

# **THE CIVIL CODE OF THE RUSSIAN FEDERATION**

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## **Part One**

### **Section I. The General Provisions**

#### **Subsection 1. The Basic Provisions**

#### **Chapter 1. The Civil Legislation**

##### **Article 1. Chief Principles of the Civil Legislation**

1. The civil legislation shall be based on recognizing the equality of participants in the relationships regulated by it, the inviolability of property, the freedom of agreement, the inadmissibility of anybody's arbitrary interference into the private affairs, the necessity to freely exercise the civil rights, the guarantee of the reinstatement of the civil rights in case of their violation, and their protection in the court.

2. The citizens (natural persons) and the legal entities shall acquire and exercise their civil rights of their

own free will and in their own interest. They shall be free to establish their rights and duties on the basis of an agreement and to define any terms of the agreement, which are not in contradiction with legislation.

The civil rights may be restricted on the basis of the Federal Law and only to the extent, to which it shall be necessary for the purposes of protecting the foundations of the constitutional system, morality, the health, the rights and the lawful interests of other persons, of providing for the defence of the country and for the state security.

**3.** The commodities, services and financial means shall move unhindered throughout the entire territory of the Russian Federation. Restrictions on the movement of commodities and services shall be imposed in conformity with the Federal Law, if this is necessary to provide for security, and to protect the human life and health, the environment and the cultural benefits.

## **Article 2. Relations Regulated by the Civil Legislation**

**1.** The civil legislation determines the legal position of civilian participants, the grounds for the appearance and the procedure for exercising the right of ownership and the other real rights, the rights to the results of intellectual activity and to the equated to it means for the individualisation of intellectual rights), regulates the contractual and other liabilities, as well as the other property and personal non-property relations, based on the equality, the autonomy of the will and the property independence of the participants.

Both the citizens and the legal entities may be the participants of the relations, regulated by the civil legislation. The Russian Federation, the subjects of the Russian Federation and the municipal entities may also participate in the relations, regulated by the civil legislation (Article 124).

The civil legislation shall regulate relations between the persons, engaged in business activities or in those performed with their participation, proceeding from the fact that the business activity shall be an independent activity, performed at one's own risk, aimed at systematically deriving a profit from the use of the property, the sale of commodities, the performance of work or the rendering of services by the persons, registered in this capacity in conformity with the law-established procedure.

The rules, laid down by the civil legislation, shall be applied toward relations with the participation of foreign citizens, of persons without any citizenship, and also of foreign legal entities, unless otherwise stipulated by the Federal Law.

**2.** The inalienable human rights and freedoms, and the other non-material values shall be protected by the

civil legislation, unless otherwise following from the substance of these non-material values.

3. Unless otherwise stipulated by legislation, the civil legislation shall not be applied toward the property relations, based on the administrative or the other kind of authoritative subordination of one party to the other party, including toward the taxation and other financial or administrative relations.

### **Article 3.** The Civil Legislation and the Other Acts, Containing the Civil Legislation Norms

1. In conformity with the Constitution of the Russian Federation, the civil legislation shall be within the jurisdiction of the Russian Federation.

2. The civil legislation shall be comprised of the present Code and of the federal laws (hereinafter referred to as the laws), adopted in conformity with it, which regulate the relations, indicated in Items 1 and 2 of Article 2 of the present Code.

The norms of the civil legislation, contained in the other laws, shall correspond to the present Code.

3. The relations, indicated in Items 1 and 2 of Article 2 of the present Code, shall also be regulated by the Decrees of the President of the Russian Federation, which shall not be in contradiction with the present Code and with the other laws.

4. On the grounds and in execution of the present Code and of the other laws, and of the Decrees of the President of the Russian Federation, the Government of the Russian Federation shall have the right to adopt decisions, containing the norms of the civil law.

5. If the Decree of the President of the Russian Federation or the decision of the Government of the Russian Federation proves to be in contradiction with the present Code or with the other law, the present Code or the corresponding law shall be applied.

6. The operation and implementation of the norms of the civil law, contained in the Decrees of the President of the Russian Federation and in the decisions of the Government of the Russian Federation (hereinafter referred to as the other legal acts), shall be defined by the rules of the present chapter.

