article 502. Payment for Good Under Contract for Delivery of Goods for State Needs**

In the event of the delivery of goods to purchasers under contracts for delivery of goods for state needs, the goods shall be paid for by the purchasers at the prices determined in accordance with a state contract unless another procedure for determining the prices and settlement of accounts has been provided for by the state contract.

In the event of payment by the purchaser for goods under a contract for delivery of goods for state needs, the State customer shall be deemed to be a surety of the purchaser with regard to this obligation (Articles 341-347).

#### **Article 503. Compensation of Losses Caused in Connection with Fulfillment or Dissolution of State Contract**

1. Unless otherwise provided by legislation on the delivery of goods for state needs or by the state contract, losses which were caused to the supplier (executor) in connection with the fulfillment of the state contract (Article 497(2)) shall be subject to compensation by the state customer not later than thirty days from the date of transfer of the good in accordance with the state contract.

2. In an instance when losses caused to the supplier (executor) in connection with the fulfillment of a state contract are not compensated in accordance with the state contract, the supplier (executor) shall have the right to refuse performance of the state contract and require compensation of losses caused by the dissolution of the state contract.

3. In the event of the dissolution of the state contract with regard to the grounds specified in Clause 2 of this Article, the supplier shall have the right to refuse performance of the contract for delivery of the good for state needs.

Losses caused to the purchaser by such refusal of the supplier shall be compensated by the state customer.

#### **Article 504. Refusal by State Customer of Goods Delivered Under State Contract**

In the instances provided for by the legislation, the state customer shall have the right wholly or partially to refuse goods whose delivery is provided for by the state contract on condition of the compensation to the supplier (executor) of losses caused by such refusal.

If the refusal by a state customer of goods whose delivery is provided for by a state contract entails the dissolution or change of the contract for delivery of goods for state needs, the losses caused to the purchaser by such dissolution or change shall be compensated by the state customer.

### **§ 5. Agricultural Procurement Contract**

#### **Article 505. Contract of Agricultural Procurement**

1. Under a contract of agricultural procurement the producer of agricultural products shall be obliged to transfer the agricultural products grown (produced) by him to the person carrying out the purchase of such products for processing or sale (the procurer).

2. The rules concerning the contract of delivery (Articles 476-494), and in respective instances concerning the delivery of goods for state needs (Articles 495 to 504) shall apply to relations under the contract of agricultural procurement which are not regulated by the rules of the present paragraph.

#### **Article 506. Duties of Producer of Agricultural Product**

1. The producer of an agricultural product shall be obliged to produce and transfer to the procurer the agricultural product in compliance with the requirements of the contract of agricultural procurement concerning period of transfer, quantity, quality and assortment of the agricultural product.

2. The duty of the producer of the agricultural product to organize the agricultural production, providing obtaining of agricultural product of necessary assortment and quality, may be stipulated by the contract of agricultural procurement.

3. The producer of the agricultural product must submit to the procurer, upon the request of the latter, a report on using of financial and material means received.

#### **Article 507. Duties of Procurer**

1. The procurer must provide financial and material means, stipulated by the contract of agricultural procurement, to the producer of the agricultural product, and render technical

assistance for effectuation of production of agricultural product.

2. Unless otherwise provided by the contract of agricultural procurement, the procurer shall be obliged to accept the agricultural product from the producer at the location thereof and to ensure carriage thereof from the producer.

3. The duty of the procurer to accept from the producer, under the conditions established in the contract, all agricultural products produced by the latter.

4. The duty of the procurer carrying out the processing of agricultural products may be provided for by the contract of agricultural procurement to return to the producer, at his demand, the wastes from the processing of agricultural products with payment at the price determined by the contract of agricultural procurement.

### **Article 508. Performance of Contract of Agricultural Procurement**

1. The period for performance of the contract of agricultural procurement shall be determined by the agreement of the parties, taking into consideration the terms (periods) of production of the agricultural product.

2. If the agricultural product is subject to delivery in packing or packaging, the procurer shall provide for the producer of the agricultural product necessary packing and packaging materials in quantity and within the periods, established by the contract of agricultural procurement.

3. Unless otherwise provided by the contract of agricultural procurement, the procurer shall not have the right to refuse to accept partial performance of the contract.

4. In an instance when the acceptance of an agricultural product is effectuated at the location of the procurer or other place specified by him, the procurer shall not have the right to refuse to accept the agricultural product which corresponds to the conditions of the contract of agricultural procurement and transferred to the procurer within the period stipulated by the contract.

### **Article 509. Consequences of Failure to Perform or Improper Performance of Contract of Agricultural Procurement**

1. When it becomes certainly known for the procurer, that the agricultural product cannot be produced and transferred in compliance with the requirements of the contract of agricultural procurement concerning quantity, quality and assortment of the agricultural product, the procurer shall have the right to demand dissolution or change of the contract.

2. The producer of an agricultural product who has not performed the obligation or has improperly performed the obligation shall bear liability when his fault exists.

3. If, as the consequence of the circumstances, for which neither of parties is liable, the producer of agricultural product cannot produce the agricultural product and transfer it to the procurer, he must return the deposit received.

4. The producer of agricultural product must inform the procurer about impossibility to

supply agricultural product in the consequence of circumstances, for which the producer is not liable. Failure to perform this duty through the fault of the producer shall deprive the latter of the right to refer to these circumstances.

## **§ 6. Electric Power Supply**

### **Article 510. Contract of Electric Power Supply**

1. Under a contract of electric power supply the power supply organization shall be obliged to provide electric power to the subscriber (consumer) through the connected network, and the subscriber shall be obliged to pay for the electric power accepted, and also to comply with the consumption regime provided for by the contract, ensure the safety of operation of the electric power networks within its jurisdiction and the good repair of the instruments and equipment, used by it, connected with the consumption of electric power.

2. The contract of electric power supply shall be concluded with the subscriber when he has an electric power receiving device which meets the established technical requirements and is connected to the networks of the electric power supply organization, and other necessary equipment, and also when the recording of the consumption of electric power is ensured.

### **Article 511. Conclusion and Extension of Contract of Electric Power Supply**

1. In an instance when a citizen who is using electric power for domestic consumption is a subscriber under the contract of electric power supply, the contract shall be considered to be concluded from the time of first actual connection of the subscriber to the connected network in accordance with the established procedure.

Unless otherwise provided by agreement of the parties, such a contract shall be considered to be concluded for an indefinite period and may be changed or dissolved on the grounds provided for by Article 517 of this Code.

2. The contract of electric power supply concluded for a determined period shall be considered to be extended for the same period and on the same conditions unless one of the parties declares the termination or change thereof or the conclusion of a new contract before the end of the period of its operation.

3. If one of the parties before the end of the period of operation of the contract has made a proposal to conclude a new contract, the relations of the parties until the conclusion of the new contract shall be regulated by the previously concluded contract.

### **Article 512. Quantity of Electric Power**

1. The electric power supply organization shall be obliged to provide the subscriber with electric power through the connecting network in the quantity provided for by the contract of electric power supply and in compliance with the regime of supply agreed by the parties. The quantity of electric power provided by the electric power supply organization and used by the subscriber shall be determined in accordance with the record data concerning the actual



consumption thereof.

2. The right of the subscriber to change the quantity of electric power used by him as determined by the contract may be provided for by the contract of electric power supply on condition of compensation by him of expenses incurred by the electric power supply organization in connection with ensuring the provision of electric power in a quantity not stipulated by the contract.

3. In an instance when a citizen using electric power for domestic consumption is the subscriber under the contract of electric power supply, he shall have the right to use electric power in the quantity necessary for him.

### **Article 513. Quality of Electric Power**

1. The quality of electric power provided by the electric power supply organization must correspond to the mandatory requirements of technical normative legal acts in the sphere of rate setting and standardization, requirements established by other acts of Republic's bodies of state administration or provided for by the contract of electric power supply.

2. In the event of a violation by the electric power supply organization of the requirements for quality of electric power, the subscriber shall have the right to refuse payment for such electric power. In so doing, the electric power supply organization shall have the right to demand compensation by the subscriber for the cost of that which the subscriber saved unfoundedly as a consequence of the use of this electric power (Article 974(2)), unless otherwise provided by the legislation.

### **Article 514. Duties of Subscriber for Maintenance and Operation of Networks, Instruments, and Equipment**

1. The subscriber shall be obliged to ensure the proper technical condition and safety of electric power networks, instruments and equipments, being operated, to comply with the established consumption regime for electric power, and also immediately to notify the electric power supply organization about accidents, fires, the disrepair of instruments for recording electric power, and other violations arising when using electric power.

2. In an instance when a citizen is a subscriber under a contract of electric power supply who is using electric power for domestic consumption, the duty to ensure the proper technical state and safety of the electric power networks, and also the instruments for recording the consumption of electric power, shall be placed on the electric power supply organization unless otherwise established by the legislation. At that, the subscriber shall ensure the access of representative of the electric power supply organization to electric power networks, instruments for recording electric power unless otherwise established by legislative acts.

3. The requirements for the technical condition and operation of electric power networks, instruments, and equipment, and also the procedure for carrying out control over compliance therewith, shall be determined by the legislation, and the acts of Republic's bodies of state administration adopted in accordance therewith.

### **Article 515. Payment for Electric Power**

1. Payment for electric power shall be made for the quantity of electric power actually accepted by the subscriber in accordance with the data of recording electric power unless otherwise provided by the legislation or agreement of the parties.

2. The procedure for the settlement of accounts for electric power shall be determined by the legislation or agreement of the parties.

### **Article 516. Sub-subscriber**

1. A subscriber may transfer electric power accepted by him from the electric power supply organization through the connecting network to another person (sub-subscriber) on the basis of a contract only with the consent of the electric power supply organization.

2. The rules of this paragraph shall apply to the contract on the transfer of electric power to a sub-subscriber unless otherwise established by legislative acts.

3. At the transfer of power to the sub-subscriber, the subscriber remains responsible before the electric power supply organization unless otherwise established by legislative acts.

### **Article 517. Change and Dissolution of Contract of Electric Power Supply**

1. In an instance when a citizen is a subscriber under a contract of electric power supply who is using electric power for domestic consumption, he shall have the right to dissolve the contract unilaterally on condition of informing in writing the electric power supply organization thereabout and of payment in full for the electric power used.

In an instance when a legal person is a subscriber under the contract of electric power supply, the electric power supply organization shall have the right to refuse performance of the contract unilaterally on the grounds provided for by Article 493(3), Subclause 1, of this Code, except for instances established by the legislation.

2. An interruption in provision or the termination or limitation of provision of electric power shall be permitted by agreement of the parties, except for instances when the unsatisfactory state of electric power devices of the subscriber certified by a state electric power supervision body threatens an accident or creates a threat to the life and safety of citizens. The electric power supply organization must warn the subscriber about an interruption in provision or the termination or limitation of provision of electric power.

### **Article 518. Liability Under Contract of Electric Power Supply**

1. In instances of the failure to perform or the improper performance of obligations under a contract of electric power supply, the party who has violated the obligation shall be obliged to compensate the real damage caused by this (Article 14(2)).

2. If as a result of the regulation of the consumption regime for electric power effectuated on the basis of a legislation or other legal acts an interruption in the provision of electric power to the subscriber is committed, the electric power supply organization shall bear liability for the failure to perform or the improper performance of contractual obligations when there is fault thereof.

#### **Article 519. Application of Rules on Electric Power Supply to Other Contracts**

1. The rules provided for by Articles 510-518 of this Code shall apply to relations connected with the supply of heating electric power through a connecting network unless otherwise established by the legislation.

2. The rules concerning the contract of electric power supply (Articles 510-518) shall apply to relations connected with supply through a connecting network of gas, oil and oil products, water, and other goods unless otherwise established by the legislation, or does not arise from the essence of the obligation.

### **§ 7. Sale of Immovable Property**

#### **Article 520. Contract of Sale of Immovable Property**

1. Under a contract of purchase-sale immovable property (contract of sale of immovables) the seller shall be obliged to transfer to the ownership of the purchaser a land plot, building, installation, apartment, or other immovable property (Article 130(1)).

2. The rules provided for by the present paragraph shall apply to the sale of enterprises insofar as not provided otherwise by the rules concerning the contract of sale of an enterprise (Articles 530-537).

#### **Article 521. Form of Contract of Sale of Immovable Property**

A contract of sale of an immovable property shall be concluded in written form by means of drawing up one document signed by the parties (Article 404(2)).

The failure to comply with the form of the contract of sale of an immovable property shall entail its invalidity.

#### **Article 522. State Registration of Transfer of Right of Ownership to Immovable Property**

1. The transfer of the right of ownership to an immovable property under a contract of sale of an immovable property to a purchaser shall be subject to state registration.

2. The performance of a contract of sale of an immovable property by the parties before state registration of the transfer of the right of ownership shall not be grounds for a change of

their relations with third persons.

3. In an instance when one of the parties evades state registration of the transfer of the right of ownership to an immovable property a court shall have the right at the demand of the other party to render a decision concerning state registration of the transfer of the right of ownership. The party which unfoundedly evaded state registration of the transfer of the right of ownership must compensate the other party for losses caused by the delay of registration.

**Article 523.** [Excluded]

**Article 524.** [Excluded]

#### **Article 525. Determination of Subject in Contract of Sale of Immovable Property**

Data must be specified in a contract of sale of an immovable property enabling the immovable property subject to transfer to the purchaser under the contract to be established definitely, including data determining the location of the immovable property on the respective land plot or as part of other immovable property.

In the absence of such data in the contract, the condition concerning immovable property subject to transfer shall be considered to be not agreed by the parties, and the respective contract shall not be considered to be concluded.

#### **Article 526. Price in Contract of Sale of Immovable Property**

1. The contract of sale of an immovable property must provide for the price of this property.

In the absence in the contract of a condition concerning the price of the immovable property agreed by the parties in written form, the contract concerning the sale thereof shall be considered to be not concluded, In so doing, the rules for determining the prices provided for by Article 394(3) of this Code shall not apply.

2. Unless otherwise provided by the legislation or contract for the sale of an immovable property, the price established therein of the building, installation, or other immovable property situated on the land plot shall include the price of the immovable property transferred therewith of the respective part of the land plot or rights thereto.

3. In instances when the price of the immovable property in a contract of sale of an immovable property is established per unit of the space thereof or other indicator of its dimension, the total price of such immovable property subject to payment shall be determined on the basis of the actual dimension of the immovable property transferred to the purchaser.

#### **Article 527. Transfer of Immovable Property**

1. The transfer of an immovable property by the seller and the acceptance thereof by the purchaser shall be effectuated under the act of transfer or other document concerning the transfer signed by the parties.

Unless otherwise provided by the legislation or contract, the obligation of the seller to transfer the immovable property to the purchaser shall be considered to be performed after the handing over of this property to the purchaser and signing by the parties of the respective document concerning transfer.

The evasion by one of the parties of signing of the document concerning transfer of the immovable property on the conditions provided for by the contract shall be considered to be a refusal respectively of the seller to perform the duty to transfer the property and of the purchaser to perform the duty to accept the property.

2. The acceptance by the purchaser of an immovable property which does not correspond to the conditions of the contract of sale of an immovable property, including when such nonconformity is stipulated in the document concerning the transfer of the immovable property, shall not be grounds for relieving the seller of liability for improper performance of the contract.

#### **Article 528. Consequences of Transfer of Immovable Property of Improper Quality**

In the event of the transfer by the seller to the purchaser of an immovable property which does not correspond to the conditions of the contract of sale of an immovable property concerning the quality thereof, the rules of Article 445 of this Code shall apply except for the provisions concerning the right of the purchaser to demand replacement of the good of improper quality for a good corresponding to the conditions of contract.

#### **Article 529. Peculiarities of Sale of Dwelling Premises**

1. A material condition of the contract of sale of a dwelling house, apartment, part of a dwelling house or apartment in which persons reside who retain in accordance with the legislation the right of use of this dwelling premise after its acquisition by the purchaser shall be the list of such persons specifying their rights to use the dwelling premise being sold.

2. The contract of sale of a dwelling house, apartment, or part of a dwelling house or apartment shall be subject to state registration and shall be considered to be concluded from the time of such registration.

### **§ 8. Sale of Enterprise**

#### **Article 530. Contract of Sale of Enterprise**

1. Under a contract of sale of an enterprise the seller shall be obliged to transfer the enterprise as a whole as a property complex (Article 132) to the ownership of the purchaser, except for the rights and duties which the seller does not have the right to transfer to other

persons,

2. The rights to a firm name, trademark, service mark, and other means of individualization of the seller and its goods, work, or services, and also the right of use of such means of individualization belonging to it on the basis of a license, shall pass to the purchaser unless otherwise provided by the contract.

3. The rights of the seller received by it on the basis of a special permit (license) to engage in the respective activity shall not be subject to transfer to the purchaser of the enterprise unless otherwise established by the legislation. The transfer to the purchaser as part of the enterprise of obligations whose performance by the purchaser is impossible when such authorization (license) is lacking shall not relieve the seller from the respective obligations to creditors.

### **Article 530. Form and State Registration of Contract of Sale of Enterprise**

1. The contract of sale of an enterprise shall be concluded in written form by means of drawing up one document signed by the parties (Article 404(2)) with the obligatory appending thereto of the documents specified in Article 532(2) of this Code.

2. The failure to comply with the form of the contract of sale of an enterprise shall entail its invalidity.

3. The contract of sale of an enterprise shall be subject to state registration and shall be considered to be concluded from the time of such registration.

### **Article 532. Certification of Composition of Enterprise Being Sold**

1. The composition and value of the enterprise being sold shall be determined in the contract of sale of an enterprise on the basis of the full inventorization of the enterprise conducted in accordance with the established rules of such inventorization.

2. Before signing of the contract of sale of an enterprise there must be drawn up and considered by the parties: the act of inventorization, the bookkeeping balance sheet, the auditor's conclusion on the composition and the value of the enterprise as a property complex, and also a list of all the debts (obligations) included within the enterprise, specifying the creditors, the character, amount, and periods of their demands.

The property, rights, and duties specified in the named documents shall be subject to transfer by the seller to the purchaser unless it follows otherwise from the rules of Article 530 of this Code and is not established by agreement of the parties.

### **Article 533. Rights of Creditors in Event of Sale of Enterprise**

1. The creditors with regard to obligations included within the enterprise being sold must be informed in writing before the transfer thereof about its sale by one of the parties of the contract of sale of the enterprise.

2. The creditor who in writing has not notified the seller or purchaser his consent to the transfer of the debt shall have the right within three months from the date of receipt of the notice concerning the sale of the enterprise to require either the termination or performance before time of the obligation and compensation by the seller of the losses caused thereby.

3. The creditor who was not informed about the sale of the enterprise in accordance with the procedure provided for by Clause 1 of this Article may bring suit concerning satisfaction of the demands provided for by Clause 2 of this Article within one year from the date when he knew or should have known about the transfer of the enterprise by the seller to the purchaser.

4. After the transfer of the enterprise to the purchaser, the seller and the purchaser shall bear joint and several liability for debts included within the enterprise being transferred which were transferred to the purchaser without the consent of the creditor.

### **Article 534. Transfer of Enterprise**

1. The transfer of an enterprise by the seller to the purchaser shall be effectuated under the act of transfer, in which shall be specified data concerning the composition of the enterprise and notice of the creditors concerning the sale of the enterprise, and also information concerning defects elicited in the property being transferred and list of property, the duties with regard to the transfer of which have not been performed by the seller in view of the loss thereof.

The preparation of the enterprise for transfer, including the drawing up and submission for signature of the act of transfer, shall be the duty of the seller and shall be effectuated at his expense unless otherwise provided by the contract.

2. An enterprise shall be considered to be transferred to the purchaser from the date of signing of the act of transfer by both parties.

From this time the risk of accidental perishing or accidental damage of property being transferred within the enterprise shall pass to the purchaser.

### **Article 535. Transfer of Right of Ownership to Enterprise**

1. The right of ownership to an enterprise shall pass to the purchaser from the time of state registration of this right.

2. Unless otherwise provided by the contract of sale of an enterprise, the right of ownership to an enterprise shall pass to the purchaser and shall be subject to state registration directly after the transfer of the enterprise to the purchaser (Article 534).

3. In instances when the retention by the seller of the right of ownership to an enterprise transferred to the purchaser has been provided for by the contract before payment for the enterprise or before the ensuing of other circumstances, the purchaser shall have the right until the transfer of the right of ownership to it to dispose of the property and of the rights which are part of the enterprise being transferred to that extent as is necessary for the purposes for which the enterprise was acquired.

### **Article 536. Consequences of Transfer and Acceptance of Enterprise with Defects**

1. The consequences of the transfer by the seller and acceptance by the purchaser under an act of transfer of an enterprise the composition of which does not correspond to that provided for by the contract of sale of the enterprise, including with respect to the quality of the property being transferred, shall be determined on the basis of the rules provided for by Articles 430-432, 436, 439, 445, 449 of this Code unless it arises otherwise from the contract and is not provided for by Clauses 2-4 of this Article.

2. In an instance when an enterprise has been transferred and accepted under the act of transfer in which information concerning elicited defects of the enterprise and lost property have been specified (Article 534 (1)), the purchaser shall have the right to demand a corresponding reduction of the purchase price of the enterprise unless the right to submit other demands in such instances has been provided for by the contract of sale of the enterprise.

3. The purchaser shall have the right to demand a reduction of the purchase price in the event of the transfer to it within the enterprise of debts (obligations) of the seller which were not specified in the contract of sale of the enterprise or act of transfer unless the seller proves that the purchaser knew of such debts (obligations) during the conclusion of the contract and transfer of the enterprise.

4. The seller in the event of receiving notice of the purchaser concerning defects of the property being transferred within the enterprise, or the absence of individual types of property in such composition which are subject to transfer, may without delay replace the property of improper quality or grant non-delivered property to the purchaser.

5. The purchaser shall have the right in a judicial proceeding to demand dissolution or change of the contract of sale of an enterprise and the return of that which was performed by the parties under the contract if it is established that the enterprise in view of the defects for which the seller is liable, is unfit for the purposes named in the contract of sale and these defects have not been eliminated by the seller on the conditions, in accordance with the procedure, and within the periods which have been established in accordance with the legislation or the contract, or the elimination of such defects is impossible.

### **Article 537. Application to Contract of Sale of Enterprise of Rules Concerning Consequences**

#### **of Invalidity of Transactions and Concerning Change or Dissolution of Contract**

The rules of this Code and other acts of legislation concerning the consequences of the invalidity of transactions and a change or dissolution of the contract of purchase-sale providing for the return or recovery in kind of that received under the contract from one party or from both parties shall apply to the contract of sale of an enterprise unless such consequences materially violate the rights and the interests, protected by the legislation, of the creditors of the seller and purchaser, of other persons, and are not contrary to public interests.



## **Barter**

### **Article 538. Contract of Barter**

1. Under a contract of barter, each of the parties shall undertake to transfer to the ownership of the other party one good in exchange for another.

2. To the contract of barter shall apply respectively the rules concerning purchase-sale (Chapter 30) if this is not contrary to the rules of this Chapter and the essence of the barter. In so doing, each of the parties shall be deemed to be the seller of the good which this party undertake to transfer and the purchaser of the good which this party undertake to accept in exchange.

### **Article 539. Prices and Expenses Under Contract of Barter**

1. Unless it arises otherwise from the contract of barter, goods subject to exchange shall be considered to be of equal value and expenses for the transfer thereof and acceptance shall be effectuated in each instance by that party which bears the respective duties.

2. In an instance when in accordance with the contract of barter the goods to be exchanged are deemed not to be of equal value, the party obliged to transfer a good whose price is lower than the price of the good being granted in exchange must pay for the difference in prices directly before or after the performance of its duty to transfer the good unless another procedure for payment has been provided for by the contract.

### **Article 540. Counter Performance of Obligation to Transfer Good Under Contract of Barter**

In an instance when in accordance with a contract of barter the periods for the transfer of the goods to be exchanged do not coincide, the rules concerning counter performance of obligations (Article 309) shall apply to the performance of the obligation to transfer the good by the party which must transfer the good after the transfer of the good by the other party.

### **Article 541. Transfer of Right of Ownership in Goods to be Exchanged**

Unless otherwise provided by the legislation or by the contract of barter, the right of ownership in the goods to be exchanged shall pass to the parties acting under the contract of barter as purchasers simultaneously after the performance of the obligations to transfer the respective goods by both parties.

### **Article 542. Liability for Seizure of Good Acquired Under Contract of Barter**

The party from whom a good is seized by a third person which was acquired under a contract of barter shall have the right when there are grounds provided for by Article 431 of

this Code to require from the other party the return of the good received by the latter in the exchange and (or) compensation of losses.

## **CHAPTER 32**

### **Gift**

#### **Article 543. Contract of Gift**

1. Under a contract of gift one party (donor) transfers without compensation or undertakes to transfer to the other party (donee) a thing in ownership or a property right (demand) against himself or against a third person, or relieves or undertakes to relieve the other party of a property duty to himself or to a third person.

When there exists a counter transfer of a thing or right or a counter obligation the contract shall not be deemed to be a gift. The rules provided for by Article 171(2) of this Code shall apply to such contract.

2. The promise to transfer without compensation any thing or property right whatever or to relieve someone of a property duty (promise of gift) shall be deemed to be a contract of gift and shall bind the promisor if the promise is made in the proper form (Article 545(2)) and contains a clearly expressed intention to perform in the future the transfer of the thing or right without compensation to a specific person or to relieve him from a property duty.

The promise to give all of his property or part of his property without specifying the specific subject of gift in the form of a thing, right, or relief from a duty shall be void.

3. A contract providing for the transfer of a gift to the donee after the death of the donor shall be void.

The rules of civil legislation concerning inheritance shall apply to such kind of gift.

4. A material condition of the contract of gift of a dwelling house, apartment, part of a dwelling house or apartment in which persons reside who retain in accordance with the legislation the right of use of this dwelling premise after the transfer of its ownership by the purchaser shall be the list of such persons specifying their rights to use the dwelling premise being transferred as a gift.

#### **Article 544. Refusal of Donee to Accept Gift**

1. The donee shall have the right at any time before the transfer of the gift to him to refuse it. In this event the contract of gift shall be considered to be dissolved.

2. If the contract of gift is concluded in written form, the refusal of the gift must also be concluded in written form. In an instance when the contract of gift has been registered (Article 545(3)), the refusal to accept the gift also shall be subject to state registration.

3. If the contract of gift was concluded in written form, the donor shall have the right to demand from the donee compensation of real damage caused by the refusal to accept the gift.

### **Article 545. Form of Contract of Gift**

1. A gift accompanied by the transfer of the gift to the donee may be concluded orally, except for instances provided for by Clauses 2 and 3 of this Article.

The transfer of the gift shall be effectuated by means of handing it over, by symbolic transfer (handing over of keys, and so forth) or by handing over right-establishing documents.

2. A contract of gift of movable property must be concluded in written form in instances when:

1) the donor is a legal person and the value of the gift exceeds five basic values established by the legislation;

2) the contract contains a promise of a gift in the future.

In the instances provided for in this Clause a contract of gift concluded orally shall be void.

3. A contract of gift of immovable property shall be subject to state registration.

### **Article 546. Prohibition of Gift**

A gift shall not be permitted except for ordinary gifts whose value does not exceed five basic values established by the legislation:

1) in the name of juveniles and citizens deemed to lack active legal capacity, by their legal representatives;

2) to employees of treatment and nurturing institutions, institutions of social defense, and other similar institutions by citizens situated in these institutions for treatment, maintenance, or nurturing, by the spouses and relatives of these citizens;

3) excluded;

4) in relations between commercial organizations.

The legislative acts may provide for prohibitions, other than those specified in this Article, on gifts to state officials or to persons with the same status, or to foreign officials in connection with execution of official (labour) duties, with exception of souvenirs presented at the ceremonial and other official events.

### **Article 547. Limitations of Gift**

1. A legal person to whom a thing belongs by right of economic management or operative administration shall have the right to give it with the consent of the owner unless otherwise provided by the legislation. This limitation shall not extend to ordinary gifts of small value (Article 546).

2. The gift of property being in common joint ownership shall be permitted by consent of all the participants of joint ownership in compliance with the rules provided for by Article

256 of this Code.

3. A power of attorney to perform a gift by a representative in which the donee not named and the subject of the gift is not specified shall be void.

#### **Article 548. Refusal of Performance of Contract of Gift**

1. The donor shall have the right to refuse performance of a contract which contains a promise to transfer a thing or right in the future to a donee, if after conclusion of the contract the property or family position or health of the donor has worsened.

2. The donor shall have the right to refuse performance of a contract which contains a promise to transfer a thing or right to the donee in the future on the grounds giving him the right to revoke the gift (Article 549(1)).

3. The refusal of the donor of performance of the contract of gift on the grounds provided for by Clauses 1 and 2 of this Article shall not give a right of demand for compensation of losses to the donee.

#### **Article 549. Revocation of Gift**

1. The donor shall have the right to revoke a gift if the donee has committed an attempt on his life, the life of another member of his family or close relatives, or has intentionally caused bodily injuries to the donor.

In the event of the intentional deprivation of life of the donor by the donee, the right to demand revocation of the gift in court shall belong to the heirs of the donor.

2. Upon the demand of an interested person a court may revoke a gift made by an individual entrepreneur or legal person in violation of the provisions of the legislation on economic insolvency (bankruptcy) at the expense of means connected with its entrepreneurial activity within six months which preceded the declaration of such person to be insolvent (bankrupt).

3. The right of the donor to revoke the gift in the event he will live longer than the donee may be stipulated in the contract of gift.

4. In the event of revocation of a gift the donee shall be obliged to return the thing given if it has been preserved in kind at the time of revocation of the gift.

#### **Article 550. Instances in Which Refusal of Performance of Contract of Gift and Revocation of Gift are Impossible**

The rules concerning the refusal of performance of a contract of gift (Article 548) and revocation of a gift (Article 549) shall not apply to ordinary presents of small value (Article 546).

### **Article 551. Consequences of Causing Harm as Consequence of Defects of Thing Gifted**

Harm caused to the life, health, of property of a donee citizen as a consequence of defects of the thing given shall be subject to compensation by the donor in accordance with the rules provided for by Chapter 58 of this Code if it is proved that these defects arose before the transfer of the thing to the donee and were not obvious and the donor, although he knew about these defects, did not warn the donee about these defects.

### **Article 552. Legal Succession in Event of Promise of Gift**

1. The rights of a donee to whom a gift was promised under a contract of gift shall not pass to his heirs (legal successors) unless otherwise provided by the contract of gift.
2. The duties of the donor who promised the gift shall pass to his heirs (legal successors) unless otherwise provided by the contract of gift.

### **Article 553. Donations**

1. The gift of a thing or right for generally useful purposes shall be deemed to be a donation.

Donations may be made to citizens, treatment and nurturing institutions, institutions of social defense, and other similar institutions, charitable, scientific, and educational institutions, funds, museums, and other institutions of culture, public and religious organizations, and also to the Republic of Belarus and its administrative territorial units.

2. No authorizations or consent whatever shall be required to accept donations.
3. The donation of property to a citizen must be, and to legal persons may be, conditioned by the donor by the use of this property for a determined purpose. In the absence of such a condition the donation of the property to a citizen shall be considered to be an ordinary gift, and in other instances the donated property shall be used by the donee in accordance with the purpose of the property.

A legal person which has accepted a donation for use of which a determined purpose has been established must carry out a solitary recording of all operations relating to the use of the donated property.
4. If the use of donated property in accordance with the purpose specified by the donor becomes as a consequence of changed circumstances impossible, it may be used for another intended purpose only with the consent of the donor, and in the event of the death of a donor citizen or the liquidation of a donor legal person, by decision of a court.
5. The use of donated property not in accordance with the purpose specified by the donor or a change of such purpose in violation of the rules provided for by Clause 4 of this Article shall give the right to the donor, his heirs, or other legal successor to demand revocation of the donation.

Articles 549 and 552 of this Code shall not apply to donations.

## **CHAPTER 33**

### **Rent and Maintenance of Dependent for Life**

#### **§ 1. General Provisions on Rent and Maintenance of Dependent for Life**

##### **Article 554. Contract of Rent**

1. Under a contract of rent one party (recipient of the rent) shall transfer property in ownership to the other party (payer of rent), and the payer of rent shall be obliged in exchange for the property received periodically to pay to the recipient of rent in the form of a determined monetary amount or of granting assets for his maintenance in other form.

2. Under a contract of rent the establishment of the duty to pay rent in perpetuity (permanent rent) or for the life of the recipient of the rent (rent for life) shall be permitted. Rent for life may be established on conditions of the maintenance for life of a dependent citizen.

##### **Article 555. Form of Contract of Rent**

The contract of rent shall be subject to notarial certification, and a contract providing for the alienation of immovable property under payment of rent shall also be subject to state registration.

##### **Article 556. Alienation of Property Under Payment of Rent**

1. Property which is alienated under payment of rent may be transferred by the recipient of the rent to the ownership of the payer of rent for payment or free of charge.

In an instance when the transfer of property for payment is provided for by the contract of rent, the rules concerning purchase-sale (Chapter 30) shall apply to relations of the parties relating to the transfer and payment, and in an instance when such property is transferred free of charge, the rules concerning the contract of gift (this Chapter) and is not contrary to the essence of the contract of rent.

##### **Article 557. Encumberment of Immovable Property by Rent**

1. Rent shall encumber an enterprise, building, structure or another immovable property located on the land plot and transferred against the payment thereof. In the event of alienation of such property by the payer of the rent, his obligations under the rent contract pass to the acquirer of the property, including with regard of requirements of the legislation on protection and use of lands in relation to the land plot on which that property is located.

2. The person who has transferred immovable property encumbered by rent to the

ownership of another person shall bear subsidiary liability with him (Article 370) with regard to the demands of the recipient of the rent which arose in connection with a violation of the contract of rent unless joint and several liability for this obligation has been provided for by this Code, another acts of legislation, or the contract.

### **Article 558. Securing Payment of Rent**

1. In the event of the transfer of immovable property with the exception of a land plot, against the payment of rent, the recipient of the rent shall acquire the right of pledge on this property to secure the obligation of the payer of the rent. In that instance the land plot shall be transferred against the payment of rent in accordance with the legislation on protection and use of lands.

2. The condition establishing the duty of the payer of rent to grant security for the performance of his obligations (Article 310) or to insure to the benefit of the recipient of rent the liability for the failure to perform (Article 824) or the improper performance of these obligations shall be a material condition of a contract providing for the transfer of a monetary amount or other movable property as payment of rent.

3. In the event of the failure of the payer of the rent to fulfill the duties provided for by Clause 2 of this Article, and also in the event of the loss of the security or worsening of the conditions thereof under circumstances for which the recipient of rent is not liable, the recipient of rent shall have the right to dissolve the contract of rent and demand compensation of losses caused by the dissolution of the contract.

### **Article 559. Liability for Delay of Payment of Rent**

For a delay of payment of rent the payer of rent shall pay interest to the recipient of rent provided for by Article 366 of this Code unless another amount of interest has been established by the contract of rent.

## **§ 2. Permanent Rent**

### **Article 560. Recipient of Permanent Rent**

1. Only citizens, and also noncommercial organizations, may be recipients of permanent rent unless this is contrary to a legislation and corresponds to the purposes of their activity.

2. The rights of the recipient of rent under a contract of permanent rent may be transferred to the persons specified in Clause 1 of this Article by means of cession of a demand and transfer by inheritance or by way of legal succession in the event of the reorganization of legal persons, unless otherwise provided by the legislation or by a contract.

### **Article 561. Form and Amount of Permanent Rent**

1. Permanent rent shall be paid in money in the amount established by the contract.

The payment of rent by means of the granting of things, fulfillment of work, or rendering of services which correspond to the value of the monetary amount of rent may be provided for by the contract of permanent rent.

2. Unless otherwise provided by the contract of permanent rent, the amount of rent to be paid shall be increased in proportion to the increase of the basic value established by the legislation.

### **Article 562. Periods for Payment of Permanent Rent**

Unless otherwise provided by the contract of permanent rent, permanent rent shall be paid at the end of each calendar quarter.

### **Article 563. Right of Payer to Purchase Permanent Rent**

1. The payer of permanent rent shall have the right to refuse the further payment of rent by means of purchasing it.

2. Such refusal shall be valid on condition that it is declared by the payer of rent in written form not later than three months before the termination of the payment of rent or longer period provided for by the contract of permanent rent. In so doing, the obligation relating to the payment of rent shall not terminate until the receipt of the entire amount of the purchase by the recipient of the rent unless a different procedure of purchase has been provided for by the contract.

3. The condition of a contract of permanent rent concerning the waiver of the payer of permanent rent to purchase it shall be void.

It may be provided by a contract that the right of purchase of permanent rent may not be effectuated during the life of the recipient of rent or during another period not exceeding thirty years from the time of conclusion of the contract.

### **Article 564. Purchase of Permanent Rent at Demand of Recipient of Rent**

The recipient of permanent rent shall have the right to demand the purchase of rent by the payer in instances when:

1) the payer of rent delayed the payment thereof by more than one year, unless otherwise provided by the contract of permanent rent;

2) the payer of rent violated his obligations relating to securing the payment of rent (Article 558);

3) the payer of rent is deemed to be economically insolvent (bankrupt) or other obligations have arisen which obviously testify that the rent will not be paid in the amount and within the periods which have been established by the contract;

4) the immovable property transferred under payment of rent has transferred to common



ownership or been divided among several persons;

5) and in other instances provided for by the contract.

#### **Article 565. Purchase Price of Permanent Rent**

1. The purchase of permanent rent in the instances provided for by Articles 563 and 564 of this Code shall be made at the price determined by the contract of permanent rent.

2. In the absence of a condition concerning the purchase price in a contract of permanent rent under which property has been transferred for payment under payment of permanent rent, the purchase shall be effectuated at the price corresponding to the yearly amount of rent subject to payment.

3. In the absence of a condition concerning the purchase price in a contract of permanent rent under which property has been transferred under payment of rent free of charge, the price of the transferred property determined according to the rules provided for by Article 394(3) of this Code shall be included in the purchase price together with the yearly amount of rent payments.

#### **Article 566. Risk of Accidental Perishing of Property Transferred under Payment of Permanent Rent**

1. The risk of accidental perishing or accidental damage of property transferred free of charge under payment of permanent rent shall be borne by the payer of rent.

2. In the event of the accidental perishing or accidental damaging of property transferred for payment under payment of permanent rent, the payer shall have the right to demand respectively termination of the obligation relating to the payment of rent or a change of the conditions for the payment thereof.

### **§ 3. Rent for Life**

#### **Article 567. Recipient of Rent for Life**

1. Rent for life may be established for the period of life of a citizen transferring property under payment of rent or for the period of life of another citizen specified by him.

2. The establishment of rent for life to the benefit of several citizens whose share in the right to receive rent shall be considered to be equal shall be permitted unless otherwise provided by the contract of rent for life.

In the event of the death of one of the recipients of rent his share in the right to receive rent shall pass to the recipients of rent who survive him unless otherwise provided by the contract of rent for life, and in the event of the death of the latter recipient of rent, the obligation to pay the rent shall terminate.

3. The contract establishing rent for life to the benefit of a citizen who is deceased at the time of concluding the contract shall be void.

#### **Article 568. Amount of Rent for Life**

1. Rent for life shall be determined in the contract as a monetary amount periodically to be paid to the recipient of rent during his life. If the parties concluded a contract of maintenance of dependent for life, the contract shall specify the value of such maintenance.

2. The amount of rent for life determined in the contract calculated per month must be not less than the basic value established by the legislation, and in the instances provided for by Article 299 of this Code, shall be subject to increase.

#### **Article 569. Period for Payment of Rent for Life**

Unless otherwise provided by the contract of rent for life, the rent for life shall be paid at the end of each calendar month.

#### **Article 570. Dissolution of Contract of Rent for Life at Demand of Recipient of Rent**

1. In the event of a material violation of a contract of rent for life by the payer of rent, the recipient of rent shall have the right to demand from the payer of rent the purchase of rent on the conditions provided for by Article 565 of this Code or dissolution of the contract and compensation of losses.

2. If an apartment, dwelling house, or other property under payment of rent for life has been alienated free of charge, the recipient of the rent shall have the right in the event of a material violation of the contract by the payer of the rent to require the return of this property, setting off the value thereof at the expense of the purchase price of the rent.

#### **Article 571. Risk of Accidental Perishing of Property Transferred Under Payment of Rent for Life**

The accidental perishing or accidental damaging of property transferred under payment of rent for life shall not relieve the payer of rent from the obligation to pay it on the conditions provided for by the contract of rent for life.

### **§ 4. Maintenance of Dependent for Life**

#### **Article 572. Contract of Maintenance of Dependent for Life**

1. Under a contract of maintenance of a dependent for life the recipient of rent, the citizen, shall transfer immovable property, with the exception of the land plot, belonging to him to the ownership of the payer of rent, who shall be obliged to effectuate the maintenance of the citizen dependent for life and (or) third person(s) specified by him. In that instance the land plot shall be transferred against the payment of rent in accordance with the legislation on protection and use of lands.

2. The rules concerning rent for life shall apply to the contract of maintenance of a dependent for life unless otherwise provided by the rules of the present paragraph.

### **Article 573. Duty Relating to Granting of Maintenance of Dependent**

1. The duty of the payer of rent relating to granting maintenance of a dependent may include provision of the requirements for housing, nourishment, and clothing, and if the state of health of the citizen so requires, also care for him. The payment for funeral by the payer of rent also may be provided for by the contract for the maintenance of a dependent for life.

2. The value of the entire amount of maintenance of a dependent must be determined in the contract of maintenance of a dependent for life. In so doing, the value of the total amount of maintenance per month may not be less than two basic values established by the legislation.

3. When settling a dispute between the parties concerning the amount of maintenance which is granted or should be granted to a citizen, the court must be guided by the principles of good faith and reasonableness.

### **Article 574. Replacement of Maintenance for Life by Periodic Payments**

The possibility of replacing the granting of maintenance of a dependent in kind by the payment during the life of the citizen of periodic payments in money may be provided for by a contract of maintenance of a dependent for life.

### **Article 575. Alienation and Use of Property Transferred to Secure Maintenance for Life**

The payer of rent shall have the right to alienate, pledge, or by other means encumber immovable property transferred to him as security for maintenance for life only with the prior consent of the recipient of rent.

The payer of rent shall be obliged to take necessary measures so that during the period of granting maintenance of a dependent for life the use of the said property does not lead to a reduction of the value of this property.

### **Article 576. Termination of Maintenance of Dependent for Life**

1. The obligation of maintenance of dependent for life shall terminate with the death of the person (persons) receiving maintenance of dependent for life.

2. In the event of a material violation by the payer of rent of his obligations, the person (persons) receiving maintenance of dependent for life shall have the right to demand the return of immovable property transferred to secure the maintenance for life or the payment to him of the purchase price on the conditions established by Article 565 of this Code. In so doing, the payer of rent shall not have the right to demand compensation of the expenses incurred in

connection with the maintenance of the recipient of rent.

## **CHAPTER 34.**

### **Lease**

#### **§ 1. General Provisions on Lease**

##### **Article 577. Contract of Lease**

Under a contract of lease (property rental) the lessor (renter) shall be obliged to grant to the lessee (tenant) property for payment in temporary possession and use or temporary use.

The yield, products, and revenues received by the lessee as a result of the use of the leased property in accordance with the contract shall be his ownership.

##### **Article 578. Objects of Lease**

1. Land plots and other solitary natural objects, enterprises, and other property complexes, buildings, installations, equipment, means of transport, and other things which do not lose their natural properties in the process of use thereof (nonconsumable things) may be transferred on lease.

Types of property, the leasing out of which is not permitted or is limited, may be established by the legislative acts.

2. The peculiarities of leasing out land plots and other solitary natural objects may be established by the legislation.

3. Data enabling to definitely establish the property which is subject to transfer to the lessee as the object of a lease must be specified in the contract of lease. In the absence of such data in the contract, the condition concerning the object which is subject to transfer on lease shall be considered to be not agreed by the parties and the respective contract shall not be considered to be concluded.

##### **Article 579. Lessor**

The right to lease out property shall belong to its owner. Persons authorized by the legislation or by the owner to lease out property also may be lessors.

##### **Article 580. Form and State Registration of Contract of Lease**

1. A contract of lease for a period of more than a year, and if one of the parties of the contract is a legal person, irrespective of the period, must be concluded in written form.

2. A contract of lease for immovable property shall be subject to state registration unless otherwise established by the legislative acts.

3. A contract of lease for property which provides for the transfer thereafter of the right of ownership to this property to the lessee (Article 595), shall be concluded in the form provided for the contract of purchase-sale of such property.

#### **Article 581. Period of Contract of Lease**

1. A contract of lease shall be concluded for the period determined by the contract.

2. If the period of the lease has not been determined in the contract, the contract of lease shall be considered to be concluded for an indefinite period.

In this event each of the parties shall have the right at any time to repudiate the contract, having warned the other party thereof one month in advance, and in the event of the lease of immovable property, three months. Another period may be established by the legislation or by a contract for notification of the termination of a contract of lease concluded for an indefinite period.

3. Maximum periods for a contract for individual types of lease may be established by the legislation, as well as for the lease of individual types of property. In these instances if the period of the lease is not determined in the contract and neither of the parties has repudiated the contract upon the expiry of the maximum period established by the legislation, the contract shall terminate upon the expiry of the maximum period.

A contract of lease concluded for a period exceeding the maximum period established by the legislation shall be considered to be concluded for the period equal to the maximum.

#### **Article 582. Granting Property to Lessee**

1. The lessor shall be obliged to grant property to the lessee in a state corresponding to the requirements of legislation and to the conditions of the contract of lease and to the intended purpose of such property.

2. Property shall be leased out together with all of its appurtenances and documents relating thereto (technical passport, certificate of quality, and so forth), unless otherwise provided by the contract.

If such appurtenances and documents were not transferred and without them the lessee can not use the property in accordance with its intended purpose or is to a significant degree deprived of that which he had the right to count upon when concluding the contract, he may demand the granting to him by the lessor of such appurtenances and documents or dissolution of the contract, and also compensation of losses.

3. If the lessor did not grant to the lessee property hired out within the period specified in the contract of lease, or, in an instance when in the contract such period is not specified, within a reasonable period, the lessee shall have the right to demand and obtain this property from him in accordance with Article 369 of this Code and to demand compensation of losses caused by the delay of performance or to demand dissolution of the contract and compensation of losses caused by failure to perform the contract.

### **Article 583. Liability of Lessor for Defects of Property Leased Out**

1. The lessor shall be liable for defects of property leased out which wholly or partially obstruct the use thereof even if during the conclusion of the contract of lease he did not know about these defects.

In the event of revealing of such defects the lessee shall have the right at his discretion to:

1) demand of the lessor either the elimination of the defects of the property without compensation or a commensurate reduction of the lease payment, or compensation of his expenses for elimination of the defects of the property;

2) directly retain the amount of expenses incurred by him for elimination of the said defects from the lease payment, having informed the lessor in advance thereof;

3) demand the dissolution of the contract before time.

The lessor who is notified about the demands of the lessee or about his intention to eliminate the defects of the property at the expense of the lessor may without delay replace the property granted to the lessee with other similar property in a proper state or eliminate the defects of the property without compensation.

If satisfaction of the demands of the lessee or retention of expenses by him for elimination of defects from the lease payment does not fully cover the losses caused to the lessee, he shall have the right to demand compensation of the uncovered part of the losses.

2. The lessor shall not be liable for defects of property leased out which were stipulated by him when concluding the contract of lease or were previously known to the lessee or should have been revealed by the lessee during the inspection of the property or verification of its condition when concluding the contract or transferring the property on lease.

### **Article 584. Rights of Third Persons to Property Leased Out**

The transfer of property on lease shall not be grounds for termination or change of the rights of third persons to such property.

When concluding a contract of lease the lessor shall be obliged to warn the lessee about all the rights of third persons to the property being leased out (servitude, right of pledge, and so forth). The failure of the lessor to perform this duty shall give the lessee the right to demand a reduction of lease payment or dissolution of the contract and compensation of losses.

### **Article 585. Lease Payment**

1. The lessee shall be obliged to make payment in a timely way for the use of property (lease payment).

The procedure, conditions, and periods of making the lease payment shall be determined by the contract of lease. In an instance when they have not been determined by the contract, it shall be considered that the procedure, conditions, and periods have been established which

are usually applied when leasing similar property under comparable circumstances.

2. The lease payment shall be established for the entire leased property as a whole or individually for each of the constituent parts in the form of:

- 1) payments determined in a fixed amount made periodically or one time; ^
- 2) the established share of the products, yield, or revenues received as a result of the use of the leased property;
- 3) the granting of determined services by the lessee;
- 4) the transfer by the lessee to the lessor of things stipulated by the contract in ownership or on lease;
- 5) imposing on the lessee expenditures stipulated by the contract for the improvement of the leased property.

The parties may provide in the contract of lease for combining the said forms of lease payment or other forms of payment of the lease, unless otherwise established by legislation..

3. Unless otherwise provided by the contract, the amount of lease payment may be changed by agreement of the parties within the periods provided for by the contract, but not more often than once a year. Other minimum periods for revision of the amount of lease payment for individual types of lease, and also for the lease of individual types of property, may be provided for by the legislation.

4. Unless otherwise provided by the legislation, the lessee shall have the right to require respective reduction of the lease payment if by virtue of circumstances for which he is not liable the conditions of use provided for by the contract of lease or the condition of the property have worsened materially.

5. Unless otherwise provided by the contract of lease, in the event of a material violation by the lessee of the periods for making the lease payment the lessor shall have the right to demand the making of lease payment by him before time within the period established by the lessor. In so doing, the lessor shall not have the right to demand the making of lease payment before time for more than two periods in succession.

#### **Article 586. Use of Leased Property**

1. The lessee shall be obliged to use leased property in accordance with the conditions of the contract of lease, and if such conditions have not been determined in the contract, in accordance with the purpose of the property.

2. The lessee shall have the right with the consent of the lessor to sublease the leased property (sub-hire) and to transfer his rights and duties under the contract of lease to another person (re-hire), to grant the leased property for use without compensation, and also to pledge lease rights and contribute them as a contribution to the charter capital of economic partnerships and companies or a share contribution to a production cooperative unless otherwise established by the legislation. In the said instances, except for re-hire, the lessee shall remain liable under the contract to the lessor.

The contract of sublease may not be concluded for a period exceeding the period of the contract of lease.

The rules concerning contracts of lease, unless otherwise established by this Code and other legislative acts, shall apply to contracts of sublease.

3. If a lessee uses property not in accordance with the conditions of the contract of lease or the purpose of the property, the lessor shall have the right to demand dissolution of the contract and compensation of losses.

### **Article 587. Duties of Parties With Regard to Maintenance of Leased Property**

1. The lessor shall be obliged to perform at his own expense capital repair to the property transferred on lease unless otherwise provided by the legislation or by the contract of lease.

This Code, other laws and acts of the President of the Republic of Belarus may establish, concerning certain kinds of leased property, that duty on performing capital repair of such property, including ensuring availability of duly maintained engineering communications, may be imposed only on the lessee.

Capital repair must be performed within the period established by the contract, and if it is not determined by the contract or called for by urgent necessity, within a reasonable period.

A violation by the lessor of the duty with regard to the performance of capital repair shall give the lessee the right at his discretion to:

1) perform the capital repair provided for by the contract or caused by urgent necessity and to recover from the lessor the value of the repair or to set it off from the account of the lease payment;

2) demand a corresponding reduction of lease payment;

3) demand dissolution of the contract and compensation of losses.

2. The lessee shall be obliged to maintain the property in a proper state, to perform current repair at his own expense, and to bear expenses for the maintenance of the property unless otherwise established by the legislation or by the contract of lease.

### **Article 588. Preservation of Contract of Lease in Force in Event of Change of Parties**

1. Transfer of the right of ownership (inheritable possession for life) to property leased out to another person shall not be grounds for a change of or dissolution of the contract of lease.

2. In the event of the death of a citizen leasing immovable property, his rights and duties under the contract of lease shall pass to the heir unless otherwise provided by the legislation or by the contract.

The lessor shall not have the right to refuse such heir from entering into the contract for the remaining period of its operation except for an instance when the conclusion of the contract was conditioned by the personal qualities of the lessee.



### **Article 589. Termination of Contract of Sublease in Event of Termination of Contract of Lease Before Time**

1. Unless otherwise provided by the contract of lease, the termination of the contract of lease before time shall entail the termination of the contract of sublease concluded in accordance with it. The sublessee shall have the right in this event to conclude a contract of lease with him for property in his use in accordance with the contract of sublease within the limits of the remaining period of sublease on the conditions corresponding to the conditions of the terminated contract of lease.