7. The ministries and the other federal executive power bodies may issue the acts, containing the norms of the civil law, in the cases and within the limits, stipulated by the present Code, by the other laws and by the other legal acts.

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

1. The acts of the civil legislation shall not be retroactive and shall be applied toward the relations, which

have arisen after they have been put in force.

The operation of the law shall be extended toward the relations, which have arisen before it has been put in force, only in the cases, directly stipulated by law.

2. Concerning the relations, which have arisen before the civil legislation act has been put in force, it shall be applied toward the rights and duties, which have arisen after its being put in force. The relations of the parties by the agreement, signed before the civil legislation act has been enforced, shall be regulated in conformity with Article 422 of the present Code.

#### **Article 5. The Customs of the Business Turnover**

1. The custom of the business turnover shall be recognized as the rule of behavior, which has taken shape and is widely applied in a certain sphere of business activities, and which has not been stipulated by legislation, regardless of whether it has or has not been fixed in any one document.

2. The customs of the business turnover, contradicting to the provisions of legislation or to the agreement, obligatory for the participant in the given relationship, shall not be applied.

#### **Article 6. Application of the Civil Legislation by Analogy**

1. In cases when the relations, stipulated in Items 1 and 2 of Article 2 of the present Code are not directly regulated by legislation or by an agreement between the parties, while the custom of the business turnover that would be applicable to them does not exist, and if this is not in contradiction with their substance, the civil legislation shall be applied, which regulates similar relations (the analogy of the law).

2. If it is impossible to apply the similar law, the rights and duties of the parties shall be defined, proceeding from the general principles and the meaning of the civil legislation (the analogy of the right), and also from the requirements of honesty, wisdom and justice.

#### **Article 7. The Civil Legislation and the Norms of International Law**

1. The generally recognized principles and norms of international law and the international treaties of the Russian Federation, shall be, in conformity with the Constitution of the Russian Federation, a component part of the legal system of the Russian Federation.

2. The international treaties of the Russian Federation shall be directly applied toward the relations, indicated in Items 1 and 2 of Article 2 of the present Code, with the exception of the cases, when it follows from the

international treaty that for it to be applied, a special intra-state act shall be issued.

If the rules, laid down in the international treaty of the Russian Federation, differ from those stipulated by the civil legislation, the rules of the international treaty shall be applied.

## **Chapter 2. Arising of the Civil Rights and Duties, the Exercising and Protection of the Civil Rights**

### **Article 8. The Grounds for the Arising of the Civil Rights and Duties**

1. The civil rights and duties shall arise from the grounds, stipulated by the law and by the other legal acts, as well as from the actions of the citizens and of the legal entities, which, though not stipulated by the law or by such acts, still generate, by force of the general principles and of the meaning of the civil legislation, the civil rights and duties. In conformity with this, the civil rights and duties shall arise:

1) from the law-stipulated contracts and other deals, and also from the contracts and other deals, which, though not stipulated by the law, are not in contradiction with it;

2) from the acts of the state bodies and of the local self-government bodies, which are stipulated by the law as the grounds for the arising of the civil rights and duties;

3) from the court ruling, which has established the civil rights and duties;

4) as a result of the acquisition of property on the grounds, admitted by the law;

5) as a result of creating the works of science, literature and art, of making inventions and producing other results of the intellectual activity;

6) as a result of inflicting damage to another person;

7) as a consequence of an unjust enrichment;

8) because of other actions performed by the citizens and the legal entities;

9) as a result of the events, with which the law or the other legal act connects the arising of the civil legislation consequences.

2. The rights to the property, liable to the state registration, shall arise from the moment of the registration of the corresponding rights to it, unless otherwise stipulated by the law.

### **Article 9. Exercising of the Civil Rights**

1. The citizens and the legal entities shall exercise the civil rights they possess at their own discretion.

2. The refusal of the citizens and of the legal entities to exercise the civil rights they possess shall not entail the termination of these rights, with the exception of the law-stipulated cases.

#### **Article 10.** The Limits of Exercising the Civil Rights

1. Not admissible shall be actions by the citizens and the legal entities, performed with the express purpose of inflicting damage to another person, as well as the abuse of the civil rights in other forms.

Not admissible shall also be the use of the civil rights for the purpose of restricting the competition, as well as the abuse of the dominating position on the market.

2. In case of the person not abiding by the requirements, stipulated in Item 1 of the present Article, the court of justice, the arbitration court or the arbitration tribunal shall have the right to reject this person's claim for the protection of the right he possesses.

3. In the cases when the law makes the protection of the civil rights dependent on whether these rights have been exercised in wisdom and honesty, the wisdom of actions and the honesty of the participants in the civil legal relations shall be presumed.

#### **Article 11.** Protection of the Civil Rights in the Court

1. The violated or disputed civil rights shall be protected by the court of justice, the arbitration court or the arbitration tribunal (hereinafter referred to as the court), in conformity with the liability of the cases to these bodies' jurisdiction, established by the procedural legislation.

2. Protection of the civil rights in the administrative order shall be effected only in the law-stipulated cases. The decision, adopted administratively, may be disputed in the court.

#### **Article 12.** The Ways of Protecting the Civil Rights

The civil rights shall be protected by way of:

- the recognition of the right;
- the restoration of the situation, which existed before the given right was violated, and the suppression of the actions that violate the right or create the threat of its violation;
- the recognition of the disputed deal as invalid and the implementation of the consequences of its

invalidity, and the implementation of the consequences of the invalidity of an insignificant deal;

- the recognition as invalid of an act of the state body or of the local self-government body;
- the self-defence of the right;
- the ruling on the execution of the duty in kind;
- the compensation of the losses;
- the exaction of the forfeit;
- the compensation of the moral damage;
- the termination or the amendment of the legal relationship;
- the non-application by the court of an act of the state body or of the local self-government body,

contradicting the law;

- using the other law-stipulated methods.

#### **Article 13. Recognition as Invalid of an Act of the State Body or of the Local Self-Government Body**

A non-normative act of the state body or of the local self-government body, and also, in the law-stipulated cases, a normative act, which does not correspond to the law or to the other legal acts and which violates the civil rights and the law-protected interests of the citizen or of the legal entity, may be recognized by the court as invalid.

In case the act has been recognized by the court as invalid, the violated right shall be liable to restoration or to protection by the other means, stipulated by Article 12 of the present Code.

#### **Article 14. The Self-Defence of the Civil Rights**

The self-defence of the civil rights shall be admissible.

The methods of the self-defence shall be proportionate to the violation and shall not go beyond the limits of actions that are necessary to suppress it.

#### **Article 15. Compensation of the Losses**

1. The person, whose right has been violated, shall be entitled to demand the full recovery of the losses inflicted upon him, unless the recovery of losses in a smaller amount has been stipulated by the law or by the agreement.

2. Under the losses shall be understood the expenses, which the person, whose right has been violated, made or will have to make to restore the violated right, the loss or the damage done to his property (the

compensatory damage), and also the undeceived profits, which this person would have derived under the ordinary conditions of the civil turnover, if his right were not violated (the missed profit).

If the person, who has violated the right of another person, has derived profits as a result of this, the person, whose right has been violated, shall have the right to claim, alongside with the compensation of his other losses, also the compensation of the missed profit in the amount not less than such profits.

#### **Article 16. Compensation of the Losses Caused by the State Bodies and by the Local Self-Government Bodies**

The losses, inflicted upon the citizen or upon the legal entity as a result of illegal actions (the inaction) on the part of the state bodies, of the local self-government bodies or of the officials thereof, including the issue by the state body or by the local self-government body of an act, which is not in correspondence with the law or with the other legal act, shall be liable to compensation by the Russian Federation, by the corresponding subject of the Russian Federation, or by the municipal entity.

### **Subsection 2. The Persons**

## **Chapter 3. The Citizens (Natural Persons)**

#### **Article 17. The Legal Capacity of the Citizen**

1. The capability to possess the civil rights and to perform duties (the civil legal capacity) shall be recognized as equally due to all the citizens.