2. If the contract of lease is void on the grounds provided for by this Code and other acts of legislation, the contracts of sublease concluded in accordance with it also shall be void.

### **Article 590. Dissolution of Contract Before Time Upon Demand of Lessor**

Upon the demand of the lessor the contract of lease may be dissolved before time by a court, unless otherwise provided by this Code, other laws and acts of the President of the Republic of Belarus, in instances when the lessee:

1) uses the property with material violation of the conditions of the contract or the purpose of the property or with repeated violations;

2) materially worsens the property;

3) does not make lease payment more than two times in succession upon the expiry of the period established by the contract;

4) does not perform capital repair of the property within the periods established by the contract of lease, and in the absence thereof in the contract within reasonable periods in those instances when in accordance with a legislation or the contract the performance of capital repair is the duty of the lessee.

Other grounds for the dissolution of the contract before time upon the demand of the lessor also may be established by the contract of lease in accordance with Article 420(2) of this Code.

The lessor shall have the right to demand dissolution of the contract before time only after sending a written warning to the lessee about the necessity to perform the obligation within a reasonable period.

### **Article 591. Dissolution of Contract Before Time Upon Demand of Lessee**

Upon the demand of the lessee the contract of lease may be dissolved before time by a court in instances when:

1) the lessor does not grant property for use to the lessee or creates obstacles to the use of the property in accordance with the conditions of the contract or the purpose of the property;

2) the property transferred to the lessee has defects which obstruct its use by him and which were not stipulated by the lessor when concluding the contract, were not known to the lessee in advance, and should not have been revealed by the lessee during the inspection of the property or verification of its good condition when concluding the contract;

3) the lessor does not make capital repair of the property which is his duty within the periods established by the contract of lease, and in the absence thereof in the contract, within reasonable periods;

4) the property by virtue of circumstances for which the lessee is not liable turns out to be in a condition not fit for use.

Other grounds of dissolution of the contract before time also may be established by the contract of lease upon the demand of the lessee in accordance with Article 420(2) of this Code.

### **Article 592. Preferential Right of Lessee to Conclude Contract of Lease for New Period**

1. Unless otherwise provided by the legislation or by the contract of lease, the lessee who has properly performed his duties shall have upon the expiry of the period of the contract a preferential right before other persons, under equal other conditions, to conclude a contract of lease for a new period. The lessee shall be obliged to inform the lessor in writing about the wish to conclude such contract within the period specified in the contract of lease, and if such period is not specified in the contract, within a reasonable period before the end of the operation of the contract.

When concluding a contract of lease for a new period, the conditions of the contract may be changed by agreement of the parties.

If the lessor has refused the lessee to conclude a contract for a new period, but within a year from the date of expiry of the period of the contract with him concluded a contract of lease with another person, the lessee shall have the right at his discretion to demand in court the transfer to himself of the rights and duties under the contract concluded and compensation of losses caused by the refusal to renew the contract of lease with him or only compensation of such losses.

2. If the lessee continues to use the property after the expiry of the period of the contract in the absence of objections on the part of the lessor, the contract shall be considered to be renewed on the same conditions for an indefinite period (Article 581).

### **Article 593. Return of Leased Property to Lessor**

In the event of the termination of the contract of lease the lessee shall be obliged to return property to the lessor in that condition in which he received it, taking into account normal wear and tear, or in the state stipulated by the contract.

If the lessee has not returned the leased property or returned it not in good time, the lessor shall have the right to demand making of lease payment for the entire time of the delay. In an

instance when the said payment does not cover the losses caused to the lessor, he may demand the compensation thereof.

In an instance when a penalty has been provided for by the contract for the untimely return of the leased property, losses may be recovered in the full amount above the penalty unless otherwise provided by the contract.

#### **Article 594. Improvement of Leased Property**

1. Separable improvements of leased property made by the lessee shall be his ownership unless otherwise provided by the contract of lease.

2. In an instance when a lessee has made improvements of leased property at own expense and with the consent of the lessor which are not separable without harm to the property, the lessee shall have the right after termination of the contract to compensation of the cost of these improvements unless otherwise provided by the contract of lease.

3. The cost of inseparable improvements of leased property made by the lessee without the consent of the lessor shall not be subject to compensation unless otherwise provided by the legislation.

4. Improvements of leased property, both separable and inseparable, made at the expense of depreciation charges from this property shall be the ownership of the lessor.

#### **Article 595. Purchase of Leased Property**

1. It may be provided in a legislation or contract of lease that leased property passes to the ownership of the lessee upon the expiry of the period of lease or before the expiry thereof on condition of the lessee making the entire purchase price stipulated by the contract.

2. If the condition concerning the purchase of leased property is not provided for in the contract of lease, it may be established by an additional agreement of the parties, who in so doing shall have the right to agree on the set-off of the lease payment, previously paid, against the purchase price.

3. Instances of the prohibition of the purchase of leased property may be established by the legislation.

#### **Article 596. Peculiarities of Individual Types of Lease and Lease of Individual Types of Property**

The provisions of the present paragraph shall apply to individual types of contract of lease and to contracts of lease of individual types of property (rental, lease of means of transport, lease of buildings and installations, lease of enterprises, finance lease) unless otherwise established by the legislation.

### **§2. Rental**

### **Article 597. Contract of Rental**

1. Under a contract of rental the lessor carrying out the lease of property as a permanent entrepreneurial activity shall be obliged to grant movable property to the lessee in temporary possession and use for payment.

Property granted under a contract of rental shall be used for consumer's purposes unless otherwise provided by the contract or does not arise from the essence of the obligation.

2. A contract of rental shall be concluded in written form.

3. A contract of rental shall be a public contract (Article 396).

### **Article 598. Period of Contract of Rental**

1. A contract of rental shall be concluded for a period of up to one year.

2. The rules concerning renewal of a contract of lease for an indefinite period and concerning the preferential right of the lessee to renewal of the contract of lease (Article 591) shall not apply to the contract of rental.

3. The lessee shall have the right to repudiate the contract of rental at any time, having warned the lessor in writing about his intention by not less than ten days.

### **Article 599. Granting of Property to Lessee**

A lessor who has concluded a contract of rental shall be obliged in the presence of the lessee to verify the good condition of the property being leased, and also to familiarize the lessee with the rules for the operation of the property or to issue him written instructions concerning the use of this property.

### **Article 600. Elimination of Defects of Property Leased**

1. In the event of revealing by the lessee of defects in the property leased which wholly or partially obstruct the use thereof, the lessor shall be obliged within a ten-day period from the date of the declaration of the lessee concerning the defects, unless a shorter period has been established by the contract of rental, to eliminate the defects of the property without compensation on the site or to replace the particular property with other similar property which is in a proper condition.

2. If the defects of the leased property were a consequence of a violation by the lessee of the rules for operation and maintenance of the property, the lessee shall pay the lessor the cost of the repair and transportation of the property.

### **Article 601. Lease Payment Under Contract of Rental**

1. Lease payment under a contract of rental shall be established in the form of payments determined in a lump sum to be made periodically or at one time.

2. In the event of the return of the property before time by the lessee, the lessor shall return to him the corresponding part of the lease payment received, calculating it from the day following the day of the actual return of the property.

3. The recovery of indebtedness from the lessee with regard to a lease payment shall be made in an uncontested proceeding on the basis of the executive endorsement made by a notary, a diplomatic agent of the diplomatic representation of the Republic of Belarus, a consular official of the consular office of the Republic of Belarus.

### **Article 602. Use of Leased Property**

1. The capital and routine repair of property leased under a contract of rental shall be the duty of the lessor.

2. The sublease of property granted to a lessee under a contract of rental, the transfer by him of his rights and duties under the contract of rental to another person, the granting of this property for uncompensated use, the pledge of lease rights, and the contribution thereof as a property contribution to economic partnerships and companies or as a share contribution to production cooperatives shall not be permitted.

## **§ 3. Lease of Means of Transport**

### **1. Lease of Means of Transport, With Provision of Services Relating to Driving and Technical Operation**

#### **(Lease of Means of Transport with Crew)**

### **Article 603. Contract of Lease of Means of Transport with Crew**

1. Under a contract of lease (time-charter) of a means of transport with a crew the lessor shall grant the means of transport to the lessee in temporary possession and use for payment and render services with his own forces with regard to the driving and technical operation thereof.

2. The rules concerning renewal of a contract of lease for an indefinite period and concerning the preferential right of the lessee to conclude a contract of lease for a new period (Article 592) shall not apply to the contract of lease of means of transport with a crew.

### **Article 604. Form of Contract of Lease of Means of Transport with Crew**

A contract of lease of means of transport with a crew must be concluded in written form irrespective of the period thereof. The rules concerning the registration of contracts of lease provided for by Article 580(2) of this Code shall not apply to such a contract.

### **Article 605. Duty of Lessor Relating to Maintenance of Means of Transport**

The lessor throughout the entire period of the contract of lease of means of transport with a crew shall be obliged to maintain the proper state of the means of transport leased, including the effectuation of routine and capital repair and the granting of necessary appurtenances.

### **Article 606. Duties of Lessor With Regard to Driving and Technical Operation of Means of Transport**

1. Services with regard to driving and technical operation of means of transport granted by the lessor to the lessee must ensure its normal and safe operation in accordance with the purposes of the lease specified in the contract. A more extensive set of services to be granted to the lessee may be provided for by the contract of lease of means of transport with a crew.

2. The composition of the crew of means of transport and the skills thereof must correspond to the rules and conditions of the contract which are binding upon the parties, and if such requirements have not been established by rules and conditions of the contract which are binding upon the parties, by the requirements of usual practice for the operation of means of transport of the particular type and the conditions of the contract.

Members of the crew shall be employees of the lessor. They shall be subordinate to the regulations of the lessor with respect to the driving and technical operation and to the orders of the lessee affecting the commercial operation of the means of transport.

Unless otherwise provided by the contract of lease, expenses relating to the payment for services of members of the crew, and also expenses for the maintenance thereof, shall be borne by the lessor.

### **Article 607. Duty of Lessee Relating to Payment of Expenses Connected with Commercial Operation of Means of Transport**

Unless otherwise provided by the contract of lease of means of transport with a crew, the lessee shall bear expenses arising in connection with the commercial operation of the means of transport, including expenses for the payment of fuel and other materials expended in the process of operation and for the payment of fees.

### **Article 608. Insurance of Means of Transport**

Unless otherwise provided by a contract of lease of means of transport with crew, the duty to insure the means of transport and(or) to insure liability for damage which may be caused by it or in connection with its operation shall be placed on the lessor in the instance when such duty arises out of an accepted obligation to conclude the insurance contract.

### **Article 609. Contracts With Third Persons Concerning Use of Means of Transport**

1. Unless otherwise provided by the contract of lease of means of transport with a crew, the lessee shall have the right without the consent of the lessor to sublease the means of transport.

2. The lessee within the framework of carrying out commercial operation of leased means of transport shall have the right without the consent of the lessor to conclude in his own name with third persons contracts of carriage and other contracts unless they are contrary to the purposes of the use of means of transport specified in the contract of lease, and if such purposes have not been established, to the purposes of the means of transport.

#### **Article 610. Liability for Harm Caused to Means of Transport**

In the event of the perishing or damage of leased means of transport, the lessee shall be obliged to compensate the lessor for losses caused if the latter proves that the perishing or damage of the means of transport occurred with regard to circumstances for which the lessee is liable in accordance with the legislation or the contract of lease.

#### **Article 611. Liability for Harm Caused by Means of Transport**

Liability for harm caused to third persons by leased means of transport, by mechanisms, devices and equipment thereof, shall be borne by the lessor in accordance with the rules provided for by Chapter 58 of this Code. He shall have the right to submit a regressive demand against the lessee concerning compensation of amounts paid to third persons if he would prove that the harm arose through the fault of the lessee.

#### **Article 612. Peculiarities of Lease of Individual Types of Means of Transport**

Other peculiarities of the lease of individual types of means of transport with the granting of services relating to driving and technical operation may be established, besides those provided for by the present paragraph, by transport charters and codes.

### **2. Lease of Means of Transport Without Provision of Services Relating to Driving and Technical Operation (Lease of Means of Transport Without Crew)**

#### **Article 613. Contract of Lease of Means of Transport Without Crew**

Under a contract of lease of means of transport without a crew the lessor shall grant means of transport to the lessee in temporary possession and use for payment without rendering services relating to the driving and technical operation thereof.

The rules concerning renewal of the contract of lease for an indefinite period and concerning the preferential right of the lessee to conclude a contract of lease for new period (Article 592) shall not apply to the contract of lease of means of transport without a crew.

#### **Article 614. Form of Contract of Lease of Means of Transport Without Crew**

A contract of lease of means of transport without crew must be concluded in written form irrespective of the period thereof. The rules concerning the registration of contracts of lease provided for by Article 580(2) of this Code shall not apply to such a contract.

#### **Article 615. Duty of Lessee With Regard to Maintenance of Means of Transport**

The lessee during the entire period of the contract of lease of means of transport without crew shall be obliged to maintain the proper condition of leased means of transport, including the effectuation of routine and capital repair.

#### **Article 616. Duties of Lessee With Regard to Driving of Means of Transport and Its Technical Operation**

The lessee shall effectuate the driving of the leased means of transport and the operation thereof, both commercial and technical, with his own forces.

#### **Article 617. Duty of Lessee Relating to Payment of Expenses for Maintenance of Means of Transport**

Unless otherwise provided by the contract of lease of means of transport without crew, the lessee shall bear the expenses for the maintenance of the leased means of transport, the insurance thereof, including insurance of his liability, and also expenses arising in connection with its operation.

#### **Article 618. Contracts with Third Persons Concerning Use of Means of Transport**

1. Unless otherwise provided by the contract of lease of means of transport, the lessee shall have the right without the consent of the lessor to sublease the leased means of transport on conditions of the contract of lease of means of transport with or without crew.

2. The lessee shall have the right without the consent of the lessor to conclude in his own name with third persons contracts of carriage and other contracts unless they are contrary to the purposes of the use of the means of transport specified in the contract of lease, and if such purposes have not been established, to the purpose of the means of transport.

#### **Article 619. Liability for Harm Caused by Means of Transport**

Liability for harm caused to third persons by a means of transport, its mechanisms, devices, and equipment shall be borne by the lessee in accordance with the rules of Chapter 58 of this Code.



## **Article 620. Peculiarities of Lease of Individual Types of Means of Transport**

Other peculiarities of the lease of individual types of means of transport without granting services with regard to driving and technical operation besides those provided for by the present paragraph may be established by transport charters and codes.

### **§ 4. Lease of Buildings and Installations**

#### **Article 621. Contract of Lease of Building or Installation**

1. Under the contract of lease of building or installation the lessor undertakes to transfer a building or installation in temporary possession and use or temporary use to the lessee.

The rules of the present paragraph shall apply to the lease of part of building or installation unless otherwise provided by the legislation.

2. The rules of the present paragraph shall apply to the lease of enterprises unless otherwise provided by this Code and other acts of legislation concerning the lease of an enterprise.

#### **Article 622. Form and State Registration of Contract of Lease of Building or Installation**

1. A contract of lease of a building or installation shall be concluded in written form by means of drawing up one document signed by the parties (Article 404(2)).

The failure to comply with the form of the contract of lease of a building or installation shall entail its invalidity.

2. The contract of lease of a building or installation concluded for a period of not less than one year shall be subject to state registration and shall be considered to be concluded from the time of such registration.

#### **Article 623. Rights to Land Plot in Event of Lease of Building or Installation Situated Thereon**

1. Under a contract of lease of a building or installation, to the lessee shall pass simultaneously with the transfer of the rights of possession and use of such immovable property the rights to that part of the land plot which is occupied by this immovable property and is necessary for its use.

2. In the instance when the lessor is the owner of the land plot on which the leased capital construction (building, structure) is situated, the lessee may be granted the right of lease to the land plot provided for maintenance of that capital construction (building, structure).

Unless the right to the respective land plot to be transferred to the lessee has been determined by the contract, to him shall pass for the period of the lease of the building or installation the right to use that part of the land plot which is occupied by the building or installation and is necessary for its use in accordance with its purpose.

3. The lease of a building or installation situated on the land plot which does not belong to the lessor by right of ownership shall be permitted without the consent of the owner of this plot unless this is contrary to the conditions of the use of this plot established by the legislation or by contract with the owner of the land plot.

#### **Article 624. Preservation by Lessee of Building or Installation of Right to Use Land Plot in Event of Sale Thereof**

In instances when the land plot on which the leased building or installation is situated is sold to another person, the right of use of the part of the land plot which is occupied by the building or installation and is necessary for its use shall be preserved for the lessee of this building or installation on the conditions which existed before the sale of the land plot.

#### **Article 625. Amount of Lease Payment**

1. The contract of lease of a building or installation must provide for the amount of lease payment. In the absence of the condition concerning the amount of lease payment agreed by the parties in written form, the contract of lease of a building or installation shall be considered to be not concluded. In so doing, the rules for determining the price provided for by Article 394(3) of this Code shall not apply.

2. The payment established in the contract of lease of a building or installation for the use of the building or installation shall include payment for use of the land plot on which it is situated or the respective part of the plot transferred together with it, unless otherwise provided by the legislation or the contract.

3. In instances when the payment for lease of a building or installation has been established in the contract per unit of space of the building (installation) or other indicator of the dimension thereof, the lease payment shall be determined on the basis of the actual dimension of the building or installation transferred to the lessee.

#### **Article 626. Transfer of Building or Installation**

1. The transfer of a building or installation by the lessor and the acceptance thereof by the lessee shall be effectuated under an act of transfer or other document concerning the transfer, to be signed by the parties.

Unless otherwise provided by the legislation or the contract of lease of the building or installation, the obligation of the lessor to transfer the building or installation to the lessee shall be considered to be performed after the granting thereof to the lessee in possession or use and signing by the parties of the respective document concerning transfer.

The evading, by one party, of signing of the document concerning the transfer of the building or installation on the conditions provided for by a contract shall be considered as a refusal respectively of the lessor to perform the duty with regard to the transfer of property and of the lessee to accept the property.

2. In the event of the termination of the contract of lease of a building or installation, the leased building or installation must be returned to the lessor in compliance with the rules provided for by Clause 1 of this Article.

## **§ 5. Lease of Enterprise**

### **Article 627. Contract of Lease of Enterprise**

1. Under the contract of lease of an enterprise as a whole as a property complex used in order to effectuate entrepreneurial activity the lessor shall be obliged to grant to the lessee for payment in temporary possession and use land plots, buildings, installations, equipment, and other fixed assets within the composition of the enterprise, transfer in accordance with the procedure, on the conditions, and within the limits determined by the contract the stocks of raw material, fuel, materials, and other circulating assets, the rights of use of the land, water, and other natural resources, buildings, installations, and equipment, and other property rights of the lessor connected with the enterprise, the rights to designation individualizing the activity of the enterprise, and other exclusive rights, and also to assign to it the rights of demand and transfer debts to it which relate to the enterprise. The transfer of the rights of possession and use of property which is in the ownership of other persons, including land and other natural resources, shall be in accordance with the procedure provided for by the legislation.

2. The rights of the lessor received by him on the basis of a special permit (license) to engage in a respective activity shall not be subject to transfer to the lessee unless otherwise established by the legislation. The inclusion in the composition of the enterprise to be transferred under the contract of obligations, performance of which by the lessee is impossible in the absence of such authorization (license), shall not relieve the lessor from the respective obligations to creditors.

### **Article 628. Rights of Creditors in Event of Lease of Enterprise**

1. Creditors with regard to obligations included as part of the enterprise must be notified before the transfer thereof to the lessee by the lessor in writing concerning the transfer of the enterprise on lease.

2. A creditor who has not notified the lessor in writing on his consent to the transfer of the debt shall have the right within three months from the date of receiving notification concerning the transfer of an enterprise on lease to demand the termination or performance of the obligation before time and compensation of the losses caused by this.

3. A creditor who has not been notified about the transfer of an enterprise on lease in accordance with the procedure provided for by Clause 1 of this Article may bring suit concerning the satisfaction of the demands provided for by Clause 2 of this Article within a year from the date when he knew or should have known about the transfer of the property on lease.

4. After the transfer of an enterprise on lease the lessor and the lessee shall bear joint and several liability for the debts included as part of the transferred enterprise which were transferred to the lessee without the consent of the creditor.

### **Article 629. Form and State Registration of Contract of Lease of Enterprise**

1. The contract of lease of an enterprise shall be concluded in written form by means of drawing up one document signed by the parties (Article 404(2)).
2. The contract of lease of an enterprise shall be subject to state registration and shall be considered to be concluded from the time of such registration.
3. The failure to comply with the form of the contract of lease of an enterprise shall entail its invalidity.

### **Article 630. Transfer of Leased Enterprise**

The transfer of an enterprise to the lessee shall be effectuated under an act of transfer.

The preparation of the enterprise for transfer, including the drawing up and submission for signing of the act of transfer, shall be the duty of the lessor and shall be effectuated at his expense unless otherwise provided by the contract of lease of the enterprise.

### **Article 631. Use of Property of Leased Enterprise**

Unless otherwise provided by the contract of lease of an enterprise, the lessee shall not have the right without the consent of the lessor to sell, exchange, grant for temporary use, or loan material valuables which are part of the property of the leased enterprise, sublease these valuables, and transfer rights and duties under the contract of lease with respect to such valuables to another person. In case of carrying out of such transactions with the consent of the lessee, reduction of the value of the enterprise and violation of other provisions of the contract of lease of the enterprise is not permitted. The said procedure shall not apply with respect to land and other natural resources, nor in other instances provided for by the legislation.

Unless otherwise provided by the contract of lease of an enterprise, the lessee shall have the right without the consent of the lessor to make changes in the composition of the leased property complex and carry out the conversion, expansion, or technical re-equipment which increases its value.

### **Article 632. Duties of Lessee with Regard to Maintenance of Enterprise and Payment of Expenses for Operation Thereof**

1. The lessee of an enterprise shall be obliged within the entire period of operation of the contract of lease of the enterprise to maintain the enterprise in a proper technical condition, including carrying out of the routine and capital repair thereof.
2. Expenses connected with the operation of the leased enterprise shall be placed on the lessee unless otherwise provided by the contract. The payments for insurance of the leased

property also shall be placed on the lessee.

### **Article 633. Making of Improvements by Lessee in Leased Enterprise**

The lessee of an enterprise shall have the right to compensation for the cost of inseparable improvements of the leased property, incurred by him, if these improvements are effectuated with the consent of the lessor, unless otherwise provided by the contract of lease of the enterprise.

The lessor may be relieved by a court from the duty to compensate the lessee for the cost of such improvements if it is proved that the costs of the lessee for such improvements exceeds the value of the leased property incommensurately to the improvement of its quality and(or) operational properties, or the principles of good faith and reasonableness were violated when effectuating such improvements.

### **Article 634. Application to Contract of Lease of Enterprise of Rules Concerning Consequences of Invalidity of Transactions, and Rules Concerning Changes and Dissolution of Contract**

The rules of this Code concerning the consequences of the invalidity of the transactions, changes and dissolution of a contract providing for the return or the recovery in kind of that received under the contract from one or from both parties shall apply to a contract of lease of an enterprise if such consequences do not violate materially the rights and the interests protected by the legislation of creditors, of the lessor and lessee and other persons and are not contrary to the state and public interests.

### **Article 635. Return of Leased Enterprise**

In the event of the termination of a contract of lease of an enterprise, the leased property complex must be returned to the lessor in compliance with the rules provided for by Articles 627, 628, and 630 of this Code. The preparation of the enterprise for transfer to the lessor, including the drawing up and submission for signature of the act of transfer, shall in this event be the duty of the lessee and shall be effectuated at his expense unless otherwise provided by the contract.

## **§ 6. Finance Lease (Finance Leasing)**

### **Article 636. Contract of Finance Lease**

According to a contract of finance lease (contract of finance leasing) the lessor shall undertake to acquire in ownership the property, specified by the lessee, from a seller (supplier) determined by him and to grant this property in temporary possession and use for entrepreneurial purposes to the lessee for payment. The lessor in this event shall not bear liability for the choice of the subject of lease and the seller.

It may be provided by the contract of finance lease that the choice of seller or property to be acquired shall be effectuated by the lessor.

#### **Article 637. Subject of Contract of Finance Lease**

Any non-consumer things to be used for entrepreneurial activity, except land plots and other natural objects, may be the subject of a contract of finance lease.

#### **Article 638. Notifying Seller About Leasing Out of Property**

The lessor, in acquiring property for a lessee, is obliged to notify in writing the seller (supply) that the property is intended for the transfer thereof on lease to a determined person.

#### **Article 639. Transfer to Lessee of Subject of Contract of Finance Lease**

1. Unless otherwise provided by the contract of finance lease, the property which is the subject of this contract shall be transferred by the seller (supplier) directly to the lessee at the location of the latter.

2. In an instance when property which is the subject of a contract of finance lease is not transferred to the lessee within the period specified in this contract, and if such period has not been specified in this contract, within a reasonable period, the lessee shall have the right, if the delay was committed under circumstances for which the lessor is liable, to demand dissolution of the contract and compensation of losses.

#### **Article 640. Transfer to Lessee of Risk of Accidental Perishing or Accidental Spoilage of Property**

The risk of accidental perishing or accidental spoilage of leased property shall pass to the lessee at the time of the transfer of the leased property to him unless otherwise provided by the contract of finance lease.

#### **Article 641. Liability of Seller**

1. The lessee shall have the right to submit demands directly to the seller (supplier) of the property, which is the subject of the contract of finance lease, arising from the contract of purchase-sale concluded between the seller and the lessor, in particular, with respect to the quality and completeness of the property, the periods for the delivery thereof, and in other instances of improper performance of the contract by the seller (supplier). In so doing, the lessee shall have the rights and bear the duties provided for by this Code for a purchaser except for the duties to pay for the property acquired as if he would be a party to the contract of purchase-sale of the said property. However, the lessee may not dissolve the contract of purchase-sale (delivery) with the seller (supplier) without the consent of the lessor.

In relations with the seller (supplier) the lessee and lessor shall act as joint and several creditors (Article 307).

2. Unless otherwise provided by the contract of finance lease, the lessor shall not be liable to the lessee for the fulfillment by the seller (supplier) of demands arising from the contract of purchase-sale (delivery), except for instances when liability for the choice of the seller (supplier) lies on the lessor. In the latter instance the lessee shall have the right at his discretion to submit demands arising from the contract of purchase-sale (delivery) both directly to the seller (supplier) of the property and to the lessor, who shall bear joint and several liability.

## **CHAPTER 35**

### **Rental of Dwelling Premise**

#### **Article 642. Contract of Rental of Dwelling Premise**

Relations arising from the contract of rental of dwelling premise shall be regulated by the Housing Code of the republic of Belarus.

## **CHAPTER 36**

### **Uncompensated Use**

#### **Article 643. Contract of Uncompensated Use (Loan of Goods)**

1. Under a contract of uncompensated use (contract of loan) one party (the lender) shall undertake to transfer or transfers a thing for temporary uncompensated use to the other party (loan recipient), and the latter shall undertake to return this thing in the same condition in which it was received, taking into consideration normal wear and tear, or in condition stipulated by the contract.

2. The rules provided for by Article 578, Article 581(1), Article 581(2, part 1), Article 586(1) and (3), Article 592(2), and Article 594(1) and (3) of this Code shall apply respectively to the contract of uncompensated use.

#### **Article 644. Lender**

1. The right to transfer a thing for uncompensated use shall belong to the owner thereof and to other persons authorized to do so by the legislation or by the owner.

2. A commercial organization shall not have the right to transfer property for uncompensated use to a person who is the founder, participant, director, or member of the management or control bodies thereof.

#### **Article 645. Granting Thing for Uncompensated Use**

1. The lender shall be obliged to grant a thing in a condition corresponding to the terms of the contract of uncompensated use and the purpose thereof.

2. A thing shall be granted for uncompensated use with all of its appurtenances and documents relating thereto (instruction manual, technical passport, and so forth) unless otherwise provided by the contract.

If such appurtenances and documents were not transferred and without them the thing can not be used for its purpose or its use to a significant degree loses value for the loan recipient, the latter shall have the right to demand such appurtenances and documents be granted to him or to demand dissolution of the contract and compensation for real damage incurred by him (Article 14(2)).

#### **Article 646. Consequences of Failure to Grant Thing for Uncompensated Use**

If the lender does not transfer a thing to the loan recipient, the latter shall have the right to demand dissolution of the contract of uncompensated use and compensation for real damage incurred by him.

#### **Article 647. Liability for Defects of Thing Transferred for Uncompensated Use**

1. The lender shall be liable for defects of a thing which he intentionally or through gross negligence did not stipulate when concluding the contract of uncompensated use.

In the event of revealing of such defects, the loan recipient shall have the right at his discretion to demand of the lender the uncompensated elimination of the defects of the thing or compensation of his expenses for elimination of the defects of the thing or dissolution of the contract before time and compensation for real damage incurred by him.

2. The lender notified about the demands of the loan recipient or of his intention to eliminate the defects of the thing at the expense of the lender may without delay replace the thing in disrepair with another similar thing, which is in a proper condition.

The lender shall not be liable for defects of a thing which were stipulated by him when concluding the contract or were known to the loan recipient beforehand or should have been revealed by the loan recipient during the inspection of the thing or verification of its condition when concluding the contract or when transferring the thing.

#### **Article 648. Rights of Third Persons in rem Being Transferred for Uncompensated Use**

The transfer of a thing for uncompensated use shall not be grounds for the change or termination of the rights of third persons to this thing.

When concluding a contract of uncompensated use the lender shall be obliged to warn the loan recipient about all the rights of third persons to this thing (servitude, right of pledge, and so forth). The failure to perform this duty shall give the loan recipient the right to demand



dissolution of the contract and compensation for real damage incurred by him.

#### **Article 649. Duties of Loan Recipient With Regard to Maintenance of Thing**

The loan recipient shall be obliged to maintain the thing received for uncompensated use in a proper condition, including the effectuation of routine and capital repair, and bear all expenses for maintenance thereof unless otherwise provided by the contract of uncompensated use.

#### **Article 650. Risk of Accidental Perishing or Accidental Damaging of Thing**

The loan recipient shall bear the risk of accidental perishing or accidental damage of a thing received for uncompensated use if the thing perished or was spoiled in connection with the fact that he used it not in accordance with the contract of uncompensated use or purpose of the thing or transferred it to a third person without the consent of the lender. The loan recipient also shall bear the risk of accidental perishing or accidental damage of the thing if, taking into consideration the actual circumstances, he could prevent the perishing or spoilage thereof by having sacrificed his thing but preferred to preserve his thing.

#### **Article 651. Liability for Harm Caused to Third Person as Result of Use of Thing**

The lender shall be liable for harm caused to a third person as a result of the use of the thing unless it is proved that the harm was caused as a consequence of the intent or gross negligence of the loan recipient or person who kept this thing with the consent of the lender.

#### **Article 652. Dissolution of Contract of Uncompensated Use Before Time**

1. The lender shall have the right to demand dissolution of a contract of uncompensated use before time in instances when the loan recipient:

- 1) uses the thing not in accordance with the contract or purpose of the thing;
- 2) does not fulfill duties with regard to maintenance of the thing in a proper condition or the service thereof;
- 3) materially worsens the condition of the thing;
- 4) has transferred the thing without the consent of the lender to a third person.

2. The loan recipient shall have the right to demand the dissolution of the contract of uncompensated use before time:

- 1) in the event of revealing of defects making the normal use of the thing impossible or encumbering, concerning the existence of which he did not know and could not have known at the time of concluding the contract;

2) if the thing by virtue of circumstances for which he is not liable proves to be in a condition not fit for use;

3) if when concluding the contract the lender did not warn him about the rights of third persons to the thing being transferred;

4) in the event of the failure of the lender to perform the duty to transfer the thing or appurtenances thereof and documents relating to it.

#### **Article 653. Repudiation of Contract of Uncompensated Use**

1. Each of the parties shall have the right at any time to repudiate the contract of uncompensated use concluded without specification of the period, having notified the other party thereof one month beforehand unless a different period of notice has been provided for by the contract.

2. Unless otherwise provided by the contract, the loan recipient shall have the right at any time to repudiate the contract concluded with specification of the period in accordance with the procedure provided for by Clause 1 of this Article.

#### **Article 654. Change of Parties in Contract of Uncompensated Use**

1. The lender shall have the right to alienate the thing or transfer it for compensated use to a third person. In so doing, to the new owner or user shall pass the rights relating to the previously concluded contract of uncompensated use, and his rights with respect to the thing shall be encumbered by the rights of the loan recipient.

2. In the event of the death of a citizen, being the lender, or the reorganization or liquidation of a legal person, being the lender, the rights and duties of the lender under the contract of uncompensated use shall pass to the heir (legal successor) or to another person to whom the right of ownership to the thing or other right has passed, on the basis of which the thing was transferred in uncompensated use.

In the event of the reorganization of a legal person, being the loan recipient, its rights and duties under the contract shall pass to the legal person which is the legal successor thereof unless otherwise provided by the contract.

#### **Article 655. Termination of Contract of Uncompensated Use**

A contract of uncompensated use shall terminate in the event of the death of the citizen, being the loan recipient, or liquidation of the legal person, being the loan recipient, unless otherwise provided by the contract.

### **CHAPTER 37 Independent Work**

## **§ 1. General Provisions on Independent Work**

### **Article 656. Contract of Independent Work**

1. Under a contract of independent work one party (the independent work contractor) shall undertake to fulfill the determined work according to the order of the other party (customer) and to hand over the result thereof to the customer, and the customer shall undertake to accept the result of the work and to pay for it. The work shall be fulfilled for the risk of the independent work contractor, unless otherwise established by the legislation or contract of the parties.

2. The provisions of the present paragraph shall apply to individual types of contract of independent work (domestic independent work, construction independent work, independent work for the fulfillment of design and survey work, independent work for state needs) unless otherwise established by this Code and other acts of legislation concerning these types of contracts.

### **Article 657. Work to be Fulfilled Under Contract of Independent Work**

1. A contract of independent work shall be concluded for the manufacture or converting (processing) of a thing or for the fulfillment of other work with the transfer of its results to the customer.

2. Under a contract of independent work concluded for the manufacture of a thing the independent work contractor shall pass the rights thereto to the customer.

3. Unless otherwise provided by the contract, the independent work contractor autonomously shall determine the means of fulfillment of the order of the customer.

### **Article 658. Fulfillment of Work by the Means of Independent Work Contractor**

1. Unless otherwise provided by the contract of independent work, the work shall be fulfilled by the means of the independent work contractor, i.e. of his materials and by his forces and means.

2. The independent work contractor shall bear liability for the improper quality of materials and equipment granted by him, and also for granting materials and equipment encumbered by the rights of third persons.

### **Article 659. Distribution of Risks Among Parties**

1. Unless otherwise provided by this Code, other legislation, or by the contract of independent work:

1) the risk of accidental perishing or accidental damage of materials, equipment, things transferred for conversion (processing), or other property used to perform the contract shall be

borne by the party granting this property;

2) the risk of accidental perishing or accidental damage of the result of the work fulfilled shall be borne by the independent work contractor until the acceptance thereof by the customer.

2. In the event of the delay of the transfer or acceptance of the result of the work the risks provided for by Clause 1 of this Article shall be borne by the party which has committed the delay.

### **Article 660. General Independent Work Contractor and Independent Work Subcontractor**

1. Unless the duty of the independent work contractor to fulfill the work provided for in the contract personally arises from a legislation or contract of independent work, the independent work contractor shall have the right to involve other persons (independent work subcontractors) to perform his obligations. In this event the independent work contractor shall act as the general independent work contractor.

2. The independent work contractor who has involved an independent work subcontractor to perform the contract of independent work in violation of the provisions of Clause 1 of this Article or the contract shall bear liability to the customer for losses caused by the participation of the independent work subcontractor in performance of the contract.

3. The general independent work contractor shall bear liability to the customer for the consequences of the failure to perform or the improper performance of obligations by the independent work subcontractor in accordance with the rules of Article 294(1) and Article 374 of this Code, and to the independent work subcontractor for the failure to perform or the improper performance by the customer of obligations under the contract of independent work.

Unless otherwise provided by the legislation or contract, the customer and the Independent work subcontractor shall not have the right to submit to one another demands connected with a violation of the contracts concluded by each of them with the general independent work contractor.

4. With the consent of the general independent work contractor the customer shall have the right to conclude contracts for the fulfillment of individual works with other persons. In this event the said persons shall bear liability for the failure to perform or the improper performance of work directly to the customer.

### **Article 661. Participation of Several Persons in Performance of Work**

1. If two persons or more act on the side of the independent work contractor, in the event of the indivisibility of the subject of the obligation they shall be deemed with respect to the customer to be joint and several debtors and respectively joint and several creditors.

2. In the event of the divisibility of the subject of the obligation, and also in other instances provided for by the legislation, or the contract, each of the persons specified in Clause 1 of this Article shall acquire the rights and bear the duties with respect to the customer within the

limits of his share (Article 302).

### **Article 662. Periods for Fulfillment of Work**

1. The periods of beginning and ending of fulfillment of the work shall be specified in the contract of independent work. By agreement between the parties, the periods of beginning and ending of individual stages of work (intermediate periods) also may be provided for in the contract.

Unless otherwise established by the legislation, or provided for by the contract, the independent work contractor shall bear liability for a violation of both the beginning and ending, and also the intermediate, periods for the fulfillment of work.

2. The beginning, ending, and intermediate periods for the fulfillment of work specified in the contract of independent work may be changed in the instances and in accordance with the procedure provided for by the contract.

3. The consequences of delay of performance specified in Article 376(2) of this Code shall ensue in the event of a violation of the ending period for the fulfillment of the work.

### **Article 663. Price of Work**

1. In the contract of independent work the price of the work subject to fulfillment or the means of determining it shall be specified. In the absence of such indications in the contract the price shall be determined in accordance with Article 394(3) of this Code on the basis of prices commonly applied for the similar works, taking into consideration the necessary expenses incurred by the parties.

2. The price in the contract of independent work shall include compensation for the costs of the independent work contractor and the remuneration due to it.

3. The price of the work may be determined by means of drawing up an estimate.

In instances when work is fulfilled in accordance with the estimate drawn up by the independent work contractor, the estimate shall acquire force and become part of the contract of independent work from the time of the confirmation thereof by the customer.

4. The price of the work (estimate) may be fixed or approximate. In the absence of other indications in the contract of independent work, the price of the work shall be considered to be fixed.

5. If the necessity arises for carrying out additional work and for this reason the price of the work determined approximately materially increases, the independent work contractor shall be obliged to warn the customer thereof in good time. The customer who has not agreed to the increase of the price of the work specified in the contract of independent work shall have the right to repudiate the contract. In this event, the independent work contractor may demand payment from the customer to him of the price for the part of the work fulfilled.

An independent work contractor who has not warned the customer in good time about the necessity of increasing the price of the work specified in the contract shall be obliged to fulfill

the contract, retaining the right to payment for the work at the price determined in the contract.

6. An independent work contractor shall not have the right to demand an increase of a fixed price, and the customer shall not have the right to demand to reduce it, including an instance when at the time of concluding the contract of independent work the possibility to determine the full amount of work subject to fulfillment or the expenses necessary for this was excluded.

In the event of the material growth, after conclusion of the contract, of the cost of materials and equipment granted by the independent work contractor, and also of services rendered to him by third persons which could not be provided for when concluding the contract, the independent work contractor shall have the right to demand an increase of the established price, and in the event of the refusal of the customer to fulfill this demand, to dissolve the contract in accordance with Article 421 of this Code.

#### **Article 664. Economies of Independent Work Contractor**

1. In instances when the actual expenses of the independent work contractor prove to be less than those which were taken into consideration when determining the price of the work, the independent work contractor shall retain the right to payment for the work at the price provided for by the contract of independent work unless the customer proves that the economies received by the independent work contractor affected the quality of the work fulfilled.

2. A distribution of the economies received by the independent work contractor between the parties may be provided for in the contract of independent work.

#### **Article 665. Procedure for Payment of Work**

1. Unless payment in advance for work fulfilled or individual stages thereof has been provided for by the contract of independent work, the customer shall be obliged to pay the independent work contractor the stipulated price after the final handing over of the results of the work, if the work is fulfilled properly and within the agreed period, or, with the consent of the customer, before time.

2. The independent work contractor shall have the right to demand the payment to him of an advance or a deposit only in the instances and in the amount specified in a legislation or in the contract of independent work.

#### **Article 666. Right of Independent Work Contractor to Retention**

In the event of the failure of the customer to perform the duty to pay the established price or other amount due to the independent work contractor in connection with the fulfillment of the contract of independent work, the independent work contractor shall have the right to retention, in accordance with Article 340 of this Code, of the result of the work, and also the equipment belonging to the customer, transferred for converting (processing) the thing, the remains of the material unused, and other property of the customer, which is in the disposal of

the independent work contractor, until the payment by the customer of the respective amounts.

#### **Article 667. Fulfillment of Work with Use of Material of Customer**

1. The independent work contractor shall be obliged:

- 1) to use the material granted by the customer economically and carefully;
- 2) after the ending of the work, to submit a report to the customer concerning the expenditure of the material;
- 3) to return the remains thereof or, with the consent of the customer, to reduce the price of the work by taking into account the cost of the unused material remaining in the disposal of the independent work contractor.

2. If the result of the work was not achieved or the result achieved turned out to have defects which make it unfit for the use provided for in the contract of independent work, or, in the absence of a respective condition of unfitness in the contract, for ordinary use for reasons caused by the defects of the material granted by the customer, the independent work contractor shall have the right to demand payment for the work fulfilled by him.

3. The independent work contractor may effectuate the right specified in Clause 2 of this Article if it is proved that the defects of the material could not be revealed when the independent work contractor properly received this material.

#### **Article 668. Liability of Independent Work Contractor for Non-Preservation of Property Granted by Customer**

The independent work contractor shall bear liability for the non-preservation of material, equipment, the thing transferred for conversion (processing), or other property granted by the customer which turned out to be in the possession of the independent work contractor in connection with the performance of the contract of independent work.

#### **Article 669. Rights of Customer During Fulfillment of Work by Independent Work Contractor**

1. The customer shall have the right at any time to verify the course and quality of the work to be fulfilled by the independent work contractor without interfering in his activity.

2. If the independent work contractor does not embark upon the timely performance of the contract of independent work or fulfills the work so slowly that the ending thereof, within the period specified, clearly becomes impossible, the customer shall have the right to repudiate performance of the contract and to demand compensation of losses.

3. If during the fulfillment of work it becomes evident that it will not be properly fulfilled, the customer shall have the right to designate a reasonable period to the independent work contractor for elimination of the defects and in the event of the failure to perform this demand

by the independent work contractor within the designated period to repudiate the contract of independent work or to commission rectification of the work to another person at the expense of the independent work contractor, and also to demand compensation of losses.

4. Unless otherwise provided by the contract of independent work, subject to availability of valid reasons, the customer may repudiate the contract of independent work at any time before handing over the results of work, subject to payment of the part of price specified for the work, corresponding to the difference between the part of price, paid for the work, and the price specified for the work as a whole.

#### **Article 670. Circumstances of Which Independent Work Contractor is Obligated to Warn Customer**

1. The independent work contractor shall be obliged to warn immediately the customer and until receiving instructions from him to suspend the work in the event of revealing:

1) the unfitness or poor quality of the material, equipment, technical documentation, granted by the customer, or thing transferred for conversion (processing) by the customer;

2) possible consequences of the fulfillment of customer's instructions concerning the means of performance of the work, unfavorable for the customer;

3) other circumstances beyond the control of the independent work contractor, which threaten the fitness or stability of the results of the work to be fulfilled or create the impossibility of completing it within the specified period.

2. An independent work contractor who has not warned the customer about the circumstances specified in Clause 1 of this Article or who has continued the work without awaiting the expiry of the period specified in the contract, or, in the absence thereof, of a reasonable period for a reply to the warning, or, not regarding the timely instruction of the customer concerning termination of the work, shall not have the right to refer to the said circumstances in the event of the submission of respective demands to him or by him to the customer.

3. If the customer, not regarding a timely and substantiated warning from the part of the independent work contractor concerning the circumstances specified in Clause 1 of this Article, within a reasonable period does not replace unfit or poor-quality material, equipment, technical documentation, or thing transferred for conversion (processing), or does not change instructions concerning the means of fulfilling the work, or does not take other necessary measures in order to eliminate the circumstances threatening the fitness thereof, the independent work contractor shall have the right to refuse performance of the contract of independent work and to demand compensation of losses caused by its termination.

#### **Article 671. Assistance of Customer**

1. The customer shall be obliged in the instances, in the amount, and in accordance with the procedure provided for by the contract of independent work to render assistance to the independent work contractor in the fulfillment of the work.



In the event of the failure of the customer to perform this duty the independent work contractor shall have the right to demand compensation of losses caused, including additional costs caused by idle time, or to carry over the periods for performance of the work, or to increase the price of the work specified in the contract.

2. In instances when performance of the work under the contract of independent work has become impossible as a consequence of actions or omissions of the customer, the independent work contractor shall retain the right to payment to him of the price specified in the contract taking into account the part of the work fulfilled.

#### **Article 672. Failure of Customer to Perform Counter Duties Under Contract of Independent Work**

1. The independent work contractor shall have the right not to embark upon the work, and to suspend work begun, in instances when a violation by the customer of his duties under the contract of independent work, in particular the failure to grant material, equipment, technical documentation, or the thing subject to conversion (processing), or improper quality or unfitness thereof, prevents the performance of the contract by the independent work contractor, and also when there are circumstances obviously testifying to the fact that performance of the said duties will not be made within the established period (Article 309).

2. Unless otherwise provided by the contract of independent work, the independent work contractor shall have the right, when the circumstances specified in Clause 1 of this Article exist, to refuse performance of the contract and to demand compensation of losses.

#### **Article 673. Acceptance by Customer of Work Fulfilled by Independent Work Contractor**

1. The customer shall be obliged within the periods and in accordance with the procedure which are provided for by the contract of independent work to inspect and accept, with the participation of the independent work contractor, the work fulfilled (result thereof), and in the event of revealing deviations from the contract which worsen the result of the work or other defects in the work, to immediately declare this to the independent work contractor.

2. The customer who has revealed defects in the work when receiving it, shall have the right to refer to them only in instance when these defects, or the possibility of subsequent submission of a demand concerning elimination thereof, were stipulated in the act or in the other document certifying acceptance.

3. Unless otherwise provided by the contract of independent work, the customer who has accepted work without verification shall be deprived of the right to refer to defects of the work which could have been revealed by ordinary means of the acceptance thereof (obvious defects).

4. The customer who has revealed, after acceptance of the work, deviations therein from the contract of independent work or other defects which could not be revealed by ordinary means of acceptance (latent defects), including those which were intentionally concealed by the independent work contractor, shall be obliged to notify the independent work contractor

thereof after the revealing thereof.

5. In the event of a dispute arising between the customer and the independent work contractor, relating to the defects of the work fulfilled or the reasons therefor, an expert examination must be designated at the demand of any of the parties. The expenses with regard to the expert examination shall be borne by the independent work contractor except for instances when the expert examination established the absence of violations by the independent work contractor of the contract of independent work or a causal link between the actions of the independent work contractor and the defects revealed. In the said instances the expenses for the expert examination shall be borne by the party which required the designation of the expert examination, and if it was designated by agreement between the parties, by both parties equally.

6. Unless otherwise provided by the contract of independent work, in the event the customer evades accepting the work fulfilled, the independent work contractor shall have the right upon the expiry of a month from the date when according to the contract the result of the work should have been transferred to the customer, and on condition of a subsequent warning twice of the customer, to sell the result of the work, and to deposit the amount received, less all payments due to the independent work contractor, in the name of the customer in accordance with the procedure provided for by Article 308 of this Code.

7. If the evasion of the customer of acceptance of the work fulfilled entailed delay in handing over the work, the risk of accidental perishing of the work shall be deemed to have passed to the customer at the time when the transfer of the thing should have happened.

#### **Article 674. Quality of Work**

1. The quality of work fulfilled by the independent work contractor must correspond to the conditions of the contract of independent work, and in the absence or incompleteness of the conditions of the contract, to the requirements ordinarily presented for work of the respective nature. Unless otherwise provided by the legislation or contract, the result of work fulfilled must, at the time of transfer to the customer, possess the properties specified in the contract or determined requirements usually presented, and within the limits of a reasonable period be fit for the use established by the contract, and if such use is not provided for by the contract, for ordinary use of the result of work of this nature.

2. If obligatory requirements for work to be fulfilled under a contract of independent work have been provided for by the legislation or in accordance with the procedure established by the legislation, the independent work contractor acting as an entrepreneur shall be obliged to fulfill the work while complying with these obligatory requirements.

#### **Article 675. Guarantee of Quality of Work**

1. In an instance when a guarantee period is provided for the result of work by the legislation or by the contract of independent work, the independent work contractor must transfer to the customer the result of work, which must correspond to the requirements of Article 674(1) of this Code during the entire guarantee period.

2. The guarantee of quality of the result of work, unless otherwise provided by the contract

of independent work, shall extend to everything comprising the result of the work.

### **Article 676. Liability of Independent Work Contractor for Improper Quality of Work**

1. In instances when work is fulfilled by an independent work contractor with deviations from the contract of independent work which worsen the result of the work, or with other defects which make it unfit for the use provided for in the contract or, in the event of the absence in the contract of a corresponding condition of unfitness, for ordinary use, the customer shall have the right, unless otherwise established by the legislation or the contract, at his discretion, to demand from the independent work contractor:

1) elimination of the defects without compensation within a reasonable period;

2) commensurate reduction of the price established for the work;

3) compensation of his expenses for elimination of the defects when the right of the customer to eliminate the defects has been provided for in the contract of independent work (Article 368).

2. The independent work contractor shall have the right instead of eliminating the defects for which he is liable to fulfill the work without compensation anew with compensation to the customer of losses caused by the delay of performance. In this event the customer shall be obliged to return the result of the work previously transferred to him to the independent work contractor if by the character of the work such return is possible.

3. If deviations in the work from the conditions of the contract of independent work or other defects of the result of the work are not eliminated within a reasonable period established by the customer, or if these deviations are material and ineradicable, the customer shall have the right to refuse performance of the contract and to demand compensation of losses caused.

4. The condition of the contract of independent-work concerning relieving the independent work contractor of liability for determined defects shall not relieve him from liability if it is proved that such defects arose as a consequence of guilty actions or the omission of the independent work contractor.

5. The independent work contractor who has granted material to fulfill work shall be liable for its quality according to the rules concerning liability of the seller for goods of improper quality (Article 445).

### **Article 677. Periods of Revealing of Improper Quality of Result of Work**

1. Unless otherwise established by the legislation or the contract of independent work, the customer shall have the right to submit demands connected with the improper quality of the result of work on condition that it is revealed within the periods established by this Article.

2. In an instance when a guarantee period is not established for the result of the work, demands connected with defects of the result of the work may be submitted by the customer on condition that they were revealed within a reasonable period, but within the limits of two years from the date of transfer of the result of the work, unless other periods have been established by the legislation or the contract.

3. The customer shall have the right to submit demands connected with defects of the result of the work revealed within the guarantee period.

4. In an instance when the guarantee period provided for by the contract constitutes less than two years and the defects of the result of the work are revealed by the customer upon the expiry of the guarantee period but within the limits of two years from the time provided for by Clause 5 of this Article, the independent work contractor shall bear liability if the customer proves that the defects arose before the transfer of the result of the work to the customer or for reasons which arose before that time.

5. Unless otherwise provided by the contract of independent work, the guarantee period (Article 675(1)) shall commence to run from the time when the result of the work fulfilled was accepted or should have been accepted by the customer.

6. The rules contained in Article 441(2) and (4) of this Code respectively shall apply to calculating the guarantee period under the contract of independent work unless otherwise provided by the legislation, agreement of the parties, or does not arise from the peculiarities of the contract of independent work.

#### **Article 678. Limitation period With Regard to Suits Concerning Improper Quality of Work**

1. The limitation period for demands submitted in connection with improper quality of work to be fulfilled under the contract of independent work shall be equal to one year, or, with respect to buildings, structures and installations, three years.

2. If a guarantee period has been established by the legislation or the contract of independent work, and the declaration with regard to defects of the result of the work was made within the limits of the guarantee period, the running of the limitation period specified in Clause 1 of this Article shall commence from the date of the declaration concerning the defects.

3. If in accordance with the contract of independent work the result of the work was accepted by the customer in parts, the running of the limitation period shall commence from the date of acceptance of the result of the work as a whole.