2. The citizen's legal capacity shall arise at the moment of his birth and shall cease with his death.

#### **Article 18. The Content of the Citizens' Legal Capacity**

The citizens may possess the property by the right of ownership; may inherit and bequeath the property; may engage in business and in any other activities, not prohibited by the law; may set up legal entities - on their own or jointly with other citizens and legal entities; may effect any deals, which are not in contradiction with the law, and take part in obligations; may select the place of residence; may enjoy the rights of the authors of the works of

science, literature and art, of inventions and of other law-protected results of the intellectual activity; and may also enjoy other property and personal non-property rights.

#### **Article 19. The Name of the Citizen**

1. The citizen shall acquire and exercise the rights and duties under his own name, which includes the surname and the name proper, as well as the patronymic, unless otherwise following from the law or from the national custom.

In the cases and in the order, stipulated by the law, the citizen shall have the right to make use of a pseudonym (an assumed name).

2. The citizen shall have the right to change his name in conformity with the law-stipulated procedure. The citizen's change of the name shall not be the ground for the termination or the change of his rights and duties, which he has acquired under his former name.

The citizen shall be obliged to take the necessary measures to inform his debtors and creditors about the change of his name and shall take the risk of the consequences that may arise in case these persons have no information on the change of his name.

The citizen, who has changed his name, shall have the right to demand that the corresponding changes be introduced, at his own expense, into the documents, formalized in his former name.

3. The name, acquired by the citizen at his birth, as well as the change of his name, shall be liable to registration in conformity with the procedure, laid down for the registration of the acts of the civil state.

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

5. The damage caused to the citizen as a result of an illegal use of his name shall be liable to compensation in conformity with the present Code.

In case the citizen's name has been distorted or used in the ways or in the form, infringing upon his honor, dignity or business reputation, the rules shall be applied, stipulated by Article 152 of the present Code.

#### **Article 20. The Place of the Citizen's Residence**

1. The place, where the citizen resides permanently or most of the time, shall be recognized as the place of his residence.

2. The place of residence of the young minors, who have not reached 14 years of age, or of the citizens who have been put under the guardianship, shall be recognized as the place of residence of their legal

representatives - the parents, the adopters or the guardians.

#### **Article 21. The Active Capacity of the Citizen**

1. The capability of the citizen to acquire and exercise by his actions the civil rights, to create for himself the civil duties and to discharge them (the civil active capacity) shall arise in full volume with the citizen's coming of age, i.e., upon his reaching the age of 18 years.

2. In case the law admits the right to enter into a marriage before reaching the age of 18 years, the citizen, who has not reached the law-stipulated age of 18, shall acquire the active capacity in full volume from the moment of his entering into a marriage.

The active capacity, acquired as a result of entering into a marriage, shall be retained in full volume in case the marriage is dissolved before the citizen's reaching the age of 18 years.

In case the marriage is recognized as invalid, the court may pass a decision on the underaged spouse being deprived of the full active capacity as from the moment fixed by the court.

#### **Article 22. Inadmissibility of Depriving the Citizen of His Legal and Active Capacity and of the Restriction Thereof**

1. No one citizen shall be restricted in his legal and active capacity, with the exception of the cases and in conformity with the procedure, stipulated by the law.

2. The failure to observe the law-stipulated terms and procedure for the restriction of the citizens' active capacity or of their right to engage in business or in any other activity shall entail the invalidation of the act of the state or of another body, which has established the corresponding restriction.

3. The full or the partial renouncement by the citizen of his legal or active capacity, and the other deals, aimed at the restriction of his legal or active capacity, shall be insignificant, with the exception of the cases, when such deals are admitted by the law.

#### **Article 23. The Citizen's Business Activity**

1. The citizen shall have the right to engage in business activities without forming a legal entity from the moment of his state registration in the capacity of an individual businessman.

2. The head of the peasant (farmer's) economy, performing business activities without setting up a legal entity (Article 257), shall be recognized as a businessman from the moment of the state registration of the peasant

(farmer's) economy.

3. Toward the citizens' business activities, performed without forming a legal entity, shall be correspondingly applied the rules of the present Code, regulating the activity of the legal entities, which are commercial organizations, unless otherwise following from the law, from the other legal acts or from the substance of the legal relationship.

4. The citizen, engaged in business activities without forming a legal entity with the violation of the requirements of Item 1 of the present Article, shall have no right to refer, with respect to the deals he has thus effected, to the fact that he is not a businessman. The court may apply to such deals the rules of the present Code on the obligations, involved in the performance of business activities.