#### **Article 679. Duty of Independent Work Contractor to Transfer Information to Customer**

The independent work contractor shall be obliged to transfer to the customer together with the result of the work information affecting the operation or other use of the subject of the contract of independent work, if this is provided for by the contract, or if the character of the information is such that without it the use of the result of the work is impossible for the purposes specified in the contract.

#### **Article 680. Confidentiality of Information Received by Parties**

If a party, as a result of the performance of his obligation under the contract of independent work, has received information from the other party concerning new solutions and technical knowledge, including those not protected by the legislation, and also information which might be considered as a commercial secret (Article 140), the party who has received such information shall not have the right to disclose it for third persons without the consent of the other party.

The procedure and conditions for the use of such information shall be determined by agreement of the parties.

#### **Article 681. Return of Property and Equipment from Independent Work Contractor to Customer**

In instances when the customer on the basis of Article 669(2) or Article 676(3) of this Code dissolves a contract of independent work, the independent work contractor shall be obliged to return the materials, equipment, thing transferred for conversion (processing), and other property granted by the customer or to transfer this property to the person specified by the customer, and if this proves to be impossible, to compensate the cost of the materials, equipment, and other property.

#### **Article 682. Consequences of Termination of Contract of Independent Work Before Acceptance of Result of Work**

In the event of the termination of a contract of independent work on the grounds provided for by the legislation or the contract before the acceptance by the customer of the result of the work fulfilled by the independent work contractor (Article 673(1)), the customer shall have the right to demand the transfer to him of the result of the uncompleted work with compensation for the independent work contractor of expenses made.

### **§ 2. Domestic Independent Work**

#### **Article 683. Contract of Domestic Independent Work**

1. Under a contract of domestic independent work the independent work contractor carrying out the respective entrepreneurial activity shall be obliged to fulfill according to the order of a citizen (customer) the work determined which is intended to satisfy the personal, domestic or family requirements of the customer, and the customer shall be obliged to accept this work and to pay for it.

2. The contract of domestic independent work shall be a public contract (Article 396).

3. The legislation on defense of the rights of consumers shall apply to relations under the contract of domestic independent work.

#### **Article 684. Guarantees of Rights of Customer**

1. An independent work contractor shall not have the right to bind the customer to include additional payable work or services in the contract of domestic independent work. The customer shall have the right to refuse payment for work or services not provided for by the contract.

2. The customer shall have the right at any time before the work is handed over to him to refuse performance of the contract of domestic independent work, having paid to the independent work contractor the part of the established price in proportion to the part of the work fulfilled before notifying about the refusal of performance of the contract and having compensated the independent work contractor for expenses made until this time for the purposes of performance of the contract unless they are within the said part of the price of the work. Conditions of a contract depriving the customer of this right shall be void.

### **Article 685. Form of Contract**

Unless otherwise provided by the legislation or a contract of domestic independent work, including the conditions of standard contracts or other standard forms joined by the purchaser (Article 398), a contract of domestic independent work shall be considered to be concluded in proper form from the time of the issuance by the independent work contractor to the customer of a receipt or other document confirming the conclusion of the contract.

### **Article 686. Public Offer for Contract of Domestic Independent Work**

The rules concerning the public offer, provided in Article 407 of this Code, shall respectively apply to the advertisement and other offers of works performed under the contract of domestic independent work.

### **Article 687. Granting Information to Customer About Offered Work**

1. The independent work contractor shall be obliged before conclusion of the contract of domestic independent work to grant to the customer necessary and reliable information concerning the offered work, the types thereof, and peculiarities, the price and form of payment, and also notify the customer, at his request, of other information relating to the contract and respective work. If by the character of the work this has significance, the independent work contractor must notify the customer about the specific person who will fulfill it.

2. The customer shall have the right to demand dissolution of a concluded contract of domestic independent work without payment for the work fulfilled, and also compensation of losses, in instances when as a consequence of the incompleteness or unreliability of information received from the independent work contractor the contract was concluded for the fulfillment of work not possessing the properties which the customer had in view.

3. Information specified in this Article shall be granted to the customer in one of the official languages. Information notified or granted in the foreign language shall be deemed to be not granted, except for the instances when the information was notified or granted in the foreign

language in accordance with the desire of the customer.

#### **Article 688. Fulfillment of Work from Material of Independent Work Contractor**

1. If work under the contract of domestic independent work is fulfilled from material of the independent work contractor, the material shall be paid for by the customer when concluding the contract in full or in part specified in the contract, with the final settlement of accounts when the work fulfilled by the independent work contractor is received by the customer.

In accordance with the contract, the material may be granted by the independent work contractor on credit, including granting under the condition of payment for the material by the customer on installment.

2. A change of price of the material, granted by the independent work contractor, after the conclusion of a contract of domestic independent work, shall not entail a resettlement of accounts.

#### **Article 689. Fulfillment of Work from Material of Customer**

If work under the contract of domestic independent work is fulfilled from the material of the customer, the exact name, description, and price of the material determined by agreement of the parties must be specified on the receipt or other document issued by the independent work contractor to the customer when concluding the contract. The cost of the material specified in the receipt or other similar document may be contested by the customer in a court.

#### **Article 690. Price and Payment for Work**

The price of work in a contract of domestic independent work shall be determined by agreement of the parties and may not be higher than that established or regulated by respective state bodies. The work shall be paid for by the customer after the final handing over thereof by the independent work contractor. With the consent of the customer the work may be paid for by him when concluding the contract in full or by means of advance.

#### **Article 691. Warning of Customer About Conditions of Use of Work Fulfilled**

When handing work over to the customer, the independent work contractor shall be obliged to notify him about the requirements which it is necessary to comply with for the effective and safe use of the result of the work, and also possible consequences for the customer himself and other persons of the failure to comply with the respective requirements.

#### **Article 692. Consequences of Revealing of Defects in Work Fulfilled**

1 In the event of revealing of defects during the acceptance of the result of the work or

during using thereof within the general periods of limitation period, provided by Article 678 of this Code, or, if the guarantee period is specified, within this period, the customer shall have the right at his discretion to exercise one of the rights provided for in Article 676 of this Code or to demand fulfillment of the work again without compensation, or compensation of expenses incurred by him for rectification of the defects by his own means or by third persons.

2. The demand of elimination, without compensation, of the defects of work under the contract of domestic independent work, that can be dangerous for the life or health of the customer or other persons, may be submitted by the customer or legal successors thereof within ten years after reception of the results of work, unless the longer periods (service periods) are provided in accordance with the procedure established by the legislation. This demand may be submitted irrespective of the time when the defects were revealed, including the case when the defects are revealed after the expiry of the guarantee period.

3. In the event of the failure of the independent work contractor to fulfill the demand specified in Clause 2 of this Article, the customer shall have the right within this same period to demand either the return of part of the price paid for the work or compensation of expenses incurred in connection with the elimination of defects by the customer by his own forces or with the assistance of third persons.

#### **Article 693. Consequences of Failure of Customer to Appear for Receipt of Result of Work**

1. In the event of the failure of the customer to appear for the receipt of the result of the work fulfilled or other evasion of the customer from acceptance thereof, the independent work contractor shall have the right, having warned the customer in writing, upon the expiry of two months from the date of such warning to sell the result of the work for a reasonable price and to deposit the amount received, less all payments due to the independent work contractor, in accordance with the procedure provided for by Article 308 of this Code.

2. In cases specified in Clause 1 of this Article, the independent work contractor shall have the right, instead of selling the subject of independent work, to take advantage of the right to retain it (Article 340) or to recover from the customer the losses caused.

#### **Article 694. Consequences of Death of One of the Parties in the Contract of Domestic Independent Work**

In case of termination of the contract of domestic independent work on the grounds provided by Article 388 of this Code, the consequences of termination of the contract are determined by the agreement between the legal successor of the respective party and its counteragent, or, in case of failure to reach the agreement, by the court, taking into consideration the scale of the work fulfilled and the value thereof, the cost of material used or remained, and other significant circumstances.

#### **Article 695. Rights of Customer in Event of Improper Fulfillment or Failure to Fulfill**



## **Work Under Contract of Domestic Independent Work**

In the event of the improper fulfillment or the failure to fulfill work under a contract of domestic independent work, the customer may take advantage of the rights granted to the purchaser in accordance with Articles 473-475 of this Code.

### **§ 3. Construction Independent Work**

#### **Article 696. Contract of Construction Independent Work**

1. Under a contract of construction independent work the independent work contractor shall undertake, within the period established by the contract, to build a determined object according to the order of the customer or to fulfill other construction work, and the customer shall undertake to create necessary conditions for the independent work contractor in order to fulfill the work, accept the result thereof, and to pay the stipulated price.

2. The contract of construction independent work shall be concluded for the construction or reconstruction of a building, installation, or other object, and also for the fulfillment of construction, and other special mounting works. The rules concerning the contract of construction independent work shall also apply to work relating to the capital repair of buildings, installations and other objects, unless otherwise provided by the contract. In the instances provided for by the contract, the independent work contract shall assume the duty to ensure the operation of the object after its acceptance by the customer during the period specified in the contract.

3. In instances when, under the contract of construction independent work, the work is fulfilled in order to satisfy personal, domestic or family requirements of a citizen (customer), the rules of paragraph 2 of this Chapter concerning the rights of the customer under the contract of domestic independent work shall apply respectively to such contract.

#### **Article 697. Distribution of Risk Between Parties**

1. The risk of accidental perishing or accidental damaging of the object of construction comprising the subject of a contract of construction independent work before the acceptance of this object by the customer shall be borne by the independent work contractor.

2. If the object of construction before acceptance by the customer has perished or been damaged as a consequence of the poor quality of the material (parts, or assemblies) or equipment granted by the customer, or as a consequence of the performance of erroneous instructions of the customer, the independent work contractor shall have the right to demand the payment of the entire cost of the work provided for by the estimate on condition that the duties provided for by Article 670(1) of this Code were fulfilled by him.

#### **Article 698. Design and Estimate Documentation**

1. The independent work contractor shall be obliged to effectuate construction and works connected therewith in accordance with the design documentation determining the amount and content of the work and other requirements to this work, and with the estimate

determining the price of the work. In the absence of other indications in the contract of construction independent work it shall be presupposed that the independent work contractor is obliged to fulfill all the work specified in the design documentation and in the estimate (design and estimate documentation).

2. The composition and content of the design and estimate documentation must be determined by the contract of construction independent work; also, it must be provided which of the parties and within what period must grant the respective documentation.

3. An independent work contractor, in case of revealing, in the course of construction work, of works not specified in the design and estimate documentation and, in connection therewith, the need to carry out additional work and increase the estimate cost of the construction, shall be obliged to inform the customer thereof. In case of non-receiving of a reply from the customer to his communication within ten days, unless another period has been provided by the legislation or by the contract of construction independent work, the independent work contractor shall be obliged to suspend the respective work with relegation of the losses, caused by the idling, to the account of the customer. The customer shall be relieved from compensation of such losses if he will prove the absence of the necessity to carry out the additional work.

4. An independent work contractor who has not fulfilled the duties established by Clause 3 of this Article shall be deprived of the right to demand payment from the customer for the additional work fulfilled by him and compensation of losses caused thereby unless he will prove that the immediate actions were necessary in the interests of the customer, in particular in connection with the fact that the suspension of work could lead to the perishing or damaging of the object of construction.

5. In the event of the consent of the customer on carrying out and of the additional work and on payment thereof, the independent work contractor shall have the right to refuse the fulfillment thereof only in instances when such work is not within the sphere of the professional activity of the independent work contractor or may not be fulfilled by the independent work contractor for reasons beyond his control.

#### **Article 699. Making Changes in Design and Estimate Documentation**

1. The customer shall have the right to make changes in the design and estimate documentation, not connected with the additional expenses for the customer.

2. Making of changes in the design and estimate documentation, requiring additional expenses for the customer, shall be effectuated at the expense of the customer on the basis of an additional estimate agreed by the parties.

3. The independent work contractor shall have the right to demand, in accordance with Article 420 of this Code, a revision of the estimate, if for reasons beyond his control the cost of the work exceeded the estimate by not less than 10%.

4. The independent work contractor shall have the right to demand compensation of reasonable expenses which were incurred by him in connection with the revealing and elimination of defects in the design and estimate documentation.

### **Article 700. Provision of Construction with Materials and Equipment**

1. The duty relating to provision of the construction with materials, including parts and assemblies or equipment, shall be borne by the independent work contractor unless it is provided by the contract of construction independent work that the provision of construction as a whole or in determined part shall be effectuated by the customer.

2. The party, within those duty is the provision of the construction, shall bear liability for the revealed impossibility of using the materials or the equipment granted by it without worsening the quality of the work to be fulfilled, unless this party will prove that the impossibility of the use arose through circumstances for which the other party is liable.

3. In the event of the revealed impossibility of the use of the materials or equipment granted by the customer without worsening the quality of the work to be fulfilled and of the refusal of the customer to replace them, the independent work contractor shall have the right to repudiate the contract of construction independent work and to demand from the customer the payment of the price of the contract in proportion to the work fulfilled, and compensation of the losses not covered by this amount.

### **Article 701. Payment for Work**

1. Payment for the work fulfilled by the independent work contractor shall be made by the customer in the amount provided for by the estimate, within the periods, and in accordance with the procedure which has been established by the legislation or by the contract of construction independent work. In the absence of respective instructions in a legislation or in the contract the payment for work shall be made in accordance with Article 665 of this Code.

2. Payment for work as lumpsum and in full after acceptance of the object by the customer may be provided for by the contract of construction independent work.

### **Article 702. Additional Duties of Customer Under Contract of Construction Independent Work**

1. The customer shall be obliged in a timely way to grant a land plot for construction. The size and condition of the land plot granted must correspond to the conditions contained in the contract of construction independent work, and in the absence of such conditions, ensure the timely commencement of the work, normal carrying out thereof, and completion within the specified period.

2. The customer shall be obliged in the instances and in accordance with the procedure provided for by the contract of construction independent work to transfer for use to the independent work contractor buildings and installations necessary in order to effectuate the work, ensure transportation of goods to the address of the independent work contractor, the temporary laying of the network for electric power, water and gas supply, and to render other services.

3. Payment for services granted by the customer, specified in Clause 2 of this Article, shall be effectuated in the instances and on the conditions provided for by the contract of

construction independent work.

### **Article 703. Control and Supervision of Customer Over Fulfillment of Work under Contract of Construction Independent Work**

1. The customer shall have the right to effectuate control and supervision over the course and quality of work being fulfilled, compliance with the periods thereof for the fulfillment (schedule), the quality of materials granted by the independent work contractor, and also the correctness of the use of the materials of the customer by the independent work contractor without interfering in so doing in the operational economic activity of the independent work contractor.

2. The customer who has revealed, when carrying out control and supervision over the fulfillment of work, deviations from the conditions of the contract of construction independent work which may worsen the quality of work or other defects thereof, shall be obliged immediately to inform the independent work contractor. The customer who has not made such declaration shall lose the right thereafter to refer to the defects revealed by him.

3. The independent work contractor shall be obliged to perform instructions of the customer received in the course of the construction if such instructions are not contrary to the conditions of the contract of construction independent work and are not being the interference in the operational economic activity of the independent work contractor.

4. The independent work contractor who has improperly fulfilled work shall not have the right to refer to the fact that the customer did not effectuate control and supervision over the fulfillment thereof, except for instances when the duty to effectuate such control and supervision is placed on the customer by the legislation.

### **Article 704. Participation of Engineer (Engineering Organization) in Exercise of Rights and Fulfillment of Duties of Customer**

The customer for the purpose of carrying out control and supervision over construction and making decisions in his name in mutual relations with the independent work contractor may conclude autonomously, without the consent of the independent work contractor, a contract concerning the rendering of services of such type to the customer with a respective engineer (engineering organization). In this event the functions of such engineer (engineering organization) connected with the consequences of his actions for the independent work contractor shall be determined in the contract of construction independent work.

### **Article 705. Cooperation of Parties in Contract of Construction Independent Work**

1. If, when fulfilling construction and work connected therewith, obstacles are revealed for the proper performance of the contract of construction independent work, each of the parties shall be obliged to take all reasonable measures within its control to eliminate such obstacles. The party who does not perform this duty shall lose the right to compensation of losses caused by the fact that the respective obstacles were not eliminated.

2. The expenses of the party connected with the performance of the duties specified in Clause 1 of this Article shall be subject to compensation by the other party in the instances when this is provided for by the contract of construction independent work.

#### **Article 706. Duties of Independent Work Contractor Relating to Protection of Environment and Ensuring Safety of Construction Work**

1. The independent work contractor, when carrying out construction and work connected therewith, shall be obliged to comply with the requirements of the legislation concerning protection of the environment and the safety of construction work. The independent work contractor shall bear liability for a violation of these requirements.

2. The independent work contractor shall not have the right to use materials and equipment, provided by the customer, in the course of carrying out work, or to fulfill the customer's instructions, if this may lead to a violation of requirements for the protection of the environment and safety of construction work which are obligatory for the parties.

#### **Article 707. Consequences of Shutting Down of Construction**

If for reasons beyond the control of the parties the work under the contract of construction independent work is suspended and the object of construction shut down, the customer shall be obliged to pay the independent work contractor in full for the fulfillment of work up to the time of the shutting down, and also to compensate expenses caused by the necessity to terminate work and shut down the construction, setting off advantages which the independent work contractor received or could receive as a consequence of the termination of the work.

#### **Article 708. Handing Over and Acceptance of Work**

1. The customer who has received the notification of an independent work contractor concerning the readiness of the result of the work or, if this is provided for by the contract, of stage of work, fulfilled under the contract of construction independent work for handing over, shall be obliged to embark upon the acceptance thereof within three days.

2. The customer shall organize and effectuate the acceptance of the result of work at his own expense unless otherwise provided by the contract of construction independent work.

In the instances provided for by the legislation the representatives of state bodies and bodies of local administration or self-government must participate in the acceptance of the result of the work.

3. The customer, having accepted the result of separate stage of work in advance, shall bear the risk of the consequences of the perishing or damaging of the result of the work, which occurred not through the fault of the independent work contractor.

4. The handing over of the result of the work by the independent work contractor and its acceptance by the customer shall be formalized by an act signed by both parties. In the event of the refusal of one of the parties to sign the act, a note shall be made thereon concerning

this, including the reasons for such refusal, and the act shall be signed by the other party.

A unilateral act of handing over and acceptance of the result of work may be deemed by a court to be invalid only if the reasons for the refusal to sign the act are deemed by it to be substantiated.

5. In instances when this has been provided for by the legislation or contract of construction independent work or arises from the character of the work to be fulfilled under the contract, preliminary tests must precede acceptance of the result of the work. In these instances acceptance may be effectuated only in the event of a positive result of the preliminary tests.

6. The customer shall have the right to refuse acceptance of the result of the work in the event of revealing of defects which exclude the possibility of using it for the purpose specified in the contract of construction independent work and can not be eliminated by the independent work contractor or by the customer.

#### **Article 709. Liability of Independent Work Contractor for Quality of Work**

1. The independent work contractor shall bear liability to the customer for committed deviations from the requirements provided for in the design and estimate documentation and construction norms and rules obligatory for the parties, and also for the failure to achieve the specifications of the object of construction specified in the design and estimate documentation, including those such as the productive capacity of the enterprise.

2. The independent work contractor shall not bear liability for insignificant deviations committed by him without the consent of the customer from the design and estimate documentation, if the contractor will prove that they did not affect the quality of the object of construction.

#### **Article 710. Guarantees of Quality in Contract of Construction Independent Work**

1. The independent work contractor, unless otherwise provided by the contract of construction independent work, shall guarantee the achievement of the specifications of the object of construction, specified in the design and estimate documentation, and the possibility of operation of the object in accordance with the contract of construction independent work throughout the guarantee period. The guarantee period established by the legislation may be increased by agreement of the parties.

2. The independent work contractor shall bear liability for defects revealed within the limits of the guarantee period unless the contractor will prove that these defects occurred as a consequence of normal wear and tear of the object or parts thereof, the incorrect operation thereof or the incorrectness of the instructions for its operation developed by the customer himself or by third persons involved by the customer, or improper repair of the object made by the customer himself or by the third persons involved by the customer.

3. The running of the guarantee period shall be interrupted for the entire time during the extent of which the object could not be operated as a consequence of the defects for which the independent work contractor is liable.

4. In the event of revealing the defects, specified in Article 709(1) of this Code, during the guarantee period, the customer (owner, possessor, user) of the object must, before the expiry of the specified guarantee period, in accordance with the procedure established by the legislation, to demand from the independent work contractor to eliminate the defects.

#### **Article 711. Periods of Revealing of Improper Quality of Construction Work**

In the event of the submission of demands connected with the improper quality of the result of work, the rules provided for by Article 677(1-5) of this Code shall be applied.

In so doing, the maximum period for the revealing of defects in accordance with Article 677(2) and (4) of this Code shall comprise five years.

#### **Article 712. Elimination of Defects at Expense of Customer**

1. The duty of the independent work contractor to eliminate defects, for which the independent work contractor does not bear liability, at the demand of the customer and at his expense, may be provided for by the contract of construction independent work.

2. The independent work contractor shall have the right to refuse fulfillment of the duty specified in Clause 1 of this Article in instances when the elimination of the defects is not connected directly with the subject of the contract or cannot be effectuated by the independent work contractor for reasons beyond his control.

### **§ 4. Independent Work Contract for Fulfillment of Design and Survey Work**

#### **Article 713. Contract of Independent Work for Fulfillment of Design and Survey Work**

1. Under a contract of independent work for the fulfillment of design and survey work the independent work contractor (designer, surveyor) shall undertake to work out design and estimate documentation according to the order of the customer and(or) to fulfill the survey work, and the customer shall undertake to accept and to pay for the result thereof.

2. Unless otherwise provided by the legislation or a contract, the risk of accidental impossibility to fulfill the contract for the design and survey work shall be borne by the customer.

#### **Article 714. Basic Data for Fulfillment of Design and Survey Work**

1. Under a contract of independent work for the fulfillment of design and survey work the customer shall be obliged to transfer to the independent work contractor the specification for the design, and also other basic data necessary for developing of the design and estimate documentation. The specification for the fulfillment of design work may be developed, subject to the order of the customer, by the independent work contractor. In this event the specification shall become obligatory for the parties from the time of its confirmation by the

customer.

2. The independent work contractor shall be obliged to comply with the requirements contained in the specification and other basic data for the fulfillment of the design and survey work and shall have the right to deviate from the specification only with the consent of the customer.

#### **Article 715. Duties of Independent work Contractor**

1. Under a contract of independent work for the fulfillment of design and survey work the independent work contractor shall be obliged to:

1) fulfill work in accordance with the specification and other basic data for the design and with the contract;

2) coordinate the finished design and estimate documentation with the customer, and, when necessary, together with the customer, with competent state bodies and bodies of local administration or self-government;

3) transfer the finished design and estimate documentation and the results of the survey work to the customer.

An independent work contractor shall not have the right to transfer design and estimate documentation to third persons without the consent of the customer.

2. The independent work contractor under a contract of independent work for the fulfillment of design and survey work shall guarantee to the customer the absence of the third person's right to obstruct the fulfillment of the work or limit the fulfillment thereof on the basis of the design and estimate documentation prepared by the independent work contractor.

#### **Article 716. Liability of Independent Work Contractor for Improper Fulfillment of Design and Survey Work**

1. The independent work contractor under a contract of independent work for the fulfillment of design and survey work shall bear liability for the improper developing of design and estimate documentation and for the improper fulfillment of survey work, including defects revealed subsequently in the course of construction, and also in the process of the operation of the object created on the basis of design and estimate documentation and the data of survey work.

2. In the event of revealing of defects in the design and estimate documentation or in the survey work the independent work contractor shall be obliged, at the demand of the customer, to re-develop the design and estimate documentation without compensation and respectively perform necessary additional survey work, and also to compensate the customer for losses caused, unless otherwise established by the legislation or by the contract of independent work for the fulfillment of design and survey work.

#### **Article 717. Duties of Customer**



Under an independent work contract for the fulfillment of design and survey work the customer shall be obliged, unless otherwise provided by the contract, to:

1) pay for the independent work contractor the established price in full after the completion of all work or to pay for it in parts after the completion of individual stages of work;

2) use design and estimate documentation received from the independent work contractor only for the purposes provided for by the contract, not transfer the design and estimate documentation to third persons, and not divulge the data contained therein without the consent of the independent work contractor;

3) render assistance to the independent work contractor in the fulfillment of design and survey work to the extent and on the conditions provided for in the contract;

4) participate together with the independent work contractor in agreeing the finished design and estimate documentation with the respective state bodies and bodies of local administration or self-government;

5) compensate the independent work contractor for additional expenses caused by a change of basic data for the fulfillment of design and survey work as a consequence of the circumstances beyond the control of the independent work contractor;

6) involve the independent work contractor to participate in the case with regard to a suit brought against the customer by a third person in connection with shortcomings in the design and estimate documentation developed or survey work fulfilled.

## **§ 5. Independent work Contract Work for State Needs**

### **Article 718. State Contract for Fulfillment of Independent Work Contract Work for State Needs**

1. Independent work construction (Article 696), and design and survey work (Article 713) intended for the satisfaction of requirements of the Republic of Belarus or administrative territorial units and financed at the expense of the assets of the respective budgets and extrabudgetary sources shall be effectuated on the basis of a state contract for the fulfillment of independent work contract.

2. Under a state contract for the fulfillment of independent work contract for state needs (hereinafter referred to as state contract), the independent work contractor shall undertake to fulfill construction, design, and other work and transfer this work to the state customer, and the state customer shall undertake to accept the work fulfilled and to pay for it or ensure its payment.

### **Article 719. Parties to State Contract**

Under a state contract, the state body, body of local administration or self-government, possessing the necessary investment resources or organization endowed by the respective state body with the right to dispose of such resources shall act as the customer, and a legal person or citizen shall be the independent work contractor.

### **Article 720. Grounds and Procedure for Conclusion of State Contract**

The grounds and procedure for the conclusion of a state contract shall be determined in accordance with the provisions of Articles 497 and 498 of this Code.

### **Article 721. Content of State Contract**

1. A state contract must contain conditions concerning the amount and cost of work subject to fulfillment, the periods for the commencement and end thereof, the amount and procedure of financing and payment for work, and the means of securing performance of the obligations of the parties.

2. In an instance when a state contract is concluded according to the results of a competition for the placement of the order for independent work contract for state needs, the conditions of the state contract shall be determined in accordance with the declared conditions of the competition and the proposal, submitted to the competition, of the independent work contractor, deemed to be the winner of the competition.

### **Article 722. Change of State Contract**

1. In the event of a reduction, by the respective state bodies in the established procedure, of assets of the respective budget, allocated to finance independent work contract, the parties must negotiate the new periods, and, if necessary, other conditions for the fulfillment of the work. The independent work contractor shall have the right to demand compensation of losses from the state customer caused by a change of the periods for the fulfillment of work.

2. Unless otherwise provided by the legislation, the changes of a state contract, not connected with the circumstances specified in Clause 1 of this Article, shall be effectuated by agreement of the parties.

## **CHAPTER 38**

### **Fulfillment of Scientific research, Experimental Design and Technological Work**

#### **Article 723. Contracts for Fulfillment of Scientific Research Work and Experimental Design and Technological Work**

1. Under a contract for the fulfillment of scientific research work, one party (the executor) shall undertake to carry out the scientific researches stipulated by the specification of the customer, or, under a contract for the fulfillment of experimental design and technological work, to develop the sample of a new product, design documentation for it, or new technology, and the customer shall undertake to accept the work and to pay for it.

2. A contract with the executor may cover both the entire cycle of carrying out the research, development, and manufacture of the specimen, or individual stages (elements) thereof.

3. Unless otherwise provided by the legislation or contract, the risk of accidental impossibility of performance of contracts for the fulfillment of scientific research work, experimental design and technological work shall be borne by the customer.

4. The conditions of contracts for the fulfillment of scientific research work, experimental design and technological work must correspond to the legislation concerning exclusive rights (intellectual property).

#### **Article 724. Fulfillment of Work**

1. The executor shall be obliged to conduct scientific research personally. He shall have the right to involve third persons to perform the contract for the fulfillment of scientific research work only with the consent of the customer.

2. In the event of the fulfillment of experimental design or technological work the executor shall have the right, unless otherwise provided by the contract, to involve third persons in the performance thereof. The rules concerning the general independent work contractor and independent work subcontractor (Article 660) shall apply to relations of the executor with third persons.

#### **Article 725. Confidentiality of Information Comprising Subject of Contract**

1. Unless otherwise provided by contracts for the fulfillment of scientific research work, experimental design and technological work, the parties shall be obliged to ensure the confidentiality of information concerning the subject of the contract, the course of its performance, and the results obtained. The amount of information deemed to be confidential shall be determined in the contract.

2. Each of the parties shall undertake to publish the information obtained when fulfilling the work, deemed to be confidential, only with the consent of the other party.

#### **Article 726. Rights of Parties to Results of Work**

1. The parties to contracts for the fulfillment of scientific research work, experimental design and technological work shall have the right to use the results of the work, including those capable of legal protection, within the limits and on the conditions provided for by the contract.

2. Unless otherwise provided by the contract, the customer shall have the right to use the results of work transferred to him by the executor, including those capable of legal protection, and the executor shall have the right to use the results of the work obtained by him for own needs.

#### **Article 727. Duties of Executor**

The executor in contracts for the fulfillment of scientific research work, experimental design and technological work shall be obliged to:

- 1) fulfill work in accordance with the specification agreed with the customer and transfer to the customer the results thereof within the period provided for by the contract;
- 2) agree with the customer the necessity of using the protected results of intellectual activity which belong to third persons and the acquisition of the rights for the use thereof;
- 3) eliminate with his own forces and at own expense the defects committed through his own fault in the work fulfilled, which might entail deviations from the technical and economic parameters provided for in the specification or in the contract;
- 4) immediately inform the customer about the impossibility revealed of receiving the anticipated results or the unreasonableness of continuing the work;
- 5) guarantee to the customer the transfer of results received under the contract which do not violate the exclusive rights of other persons.

#### **Article 728. Duties of Customer**

1. The customer in contracts for the fulfillment of scientific research work, experimental design and technological work shall be obliged to:

- 1) transfer information to the executor necessary for the fulfillment of work;
- 2) accept the results of the work fulfilled and pay for these results.

2. The duty of the customer to issue a specification to the executor and to agree a program (technical and economic parameters) or subjects of the work with the executor also may be provided for by the contract.

#### **Article 729. Consequences of Impossibility of Achieving Results of Scientific Research Work**

If in the course of scientific research work the impossibility is revealed of achieving the results as a consequence of circumstances beyond the control of the executor, the customer shall be obliged to pay for the cost of the work carried out until the impossibility of receiving the results, provided for by the contract for the fulfillment of the scientific research work, was revealed, but not higher than the respective part of the price of the work, specified in the contract.

#### **Article 730. Consequences of Impossibility to Continue Experimental Design and Technological Work**

If in the course of the fulfillment of experimental design and technological work the impossibility or unreasonableness of continuing the work is revealed which arose not through the fault of the executor, the customer shall be obliged to pay for the expenditures incurred by

the executor.

### **Article 731. Liability of Executor for Violation of Contract**

1. The executor shall bear liability to the customer for a violation of contracts for the fulfillment of scientific- research work, experimental design, and technological work unless it is proved that such violation occurred not through the fault of the executor (Article 372(1)).

2. The executor shall be obliged to compensate losses, caused by him to the customer, within the limits of the cost of the work in which the defects were revealed, if it is provided by the contract that they are subject to compensation within the limits of the total cost of the work under the contract. Lost advantage shall be subject to compensation in the instances provided for by the contract.

### **Article 732. Legal Regulation of Contracts for Fulfillment of Scientific Research Work, Experimental Design and Technological Work**

1. The rules of Articles 662, 663 and 693 of this Code shall apply to the periods for the fulfillment of and to the price of work, and also to the consequences of the failure of the customer to appear in order to receive the results of the work.

2. The rules of Articles 718-722 of this Code shall apply to the state contracts for the fulfillment of scientific research work, experimental design and technological work for the state needs.

## **CHAPTER 39**

### **Compensated Rendering of Services**

#### **Article 733. Contract of Compensated Rendering of Services**

Under a contract of compensated rendering of services one party (the executor) shall undertake, under the order of the other party (the customer), to render services (perform determined actions or effectuate a determined activity), and the customer shall undertake to pay for these services.

The rules of this Chapter shall apply to contracts for the rendering of services of communications, medical, veterinary, auditor, consulting, informational and realtor services, services relating to teaching, tourist servicing, and others, except for services rendered under contracts provided for by Chapters 37, 38, 40, 41, 44-47, 49, 51 of this Code.

#### **Article 734. Performance of Contract of Compensated Rendering of Services**

Unless otherwise provided by the contract of compensated rendering of services, the executor shall be obliged to render the services personally.

### **Article 735. Payment for Services**

1. The customer shall be obliged to pay for services rendered to him within the periods and in accordance with the procedure which has been specified in the legislation or in the contract of compensated rendering of services.

2. In the event of the impossibility of performance which arose through the fault of the customer, the services shall be subject to payment in full unless otherwise provided by the legislation or by the contract of compensated rendering of services.

3. In an instance when impossibility of performance arose through circumstances for which neither of the parties is liable, the customer shall compensate the executor for the expenses actually incurred by him unless otherwise provided by the legislation or by the contract of compensated rendering of services.

### **Article 736. Unilateral Refusal to Perform Contract of Compensated Rendering of Services**

1. The customer shall have the right to refuse performance of a contract of compensated rendering of services on condition of payment to the executor of expenses actually incurred by him.

2. The executor shall have the right to refuse performance of obligations under a contract of compensated rendering of services only on condition of the full compensation of losses to the customer.

### **Article 737. Legal Regulation of Contract of Compensated Rendering of Services**

The general provisions on independent work contract (Articles 656-682) and the provisions on domestic independent work contract (Articles 683-695) shall apply to the contract of compensated rendering of services unless this is contrary to Articles 733-736 of this Code, and also to the peculiarities of the subject of the contract of compensated rendering of services.

## **CHAPTER 40**

### **Carriage**

#### **Article 738. General Provisions on Carriage**

The carriage of goods, passengers, and luggage shall be effectuated on the basis of the contract of carriage.

The general conditions of carriage shall be determined by this Code, the transport charters and codes, other acts of legislation, and also by an agreement of the parties.

The rules of this Chapter are applied to the carriages only so far unless otherwise provided

by legislative acts.

The conditions for the carriage of goods, passengers, and luggage by individual types of transport, and also liability of the parties for these carriages, shall be determined by agreement of the parties unless otherwise established by this Code, transport charters and codes, other acts of legislation, and rules issued in accordance therewith by the Republic's bodies of the state administration.

#### **Article 739. Contract of Carriage of Goods**

1. Under a contract for the carriage of goods the carrier shall undertake to deliver the goods entrusted to him by the consignor to the point of destination and to hand these goods over to the person (consignee) authorized to receive the goods, and the consignor shall be obliged to pay the established payment for the carriage of the goods.

2. The conclusion of the contract of carriage of goods shall be confirmed by drawing up a transport waybill (bill of lading or other document for goods, provided for by the respective transport charter or code, by other acts of legislation).

#### **Article 740. Contract of Carriage of Passenger**

1. Under the contract of carriage of a passenger, the carrier shall undertake to carry the passenger to the point of destination, and in the event of the passenger handing over the luggage, also to deliver the luggage to the point of destination and to hand it over to the person authorized to receive the luggage; the passenger shall undertake to pay, unless otherwise determined by legislative acts, the established payment for the travel, and in the event of handing over luggage, also for the carriage of the luggage.

2. Unless otherwise determined by legislation, the conclusion of a contract of carriage of a passenger shall be certified by a ticket; and/or another document specified by legislation, and the handing over of luggage by the passenger shall be certified by a luggage receipt.

The forms of ticket and luggage receipt shall be established in accordance with the procedure provided for by transport charters and codes, other acts of legislation.

3. The passenger shall have the right in accordance with the procedure provided for by the respective transport charter or codes, other acts of legislation to:

- 1) [excluded]
- 2) carry his hand luggage free of charge with within the limits of established norms;
- 3) hand over luggage for carriage for payment according to the tariff.

#### **Article 741. Contract of Affreightment**

Under a contract of affreightment one party (freighter) shall undertake to grant to the other party (affreighter) for payment all or part of the capacity of one or several means of transport

for one or several voyages for the carriage of goods, passengers, and luggage.

The procedure for the conclusion of the contract of charter, and also the form of the said contract, shall be established by transport charters and codes.

#### **Article 742. Mixed Carriage**

1. Mixed carriage means carriage of goods, passengers, and luggage by at least two types of transport.

2. Mixed carriage of goods shall be effectuated or provided by the forwarding agent under the forwarding contract in accordance with the procedure provided for by Chapter 41 of this Code.

3. Mixed carriage of goods, passengers, and luggage under a single transport document is a direct mixed transport. The mutual relations of carriers in various types of transport, and the procedure of the organization of direct mixed carriages, shall be determined by transport charters and codes and by other acts of legislation.

#### **Article 743. Carriage by Transport of Common Use**

1. Carriage being effectuated by a carrier shall be deemed to be carriage by transport of common use if from the legislative acts, or the special permit (license) issued to this carrier it arises that this organization is obliged to effectuate the carriage of goods, passengers, and luggage upon the recourse of any citizen or legal person.

2. A list of organizations obliged to effectuate carriage deemed to be carriages by transport of common use shall be published in the established procedure.

3. The contract of carriage by transport of common use shall be a public contract (Article 396).

#### **Article 744. Fare**

1. The fare established by agreement of the parties, unless otherwise provided by the legislation, shall be recovered for the carriage of goods, passengers, and luggage.

2. Payment for the carriage of goods, passengers, and luggage by transport of common use shall be determined on the basis of tariffs established in accordance with the legislation.

3. Work and services being fulfilled by the carrier at the demand of the goods possessor and not provided for by the tariffs shall be paid by agreement of the parties.

4. The carrier shall have the right to retain goods and luggage, handed over to him for carriage, to secure the fare due to him and other payments relating to carriage (Article 340) unless otherwise established by the legislation or does not arise from the essence of the obligation.



5. In instances when in accordance with the legislations privileges or preferences have been established with regard to the fare for the carriage of goods, passengers, and luggage, the expenses incurred in connection therewith shall be compensated to the transport organization at the expense of the respective budget.

#### **Article 745. Supply of Means of Transport, Loading, and Unloading of Goods**

1. The carrier shall be obliged to supply to the consignor of goods for loading, within the period established by the contract of carriage, means of transport in good condition, fit for carriage of the respective goods.

The consignor of goods shall have the right to refuse the means of transport supplied which are not fit for the carriage of the respective goods. '

2. The loading (unloading) of the goods shall be effectuated by the transport organization or consignor (consignee) in accordance with the procedure provided for by the contract in compliance with the provisions established by the legislation and by the rules issued in accordance therewith by the Republic's bodies of the state administration.

3. The loading (unloading) of goods effectuated by the forces and means of the consignor (consignee) of the goods must be effectuated within the periods provided for by the contract, unless such periods have been established by the legislation and by the rules issued in accordance therewith by the Republic's bodies of the state administration.

#### **Article 746. Periods of Delivery of Goods, Passenger, and Luggage**

The carrier shall be obliged to deliver goods, passenger, or luggage to the Clause of destination within the periods determined in accordance with the procedure provided for by the transport charters and codes, and in the absence of such periods, within a reasonable period.

#### **Article 747. Liability for Violation of Obligations Relating to Carriage**

1. In the event of the failure to perform or the improper performance of obligations relating to carriage, the parties shall bear liability established by this Code and other acts of legislation, and also by agreement of the parties.

2. The agreements of carriers with passengers and goods possessors concerning the limitation or elimination of the liability, established by the legislation, shall be invalid, except for instances when the possibility of such agreements in carriages of goods has been provided for by the legislation.

#### **Article 748. Liability of Carrier for Failure to Provide Means of Transport. Liability of Consignor for Failure to Use Means of Transport Provided**

1. The carrier shall bear the liability established by the legislation and by the agreement of the parties, for the failure to supply means of transport for the carriage of goods in accordance with the contract, and the consignor shall bear such liability for the failure to submit the goods or failure to use the means of transport supplied for other reasons.

2. The carrier and the consignor of goods shall be relieved of liability in the event of the failure to supply means of transport or the failure to use the means of transport supplied if this occurred as a consequence of:

1) force majeure, and other phenomena of a natural character (fires, avalanches, floods) and military actions;

2) termination or limitation of the carriage of goods in determined directions established in accordance with the procedure provided for by the legislation;

3) in other instances provided for by transport charters and codes.

#### **Article 749. Liability of Carrier for Delay of Departure of Passenger**

1. For a delay of the departure of the means of transport carrying a passenger, or for the late arrival of such means of transport at the point of destination (except for carriages on city and suburban transport) the carrier shall pay to the passenger a fine in the amount established by the legislation, unless the carrier would prove that the delay or lateness occurred as a consequence of force majeure, elimination of the disrepair of the means of transport threatening the life and health of passengers, or other circumstances beyond the control of the carrier.

2. In the event of the refusal of the passenger of carriage by reason of delay of the departure of the means of transport, the carrier shall be obliged to return the fare to the passenger.

#### **Article 750. Liability of Carrier for Loss, Shortage, and Damage (Spoilage) of Goods or Luggage**

1. The carrier shall bear liability for the failure to preserve goods or luggage which occurred after the acceptance thereof for carriage and before handing over to the consignee or person authorized to receive the luggage, unless the carrier would prove that the loss, shortage, or damage (spoilage) of the goods or luggage occurred as a consequence of circumstances which the carrier could not prevent and the elimination of which was beyond its control.

2. Damage caused during the carriage of goods or luggage shall be compensated by the carrier:

1) in the event of the loss or shortage of goods or luggage—in the amount of the value of the lost or short goods or luggage;

2) in the event of damage (spoilage) of the goods or luggage—in the amount by which its value was reduced, and if it is impossible to restore the damaged good or luggage—in the amount of its value;

3) in the event of the loss of the goods or luggage handed over to the carrier with a declaration of the value thereof—in the amount of the declared value of the goods or luggage.

The value of the goods or luggage shall be determined on the ground of the price thereof specified in the bill of the seller or provided for by the contract, or, in the absence of the bill or specification of the price in the contract, on the ground of the price which under comparable circumstances usually applied for similar goods.

3. The carrier shall, together with compensation of the established damage caused by the loss, shortage, or damage (spoilage) of the goods or luggage, return to the consignor (consignee) the fare recovered for carriage of the lost, shortly delivered, spoiled, or damaged goods or luggage unless this payment is part of the value of the goods.

4. The documents concerning the reasons for the failure to preserve the goods or luggage (commercial act, act of general form, and so forth) drawn up by the carrier unilaterally, in the event of a dispute, shall be subject to valuation by the court together with other documents certifying the circumstances which might serve as grounds for the liability of the carrier, consignor, or consignee of the goods or luggage.

#### **Article 751. Claims and Suits With Regard to Carriages of Goods**

1. Before bringing suit against a carrier arising from the carriage of goods, the submission of a claim to the carrier in accordance with the procedure provided for by the legislation shall be obligatory.

2. A suit against the carrier may be brought by the consignor or consignee in the event of the full or partial refusal of the carrier to satisfy the claim or non-receiving a reply from the carrier within a thirty-day period.

3. The limitation period with regard to demands arising from the carriage of goods shall be established at one year from the time determined in accordance with the legislation.

#### **Article 752. Contracts on Organization of Carriages**

1. The carrier and goods possessor may, in the event of the necessity to effectuate the regular carriages of goods, conclude contracts concerning the organization of carriages.

Under a contract of the organization of carriage of goods the carrier shall undertake, within the established periods, to accept, and the goods possessor shall undertake to submit goods for carriage in the stipulated amount. The amounts, periods, and other conditions for providing means of transport and presenting goods for carriage, the procedure for the settlement of accounts, and also other conditions for the organization of carriage, shall be determined in the contract concerning the organization of the carriage of goods.

2. The carrier may, in the event of the necessity to effectuate the regular carriages of passengers, conclude contracts with citizens or legal persons, concerning the organization of carriages of passengers.

A contract of the organization of carriage of passengers shall be concluded in writing.

The route, number of trips, periods, and other conditions for providing means of transport for carriage, the procedure for the settlement of accounts, and also other conditions for the organization of carriage, shall be determined in the contract concerning the organization of the carriage of passengers.

### **Article 753. Contracts Between Carriers**

Contracts concerning the organization of work relating to organization of the carriage of goods (node agreements, contracts for centralized delivery (removal) of goods and others) may be concluded between organizations of various types of transport.

The procedure for the conclusion of such contracts shall be determined by transport charters and codes, and by other acts of legislation.

### **Article 754. Liability of Carrier for Harm Caused to Life or Health of Passenger**

The liability of a carrier for harm caused to the life or health of a passenger shall be determined according to the rules of Chapter 58 of this Code unless increased liability of the carrier has been provided for by the legislation or by the contract of carriage.

## **CHAPTER 41.**

### **Forwarding**

### **Article 755. Contract of Forwarding**

1. Under a contract of forwarding one party (forwarder) shall undertake, for remuneration and at the expense of the other party (client - consignor or consignee), to fulfill or organize the fulfillment of the services, connected with the carriage of goods, determined by the contract of forwarding.

The duties of the forwarder to organize the carriage of goods by transport and according to the route selected by the forwarder or the client, the duty of the forwarder to conclude a contract(s) for the carriage of goods in the name of the client or in his own name, to ensure the sending and receipt of the goods, and also other duties connected with carriage may be provided for by the contract of forwarding.

The effectuation of such operations necessary for the delivery of goods as obtaining of documents required for export or import, the fulfillment of customs and other formalities, verification of the quantity and condition of goods, the loading and unloading thereof, the payment of expenses placed on the client, the storage of goods, the receipt thereof at the point of destination, and also the fulfillment of other operations and services provided for by the contract, may be provided for by the contract of forwarding as additional services.

2. The rules of this Chapter shall extend also to instances when in accordance with the contract the duties of forwarder are performed by the carrier.

3. The conditions of the fulfillment of the contract of forwarding shall be determined by

agreement of the parties unless otherwise established by the legislation.

4. The contract of forwarding shall be concluded in written form.

5. The client must issue a power of attorney to the forwarder if it is necessary for the fulfillment of his duties.

#### **Article 756. Liability of Forwarder Under Contract of Transport Forwarding**

For the failure to perform or the improper performance of duties under the contract of forwarding the forwarder shall bear liability on the grounds and in the amount which is determined in accordance with the rules of Chapter 25 of this Code.

If the forwarder proves that a violation of the obligation has been caused by the improper performance of the contracts of carriage, the liability of the forwarder to the client shall be determined according to the same rules under which the respective carrier is liable to the forwarder.

#### **Article 757. Documents and Other Information Granted to Forwarder**

1. The client shall be obliged to grant to the forwarder documents and other information concerning the properties of the goods, conditions of carriage thereof, and also other information necessary for the performance of the duty by the forwarder provided for by the contract of forwarding.

2. The forwarder shall be obliged to notify the client on the revealed drawbacks of the information received, and in the event of the incompleteness of the information, to request necessary additional data from the client.

3. In the event of the failure of the client to grant the necessary information, the forwarder shall have the right not to embark upon performance of the respective duties until such information is granted.

4. The client shall bear liability for losses caused to the forwarder in connection with the violation of the duty relating to the granting of the information specified in Clause 1 of this Article.

#### **Article 758. Performance of Duties of Forwarder by Third Person**

Unless it follows from the contract of forwarding that the forwarder must perform his duties personally, the forwarder shall have the right to involve other persons in the performance of his duties.

The imposition of the performance of an obligation on a third person shall not relieve the forwarder from liability to the client for the performance of the contract.

## **Article 759. Unilateral Refusal of Performance of Contract of Forwarding**

Any of the parties shall have the right to refuse to perform a contract of forwarding, having warned the other party thereof within a reasonable period.

In the event of the unilateral refusal to perform the contract, the party which has declared the refusal shall compensate the other party for losses caused by the dissolution of the contract.

## **CHAPTER 42**

### **Loan and Credit**

#### **§ 1. Loan**

### **Article 760. Contract of Loan**

1. Under a contract of loan one party (lender) shall transfer to the ownership of the other party (borrower) money or other things defined by generic attributes, and the borrower shall be obliged to return to the lender the same amount of money (amount of loan) or equal quantity of other things received by him of the same kind and quality.

2. The contract of loan shall be considered to be concluded from the time of transfer of the money or other things, unless otherwise provided for in the legislative acts.

3. Foreign currency and currency valuables may be the subject of a contract of loan on the territory of the Republic of Belarus in compliance with the rules of Articles 141, 142, and 298 of this Code.

### **Article 761. Form of Contract of Loan**

1. A contract of loan between citizens must be concluded in written form if the amount thereof is not less than ten times the basic value established by the legislation, and in an instance when the lender is a legal person, irrespective of the amount.

2. In confirmation of a contract of loan and its conditions a receipt of the borrower or other document certifying the transfer to him by the lender of the determined monetary amount or determined quantity of things may be submitted.

### **Article 762. Interest Under Contract of Loan**

1. Unless otherwise provided by the legislation or by the contract of loan, the lender shall have the right to obtain interest from the borrower on the amount of the loan in the amounts and in accordance with the procedure determined by the contract. In the absence of a condition in the contract, concerning the amount of interest, the amount thereof shall be determined as the refinance rate of the National bank of the Republic of Belarus on the date of payment by the borrower of the amount of the debt or corresponding part thereof.

2. In the absence of another agreement, interest shall be paid monthly until the date of

return of the amount of the loan.

3. A contract of loan shall be presupposed to be without interest unless expressly provided otherwise therein in instances when:

1) the contract is concluded between citizens for an amount not exceeding fifty times the basic value established by the legislation and is not connected with the effectuation of entrepreneurial activity by either of the parties;

2) under the contract, not money, but other things defined by generic attributes are transferred to the borrower.

### **Article 763. Duty of Borrower to Return Amount of Loan**

1. The borrower shall be obliged to return to the lender the amount of the loan received within the period and in accordance with the procedure provided for by the contract of loan.

In instances when the period of return is not established by the contract or is determined by the time of demand, the amount of the loan must be returned by the borrower within thirty days from the date of submission by the lender of the demand therefor, unless otherwise provided by the contract.

2. Unless otherwise provided by the contract of loan, the amount of an interest-free loan may be returned by the borrower before time.

The amount of the loan granted under interest may be returned before time with the consent of the lender or if this is provided for by the contract.

3. Unless otherwise provided by a contract of loan, the amount of the loan shall be considered to be returned at the time of the transfer thereof to the lender or crediting of the respective monetary assets in his bank account.

### **Article 764. Consequences of Violation by Borrower of Contract of Loan**

1. Unless otherwise provided by the legislation or by the contract of loan, in instances when the borrower does not return the amount of the loan within the period, interest shall be subject to payment on this amount in the amount provided for by Article 366(1) of this Code from the day when it should have been returned until the day of its return to the lender irrespective of the payment of interest provided for by Article 762(1) of this Code.

2. If return of the loan has been provided for by the contract of loan in parts (installment), then in the event of a violation of the period established for return of the regular part of the loan by the borrower, the lender shall have the right to demand the return, before time, of the entire amount remaining, together with the interest due.

### **Article 765. Contesting Contract of Loan**

1. The borrower shall have the right to contest a contract of loan for its impecuniousness,

proving that the money or other things really were not obtained by him from the lender or were obtained in a lesser quantity than specified in the contract.

2. If the contract of loan was concluded in written form (Article 761), the contesting thereof for impecuniousness by means of witness testimony shall not be permitted, except for instances when the contract was concluded under the influence of fraud, coercion, threat, or ill-intentioned agreement of a representative of the borrower with the lender, or the confluence of grave circumstances.

3. If in the process of the contesting of a contract of loan by the borrower for impecuniousness it is established that the money or other things were really not obtained from the lender, the contract of loan shall be considered to be not concluded.

When money or things were really obtained by the borrower from the lender in a lesser quantity than is specified in the contract, the contract shall be considered to be concluded for this quantity of money or things.

#### **Article 766. Consequences of Loss of Securing of Obligations of Borrower**

In the event of the failure of the borrower to fulfill the duties provided for by the contract of loan with regard to securing the return of the amount of the loan, and also in the event of the loss of securing or a worsening of its conditions under circumstances for which the lender is not liable, the lender shall have the right to demand from the borrower the repayment of the amount of the loan before time and the payment of interest due unless otherwise provided by the contract.

#### **Article 767. Special-Purpose Loan**

1. If a contract of loan was concluded with a condition of the use by the borrower of means received for specified purposes (special-purpose loan), the borrower shall be obliged to ensure the possibility of the effectuation by the lender of control over the use of the amount of the loan for the purpose specified.

2. In the event of the failure to fulfill the conditions of the contract of loan by the borrower concerning the use of the amount of the loan for the specified purpose, and also in the event of a violation of the duties provided for by Clause 1 of this Article, the lender shall have the right to demand from the borrower repayment of the amount of the loan before time and the payment of interest due unless otherwise provided by the contract.

#### **Article 768. Loan Granted Against Bill of Exchange or Bond**

The rules of this Chapter shall apply to the relations concerning the loan granted against the bill of exchange or the bond, insofar as this is not contrary to the legislation on issuance and turnover of bills of exchange or bonds.



### **Article 769. Contract of State Loan**

The rules of this Chapter shall apply to the relations concerning the loan, in which the Republic of Belarus or its administrative territorial unit acts as the borrower, insofar as this is not contrary to the acts of legislation.

### **Article 770. Commercial Loan**

The rules of this Chapter shall extend also to the instances of advance, prepayment, deferral, and installment payment for goods, works and services (commercial loan), unless otherwise provided by the legislation.

### **Article 771. Credit Contract**

1. Under a credit contract a bank or non-bank credit and financial institution (creditor) shall undertake to grant monetary means (credit) to the other party (borrower) in the amount and on the conditions provided for by the contract, and the borrower shall undertake to return the monetary amount received and to pay interest on it.

2. The rules provided for by this Chapter shall apply to relations under the credit contract, taking into consideration the peculiarities established by the legislation.

## **CHAPTER 43**

### **Financing Under Cession of Monetary Demand (Factoring)**

#### **Article 772. Contract of Financing Under Cession of Monetary Demand**

1. Under a contract of financing under cession of a monetary demand (factoring), one party (factor) shall undertake for the other party (creditor) to enter into the monetary obligation between the creditor and the debtor on the part of debtor by payment to the creditor of the amount of the debtor's monetary obligation with the discount (difference between the amount of the debtor's monetary obligation and the amount payable to the creditor), with notification of the debtor about the transfer of the rights of the creditor to the factor (open factoring) or without notification about such transfer (hidden factoring).

2. The bank or non-bank credit and financial institution may act as the factor.

3. The contract of factoring may be concluded concerning both one monetary obligation or several monetary obligations, including those that can appear in the future, in particular, homogeneous monetary obligations of obtaining payment for the goods delivered.

4. The relations concerning factoring shall be regulated by the legislation.

## **CHAPTER 44**

### **Bank Deposit**

### **Article 773. Contract of Bank Deposit**

Under a contract of bank deposit one party (recipient of a deposit) shall accept from the other party (depositor) a monetary amount in belarusian rubles or in foreign currency - a deposit, and undertake to return the monetary amount to the depositor, to fulfill transfers by the order of the depositor in accordance with the contract, and to pay interests on the deposit on the conditions and in the order provided for by this contract.

Precious metals and/or precious stones may be received as a deposit under the contract of a bank deposit.

The relations concerning the bank deposit shall be regulated by the legislation and the contract.

## **CHAPTER 45**

### **Bank Account**

### **Article 774. Contract of Current Bank Account**

Under a contract of bank account, one party (bank or non-bank credit and financial organization) shall undertake to open for the other party (account holder) the current account for keeping his monetary amounts and/or crediting monetary amounts arriving for benefit of the account holder, and to fulfill instructions of the account holder concerning the transfer and issuance of respective amounts from the account; the account holder shall grant to the bank or the non-bank credit and financial organization the right to use temporarily free monetary amounts available in the account, with payment of interests, determined by the legislation or by the contract; and also, the account holder shall pay, with exception of cases specified in the legislative acts, the remuneration to the bank or the non-bank credit and financial organization for services rendered thereby.

The relations concerning the current bank account shall be regulated by the legislation.

## **CHAPTER 46**

### **Settlement of Accounts**

### **Article 775. Settlement of Accounts**

1. Settlements of accounts with the participation of citizens, not connected with the effectuation by them of entrepreneurial activity, may be performed in cash (Article 141) or as cashless settlements, established by the legislation.

2. Settlements of accounts between legal persons, and also settlement of accounts with the participation of citizens connected with the effectuation by them of entrepreneurial activity, shall be performed as cashless settlements. Settlements of accounts between these persons may be performed also in cash, in cases provided for by the legislation.

3. Cashless settlements of accounts shall be performed through banks or non-bank credit and financial organizations in which respective accounts have been opened, unless it arises otherwise from the act of legislation or is stipulated by the form of settlement of accounts

being used.

4. The relations concerning the settlement of accounts shall be regulated by the legislation.

## **CHAPTER 47**

### **Storage**

#### **§ 1. General Provisions on Storage**

##### **Article 776. Contract of Storage**

1. Under a contract of storage one party (depository) shall undertake to keep a thing transferred to it by the other party (depositor) and to return this thing intact.

2. In a contract of storage in which the depository is a commercial organization or noncommercial organization carrying out storage as one of the purposes of its professional activity (professional depository), the duty of the depository to accept a thing for storage from the depositor within the period provided for by the contract may be provided for.

##### **Article 777. Form of Contract of Storage**

1. A contract of storage must be concluded in written form in the instances specified in Article 162 of this Code. In so doing, compliance with the written form shall be required for a contract of storage between citizens (Article 162, part 1, Subclause 2) if the value of the thing being transferred for storage exceeds not less than ten times the basic value established by the legislation.

A contract of storage providing for the duty of the depository to accept a thing for storage must be concluded in written form irrespective of the composition of the participants of this contract and the value of the thing being transferred for storage.

The transfer of a thing for storage under extraordinary circumstances (fire, natural disaster, sudden illness, threat of attack, and so forth) may be proved by witness testimony.

2. The simple written form of a contract of storage shall be considered to be complied with if the acceptance of the thing for storage is certified by the depository by the issuance to the depositor of:

1) deposit receipt, ticket, certificate, or other document signed by the depository;

2) numbered token (number), or other mark certifying the acceptance of the thing for storage, if such form of confirmation of the acceptance of the thing for storage has been provided for by the legal act or is customary for the particular type of storage.

3. The failure to comply with the simple written form of the contract of storage shall not deprive the party of the right to refer to witness testimony in the event of a dispute concerning the identity of the thing accepted for storage with the thing returned by the depository.

### **Article 778. Performance of Duty to Accept Thing for Storage**

1. A depository who has assumed under a contract of storage the duty to accept a thing for storage (Article 776(2)) shall not have the right to demand the transfer of this thing to him for storage.

However, the depositor, who has not transferred a thing for storage within the period provided for by the contract, shall bear liability to the depository for losses caused in connection with the abandoned storage unless otherwise provided by the legislation or the contract of storage. The depositor shall be relieved from this liability if he declares to the depository the refusal of his services within a reasonable period.

2. Unless otherwise provided by the contract, the depository shall be relieved from the duty to accept a thing for storage, if the thing is not transferred to him within the period stipulated by the contract.

### **Article 779. Period of Storage**

1. The depository shall be obliged to keep a thing during the period stipulated by the contract of storage.

2. If the period of storage is not provided for by the contract and can not be determined from its conditions, the depository shall be obliged to keep the thing until the demand thereof by the depositor.

3. If the period of storage is determined by the time of demand of the thing by the depositor, the depository shall have the right, upon the expiry of the period of storage of the thing usual under the particular circumstances, to demand that the depositor take the thing back, having granted him a reasonable period for this. The failure of the depositor to perform this duty shall entail the consequences provided for by Article 789 of this Code.

### **Article 780. Storage of Things with Pooling**

In instances expressly provided for by the contract of storage, things accepted for storage from one depositor may be mixed with the things of the same kind and quality of other depositors (storage with pooling). The equal quantity, or quantity stipulated by the parties, of the same kind and quality, shall be returned to the depositor.

### **Article 781. Duty of Depository to Ensure Preservation of Thing**

1. The depository shall be obliged to take all measures provided for by the contract of storage in order to ensure the preservation of the thing transferred to him for storage.

In the absence of conditions in the contract, concerning such measures, or in case of the incompleteness of these conditions, the depository must take measures for the preservation of the thing, which correspond to the essence of the obligation, including the measures for

preservation of properties of the thing transferred for storage, unless the necessity for taking such measures is excluded by the contract.

2. The depository in any event must take measures for preservation of a thing transferred for storage, the obligatoriness of which has been provided for by the legislation, or in accordance with the procedure established by the legislation (measures of fire prevention, sanitary, protective etc.).

3. If the storage is effectuated without compensation, the depository shall be obliged to be concerned for the things accepted for storage not less than as for own things.

### **Article 782. Use of Thing Transferred for Storage**

The depository shall not have the right without the consent of the depositor to use a thing transferred for storage, nor to grant the possibility of use thereof to third persons, except for an instance when the use of the thing being kept is necessary in order to ensure the preservation thereof and is not contrary to the contract of storage.

### **Article 783. Change of Conditions of Storage**

1. In the event of the necessity of a change of conditions of storage things, provided for by the contract of storage, the depository shall be obliged immediately to inform the depositor thereof and to await the answer.

If a change of conditions for storage is necessary in order to eliminate the danger of loss, shortage, or damage of the thing, the depository shall have the right to change the means, place, and other conditions of storage without awaiting the answer of the depositor.

2. If during the storage a real threat of the spoilage of the thing arose, or the thing already has been subjected to spoilage, or circumstances arose which do not enable the preservation thereof to be ensured, and the timely taking of measures by the depositor can not be expected, the depository shall have the right autonomously to sell the thing or part thereof at the price which has been formed at the place of storage. If the said circumstances arose for reasons for which the depository is not liable, he shall have the right to compensation of his expenses for the sale at the expense of the purchase price.

### **Article 784. Storage of Things with Dangerous Properties**

1. Things which are inflammable, explosive, or in general inherently dangerous may, unless the depositor when handing them over for storage warned the depository about the properties thereof, be at any time rendered harmless or destroyed by the depository without compensation of losses to the depositor. The depositor shall be liable for losses caused in connection with the storage of such things to the depository and to third persons.

In the event of the transfer of things with dangerous properties for storage to a professional depository, the rules provided for by paragraph one of this Clause shall apply in an instance when such things were handed over for storage under an incorrect name and the depository

when accepting them could not surely determine their dangerous properties by means of visual inspection.

In the event of storage for compensation in the instances provided for by this Clause, the remuneration paid for storage the things shall not be returned, and if it was not paid, the depository may recover it in full.

2. If the things, specified in the first part of Clause 1 of this Article, accepted for storage with the knowledge and consent of the depository, become, despite compliance with the conditions for their storage, dangerous for surrounding persons or for the property of the depository or third persons, and circumstances do not permit the depository to demand they be immediately taken back by the depositor, or the depositor does not fulfill this demand, these things may be rendered harmless or destroyed by the depository without compensation of losses to the depositor. In this event, the depositor shall not bear liability to the depository and third persons for losses caused in connection with the storage of these things.

### **Article 785. Transfer of Thing for Storage to Third Person**

Unless otherwise provided by a contract of storage, the depository shall not have the right without the consent of the depositor to transfer a thing for storage to a third person, except for instances when the depository was compelled to do so by force of circumstances in the interests of the depositor and had no possibility to receive his consent.

The depository shall be obliged immediately to inform the depositor about the transfer of the thing for storage to a third person.

In the event of the transfer of a thing for storage to a third person, the conditions of the contract between the depositor and the initial depository shall retain force and the latter shall be liable for the actions of the third person to which he transferred the thing for storage as though for his own.

### **Article 786. Remuneration for Storage**

1. Remuneration for storage must be paid to the depository at the end of the storage, and if the payment for storage has been provided for by periods, it must be paid for by respective parts upon the expiry of each period.

2. In the event of delay of payment of remuneration for storage for more than half of a period for which it should have been paid, the depository shall have the right to refuse to perform the contract and demand that the depositor immediately take back the thing handed over for storage.

3. If the storage is terminated before the expiry of the stipulated period for circumstances for which the depository is not liable, he shall have the right to a commensurate part of the remuneration, and in the event provided for by Article 784(1) of this Code, to the full amount of remuneration.

If the storage is terminated before time under circumstances for which the depository is liable, he shall not have the right to demand remuneration for storage, but must return to the

depositor the amounts received on the account of this remuneration.

4. If upon the expiry of the period of storage a thing in storage is not taken back by the depositor, he shall be obliged to pay the depository commensurate remuneration for the further storage of the thing. This rule also shall apply in the event when the depositor is obliged to take back the thing before the expiry of the period of storage.

5. The rules of this Article shall apply unless otherwise provided by the contract of storage.

#### **Article 787. Compensation of Expenses for Storage**

1. Unless otherwise provided by the contract of storage, the expenses of the depository for the storage of a thing shall be included in the remuneration for storage.

2. In the event of storage without compensation, the depositor shall be obliged to compensate the depository for necessary expenses made by him for the storage of the thing, unless otherwise provided by the legislation or by the contract of storage.

#### **Article 788. Extraordinary Expenses for Storage**

1. Expenses for the storage of a thing which exceed ordinary expenses of this nature and which the parties could not foresee at conclusion of a contract of storage (extraordinary expenses), shall be compensated to the depository if the depositor gave consent to these expenses or approved them subsequently, and also in other instances provided for by the legislation or a contract.

2. When it is necessary to make extraordinary expenses, the depository shall be obliged to request the depositor for consent to these expenses. If the depositor does not inform the depository about his disagreement within the period established by the depository, or within the time normally necessary for a reply, it shall be considered that the depositor has agreed to the extraordinary expenses.

In an instance when the depository has made extraordinary expenses for storage, not having received the prior consent from the depositor to these expenses, although under the circumstances of the case this was possible, and the depositor subsequently did not approve these extraordinary expenses, the depository may demand compensation of extraordinary expenses only within the limits of the damage which might be caused to the thing if these expenses were not made.

3. Unless otherwise provided by the contract of storage, extraordinary expenses shall be compensated in addition to the remuneration for storage.

#### **Article 789. Duty of Depositor to Take Thing Back**

1. Upon the expiry of the stipulated period of storage or the period granted to the depository for receiving the thing back on the basis of Article 779(3) of this Code, the depositor shall be obliged to take back immediately the thing transferred for storage.

2. In the event of the failure of the depositor to perform his duty to take the thing back which was transferred for storage, including in the event of his evading to receive the thing, the depository shall have the right, unless otherwise provided by the contract of storage, after warning the depositor in writing, to sell the thing autonomously at the price existing in the place of storage, and if this price exceeds one hundred base units established by the legislation, to sell it at the auction in accordance with the procedure provided for by Articles 417-419 of this Code.

The amount received from the sale of the thing shall be transferred to the depositor, less the amounts due to the depository, including the expenses for the sale of the thing.

### **Article 790. Duty of Depository to Return Thing**

1. The depository shall be obliged to return to the depositor (to the person specified by the depositor as the recipient) that very thing which was transferred for storage, unless storage with pooling has been provided for by the contract (Article 780).

2. A thing must be returned by the depository in that condition in which it was accepted for storage, taking into account its natural deterioration, natural decrease, or other change as a consequence of its natural properties.

3. Simultaneously with the return of the thing the depository is obliged to transfer the yield and revenues obtained for the time of storage thereof, unless otherwise provided by the contract of storage.

### **Article 791. Grounds for Liability of Depository**

1. The depository shall be liable for loss, shortage, or damage of things accepted for storage on the grounds provided for by Article 372 of this Code. A professional depository shall be liable for loss, shortage, or damage of things unless the depository would prove that the loss, shortage, or damage occurred as a consequence of force majeure, or because of the properties of the thing, of which the depository did not know and should not have known at accepting it for storage, or as a result of intent or gross negligence of the depositor.

2. The depository shall be liable for loss, shortage, or damage of things accepted for storage after ensuing the duty of the depositor to take these things back (Article 789(1)) only in case of depository's intent or gross negligence.

### **Article 792. Amount of Liability of Depository**

1. Losses caused to the depositor by the loss, shortage, or damaging of a thing shall be compensated by the depository in accordance with Article 364 of this Code unless otherwise provided by the legislation or the contract of storage.

2. In the event of storage without payment, the losses caused to the depositor by the loss, shortage, or damaging of the thing shall be compensated:



1) for loss or shortage of the thing: in the amount of the value of the lost or shortly delivered things;

2) for the damaging of things: in the amount by which the value of things was reduced.

3. In an instance when as a result of the damage, for which the depository is liable the quality of the thing has been so changed that it can not be used for its initial purpose, the depositor shall have the right to refuse it and to demand compensation from the depository for the value of this thing, and also of other losses, unless otherwise provided by the legislation or by the contract of storage.

### **Article 793. Compensation of Losses Caused to Depository**

The depositor shall be obliged to compensate the depository for losses caused by the properties of the thing handed over for storage, if the depository, in accepting the thing for storage, did not know and should not have known about these properties.

### **Article 794. Termination of Storage Upon Demand of Depositor**

The depository shall be obliged, at the first demand of the depositor, to return the thing accepted for storage, even though the period for the storage thereof provided for by the contract has not yet expired.

### **Article 795. Application of General Provisions on Storage to Individual Types Thereof**

The general provisions on storage (Articles 776-794) shall apply to individual types thereof, unless otherwise established by the rules on individual types of storage, contained in Articles 797-816 of this Code and in other acts of legislation.

### **Article 796. Storage by Virtue of Act of Legislation**

The rules of this Chapter shall apply to obligations of storage arising by virtue of the act of legislation, unless other rules have been established by the legislation.

## **§ 2. Storage in Warehouse**

### **Article 797. Contract of Warehouse Storage**

1. Under a contract of warehouse storage, a Warehouse (depository) shall undertake, for remuneration, to keep the goods transferred to it by the goods possessor (depositor) and to return these goods intact.

A Warehouse shall be deemed to be an organization carrying out the storage of goods and rendering services connected with storage as entrepreneurial activity.

2. The written form of the contract of warehouse storage shall be considered to be complied with, if the conclusion thereof and the acceptance of the goods at the warehouse are certified by a warehouse document (Article 802).

#### **Article 798. Storage of Goods by Warehouse of Common Use**

1. The Warehouse shall be deemed to be a warehouse of common use, if it arises from the legislation or from the special permit (license) issued to this commercial organization that it is obliged to accept goods for storage from any goods possessor.

2. A contract of warehouse storage concluded by a Warehouse of common use shall be deemed to be a public contract (Article 396).

#### **Article 799. Verification of Goods During Acceptance Thereof by Warehouse and During Storage**

1. Unless otherwise provided by the contract of warehouse storage, a Warehouse shall, when accepting goods for storage, be obliged at its own expense to inspect the goods and determine the quantity thereof (number of units or goods pieces, or measure, weight, volume) and external condition.

2. A Warehouse shall be obliged to grant to the goods possessor the possibility, during the storage, to examine the goods or examples thereof, if the storage is effectuated by pooling, to take samples, and to take measures necessary to ensure the preservation of the goods.

#### **Article 800. Changes of Conditions of Storage and State of Goods**

1. In an instance when in order to ensure the preservation of the goods a change of the conditions of their storage is required, a Warehouse shall have the right to take the required measures autonomously. However, it shall be obliged to inform the goods possessor about the measures taken if it was necessary to change significantly the conditions of the storage of the goods provided for by the contract of warehouse storage.

2. In the event of revealing, during storage, the damaging of a good which exceeds the limits agreed in the contract of warehouse storage or ordinary norms of natural spoilage, the Warehouse shall be obliged immediately to draw up an act concerning this and to notify the goods possessor at the same day.

#### **Article 801. Verification of Quantity and State of Good at Return Thereof to Goods Possessor**

1. Both the goods possessor and Warehouse shall have the right to demand, at returning a good, to inspect it and verify the quantity thereof. The expenses caused by this shall be borne by the party which demanded inspection of the goods or verification of the quantity thereof.

2. If, when returning the goods from the warehouse to the goods possessor, the goods were not jointly inspected or verified by them, a statement concerning the shortage or damaging of the goods as a consequence of the improper storage thereof must be made for the warehouse in writing when receiving the goods, and with respect to shortage or damage which could not be revealed with the ordinary means of accepting the goods, within three days upon the receipt thereof.

In the absence of the statement of the goods possessor, specified in the first part of this Clause, it shall be considered, unless it is proved otherwise, that the good was returned by the warehouse in accordance with the conditions of the contract of warehouse storage.

### **Article 802. Warehouse Documents**

1. A Warehouse shall issue in confirmation of the acceptance of goods for storage one of the following warehouse documents:

- 1) dual warehouse certificate;
- 2) simple warehouse certificate;
- 3) warehouse receipt.

2. A dual warehouse certificate shall consist of two parts, the warehouse certificate and the pledge certificate (warrant), which may be separated one from the other.

3. A dual warehouse certificate, each of the two parts thereof, and a simple warehouse certificate shall be securities.

4. A good accepted for storage under a dual or simple warehouse certificate, may be, during the storage thereof, the subject of pledge by means of the respective certificate.

### **Article 803. Dual Warehouse Certificate**

1. In each part of a dual warehouse certificate there must be identically indicated:

- 1) the name and location of the Warehouse which accepted the good for storage;
- 2) the number of the warehouse certificate according to the register of the warehouse;
- 3) the name of the legal person or the name of the citizen from which the good was accepted for storage, and also the location (place of residence) of the goods possessor;
- 4) the name and quantity of the good accepted for storage: number of units and(or) pieces of the good and(or) the measure (weight, volume) of the good;
- 5) the period for which the good is accepted for storage, if such period is established, or an indication that the good is accepted for storage till called for;
- 6) the amount of remuneration for storage or the tariffs on the basis of which it is calculated, and the procedure of payment for storage;

7) the date of issuance of the warehouse certificate.

Both parts of the dual warehouse certificate must have identical signatures of the authorized person and the seal of the Warehouse.

2. A document which does not correspond to the requirements of this Article shall not be a dual warehouse certificate.

#### **Article 804. Rights of Holders of Warehouse and Pledge Certificates**

1. The holder of a warehouse and pledge certificates shall have the right to dispose of the good being kept in the warehouse in full.

2. The holder of the warehouse certificate separated from the pledge certificate shall have the right to dispose of the good, but may not take it from the warehouse until payment of the credit issued under the pledge certificate.

3. The holder of a pledge certificate, other than the holder of the warehouse certificate, shall have the right of pledge to the good in the amount of the credit, issued under the pledge certificate, and interest thereon. In the event of the pledge of a good, a note thereof shall be made on the warehouse certificate.

#### **Article 805. Transfer of Warehouse and Pledge Certificates**

The warehouse certificate and the pledge certificate may be transferred together or separately under inscriptions of endorsement.

#### **Article 806. Issuance of Good Under Dual Warehouse Certificate**

1. A Warehouse shall issue the good to the holder of the warehouse and pledge certificates (dual warehouse certificate) only in exchange for both these certificates together.

2. A good shall be issued by the warehouse to the holder of a warehouse certificate who does not have the pledge certificate, but has contributed the amount of the debt with regard to it, only in exchange for the warehouse certificate and subject to condition of the submission, together with it, of a receipt certifying payment of the full amount of the debt under the pledge certificate.

3. A Warehouse which, contrary to the requirements of this Article, has issued a good to the holder of a warehouse certificate, who does not have the pledge certificate and has not contributed the amount of the debt with regard to it, shall bear liability to the holder of the pledge certificate for payment of the full amount secured under this pledge certificate.

4. The holder of warehouse and pledge certificates shall have the right to demand the issuance of the good in parts. In so doing, new certificates for the good remaining in the warehouse shall be issued to him in exchange for the original certificates.

### **Article 807. Simple Warehouse Certificate**

1. A simple warehouse certificate shall be issued to the bearer.
2. A simple warehouse certificate must contain the information provided by Article 803(1), Subclauses 1, 2, 4-7, of this Code, and also an indication that it was issued to the bearer.
3. A document which does not correspond to the requirements of this Article shall not be a simple warehouse certificate.

### **Article 808. Storage of Things with Right to Dispose of Them**

If it follows from the legislation or the contract that a Warehouse may dispose of goods handed over to it for storage, the rules of Chapter 42 of this Code, concerning loan, shall apply to the relations of the parties; however, the time and place of return of the goods shall be determined by the rules of this Chapter.

## **§ 3. Special Types of Storage**

### **Article 809. Storage in Pawnshop**

1. A contract of storage in a pawnshop of things which belong to a citizen shall be a public contract (Article 396).
2. The conclusion of a contract of storage in a pawnshop shall be certified by the issuance by the pawnshop to the depositor of an inscribed deposit receipt.
3. The cost of a thing handed over for storage to a pawnshop shall be evaluated by agreement of the parties in accordance with the prices for a thing of that type and quality, usually established in trade at the time and at the place of its acceptance for storage.
4. A pawnshop shall be obliged to insure things, accepted for storage, to the benefit of the depositor, at the expense of a pawnshop, at the cost thereof, determined in accordance with Clause 3 of this Article.

### **Article 810. Things Not Demanded from Pawnshop**

1. If a thing handed over for storage to a pawnshop is not demanded by the depositor within the period stipulated by the agreement with the pawnshop, the pawnshop shall be obliged to keep it for two months with recovery of payment for this as provided for by the contract of storage. Upon the expiry of this period, the undemanded thing may be sold by the pawnshop in accordance with the procedure established by Article 339(5) of this Code.
2. From the amount received from the sale of the undemanded thing, payment for the storage thereof and other payments due to the pawnshop shall be paid. The balance of the amount shall be returned by the pawnshop to the depositor.

## **Article 811. Storage of Valuables in Bank or Non-bank Credit and Financial Institution**

1. A bank or a non-bank credit and financial institution may accept securities, precious metals and stones, other precious things, and other valuables, including documents, for storage.

2. The conclusion of a contract of storage for valuables in a bank or non-bank credit and financial institution shall be certified by the issuance, by the bank to the depositor, of an inscribed deposit document, the submission of which shall be grounds for the issuance of the valuables, being kept, to the depositor.

## **Article 812. Storage of Valuables in Individual Bank Safe**

1. A contract for the storage of valuables in a bank or non-bank credit and financial institution may provide for the storage thereof with the use by the depositor (client) or with the granting to him of an individual bank safe (safe box, isolated premise in a bank), which is guarded by the bank or non-bank credit and financial institution.

Under a contract for storage of valuables in an individual bank safe, the right shall be granted to the client himself to place the valuables in the safe and to remove them from the safe; for this purpose, a key of the safe, a card enabling to identify the client, or other mark or document certifying the right of the client to access to the safe and that contained therein, must be issued to the client.

The right of the client to work in the bank or non-bank credit and financial institution with the valuables kept in an individual safe may be provided for by the conditions of the contract.

2. Under a contract of storage of valuables in a bank or non-bank credit and financial institution with the use of an individual bank safe by the client, the bank or non-bank credit and financial institution shall accept valuables from the client, which must be kept in the safe, effectuate control over placement thereof by the client in the safe and removal from the safe, and after removal shall return these valuables to the client.

3. Under a contract of storage of valuables in a bank or non-bank credit and financial institution with the granting of an individual bank safe to the client, the bank or non-bank credit and financial institution shall ensure to the client the possibility of placing valuables in a safe and the removal thereof from the safe without any control whatever, including control of the bank or non-bank credit and financial institution.

The bank or non-bank credit and financial institution shall be obliged to effectuate control over access to the premise where the safe, granted to the client, is situated.

Unless otherwise provided by a contract of storage of valuables in a bank or non-bank credit and financial institution with the granting of an individual bank safe to the client, the bank or non-bank credit and financial institution shall be relieved of liability for the failure to preserve that contained in the safe, if the bank or non-bank credit and financial institution would prove that, under the conditions of storage, the access of anyone to the safe without the knowledge of the client was impossible or it became possible as a consequence of force majeure.

4. The rules of this Code (Chapter 34) and other acts of legislation on the contract of lease shall apply to the contract on the granting of a bank safe for use to another person without liability of the bank or non-bank credit and financial institution for that contained in the safe.

### **Article 813. Storage in Luggage Storage Rooms of Transport Organizations**

1. Luggage storage rooms within the jurisdiction of transport organizations of common use shall be obliged to accept for storage the things of passengers and other citizens irrespective of whether they have travel documents. A contract for the storage of things in luggage storage rooms of transport organizations shall be deemed to be a public contract (Article 396).

2. In confirmation of the acceptance of a thing for storage in a luggage storage room (except for automatic rooms) a receipt or numbered token shall be issued to the depositor. In the event of the loss of the receipt or token, the thing handed over to the luggage storage room shall be issued to the depositor upon submission of evidence of the belonging of this thing to him.

3. The period during which the luggage storage room is obliged to keep things shall be determined by the acts of Republic's bodies of state administration in accordance with the second part of Article 738(2) of this Code, unless a longer period is established by agreement of the parties. Things not demanded within the specified periods, must be kept in the luggage storage room for another thirty days. Upon the expiry of this period the things not demanded may be sold in accordance with the procedure provided for by Article 789(2) of this Code.

4. The losses of the depositor as a consequence of the loss, shortage, or damaging of things handed over to the luggage storage room shall, within the limits of their value determined by the depositor when handing these things over for storage, be subject to compensation by the depository within twenty-four hours from the time of submission of the demand concerning compensation thereof.

### **Article 814. Storage in Check Rooms of Organizations**

1. Storage in check rooms of organizations shall be presupposed to be without compensation if remuneration for storage is not stipulated or specified by other obvious means when handing over a thing for storage.

The depository of a thing handed over to a check room, irrespective of whether the storage is effectuated for or without compensation, shall be obliged to take all measures provided for by Article 781(1) and (2) of this Code in order to ensure the preservation of the thing.

2. The rules of this Article also shall apply to the storage of outer clothing, headwear, and other similar things left without handing them over for storage by citizens at places allotted for these purposes in organizations and means of transport.

### **Article 815. Storage in Hotel**

1. A hotel shall be liable as depository, without a special agreement concerning this with a person residing therein (lodger), for loss, shortage, or damaging of his things deposited at the

hotel, except for money, other currency valuables, securities, and other precious things.

A thing entrusted to employees of the hotel, or a thing placed in the hotel room or other place intended for this purpose shall be considered to be deposited in the hotel.

2. A hotel shall be liable for the loss of money, other currency valuables, securities, and other precious things of a lodger, if they were accepted by the hotel for storage or were placed by the lodger in an individual safe, provided to the lodger by the hotel, irrespective of whether this safe is situated in his room or in another premise of the hotel. A hotel shall be relieved from liability for the failure to preserve that contained in such safe, if it would prove that, under the conditions of storage, access of anyone to the safe without the knowledge of the lodger was impossible or became possible as a consequence of force majeure.

3. The lodger who has revealed a loss, shortage, or damaging of his things, shall be obliged without delay to inform the administration of the hotel. Otherwise, the hotel shall be relieved from liability for the failure to preserve the things.

4. An announcement made by the hotel that it does not assume liability for the failure to preserve things of lodgers shall not relieve it from liability.

5. The hotel shall be relieved from liability for loss, shortage, or damaging of the lodger's things, if such loss, shortage, or damaging took place through the lodger's fault.

6. The rules of this Article respectively shall apply with respect to the storage of things of citizens in motels, rest homes, boarding houses, sanatoriums, public baths, and other similar organizations.

#### **Article 816. Storage of Things Which Are Subject of Dispute (Sequestration)**

1. Under a contract on sequestration, two or several persons between whom a dispute has arisen concerning the right to a thing, shall transfer this thing to a third person who assumed the duty, upon the settlement of the dispute, to return the thing to that person to whom it would be awarded by decision of a court or by agreement of all the disputing persons (contractual sequestration).

2. A thing which is the subject of a dispute between two or several persons may be transferred for storage by way of sequestration by decision of a court (judicial sequestration).

Either a person designated by a court or a person determined by mutual consent of the disputing parties may be the depository under judicial sequestration. In both instances the consent of the depository shall be required, unless otherwise established by the legislation.

3. Both movable and immovable things may be transferred for storage by way of sequestration.

4. The depository, carrying out the storage of a thing by way of sequestration, shall have the right to remuneration at the expense of the disputing parties, unless otherwise provided by contract or decision of the court, by which the sequestration was established.

## **CHAPTER 48**

### **Insurance**



### **Article 817. Voluntary and Obligatory Insurance**

1. Insurance shall be effectuated, on a voluntary basis, on the basis of contracts of insurance being concluded by an insurant with an insurer, unless otherwise provided by the laws or acts of the President of the Republic of Belarus.

The insurants are citizens, including foreign citizens, stateless persons, organizations, including foreign and international organizations, and also the Republic of Belarus and its administrative and territorial units, foreign states, which concluded contracts of insurance with insurers or being insurants by virtue of a law or an act of the President of the Republic of Belarus.

2. In instances when the laws or the acts of the President of the Republic of Belarus impose the duty to insure the life, the health or the property, or own civil liability (obligatory insurance, with the exception of obligatory state insurance), the insurance shall be effectuated in accordance with the laws and the acts of the President of the Republic of Belarus .

3. The rules of this Chapter shall be applied to the obligatory insurance insofar as otherwise is not established by the President of the Republic of Belarus .

### **Article 818. Interests, the Insurance of Which Is Not Permitted**

1. The insurance of unlawful interests shall not be permitted.

2. The insurance of losses from participation in games, lotteries, and betting shall not be permitted.

3. The insurance of expenses which a person may be forced to make for the purpose of liberating hostages shall not be permitted.

4. [Excluded]

5. The conditions of contracts of insurance which are contrary to Clauses 1-3 of this Article shall be void.

### **Article 819. Contract of Insurance**

1. Under a contract of insurance one party (insurer) shall undertake, upon the occurrence of an accident provided for by the legislation or the contract (insured accident), to compensate the other party (insurant) or to a third person (insured person, beneficiary), to whose benefit the contract was concluded, for losses caused as a consequence of this accident to the property interests insured under the contract (pay an insurance indemnity in the form of an insurance compensation or an insurance coverage), within the limits of the amount (insured amount, liability limit) determined by the contract, and the other party (insurant) shall undertake to pay the amount stipulated by the contract (insurance contribution, insurance premium).

2. Insurance objects may be legitimate property interests connected with:

inflicting harm to the life or health of the insurant or any other citizen named in the contract

(personal insurance not related to the life insurance);

attainment, by citizens, of a certain age or with the occurrence in cours of their life of another insured accident stipulated in the contract (personal insurance related to the life insurance);

loss (perishing) or damage of property being in possession, use or disposal of the insurant or another beneficiary named in the contract, with causing damage to their property rights, with arising losses from entrepreneurial activity as a consequence of non-fulfillment (unduly fulfillment) of their obligations by contracting parties of an economic entity\* or with changes of conditions of this activity due to circumstances beyond the control of the entrepreneur (insurance of property);

liability for obligations arising as a consequence of causing, by the insurant or another person on which such a liability may be imposed, harm to life, health, or property of other persons, or with liability under a contract (insurance of liability).

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\* For the purposes of this Code, economic entities mean economic partnerships and societies, unitary enterprises, productive cooperatives, including agricultural productive coopertives, and peasant's (farmer's) households; state associations; associations (unions) -- associations of commercial and (or) non-commercial organizations and (or) individual entrepreneurs, productive cooperatives, chambers of commerce and industry, institutions, partnerships of owners; citizens carrying out entrepreneurial activity without forming a legal person.

## **Article 820. Contract of Personal Insurance**

1. Under a contract of personal insurance, the insurer shall undertake, for the payment of insurance contribution (insurance premium), stipulated by the contract and paid by the insurant, to pay, once or periodically, the insurance coverage within the limit of the insured amount (insurance limit), stipulated by the contract, in the event of causing of harm to the life or health of the insurant himself or other insured person, or in the event of the attaining of a determined age by such persons, or the ensuing of another event, provided for by the contract, in their lives (insured accident).

2. A contract of personal insurance shall be considered to be concluded to the benefit of the insured person if another person is not named in the contract as the beneficiary. In the event of the death of the person insured under the contract in which another beneficiary is not named, the heirs of the insured person shall be deemed to be the beneficiaries.

A contract of personal insurance to the benefit of a person who is not the insured person, including to the benefit of an insurant who is not the insured person, may be concluded only with the written consent of the insured person. In the absence of such consent, the contract may be deemed to be invalid upon the suit of the insured person, and in the event of the death of this person, upon the suit of heirs of this person.

## **Article 821. Insurance of Property**

1. Property may be insured under a contract of insurance to the benefit of the person (insurant or beneficiary) having an interest, based on the legislation or the contract, in the preservation of this property.

2. A contract of insurance of property concluded in the absence of an interest of the insurant or beneficiary in the preservation of the insured property, shall be invalid.

3. A contract of insurance of property to the benefit of a beneficiary may be concluded without specifying the name of the beneficiary.

In the event of concluding such a contract, a bearer insurance policy shall be issued to the insurant. In the event of the exercise, by the insurant or beneficiary, of the rights under such contract, it shall be necessary to submit this policy to the insurer.

### **Article 822. Insurance of Property Rights and Entrepreneurial Risk**

1. Under a contract of insurance of property rights, the property rights of the insurant or another beneficiary named in the contract may be insured.

As property rights which may be insured under the contract, the rights of insurants (beneficiaries) connected with their carrying out powers of possession, use and disposal of the property, and also with property claims which arise between the insurants (beneficiaries) and other person related to the determination of the fate of property and property rights related to it (ownership, economic management, operative administration, obligation rights (contractual and non-contractual), rights to intellectual activity results).

2. The entrepreneurial risk is a risk which arised when the insurant carries out entrepreneurial risk activity.

3. Under a contract of insurance of entrepreneurial risk only the entrepreneurial risk of the insurant himself may be insured, and only to his benefit .

The contract of insurance of entrepreneurial risk of a person not being insurant shall be void.

A contract of insurance of entrepreneurial risk to the benefit of a person which is not the insurant shall be considered to be concluded to the benefit of the insurant.

4. The rules, provided for by this Chapter, which are to be applied in connection with the insurance of entrepreneurial risk, shall be applied to the contract of insurance of the risk of non-return (non-repayment) and (or) of delayd return (repayment) of the credit.

### **Article 823. Insurance of Liability for Causing Harm**

1. Under a contract of insurance of the risk of liability for obligations which arise as a consequence of the causing harm to the life, health, or property of other persons, the liability of the insurant himself, or another person on whom such liability may be placed, may be insured.

2. The person whose liability for causing harm has been insured must be named in the

contract of insurance. If this person is not named in the contract, the liability of the insurant himself shall be considered to be insured.

3. The contract of insurance of liability for causing harm shall be considered to be concluded to the benefit of the persons to whom harm may be caused (beneficiary), even if the contract was concluded to the benefit of the insurant or other person liable for causing harm, or it is not specified in the contract to whose benefit it was concluded.

4. In an instance when liability for causing harm was insured by virtue of the fact that the insurance thereof is obligatory, and also in other instances provided for by the legislation or contract of insurance of such liability, the person to whose benefit the contract of insurance is considered to be concluded, shall have the right to submit directly to the insurer a demand concerning compensation of harm within the limits of the insured amount (liability limit).

#### **Article 824. Insurance of Liability under Contract**

1. Insurance of the risk of liability for a violation of a contract shall be permitted in the instances provided for by the legislation.

2. Under a contract of insurance of the risk of liability for a violation of a contract, only the liability of the insurant himself may be insured. A contract of insurance not corresponding to this requirement shall be void.

3. The liability for a violation of a contract shall be considered to be insured to the benefit of the party, to which, under the conditions of this contract, the insurant must bear respective liability (the beneficiary), even if the contract of insurance is concluded to the benefit of another person or it is not specified therein to whose benefit it was concluded.

#### **Article 825. Obligatory Insurance**

1. By the laws or the acts of the President of the Republic of Belarus, the duty to insure the following may be placed on the persons specified therein:

1) the life, health, or property ;

2) the own civil liability, which may ensue as a consequence of causing harm to the life, health, or property of other persons or violations of contracts with other persons.

2. The duty to insure own life or health may not be placed on a citizen of the Republic of Belarus by the legislation.

3. [Excluded]

4. In instances when the duty of insuring does not arise from a law or an act of the President of the Republic of Belarus, but is based on a contract, including the duty of insuring property, based on a contract with the possessor of the property or constituent documents of a legal person which is the owner of the property, such insurance shall not be obligatory in the sense of this Article and shall not entail the consequences provided for by Article 827 of this Code.

### **Article 826. Effectuation of Obligatory Insurance**

1. Obligatory insurance shall be effectuated by means of the conclusion with the insurer of a contract of insurance by the person, on which the duty of such insurance (insurant) was placed by laws or acts of the President of the Republic of Belarus.

2. Obligatory insurance shall be effectuated at the expense of the insurant, unless otherwise established by the President of the Republic of Belarus.

3. Objects of obligatory insurance, insurance risks and the minimum insured amounts (liability limits) shall be determined by the laws and the acts of the President of the Republic of Belarus.

4. Rules of this Chapter do not cover the state obligatory insurance (Article 859).

### **Article 827. Consequences of Violation of Rules on Obligatory Insurance**

1. The person to whose benefit, in accordance with the laws and the acts of the President of the Republic of Belarus, obligatory insurance must be effectuated shall have the right, if it is known to it that the insurance is not effectuated, to demand in a judicial proceeding the effectuation thereof by the person on whom the duty of insurance has been placed.

2. If the person, on which the duty of insurance has been placed, does not effectuate it or has concluded a contract of insurance on conditions which worsen the status of the beneficiary in comparison with the conditions determined by the laws and the acts of the President of the Republic of Belarus, it shall, in the event of the ensuing of the insured accident, bear liability to the beneficiary on the same conditions on which the insurance compensation (insurance coverage) should have been paid under the proper insurance.

3. The amounts unfoundedly saved by a person on which the duty of insurance has been placed, as a result of the fact that it did not fulfill this duty or fulfilled it improperly, shall be recovered, upon the suit of bodies, carrying out state supervision of insurance activity, to the revenue of the Republic of Belarus, with accrual of interests on these amounts in accordance with Article 366 of this Code.

### **Article 828. Insurers**

1. Insurers are commercial organizations created for carrying out insurance activity and having special permits (licenses) for carrying out insurance activity.

For certain kinds of insurance, the laws or the acts of the President of the Republic of Belarus may provide other types of insurers.

2. The requirements which insurance organizations must meet, the procedure for the licensing of their activity, and the effectuation of state supervision over this activity shall be determined by legislation.

### **Article 829. Fulfillment of Duties Under Contract of Insurance by Insurant and Beneficiary**

1. The conclusion of a contract of insurance to the benefit of a beneficiary, including when the beneficiary is the insured person, shall not relieve the insurant from the fulfillment of the duties under this contract, unless otherwise provided by the contract or the duties of the insurant have been fulfilled by the person to whose benefit the contract was concluded.

2. The insurer shall have the right to demand from the beneficiary, including when the insured person is the beneficiary, the fulfillment of the duties under the contract of insurance, including the duties lying on the insurant but not fulfilled by him, in the event of the submission by the beneficiary of a demand concerning payment of the insurance compensation under a contract of property insurance or insured amount under a contract of personal insurance. The risk of the consequences of the failure to fulfill or the untimely fulfillment of the duties which should have been fulfilled earlier shall be borne by the beneficiary.

### **Article 830. Form of Contract of Insurance**

1. The contract of insurance must be concluded in written form, unless otherwise provided by the laws or the acts of the President of the Republic of Belarus.

The failure to comply with the written form shall entail the invalidity of the contract of insurance, except for a contract of obligatory state insurance (Article 859).

2. A contract of insurance may be concluded by means of drawing up one document, and also through an exchange of documents via postal, telegraph, teletype, electronic or other communications which allow to establish credibly that the document is generated by the party of the contract (Article 404(2)) or by means of handing over by the insurer to the insurant, on the basis of his written or oral application, the insurance policy (certificate, receipt) signed by the insurer.

The contract of voluntary insurance shall be accompanied by the rules for the respective kind of insurance approved by the insurer or an association of insurers and agreed with the body carrying out state supervision of insurance activity. The enclosure of the rules of insurance to the contract of voluntary insurance shall be certified by an entry in that contract.

3. The insurer, when concluding a contract of insurance, has the right to use the standard forms of insurance policies (statements, certificates) prepared by it and agreed with the body carrying out the state supervision of insurance activity, unless otherwise established by legislative acts.

### **Article 831. Insurance Under General Policy**

1. The regular insurance of various lots of property of the same kind (goods, cargoes, and the like) on the similar conditions during a determined period may, by agreement of the insurant with the insurer, be effectuated on the basis of one contract of insurance, a general policy.

2. The insurant shall be obliged, with respect to each lot of property falling under the operation of the general policy, to provide to the insurer the information stipulated by such policy within the period provided for by it, and if it is not specified, immediately upon the receipt of such information. The insurant shall not be relieved of this duty even if at the time of receiving such information the possibility of losses, subject to compensation by the insurer, already has disappeared.

3. At the demand of the insurant, the insurer shall be obliged to issue insurance policies for individual lots of property falling under the operation of the general policy.

In the event of the non-conformation of the content of the insurance policy and the general policy, preference shall be given to the insurance policy.

### **Article 832. Significant Conditions of Contract of Insurance**

1. When concluding a contract of property insurance, agreement must be reached between the insurant and the insurer concerning:

- 1) the determined property or other property interest which is the object of insurance;
- 2) the character of the event, in the instance of the ensuing of which the insurance is effectuated (insured accident);
- 3) the insured amount (liability limit);
- 4) the amount of insurance contribution (insurance premium) and periods of payment thereof;
- 5) the period of operation of the contract.

2. When concluding a contract of personal insurance, agreement must be reached between the insurant and the insurer concerning:

- 1) the insured person;
- 2) the character of the event, in the instance of the ensuing of which in the life of the insured person the insurance is effectuated (insured accident);
- 3) the insured amount (liability limit);
- 4) the amount of insurance contribution (insurance premium) and periods of payment thereof;
- 5) the period of operation of the contract.

3. When concluding a contract of insurance between the insurant and the insurer, if the insurant is the citizen, in addition to the significant conditions specified in Clauses 1 and 2 of this Article, agreement must be reached concerning:

- 1) the grounds for dissolution of the contract before the expiry of the period established;
- 2) the procedure of return of the insurance contribution to the insurant in case of non-fulfillment of the obligation or dissolution of the contract before the expiry of the period

established;

3) the liability for non-fulfillment of the obligation.

### **Article 833. Determination of Conditions of Contract of Insurance in Rules of Insurance**

1. The conditions on which a contract of insurance is concluded may be determined in standard rules of insurance of the respective type approved by the insurer or an association of insurers and agreed with the body carrying out the state supervision of insurance activity.

2. The conditions contained in the rules of insurance, even those not included in the text of the contract of insurance or insurance policy (statement, certificate). shall be obligatory for the insurer, the insurant or the beneficiary.

### **Article 834. Information Granted by Insurant When Concluding Contract of Insurance**

1. When concluding a contract of insurance, the insurant shall be obliged to inform the insurer about the circumstances known to the insurant, having material significance for determining the probability of the ensuing of the insured accident and the amount of possible losses from the ensuing thereof (insured risk), if these circumstances are not known and should not be known to the insurer.

In any event circumstances stipulated in the contract of insurance or insurance policy (statement, certificate) on the basis of a written or oral declaration of the insurant shall be deemed to be significant.

2. If a contract of insurance was concluded in the absence of the answers of the insurant to any questions of the insurer, the insurer may not subsequently demand dissolution of the contract or the deeming thereof to be invalid on the grounds that the respective circumstances were not given by the insurant.

3. If after the conclusion of the contract of insurance it is established that the insurant presented knowingly false information to the insurer concerning the circumstances specified in Clause 1 of this Article, the insurer shall have the right to demand the contract to be deemed invalid and the application of the consequences provided for by Article 180(2) of this Code.

The demand of the insurer on deeming a contract of insurance to be invalid shall not be satisfied, if the circumstances, which were concealed by the insurant, already have disappeared.

### **Article 835. Right of Insurer to Valuation of Insured Risk**

1. When concluding a contract of insurance of property, the insurer shall have the right to make an inspection of the property to be insured and, when necessary, shall appoint an expert examination of reliability of value of such property.



2. When concluding a contract of personal insurance, the insurer shall have the right to investigate the person to be insured in order to evaluate the actual condition of his health.

3. The valuation of insured risk by the insurer on the basis of this Article shall be not obligatory for the insurant, who shall have the right to prove otherwise.

### **Article 836. Secrecy of Insurance**

An insurer shall not have the right to divulge information concerning the insurant, insured person, and beneficiary, condition of their health, and also the property status of these persons received by it as a result of its professional activity, except for the instances provided for by the legislation. The insurer, for a violation of the secrecy of insurance, depending upon the nature of the violated rights and the character of the violation, shall bear liability in accordance with the rules provided for by Article 140 or Article 151 of this Code.

### **Article 837. Insured Amount (Liability Limit)**

1. The insured amount (liability limit) is a monetary sum established by the law, the act of the President of the Republic of Belarus or by the contract of insurance within the limits of which the insurer is obliged to pay insurance compensation upon the occurrence of the insured event.

2. When insuring property or entrepreneurial risk, the insured amount (liability limit) may not exceed their insured value. There shall be considered to be such value:

1) for property: its true value at the place of its location on the day of concluding the contract of insurance;

2) for entrepreneurial risk: the losses from entrepreneurial activity which the insurant could incur in case of ensuing of the insured accident.

In the events established by the laws or the acts of the President of the Republic of Belarus, the insured amount (liability limit) may be less than the insured value.

3. In contracts of personal insurance and contracts of insurance of civil liability, the insured amount (liability limit) shall be determined by the parties at their discretion, unless otherwise established by the laws or the acts of the President of the Republic of Belarus.

### **Article 838. Contesting Insured Value of Property**

The insured value of property specified in a contract of insurance may not subsequently be contested, except for an instance when the insurer, not taking advantage of his right to valuation of the insured risk before concluding the contract (Article 835(1)), was intentionally deceived with respect to this value.

### **Article 839. Partial Property Insurance**

If in a contract of insurance of property or entrepreneurial risk the insured amount has been established lower than the insured value, the insurer shall, in the instance of the ensuing of the insured accident, be obliged to compensate the insurant (beneficiary) for part of the losses incurred by the latter proportionally to the relation of the insured amount (liability limit) to the insured value. If the insurance is effectuated on the ground of the first risk, the insurance compensation shall be paid in the amount of the full value of the lost property or the losses incurred from entrepreneurial activity, but not higher than the insured amount (liability limit).

### **Article 840. Additional Property Insurance**

1. In the event when property or entrepreneurial risk has been insured only in part of the insured value, the insurant (beneficiary) shall have the right to effectuate additional insurance, including that from a different insurer, but so that the total insured amount (liability limit) under all the contracts of insurance does not exceed the insured value.

2. The failure to comply with the provisions of Clause 1 of this Article shall entail the consequences provided for by Article 841(4) of this Code.

### **Article 841. Consequences of Insurance in Excess of Insured Value**

1. If the insured amount (liability limit) specified in the contract of insurance of property or entrepreneurial risk exceeds the insured value, the contract shall be void in that part of the insured amount (liability limit) which exceeds the insured value.

The part of the insurance contribution (insurance premium) paid in excess shall not be subject to return in this event.

2. If in accordance with the contract of insurance, the insurance contribution (insurance premium) is contributed by installments and by the time of establishing the circumstances specified in Clause 1 of this Article it was not contributed in full, the balance of the insurance contribution (insurance premium) must be paid in the amount reduced proportionally to the reduction of the amount of the insured amount (liability limit).

3. If an excess of the insured amount (liability limit) in a contract of insurance was a consequence of fraud on the part of the insurant, the insurer shall have the right to demand the contract be deemed to be invalid and compensation of losses caused to him by this in the amount exceeding the amount of insurance contribution (insurance premium) received by him from the insurant.

4. The rules provided for in Clauses 1-3 of this Article respectively shall apply also in an instance when the insured amount (liability limit) exceeded the insured value as a result of the insurance of the same object by two or several insurers (dual insurance).

The amount of insurance compensation subject to payment in this event by each of the insurers shall be reduced proportionally by the reduction of the initial insured amount (liability limit) under the respective contract of insurance.

## **Article 842. Property Insurance Against Various Insured Risks**

1. Property and entrepreneurial risk may be insured against various insured risks either under one or under separate contracts of insurance, including insurance under contracts with different insurers.

In these instances exceeding the amount of the total insured amount (liability limit) under all contracts over the insured value shall be permitted.

2. If the duty of insurers arises from two or several contracts concluded in accordance with Clause 1 of this Article to pay insurance compensation for one and the same consequences of the ensuing of one and the same insured accident, the rules provided for by Article 841(4) of this Code shall apply to such contract in respective part.