#### **Article 24. The Property Responsibility of the Citizen**

The citizen shall bear responsibility by his obligations with his entire property, with the exception of that property, upon which, in conformity with the law, no penalty may be inflicted.

The list of the citizens' property, onto which no penalty may be imposed, shall be compiled by the civil procedural legislation.

#### **Article 25. Insolvency (Bankruptcy) of the Individual Businessman**

1. The individual businessman, who is incapable of satisfying the claims of his creditors, related to his performance of business activities, may be recognized as insolvent (bankrupt) by the court decision. From the moment of such decision being passed, his registration in the capacity of an individual businessman shall be invalidated.

2. During the implementation of the procedure, involved in recognizing an individual businessman to be bankrupt, his creditors by the obligations, not related to his performance of business activities, shall also be entitled to the right to file their claims. The claims of the said creditors, filed by them in this order, shall stay in force after the completion of the procedure, involved in declaring the individual businessman to be bankrupt.

3. The claims of creditors of an individual entrepreneur, if he is deemed bankrupt, shall be met with the property he owns according to the priority ranking envisaged by a law on insolvency (bankruptcy).

4. After completing the settlements with the creditors, the individual businessman, recognized as bankrupt,

shall be relieved of discharging the other obligations, related to his business activities, as well as of satisfying the other claims, presented for execution and taken into account when recognizing him to be bankrupt.

The claims of the citizens, to whom the person, declared bankrupt, bears responsibility for inflicting injury to the life or the health, and the other claims of a personal nature shall stay in force.

5. The grounds and the procedure for the court's recognizing an individual businessman to be bankrupt, or for his declaring himself bankrupt shall be established by the Law on the Insolvency (Bankruptcy).

#### **Article 26.** The Active Capacity of the Minors of 14-18 Years of Age

1. The minors of from 14 to 18 years of age shall have the right to effect deals, with the exception of those listed in Item 2 of the present Article, upon the written consent of their legal representatives - the parents, the adopters or the trustee.

The deal, effected by such a minor, shall be also valid, if it is subsequently approved in written form by his parents, adopters or trustee.

2. The minors of from 14 to 18 years of age shall have the right independently, without the consent of the parents, the adopters or the trustee:

- 1) to dispose of their earnings, student's grant or other incomes;
- 2) to exercise the author's rights to a work of science, literature or art, to an invention or to another law-protected result of their intellectual activity;
- 3) in conformity with the law, to make deposits into the credit institutions and to dispose of these;
- 4) to effect petty everyday deals, and also the other deals, stipulated by Item 2 of Article 28 of the present Code.

On reaching the age of 16 years, the minors shall also acquire the right to be members of cooperatives in conformity with the laws on the cooperatives.

3. The minors of from 14 to 18 years of age shall bear the property responsibility for the deals they effect in conformity with Items 1 and 2 of the present Article. For the inflicted damage, such minors shall bear responsibility in conformity with the present Code.

4. In case there are sufficient grounds, the court, upon the request of the parents, the adopters or the trustee, or of the guardianship and trusteeship body, may restrict the right of the minor of from 14 to 18 years of age to independently dispose of his earnings, student's grant or other incomes, or deprive him of this right, with the exception of the cases, when such a minor has acquired the full active capacity in conformity with Item 2 of Article

21, or with Article 27 of the present Code.

#### **Article 27. Emancipation**

1. The minor, who has reached the age of 16 years, may be declared to have the full active capacity, if he works by a labour agreement, including by a contract, or if he engages in business activities upon the consent of the parents, the adopters or the trustee.

The minor shall be declared as having acquired the full active capacity (emancipation) by the decision of the guardianship and trusteeship body - upon the consent of the parents, the adopters or the trustee, or, in the absence of such consent - by the court decision.

2. The parents, the adopters and the trustee shall not bear responsibility for the obligations of an emancipated minor, in particular for those obligations, which have arisen as a result of his inflicting damage.

#### **Article 28. The Active Capacity of the Young Minors**

1. Only the parents, the adopters or the guardians shall effect deals on behalf of the minors, who have not reached the age of 14 years (the young minors), with the exception of the deals, pointed out in Item 2 of the present Article.