## **Article 843. Co-Insurance**

An object of insurance may be insured under one contract of insurance jointly by several insurers (co-insurance). If the rights and duties of each of the insurers have not been determined in such contract, they jointly and severally shall be liable to the insurant (beneficiary) for payment of the insurance compensation or the insurance coverage.

## **Article 844. Insurance Contribution (Insurance Premium)**

1. The insurance contribution (insurance premium) is the sum of monetary funds subject to be paid by the insurant to the insurer for insurance, unless otherwise established by the President of the Republic of Belarus.

2. When determining the amount of insurance contribution (insurance premium) subject to payment under the contract of insurance, the parties shall apply insurance tariffs, developed by the insurer and agreed with the body of state supervision over the insurance activity, determining the insurance contribution (insurance premium) to be recovered per unit of insured amount (liability limit), taking into account the object of insurance and the character of the insured risk, unless otherwise established by the legislation.

3. If the payment of the insurance contribution (insurance premium) by installment has been provided for by a contract of insurance, the consequences of the failure to pay the regular installment of the insurance contribution (insurance premium) within the established periods may be determined by the contract.

4. If the insured accident ensued before payment of a regular insurance contribution (insurance premium), the contribution of which has been delayed, the insurer shall have the right, when determining the amount of insurance compensation or insurance coverage, subject to payment, to set off the amount of delayed insurance contribution (insurance premium).

## **Article 845. Replacement of Insured Person**

1. In an instance when under a contract of insurance of the liability for causing harm (Article 823) the liability of a person other than the insurant has been insured, the latter shall have the right, unless otherwise provided by the contract, at any time before the ensuing of the insured accident to replace this person by another, having informed the insurer thereof in writing.

2. The insured person specified in the contract of personal insurance may be replaced by the insurant by another person only with the consent of the insured person himself and of the insurer.

#### **Article 846. Replacement of Beneficiary**

An insurant shall have the right to replace the beneficiary specified in the contract of insurance by another person, having informed the insurer thereof in writing. The replacement of a beneficiary under a contract of personal insurance designated with the consent of the insured person (Article 820(2)) shall be permitted only with the consent of this person.

The beneficiary may not be replaced by another person after fulfillment by him of any of the duties under the contract of insurance or submission of a demand to the insurer concerning the insurance payment.

#### **Article 847. Commencement of Operation of Contract of Insurance**

1. A contract of insurance shall enter into force from the day of payment of the insurance contribution (insurance premium) or its first installment, unless otherwise provided in legislative acts or the rules for the respective type of insurance, approved by the insurer or the association of insurers and agreed with the body carrying out state supervision of the insurance activity.

2. Insurance stipulated by a contract of insurance shall extend to insured accidents which occurred after the entry of the contract of insurance into force, unless another period for the commencement of the operation of the insurance has been provided for in the contract.

#### **Article 848. Termination of Contract of Insurance Before Time**

1. A contract of insurance shall be terminated before the ensuing of the period for which it was concluded if after its entry into force the possibility of the ensuing of the insured accident disappeared and the insurance was terminated under circumstances other than the insured accident. There shall be relegated to such circumstances, in particular:

1) the loss (perishing) of the insured property for reasons other than the ensuing of the insured accident;

2) termination, in accordance with the established procedure, of entrepreneurial activity by the person who insured the entrepreneurial risk or other risk connected with such activity.

2. The insurant (beneficiary) shall have the right to repudiate the contract of insurance at

any time if at the time of repudiation the possibility of the ensuing of the insured accident had not disappeared under the circumstances specified in Clause 1 of this Article.

3. In the event of termination of a contract of insurance before time under the circumstances specified in Clause 1 of this Article, the insurer shall have the right to part of the insurance contribution (insurance premium) in proportion to the time during which the insurance was in force.

In the event of the repudiation by the insurant (beneficiary) of the contract of insurance before time, the insurance premium paid to the insurer shall not be subject to return unless otherwise provided by the contract.

### **Article 849. Consequences of Increase of Insured Risk in Period of Operation of Contract of Insurance**

1. In the period of operation of a contract of property insurance or of insurance of liability, the insurant (beneficiary) shall be obliged immediately to inform the insurer on significant changes in the circumstances, on which the insurer was informed when concluding the contract, which have become known to the insurant (beneficiary), if such changes may significantly influence the increase of the insured risk.

Changes shall be deemed to be significant in any event, if these changes are stipulated in the contract of insurance or in the insurance policy (statement, certificate) and in the rules of insurance transferred to the insurant.

2. An insurer who has been notified about circumstances entailing an increase of the insured risk shall have the right to demand a change of the conditions of the contract of insurance or payment of an additional insurance contribution (insurance premium) commensurate to the increase of risk.

If the insurant (beneficiary) raises objections against changes of the conditions of the contract of insurance or additional payment of the insurance contribution (insurance premium), the insurer shall have the right to demand dissolution of the contract in accordance with the rules provided for by Chapter 29 of this Code.

3. In the event of the failure of the insurant or beneficiary to perform the duty provided for in Clause 1 of this Article, the insurer shall have the right to demand dissolution of the contract of insurance and compensation of losses caused by dissolution of the contract (Article 423(5)).

4. The insurer shall not have the right to demand dissolution of the contract of insurance if the circumstances entailing an increase of the insured risk have yet disappeared.

5. In the event of personal insurance, the consequences of a change of insured risk in the period of operation of the contract of insurance specified in Clauses 2 and 3 of this Article may ensue only if they are expressly provided for in the contract.

### **Article 850. Transfer of Rights to Insured Property to Another Person**

In the event of the transfer of rights to insured property from the person in whose interests

the contract of insurance was concluded to another person the rights and duties under this contract shall pass to the person to whom the rights to the property passed, except for instances of compulsory seizure of the property on the grounds specified in Article 236(2) of this Code and renunciation of the right of ownership (Article 237).

The person to whom the rights to insured property have passed must immediately inform the insurer thereof in writing.

### **Article 851. Informing Insurer about Ensuing of Insured Accident**

1. An insurant under a contract of property insurance or liability insurance shall, after the ensuing of the insured accident became known to him, be obliged immediately to inform the insurer or his representative about the ensuing thereof. If a period and(or) means of informing has been provided for by the contract, it must be made within the stipulated period and by the means specified in the contract.

The same duty shall lie on the beneficiary to whom the conclusion of the contract of insurance to his benefit is known, if he intends to take advantage of the right to insurance compensation.

2. The failure to fulfill the duty provided for by Clause 1 of this Article shall give to the insurer the right to refuse to pay the insurance compensation unless it is proved that the insurer knew in good time about the ensuing of the insured accident or that the absence of information about this for the insurer could not affect his duty to pay the insurance compensation.

3. The rules provided for by Clauses 1 and 2 of this Article shall respectively apply to the contract of personal insurance and to the payment of insurance coverage if the insured accident is the death of the insured person or causing harm to his health. In such a case, the period of notice of the insurer established by the contract may not be less than thirty days.

### **Article 852. Reducing Losses from Insured Accident**

1. In the event of ensuing the insured accident, which is provided for by the contract of property insurance or liability insurance, the insurant shall be obliged to take reasonable and available measures under the circumstances which formed in order to reduce possible losses.

In taking such measures, the insurant must follow the instructions of the insurer if they have been communicated to the insurant.

2. Expenses for the purpose of reducing losses which are subject to compensation by the insurer, if such expenses were necessary or were made in order to fulfill instructions of the insurer, must be compensated by the insurer, even if the respective measures proved to be unsuccessful.

Such expenses shall be compensated in proportion to the relation of the insured amount (liability limit) to the insured value, irrespective of whether they may exceed the insured amount (liability limit) together with the compensation of the other losses.

3. The insurer shall be relieved from compensation of losses which arose as a consequence

of the fact that the insurant intentionally did not take reasonable and available measures in order to reduce possible losses.

**Article 853. Consequences of Ensuing of Insured Accident Through Fault of Insurant, Beneficiary, or Insured Person**

1. An insurer shall be relieved from the payment of insurance compensation or insured amount if the insured accident ensued as a consequence of the intent of the insurant, beneficiary, or insured person, except for instances provided for by Clauses 2 and 3 of this Article.

Instances of the relief of the insurer from the payment of insurance compensation under contracts of property insurance in the event of the ensuing of the insured accident as a consequence of gross negligence of the insurant or beneficiary may be provided for by the legislation.

2. An insurer shall not be relieved from the payment of insurance compensation under a contract of insurance of liability for causing harm to life, health or property, if the harm was caused through the fault of the person liable therefor.

3. An insurer shall not be relieved from the payment of the insured amount which under a contract of personal insurance is subject to payment in the event of the death of the insured person, if his death ensued as a consequence of suicide and the contract of insurance has operated at this time for not less than two years.

**Article 854. Grounds for Relief of Insurer from Payment of Insurance Compensation and Insured Amount**

1. Unless otherwise provided by the treaties of the Republic of Belarus, act of legislation or contract of insurance, the insurer shall be relieved from the payment of insurance compensation and the insured coverage when the insured accident has ensued as a consequence of:

- 1) the influence of a nuclear explosion, radiation, or radioactive contamination;
- 2) military actions;
- 3) civil war.

2. Unless otherwise provided by a contract of property insurance, the insurer shall be relieved from the payment of insurance compensation for losses which arose as a consequence of the seizure, confiscation, requisition, arrest, or destruction of insured property at the order of state bodies.

**Article 855. Transfer to Insurer of Rights of Insurant to Compensation of Damage (Subrogation)**

1. Unless otherwise provided by the contract of property insurance, to the insurer, who has

paid the insurance compensation, shall pass, within the limits of the amount paid, the right of demand, which the insurant (beneficiary) has against the person liable for the losses compensated as a result of the insurance. A condition of the contract excluding the transfer to the insurer of the right of demand against a person who intentionally caused losses shall be void.

2. The right of demand which has passed to the insurer shall be effectuated by him in compliance with the rules regulating relations between the insurant (beneficiary) and the person liable for the losses.

3. An insurant (beneficiary) shall be obliged to transfer to the insurer all documents and evidences and to submit to him all information necessary for the exercise, by the insurer, of the right of demand which has passed to him.

4. If the insurant (beneficiary) has waived his right of demand against the person liable for losses compensated by the insurer, or the exercise of this right has become impossible through the fault of the insurant (beneficiary), the insurer shall be relieved from the payment of insurance compensation in full or in respective part and shall have the right to demand the return of the amount of insurance compensation paid in excess.

#### **Article 856. Limitations of Action With Regard to Demands Connected with Property Insurance and Insurance of Liability**

For the demands, following from the contracts of property insurance and insurance of liability, the general limitation period shall be established, calculated from the date of termination of action of contract of insurance.

#### **Article 857. Reinsurance**

1. The reinsurance it insurance by an insurer (reinsurant) of the risk of fulfillment of a part of its obligations with another insurer (reinsurer), on conditions determined in the contract.

2. The rules provided for by this Chapter shall apply to the contract of reinsurance, unless otherwise provided by the contract of reinsurance. In so doing, the insurer under a contract of insurance (principal contract) which has concluded a contract of reinsurance shall be considered to be the reinsurant in this latter contract.

3. Under reinsurance, the insured under this contract shall remain liable to the insurant under the principal contract of insurance for the payment of insurance compensation or the insurance coverage.

4. The subsequent conclusion of two or several contracts of reinsurance shall be permitted.

#### **Article 858. [Excluded]**

#### **Article 859. Obligatory State Insurance**



1. For the purpose of ensuring the public interests of citizens and the interests of the state, obligatory state insurance of the life, health, and (or) of property of citizens may be established by the legislation.

Obligatory state insurance shall be effectuated at the expense of means allotted for these purposes from the respective budget to the state bodies and bodies of local administration and self-government (insurants).

2. Obligatory state insurance shall be effectuated directly on the basis of the legislation concerning such insurance or on the basis of contracts of insurance concluded by the insurers and insurants in accordance with existing procedure.

3. Obligatory state insurance shall be paid for by the insurers in the amount determined by the legislation concerning such insurance.

4. The rules provided for by this Chapter shall apply to obligatory state insurance unless otherwise provided by the legislation concerning such insurance and does not arise from the essence of the respective relations concerning the insurance.

#### **Article 860. Application of General Rules on Insurance to Special Types of Insurance**

The rules provided for by this Chapter shall apply to relations with regard to the insurance of foreign investments against noncommercial risks, marine insurance, medical insurance, and insurance of pensions, insofar as not otherwise established by legislation on these types of insurance.

### **CHAPTER 49**

#### **Commission**

#### **Article 861. Contract of Commission**

1. Under a contract of commission one party (the attorney) shall undertake to perform, in the name of and at the expense of another person (the principal), determined legal actions. The rights and duties with regard to the transaction concluded by the attorney shall arise directly for the principal.

2. A contract of commission may be concluded with or without a specification of the period during which the attorney has the right to act in the name of the principal.

#### **Article 862. Remuneration of Attorney**

1. The principal shall be obliged to pay remuneration to the attorney if this is provided for by the legislation, or the contract of commission.

In instances when a contract of commission is connected with the effectuation of entrepreneurial activity by both parties or one of them, the principal shall be obliged to pay remuneration to the attorney unless otherwise provided by the contract.

2. In the absence, in a contract of commission for compensation, of conditions concerning the amount of remuneration or the procedure for the payment thereof, the remuneration shall be paid after the performance of the commission in the amount determined in accordance with Article 394(3) of this Code.

The attorney acting as a commercial representative (Article 185(1)) shall have the right in accordance with Article 340 of this Code to retain things, situated with him, which are subject to transfer to the principal, as security for his demands under the contract of commission.

### **Article 863. Performance of Commission in Accordance with Instructions of Principal**

1. An attorney shall be obliged to perform the commission given to him in accordance with the instructions of the principal. The instructions of the principal must be lawful, practicable, and specific.

2. An attorney shall have the right to deviate from instructions of the principal if under the circumstances of the case this is necessary in the interests of the principal and the attorney could not inquire the principal in advance or did not receive a reply to his enquiry within a reasonable period. An attorney shall be obliged to inform the principal about deviations committed as soon as notice became possible.

3. The right to deviate, in the interests of the principal, from his instructions without a preliminary enquiry concerning such deviations, may be granted to an attorney acting as a commercial representative (Article 185(1)). In this event the commercial representative shall be obliged, within a reasonable period to inform the principal about deviations committed, unless otherwise provided by the contract of commission.

### **Article 864. Duties of Attorney**

An attorney shall be obliged to:

1) personally perform the commission given to him, except for instances specified in Article 866 of this Code;

2) give to the principal, at his demand, all information concerning the course of the performance of the commission;

3) transfer to the principal without delay everything received under the transactions concluded in performance of the commission;

4) upon the performance of the commission or in the event of the termination of the contract of commission before the performance thereof, return without delay to the principal the power of attorney, the period of operation of which has not lapsed, and submit a report with documents of justification appended, if this is required according to the conditions of the contract or the character of the commission.

### **Article 865. Duties of Principal**

1. The principal shall be obliged to issue a power(s) of attorney to the attorney for the performance of legal actions provided for by the contract of commission, except for instances provided for by the second part of Article 183(1) of this Code.

2. The principal shall be obliged, unless otherwise provided by the contract, to compensate the attorney for expenses incurred, and provide the attorney with the means necessary for the performance of the commission.

3. The principal shall be obliged without delay to accept from the attorney everything performed by him in accordance with the contract of commission.

4. The principal shall be obliged to pay remuneration to the attorney if in accordance with Article 862 of this Code the contract of commission is to be compensated.

### **Article 866. Transfer of Performance of Commission**

1. An attorney shall have the right to transfer the performance of a commission to another person (deputy) only in the instances and on the conditions provided for by Article 187 of this Code.

2. The principal shall have the right to reject the deputy chosen by the attorney.

3. If a possible deputy of the attorney is specified in the contract of commission, the attorney shall not be liable either for choice of the deputy or for the carrying out the affairs by him.

If the right of the attorney to transfer performance of a commission to another person has not been provided for in the contract, or has been provided for but the deputy is not specified therein, the attorney shall be liable for the choice of the deputy.

### **Article 867. Termination of Contract of Commission**

1. A contract of commission shall be terminated as a consequence of:

1) revocation of the commission by the principal;

2) refusal of the attorney;

3) death of the principal or attorney, deeming either of them to lack active legal capacity, having limited active legal capacity, or to be missing.

2. The principal shall have the right to revoke a commission, and the attorney shall have the right to renounce it, at any time. An agreement concerning the waiver of this right shall be void.

3. A party who has repudiated a contract of commission providing for the actions of an attorney as a commercial representative must inform the other party about the termination of the contract not later than thirty days in advance unless a longer period has been provided for by the contract.

In the event of the reorganization of a legal person which is a commercial representative, the principal shall have the right to revoke the commission without such prior notice.

#### **Article 868. Consequences of Termination of Contract of Commission**

1. If a contract of commission is terminated before the commission is performed by the attorney in full, the principal shall be obliged to compensate the attorney for the costs incurred by him when performing the commission, and when remuneration was due to the attorney, also to pay remuneration to him commensurate with the work fulfilled by him. This rule shall not apply to the performance by the attorney of the commission after he knew or should have known about the termination of the commission.

2. The revocation of the commission by the principal shall not be grounds for compensation of losses due to the attorney by the termination of the contract of commission, except for instances of termination of the contract providing for the actions of an attorney as a commercial representative.

3. The refusal of the attorney to perform the commission of the principal shall not be grounds for the compensation of losses caused to the principal by the termination of the contract of commission, except for instances of the refusal of an attorney in conditions when the principal is deprived of the possibility to ensure his interests otherwise, and also of the refusal of the performance of the contract providing for actions of an attorney as a commercial representative.

#### **Article 869. Duties of Heirs of Attorney and Liquidator of Legal Person Which is Attorney**

In the event of the death of an attorney, his heirs shall be obliged to notify the principal about the termination of the contract of commission and take measures necessary in order to protect the property of the principal, in particular, to preserve his things and documents, and then to transfer this property to the principal.

The same duty shall lie on the liquidator of a legal person which is an attorney.

### **CHAPTER 50**

#### **Actions in Another's Interest Without Commission**

#### **Article 870. Conditions of Actions in Another's Interest**

1. Actions without a commission, other instruction, or consent of the interested person promised in advance for the purpose of preventing harm to his person or property, performance of his obligation or in his other not unlawful interests (actions in another's interest) must be performed on the ground of the obvious advantage or benefit and intentions, actual or probable, of the interested person, and with the necessary concern and circumspection.

2. The rules provided for by this Chapter shall not apply to actions in the interest of other

persons, performed by state bodies, bodies of local administration and self-government, for which such actions are one of the purposes of their activity.

#### **Article 871. Notification of Interested Person Concerning Actions in His Interest**

1. The person acting in another's interest shall be obliged at the first opportunity to notify the interested person thereof and await his decision within a reasonable period concerning approval or disapproval of the actions undertaken, if such waiting does not entail serious damage for the interested person.

2. It shall not be required to specially notify the interested citizen about actions in his interest if such actions are undertaken in his presence.

#### **Article 872. Consequences of Approval by Interested Person of Actions in His Interest**

If a person, in whose interest actions are undertaken without his commission, approves these actions, the rules concerning the contract of commission or other contract, corresponding to the character of the actions undertaken, even if approval was oral, shall apply to relations of the parties thereafter.

#### **Article 873. Consequences of Non-approval by Interested Person of Actions in His Interest**

1. Actions in another's interest, performed after it became known to he who performed these actions that they are not approved by the interested person, shall not entail for the latter any duties either with respect to those actions performed or with respect to third persons.

2. Actions for the purpose of preventing danger for the life of a person who has turned out to be in danger shall be permitted also against the will of this person; performance of a duty of maintaining someone shall be permitted against the will of he on whom this duty lies.

#### **Article 874. Compensation of Losses to Person Who Acted in Another's Interest**

1. Necessary expenses and other real damage incurred by the person who acted in another's interest in accordance with the rules provided for by this Chapter shall be subject to compensation by the interested person, except for expenses which were caused by the actions specified in Article 873(1) of this Code.

The right to compensation of necessary expenses and other real damage shall also be preserved when the actions in another's interest did not lead to the result presupposed. However, in the event of the prevention of damage to the property of another person the amount of compensation must not exceed the value of this property.

2. Expenses and other losses of the person who acted in another's interest, incurred by him in connection with actions, which were undertaken after receiving the approval of the interested person (Article 872) shall be compensated according to the rules on the contract of

the corresponding type.

#### **Article 875. Remuneration for Actions in Another's Interest**

The person whose actions in another's interest led to a positive result for the interested person shall have the right to obtain remuneration if such right is provided for by the legislation or agreement with the interested person.

#### **Article 876. Consequences of Transaction in Another's Interest**

Duties with regard to a transaction concluded in another's interest shall pass to the person in whose interest it was concluded on condition of the approval by him of this transaction and if the other party does not raise objections to such transfer or, when concluding the transaction, the other party knew or should have known that the transaction was concluded in another's interest.

In the event of the transfer of duties under this transaction to the person in whose interests it was concluded, the rights with regard to this transaction must also be transferred to the latter.

#### **Article 877. Unfounded Enrichment as Consequence of Actions in Another's Interest**

If actions not immediately directed to ensuring the interests of another person, including those in an instance when the person who performed them mistakenly presupposed that he acts in his own interest, led to the unfounded enrichment of the other person, the rules provided for by Chapter 59 of this Code shall apply.

#### **Article 878. Compensation of Harm Caused by Actions in Another's Interest**

Relations with regard to compensation of harm caused by actions in another's interest to the interested person or to third persons shall be regulated by the rules provided for by Chapter 58 of this Code.

#### **Article 879. Report of Person Who Acted in Another's Interest**

The person who acted in another's interest shall be obliged to submit to the person in whose interests such actions were effectuated a report specifying the revenues received, expenses incurred and other losses.

### **CHAPTER 51**

#### **Commission Body**

#### **Article 880. Contract of Commission Body**

1. Under a contract of commission body, one party (commission agent) shall undertake, on behalf of another party (committent), to conclude for remuneration one or several transactions in his own name, but at the expense of the committent.

The commission agent shall acquire the rights and become obliged with regard to a transaction concluded by the commission agent with a third person, even though the committent was named in the transaction or entered into direct relations with the third person in regard to performance of the transaction.

2. A contract of commission body may be concluded for a specified period or without specifying the period of its operation, with or without specifying the territory of the performance thereof, with or without the obligation of the committent not to grant to third persons the right to conclude a transaction in his interests and at his expense, the conclusion of which has been entrusted to the commission agent, and with or without conditions concerning the assortment of goods which are the subject of the commission body.

3. The peculiarities of individual types of commission body contract may be provided for by the legislation.

#### **Article 881. Commission Body Remuneration**

1. The committent shall be obliged to pay remuneration to the commission agent, and in the event the commission agent has assumed the guaranty for performance of the transaction by a third person (del credere), also additional remuneration in the amount and in accordance with the procedure established in the contract of commission body.

If the amount of remuneration or the procedure for the payment thereof has not been provided for by the contract and the amount of remuneration can not be determined from the conditions of the contract, the remuneration shall be paid after the performance of the contract of commission body in the amount determined in accordance with Article 394(3) of this Code.

2. If the contract of commission body was not performed for reasons dependent upon the committent, the commission agent shall retain the right to the commission body remuneration, and also to compensation for expenses incurred.

#### **Article 882. Performance of Commission Body Commission**

A commission agent shall be obliged to perform the commission assumed on the conditions most advantageous for the committent in accordance with the instructions of the committent, and in the absence of such instructions in the contract of commission body, in accordance with the requirements commonly presented.

In an instance when the commission agent has concluded a transaction on conditions more advantageous than those which were specified by the committent, the additional advantage shall be divided between the committent and the commission agent equally unless otherwise provided by agreement of the parties.

### **Article 883. Liability for Failure to Perform Transaction Concluded for Committent**

1. The commission agent shall not be liable to the committent for the failure of a third person to perform a transaction concluded with him at the expense of the committent, except for instances when the commission agent did not act with the necessary caution in the choice of this person or assumed the guaranty for performance of the transaction (del credere).

2. In the event of the failure of a third person to perform a transaction concluded with him by the commission agent, the commission agent shall be obliged immediately to inform the committent thereof, to collect the necessary evidences, and also, at the demand of the committent, to transfer rights to him regarding such transaction in compliance with the rules concerning the cession of a demand (Articles 353-357, 359, 360).

3. The cession of rights to the committent with regard to a transaction on the basis of Clause 2 of this Article shall be permitted irrespective of the agreement of the commission agent with the third person prohibiting or limiting such cession. This shall not relieve the commission agent from liability to the third person in connection with the cession of the right in violation of the agreement on the prohibition or limitation thereof.

### **Article 884. Sub-Commission Body**

1. Unless otherwise provided by the contract of commission body, the commission agent shall have the right for the purpose of performance of this contract to conclude a contract of sub-commission body with another person, while remaining liable for the actions of the sub-commission agent to the committent.

Under the contract of sub-commission body, the commission agent shall acquire the rights and duties of the committent with respect to the sub-commission agent.

2. Until the termination of the contract of commission body, the committent shall not have the right without the consent of the commission agent to enter into direct relations with the sub-commission agent, unless otherwise provided by the contract of commission body.

### **Article 885. Deviation from Instructions of Committent**

1. The commission agent shall have the right to deviate from the instructions of the committent if under the circumstances of the case this is necessary in the interests of the committent and the commission agent could not ask the committent in advance and did not receive a reply to his enquiry within a reasonable period. The commission agent shall be obliged to inform the committent about the deviations committed as soon as notification becomes possible.

The right to deviate from his instructions without prior enquiry may be granted to the commission agent acting as an entrepreneur. In this event the commission agent shall be obliged within a reasonable period to inform the committent about the deviations committed, unless otherwise provided by the contract of commission body.

2. A commission agent who has sold property at a price lower than agreed with the



committent shall be obliged to compensate the latter for the difference unless it is proved that he had no possibility to sell the property at the agreed price and the sale for a lower price prevented more losses. In an instance when the commission agent was obliged to ask the committent in advance, the commission agent also must prove that he had no possibility to receive in advance the consent of the committent for the deviation from his instructions.

3. If the commission agent purchased property at a price higher than agreed with the committent, the committent, not wishing to accept such purchase, shall be obliged to declare this to the commission agent within a reasonable period upon receipt of notification thereof concerning the conclusion of a transaction with a third person. Otherwise, the purchase shall be deemed to be accepted by the committent.

If the commission agent notified that he accepts the difference in price at his own expense, the committent shall not have the right to repudiate the transaction concluded for him.

### **Article 886. Rights to Things Which Are Subject of Commission Body**

1. Things received by the commission agent from the committent or acquired by the commission agent at the expense of the committent shall be the ownership of the latter.

2. The commission agent shall have the right in accordance with Article 340 of this Code to retain things, which are at his disposal and which are subject to transfer to the committent or to the person specified by the committent, to secure his demands under the contract of commission body.

In the event the committent is declared to be economically insolvent (bankrupt), the said right of the commission agent shall terminate, and his demands against the committent within the limits of the value of things which he withheld shall be satisfied in accordance with Article 340 of this Code equally with the demands secured by a pledge.

### **Article 887. Satisfaction of Demands of Commission Agent from Amounts Due to Committent**

A commission agent shall have the right in accordance with Article 340 of this Code to retain amounts due to him under the contract of commission body from all the amounts received by him on the account of the committent. However, the creditors of the committent who enjoy preference with respect to priority of satisfaction of their demands to the pledgeholders shall not be deprived of the right to satisfaction of these demands from the amounts withheld by the commission agent.

### **Article 888. Liability of Commission Agent for Loss, Shortage, or Damage to Property of Committent**

1. A commission agent shall be liable to the committent for loss, shortage, or damage to the property of the committent being in his disposal.

2. If, at accepting by the commission agent, the property sent by the committent or the

property which comes to the commission agent for the committent proves to be damaged, or there is shortage of this property, and this damage or shortage can be revealed by visual inspection, or damage has been caused by someone to the property of the committent, being in disposal of the commission agent, the commission agent shall be obliged to take measures for the protection of the rights of the committent, to gather the necessary evidences, and to inform the committent immediately.

3. A commission agent who has not insured property of the committent being in his disposal, shall be liable therefor to this person only in instances when the committent instructed him to insure the property at the expense of the committent or the insurance of this property by the commission agent has been provided for by the contract of commission body.

### **Article 889. Report of Commission Agent**

The commission agent shall be obliged to submit a report to the committent with regard to the performance of a commission and to transfer to him everything obtained under the contract of commission body. The committent who has objections with regard to the report must present these objections to the commission agent within thirty days from the date of receipt of the report, unless another period has been established by agreement of the parties. Otherwise, in the absence of another agreement, the report shall be considered to be accepted.

### **Article 890. Acceptance by Committent of That Performed Under the Contract of Commission Body**

The committent shall be obliged to:

- 1) accept from the commission agent everything obtained under the contract of commission body;
- 2) inspect the property acquired for him by the commission agent and notify the latter without delay about the defects revealed in this property;
- 3) relieve the commission agent from obligations assumed by him to a third person with regard to the performance of the commission body commission.

### **Article 891. Compensation of Expenses for Performance of Commission Body Commission**

The committent shall be obliged, in addition to payment of the commission body remuneration, and in respective instances also additional remuneration for del credere, to compensate the commission agent for amounts expended by him for performance of the commission body commission.

The commission agent shall not have the right to compensation of expenses for the storage of property of the committent being in his disposal, unless otherwise established in a legislation or by the contract of commission body.

### **Article 892. Termination of Contract of Commission Body**

A contract of commission body shall terminate as a consequence of:

- 1) refusal of the committent to perform the contract;
- 2) refusal of the commission agent to perform the contract in instances provided for by the legislation or the contract;
- 3) death of the commission agent, deeming him to lack active legal capacity, limited active legal capacity, or to be missing;
- 4) deeming of an individual entrepreneur who is a commission agent to be insolvent (bankrupt).

In the event a commission agent is declared to be insolvent (bankrupt), his rights and duties with regard to transactions concluded by him for the committent in performance of the instructions of the latter shall pass to the committent.

### **Article 893. Revocation of Commission Body Commission by Committent**

1. The committent shall have the right at any time to refuse performance of the contract of commission body, having revoked the commission given to the commission agent. The commission agent shall have the right to demand compensation of losses caused by the revocation of the commission.

2. In an instance when the contract of commission body was concluded without an indication of the period of its operation, the committent must inform the commission agent about the termination of the contract not later than thirty days in advance unless a longer period of notification has been provided for by the contract.

In this event the committent shall be obliged to pay remuneration to the commission agent for transactions concluded by him before the termination of the contract, and also to compensate the commission agent for expenses incurred by him before the termination of the contract.

3. In the event of the revocation of the commission, the committent shall be obliged within the period established by the contract of commission body, and if such period has not been established, immediately to dispose of his property being within the jurisdiction of the commission agent. If the committent does not fulfill this duty, the commission agent shall have the right to hand over the property for storage at the expense of the committent or to sell it at the price as advantageous as possible for the committent.

### **Article 894. Refusal of Commission Agent to Perform Contract of Commission Body**

1. A commission agent shall not have the right, unless otherwise provided by the contract of commission body, to refuse the performance thereof, except for an instance when the contract was concluded without an indication of the period of its operation. In this event the

commission agent must inform the committent about the termination of the contract not later than thirty days in advance, unless a longer period of notification has been provided for by the contract.

A commission agent shall be obliged to take measures necessary in order to ensure the preservation of the property of the committent.

2. The committent must dispose of his property being within the jurisdiction of the commission agent within fifteen days from the date of receipt of the notification about the refusal of the commission agent to perform the commission, unless another period has been established by the contract of commission body. If the committent does not fulfill this duty, the commission agent shall have the right to hand over the property for storage at the expense of the committent or to sell it at the price as advantageous as possible for the committent.

3. Unless otherwise provided by the contract of commission body, the commission agent who has refused to perform a commission shall retain the right to commission body remuneration for the transactions concluded by him before termination of the contract, and also to compensation for expenses incurred by him up to that time.

## **CHAPTER 52**

### **Trust Management of Property**

#### **Article 895. Contract of Trust Management of Property**

1. Under a contract of trust management of property one party (founder of management) shall transfer to the other party (trustee manager) property in trust management for a determined period, and the trustee manager shall undertake, for remuneration, to effectuate the management of this property in the interests of the founder of management or person specified therein (beneficiary).

The transfer of property to trust management shall not entail the transfer of the right of ownership thereto to the trustee manager.

2. In carrying out trust management of property, the trustee manager shall have the right to perform with respect to this property in accordance with the contract of trust management any legal and real actions in the interests of the founder of management or the beneficiary.

Limitations with respect to individual actions relating to the trust management of property may be provided for by the legislation or contract.

3. Transactions with property transferred to trust management the trustee manager shall conclude in his own name, indicating in so doing that he acts as such manager. This condition shall be considered to be complied with if when performing actions not requiring written formalization the other party has been informed about the performance thereof by the trustee manager in this capacity, and in written documents by making the mark "Д.У." (trust management) after the name of the trustee manager.

In the absence of an indication concerning the action of the trustee manager in this capacity, the trustee manager shall become obliged to third persons personally and shall be liable to them only with the property belonging to him.

### **Article 896. Object of Trust Management**

1. Enterprises and other property complexes, individual objects relegated to immovable property, securities, rights certified by paperless securities, exclusive rights, and other property may be an object of trust management.

2. Money may not be a separate object of trust management, except for instances provided for by the legislation.

3. Property in economic management or operative administration may not be transferred to trust management. The transfer to trust management of property in economic management or operative administration shall be possible only after the liquidation of the legal person in whose economic management or operative administration the property is situated, or after the termination of the right of economic management or operative administration of property and transferring thereof into the possession of the owner on other grounds provided for by the legislation.

### **Article 897. Founder of Management**

The owner of property, and in instances provided for by Article 909 of this Code, another person, shall be the founder of trust management.

### **Article 898. Trustee Manager**

1. An individual entrepreneur or commercial organization, except for a unitary enterprise, may be a trustee manager.

In instances when the trust management of property is effectuated on the grounds provided for by the legislation, the trustee manager may be a citizen who is not an entrepreneur or a noncommercial organization, except for an institution.

2. Excluded.

3. The trustee manager may not be a beneficiary under the contract of trust management of property.

### **Article 899. Significant Conditions of Contract of Trust Management of Property**

1. There must be specified in the contract of trust management of property:

1) subject of the agreement, including the characteristic of property transferred to the trust management, and value of this property;

2) the limits of using the property by the trustee manager;

3) the name of the legal person or the name of the citizen in whose interests the management of the property shall be effectuated (the founder of the management or the

beneficiary);

4) the amount and form of remuneration to the manager, if payment of remuneration has been provided for by the contract;

5) the period of operation of the contract.

2. The contract of trust management of property shall be concluded for a period not exceeding five years. For individual types of property transferred in trust management other maximum periods for which the contract may be concluded may be established by the legislation.

In the absence of the statement by one of the parties concerning the termination of the contract regarding the end of the period of its operation, it shall be considered to be extended for the same period and on the same conditions as were provided for by the contract.

### **Article 900. Form of Contract of Trust Management of Property**

1. A contract of trust management of property must be concluded in written form.

2. A contract of trust management of immovable property must be concluded in the form provided for the contract of sale of immovable property. The transfer of immovable property in trust management shall be subject to state registration.

3. The failure to comply with the form of the contract of trust management of property or the requirement concerning its state registration shall entail the invalidity of the contract.

### **Article 901. Separation of Property in Trust Management**

1. Property transferred in trust management shall be solitary from other property of the founder of the management, and also from property of the trustee manager. This property shall be reflected in a separate balance sheet of the trustee manager and the separate account shall be kept with regard to it. A separate bank account shall be opened in order to settle accounts with regard to activity connected with trust management.

2. Levy of execution for debts of the founder of the management on property transferred by him in trust management shall not be permitted, except for the economic insolvency (bankruptcy) of this person. In the event of bankruptcy of the founder of the management, the trust management of this property shall terminate and it shall be included in the bankruptcy assets.

### **Article 902. Transfer in Trust Management of Property Encumbered by Pledge**

1. The transfer of pledged property to trust management shall not deprive the pledgeholder of the right to levy execution on this property.

2. The trustee manager must be warned that the property transferred to him in trust management is encumbered by a pledge. If the trustee manager did not know and should not

have known that the property, which is transferred to him in trust management, is encumbered by a pledge, he shall have the right to demand in court the dissolution of the contract of trust management of property and payment of the remuneration due to him under the contract.

### **Article 903. Rights and Duties of Trustee Manager**

1. The trustee manager shall effectuate, within the limits provided for by the legislation and the contract of trust management of property, the powers of the owner with respect to property transferred in trust management. The disposition of immovable property shall be effectuated by the trustee manager in the instances provided for by the contract of trust management.

2. The rights acquired by the trustee manager as a result of actions relating to the trust management of property shall be included in the property transferred in trust management. The duties which arise as a result of such actions of the trustee manager shall be performed at the expense of this property.

3. In order to defend the rights to property in trust management the trustee manager shall have the right to demand any elimination of a violation of his rights (Articles 282, 283, 285, and 286).

4. The trustee manager shall submit to the founder of the management and beneficiary a report concerning his activity within the periods and in accordance with the procedure established by the contract of trust management of property.

### **Article 904. Transfer of Trust Management of Property**

1. The trustee manager shall effectuate trust management of property personally, except for instances provided for by Clause 2 of this Article.

2. The trustee manager may charge another person to perform actions in the name of the trustee manager which are necessary for the management of the property if he is authorized to do so by the contract of trust management of the property, or has received the consent of the founder to do so in written form, or is forced to do so by virtue of circumstances in order to ensure the interests of the founder of the management or beneficiary and does not have the possibility to receive instructions of the founder of the management within a reasonable period.

The trustee manager shall be liable for actions of the entrusted person, chosen by him, as though for his own.

### **Article 905. Liability of Trustee Manager**

1. The trustee manager who has effectuated the trust management of property in the interests of the beneficiary or founder of the management without due concern, shall compensate the beneficiary for lost advantage for the period of trust management of the property, and shall compensate the founder of the management for losses caused by the loss of or damage to the

property, taking into account its natural wear and tear, and also for lost advantage.

The trustee manager shall bear liability for losses caused unless he would prove that these losses occurred as a consequence of force majeure or the actions of the beneficiary or the founder of the management.

2. Obligations relating to a transaction concluded by the trustee manager in excess of the powers granted to him or in violation of the limitations established for him shall be borne by the trustee manager personally. If third persons participating in the transaction did not know and should not have known about the exceeding of powers or the limitations established, the obligations which arose shall be subject to performance in accordance with the procedure established by Clause 3 of this Article. The founder of the management may in this event demand of the trustee manager compensation for losses incurred by him.

3. Debts relating to obligations which arose in connection with trust management of property shall be paid at the expense of this property. In the event this property is insufficient, execution may be levied on the property of the trustee manager, and if his property also is insufficient, on the property of the founder of the management not transferred to trust management.

4. The contract of trust management of property may provide for the granting of a pledge by the trustee manager to secure compensation of losses which may be caused to the founder of the management or to the beneficiary by the improper performance of the contract of trust management.

#### **Article 906. Remuneration of Trustee Manager**

The trustee manager shall have the right to remuneration provided for by the contract of trust management of property, and also to compensation of necessary expenses made by him in the trust management of property at the expense of revenues from the use of this property.

#### **Article 907. Termination of Contract of Trust Management of Property**

1. A contract of trust management of property shall be terminated as a consequence of:

1) the death of a citizen who is a beneficiary, or the liquidation of the legal person being the beneficiary, unless otherwise provided by the contract;

2) the refusal of the beneficiary to receive advantages under the contract, unless otherwise provided by the contract;

3) the death of the citizen who is the trustee manager, his being deemed to lack active legal capacity, to have limited active legal capacity, or to be missing, and also his being deemed to be insolvent (bankrupt), or establishing a prohibition for the trustee manager to be engaged in the entrepreneurial activity in the instances provided by this Code and other acts of legislation;

4) the refusal of the trustee manager or founder of the management to effectuate the trust management in connection with the impossibility of the trustee manager carrying out personally the trust management of the property;



5) the repudiation of the contract by the founder of the management for other reasons than those specified in Clause 4 of this Clause, on condition of the payment of the remuneration, stipulated by the contract, to the trustee manager;

6) the deeming of the citizen, who is the founder of the management, to be insolvent (bankrupt).

2. In the event of the repudiation by one party of the contract of trust management of property, the other party must be notified about this three months before the termination of the contract unless another period of notification is provided by the contract.

3. In the event of the termination of a contract of trust management the property in trust management shall be transferred to the founder of the management unless otherwise provided by the contract.

### **Article 908. Transfer of Securities to Trust Management**

1. In the event of the transfer of securities to trust management, the combining of securities being transferred to trust management by different persons may be provided for.

2. The powers of the trust manager with regard to the disposition of securities shall be determined in the contract of trust management.

Under the contract of trust management of securities, monetary means may be transferred to the trustee manager for acquiring the securities and management thereof.

3. The peculiarities of the trust management of securities shall be determined by the legislation.

4. The rules of this Article shall apply respectively to the rights certified by paperless securities.

### **Article 909. Trust Management of Property on Grounds Provided for by the Legislation**

1. Trust management of property also may be founded:

1) as a consequence of the necessity for permanent management of the property of a ward in the instances provided for by Articles 36 and 39 of this Code;

2) on the basis of a will in which the executor of the will has been appointed;

3) on other grounds provided for by the legislation.

2. The rules provided for by this Chapter shall apply respectively to relations concerning the trust management of property founded on the grounds specified in Clause 1 of this Article unless otherwise provided by the legislation or does not arise from the essence of such relations.

In instances when the trust management of property is founded on the grounds specified in

Clause 1 of this Article, the rights of the founder of the management provided for by the rules of this Chapter shall belong respectively to the trusteeship and guardianship body, the executor of the will, or another person specified in a legislation.

## **CHAPTER 53**

### **Complex Entrepreneurial License (franchise)**

#### **Article 910. Contract of Complex Entrepreneurial License (Franchise)**

1. Under a contract of complex entrepreneurial license (franchise) (hereinafter referred to as the contract of franchise), one party (right holder) shall undertake to grant to the other party (user), for remuneration, for a period or without specifying a period, the right to using of in the entrepreneurial activity of the user the complex of exclusive rights which belong to the right holder, including the right to using of the firm name and non-disclosed information, including the trade secrets (know-how) and other objects of intellectual property (trademark, service mark, and so forth), provided by the contract of franchise.

2. A contract of franchise shall provide for the use of the complex of exclusive rights, specified in Clause 1 of this Article, within the determined amount (with specifying of the minimum and(or) maximum amount of use), with or without specifying the territory of using of these rights for the determined kinds of entrepreneurial activity.

3. Commercial organizations and individual entrepreneurs may be parties to a contract of franchise.

4. Remuneration under a contract of franchise may be paid by the user to the right holder in the form of fixed lumpsum or periodic payments, deductions from proceeds, or in other form provided for by the contract of franchise.

#### **Article 910<sup>1</sup>. Form and Registration of Contract of Franchise**

1. A contract of franchise must be concluded in written form.

2. A contract of franchise is subject to registration in the patent body in accordance with the procedure established by the legislation.

#### **Article 910<sup>2</sup>. Complex Entrepreneurial Sublicence**

1. The right of the user to authorize other persons to use the complex of exclusive rights, granted to the user, or part of this complex on conditions agreed by the user with the right holder or determined in the contract of franchise (complex entrepreneurial sublicence) may be provided for by the contract of franchise. The duty of the user to grant the specified number of complex entrepreneurial sublicences within a specified period may be provided for by the contract of franchise.

2. A contract of complex entrepreneurial sublicence may not be concluded for a longer period than the contract of franchise on the basis of which it was concluded.

3. Termination of the contract of franchise terminates a contract of complex entrepreneurial sublicense.

4. The user shall bear liability to the right holder for the actions of secondary users unless otherwise provided by the contract of franchise.

5. The rules concerning the contract of franchise provided for by this Chapter shall apply to the contract of complex entrepreneurial sublicense unless otherwise provided by the legislation.

### **Article 910<sup>3</sup>. Duties of Right Holder**

1. The right holder shall be obliged to:

transfer to the user technical and commercial documentation and other information necessary to the user in order to exercise the exclusive rights granted to him under the contract of franchise, and also instruct the user and his employees with regard to questions connected with the exercise of these rights:

issue to the user the licenses, provided for by the contract of franchise, for the right of using the objects of the intellectual property, specified in Article 910(1) of this Code, ensuring the formalization thereof in the established procedure.

2. Unless otherwise provided by the contract of franchise, the right holder shall be obliged to:

render permanent technical and consultative assistance to the user, including assistance in training and raising the level of skills of the staff;

control the quality of goods (work, services) being produced (fulfilled, rendered) by the user on the basis of the contract of franchise.

### **Article 910<sup>4</sup>. Duties of User**

Taking into consideration the character and peculiarities of the activity being effectuated by the user under the contract of franchise, the user shall be obliged to:

use, when carrying out the activity provided for by the contract of franchise, the firm name of the right holder by the means specified in the contract;

ensure the conformity of the quality of the goods produced, work fulfilled, or services rendered on the basis of the contract of franchise, to the quality of similar goods, work, or services being produced, fulfilled, or rendered by the right holder itself;

comply with the instructions and directions of the right holder aimed at ensuring the conformity of the character, means, and conditions of using the complex of exclusive rights to its using by the right holder, including the instructions concerning the external and internal appearance of the commercial premises to be used by the user when exercising the exclusive rights granted to him under the contract;

render to purchasers (customers) all additional services which they might count upon in acquiring (ordering) the goods (works, services) from the right holder itself;

not divulge the non-disclosed information, obtained from the right holder, including the trade secrets (know-how);

issue the stipulated quantity of complex entrepreneurial sublicences, if such duty is provided for by the contract;

inform the purchasers (customers), using the most obvious means for them, that the user is using the firm name, trademark, service mark, or other means of individualization of participants of the civil turnover, goods, works, or services on the grounds of the contract of franchise.

### **Article 910<sup>5</sup>. Limitation of Rights of Parties under Contract of Franchise**

1. Limitations of the right of the parties may be provided for by the contract of franchise by specifying:

the obligation of the right holder not to grant to other persons similar complexes of exclusive rights for the use thereof on the territory allocated for the user or refrain from own similar activity on this territory;

the obligation of the user not to compete with the right holder on the territory to which the operation of the contract of franchise extends with respect to entrepreneurial activity effectuated by the user with the use of the exclusive rights belonging to the right holder;

the refusal of the user to obtain, under the contracts of franchise, similar rights from competitors (potential competitors) of the right holder;

the obligation of the user to agree with the right holder the location of the commercial premises to be used when exercising the exclusive rights granted under the contract of franchise, as well as the external and internal appearance thereof.

2. Limitations of the right of the parties under the contract of franchise may be deemed by the court to be invalid upon the demand of the anti-monopoly body or other interested person, if these limitations, taking into consideration the condition of the goods market and economic status of the parties, contradict to the anti-monopoly legislation.

### **Article 910<sup>6</sup>. Liability of Right Holder Relating to Requirements Presented to User**

1. The right holder shall bear subsidiary liability for requirements presented to the user concerning the non-compliance of the quality of the goods (works, services) being sold (fulfilled, rendered) by the user under the contract of franchise, to the quality of similar goods (works, services) being sold (fulfilled, rendered) by the right holder itself.

2. The right holder shall be liable jointly and severally with the user with regard to requirements presented to the user as the manufacturer of the products (goods).

### **Article 910<sup>7</sup>. Change of Contract of Franchise**

1. A contract of franchise may be changed in accordance with the rules provided for by Chapter 29 of this Code.
2. Change of the contract of franchise are subject to registration in accordance with the procedure established for registration of the contracts of franchise.
3. In relations with third persons the parties to a contract of franchise shall have the right to refer to a change of the contract only from the time of registration of this change.

### **Article 910<sup>8</sup>. Preservation of Contract of Franchise in Force in Event of Change of Parties**

1. The transfer to another person of any exclusive right whatever within the complex of exclusive rights granted to the user shall not be grounds for a change or dissolution of the contract of franchise. The new right holder shall become a party to this contract in that part of the rights and duties relating to the exclusive right transferred to the new right holder.
2. In the event of the death of the right holder, being the individual entrepreneur, and transferring his rights and duties under the contract of franchise to the heir, the contract of franchise shall terminate, unless the heir is registered within six months from the date of opening the inheritance as an individual entrepreneur in accordance with the procedure established by the legislation.
3. The exercise of the rights and performance of the duties of the deceased right holder before the acceptance of these rights and duties by the heir and before registration of the heir as an individual entrepreneur shall be effectuated by the trustee manager appointed in accordance with Chapter 52 of this Code.

### **Article 910<sup>9</sup>. Preservation of Contract of Franchise in Force in Event of Change of Firm Name**

In the event of a change by the right holder of its firm name, the contract of franchise shall be preserved and operate with respect to the new firm name of the right holder unless the user requires the dissolution of the contract and compensation of losses. In the event of the continuation of the operation of the contract of franchise, the user shall have the right to demand commensurate reduction of the remuneration due to the right holder.

### **Article 910<sup>10</sup>. Consequences of Termination of Exclusive Right, Use of Which Has Been Granted Under Contract of Franchise**

1. If in the period of operation of a contract of franchise the period of operation of the exclusive right, use of which was granted under this contract, has expired (except for termination of right to the firm name without replacing it by the new firm name), or such right terminated on other grounds, the contract of franchise shall continue to operate, except for

provisions relating to the terminated right, and the user, unless otherwise provided by the contract, shall have the right to demand commensurate reduction of the remuneration due to the right holder.

2. In the event of the termination of the rights to the firm name without replacing it by the new firm name, operation of a contract of franchise shall terminate.

#### **Article 910<sup>11</sup>. Dissolution of Contract of Franchise**

1. The contract of franchise concluded with or without specifying the period may be dissolved in accordance with the rules of Chapter 29 of this Code.

2. Each of the parties to the contract of franchise concluded without specifying the period shall have the right at any time to repudiate the contract, having notified the other party thereof six months in advance unless a longer period has been provided for by the contract.

3. The dissolution before time of the contract of franchise concluded with a specifying of the period, and also the dissolution of the contract concluded without specifying the period, shall be subject to registration in accordance with the procedure established for registration of the contracts of franchise.

### **CHAPTER 54**

#### **Simple Partnership**

##### **Article 911. Contract of Simple Partnership (Contract on Joint Activity)**

1. Under the contract of simple partnership (contract on joint activity), two or several persons (partners) shall undertake to combine their contributions and jointly operate without the formation of a legal person in order to obtain profit or to achieve another purpose which is not contrary to legislation.

2. Only individual entrepreneurs and(or) commercial organizations may be the parties to a contract of simple partnership concluded in order to effectuate entrepreneurial activity.

##### **Article 912. Contributions of Partners**

1. Everything that is contributed by the partner to the common cause, including money, other property, professional and other knowledge, skills and abilities, and also business reputation and business connections, shall be deemed to be the contribution of the partner.

2. The contributions of partners shall be presupposed to be equal in value unless it follows otherwise from the contract of simple partnership or real circumstances. The valuation of the non-monetary contribution of a partner shall be made by agreement between the partners.

##### **Article 913. Common Property of Partners**

1. The property, contributed by partners, which they possessed by right of ownership, and also the product produced as a result of joint activity and the yield and revenues obtained from such activity shall be deemed their common share ownership insofar as not otherwise established by the legislation or the contract of simple partnership or does not arise from the essence of the obligation.

The property, contributed by partners, which they possessed on the grounds which are distinct from the right of ownership (by right of economic possession, operative administration, under the contract of lease, under the contract of use of property without compensation etc.) shall be used in the interests of all partners and shall comprise, together with the property in their common ownership, the common property of the partners.

2. The bookkeeping of the common property of the partners may be entrusted by them to one of the persons participating in the contract of simple partnership.

3. The use of common property by the partners shall be effectuated by their common consent, and in the event of the failure to achieve consent, in accordance with the procedure established by a court.

4. The duties of the partners with regard to the maintenance of common property and the procedure for the compensation of expenses connected with the fulfillment of these duties shall be determined by the contract.

#### **Article 914. Carrying out Common Affairs of Partners**

1. When carrying out common affairs, each partner shall have the right to act in the name of all the partners unless it is established by the contract of simple partnership that carrying out the affairs shall be effectuated by individual participants or jointly by all the participants of the contract of simple partnership.

When carrying out the affairs jointly, the consent of all the partners shall be required for the conclusion of each transaction.

2. In relations with third persons the power of a partner to conclude a transaction in the name of all the partners shall be certified by a power of attorney issued to him by the remaining partners or by the contract of simple partnership concluded in written form.

3. In relations with third persons the partners may not refer to limitation of the rights of the partner, who has concluded the transaction, with regard to carrying out the common affairs of the partners, except for instances when the partners would prove that at the time of concluding the transaction the third person knew or should have known about the existence of such limitations.

4. The partner who has concluded a transaction in the name of all the partners with respect to which his right to conduct the common affairs of the partners was limited, or who has concluded in his own name a transaction in the interests of all the partners, may demand compensation for expenses made by him at his own expense, if there are sufficient grounds to suppose that these transactions were necessary in the interests of all the partners. The partners who incurred losses as a consequence of such transactions shall have the right to demand compensation thereof.

5. Decisions affecting the common affairs of partners shall be adopted by the partners by their common consent.

#### **Article 915. Right of Partner to Information**

Each partner shall have the right, irrespective of whether he is authorized to carry out the common affairs of the partners, to be familiarized with all of the documentation relating to carrying out the affairs. The waiver of this right or limitation thereof, including by agreement of the partners, shall be void.

#### **Article 916. Common Expenses and Losses of Partners**

The procedure for covering expenses and losses connected with the joint activity of the partners shall be determined by their agreement. In the absence of such agreement, each partner shall bear expenses and losses in proportion to the value of his contribution to the common cause.

An agreement wholly exempting any of the partners from participation in covering the common expenses or losses shall be void.

#### **Article 917. Liability of Partners for Common Obligations**

1. Unless the contract of simple partnership is connected with the effectuation of entrepreneurial activity by its participants, each partner shall be liable for common contractual obligations with all of its property in proportion to the value of its contribution to the common cause.

Partners shall be liable jointly and severally for common obligations which arose not from the contract.

2. If the contract of simple partnership is connected with the effectuation of entrepreneurial activity by its participants, the partners shall be liable jointly and severally for all common obligations irrespective of the grounds for the arising thereof.

#### **Article 918. Distribution of Profit**

The profit obtained by the partners as a result of their joint activity shall be distributed in proportion to the value of the contributions of the partners to the common cause unless otherwise provided by the contract of simple partnership or other agreement of the partners. An agreement on exemption of any of the partners from participation in the profit shall be void.

#### **Article 919. Partition of Share of Partner at Demand of Creditor of This Partner**



The creditor of a participant of the contract of simple partnership shall have the right to submit a demand concerning the partition of the debtor's share in the common property in accordance with Article 258 of this Code.

### **Article 920. Termination of Contract of Simple Partnership**

1. A contract of simple partnership shall be terminated as a consequence of:

1) deeming of any of the partners to lack active legal capacity, to have limited active legal capacity, or to be missing, unless the contract of simple partnership or subsequent agreement provides for the preservation of the contract in relations between the remaining partners;

2) the declaration of any of the partners to be insolvent (bankrupt), with the exception specified in Subclause 1 of this Clause;

3) the death of a partner (declaring to be deceased) or liquidation or reorganization of a legal person participating in the contract of simple partnership, unless the contract or a subsequent agreement provides for the preservation of the contract in relations between the remaining partners or replacement of the deceased partner (reorganized legal person) by his heirs (legal successors);

4) the refusal, by any of the partners, of further participation in a contract of simple partnership without specification of the period, with the exception specified in Subclause 1 of this Clause;

5) the dissolution of the contract of simple partnership concluded with a specification of the period, at the demand of one of the partners in relations between this partner and the remaining partners, with the exception specified in Subclause 1 of this Clause;

6) the expiry of the period of the contract of simple partnership;

7) the partition of the share of the partner at the demand of creditor of this partner, with the exception specified in Subclause 1 of this Clause.

2. In the event of the termination of a contract of simple partnership, the things transferred to the common possession and(or) use of the partners shall be returned to the partner who granted these things without remuneration unless otherwise provided by the agreement of the parties.

From the time of termination of a contract of simple partnership the participants thereof shall bear joint and several liability for the non-performed common obligations with respect to third persons.

The division of property in the common ownership of the partners and the common rights of demand which have arisen shall be effectuated in accordance with the procedure established by Article 255 of this Code.

A partner who has contributed an individually-determined thing to the common ownership shall have the right, in the event of the termination of the contract of simple partnership, to demand the return of this thing in a judicial proceeding, subject to compliance with the interests of the remaining partners and creditors.

### **Article 921. Repudiation of Contract of Simple Partnership Without Specification of Period**

Declaration of repudiation by a partner of a contract of simple partnership without specification of period must be made by the partner not later than three months before the assumed withdrawal from the contract.

An agreement concerning limitation of the right to repudiate a contract of simple partnership without specification of period shall be void.

### **Article 922. Dissolution of Contract of Simple Partnership at Demand of Party**

Together with the grounds specified in Article 420(2) of this Code, the party to a contract of simple partnership concluded with the specification of a period or with the specification of a purpose as a condition resolutive shall have the right to demand dissolution of the contract in relations between himself and the remaining partners for a justifiable reason with compensation to the remaining partners of the real damage caused by dissolution of the contract.

### **Article 923. Liability of Partner With Respect to Which Contract of Simple Partnership is Dissolved**

In an instance when a contract of simple partnership was not terminated as a result of the declaration of one of the participants concerning repudiation of further participation therein or dissolution of the contract at the demand of one of the partners, the person whose participation in the contract has terminated shall be liable to third persons for common obligations which arose in the period of its participation in the contract as if it has remained a participant of the contract of simple partnership.

### **Article 924. Nontransparent Partnership**

1. It may be provided by a contract of simple partnership that its existence shall not be divulged to third persons (nontransparent partnership). The rules concerning the contract of simple partnership provided for by this Chapter shall apply to such contract unless otherwise provided by this Article or does not arise from the essence of the nontransparent partnership.

2. In relations with third persons each of the participants of a nontransparent partnership shall be liable with all of its property for transactions which this partner concluded in his name in the common interests of the partners.

3. In relations between partners, the obligations which arose in the process of their joint activity shall be considered to be common.

## **Public Promise of Reward**

### **Article 925. Duty to Pay Reward**

1. The person who has announced publicly the payment of monetary remuneration or the issuance of another reward (the payment of a reward) to whomever performs the lawful action specified in the announcement within the period specified therein shall be obliged to pay the promised reward to anyone who performed the respective action, in particular who found a lost thing or present the necessary information to the person who announced the reward.

2. The duty to pay the reward shall arise on condition that the promise of the reward enables it to determine the person by whom it is promised. A person who has responded to the promise shall have the right to demand written confirmation of the promise and shall bear the risk of consequences of the failure to submit this demand if it turns out in reality that the announcement concerning the reward was not made by the person specified therein.

3. If the amount was not specified in the public promise of the reward, it shall be determined by agreement with the person who promised the reward, and in the event of a dispute, by a court.

4. The duty to pay a reward shall arise irrespective of whether the respective action was performed in connection with the announcement made or irrespective thereof.

5. In instances when an action specified in an announcement was performed by several persons, the right to receive the reward shall be acquired by the person who performed the respective action first.

If the action specified in the announcement was performed by two or more persons and it is impossible to determine which of them performed the respective action first, and also if the action was performed by two or more persons simultaneously, the reward shall be divided between them equally or in another amount provided for by an agreement between them.

6. Unless otherwise provided in the announcement concerning the reward and does not arise from the character of the action specified therein, the conformity of the action fulfilled to the requirements contained in the announcement shall be determined by the person who publicly promised the reward, and in the event of a dispute, by a court

### **Article 926. Revocation of Public Promise of Reward**

1. A person who has announced publicly the payment of a reward shall have the right in the same form to renounce this promise, except for instances when in the announcement itself the inadmissibility of a renunciation has been provided for or arises therefrom, or a determined period has been given for the performance of the action for which the reward is promised, or at the time of the announcement concerning the renunciation one or several persons, who responded, already had fulfilled the action specified in the announcement.

2. The revocation of a public promise of a reward shall not relieve the person who announced the reward from compensation of the expenses of persons who responded, incurred by them in connection with the performance of the action specified in the announcement, within the limits of the reward specified in the announcement.

## **CHAPTER 56**

### **Public Competition**

#### **Article 927. Organization of Public Competition**

1. A person who has announced publicly the payment of monetary remuneration or issuance of other reward (the payment of a reward) for the best fulfillment of work or achievement of other results (public competition) must pay (issue) the stipulated reward to whomever in accordance with the conditions for conducting the competition is deemed to be the winner thereof.

2. The public competition must be directed towards the achievement of some publicly useful purposes.

3. A public competition may be open when the proposal of the organizer of the competition to take part therein is addressed to all who wish to do so by means of an announcement in the press or other mass media, or be closed when the proposal to take part in the competition is sent to a specified group of persons at the choice of the organizer of the competition.

An open competition may be conditioned by the preliminary qualification of the participants thereof, when a preliminary selection of persons, who wish to take part therein, is carried out by the organizer of the competition.

4. The announcement concerning a public competition must contain at least the conditions specifying the essence of the task, the criteria and procedure for evaluating the results of the work or other achievements, the place, period, and procedure for submitting them, the amount and form of the reward, and also the procedure and periods for the announcement of the results of the competition.

5. To a public competition containing an obligation to conclude a contract with the winner of the competition, the rules provided for by this Chapter shall apply insofar as not provided otherwise by Articles 417-419 of this Code.

#### **Article 928. Change of Conditions and Cancellation of Public Competition**

1. A person who has announced a public competition shall have the right to change its conditions or to cancel a competition only during the first half of the period established for the submission of the works.

2. A notice concerning a change of the conditions or cancellation of the competition must be made by the same means as the competition was announced.

3. In the event of a change of the conditions of a competition or the cancellation thereof, the person who has announced the competition must compensate the expenses incurred by any person who fulfilled the work provided for in the announcement until it became known or should have become known to such person that the conditions of the competition changed or of the cancellation thereof.

4. If in the event of the change of the conditions of a competition or in the event of the

cancellation thereof the requirements specified in Clauses 1 or 2 of this Article were violated, the person who announced the competition must pay a reward to those who fulfilled the work which satisfies the conditions specified in the announcement.

#### **Article 929. Decision Concerning Payment of Reward**

1. A decision concerning the payment of a reward must be rendered and communicated to the participants of a public competition in accordance with the procedure and within the periods established in the announcement concerning the competition.

2. If the results specified in the announcement were achieved in a work fulfilled jointly by two or more persons, the reward shall be distributed in accordance with the agreement reached between them. If such agreement is not reached, the procedure for the distribution of the reward shall be determined by a court.

#### **Article 930. Use of Works of Science, Literature, and Art Conferred with Award**

1. If the subject of a public competition consists of the creation of a work of science, literature, or art and the conditions of the competition do not provide otherwise, the person who has announced the public competition shall acquire a preferential right to conclude with the author of the work on which an award is conferred a contract concerning the use of the work with the payment to him a respective remuneration for this.

2. The person who has announced a public competition shall be obliged to return to the participants of the competition works not conferred with an award unless otherwise provided by the announcement concerning the competition and does not arise from the character of the work fulfilled.

### **CHAPTER 57**

#### **Conducting Games and Betting**

#### **Article 931. Demands Connected with the Organization of Games and Betting and Participation Therein**

The demands of citizens and legal persons connected with the organization of games and betting or participation therein shall not be subject to judicial defense, except for the demands of persons who took part in games or betting under the influence of deceit, coercion, threat, or ill-intentioned agreement of their representative with the organizer of the games or betting, and also the demands specified in Article 932(5) of this Code.

#### **Article 932. Conducting Lotteries, Totalizers, and Other Games by the Republic of Belarus and Administrative Territorial Units or Upon Authorization Thereof**

1. The right to establish, organize and hold the lotteries in the Republic of Belarus shall belong to the State, and shall be exercised, in the established order, by the republican state

bodies, local executive and administrative bodies, state legal persons. Relations between the organizers of lotteries, totalizers (mutual betting), and other games based on risk and the participants of the games shall be fulfilled in accordance with the legislation and based on a contract.

2. The contract between the organizer and the participant of the games shall be freely concluded and formalized by the issuance of a lottery ticket, receipt, or other document, or in other form established by the rules of the game organization.

3. The proposal concerning the conclusion of a contract provided for by Clause 1 of this Article must include the conditions concerning the period of conducting the games and the procedure for the determination of the winnings and the amount thereof.

In the event of a refusal of the organizer of the games to conduct them within the established period, the participants of the games shall have the right to demand compensation from the organizer thereof for real damage sustained because of the cancellation or postponement of the period thereof.

4. For the persons, who in accordance with the conditions of conducting a lottery, totalizer, or other games are deemed to be winners, the winnings must be paid by the organizer of the games in the amount, form (monetary or in kind), and period provided for by the conditions of conducting the games, and if the period is not specified in these conditions, not later than ten days from the time of claiming to pay the winning.

5. In the event of the failure of the organizer of the games to perform the duties specified in Clause 4 of this Article, the participant who won the lottery, totalizer, or other games shall have the right to demand the payment of the winnings from the organizer of the games, and also the compensation of losses caused by a violation of the contract on the part of the organizer.

## **CHAPTER 58**

### **Obligations as Consequence of Causing Harm**

#### **§ 1. General Provisions on Compensation of Harm**

##### **Article 933. General Grounds of Liability for Causing Harm**

1. Harm caused to the person or property of a citizen, and also harm caused to the property of a legal person, shall be subject to compensation in full by the person who caused the harm.

The duty of compensation of harm may be placed by the law on a person who is not the causer of the harm.

The duty of the causer of harm to pay compensation to a victim above the compensation of harm may be established by the law or by a contract.

2. A person who has caused harm shall be relieved from compensation of harm if it is proved that the harm was caused not through the fault of this person. Compensation of harm in the absence of the fault of the causer of harm also may be provided for by the law.

3. Harm caused by lawful actions shall be subject to compensation in the instances provided for by the legislation.

Compensation of harm may be refused if the harm was caused at the request or with the consent of the victim, and the actions of the causer of the harm do not violate moral principles of society.

#### **Article 934. Preventing of Causing Harm**

1. The danger of causing harm in the future may be grounds for a suit concerning the prohibition of the activity creating such a danger.

2. If the harm caused is the consequence of the operation of an enterprise, installation, or other production activity which continues to cause harm or threatens new harm, a court shall have the right to oblige the defendant, in addition to compensation of harm, to suspend or terminate the respective activity.

A court may reject a suit concerning the suspension or termination of the respective activity only if the suspension or termination thereof is contrary to the state or public interests. The refusal to suspend or terminate such activity shall not deprive the victim of the right to compensation of harm caused by this activity.

#### **Article 935. Causing Harm in State of Necessary Defense**

Harm caused in a state of necessary defense, unless the limits thereof were exceeded, shall not be subject to compensation.

#### **Article 936. Causing Harm in State of Extreme Necessity**

Harm caused in a state of extreme necessity, that is, in order to eliminate a danger threatening the causer of the harm himself or other persons, if this danger under the given circumstances could not be eliminated by other means, must be compensated by the person who caused the harm.

Taking into account the circumstances under which such harm was caused, a court may place the duty of compensating it on a third person in whose interests the causer of the harm acted or relieve both this third person and the causer of the harm fully or partially from compensation of the harm.

#### **Article 937. Liability of Legal Person or Citizen for Harm Caused by Employee Thereof**

1. A legal person or citizen shall compensate harm caused by an employee thereof when performing labor (employment, official) duties.

With regard to the rules provided for by this Chapter, citizens fulfilling work on the basis of a labor contract, and also citizens fulfilling work under a civil legal contract, if in so doing they acted or should have acted under the order of the respective legal person or citizen and

under its control for the safe conducting of work, shall be deemed to be employees.

2. Economic partnerships and production cooperatives shall compensate harm caused by their participants (members) when the latter effectuate entrepreneurial, production, or other activity of the partnership or cooperative.

#### **Article 938. Liability for Harm Caused by State Bodies, Bodies of Local Administration or Self-government, and Officials Thereof**

Harm caused to a citizen or legal person as a result of the illegal actions (omission) of state bodies, bodies of local administration or self-government, or officials of these bodies, including harm caused as a result of the issuance of an act of a state body or body of local administration or self-government which does not correspond to the legislation, shall be subject to compensation. Harm shall be compensated at the expense, respectively, of the treasury of the Republic of Belarus or treasury of the administrative territorial units.

#### **Article 939. Liability for Harm Caused by Illegal Actions of Bodies of Criminal Prosecution and Court**

1. Harm caused to a citizen as a result of the illegal conviction, application of compulsory measures of security and medical treatment, illegal arraignment, detention, imprisonment, house arrest, recognisance not to leave and to duly behave, suspension, provisional placement in a psychiatric (psychoneurologic) facility, illegal imposition of an administrative sanction in the form of arrest or correctional work, shall be compensated at the expense of the treasury of the Republic of Belarus, and in the instances provided for by the legislation, at the expense of the treasury of the administrative territorial units, in full, irrespective of the fault of the officials of the bodies of criminal prosecution and the court in accordance with the procedure provided for by legislative acts.

2. Harm caused to a citizen or legal person as a result of the illegal activity of bodies of criminal prosecution, which does not entail the consequences provided for by Clause 1 of this Article, shall be compensated on the grounds and in accordance with the procedure which has been provided for by Article 938 of this Code. The harm caused when effectuating justice shall be compensated if the fault of the judge has been established by the sentence of a court which has entered into legal force.

#### **Article 940. Bodies and Persons Acting in Name of Treasury When Compensating Harm at its Expense**

In instances when in accordance with this Code or other legislation the harm caused is subject to compensation at the expense of the treasury of the Republic of Belarus or treasury of administrative territorial units, the respective financial bodies shall act in the name of the treasury unless in accordance with Article 125(3) of this Code this duty is placed on another body, legal person, or citizen.



### **Article 941. Compensation of Harm by Person Who Has Insured His Liability**

A legal person or citizen who has insured his liability by way of voluntary or obligatory insurance to the benefit of the victim (Article 823, Article 825(1)), when insurance compensation is insufficient in order to compensate the harm caused in full, shall compensate the difference between the insurance compensation and the actual amount of damage.

### **Article 942. Liability for Harm Caused by Minors Up to Fourteen Years of Age**

1. For harm caused by a minor who has not attained fourteen years of age (juveniles), parents, adoptive parents or trustee shall be liable, unless they would prove that the harm arose not through their fault.

2. If a juvenile who needs trusteeship is situated in a respective nurturing or medical institution, institution for the social defense of the populace, or other similar institution which by virtue of the act of legislation is the trustee (Article 34), this institution shall be obliged to compensate the harm caused by the juvenile unless it would prove that the harm arose not through the fault of the institution.

3. If a juvenile has caused harm at the time when he was under the supervision of an educational, nurturing, medical, or other institution obliged to effectuate supervision over him, or a person carrying out supervision on the basis of a contract, this institution or person shall be liable for the harm unless this institution or person would prove that the harm arose not through their fault in carrying out the supervision.

4. The duty of the parents, adoptive parents, trustee, educational, nurturing, treatment and other institutions relating to compensation of harm shall not terminate with the attainment of majority by the juvenile or with reception by him of property sufficient to compensate the harm.

If the parents, adoptive parents, trustee, or other citizens specified in Clause 3 of this Article have died or do not have sufficient means in order to compensate the harm caused to the life or health of the victim, and the causer of the harm himself, having full active legal capacity, possesses such means, the court shall have the right, taking into account the property status of the victim and the causer of the harm, and also other circumstances, to adopt a decision concerning compensation of harm fully or partially at the expense of the causer of the harm himself.

### **Article 943. Liability for Harm Caused by Minors in Age from Fourteen to Eighteen Years**

1. A minor from fourteen to eighteen years of age shall bear liability on the common grounds autonomously for harm caused.

2. In an instance when a minor from fourteen to eighteen years of age has no revenues or other property sufficient to compensate harm, the harm must be compensated fully or in the insufficient part by parents, adoptive parents or guardian, unless they would prove that the harm arose not through their fault.

If a minor from fourteen to eighteen years of age who needs guardianship is situated in a respective nurturing or treatment institution, institution for the social defense of the populace, or other similar institution which by virtue of a legislation is the guardian, this institution shall be obliged to compensate the harm fully or in the insufficient part unless it would prove that the harm arose not through its fault.

3. The duty of parents, adoptive parents, guardian, and respective institution with regard to the compensation of harm caused by a minor from fourteen to eighteen years of age shall terminate upon the attainment of majority by the causer of the harm or in instances when, before attaining majority, the minor has revenues or other property sufficient to compensate the harm or when the minor has acquired active legal capacity before attaining majority.

#### **Article 944. Liability of Parents Deprived of Parental Rights for Harm Caused by Minors**

A court may place on a parent, deprived of parental rights, liability for harm caused by the minor children thereof, during three years after the deprivation of the parent of parental rights, if the behavior of the child which entailed causing the harm, was a consequence of the improper effectuation of parental duties.

#### **Article 945. Liability for Harm Caused by Citizen Deemed to Lack Active Legal Capacity**

1. Harm caused by a citizen deemed to lack active legal capacity shall be compensated by his trustee or the organization obliged to effectuate supervision over this citizen unless they would prove that the harm arose not through their fault.

2. The duty of a trustee or the organization obliged to effectuate supervision with regard to compensation of harm caused by a citizen deemed to lack active legal capacity shall not terminate in the event of the latter being deemed to have active legal capacity.

3. If the trustee is deceased or does not have sufficient means for the compensation of harm caused to the life or health of a victim, and the causer of harm himself possesses such means, the court shall have the right, taking into account the property status of the victim and the causer of the harm, and also other circumstances, to adopt a decision on compensation of harm fully or partially at the expense of the causer of the harm himself.

#### **Article 946. Liability for Harm Caused by Citizen Deemed to Have Limited Active Legal Capacity**

Harm caused by a citizen limited in active legal capacity as a consequence of abusing alcoholic beverages, narcotics or psychotropic substances, shall be compensated by the causer of the harm himself.

#### **Article 947. Liability for Harm Caused by Citizen Not Capable to Understand the**

## **Meaning of His Actions or Guide These Actions**

1. A citizen who has active legal capacity, and also a minor from fourteen to eighteen years of age, who has caused harm in such a state that he could not understand the meaning of his actions or guide these actions shall not be liable for the harm caused by him.

If harm is caused to the life or health of the victim, the court may, taking into account the property status of the victim and the causer of the harm, and also other circumstances, place the duty with regard to compensation of harm fully or partially on the causer of the harm.

2. The causer of harm shall not be relieved from liability if he has brought himself into a state in which he could not understand the meaning of his actions or guide these actions by the use of alcoholic beverages, narcotics, psychotropic substances, or other means.

3. If the harm was caused by a person who could not understand the meaning of his actions or guide these actions as a consequence of mental insanity, the duty to compensate the harm may be placed by a court on a spouse, parents, or children who have reached majority and who have labor capacity and reside jointly with this person, and who knew about the mental insanity of the causer of the harm but did not raise the question of deeming him to lack active legal capacity.

## **Article 948. Liability for Harm Caused by Activity Creating Increased Danger for Persons Being Around**

1. Legal persons and citizens whose activity is connected with an increased danger for persons being around (use of means of transport, mechanisms, high voltage electric power, atomic power, explosive substances, strong poisons, etc; effectuation of construction and other activity connected therewith, and others) shall be obliged to compensate the harm caused by a source of increased danger unless it is proved that the harm arose as a consequence of force majeure or the intent of the victim. The possessor of a source of increased danger may be relieved by a court from liability fully or partially also on the grounds provided for by Article 952(2) and (3) of this Code.

The duty of compensation of harm shall be placed on the legal person or citizen who possesses the source of increased danger by right of ownership or other legal basis, including the right of lease (with the exception of lease of means of transport with a crew, Article 611), warrant for the right to drive means of transport, by virtue of the order of a respective body concerning the transfer of the source of increased danger to this legal person or citizen, and the like.

2. The possessors of sources of increased danger shall bear liability jointly and severally for harm caused as a result of the interaction of these sources (collisions of means of transport, and others) to third persons on the grounds provided for by Clause 1 of this Article.

The harm caused as a result of the interaction of the sources of increased danger to their possessors shall be compensated on the common grounds (Article 933).

3. The possessor of a source of increased danger shall not be liable for harm caused by this source if the possessor would prove that the source appeared beyond his possession as a result of the unlawful actions of other persons. Liability for harm caused by the source of increased danger in such instances shall be borne by the person who unlawfully took possession of the

source. If there is fault of the possessor of a source of increased danger in the unlawful seizure of his source from his possession, liability may be placed both on the possessor and on the person who unlawfully took possession of the source of increased danger.

#### **Article 949. Liability for Harm Caused Jointly**

Persons who have caused harm jointly shall be liable to the victim jointly and severally.

Upon the application of the victim and in his interests a court shall have the right to place on the persons, who have caused harm jointly, liability in shares determined according to the rules provided for by Article 950(2) of this Code.

#### **Article 950. Right of Regression Against Person Who Caused Harm**

1. The person who has compensated harm caused by another person (by an employee when performing his employment, official, or other labor duties, by a person driving means of transport, and so forth) shall have the right of counter demand (regression) against this person in the amount of the compensation paid unless another amount has been determined by the legislation or in accordance with the procedure established by the legislation.

2. The causer of harm who has compensated harm jointly caused, shall have the right to demand from each of the other causers of harm a share of the compensation paid to the victim in the amount corresponding to the degree of fault of this causer of harm. If it is impossible to determine the degree of fault, the shares shall be deemed to be equal.

3. The Republic of Belarus and administrative territorial units, in the event of compensation by them of harm caused by the officials of bodies of criminal prosecution and a court (Article 939(1)), shall have the right of regression against these persons if their fault has been established by the sentence of a court which has entered into legal force.

4. The persons who have compensated harm on the grounds specified in Articles 942-945 of this Code shall not have the right of regression against the person who caused the harm.

#### **Article 951. Means of Compensation of Harm**

In satisfying the demand concerning compensation of harm, the court in accordance with the circumstances of the case shall oblige the person liable for causing the harm to compensate the harm in kind (to provide a thing of the same kind and quality, to repair a damaged thing, and so forth) or to compensate the losses caused (Article 14(2)).

#### **Article 952. Taking Account of Fault of Victim and Property Status of Person Who Caused Harm**

1. Harm which arose as a consequence of the intent of the victim shall not be subject to compensation.

2. If the gross negligence of the victim himself furthered the arising or the increasing of the harm, depending on the degree of fault of the victim and the causer of the harm, the amount of compensation must be reduced.

In the event of gross negligence of the victim and the absence of fault of the causer of the harm in instances when his liability ensues irrespective of fault, the amount of compensation must be reduced or compensation of harm may be refused unless otherwise provided by the legislation. In the event of causing harm to the life or health of a citizen, refusal of compensation of harm shall not be permitted.

The fault of the victim shall not be taken into account when compensating additional expenses (Article 954(1)), when compensating harm in connection the death of a breadwinner (Article 958), and also when compensating expenses for burial (Article 963).

3. A court may reduce the amount of compensation of harm caused by a citizen, taking into account the property status of the causer of harm, except for instances when the harm was caused by actions committed intentionally.

## **§ 2. Compensation of Harm Caused to Life and Health of Citizen**

### **Article 953. Compensation of Harm Caused to Life or Health of Citizen When Performing Contractual or Other Obligations**

Harm caused to the life or health of a citizen when performing contractual obligations, and also when performing duties of military service, service in the bodies of internal affairs, and other respective duties shall be compensated according to the rules provided for by this Chapter unless a higher amount of liability has been provided by the legislation or by a contract.

### **Article 954. Amount and Character of Compensation of Harm Which Caused Impairment of Health**

1. When mutilation or other impairment of health is caused to a citizen, the earnings (income) lost by the victim which he had or could have certainly, and also additional expenses incurred, caused by the impairment of health, including expenses for treatment, additional nourishment, acquisition of medicines, prosthetics, care effectuated by other persons, sanatorium and resort treatment, the acquisition of special means of transport, and training for another profession shall be subject to compensation if it is established that the victim needs these types of assistance and care and does not have the right to receive them free of charge.

2. When determining lost earnings (income), the pensions (except for disability pension assigned to the victim in connection with the corresponding mutilation or other impairment of health), assigned both before and after causing harm to health, shall not be taken into account and shall not entail a reduction of the amount of compensation of harm (shall not be set-off at the expense of compensation of harm). Earnings (income) received by the victim after the impairment of health also shall not be set-off at the expense of compensation of harm.

3. The extent and amount of compensation of harm due to the victim in accordance with this Article may be increased on the grounds of the legislation or the contract.

## **Article 955. Determination of Earnings (Income) Lost as Result of Impairment of Health**

1. The amount of earnings (income) lost by a victim, which is subject to compensation, shall be determined in percentages of victim's average monthly earnings (income) before the mutilation or other impairment of health or before loss of labor capacity, adjusted in accordance with established procedure, taking into account the inflation, and corresponding to the degree of loss by the victim of professional labor capacity, and in the absence of professional labor capacity, the degree of loss of general labor capacity.

2. As lost earnings (income) of the victim, all types of payment for labor under labor and civil legal contracts, both at the principal place of work and other jobs, levied by the income tax, shall be taken into account. Payments of an extraordinary character, in particular, compensation for unused leave and severance benefit (paid in the event of dismissal), shall not be taken into account. The benefit paid for the period of temporary lack of labor capacity or pregnancy and birth leave shall be taken into account. The incomes from entrepreneurial activity, and also author's royalty, shall be included in the lost earnings; for this purpose, the incomes from entrepreneurial activity being included on the basis of data of tax inspectorate.

All types of earnings (income) shall be taken into account in the amounts accrued before the withholding of taxes.

3. The average monthly earnings (income) of the victim shall be calculated by means of dividing the total amount of victim's earnings (income) for twelve months of work, which preceded the mutilation, loss or decreasing the labor capacity as a result of mutilation (subject to victim's selection), by twelve. In case of occupational disease, the average monthly earnings may also be determined for the last twelve months of work, preceding to termination of work, which have caused this disease. In an instance when the victim at the time of causing the harm worked less than twelve months, the average monthly earnings (income) shall be calculated by means of dividing the total amount of earnings (income) for the months actually worked by the number of these months. Months not worked in full shall, at victim's wish, be substituted by the preceding months fully worked, or excluded from the calculation, when it is impossible to substitute these months.

4. In an instance when the victim at the time of causing harm was not working, the earnings before dismissal or the usual amount of remuneration of an employee of corresponding qualifications in the particular locality shall, at victim's wish, be taken into account, but not less than five times the basic value established by the legislation.

5. If stable changes improving the property status of victim (increase of earnings in the job held, or the victim was transferred to work paid higher, or the victim took up the job after completing full-time education, and in other instances when the stability of change or possibility of change of payment of labor of the victim is proved) occurred in the earnings (income) of the victim before the mutilation or other impairment of health, then, when determining the average monthly earnings (income), only the earnings (income) which were received or should have received after the respective changes, shall be taken into account.

## **Article 956. Compensation of Harm in Event of Impairment of Health of Person Who**

## **Has Not Attained Majority**

1. In the event of the mutilation or other impairment of health of a minor who has not attained fourteen years (juveniles) and does not have earnings (income), the person liable for the harm caused shall be obliged to compensate the expenses caused by the impairment of health.

2. Upon the attainment of fourteen years by a juvenile victim, and also in the event of causing harm to a minor of from fourteen to eighteen years age, not having earnings (income), the person liable for the harm caused shall be obliged to compensate the victim for, in addition to the expenses caused by the impairment of health, also the harm connected with the loss of or reduction of labor capacity, on the basis of the basic value, established by the legislation, multiplied by five.

3. If at the time of the impairment of health a minor had earnings, the harm shall be compensated on the basis of the amount of these earnings, but not lower than the basic value established by the legislation, multiplied by five.

4. After the commencement of labor activity a minor, to whose health harm was caused, shall have the right to demand an increase of the amount of compensation of harm on the basis of the earnings received by him, but not less than the amount of remuneration established for the job occupied by him or the earnings of an employee of the same qualifications at his place of work.

## **Article 957. Compensation of Harm to Persons Who Have Incurred Damage as Result of Death of Breadwinner**

1. In the event of the death of the victim (breadwinner), the following persons shall have right to compensation of harm:

1) persons not capable for labor, who were dependent on the deceased or had, on the day of his death, the right to receive maintenance from him;

2) a child of the deceased, born after his death;

3) one of the parents, spouse, or other member of the family, irrespective of his labor capacity, who does not work and engaged in care for the children, grandchildren, brothers and sisters of the deceased, who were dependent on deceased, not attained fourteen years or, although they had attained the said age, but, in accordance with the conclusion of medical bodies, need care of other person by reason of their state of health;

4) persons who were dependent on the deceased and became not capable for labor within five years after his death.

One of the parents, spouse, or other member of the family who does not work and engaged in care for children, grandchildren, brothers, and sisters of the deceased and became not capable for labor during the period of carrying out care, shall retain the right to compensation of harm after ending the care for these persons.

2. The harm shall be compensated to:

1) a minor: until attaining eighteen years of age;

2) pupils (students) older than eighteen years: until completion of study in educational institutions on full-time form of education, but not more than up to twenty three years of age;

3) women older than fifty-five years and men older than sixty years: for life;

4) disabled persons: for the period of disability;

5) one of the parents, spouse, or other member of the family engaged in care for children, grandchildren, brothers, and sisters dependent on the deceased: until they attain fourteen years of age or until change of the state of their health.

### **Article 958. Amount of Compensation of Harm Incurred in Event of Death of Breadwinner**

1. Harm shall be compensated to persons who have the right to compensation for harm in connection with the death of a breadwinner in the amount of that share of earnings (income) of the deceased, determined according to the rules of Article 955 of this Code, which they have received or had the right to receive for their maintenance while a breadwinner was alive. When determining the compensation for harm to these persons, as the incomes of the deceased, together with earnings (income), a pension, maintenance for life, and other similar payments being received by this person while alive, shall be taken into account.

2. When determining the amount of compensation for harm, pensions (except for corresponding persons in connection with the death of a breadwinner), assigned both before and after the death of a breadwinner, earnings (income) and scholarship, received by these persons, shall not be taken into account as the compensation of harm.

3. The amount of compensation established for each of those having the right to compensation of harm in connection with the death of a breadwinner shall not be subject to further recalculation except for instances of:

1) the birth of a child after the death of a breadwinner;

2) the assignment or termination of the payment of compensation to persons engaged in care for children, grandchildren, brothers, and sisters of a deceased breadwinner;

3) the assignment of the payment of compensation to persons who were dependent on the deceased and became not capable for labor within five years after his death.

The amount of compensation may be increased on the grounds of the legislation or the contract.

### **Article 959. Subsequent Change of Amount of Compensation of Harm**

1. A victim who has partially lost labor capacity shall have the right at any time to demand from the person on whom the duty of compensation of harm has been placed a respective increase of the amount of his compensation if the labor capacity of the victim has decreased thereafter in connection with the causing of impairment of health in comparison with that which remained at the time of awarding compensation for harm to him.



2. A person on whom the duty to compensate harm, which was caused to the health of the victim, has been placed, shall have the right to demand a respective reduction of the amount of compensation, if the labor capacity of the victim increased in comparison with that which was at the time when compensation for harm was awarded.

3. The victim shall have the right to demand an increase of the amount of compensation of harm if the property status of the citizen on whom the duty to compensate harm was placed has improved, and the amount of compensation was reduced in accordance with Article 952(3) of this Code.

4. A court may, at the demand of a citizen who caused harm, reduce the amount of compensation for harm, if his property status, in connection with disability or attainment of pension age, has worsened in comparison with the status at the time of awarding compensation for harm, except for instances when the harm was caused by actions committed intentionally.

#### **Article 960. Increase of Amount of Compensation of Harm in Connection with Increase of Cost of Living and Increase of Basic Value**

1. Amounts to be paid to citizens for compensation of harm caused to the life or health of a victim shall be subject, in the event of an increase of the cost of living, to indexing in accordance with the procedure established by the legislation.

2. In the event of an increase of the basic value, established by the legislation, the amounts of compensation for lost earnings (income) and other payments awarded in connection with impairment of health or the death of a victim, shall be increased in proportion to the increase of the basic value.

#### **Article 961. Payments for Compensation of Harm**

1. Compensation of harm caused by a reduction of labor capacity or the death of a victim shall be made by monthly payments.

When there are justifiable reasons, the court, taking into account the possibilities of the causer of harm, may, at the demand of the citizen who has the right to compensation of harm, award him the payments due as a lumpsum payment, but for not more than three years.

2. Amounts in compensation of additional expenses (Article 954(1)) may be awarded for a future period within the limits of the periods determined on the basis of the conclusion of medical expert examination, and also in the instances of necessity of advance payment of the cost of the respective services and property, including the acquisition of sanatorium vouchers, payment for travel, and payment for special means of transport.

#### **Article 962. Compensation of Harm in Event of Termination of Legal Person**

1. In the event of the reorganization of a legal person deemed, in accordance with the established procedure, to be liable for harm caused to life or health, the duty relating to the

payment of the respective payments shall be borne by its legal successor. Demands concerning compensation of harm shall also be submitted to it.

2. In the event of the liquidation of a legal person deemed, in accordance with the established procedure, to be liable for harm caused to life or health, the respective payments must be capitalized for the payment thereof to the victim according to the rules established by the legislation.

Other instances, under which the capitalization of payments may be made, also may be established by the legislation.

### **Article 963. Compensation of Expenses for Burial**

Persons liable for harm which caused the death of the victim shall be obliged to compensate necessary expenses for the burial to the person who incurred those expenses.

The allowance for burial received by citizens who incurred these expenses shall not be set-off at the expense of compensation of harm.

## **§ 3. Compensation of Harm Caused as Consequence of Defects of Good, Work, or Service**

### **Article 964. Grounds for Compensation of Harm Caused as Consequence of Defects of Good, Work, or Service**

Harm caused to the life, health, or property of a citizen or the property of a legal person as a consequence of defects of the good, work, or service, related to its design or composition, or other defects, and also as a consequence of unreliable or insufficient information concerning the good, work or service, shall be subject to compensation by the seller or the manufacturer of the good or by the person who fulfilled the work or rendered the service (executor), irrespective of their fault and whether the victim was in contractual relations with them or not.

The rules provided for by this Article shall be applied only in the instances of the acquisition of the good (fulfillment of work, rendering of service) for consumption purposes, and not for use in entrepreneurial activity.

### **Article 965. Persons Liable for Harm Caused as Consequence of Defects of Good, Work, or Service**

1. Harm caused as a consequence of the defects of a good shall be subject to compensation, at the choice of the victim, by the seller or the manufacturer of the good.

2. Harm caused as a consequence of the defects of work or service shall be subject to compensation by the person who fulfilled the work or rendered the service (executor).

3. Harm caused as a consequence of the failure to grant full or reliable information concerning the good (work, service) shall be subject to compensation by the persons specified in Clauses 1 and 2 of this Article.

### **Article 966. Periods for Compensation of Harm Caused as Result of Defects of Good, Work, or Service**

1. Harm caused as a consequence of defects of a good, work, or service shall be subject to compensation if it arose during the established shelf life or service period of a good (work, service), and if the shelf life or service period is not established in accordance with the legislation, within ten years from the date of production of the good (fulfilling work, rendering service).

2. After expiry of periods, specified in Clause 1 of this Article, harm shall be subject to compensation if:

1) in violation of the requirements of the act of legislation, the period of fitness or service period has not been established;

2) the person to whom the good was sold, for whom work was fulfilled, or to whom a service was rendered, was not warned about necessary actions upon the expiry of the shelf life or service period and possible consequences in the event of the failure to fulfill the said actions.

### **Article 967. Grounds for Relief from Liability for Harm Caused as Consequence of Defects of Good, Work or Service**

The seller or manufacturer of a good or executor of work or service shall be relieved from liability, if they would prove that the harm arose as a consequence of force majeure or a violation, by the consumer, of the established rules for the use of the good or the results of the work or service, or storage thereof.

## **§ 4. Compensation of Moral Harm**

### **Article 968. General Provisions**

1. The grounds and amount of compensation of moral harm to a citizen shall be determined by the rules provided for by this Chapter and Article 152 of this Code.

2. Moral harm caused by actions (omission) which violate the property rights of a citizen shall be subject to compensation in the instances provided for by the legislative acts.

3. Compensation of moral harm shall be effectuated irrespective of the property harm subject to compensation.

### **Article 969. Grounds for Compensation of Moral Harm**

Compensation of moral harm shall be effectuated irrespective of the fault of the causer of the harm in instances when:

- 1) the harm is caused to the life or health of a citizen by a source of increased danger;
- 2) the harm caused to a citizen as a result of the illegal conviction, application of compulsory measures of security and medical treatment, illegal arraignment, detention, imprisonment, house arrest, recognisance not to leave and to duly behave, suspension, provisional placement in a psychiatric (psychoneurologic) facility, illegal imposition of an administrative sanction in the form of arrest or correctional work;
- 3) the harm was caused by the dissemination of false information defaming honor, dignity, or business reputation of the citizen;
- 4) in other instances provided for by the legislative acts.

#### **Article 970. Means and Amount of Compensation of Moral Harm**

1. Compensation of moral harm shall be effectuated in monetary form.
2. The amount of compensation of moral harm shall be determined by a court depending upon the character of physical and moral suffering caused to the victim, and also the degree of fault of the causer of the harm in the instances when the fault is the grounds for the compensation of harm. When determining the amount of compensation of harm, the requirements of reasonableness and justice must be taken into account.

The character of physical and moral sufferings shall be estimated by the court, taking into account the actual circumstances under which the moral harm was caused and the individual peculiarities of the victim.

### **CHAPTER 59**

#### **Obligations as Consequence of Unfounded Enrichment**

##### **Article 971. Duty to Return Unfounded Enrichment**

1. A person who without grounds established by the legislation or transaction acquired or saved property (acquirer) at the expense of another person (victim) shall be obliged to return to the latter property unfoundedly acquired or saved (unfounded enrichment), except for instances provided for by Article 978 of this Code.
2. The rules provided for by this Chapter shall be applied irrespective of whether the unfounded enrichment is a result of the behavior of the acquirer of the property, the victim himself or third persons, or occurred besides their will.

##### **Article 972. Relationship Between Demands Concerning Return of Unfounded Enrichment and Other Demands Concerning Defense of Civil Rights**

Insofar as not otherwise established by this Code and does not arise from the essence of the respective relations, the rules provided for by this Chapter shall be subject to application also to demands:

- 1) concerning the return of that performed under an invalid transaction;
- 2) concerning the vindication of property by the owner from another's illegal possession;
- 3) by one party in an obligation to another concerning the return of that performed in connection with this obligation;
- 4) concerning compensation of harm, including that caused by the unfair behavior of the person enriched.

### **Article 973. Return of Unfounded Enrichment in Kind**

Property comprising unfounded enrichment of the acquirer must be returned to the victim in kind.

The acquirer shall be liable to the victim for any, including also for any accidental, shortage or deterioration of the unfoundedly acquired or saved property which occurred after he knew or should have known that the enrichment is unfounded. Before that time he shall be liable only for intent and gross negligence.

### **Article 974. Compensation of Value of Unfounded Enrichment**

1. If it is impossible to return in kind the property unfoundedly received or saved, the acquirer must compensate the victim for the real value of this property at the time of its acquisition, and also the losses caused by the subsequent change of the value of this property, if the acquirer did not compensate its value immediately after he knew about the unfounded enrichment.

2. A person who unfoundedly used another's property temporarily without the intention to acquire it, or used another's services, must compensate the victim for that which was saved by this person as a consequence of such use at the price which existed at the time when the use ended and in that place where it occurred.

### **Article 975. Consequences of Unfounded Transfer of Right to Another Person**

A person who has transferred by means of cession of demand or otherwise a right belonging to him to another person on the basis of a nonexistent or invalid obligation shall have the right to demand the restoration of his previous position, including the return to him of documents certifying the transferred right.

### **Article 976. Compensation to Victim of Incomes Not Received**

1. The person who unfoundedly received or saved property shall be obliged to return or to compensate the victim for all incomes which this person obtained or should have obtained from this property from the time when this person knew or should have known about the

unfounded enrichment.

2. Interest shall be subject to being calculated on the amount of unfounded monetary enrichment for the use of means of other person (Article 366) from the time when the acquirer knew or should have known that the reception or savings of monetary means is unfounded.

#### **Article 977. Compensation of Expenditures on Property Subject to Return**

In the event of the return of property unfoundedly received or saved (Article 973) or compensation of the value thereof (Article 974), the acquirer shall have the right to demand compensation from the victim of necessary expenditures incurred for the maintenance and preservation of property from the time from which he is obliged to return incomes (Article 976), setting off the advantages received by him. The right to compensation of expenditures shall be lost in an instance when the acquirer intentionally withheld property which is subject to return.

#### **Article 978. Unfounded Enrichment Not Subject to Return**

There shall not be subject to return as unfounded enrichment;

1) property transferred in performance of an obligation before the ensuing of the period of performance, unless otherwise provided by the obligation;

2) property transferred in performance of an obligation upon the expiry of the limitation period;

3) earnings and payments equated thereto, pensions, benefits, scholarships, compensation of harm caused to life or health, alimony and other monetary amounts granted to a citizen as means for existence, in the absence of lack of good faith on his part, and in the absence of error of calculations;

4) monetary amounts and other property granted in performance of a nonexistent obligation, if the acquirer would prove that the person requiring the return of the property knew about the absence of the obligation or granted the property for the purposes of charity.

### **SECTION V**

#### **EXCLUSIVE RIGHTS FOR RESULTS OF INTELLECTUAL ACTIVITY (INTELLECTUAL PROPERTY)**

#### **CHAPTER 60**

#### **General Provisions**

**Article 979. Legislation on intellectual property**

The legislation on the intellectual property consists of this Code and other acts of legislation.

### **Article 980. Objects of intellectual property**

To the object of the intellectual property shall be relegated:

1) the results of intellectual activity:

works of science, literature and art;

performances, phonograms and programs of broadcasting organizations;

inventions, useful models, industrial standards;

selection achievement;

layouts of integrated circuits;

undisclosed information, including trade secrets (know-how);

2) means of individualization of participants of the civil turnover, goods, works or services:

firm names;

trademarks and service marks;

geographical indications;

3) other results of the intellectual activity and means of individualization of participants of the civil turnover, goods, works or services in cases, provided by this Code and other legislative acts.

### **Article 981. Grounds for Arising of Rights to Objects of Intellectual Property**

The legal protection of the objects of intellectual property shall arise by virtue of creation of these objects or as the consequence of granting the legal protection by the authorized state body in cases and in accordance with the procedure, provided by this Code and other legislative acts.

The terms of granting the legal protection of undisclosed information are defined by this Code and other legislative acts.

### **Article 982. Personal Non-property and Property Rights to Objects of Intellectual Property**

1. Personal non-property rights and property rights belong to the authors of results of intellectual activity in relation to these results.

Only property rights belong to the manufacturers of phonograms and broadcasting organizations in relation to these objects.

Personal non-property rights belong to the author irrespective of his property rights and are preserved for him in case of passing his property rights to the results of the intellectual activity to another person.

2. Property rights belong to the holders of the right to the means of individualization of participants of the civil turnover, goods, works or services (hereinafter referred to as the means of individualization) in relation to these means.

3. The right of authorship (the right to be deemed as the author of the result of the intellectual activity) is the personal non-property right and may belong only to the person, whose creative labor has created the result of intellectual activity.

The right of authorship is non-alienable and non-transferable.

If the result is created by the joint creative labor of two or more persons, they shall be deemed to be the co-authors. Concerning individual objects of the intellectual property, a circle of the persons, who are deemed to be the co-authors of the product as a whole, may be limited by the legislation.

### **Article 983. Exclusive Rights to Objects of Intellectual Property**

1. Exclusive right of the legal use of the object of intellectual property at own discretion in any form and any way shall belong to the holder of property rights to the result of intellectual activity or to the means of individualization.

Using of the objects of intellectual property, concerning which the exclusive right belong to the right holder thereof, by other persons, shall be permitted only with the consent of the right holder.

2. The holder of the exclusive right to the objects of intellectual property shall have the right to transfer this right to another person in full or in part, to allow another person to use the object of intellectual property and has the right to procedure it in another way, if this does not disagree with this Code or another law.

3. The restrictions of the exclusive rights, including by granting to other persons the possibility to use the objects of intellectual property, deeming these rights to be void, and termination (nullifying) thereof are permitted in cases, within the limits and in accordance with the procedure, established by this Code or another law.

The restrictions of the exclusive rights are permitted under the condition that such restrictions do not cause damage to normal using of the object of intellectual property and do not restrict the legal interests of the right holders in the ungrounded manner.

### **Article 984. Transfer of Exclusive Rights to Another Person**

1. The property rights, belonging to the holder of exclusive rights to the object of the



intellectual property, unless otherwise provided for by this Code or another law, may be transferred by the right holder in full or in part to another person under the contract, and also shall be transferred by inheriting and in accordance with the procedure of legal succession in case of reorganization of the legal person being the right holder.

Transfer of the property rights under the contract or in accordance with the procedure of universal legal succession does not entail transfer or restrictions of the right of authorship and other personal non-property rights. The conditions of contract concerning transfer or restriction of these rights shall be void.

2. The exclusive rights, which are transferred under the contract, shall be determined in it. The rights, which are not specified in the contract as being transferred, shall be deemed to be non-transferable, unless proved otherwise.

3. The rules on the license contract (Article 985) shall apply to the contract, providing for granting the exclusive rights within the period of its validity to another person for a limited period, unless otherwise provided for by the law.

#### **Article 985. License Contract**

1. Under the license contract the party, possessing the exclusive rights to use the results of intellectual activity or the rights to the means of individualization (the licensor), shall grant to another party (the licensee) a permit to use the respective object of intellectual property.

The license contract shall be considered to be the contract for compensation.

2. The license contract may provide for granting to the licensee:

1) the right to using of the object of intellectual property with preservation for the licensor of the right to its usage and the right to issue the licenses to other persons (simple, non-exclusive license);

2) the right to using of the object of intellectual property with preservation for the licensor of the right to its usage in a part, not transferred to the licensee, but without the right to issue licenses to other persons (exclusive license);

3) other types of licenses, permitted by the legislative acts.

Unless otherwise provided for in the license contract, the license shall be considered to be simple (non-exclusive).

3. The contract of granting, by the licensee, of the right to using of the object of intellectual property to another person within the limits, defined by license contract, shall be deemed to be the sublicense contract. The licensee has the right to conclude the sublicense contract only in cases, provided for by the license contract.

The licensee shall bear the liability to the licensor for actions of the sub-licensee, unless otherwise provided for by the license contract.

#### **Article 986. Contract on Creation and Using of Results of Intellectual Activity**

1. Under the contract, the author may undertake to create in the future the product, invention or another result of intellectual activity and to grant to the customer, not being his employer, the exclusive rights to use this result.

2. The contract, provided in Clause 1 of this Article, shall define the nature of the result of intellectual activity, being subject to creation, as well as purposes or ways of its use.

3. The contracts, obliging the author to grant to any person the exclusive rights to use the result of intellectual activity, which this author will create in the future, shall be void.

4. The conditions of contract, restricting the author in creation, in the future, of the result of intellectual activity of the certain kind or in the certain area, shall be deemed to be invalid.

### **Article 987. Exclusive Right and Rights of Ownership**

The exclusive right to the result of intellectual activity or the means of individualization exists irrespective of the rights of ownership to the material object, in which such result or the means of individualization are expressed.

### **Article 988. Period of Action of Exclusive Rights**

1. The exclusive right to the objects of intellectual property shall act during the period, provided for by this Code or another law.

The law may provide for the possibility of extension of such period.

2. The personal non-property rights concerning the objects of intellectual property are protected without limitation of time.

3. In cases, provided by the law, the action of the exclusive right may be terminated in the consequence of its being non-using during the determined period.

### **Article 989. Ways of Defense of Exclusive Rights**

1. Defense of the exclusive rights shall be effectuated by the ways, provided for by Article 11 of this Code. Defense of the exclusive rights may be effectuated also by way of:

1) withdrawal of material objects, with the help of which the exclusive rights are violated, and material objects, created as the result of such breaches;

2) obligatory publication about the violation committed, with inclusion of the information into it about the person, to whom the violated right belongs;

3) by other ways, provided for by the law.

2. In case of violation of the contracts on using of the result of intellectual activity and means of individualization, the general rules on liability for violation of the obligations shall apply (Chapter 25).