Toward the deals with his property, effected by the legal representatives of the young minor, shall be applied the rules, stipulated by Items 2 and 3, Article 37 of the present Code.

2. The minors of from 6 to 14 years of age shall have the right to independently effect:

1) petty everyday deals;

2) the deals, aimed at deriving a free profit, which are not liable to the notary's certification or to the state registration;

3) the deals, involved in the disposal of the means, provided by the legal representative or, upon the latter's consent, by a third person for a definite purpose or for a free disposal.

3. The property responsibility by the young minor's deals, including by the deals he has effected independently, shall be borne by his parents, adopters or guardians, unless they prove that the obligation has been violated not through their fault. These persons, in conformity with the law, shall also be answerable for the damage, caused by the young minors.

#### **Article 29. Recognizing the Citizen as Legally Incapable**

1. The citizen who, as a result of a mental derangement, can neither realize the meaning of his actions nor control them, may be recognized by the court as legally incapable in conformity with the procedure, laid down by the procedural legislation. In this case, he shall be put under the guardianship.

2. The deals on behalf of the citizen, who has been recognized as legally incapable, shall be effected by his guardian.

3. If the grounds, by force of which the citizen was recognized as legally incapable, have ceased to exist, the court shall recognize him as legally capable. On the grounds of the court's ruling, the guardianship, formerly established over him, shall be recalled.

### **Article 30. Restriction of the Citizen's Active Capacity**

1. The active capacity of the citizen, who as a result of his abuse of alcohol or drug addiction has plunged his family into a precarious financial position, may be restricted by the court in conformity with the procedure, laid down by the procedural legislation. He shall be put under the guardianship.

Such a citizen shall have the right to independently effect petty everyday deals.

He shall have the right to effect other kinds of the deals and to receive the earnings, the pension and other incomes, and to dispose thereof only upon the consent of his trustee. Nevertheless, such a citizen shall independently bear property responsibility by the deals he has effected and for the damage he has caused.

2. If the grounds, by force of which the citizen was restricted in his active capacity, have ceased to exist, the court shall cancel the restriction of his active capacity. On the ground of the court ruling, the guardianship, formerly established over him, shall be recalled.

### **Article 31. The Guardianship and the Trusteeship**

1. The guardianship and the trusteeship shall be established to protect the rights and interests of the legally incapable or partially capable citizens. The guardianship and the trusteeship over the minors shall also be established for educational purposes. The corresponding rights and duties of the guardians and the trustees shall be defined by the family legislation.

2. The guardians and the trustees shall not need being vested with special authority to come out in defence of the rights and interests of their wards in their relations with any other persons, including in the courts.

3. The guardianship and the trusteeship over the minors shall be established in case the minors have no parents and no adopters, in case the parents have been deprived of parental rights by the court, and also in those cases, when such citizens have been left without parental care, in particular when the parents have been shirking their duties, involved in their education or in the protection of their rights and interests.

4. The relationships arising from the establishment, implementation and termination of a custodianship or guardianship and not regulated by the present Code shall be subject to the provisions of the Federal Law on the Custodianship and Guardianship and the other normative legal acts of the Russian Federation adopted in connection with it.

#### **Article 32. The Guardianship**

1. The guardianship shall be established over the minors and over the citizens, who have been recognized by the court as legally incapable as a result of a mental derangement.

2. The guardians shall be representatives of their wards by force of the law and shall effect all the necessary deals on their behalf and in their interests.

#### **Article 33. The Trusteeship**

1. The trusteeship shall be established over the minors aged from 14 to 18 years, and also over the citizens, who have been restricted in their active capacity as a result of their abuse of alcohol or drug addiction.

2. The trustees shall give their consent for effecting such deals, which the citizens under their trusteeship have no right to effect independently.

The trustees of minor citizens shall render assistance to their wards in their exercising their rights and duties, and shall protect them from the possible maltreatment on the part of the third persons.

#### **Article 34. The Guardianship and Trusteeship Bodies**

1. The guardianship and trusteeship bodies shall be the executive bodies of a constituent entity of the Russian Federation.