## **CHAPTER 61.**

### **Copyright and Neighboring Rights**

#### **Article 990. Subject of Regulation**

This Code and the law on the copyright and the neighboring rights and other acts of legislation, adopted in accordance with this Code, shall regulate the relations, arising in connection with creation and using of the works of science, literature, art (copyright), performances, phonograms, programs of broadcasting organizations for aerial or cable broadcasting (neighboring rights).

#### **Article 991. Scope of Action of Copyright**

1. In accordance with this Code and other acts of legislation, the copyright shall extend to the works of science, literature and art, existing in some objective form:

1) on the territory of the Republic of Belarus, regardless of citizenship of authors and their legal successors;

2) outside the borders of the Republic of Belarus, and is recognized for the authors, being the citizens of the Republic of Belarus and their legal successors;

3) outside the borders of the Republic of Belarus, and is recognized for their authors (their legal successors, being the citizens of other states) in accordance with treaties of the Republic of Belarus.

2. The work shall be deemed to be published in the Republic of Belarus, if within thirty days following the date of the first publishing outside the Republic of Belarus it was published on the territory of the Republic of Belarus.

3. When granting protection on the territory of the Republic of Belarus for the work in accordance with the treaties of the Republic of Belarus, the holder of copyright to the work shall be defined in accordance with the legislation of the state, on the territory of which the action or case have taken place, which served as the grounds for holding of copyrights.

#### **Article 992. Objects of Copyright**

1. The copyright shall extend to the works of science, literature and art, being the results of creative activity, regardless of the purposes and worth of the work, and of the way of its expression.

2. The copyright shall extend to both published and non-published works, existing in some objective form:

1) written (manuscript, typescript, music record etc.);

2) oral (public pronouncing, public performance etc);

- 3) sound- or video recording (mechanical, magnetic, digital, optical etc.);
- 4) image (drawing, outline, picture, plan, technical drawing, cinema-, TV-, video- or photo image etc.);
- 5) three-dimensional (sculpture, model, mock-up, construction etc.);
- 6) in other forms.

3. A part of work (including its name), which meets the requirements of Clause 1 of this Article and may be applied autonomously, is an object of the copyright.

4. The copyright shall not extend to ideas, methods, processes, systems, methods, concepts, principles, discoveries, facts.

5. The copyright is not connected with the right of ownership to the material object, in which the work is expressed.

Transfer of the right of ownership to the material object or the right of possession of the material object itself does not entail transfer of any copyrights to the work, expressed in this object, except for the cases, provided for by the legislation on the copyright and neighboring rights.

### **Article 993. Works, being Objects of Copyright**

1. The object of the copyright are:

- 1) works of literature (the books, brochures, articles etc.);
- 2) dramatic and music dramatic works, products of choreography and pantomime and other scenario works;
- 3) musical compositions with a text and without a text;
- 4) audio- and visual works (the cinema-, TV-, video films, slide films and other cinema- and TV works);
- 5) works of sculpture, painting, graphics, lithography and other works of graphic art;
- 6) works of the applied art;
- 7) works of the architecture, urban planning and landscape art;
- 8) photographic works and other works, obtained by the manner, similar to photography;
- 9) maps, plans, outlines, illustrations and plastic works, related to geography, topography and other sciences;
- 10) computer programs;
- 11) other product.

2. Protection of the computer programs shall extend to all types of the computer programs (including operating systems), which may be expressed in any language and in any form.

including the source code and the object code.

3. To the object of the copyright shall also be relegated:

1) the secondary works (translations, processed works, annotations, abstracts, summaries, reviews, scenarios, music arrangement and other conversions of the science, literature and art creations);

2) collections (the encyclopedias, anthologies, databases) and other compiled works, being, as per the material selection or arranging, the result of creative labor.

The secondary and compiled works are protected by the copyright irrespective of whether the works, on which the secondary and compiled works are based or which are included in the secondary and compiled works, being or not being the objects of the copyright.

#### **Article 994. Objects of Neighboring Rights**

The neighboring rights shall extend to performances, stagings, phonograms, programs of broadcasting organization for the aerial and cable broadcasting.

For arising and exercising of the neighboring rights, no formalities need to be observed.

#### **Article 995. Scope of Action of Neighboring Rights**

1. The performer's rights are recognized for him in accordance with this Code and other acts of legislation on the copyright and neighboring rights, if:

1) the performer is a citizen of the Republic of Belarus;

2) the performance, the staging for the first time took place on the territory of the Republic of Belarus;

3) the performance, the staging are recorded on a phonogram in accordance with Clause 2 of this Article;

4) the performance, the staging, not recorded on a phonogram, are included into program for aerial or cable broadcasting in accordance with Clause 3 of this Article.

2. The rights of the phonogram manufacturer are recognized for him in accordance with this Code and other acts of legislation on the copyright and neighboring rights, if:

1) the phonogram manufacturer is a citizen of the Republic of Belarus or legal person, having official location on the territory of the Republic of Belarus;

2) the phonogram is published for the first time on the territory of the Republic of Belarus.

3. The rights of organization of aerial or cable broadcasting are recognized for it in accordance with this Code and other acts of legislation on the copyright and neighboring rights in cases when the organization has an official location on the territory of the Republic of Belarus and effectuates transmissions using the transmitters, located on the territory of the Republic of Belarus.

## **CHAPTER 62**

### **General Provisions on Right of Industrial Property**

#### **Article 996. Subject of Regulation**

This Code and the laws, adopted in accordance with it, regulate the relations, arising in connection with creation and using of inventions, useful models, industrial standards, selection achievements and with protection of undisclosed information (know-how), means of individualization of participants of civil turnover, goods, works, services (the firm names, trademarks and service marks, geographical indications).

#### **Article 997. Legislation on Right of Industrial Property**

The legislation on the industrial property right consists of this Code and other acts of legislation.

#### **Article 998. Objects of Right of Industrial Property**

The industrial property right shall extend to:

- 1) inventions;
- 2) useful models;
- 3) industrial standards;
- 4) selection achievements;
- 5) layouts of integrated circuits;
- 6) undisclosed information, including trade secrets (know-how);
- 7) firm names;
- 8) trademarks and service marks;
- 9) geographical indications;
- 10) other objects of industrial property and means of individualization of participants of civil turnover, goods, works or services, in cases, provided by the legislation.

## **CHAPTER 63**

### **Right to Invention, Useful Model, Industrial Standard**

#### **Article 999. Legal Protection of Invention, Useful Model, Industrial Standard**

The right to invention, useful model, industrial standard shall be protected by the state and

certified by a patent.

### **Article 1000. Conditions of Legal Protection of Inventions, Useful Model, Industrial Standard**

1. The rights to invention, useful model and industrial standard are protected under condition of issuing the patent.

2. Legal protection shall be granted for the invention in any area of technology, if it is related to the product or the method, is new, has an invention level and is industrially applicable.

3. A technical decision, relating to the devices, being new and industrially applicable, shall be deemed to be the useful model, for which the legal protection is granted.

4. The artistic or artistic design decision of the product, defining its appearance and being new and original, shall be deemed to be the industrial standard, for which the legal protection is granted.

5. The requirements applied to the invention, useful model, industrial standard, under which the right to obtain the patent shall arise, and the procedure of issuing the patent by the patent body, shall be established by the legislation.

### **Article 1001. Right to Using of Invention, Useful Model, Industrial Standard**

1. The exclusive right to using of the patented invention, useful model, industrial standard shall belong to the patent holder.

The exclusive right to using of the invention, useful model, industrial standard comprises the right to using of the invention, useful model, industrial standard at own discretion, if this does not violate the rights of other persons, and also comprises the right to forbid using of the invention, useful model, industrial standard to other persons.

The exclusive right to using of the patented invention, which is by itself the method of obtaining of the product, shall apply also to the product, directly obtained by this method. In so doing, the new product shall be deemed to be obtained by the patented method, until otherwise is proved.

2. Other persons, not being the patent holders, shall have no right to using of the invention, useful model, industrial standard without permit of the patent holder, except for the cases when using shall not be deemed to be the violation of the patent holder's rights in accordance with this Code or another law.

3. The effectuation of the following actions without the consent of the patent holder shall be deemed to be a violation of the patent holder's exclusive rights:

manufacturing, application, import, offer to sale, sale, other bringing into civil turnover or storage for these purposes of the product or article, made with using of patented invention, useful model, industrial standard, as well as effectuation of the specified actions concerning the facility, during functioning or operation of which, in accordance with its purpose, the

method protected by the patent shall be effectuated;

application of the method, protected by the patent for the invention, or bringing the product into civil turnover or storage the product for these purposes, if this product is made directly using the method, protected by the patent for the invention.

### **Article 1002. Period of Validity of Patent**

1. The patent is valid since the date of submission of the application into the patent body and preserves validity, under condition of observance of the requirements, established by the legislation, during the following periods:

1) the patent for the invention, during twenty years. If for using of the facility, in which the invention is used, it is required to obtain the permission of the authorized body in accordance with the legislation, the period of validity of the patent for this invention shall be prolonged by the patent body, upon the request of the patent holder, for the period not exceeding five years;

2) the patent for a useful model, during five years with possible extension of this period by the patent body upon the request of the patent holder for the period not exceeding three years;

3) the patent for an industrial standard, during ten years with possible extension of this period by the patent body upon the request of the patent holder for the period not exceeding five years.

2. Protection of the invention, useful model, industrial standard is valid since the date of submission of the application into the patent body. Protection of the rights may be effectuated only after issuing the patent. In case of refusal of issuing the patent, the protection shall be deemed not to have ensued.

3. The priority of the invention, useful model, industrial standard shall be determined in accordance with the procedure, provided for by the legislation.

## **CHAPTER 64**

### **Rights to New Sorts of Plants and New Breeds of Animals**

#### **Article 1003. Conditions for Protection of Rights to New Sorts of Plants and New Breeds of Animals**

1. The rights to new sorts of plants and new breeds of animals (selection achievements) are protected under condition of issuing the patent.

A sort of plant, obtained by an artificial way or by selection and having one or several essential features, which distinguish it from the existing sorts of the plants, shall be deemed to be the selection achievement in plant growing.

The breed, that is an integral numerous group of animals of common origin, created by the man and having a genealogical structure and characteristics, which enable to distinguish it from other breeds of animals of this species, sufficiently numerous for reproduction as one breed, shall be deemed to be the selection achievement in cattle breeding.



2. The requirements, under which the right to obtain the patent for the selection achievement appears, and the procedure of issuing such patent shall be established by the legislation.

#### **Article 1004. Copyright to Define Name of Selection Achievement**

1. The author of the selection achievement has the right to define its name, which shall meet the requirements, established by the legislation on the selection achievements, and subject to approval by the state body, responsible for testing and protection of the selection achievements.

2. At production, reproduction, offer to sale, sale and other types of selling the protected selection achievements, using of names registered for them is obligatory. Assigning of name, different from the registered one, to seeds or breeding material produced and (or) being sold, shall be not permitted.

3. Assigning of the registered name of selection achievement to seeds or breeding material produced and (or) being sold, not relegating to it, is a violation of the rights of the patent holder and selectionist.

#### **Article 1005. Patent holder's rights to selection achievement**

The exclusive right to using of the selection achievement, within the limits established by the law, shall belong to the holder of the patent for this selection achievement.

#### **Article 1006. Period of Validity of Patent for Selection Achievement**

The period of validity of the patent for selection achievement begins since the day of registration of the achievement in the state register of protected selection achievements and issuing the patent, and lasts for twenty years.

Longer periods of the patent validity for individual types of selection achievements may be established by the law.

### **CHAPTER 65**

#### **Right to Layout of Integrated Circuit**

#### **Article 1007. Concept of Layout of Integrated Circuit**

Layout of an integrated circuit is the spatial geometric location of the set of components of the integrated circuit and connections between these components, fixed on material carrier.

#### **Article 1008. Conditions of Legal Protection of Layouts of Integrated Circuits**

1. The legal protection shall apply only to the original layout of integrated circuit.

The layout of the integrated circuit, created as the result of the author's creative activity, shall be deemed to be original. The layout shall be deemed to be original until otherwise is proved.

2. Legal protection shall not be granted for the layout, the set of components of which is well-known for the developers and manufacturers of the integrated circuit at the date of its creation.

3. Legal protection shall be granted for the layout, consisting of components, which are well-known for the developers and manufacturers of the integrated circuit at the date of its creation, only if the set of such elements, as a whole, meets the requirements of Clause 1 of this Article.

### **Article 1009. Regulation of Relations, Concerning Creation and Using of Layouts of Integrated Circuits**

The relations, concerning creation, protection and using of layout of the integrated circuits, shall be regulated by this Code and other acts of legislation on legal protection of layouts of integrated circuits.

## **CHAPTER 66**

### **Right to Protection of Undisclosed Information from Illegal Use**

#### **Article 1010. Conditions of Legal Protection of Undisclosed Information**

1. The person, lawfully possessing technical, organizational or commercial information, including trade secrets (know-how), not known to the third parties (undisclosed information), has the right to protection of this information from illegal use, if the conditions, established by Article 140(1) of this Code, are observed.

2. The right to protection of undisclosed information from illegal use appears regardless of execution of any formalities concerning this information (its registration, obtaining of certificates etc.).

3. The rules on protection of undisclosed information shall not apply concerning the information which, in accordance with the legislation, may not be official or commercial secret (the information on legal persons, on the rights to property and transactions with it, being subject to the state registration; information subject to submission as the state statistical reporting etc.).

4. The right to protection of undisclosed information is valid, while the conditions, provided by Article 140(1) of this Code, are preserved.

#### **Article 1011. Liability for Illegal Use of Undisclosed Information**

1. The person who, without legal grounds, has obtained or disseminated the undisclosed information or is using it, must compensate the losses, caused by illegal use of such information, for the one who lawfully possesses this information.

2. If the person, illegally using the undisclosed information, has obtained it from the person, which had no right to disseminate it, and the acquirer of the information did not know and should not have known about it (fair acquirer), the lawful possessor of the undisclosed information shall have the right to demand compensation of losses from such acquirer after the date when the fair acquirer knew that use of this information is illegal.

3. The person, lawfully possessing undisclosed information, has the right to demand from the one, who uses it illegally, an immediate termination of its use. However, the court, taking into account the amount of expenses of the fair acquirer of the undisclosed information for its use, may permit its further using under conditions of the exclusive license for compensation.

4. The person, who autonomously lawfully has obtained the information, constituting contents of the undisclosed information, has the right to use this information irrespective of the rights of the possessor of the corresponding undisclosed information and shall not be liable to him for such use.

#### **Article 1012. Transfer of Right to Protection of Undisclosed Information from Illegal Use**

The person, who possesses the undisclosed information, may transfer all or a part of the data, constituting contents of this information, to another person under the license contract (Article 985).

The licensee must take proper measures for protection of the confidentiality of information, obtained under the contract, and has the same rights to its protection from illegal use by the third parties, as the licensor. Insofar otherwise not provided in the contract, the duty to preserve confidentiality of the information shall be borne by the licensee even after termination of the license contract, if the corresponding information remains to be the undisclosed information.

### **CHAPTER 67**

#### **Means of Individualization of Participants of Civil Turnover,**

#### **Goods, Works or Services**

#### **§ 1. Firm Name**

#### **Article 1013. Right to Firm Name**

1. The legal person has an exclusive right to use the firm name on goods, packing of the goods, in advertisement, signboards, booklets, invoices, printed matters, official forms and other documentation, connected with its activity, as well as at demonstration of goods on exhibitions and fairs, which are conducted on the territory of the Republic of Belarus.

2. The firm name of the legal person is defined at approval of its Charter and is subject to

registration by inclusion into the Unified State Register of Legal persons and Individual Entrepreneurs.

3. The firm name of the legal person, which is so similar to another firm name, which is already registered, that this may result in considering the corresponding legal persons to be the same, may not be registered.

#### **Article 1014. Using Firm Name of Legal Person in Trademark**

The firm name of the legal person may be used in a trademark, belonging to it.

#### **Article 1015. Validity of Right to Firm Name**

1. The exclusive right to the name, registered in the Republic of Belarus, as designation of the legal person, is valid on the territory of the Republic of Belarus.

For the name, registered or commonly recognized in the foreign state, the exclusive right on the territory of the Republic of Belarus is valid in cases, provided for by the legislation.

2. The validity of the right to a firm name terminates with liquidation of the legal person or with changing its firm name.

#### **Article 1016. Alienation of Right to Firm Name**

1. Alienation and transfer of the right to the firm name of the legal person is not permitted, except for the cases of reorganization of the legal person or alienation of the enterprise as a whole.

2. The holder of the right to a firm name may allow using of its name (issue the license) to another person. However, in so doing, the measures shall be stipulated in the license contract, excluding misleading the user.

### **§ 2. Trademark and Service Mark**

#### **Article 1017. Concept of Trademark and Service Mark**

1. The trademark and service mark (hereinafter referred to as the trademark) shall be deemed to be the designation, promoting to make difference of the goods or services of one person from the similar goods or services of another persons.

2. Verbal designations, including personal names, combinations of colors, letters, digital, image-making, three-dimensional designations, including the shape of the goods or packing, as well as combinations of such designations, may be registered as the trademarks. Other designations may be registered as the trademarks in cases, provided by the legislative acts.

3. The trademark may be registered in any color or color combination.

### **Article 1018. Legal Protection of Trademark**

1. The legal protection of the trademark on the territory of the Republic of Belarus shall be effectuated on the grounds of its registration in the patent bodies in accordance with the procedure, established by the legislation on trademarks and the service marks, or by virtue of the treaties of the Republic of Belarus.
2. The right to a trademark is protected by the state and shall be certified by a certificate.
3. The certificate for the trademark certifies the priority of the trademark, the exclusive right of the holder for trademark in relation to the goods, specified in the certificate, and contains the image of the trademark.

### **Article 1019. Exclusive Right to Trademark**

1. The possessor of the trademark has an exclusive right to use the trademark and to dispose of it, and also the right to forbid using of the trademark to other persons.
2. Nobody may use the trademark, protected on the territory of the Republic of Belarus, for which the certificate is issued, without permit of its possessor.

### **Article 1020. Period of Validity of Registration**

1. The registration of trademark is valid for ten years since the date of receiving the application in the patent body.
2. The period of validity of registration of the trademark may be prolonged upon application of the possessor, submitted within the last year of its validity, every time for ten years.

### **Article 1021. Collective Mark**

1. The collective mark is a trademark of the association of legal persons, intended for designation of goods, produced and sold by this association, and having identical qualitative or other common characteristics.
2. The collective mark and the right to its using may not be transferred.

### **Article 1022. Cession of Right to Trademark**

The rights to the trademark may be transferred by its possessor under the contract to other person concerning all or part of the goods, for which it is registered.

Cession of the rights to the trademark is not permitted, if it may result in misleading the user concerning the goods or its manufacturer.

### **Article 1023. Granting License for Using Trademark**

The right to use the trademark may be granted by the possessor of the trademark (the licensor) to another person (the licensee) under the license contract.

The license contract shall contain the condition stipulating that the quality of licensee's goods shall be not worse than the quality of licensor's goods, and that the licensor will effectuate supervision over fulfillment of this condition.

## **§ 3. Geographical Indication**

### **Article 1024. Conditions of Legal Protection of Geographical Indication**

1. The geographical indication shall be deemed to be the indication, which identifies the goods as originating from the territory of the country or from the region or the location on this territory, where the determined quality, reputation or other characteristics of goods are considerably connected with geographical origin of these goods.

The term "geographical indication" includes the terms "name of place of origin of goods" and "indication of origin of goods".

2. The name of place of origin of goods shall be deemed to be the name of the country, settlement, location or another geographical object, used for indication of goods, the special characteristic of which are determined, solely or mainly, by the natural conditions or other factors, typical for this geographical object, or by the combination of these natural conditions and factors.

The historic name of the geographical object may be indicated as the name of place of origin of goods.

The indication, being the name of the geographical object or containing the name of the geographical object, but commonly used in the Republic of Belarus as the indication of the goods certain type, not connected with the place of its making. Shall nor be deemed to be the name of place of origin of goods.

3. The designation, directly or indirectly indicating the place of real origin or making of the goods, shall be deemed to be the indication of origin of goods.

The indication of origin of goods may be represented in the form of the name of geographical object or image.

4. The legal protection of the name of place of origin of goods in the Republic of Belarus shall be granted on the grounds of its registration in the patent body or by virtue of the treaties of the Republic of Belarus.

On the grounds of the registration, the certificate for the right to use the name of the place of origin of goods shall be issued.

The procedure and conditions of registration and issuing a certificate for the right to use the name of the place of origin of goods, deeming such certificate to be void, and termination of validity of the registration and of the certificate shall be defined by the legislation on the

names of the place of origin of goods.

5. The legal protection of indication of the origin of goods shall be effectuated on the grounds of using this indication.

The legal protection of the indication of origin of goods consists of non-permission of using the indications of the origin of goods, which are false or mislead the user concerning the real place of the origin of goods. The indication of the origin of goods is not subject to the state registration.

### **Article 1025. Right to Using of Geographical Indication**

1. The person, possessing the right to using of the geographical indication, shall have the right to place it on the goods, packing, in advertisement, booklets, invoices and to use in any other way in connection with bringing the goods into civil turnover.

2. The name of the place of origin of goods may be registered by several persons together for designation of the goods, produced by them on the territory of the determined geographical object, if the special characteristics of these goods are determined, solely or mainly, by the natural conditions or other factors, typical for this geographical object, or by the combination of these natural conditions and factors. The right to using of the name of the place of origin of goods belongs to each of these persons.

The right to using of the name of the place of origin of goods, registered in accordance with existing procedure, may be granted to any legal person or natural person, residing on the territory of the same geographical object and producing the goods with the same characteristics.

3. The person, who in good faith used the name of the geographical object, identical or similar with the registered name of the place of origin of goods, not less than for six months before the date of its first registration, preserves the right to further using of this name for the period, established by the patent body, but not more than for two years since the date of the specified registration.

4. Cession of the right to using of the geographical indication and granting the right of its using on the grounds of the license shall not be permitted.

### **Article 1026. Scope of Action of Legal Protection of Geographical Indications**

1. In the Republic of Belarus, legal protection shall be granted for the geographical indications, located on the territory of the Republic of Belarus.

2. The legal protection of the name of the place of origin of goods, located in another state, shall be granted in the Republic of Belarus, if this name of the place of origin of goods is registered in the country of origin of goods and in the Republic of Belarus in accordance with this Code and the legislation on the name of the place of origin of goods.

3. The legal protection of indication of origin of goods, located in another state, is granted in the Republic of Belarus, if this indication is used in the country of origin of goods.

### **Article 1027. Period of Validity of Certificate for Right to Using of Name of Place of Origin of Goods**

1. The certificate for the right to using of the name of place of origin of goods is valid for ten years since the date of submission of the application to the patent body.

2. The period of validity of the certificate for the right to using of the name of place of origin of goods may be prolonged upon the possessor's application, submitted within the last year of validity of the certificate, for a period of ten years, with preservation of the conditions, providing for granting of the right to using of the name of place of origin of goods. Prolongation of validity of the certificate is possible without limitation of number of such prolongations.

### **Article 1028. Liability for Violation of legislation on Geographical Indications**

1. The person, having the right to using of the geographical indication, may demand from anyone who uses this indication illegally, to terminate its use, to remove the illegally used geographical indication or designation, similar to it up to confusion, from the goods, packing, forms and similar documentation, to destruct manufactured images of geographical indication or designation, similar to it up to confusion, or, if it is impossible, to destruct the goods and (or) packing.

2. The person, possessing the right to using of the geographical indication, shall have the right to demand compensation of the incurred losses from the party violating this right.

## **CHAPTER 68**

### **Unfair Competition**

#### **Article 1029. Inadmissibility of Unfair Competition**

Unfair competition in the Republic of Belarus is not permitted.

The following is deemed to be the unfair competition:

1) any actions, capable by any way to cause confusion concerning legal persons, individual entrepreneurs, goods, works, services or entrepreneurial activity of the competitors;

2) making false statements, while carrying out the entrepreneurial activity, capable to discredit a legal person, individual entrepreneur, goods, works, services or entrepreneurial activity of the competitor;

3) indications or statements, using of which, while carrying out the entrepreneurial activity, may mislead concerning the nature, characteristics, fitness for usage or amount of goods, works, services of the competitor;

4) other actions, contrary to the requirements of this Code and other acts of legislation on competition, while carrying out the entrepreneurial activity.



### **Article 1030. Liability for Effectuation of Unfair Competition**

1. The person, effectuating unfair competition, must terminate the illegal actions and publish the disclaimer of the disseminated information and actions, which constitute the contents of unfair competition.

2. The person, suffered from the unfair competition, shall have the right to demand compensation, from the unfair competitor, of the losses caused.

## **SECTION VI INHERITANCE LAW**

### **CHAPTER 69**

#### **General Provisions on Inheriting**

### **Article 1031. Inheriting**

1. At inheriting, the property of the deceased (the inheritance, inheritance property) is transferred to other persons in the unchanged form, as a single whole and at the same time (the universal succession), unless it arises otherwise from this Code and any other laws.

2. The right of inheritance is guaranteed. Inheriting is regulated by this Code and other acts of legislation adopted in accordance with it.

### **Article 1032. Grounds for Inheriting**

1. The inheriting shall be effectuated by will and by operation of law.

2. The inheriting under the law shall take place, when the will is absent or determines the fate not for the whole inheritance, and also in other cases, established by this Code and other acts of legislation adopted in accordance with it.

### **Article 1033. Composition of Inheritance**

1. The inheritance shall include all the rights and duties, the existence of which shall not terminate with the death of the testator, and which belonged to the testator at the time of opening the inheritance.

2. The rights and duties, inseparably connected with the personality of the testator, shall not be included in the inheritance:

1) the rights of membership (participation) in commercial and other organizations, being the legal persons, unless otherwise established by the law or the constituent documents;

2) the right to compensation of harm, caused to life or health;

- 3) the right and duties concerning the alimony obligations;
- 4) the right to pensions, allowances and other payments on the grounds of the legislation on labor and social security;
- 5) personal non-property rights, not connected with property rights.

3. The personal non-property rights and other nonmaterial benefits, belonging to the testator, may be effectuated and defended by the heirs, unless otherwise established by the legislation.

4. The inheritance shall include accumulation of share in a housing cooperative, housing construction cooperative, country cottage (dacha) cooperative, garage cooperative or other consumer cooperative, or apartment, country cottage (dacha), garage or other premises, the share for which is paid in full, and this property is registered for the testator on the right of ownership in accordance with the procedure established by the legislation. If the testator's desire for registration of the specified property on the right of ownership was expressed in a written application, submitted to the competent bodies, but the procedure of registration was not completed in connection with the death of the testator, such property may be deemed, by the court, to be the inheritance property upon the demand of the interested persons.

#### **Article 1034. Inheritance of Property, Being in Common Ownership**

1. The death of the participant of the common joint property shall be the reason for determination of share of the deceased person in such property and dividing the common property or apportioning from it the deceased participant's share in accordance with the procedure, established by Article 255 of this Code. In this case the inheritance is opened concerning the common property, falling to the deceased participant share, or, if it is impossible to divide the property in kind, concerning the value of such share.

2. The participant of the common joint property shall have the right to bequeath his share in the common property, that will be determined after his death in accordance with Clause 1 of this Article.

#### **Article 1035. Opening of Inheritance**

1. The inheritance is opened in the consequence of death of the citizen or declaring the citizen to be deceased by the court.

2. The time of inheritance opening is the day of death of the citizen, or, in case of declaring the citizen to be deceased, the day determined in accordance with Article 41(3) of this Code.

3. The persons, deceased at the same day, are considered, for the purposes of hereditary succession, as deceased simultaneously and not inheriting one after another. The inheritance is opened after each of them, and the heirs of each of them are called to inheriting.

#### **Article 1036. Place of Inheritance Opening**

The place of inheritance opening is the last place of living of the testator, or, if this place is unknown, the place of location of immovable property or the main part of this property, or, if there is no immovable property, the place of location of main part of the movable property.

### **Article 1037. Heirs**

1. The citizens, being alive at the time of the inheritance opening, and those conceived during the life of the testator and born alive after opening the inheritance, may be the heirs by will or by operation of law.

2. The legal persons, which were been created at the time of opening the inheritance, the Republic of Belarus and its administrative territorial units may be the heirs by will.

### **Article 1038. Unworthy Heirs**

1. The persons that have intentionally killed the testator or have made the attempt on the testator's life, shall be debarred from inheriting both by will or by operation of law. The exception are the persons, concerning whom the testator has made the will already after the attempt on his life.

2. The persons, that promoted the calling of themselves or their near relatives to inheriting or the increase of the inheritance share, being due to them, by drawing up the forged will, making the intentional obstacle to effectuation of the testator's last wish or other intentional illegal actions, shall be debarred from inheriting both by will or by operation of law.

3. At inheritance by operation of law, the parents shall be debarred from the inheritance after their children, concerning which they were deprived of the parental rights and were not restored in these rights at the time of opening the inheritance, and also the citizens, who fraudulently evaded from fulfillment of the duties of testator maintenance, placed on them by virtue of the act of the legislation, if this circumstance is confirmed in the judicial procedure.

4. The unworthy legal successor may be debarred from the inheritance by the court on the grounds of this Article upon the demand of the person, for whom such debarring creates property consequences connected with the inheriting.

5. The rules of this Article shall apply to the heirs, having the right to the mandatory share in the inheritance.

6. The rules provided for in Clauses 1, 2 and 4 of this Article, shall respectively apply to the gift by will (Article 1054).

### **Article 1039. Escheated Inheritance**

1. If there are no heirs either by operation of law, or by will, or nobody from the heirs have the right to inherit (Article 1038), or all of them have refused from the inheritance, the inheritance shall be deemed to be escheated.

2. The escheated inheritance shall be transferred into the ownership of the administrative territorial unit at the place of location of the corresponding property, comprising the inheritance.

3. The inheritance may be deemed to be escheated by the court on the grounds of the applications of the bodies of local administration and self-government at the place of opening the inheritance after expiry of one year since the day of opening the inheritance. The inheritance may be deemed to be escheated before expiry of the specified period, if the expenses, connected with the inheritance protection and control over it, exceed its value.

4. Protection of the escheated inheritance and control over it shall be effectuated in accordance with Articles 1066-1068 of this Code.

## **CHAPTER 70**

### **Inheritance by Will**

#### **Article 1040. General Provisions**

The expression of the citizen's wish on disposal of the property, belonging to the citizen, in case of death, shall be deemed to be a will.

2. The will may be made by the person, having full active legal capacity.

3. The will shall be made personally. Making of the will through the representative shall not be permitted.

4. The will may contain the orders, given by only one person. Making the will by two or more persons shall not be permitted.

5. The will is a unilateral deal, validity of which shall be determined at the time of drawing up the will.

#### **Article 1041. Freedom of Will**

1. The citizen may bequeath all his property or its part to one or several persons, both being and not being the heirs by operation of law, and also to the Republic of Belarus and its administrative territorial units.

2. The testator shall have the right, without explanation of reasons, to disinherit one, several or all the heirs by operation of law. The disinheritance of the heir by operation of law shall not extend to his descendants, inheriting by the right of presentation, unless otherwise arise from the will.

3. The testator has the right to make the will, containing the orders about any property, including such the property, for which the testator may become the owner at the day of opening the inheritance.

4. The testator has the right to condition the acquisition of inheritance by the specific lawful condition concerning the nature of the heir's behavior, cancel and change the will after its making at any time and is not obliged herewith to indicate or to report to whomever about the

reasons of canceling or change of the will.

5. The freedom of will shall be limited by the rules on the mandatory share in inheritance (Article 1064), on non-permission to place on the persons, appointed to be the heirs in the will, the duty in turn to dispose of the property, bequeathed for them, in some determined way in case of their death, on non-permission of inclusion in the will of illegal conditions or conditions of heir's behavior for acquisition of inheritance, which are impracticable for the heir because of objective reasons.

#### **Article 1042. Sub-appointing of Heirs**

1. The testator may, for the case if the heir, specified in the will, would die before opening the inheritance, or would not accept it or would refuse from it, or would be debarred from the inheriting as an unworthy heir in accordance with the procedure, provided by Article 1038, and also for the case of failure of heir by will to meet the lawful conditions specified by the testator, to appoint another heir (sub-appointing of heir).

2. Any person, who may be the heir in accordance with Article 1037 of this Code, may be the sub-appointed heir.

3. The refusal of the heir by will not for benefit of the sub-appointed heir shall not be permitted.

#### **Article 1043. Shares of Heirs in Property. Inheriting of Part of Property Remained Non-bequeathed**

1. The property, which is bequeathed to two or several heirs without specifying of their shares in the inheritance and without specifying of what things or the rights, included in the inheritance, shall be intended to whom from the heirs, is considered to be bequeathed to the heirs in equal shares.

2. An indivisible thing (Article 133), bequeathed to two or several heirs, is considered to be bequeathed in shares, corresponding to the value of parts of this thing, bequeathed to the heirs.

3. The part of property, remained non-bequeathed, shall be distributed between the heirs by operation of law, called to inheriting in accordance with the procedure, provided for by Articles 1056-1065 of this Code. Those heirs by operation of law, to whom another part of the property was bequeathed by will, shall be also relegated to these heirs.

#### **Article 1044. General Rules on Form of Will**

1. The will shall be drawn up in writing and certified by a notary. Certification of the will by other persons is permitted in cases, provided by Articles 1045(6), 1047 and 1048(2) of this Code. Non-observance of the rules of this Code on the written form of the will and its certification shall entail invalidity of the will.

2. The will shall be signed by the testator with his own hand. If the testator cannot sign a

will with his own hand because of physical disability, disease or illiteracy, then, upon the testator's request, the will may be signed, in presence of the notary or any other person certifying the will in accordance with the law, by another person, with indication of the reasons, because of which the testator could not sign the will with his own hand. The surname, own forename, patronymic and the place of residence of person signing the will shall be specified in the will.

3. When, in accordance with this Code, the witnesses shall be present at drawing up, signing or certification of the will, the following persons may not be such witnesses, and also may not sign the will instead of the testator:

- 1) the notary or other person, certifying the will;
- 2) the person, for benefit of whom the will is drawn up or a gift by will is made, the spouse of such person, his children, parents, grandchildren and great-grandchildren, and other heirs by will and by operation of law;
- 3) the citizen, not having full active legal capacity;
- 4) illiterate persons;
- 5) the person, having previous conviction for giving the false evidences;
- 6) the citizens with such physical disabilities, which prevent them from full understanding of the essence of the events taking place;
- 7) the persons not knowing the language sufficiently, with the exception of the cases when the closed will is accepted by the notary.

4. Place and the date of certification of the will shall be specified in it, except for the case, provided for by Article 1046 of this Code.

#### **Article 1045. Notarially Certified Will**

1. The notarially certified will shall be written by the testator or by the notary from the words of the testator in the presence of witness. When writing the will from the words of the testator by the notary, conventional technical means (the typewriter, personal computer etc.) may be used.

2. The will, written by the notary from the words of the testator, shall be completely read by the testator in the presence of the notary and the witness before signing the will. If the testator is unable to read the will because of the physical disability, disease or illiteracy, the text of will shall be announced for the testator by the witness in the presence of the notary; in such a case, the appropriate record shall be made in the will, with indication of the reasons, for which the testator was unable to read the will personally.

3. If the notarially certified will is drawn up in the presence of the witness, the surname, own forename, patronymic and the place of residence of the witness shall be specified in the will.

4. The notary must warn the witness and the person, signing the will instead of the testator, about the need to keep secret of the will (Article 1050).

5. At certification of the will, the notary must explain to the testator the contents of Article 1064 of this Code.

6. In the cases when the right of execution of notarial actions is granted by the law to authorized officials of the local executive and dispositive bodies, diplomatic agents of the diplomatic representation of the Republic of Belarus, consular officials of consular offices of the Republic of Belarus and consular institutions of the Republic of Belarus, the will may be certified, instead of the notary, by the respective official, subject to observance of the requirements of this Code on the form of the will and the procedure of its notarial certification.

### **Article 1046. Closed Will**

1. Upon the testator's wish, the will shall be certified by the notary without familiarizing with its contents (closed will).

2. The closed will shall be written and signed by the testator with his own hand. Non-observance of these rules entails invalidity of the will, about which the notary must warn the testator.

3. The closed will shall be transferred in the presence of two witnesses, which put their own signatures on the envelope. Then the envelope, signed by the witnesses and by the testator, with the note on explanation of the requirements, established by Clause 2 of this Article, for the testator, shall be sealed, in the presence of the testator and the witnesses, into another envelope, on which the notary makes an inscription, containing information about the person, from whom the closed will is accepted by the notary, about the place and the date of its acceptance, about the surname, own forename, patronymic and the place of residence of each witness. While accepting the envelope with the will from the testator, the notary must explain to the testator the contents of Article 1064 of this Code.

4. At arrival of the information about the death of the person, who made a closed will, the notary must check such information through the bodies of registration of the acts of the civil state. At arrival of the copy of act record about the death or at submission of the certificate of death of such person by the interested persons, the notary, not later than within fifteen days, shall open the envelope with the will, in mandatory presence of two witnesses. The interested person shall have the right to present at opening the envelope.

5. The notary shall draw up a protocol of opening the envelope with the will. In this protocol, the following data shall be reflected: the place, date and time of opening the envelope; the surname, own forename, patronymic and the permanent place of residence of the notary, witnesses and the interested persons being present; the place of their permanent residence; state of the envelopes and the contents of the records made on them; the fact of announcement by the notary of the document, contained in the envelope; full text of this document; signatures of the notary and witnesses.

6. Not later than at the day following the day of opening the envelope with the will, the notary must send the messages to the interested persons about their right to inheriting.

### **Article 1047. Wills Equated to Notarially Certified**

1. There shall be equated to notarially certified wills:

1) wills of the citizens, being treated in hospitals, military hospitals, other inpatient treatment institution, or living in nursery homes for old and disabled persons, certified by the head doctors, their deputies for medical affairs or doctors on duty of these hospitals and other treatment institutions, and by the heads of the military hospitals, directors or head doctors of the nursery homes for old and disabled persons;

2) wills of the citizens, being during voyage on the ships sailing under the state flag of the Republic of Belarus, certified by the captains of these ships;

3) wills of the citizens, residing in exploratory, Arctic or other similar expeditions, certified by the heads of these expeditions;

4) wills of military servicemen in places of location of military units, where there are no notaries, and wills of the civil persons, working in these units, members of their families and members of the families of military servicemen, certified by the commanders of these units;

5) wills of the persons, held in institutions for the service of punishment in the form of arrest, restriction of freedom, deprivation of freedom, or places of detention, certified by heads of the respective institutions for the service of punishment or chiefs of administrations of the places of detention.

2. The wills, provided for in Clause 1 of this Article, shall be signed by the testator in the presence of a witness, who also shall sign the will.

In all other respects, the rules of Article 1045 of this Code shall respectively apply to such wills, except for a requirement of notarial certification of the will.

3. The will certified in accordance with this Article shall be sent, as soon as possible, by the person who certified the will, through the body of justice to the notary at the place of residence of the testator.

4. The procedure of certification of wills and execution of other actions, related to such certification, by the persons, to whom the right of certification of the wills is granted in accordance with this Article, shall be determined by the legislation.

### **Article 1048. Will Disposition by Monetary Means in Banks or Non-Bank Credit and Financial Organizations**

1. The rights to monetary means, contributed by a citizen in the bank deposits or being on a bank account of the citizen, may be bequeathed by the citizen on his discretion in accordance with the procedure provided by Articles 1044-1047 of this Code, or by execution of will disposition directly in that bank or the non-bank credit and financial organization, in which the account is opened or the deposit is kept. Concerning the monetary means on the account, such will disposition shall have the power of the notarially certified will.

2. The will disposition for the rights to the monetary means in the bank or the non-bank credit and financial organization shall be written with the own hand and signed by the testator,



with indication of date of its drawing up, and shall be certified by the clerk of the bank or the non-bank credit and financial organization, having the right to accept for fulfillment the client's orders concerning the monetary means on the client's account in accordance with the procedure determined by the legislation.

3. The rights to the monetary means, concerning which the will disposition is made in the bank or the non-bank credit and financial organization, are included in the inheritance and are inherited on the common grounds in accordance with this Code. These money means shall be handed over to the heirs on the grounds of the certificate of the right to inheritance and in accordance with it. Before submission to the bank or the non-bank credit and financial organization of the certificate of the right to inheritance, the monetary means, not exceeding one hundred times the amount of the base unit, established by the legislation, may be issued from the testator's account to the heirs, specified in the will disposition.

#### **Article 1049. Cancellation and Changing of Will**

1. The testator shall have the right at any time to cancel the will, made by him, as a whole, or to change it by cancellation, change or addition of individual will dispositions, contained in it, or by making a new will.

The will may be cancelled by destruction of all its copies by the testator or, upon the written order of the testator, by the notary.

2. The will, drawn up earlier, is cancelled by the new will completely or in part in which it is contrary to it.

3. The will, made earlier and cancelled completely or partially by the new will, is not restored, if the latter, in turn, is cancelled or changed by the testator.

#### **Article 1050. Secret of Will**

The notary or another person, certifying the will, the witnesses, and the citizen, signing the will instead of the testator, shall have no right, before opening the inheritance, to divulge the information, concerning contents of the will, its drawing up, cancellation or changing.

#### **Article 1051. Interpretation of Will**

During interpretation of the will by the notary, by the executor of the will or by the court, the literary sense of the words and expressions, used in it, shall be taken into consideration. If the literary sense of some provisions of the will is unclear, it shall be determined by comparing of this provision with other provisions and the sense of the will as a whole. At so doing, the most full effectuation of the assumed will of the testator shall be provided.

#### **Article 1052. Invalidity of Will**

1 The will may be deemed to be invalid by the court upon a suit of the person whose rights

or interests are violated by this will. Contestation of the will before opening the inheritance is not permitted.

2. The will shall be deemed to be invalid in case of violation of the rules on the form of the will or other provisions of this Code, entailing invalidity of the will or invalidity of the transactions (Paragraph 2 of Chapter 9). Slips of pen and other insignificant violations of the procedure of drawing up, signing or certification of the will shall not be considered as the grounds for deeming it to be invalid, if it is proved that they can not affect understanding of the testator's will expression.

3. Both will as a whole and individual will dispositions, contained in it, can be deemed to be invalid.

Invalidity of the individual will dispositions shall not affect the remaining part of the will, if it is possible to assume that it would be included in the will in case of absence of the dispositions, deemed to be invalid.

4. Deeming the will to be invalid shall not deprive the persons, specified in it as heirs or as the gift recipients, the right to inherit by operation of law or on the grounds of another will which is valid.

### **Article 1053. Execution of Will**

1. The testator may entrust the execution of will to the person, specified by him in the will, not being the heir (the executor of the will, the executor). The consent of this person to be an executor shall be expressed by him either by inscription, made with his own hand on the will itself, or in the application, enclosed to the will. If the executor is not nominated by the testator, then, by the agreement between the heirs, they shall have the right to entrust the execution of will to one of them or to another person. If such agreement cannot be reached, the executor may be nominated by the court upon the demand of one or several heirs from the persons, offered by them to the court.

The executor shall have the right to refuse from execution of the duties, entrusted to him by the testator, at any time, subject to preliminary notifying of heirs by will. The exemption of the executor from his duties is possible also by the court decision upon the application of the heirs.

2. Unless otherwise established in the will, the executor shall take measures, necessary for execution of the will, including:

1) provide transfer to the heirs of the property, which is due to them in accordance with the wish of the testator and the law;

2) to take the measures, autonomously or through the notary, for protection of the inheritance and control over it in the interests of the heirs;

3) to obtain the amounts and other property, due to the testator, for transferring thereof to the heirs, if these amounts are not subject to transfer to other persons (Article 1090(1));

4) to perform the will imposition or to demand from the heir by will to perform the gift by will (Article 1054) or the will imposition (Article 1055).

3. For the purpose of execution of the testator's wish, the executor has the right in his own name to conduct affairs, connected with the control over inheritance and execution of the will, including those in the court and other state bodies.

4. The executor shall have the right to compensation of the necessary expenses, connected with the execution of will, at the expense of the inheritance, and to reception of the remuneration over the expenses at the expense of the inheritance, if this is provided for by the will.

#### **Article 1054. Gift by Will**

1. The testator has the right to entrust to the heir by will to perform, at the expense of the inheritance, some obligations (the gift by will) for benefit of one or several persons (the recipients of gift by will), who shall acquire the right to demand execution of the gift by will.

The recipients of gift by will may be the persons, which can be or not be the heirs by operation of law.

2. The subject of the gift by will may comprise transferring the thing, being included into the inheritance, to the recipient of gift by will into ownership or on another real right, or in use, of acquisition and transfer of the property, not included into the inheritance, to the recipient of gift by will, or execution of the determined works or rendering of the determined services for the recipient of gift by will etc.

3. The heir, to whom the gift by will is entrusted by the testator, shall execute it only within the actual value of the inheritance transferred to this heir, minus the part of the testator's debt falling on this inheritance.

If the heir, to whom the gift by will is entrusted, has the right to the mandatory share in the inheritance, his duty to perform the gift by will shall be limited by the cost of the inheritance transferred to this heir, which exceeds the amount of his mandatory share.

If the gift by will is entrusted to all or several heirs, the gift by will shall encumber each of them in proportion to the share in the inheritance, insofar as not provided otherwise by the will.

4. To the heir, to whom the dwelling house, apartment or other dwelling premises are transferred, the testator has the right to entrust the duty to grant using of these premises or determined part thereof to the other person for life. In case of the following transfer of the ownership for these dwelling premises, the right of using for life shall preserve power.

The right to using for life is non-alienable, non-transferable and shall not subject to transfer to the heirs of the recipient of gift by will.

The right to using for life, granted to the recipient of gift by will, shall not be the ground for residence of his family members, unless specified otherwise in the will.

5. In case of death of the heir, to whom the gift by will was entrusted, or in case of rejection of the inheritance by this heir, the execution of the gift by will shall be transferred to other heirs, who have obtained the share in the inheritance, or to the administrative territorial unit, if the property became the escheated one.

The gift by will shall not be executed in case of death of the recipient of gift by will before opening the inheritance or after such opening, but before the time when the heir by will has already accepted it.

6. The recipient of gift by will shall not be liable for the debts of the testator.

### **Article 1055. Imposition**

1. The testator may impose on one or several heirs by will the duty to make some actions of propriety or non-propriety nature, directed at effectuation of some publicly useful aim. Such duty may also be imposed on the executor, subject to allocation of part of the property by the testator for execution of imposition by the executor.

The subject of imposition may also comprise maintenance of animals, which belonged to the testator, supervision and care for these animals.

2. The rules contained in Article 1054 of this Code shall apply respectively to the imposition, the subject of which comprise the actions, having a propriety nature.

3. The right to demand execution of the imposition in the court shall belong to the interested persons, to the executor and to any of the heirs, insofar as otherwise not provided for in the will.

## **CHAPTER 71**

### **Inheritance by Operation of Law**

#### **Article 1056. General Provisions**

1. The heirs by operation of law shall be called to inheriting in accordance with the order of priority, provided by Articles 1057-1063 of this Code.

The heirs of each priority shall inherit in equal shares, with the exception of heirs, inheriting by the right of presentation (Article 1062).

2. At the inheriting by operation of law, the adoptees and descendants thereof, on one side, and the adoptive parent and relatives thereof, on the other side, shall be equated in full amount to the relatives by birth (the relatives by blood).

3. The adoptee and descendants thereof shall not inherit by operation of law after the death of parents and other relatives by birth of the adoptee, and the parents and other relatives by birth of the adoptee shall not inherit by operation of law after the death of the adoptee and descendants thereof, with the exception of the cases, specified in Clause 4 of this Article.

4. In cases when in accordance with the Code on marriage and family of the Republic of Belarus, upon the court decision, the adoptee preserves the rights and duties concerning one of the parents and other relatives by birth, the adoptee and descendants thereof shall inherit by operation of law after the death of these relatives, and the latter shall inherit by operation of law after the death of the adoptee and descendants thereof.

5. The heirs by operation of law of the each following priority obtain the right to the

inheriting in case of absence of the heirs of preceding priority, or debarring them from the inheritance, or non-accepting of the inheritance by them, or their refusal from the inheritance.

6. The rules of this Code on priority of calling of heirs by operation of law to inheriting and on the amount of their shares in the inheritance may be changed by the notarially certified contract of the interested heirs, concluded after opening the inheritance. Such contract shall not affect the rights of the heirs, not participating in it, and also of the heirs, having the right to the mandatory share.

#### **Article 1057. Heirs of First Priority**

1. The heirs by operation of law of the first priority shall be the children, spouse and parents of the deceased.

2. The grandchildren of the testator and their direct descendants shall inherit by the right of presentation.

#### **Article 1058. Heirs of Second Priority**

1. In case of absence of the heirs of first priority of the deceased, the heirs by operation of law of the second priority shall be blood or non-blood brothers and sisters of the testator.

2. The children of brothers and sisters of the testator (the nephews and nieces of the testator) shall inherit by the right of presentation.

#### **Article 1059. Heirs of Third Priority**

In case of absence of the heirs of first and second priority of the deceased, the heirs by operation of law of the third priority shall be the grandfather and the grandmother of the deceased, both on the part of the father and on the part of the mother.

#### **Article 1060. Heirs of Fourth Priority**

1. In case of absence of the heirs of first, second and third priority of the deceased, the heirs by operation of law of the fourth priority shall be blood and non-blood brothers and sisters of the testator's parents (the uncles and aunts of the testator).

2. The cousins of the testator shall inherit by the right of presentation.

#### **Article 1061. Heirs of Following Priorities**

1. In case of absence of the heirs of first, second, third and fourth priority of the deceased (Articles 1057-1060), the testator's relatives of the third, fourth, fifth and sixth degree of relation, not relegated to the heirs of the preceding priorities, shall obtain the right to inherit

by operation of law; in so doing, the relatives of closer degree of relation shall debar the relatives of more distant degree of relation from inheriting.

2. The degree of relation is determined by the number of the births, separating the relatives from one another. The birth of the testator himself shall not be included in this number.

3. In accordance with this Article, the following persons shall be called to inheriting as:

1) relatives of the third degree of relation: the great-grandfathers and great-grandmothers of the testator;

2) relatives of the fourth degree of relation: the children of full nephews and nieces of the testator (the grandnephews and grandnieces) and full brothers and sisters of grandfathers and grandmothers of the testator (the grand-uncles and grand-aunts);

3) relatives of the fifth degree of relation: the children of grandnephews and grandnieces of the testator (the great grandnephews and great grandnieces), the children of first cousins of the testator, and the children of grand-uncles and grand-aunts of the testator;

4) relatives of the sixth degree of relation: the children of relatives of the fifth degree of relation.

4. The heirs of one degree of relation, called to inheriting, shall inherit in equal shares.

#### **Article 1062. Inheritance by Right of Presentation**

1. In cases, provided for by Articles 1057(2), 1058(2) and 1060(2) of this Code, the share of the heir by operation of law, deceased before opening the inheritance or simultaneously with the testator, shall be transferred by the right of presentation to his corresponding descendants and shall be divided between them equally.

2. The descendants of the heir by operation of law, disinherited by the testator, if this is specified in the will (Article 1041(2)), shall not inherit by the right of presentation.

3. The descendants of the heir, deceased before opening the inheritance simultaneously with the testator, which could be debarred from the inheritance on the grounds specified in Article 1038 of this Code, may be debarred by the court from the inheritance by the right of presentation, if the court will consider that calling them to inheriting is contradictory to the grounds of moralities.

#### **Article 1063. Dependents of Testator Not Capable for Labor**

1. The citizens relegated to the heirs by operation of law, specified in Articles 1058-1061 of this Code, and not capable for labor at the time of opening the inheritance, but not relegated to the heirs of priority which is called to inheriting, shall inherit together with the heirs of this priority, if they were the dependents of testator for at least a year before the death of the testator, regardless of whether or not they lived with the testator. The disabled dependents, called to inheriting on the grounds of this Clause together with the heirs of one of the preceding priorities, shall inherit not more than one fourth of the inheritance; however, if the testator was obliged by the law to maintain them, they shall inherit equally with the heirs of

this priority.

2. The citizens which are, though not being the heirs specified in Article 1057-1061 of this Code, but, at the time of opening the inheritance, were not capable for labor and within not less than one year were the dependents of the testator and lived with him. If there are other heirs by operation of law, they shall inherit together with heirs of that priority, which is called to inheriting, but not more than one fourth of the inheritance. In case of absence of other heirs of the deceased, the specified dependents of the testator, not capable for labor, shall inherit autonomously in equal shares.

#### **Article 1064. Right to Mandatory Share in Inheritance**

1. The children of the testator, which are minors or not capable for labor, spouse and parents of the testator, which are or not capable for labor, shall inherit, regardless of the will contents, not less than half the share, which should be due to each of them in case of inheriting by operation of law (the mandatory share).

2. For calculation of the mandatory share, there shall be taken into consideration all that the heir, having the right to such share, shall obtain from the inheritance on any grounds, including the value of the property, consisting of usual household goods, and the value of the gift by will, established for benefit of such heir.

The mandatory share shall be separated from the residuary estate, but if the latter is insufficient from the demised property.

If the exercise of the right to mandatory share in inheritance entails the impossibility to transfer to the testamentary heir the property of which the heir which has the right to mandatory share did not make the use while the testator was alive, and the testamentary heir used as residence (dwelling house, apartment, other dwelling premises, dacha, and so on) or used as the principal source of funds for living (instruments, art studio and so on), the court may, taking into account the property status of heirs which have the right to mandatory share, decrease the size of the mandatory share.

3. Any restrictions and encumbrances, established in the will for the heir, having the right to the mandatory share in the inheritance, are valid only concerning the part of the inheritance, transferred to such heir, which exceeds the mandatory share.

#### **Article 1065. Rights of Spouse at Inheriting**

1. The right of inheritance, belonging to the spouse by virtue of the will or the law, does not affect spouse's other property rights, related to marriage with the testator, including the right of ownership to the part of property, jointly acquired while being married.

2. By the decision of the court, the spouse may be debarred from inheriting by operation of law, except for the inheritance on the grounds for Article 1064 of this Code, if it would be proved that marriage with the testator really terminated before opening the inheritance, and the spouses lived separately and did not run the common household during at least five years before opening the inheritance.

## **Article 1066. Inheritance Protection and Administration**

1. To defend the rights of the heirs, the recipients of gift by will and other interested persons, the notary at the place of opening the inheritance shall take the measures, specified in Articles 1067 and 1068 of this Code and other necessary measures for inheritance protection and administration.

2. The measures for inheritance protection and administration shall be taken by the notary upon the application of one or several heirs, the executor, body of local administration and self-government or other persons, acting in the interests of preservation of the inheritance property. The notary has the right to take measures for inheritance protection and administration on own initiative.

3. For the purpose of determining the composition of inheritance and its protection, the notary has the right to request the banks and non-bank credit and financial institutions about the data concerning money (currency), currency values and other values, belonging to the testator, which are available in the deposits or on the accounts, or transferred for safekeeping in these banks or institutions. The notary may report the information obtained only to the executor and to the heirs.

4. The measures for the inheritance protection and administration shall be effectuated from the day of making the inventory in accordance with Article 1067 (1) of this Code for the period, determined by the notary, taking into consideration the nature and value of the inheritance and the time, necessary for the heir, but not more than for one year.

5. The inheritance protection and administration shall be effectuated for compensation (Article 1085), unless otherwise provided for by the legislation.

6. If the inheritance property is located in different places, the notary at the place of opening the inheritance shall, through the bodies of justice, submit the order for protection and administration of this property, mandatory for fulfillment, to the notary or to the official, authorized to effectuate the notarial actions, at the place of location of the corresponding part of the inheritance property.

## **Article 1067. Measures for Protection of Inheritance**

1. For protection of the inheritance, the notary shall make the inventory of inheritance property, at participation of two witnesses, meeting the requirements, established Article 1044(3) of this Code, and the interested persons, wishing to present at making an inventory of the property.

2. The money in cash (currency), included in the inheritance, shall be contributed in the deposit of the notary, a diplomatic agent of the diplomatic representation of the Republic of Belarus, a consular official of the consular office of the Republic of Belarus, and the currency values, articles made of precious stones and metals, securities, not requiring administration, shall be transferred to the bank or non-bank credit and financing institution for storage under the contract in accordance with the procedure, provided for by Article 811 of this Code.

3. The weapons, included in the inheritance, shall be transferred by the notary for storage to the bodies of internal affairs.



4. The property, included into the inheritance, not specified in Clauses 2 and 3 of this Article, if it does not require administration, shall be transferred by the notary under the contract for storage to anybody of the heirs, or, if it is impossible to transfer it to the heirs, to another person, on discretion of the notary.

5. The procedure of making an inventory of the inheritance property by the notary and taking measures by the notary to protect this property, including mandatory and other conditions of the contracts for its storage, as well as the procedure of determining the remuneration for its storage, shall be established by the legislation.

#### **Article 1068. Measures for Inheritance Administration**

1. If there is a property in the inheritance, requiring not only protection, but also administration (the enterprise, the share in the charter capital of the business company or the partnership, securities, the exclusive rights etc.), the notary, in accordance with Article 909 of this Code, as the founder of management, shall conclude the contract of trust management of this property.

2. The mandatory and other conditions of the contract of trust management of the inheritance property, the procedure of its conclusion and determination of the amount of remuneration for the trustee manager are established by the legislation in accordance with the rules of Chapter 52 of this Code, unless otherwise arise from the essence of the relations concerning the trust management of the inheritance.

### **CHAPTER 72**

#### **Acquisition of Inheritance**

#### **Article 1069. Acceptance of Inheritance**

1. To acquire the inheritance, the heir shall accept it.

For acquisition of the escheated inheritance (Article 1039) acceptance of inheritance is not required. Such inheritance is transferred to the ownership of the administrative territorial unit on the grounds of the court decision, by which the inheritance is deemed to be escheated.

2. Acceptance of part of the inheritance by the heir means acceptance of the whole inheritance due to this heir, irrespective of the contents and location of the inheritance.

Acceptance of inheritance under the condition or with the proviso shall be not permitted.

3. Acceptance of inheritance by one or several heirs does not mean acceptance of inheritance by the rest of the heirs.

4. The inheritance accepted shall be deemed to be belonging to the heir since the time of opening the inheritance regardless of the time of the state registration of the heir's right to this property, if this right is subject to registration.

5. Non-acceptance of inheritance by the heir shall entail the same consequences, as the refusal from the inheritance without specifying the person, for whose benefit the heir has

refused from the inheritance, insofar as otherwise established by the law.

### **Article 1070. Ways of Acceptance of Inheritance**

1. Acceptance of inheritance shall be effectuated by submission to the notary at the place of opening the inheritance of the application from the heir for the acceptance of inheritance, or for issuing the certificate of the right to inheritance.

The acceptance of inheritance through a representative is possible, if the authorization for such acceptance is specifically provided for in the power of attorney.

2. It shall be deemed, unless proved otherwise, that the heir has accepted the inheritance, if the heir actually came into possession or managing over the inheritance property, in particular, when the heir:

- 1) has taken measures for preservation of the property, for its protection from infringements or claims of the third parties;
- 2) has effectuated, at own expense, the charges on maintenance of the property;
- 3) has paid, at own expense, the debts of the testator or has acquired from the third parties the amounts due to the testator.

### **Article 1071. Period for Acceptance of Inheritance**

1. The inheritance may be accepted during six months since the day of opening the inheritance.

2. If the right of inheritance appears for other persons in case of refusal of the heir from the inheritance, they may accept the inheritance during the remained part of the period, specified in Clause 1 of this Article, or, if this part is less than three months, during three months.

3. The persons, for whom the right of inheritance appears only in case of non-acceptance of the inheritance by other heir, may accept the inheritance before the expiry of three months since the day of the expiry of the period, specified in Clause 1 of this Article.

### **Article 1072. Acceptance of Inheritance After Expiry of Established Period**

1. Upon the application of the heir, who has missed the period for acceptance of the inheritance (Article 1071), the court may deem this heir as accepted the inheritance, if the reasons of missing the specified period would be deemed to be reasonable, in particular, if the court would determine that this period was missed because the heir did not know and should not have known about opening the inheritance, and under the condition that the heir, who has missed the period for acceptance of the inheritance, applied to the court within six months after the reasons of missing the period have ceased to exist.

After deeming the heir as accepted the inheritance, the court shall resolve the questions of rights of other heirs to the inherited property, resulting thereof, and shall deem to be invalid

the certificates for the right to inheritance issued earlier. In this event, issuing of a new certificate of the right to inheritance is not required.

2. The inheritance may be accepted by the heir after expiry of the period, established for its acceptance, without applying to the court, under the condition of consent of all the other heirs, who have accepted the inheritance. The signatures of these heirs under the documents, containing such consent, shall be certified in accordance with the procedure, specified in Article 1083(2) of this Code. Such agreement of the heirs shall be the ground for canceling by the notary of the certificate of the right to inheritance right, issued earlier, and for issuing a new certificate.

If on the ground of the certificate of the right to inheritance issued earlier and later annuled by the notary was effectuated the state registration of rights to immovable property, the new certificate issued by the notary shall be the ground for introducing respective changes in the record of the state registration.

3. The heir, who accepted the inheritance in accordance with this Article after expiration of the established period, has the right to reception of the inheritance, due to him in accordance with the rules of Article 973, 974, 976 and 977 of this Code.

In the event, specified in part one of Clause 2 of this Article, these rules shall be applied insofar as otherwise is not provided for by the notarially certified agreement between the heirs.

### **Article 1073. Transfer of Right to Acceptance of Inheritance (Inheritance Transmission)**

1. If the heir, called to the inheritance by will or by operation of law, deceased after opening the inheritance, not having accepted it, the right to the acceptance of inheritance, which was due to this heir, shall pass to his heirs.

2. The right to accept the inheritance, belonging to the deceased heir, may be effectuated by his heirs on the common grounds in accordance with Articles 1069 to 1072 of this Code.

If the part of the period for acceptance of inheritance, remained after the death of the heir, is less than three months, it is extended up to three months.

After the expiry of the period of acceptance of inheritance, the heirs of the deceased heir may be deemed by the court as accepted the inheritance in accordance with Article 1072 of this Code, if the court would deem the reasons of missing this period by the heirs of the deceased heir to be reasonable.

3. The right of the heir to accept the part of the inheritance as the mandatory share (Article 1064) shall not be transferred to his heirs.

### **Article 1074. Right to Refuse from Inheritance**

1. The heir has the right to refuse from the inheritance within the period, established for acceptance of the inheritance (Article 1071), including in the event when the heir has already accepted the inheritance.

If the heir has accepted the inheritance and has actually come into possession or managing over the inheritance property (Article 1070(2)), the court may upon the application of this heir to deem his as refused from the inheritance even after expiry of the specified period, if the reasons for missing the period would be deemed by the court to be reasonable.

2. The refusal from the inheritance may not be subsequently changed or recalled.

3. The refusal from the inheritance shall be effectuated by submission of the heir's application to the notary at the place of opening the inheritance.

If the application is submitted to the notary not by the heir himself, the heir's signature on such application shall be certified by the notary or by the official authorized to execute notarial actions (Article 1045 (6)).

The refusal from the inheritance through a representative is possible, if the authorization for such refusal is specifically provided for in the power of attorney.

4. The refusal from the inheritance in the instances when the heir is the minor or the citizen, deemed to lack active legal capacity or deemed to have limited active legal capacity, is permitted subject to preliminary permission of the bodies of trusteeship and guardianship.

#### **Article 1075. Refusal from Inheritance for Benefit of Another Person, Refusal from Part of Inheritance or Refusal under Condition**

1. At refusal from the inheritance, the heir has the right to specify that he has refused from it for benefit of other persons from those who are the heirs by will or by operation of law of any priority, including those who inherit by the right of presentation.

A refusal for benefit of another person shall not be permitted:

1) from the property, inherited by will, if all the property of the testator is bequeathed to the heirs appointed by him;

2) from the mandatory share in the inheritance (Article 1064);

3) if the heir is sub-appointed for the heir (Article 1042).

2. The refusal from the inheritance with a proviso or under the condition shall not be permitted.

3. The refusal from part of the inheritance due to the heir is not permitted. However, if the heir is called to the inheritance both by will and by operation of law, he shall have the right to refuse from the inheritance due to him on one of these grounds or on both grounds.

#### **Article 1076. Right to Refuse from Gift by Will**

1. The recipient of gift by will shall have the right to refuse from reception of the gift by will.

The refusal from the part of property due to the recipient of gift by will, refusal for benefit

of another person, with proviso or under the condition shall not be permitted.

2. If the recipient of gift by will is simultaneously the heir, his right, provided for by this Article, shall not depend on his right to accept the inheritance or to refuse from it.

3. If the recipient of gift by will has refused from the gift by will, the heir, who is obliged to execute the gift by will, shall be relieved from the duty of its execution.

#### **Article 1077. Increase of Inheritance Shares**

1. If the heir would not accept the inheritance, refuse the inheritance without specifying another heir, for whose benefit he refuses from the inheritance, would be debarred from the inheritance on the grounds specified in Article 1038 of this Code or in the consequence of deeming the will to be invalid, that part of the inheritance, which should be due to such heir eliminated, shall be transferred to the heirs by operation of law, called to the inheritance, and is distributed between them in proportion to their inheritance shares.

If the testator bequeathed all the property to the heirs appointed by him, the part of inheritance, which was due to the heir refused from the inheritance or eliminated on other reasons specified above, shall be transferred to the rest of the heirs by will and shall be distributed between them in proportion to their inheritance shares, insofar otherwise not provided for by the will.

2. The rules provided in Clause 1 of this Article shall not apply if the heir is sub-appointed for the heir who has refused or eliminated on other grounds (Article 1042(2)).

#### **Article 1078. Common Property of Heirs in Inheritance**

In event of inheriting by operation of law, if the inherited property shall be transferred to two or several heirs, and in event of inheriting by will, if it is bequeathed to two or several heirs without specifying the things and rights, inherited by each of them, the property shall be transferred, since the day of opening the inheritance, to the common share ownership of the heirs. The rules of Chapter 16 of this Code concerning the common share ownership shall apply to the common ownership of the heirs in inherited property, unless otherwise established by the rules of this Code concerning the inheritance.

#### **Article 1079. Dividing of Inheritance Upon Agreement Between Heirs**

1. The property, which is included into the inheritance and is being in the common share ownership of two or several heirs, may be divided upon agreement between them.

2. The agreement concerning dividing of the inheritance, including the agreement concerning apportioning of share of one of the heirs, if it is concluded before issuing the certificate of the right to inheritance and is certified notarially, shall be the ground for issuing the certificate of the right to inheritance (Article 1083) to the heirs, with indication of the specific things in the certificate.

3. The agreement of the heirs concerning dividing the inheritance, if it is concluded within

six months after issuing the certificate of right to the inheritance and certified notarially, shall be the ground for the state registration, by the heirs, of their right to immovable property in accordance with this agreement.

4. [Excluded]

#### **Article 1080. Dividing of Inheritance by Court**

In event of failure to achieve the agreement by the heirs concerning dividing the inheritance, including that concerning apportioning the share of one of the heirs from the inheritance, the dividing shall be effectuated in the judicial procedure in accordance with Article 255 of this Code.

#### **Article 1081. Protection of Interests of Child at Dividing Inheritance**

1. If the heir's heir is conceived, but not yet born.

2. For protection of the interests of minors, the representative of the body of trusteeship and guardianship shall be invited for participation in drawing up the agreement concerning dividing the inheritance (Article 1079) and for consideration of the case concerning dividing the inheritance in the court (Article 1080).

#### **Article 1082. Priority Right to Specific Objects from Inheritance upon Its Dividing**

1. The heir possessing, together with the testator, the right of common ownership in the indivisible thing (Article 133), the share in ownership in which is included in the inheritance, shall have, upon dividing the inheritance, the priority right to reception of the thing, being in the common ownership, on the account of this heir's inheritance share.

2. The heir who constantly used an indivisible thing (Article 133), included in the inheritance, together with the testator or autonomously, shall have, upon dividing the inheritance, the priority right to reception of this thing on the account of this heir's inheritance share. The heirs, for whom the dwelling house, apartment or other dwelling premises, belonged to the testator, was the single place of the permanent residence during a year before opening the inheritance, shall have, upon dividing the inheritance, the priority right to reception of this dwelling premises, as well as home utensils and household goods, on the account of inheritance shares of these heirs.

3. Disproportion of the property, the priority right to reception of which is declared by the heir on the grounds of this Article, to the inheritance share of this heir, shall be eliminated by transfer, to the rest of the heirs, of other property from the inheritance or by other compensation, including payment of the corresponding monetary amounts. Unless otherwise established by the agreement between all the heirs, the effectuation of the priority right by any of them shall be possible after providing the respective compensation to other heirs.

### **Article 1083. Certificate of Right to Inheritance**

1. The certificate of the right to inheritance shall be issued at the place of opening the inheritance by the notary or the official, authorized to effectuate such notarial actions.

2. The certificate of the right to inheritance shall be issued upon the application of the heir, who has already accepted the inheritance or accepting it by submitting this application (Article 1070). If the application for the issuance of the certificate of the right to inheritance is not submit by the heir the signature of the heir is to be certified by the notary or by the official authorized to execute notarial actions (Article 1045 (6)). Upon the desire of heirs, the certificate may be issued to all heirs together, or to each heir individually.

3. If, after issuing the certificate of the right to inheritance, the inheritance property would be revealed, for which the certificate was not issued, an additional certificate of the right to inheritance shall be issued.

### **Article 1084. Periods of Issuing Certificate of Right to Inheritance**

1. The certificate of the right to inheritance shall be issued to the heirs after expiry of six months since the day of opening the inheritance, except for the cases, provided for by this Code.

2. At inheritance, both by operation of law or by will, the certificate of the right to inheritance may be issued before expiration of six months since the day of opening the inheritance, if the reliable data are available confirming that, except for the persons who applied for issuing the certificate, there are no other heirs concerning the inheritance or its respective part.

3. Issuing the certificate of the right to inheritance may be suspended upon the court decision in case of dispute concerning the right of ownership to the inheritance property.

### **Article 1085. Compensation of Expenses Caused by Death of Testator, Inheritance Protection and Administration**

1. The necessary expenses caused by the premortal disease of the testator , the expenses on burial of the testator, as well as expenses, connected with the inheritance property protection and administration, shall be compensated at the account of the inheritance within its value.

2. Before receiving the certificate of the right to inheritance by the heirs, the demand for compensation of the expenses, specified in Clause 1 of this Article, may be submitted to the heir, who accepted the inheritance, or to the executor. In case of absence of these persons, the payment of the necessary amounts, including the payment from the deposit or from the account of the testator, may be made upon the decision of the notary. In case of refusal to satisfy the demands, the dispute shall be settled by the court.

3. After receiving the certificate of the right to inheritance by the heirs, the expenses, specified in Clause 1 of this Article, shall be compensated by the heirs within the cost of the inheritance property, transferred to each of them before repayment of the demands concerning the debts of the testator.

### **Article 1086. Liability of Heir for Debts of Testator**

1. Each of the heirs who accepted the inheritance, shall be liable for the debts of testator within the cost of the inheritance property, which has been transferred to this heir.

2. The heir who has obtained the inheritance property both directly, as the result of opening the inheritance, and as the result of inheritance transmission (Article 1073), shall not be liable for the debts of the heir, from whom the right to accept the inheritance was transferred to him; however, the heir shall be liable for the debts of the testator within the value of the inheritance property obtained on both grounds.

3. The heirs shall be liable for the debts of the testator jointly and severally (Article 304), but each of them shall be liable within the limits, specified in Clause 1 of this Article.

4. The creditors of the testator shall have the right, within the limitation period, to submit their demands against the heirs who accepted the inheritance. Before acceptance of the inheritance, the demands of creditors may be submitted against the executor or declared to the inheritance property. In the latter event, consideration of the suit shall be suspended until acceptance of the inheritance by the heirs or its transfer, as the escheated inheritance, to the administrative territorial unit.

## **CHAPTER 73**

### **Peculiarities of Inheriting of Individual Types of Property**

#### **Article 1087. Inheriting of Right to Value of Share in Economic Partnership and to Share in Production Cooperative**

1. The inheritance of the participant of the general partnership or a general partner of the special partnership shall include the right to the value of share of this participant in the charter capital of partnership, unless otherwise provided for by the Articles of Incorporation. In case of acceptance of the heir as the participant of the general partnership (Article 78(1)) or as a general partner into the special partnership, the cost of his share shall not be paid to him. The heirs of a participant of general partnership or of a general partner in the special partnership shall bear liability for the obligations of the partnership to the third parties in accordance with the procedure provided by Article 72 of this Code.

2. The inheritance of member of the production cooperative shall include the right to the value of participatory share of the deceased member of the cooperative. If the heir is admitted as the member of the cooperative (Clause 4 of Article 111), the value of participatory share shall not be paid to him.

#### **Article 1088. Inheriting of Share of Contributors in Special Partnership, of Participant (Shareholder) in Economic Company, and of Member of Consumer Cooperative**

1. The inheritance of participant of the special partnership, being the contributor, shall include the share of this contributor in the charter capital of the partnership.



2. The inheritance of participant of the limited liability company or the additional liability company shall include the share of this participant in the charter capital of this company, unless it is provided for by the constituent documents of the company that such transfer of share to the heirs is permitted only with the consent of the rest participants of the company. The refusal of consent on transferring the share shall entail the duty of the company to pay the value of share to the heirs in accordance with the procedure provided by Article 92(6) of this Code and by the constituent documents of the company.

3. The inheritance of participant of the joint-stock company (the shareholder) shall include the shares which belonged to him.

4. The inheritance of member of the consumer cooperative shall include the share of the deceased member of the cooperative.

5. The heir of the participant of the special partnership, being the contributor, of the participant of the limited liability company or the additional liability company or of the shareholder of joint-stock company shall become the participant (the shareholder) of the corresponding company or partnership, except for the event when, in accordance with the Charter of the limited liability company or the additional liability company, consent of participants of the company is necessary therefor, but there is a refusal to give such consent.

6. The heir of the member of a housing cooperative, housing construction cooperative, country cottage (dacha) cooperative, garage cooperative or other consumer cooperative shall possess the right to be admitted as the member of the corresponding cooperative.

7. Such matters as what heirs may be accepted into the economic partnership, into the company or into the consumer cooperative in the event when the rights of testator concerning the corresponding legal person has been transferred to several heirs, as well as the procedure, ways and periods of payments to the heirs, who did not become the participants of the partnership, the company or cooperative, of the amounts due to them or, instead, issuing the property in kind, shall be defined by the legislation on economic partnerships and companies and on consumer cooperatives, and by the constituent documents of the corresponding legal person.

### **Article 1089. Inheriting of Things Limited in Turnability**

The things, which belonged to the deceased person by right of ownership, the turnover of which is permitted only upon the special permit (the civil weapon etc.), shall be included in the inheritance and shall be inherited in accordance with this Code, subject to observance of the procedure turnover of the corresponding property, established by the legislation.

These things, being included in the inheritance, shall be withdrawn and taken for safe storage by the authorized bodies of the state administration (by the officials) in accordance with the procedure established by the legislation.

No special permission is necessary for acceptance of the inheritance, including the specified things. Herewith, acceptance of the inheritance by the ways, violating the procedure of turnover of the corresponding property, established by the legislation, shall not be permitted.

The heir, not having a special permit, may not possess and use things, limited in turnability, and to dispose of these things otherwise than it is provided by Article 239 of this Code.

If the heir did not apply for reception of the special permission within the period, provided for by the legislation, or the issuance of such permission has been refused for the heir, his ownership right in the specified things is subject to termination in accordance with Article 239 of this Code.

#### **Article 1090. Inheritance of Non-paid Amounts of Salary, Pension, Allowances and Payments for Compensation of Harm**

1. The right on reception of the amounts of salary and payments equated to it, pensions, allowances on social insurance, other allowances and payments for compensation of harm to life or health, which were subject to payment to the person, but were not received obtained by him for some reason while alive, shall belong to the members of family, who lived with the deceased, as well as to his dependent persons, not capable for labor, irrespective of whether they lived with deceased person or not.

2. The demands for the payment of amounts on the grounds specified in Clause 1 of this Article may be submitted to the obliged persons within six months since the day of opening the inheritance.

3. If there are no persons, having the right to reception of the amounts, not paid to the deceased, on the grounds specified in Clause 1 of this Article, or such persons have not submitted the demands for payment of these amounts within the specified period, the corresponding amounts shall be included into the inheritance and shall be inherited on the common grounds established by this Code.

#### **Article 1091. Inheritance of Property Granted by Republic of Belarus or its Administrative Territorial Unit Without Compensation or on Preferential Conditions**

The means of transport and other property, granted to the person by the Republic of Belarus or its administrative territorial unit without compensation or on preferential conditions in connection with the disability or other similar circumstances, shall be included into the inheritance and inherited on the common grounds established by this Code, except for instances when it follows from the conditions of granting this property, established by the legislation, that it is transferred only for using.

#### **Article 1092. Inheritance of State Awards and Plaques of Honor**

1. The state awards, which were granted to the citizen and on which the legislation of the Republic of Belarus on the state awards shall extend, shall not be included into the inheritance. Transfer of these awards after the death of the awarded person to other persons shall be effectuated in accordance with the procedure, established by the legislation of the Republic of Belarus on the state awards.

2. The state awards, belonged to the testator, on which the legislation of the Republic of Belarus on the state awards shall not extend, plaques of honor, commemorative and other plaques, including awards and plaques in the collections, shall be included into the inheritance

and inherited on the common grounds, established by this Code.

**SECTION VII**  
**INTERNATIONAL PRIVATE LAW**

**CHAPTER 74**

**General provisions**

**Article 1093. Determination of Law, Subject to Application in Civil Legal Relations Complicated by Foreign Element**

1. The law, being subject to application in civil-legal relations with participation of the foreign citizens or foreign legal persons or complicated by other foreign element, shall be determined on the grounds of the Constitution of the Republic of Belarus, this Code, other legislative acts, treaties of the Republic of Belarus and the international customs, not contrary to the legislation of the Republic of Belarus.

2. The agreement of the parties concerning selection of the law shall be clearly expressed or shall directly follow from the terms and conditions of the contract and the circumstances of the case, considered in aggregate.

3. If it is impossible to determine the law, which is subject to application, in accordance with Clause 1 of this Article, the law shall be applied, most closely connected with the civil legal relations, complicated by foreign element.

4. The rules of this Section on determination of the law for application by the court shall be accordingly applied by other bodies, authorized to make the decisions concerning the law which is subject to application.

**Article 1094. Qualification of Legal Concepts**

1. At determination of the law subject to application, the court shall be based on interpretation of the legal concept in accordance with the law of the country of the court, unless otherwise provided for by the legislative acts.

2. If the legal concepts, requiring the legal qualification, are not known in the law of the country of the court or are known under another name or with another contents and may not be determined by interpretation by the law of the country of the court, then, for qualification thereof, the law of the foreign state may be applied.

**Article 1095. Determination of Content of Norms of Foreign Law**

1. At application of the foreign law, the court or another state body shall determine the content of its norms in accordance with official interpretation and practice of application thereof and with the doctrine in the respective foreign state.

2. For the purpose of determination of the content of rates of the foreign law, the court may

apply, in accordance with established procedure, for assistance and explanation to the Ministry of Justice, other competent state bodies of the Republic of Belarus, including those located abroad, or to involve experts.

3. The persons, participating in the case, shall have a right to submit the documents, confirming content of norms of the foreign law, to which they refer for grounding their demands or objections, and in any other way to assist the court in determination of content of these norms.

4. If the content of the norms of foreign law, in spite of the measures, undertaken in accordance with this Article, is not established within a reasonable time, the law of the Republic of Belarus shall be applied.

#### **Article 1096. Remission and Reference to Law of Third Country**

1. Any reference to foreign law in accordance with the rules of this Section, except for the instances provided by this Article, shall be considered as the reference to the substantive law, not to the collision law, of the corresponding country.

2. The remission to law of the Republics of Belarus and the reference to the law of the third country shall be applied in the events of application of the foreign law in accordance with Article 1103, Article 1104(1),(3),(5), Articles 1106 and 1109 of this Code.

#### **Article 1097. Consequences of Evasion of Act of Legislation**

Agreements and other actions of participants of the relations, regulated by the civil legislation, aimed, in evasion of the rules of this Section concerning the law subject to application, at subordinating the corresponding relations to another. In this event, the law of the corresponding state, subject to application in accordance with this section, shall be applied.

#### **Article 1098. Reciprocity**

1. The court shall apply the foreign law regardless of application of the law of the Republics of Belarus in the corresponding foreign state to similar relations, except for the instances when the application of the foreign law on the grounds of reciprocity is provided for by the legislation of the Republic of Belarus.

2. If the application of the foreign law depends on the reciprocity, it shall be supposed that it exists, insofar as otherwise is not proven.

#### **Article 1099. Clause Concerning Public Procedure**

The foreign law shall not be applied in instances when its application is contrary to the fundamentals of the law and order (the public procedure) of the Republic of Belarus, as well as in other cases directly provided for by the legislative acts. In these instances, the law of the

Republic of Belarus shall be applied.

#### **Article 1100. Application of Imperative Norms**

1. The rules of this section shall not affect the action of the imperative norms of the law of the Republic of Belarus, regulating the corresponding relations regardless of the law subject to application.

2. At application of law of some country (except for the Republic of Belarus), according to the rules of this Section, the court may apply the imperative norms of the law of other country, having close connection with the relation considered, if, in accordance with the law of this country, such norms shall regulate the corresponding relations regardless of the law subject to application. Thereat the court shall take into consideration the purpose and the nature of such norms, as well as the consequences of application thereof.

#### **Article 1101. Application of Law of Country with Plurality of Legal Systems**

In instances when a law of the country is subject to application, in which several territorial or other legal systems exist, the legal system in accordance with the law of this country shall be applied.

#### **Article 1102. Retorsions**

The reciprocal restrictions (retorsions) concerning the rights of the citizens and the organizations of the states, in which the special restrictions of the rights of the citizens and the legal persons of the Republic of Belarus exist, may be established by the Government of the Republic of Belarus.

### **CHAPTER 75**

#### **Collision Norms**

##### **§ 1. Persons**

#### **Article 1103. Personal Law of Natural Person**

1. The law of the country, the citizenship of which this person has, shall be considered to be the personal law of the natural person. If the person has two or more citizenships, the law of the country, with which this person is most closely bound, shall be considered to be the personal law of this natural person.

2. For the person without citizenship, the law of the country, in which this person permanently reside, shall be considered to be the personal law of this person.

3. For the refugee, the law of the country which has granted asylum shall be considered to be the personal law of this person.

#### **Article 1104. Legal Capacity and Active Legal Capacity of Person**

1. Legal capacity and active legal capacity of person shall be determined by the personal law of the person.

2. The foreign citizens and person without citizenship shall take advantage of the civil legal capacity in the Republic of Belarus equally with the citizens of the Republic of Belarus, unless determined otherwise by the Constitution, laws and treaties of the Republic of Belarus.

3. The active civil legal capacity of the natural person concerning the transactions, effectuated in the Republic of Belarus, and the obligations, arising as a consequence of causing harm in the Republic of Belarus, shall be determined by the legislation of the Republic of Belarus.

4. The capacity of a natural person, carrying out entrepreneurial activity, to be an individual entrepreneur and to have the rights and duties, connected with this, shall be determined by the law of the country, where the natural person is registered as an individual entrepreneur. If there is no country of registration, the law of the country of the main place of effectuation of the individual entrepreneurial activity shall be applied.

5. Deeming of natural person to lack active legal capacity or limitation of active legal capacity of natural person shall comply with the law of the country of the court.

#### **Article 1105. Deeming of Natural Person to be Missed and Declaration of Natural Person to be Deceased**

Deeming of natural person to be missed and declaration of natural person to be deceased shall comply with the law of the country of the court.

#### **Article 1106. Name of Natural Person**

The rights of the natural person to name, its application and protection shall be determined by the personal law of natural person, insofar as otherwise does not follow from the rules, provided for by the second part of Article 18(2), Article 18(4), Articles 1115 and 1132 of this Code.

#### **Article 1107. Registration of Acts of Civil Status of Citizens of the Republic of Belarus Outside the Republic of Belarus**

Registration of the acts of civil status of the citizens of the Republic of Belarus, living outside the territory of the Republic of Belarus, shall be effectuated in consular offices and in the diplomatic representations of the Republic of Belarus in the case of effectuating of consular functions by the latters. Herewith the laws and other acts of legislation of the Republics of Belarus shall be applied.

### **Article 1108. Recognizing of Documents, Issued by Bodies of Foreign State for Certification of Acts of Civil Status**

The documents, issued by the competent bodies of the foreign state for certification of the acts of civil status, executed outside the territory of the Republic of Belarus in accordance with the acts of legislation of the corresponding states concerning the citizens of the Republic of Belarus, foreign citizens and stateless persons, shall be recognized to be valid in the Republic of Belarus under condition of legalization in accordance with the legislation, unless otherwise established by the treaties of the Republic of Belarus.

### **Article 1109. Trusteeship and Guardianship**

1. The trusteeship or guardianship over the minors and over the persons who has reached majority but deemed to lack active legal capacity or limited in active legal capacity shall be established and cancelled in accordance with the personal law of the person, concerning which the trusteeship or guardianship shall be established or cancelled.

2. The duty of the trustee (guardian) to undertake the trusteeship (guardianship) determined in accordance with the personal law of the person appointed as the trustee (guardian).

3. The legal relations between the trustee (guardian) and the person, being under the trusteeship (guardianship), shall be determined in accordance with the law of the country, the institution of which has appointed the trustee (the guardian). However, if the person, being under the trusteeship (guardianship), lives in the Republic of Belarus, the law of the Republic of Belarus shall be applied, if it is more favorable for this person.

4. The trusteeship (guardianship), established over the citizens of the Republic of Belarus, living outside the territory of the Republic of Belarus, shall be recognized to be valid in the Republic of Belarus, if there are no objections of the corresponding consular institution of the Republic of Belarus, grounded on the legislation, against establishing or recognition of the trusteeship (guardianship).

### **Article 1110. Legal Capacity of Foreign Organizations, Not Being Legal Entities In Accordance With Foreign Law**

The civil legal capacity of the foreign organizations, not being legal persons in accordance with the foreign law, shall be determined in accordance with the law of the country, where the organization is established.

### **Article 1111. Law of Legal Person**

The law of the country, where the legal person is established, shall be considered to be the law of this legal person.

### **Article 1112. Legal Capacity of Foreign Legal Person**

1. The civil legal capacity of the foreign legal person shall be determined in accordance with the law of the country, where this legal person is established.

2. The foreign legal person may not refer to restriction of powers of its body or representative concerning effectuation of transaction, if this restriction is not known for the law of the country, in which the body or the representative of the foreign legal person has effectuated the transaction.

### **Article 1113. National Regime of Activity of Foreign Legal Entities in the Republic of Belarus**

The foreign legal persons shall effectuate their entrepreneurial and other activity in the Republic of Belarus, regulated by the civil legislation, in accordance with the rules, established by this legislation for such activity of the legal persons of the Republic of Belarus, unless otherwise provided for by the legislation of the Republic of Belarus for the foreign legal persons.

### **Article 1114. Participation of State in Civil Legal Relations with Foreign Element**

The rules of this section shall be applied on the common grounds to civil legal relations with a foreign element with the state participation, unless otherwise provided for by the legislative acts of the Republic of Belarus.

## **§ 2. Law Subject to Application to Personal Non-property Rights**

### **Article 1115. Protection of Personal Non-property Rights**

The law of the country, where the action or other circumstance has taken place, which served as the ground for demand concerning protection of personal non-property rights, shall be applied to the personal non-property rights.

## **§ 3. Transactions, Representation, Limitation period**

### **Article 1116. Form of Transaction**

1. The form of the transaction shall comply with the law of the place of its conclusion. However, the transaction, concluded abroad, may not be deemed to be invalid as the consequence of non-observance of the form, if the requirements of the law of the Republic of Belarus are observed.

2. The foreign economic transaction, in which at least one participant is the legal person of the Republic of Belarus or the citizen of the Republic of Belarus, shall be concluded in written form, regardless of the place of conclusion.

3. The form of transaction concerning the immovable property shall comply with the law of



the country where this property is located. The form of transaction concerning the immovable property, which is registered in the Republic of Belarus, shall comply with the law of the Republics of Belarus.

#### **Article 1117. Power of Attorney**

The form and period of validity of power of attorney shall be determined in accordance with the law of the country, where the power of attorney is issued. However, the power of attorney may not be deemed to be invalid as the consequence of non-observance of the form, if the form of power of attorney is in conformity with the requirements of the law of the Republic of Belarus.

#### **Article 1118. Limitation period**

1. The limitation period shall be determined in accordance with the law of the country, applicable for regulation of the corresponding relation.

2. The requirements, to which the limitation period shall not extend, shall be determined in accordance with the law of the Republics of Belarus, if at least one of the participants of the corresponding relation is the citizen of the Republic of Belarus or the legal person of the Republic of Belarus.

### **§ 4. Right of Ownership and Other Real Rights**

#### **Article 1119. General Provisions on Law Applicable to Right of Ownership and Other Real Rights**

1. The right of ownership and other real rights in the immovable and the movable property shall be determined in accordance with the law of the country, where this property is located, unless otherwise provided for by the legislative acts.

2. The relegation of property to immovable or movable things, as well as another legal qualification of the property shall be determined in accordance with the law of the country, where this property is located.

#### **Article 1120. Arising and Termination of Right of Ownership and Other Real Rights**

1. Arising and termination of right of ownership and other real rights in the property which is the subject of the transaction shall be determined in accordance with the law of the place of conclusion of transaction, unless otherwise established by the agreement of the parties.

2. Arising and termination of right of ownership and other real rights in the property, not concerning the transaction, shall be determined in accordance with the law of the country, where this property was located at the time, when the action or any other circumstance, served as the reason for arising or termination of right of ownership and other real rights, have taken place, unless otherwise provided for by the legislation of the Republic of Belarus.

Arising of right of ownership and other real rights in the property as the consequence of the limitation period is determined by the law of the country, where the property was located at the time of expiry of the limitation period.

#### **Article 1121. Right of Ownership and Other Real Rights in Means of Transport and Other Property Subject to State Registration**

The right of ownership and other real rights in the means of transport and other property, which is subject to entering into the state registers, shall be determined in accordance with the law of the country, where these means of transport or the property are registered.

#### **Article 1122. Right of Ownership and Other Real Rights in Movable Property in Transit**

The right of ownership and other real rights to movable property, being in transit in connection with the transaction, shall be determined in accordance with the law of the country, from which this property has been dispatched, unless otherwise established by the agreement of the parties.

#### **Article 1123. Protection of Right of Ownership and Other Real Rights**

1. The law of the country, where the property is located, or the law of the country of the court shall be applied to protection of right of ownership and other real rights, at the discretion of the applicant.

2. The law of the country, where the property is located, shall be applied to protection of right of ownership and other real rights in the immovable property. Concerning the property, which is registered in the Republic of Belarus, the law of the Republic of Belarus shall be applied.

### **§ 5. Contractual Obligations**

#### **Article 1124. Choice of Law by Parties Under Contract**

1. The parties under the contract, at conclusion of the contract or later, may choose, upon the agreement between them, the law which is subject to application to their rights and duties under this contract, if this is not contrary to the legislation.

2. The agreement between the parties concerning choice of the law which is subject to application shall be clearly expressed or shall directly follow from the conditions of the contract and circumstances of the case, being considered as a whole.

3. The choice, by the parties under the contract, of the law subject to application, made after conclusion of the contract, shall have the retroactive force and shall be considered to be valid from the time of its conclusion without prejudice to the rights of the third parties.

4. The parties under the contract may choose the law subject to application both for contract as a whole and for its individual parts.

#### **Article 1125. Law Applicable to Contract in Event of Absence of Agreement of Parties**

1. When there is no agreement of the parties under contract concerning the law subject to application, the law of the country shall be applied to this contract, where the following party has main place of its activity:

- 1) the seller, for the contract of purchase-sale;
- 2) the donor, for the contract of gift;
- 3) the lessor (renter), for the contract of lease (property rental);
- 4) the lender, for the contract of use of property without compensation (loan);
- 5) the independent work contractor, for the contract of independent work;
- 6) the carrier, for the contract of carriage;
- 7) the forwarder, for the contract of forwarding;
- 8) lender (creditor) - in the contract of loan (credit contract);
- 9) the attorney, for the contract of commission;
- 10) the commission agent, for the contract of commission body;
- 11) the depository, for the contract of storage;
- 12) the insurer, for the contract of insurance;
- 13) the surety, for the contract of suretyship;
- 14) the pledgor, for the contract of pledge;
- 15) the licensor, for the license contract of using exclusive rights.

If it is impossible to determine the main place of activity of the party, specified in Subclauses 1-15 of this Clause, the law of the country, where this party is registered or has a place of residence, shall be applied.

2. To the rights and duties under the contract, the subject of which is the immovable property, and also under the contract of trust management of the property, the law of the country, where this property is located, shall be applied. Concerning the property registered in the Republic of Belarus, the legislation of the Republic of Belarus shall be applied.

3. If there is no agreement of the contractual parties concerning the law subject to application, then, regardless of provisions of Clause 1 of this Article, the law specified below shall be applied:

1) to the contract on joint activity and to the contracts on fulfillment of construction, mounting and other works for capital construction, the law of the country, where such activity

shall be effectuated or the results provided for by the contract shall be created;

2) to the contract, concluded at the auction, the competition or at the exchange, the law of the country, where the auction or the competition is held or the exchange is located.

4. The law of the country, where the party under contract, carrying out the performance having the critical significance for the content of the contract, has its main place of activity, shall be applied to the contracts, not specified in Clauses 1-3 of this Article, when there is no agreement of the contractual parties concerning the law subject to application. If it is impossible to determine the main place of activity of the party, carrying out the performance having the critical significance for the content of the contract, then the law of the country shall be applied, where this party is established or has a permanent residence. If it is impossible to determine the performance having the critical significance for the content of the contract, then the law of the country shall be applied, with which the contract is most closely bound.

5. Concerning acceptance of performance under the contract, the law of the place of such acceptance shall be taken into consideration, insofar as otherwise not agreed between the parties.

6. If the trade terms, commonly used in the international turnover, are used in the contract, then, subject to the absence of any other indications in the contract, it shall be considered that the parties have agreed application of common meanings of the corresponding terms to the relations thereof.

#### **Article 1126. Law Applicable to Contract on Creation of Legal Person With Foreign Participation**

To the contract on creation of the legal person with foreign participation the law of the country shall be applied, where this legal person is established.

#### **Article 1127. Domain of Applicable Law**

1. The law, applicable to the contract by virtue of provisions of this paragraph, shall cover, in particular:

- 1) interpretation of contract;
- 2) rights and duties of the parties;
- 3) performance of contract;
- 4) consequences of failure to perform or improper performance of the contract;
- 5) termination of contract;
- 6) consequences of nullity or invalidity of the contract;
- 7) cession of demand and transfer of debts in connection with the contract.

2. Concerning the ways and procedure of performance, and the measures which shall be

taken in the instance of improper performance, in addition to the applied law, the law of the country in which the performance takes place shall also be taken in consideration.

## **§ 6. Noncontractual Obligations**

### **Article 1128. Obligations From Unilateral Actions**

The law of the place of conclusion of the transaction shall be applied to the transactions from unilateral actions (public promise of reward, actions in another's interest without commission etc.). The place of conclusion of the transaction shall be determined in accordance with the law of the Republics of Belarus.

### **Article 1129. Obligations arising as a consequence of causing harm**

1. The rights and duties on the obligations, arising as a consequence of causing harm, shall be determined in accordance with the law of the country, where the actions or other circumstances, served as the reason for demand for compensation of harm, have taken place.

2. The rights and duties on the obligations, arising as a consequence of causing harm abroad, if the parties are the citizens or the legal persons of the same state, shall be determined in accordance with the law of this state.

3. The foreign law shall not be applied, if the action or another circumstance, serving the reason for demand to compensate harm, is not illegal, in accordance with the legislation of the Republic of Belarus.

### **Article 1130. Liability for Damage Caused to Consumer**

To the demand of compensation of damage, which arose for the consumer in connection with the purchase of the goods or rendering of services, at the discretion of the consumer, the law of the country shall be applied, where:

- 1) the consumer's place of residence is located;
- 2) the place of residence or place of location of the manufacturer or of the person which have rendered a service is located ;
- 3) the consumer has purchased the goods, or the service was rendered to the consumer.

### **Article 1131. Unfounded Enrichment**

1. To the obligations, appearing as the consequence of unfounded enrichment, the law of the country, where the enrichment has taken place, shall be applied.

2. If the unfounded enrichment appears as the consequence of disappearing of the ground, on which the property was purchased or saved, the applying law shall be determined in accordance with the law of the country, to which this ground was subordinated.

3. The concept of the unfounded enrichment shall be defined in accordance with the law of the Republics of Belarus.

## **§ 7. Intellectual Property**

### **Article 1132. Rights to Intellectual Property**

1. The law of the country, where protection of these rights is demanded, shall be applied to the rights to intellectual property.

2. The contracts, the subject of which are the rights to the intellectual property, shall be regulated by the law, determined by the provisions of this Section concerning contractual obligations.

## **§ 8. Inheritance Law**

### **Article 1133. Relations of Inheriting**

The relations of inheriting shall be determined in accordance with the law of the country, where the testator had the last place of residence, insofar as otherwise is not provided for by Articles 1132 and 1135, unless the law of the country, the citizen of which was the testator, was chosen by the testator in the will.

### **Article 1134. Inheriting of Immovable Property and Property Subject to Registration**

The inheriting of the immovable property shall be determined in accordance with the law of the country, where this property is located. Concerning the immovable property, which is registered in the Republic of Belarus, the inheriting shall be determined in accordance with the law of the Republics of Belarus.

### **Article 1135. Capacity of Persons to Compile and Cancel Will, Form of Will and of Act of Its Canceling**

The capacity of person to compile and cancel the will, the form of will and the form of act of canceling the will shall be determined in accordance with the law of the country, where the testator had a place of residence at the time of drawing up the act, unless the law of the country, the citizen of which was the testator, was chosen by the testator in the will. However the will or its canceling may not be deemed to be invalid as the consequence of non-observance of the form, if the form meets the requirements of the law of the place of drawing up the act, or the requirements of the law of the Republic of Belarus.

## **SECTION VIII**

### **FINAL PROVISIONS**

**Article 1136.** This Code enters into force since July 1, 1999, except for provisions, for

which other terms of the entry into force are established in this Section of the Code. As the norms of this Code enter into force, the corresponding norms of the Civil Code of the Republic of Belarus, approved by the Law of the Republic of Belarus of June 11, 1964 (with corresponding changes and additions) shall be considered as becoming invalid.

This Section enters into force since the day of official publishing of this Code.

**Article 1137.** Until bringing the legislation of the Republic of Belarus in conformity with this Code, the laws and the decisions of the Government shall be applied in that part in which they do not contradict to the Code.

This rule is valid also concerning the acts of the Republic's bodies of the state administration, adopted before the entry into force of the Code, on the matters which, in accordance with the Code, may be regulated accordingly only by the laws of the Republic of Belarus or by the acts of the President of the Republic of Belarus or by the decisions of the Government of the Republic of Belarus.

**Article 1138.** This Code shall be applied to the relations, which arose after July 1, 1999.

Concerning civil legal relations, which arose before July 1, 1999, the Code shall be applied to those rights and duties, which would arise after coming the Code into force.

**Article 1139.** Concerning civil legal relations, which arose before July 1, 1999, but were not regulated by the legislation, which was in force at that time, the rules of this Code shall be applied.

**Article 1140.** The cases, relegated by this Code to the jurisdiction of the court (the economic court), processing for which were not finished in the administrative and other bodies up to July 1, 1999, are subject to consideration by the court (the economic court) in accordance with established jurisdiction.

**Article 1141.** Chapter 4 ("Legal persons") of this Code shall come into force since the day of official publishing of the Code. Since this day, the commercial organizations may be created exclusively in those forms which are provided by this Chapter.

The legal persons, created before the official publishing of this Code, if their types correspond to those provided by the Code, shall bring their constituent documents in conformity with the Code up to July 1, 1999.

The collective enterprises, as well as enterprises, the property of which is in the ownership of other legal persons and (or) natural persons, but belongs to these enterprises by right of full economic management, up to July 1, 2000, and the lease enterprises, not later than within a month after expiry of the contracts of leasing, concluded before the day of official publishing

of the Code, shall be transformed into other types of the legal persons, provided by the Code, or shall be liquidated. After expiry of the specified period, these legal persons are subject to liquidation in the judicial procedure upon the demand of the body, carrying out the state registration, or a public prosecutor.

The legal persons, specified in this Article, shall be relieved from payment of the registration fees at registration of change of their legal status or making changes in their constituent documents in connection with their bringing in conformity with the norms of the Code.

**Article 1142.** The norms of this Code on the grounds and the consequences of the invalidity of transactions (Articles 163, 166-181) shall be applied to the transactions, the demands for deeming those to be invalid and for the consequences of invalidity of which are considered by the court, by the economic court or the arbitration court after July 1, 1999, irrespective of the time of conclusion of the corresponding transactions.

**Article 1143.** The periods of limitation period, established by this Code, shall be applied to those suits, the periods of submission of which, provided by the legislation which was in force earlier, have not expired up to July 1, 1999.

To the suit, provided by Article 182(2) of the Code, concerning deeming of the contestable transaction to be invalid, and application of consequences of its invalidity, the right to submission of which arose before July 1, 1999, the limitation period shall be applied, established for the corresponding suits by the legislation which was in force earlier.

**Article 1144.** Application of Article 235 of this Code (acquisitive prescription) shall extend to the instances when the possession of property began before July 1, 1999 and continues at the time of coming this Code into force.

**Article 1145.** The procedure of conclusion of the contracts, established by Chapter 28 of this Code, shall be applied to contracts, the offers for conclusion of which have been sent after July 1, 1999.

**Article 1146.** To the contracts, the offers for conclusion of which have been sent before July 1, 1999, but which were concluded after July 1, 1999, the norms of this Code shall be applied, concerning the form of the contracts of individual types, and also the norms concerning state registration thereof.

The norms of the Code, determining the content of the contracts of individual types, shall be applied to contracts, concluded after coming this Code into force, and also to the contracts, concluded before coming this Code into force, in a part of the rights and duties, which arose after coming this Code into force.



The contracts of franchising, concluded before coming the Code into force, and other contracts, the grounds and the procedure of conclusion (dissolution) thereof, and content of these contracts, in accordance with this Code, shall be regulated by other acts of legislation, in the event of absence of such acts on July 1, 1999, shall remain valid up to issuing of such acts, but not longer then one year after coming the Code into force. In case of adoption of the corresponding acts of legislation, such contracts shall be brought in conformity with the norms of these acts in accordance with the procedure, established by these acts. If on expiration of the specified period, the corresponding acts would not be adopted, then the specified contracts shall terminate.

**Article 1147.** Until coming the act of legislation into force, concerning registration of the rights to immovable property and transactions with it for the contracts, provided for by Articles 522, 531, and Article 545(3) of this Code, the rules on mandatory notarial certification of such contracts, established by the legislation, which was valid before coming this Code into force, shall remain in force.

**Article 1148.** The provisions of this Code, mandatory for the parties under the contract, concerning the grounds, the procedure and the consequences of dissolution of the contracts of individual types, shall be applied also to the contracts, which continue to be in force after coming this Code into force, irrespective of date of their conclusion.

The provisions of this Code, mandatory for the parties under the contract, concerning liability for violation of contractual obligations, shall be applied, if the corresponding violations were committed after coming this Code into force, with the exception of the cases, when in the contracts, concluded before July 1, 1999, another liability for such violations was provided.

**Article 1149.** The application of Articles 938 and 939 of this Code shall extend also to the instances when causing damage to the victim has taken place before July 1, 1999, but not earlier than July 1, 1996, and the damage caused remained non-compensated.

The application of Articles 954-963 of this Code shall extend also to the instances when causing damage to life and health of the person has taken place before July 1, 1999, but not earlier July 1, 1996 and the damage caused remained non-compensated.

**Article 1150.** The provisions of this Code in a part, concerning the transactions with the land plots, shall be applied as far as turnover thereof is permitted by the legislation on protection and use of lands.

**Article 1151.** To establish that the application of Chapter 60 of this Code shall extend to the works, which have not been recognized to be the objects of the copyright in accordance with the legislation which was in force earlier, if these works were published or otherwise issued

after July 1, 1999.

**Article 1152.** The provisions of this Code shall be applied also to inheritances, opened before coming this Code into force, but not accepted by anybody of the heirs and not transferred by the right of inheritance into the ownership of the state up to July 1, 1999.

**Article 1153.** The Council of Ministers of the Republic of Belarus shall, within the period up to July 1, 1999, take measures for bringing the legislation in conformity with this Code.

President of the Republic of Belarus A. Lukashenko

\*unofficial translation\*

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