The powers of a body of custodianship and guardianship in respect of a ward shall be vested in the body that has established the custodianship or guardianship. If the ward has changed his/her residence the powers of a body of custodianship and guardianship shall be vested in the body of custodianship and guardianship at the ward's new place of residence in the procedure defined by the Federal Law on Custodianship and Guardianship.

2. The court shall be obliged, within three days from the date of the enforcement of its decision on recognizing the citizen as legally incapable or on restricting his active capacity, to inform about this the guardianship and trusteeship body by the place of this citizen's residence for putting him under the guardianship or the trusteeship.

3. The guardianship and trusteeship body by the place of the wards' residence shall exercise supervision over the activities of their guardians and trustees.

#### **Article 35. The Guardians and the Trustees**

1. The guardian or the trustee shall be appointed by the guardianship and trusteeship body by the place of residence of the person in need of guardianship or trusteeship, within the term of one month from the moment, when the said bodies have become aware of the need to establish the guardianship or the trusteeship over the citizen. In case of the existence of the circumstances, worthy of attention, the guardian or the trustee may be appointed by the guardianship and trusteeship body by the place of residence of the guardian (the trustee). If the guardian or the trustee is not appointed for the person in need of the guardianship or the trusteeship within the term of one month, the execution of the duties of the guardian or the trustee shall be temporarily imposed upon the guardianship and trusteeship body.

The appointment of the guardian or the trustee may be disputed by the interested persons in the court.

2. Only the adult and legally capable citizens shall be appointed as the guardians and the trustees. The citizens, deprived of parental rights, and also the citizens who have a conviction for a deliberate crime against

citizens' life or health as of the time of establishment of custodianship or guardianship, shall not be appointed as the guardians and the trustees.

3. The guardian or the trustee shall be appointed only upon his consent. Account shall be taken of his moral and other personal characteristics, his capability to perform the duties of the guardian or the trustee, the relationships, existing between him and the person in need of the guardianship or the trusteeship, and, if possible, also of the wish of the ward.

4. No custodians or guardians shall be appointed for the citizens lacking dispositive capacity or having limited dispositive capacity who have been placed under supervision in educational organisations, medical organisations, social-services organisations or other organisations, including organisations for orphan children and for children left without parental care. Responsibility for executing the duties of custodians or guardians is vested in said organisations.

#### **Article 36. Execution of Their Duties by the Guardians and the Trustees**

1. The duties, involved in the guardianship and the trusteeship, shall be executed free of charge, with the exception of the law-stipulated cases.

2. The guardians and the trustees of the underaged citizens shall be obliged to live together with their wards. Residing of the trustee apart from their wards, who have reached 16 years of age, shall be admissible only upon the permission of the guardianship and trusteeship body under the condition that this may not have a negative effect on the ward's education and on the protection of his rights and interests.

The guardians and the trustees shall be obliged to inform the guardianship and trusteeship bodies on the change of their place of residence.

3. The guardians and the trustees shall be obliged to take care of the maintenance of their wards, to provide for them all the essential services and medical treatment, and to protect their rights and interests.

The guardians and the trustees shall be obliged to take care of their wards' education.

4. The duties, delineated in Item 3 of the present Article, shall not be imposed upon the guardians and the trustees of the adult citizens, who have been restricted in their active capacity by the court.

5. If the grounds, by force of which the citizen was recognized as legally incapable or partially incapable as a result of his abuse of alcohol or drug addiction, have ceased to exist, the guardian or the trustee shall be obliged

to file a request with the court on his ward to be recognized as legally capable and on recalling the guardianship or the trusteeship, formerly established over him.

#### **Article 37. Disposal of the Ward's Property**

1. The incomes of a ward, including the sums of alimony, pension, allowances and other social disbursements provided for his/her subsistence, and also the incomes payable to the ward from the administration of his/her property, except for the incomes the ward is entitled to dispose of on his/her own, shall be spent by the custodian or guardian exclusively in the interests of the ward and with the preliminary consent of the body of custodianship and guardianship.

2. The guardian shall not have the right to effect, and the trustee - to give his consent to effecting, the deals, involved in the alienation of the ward's property, including in the exchange or making a gift of it, in leasing it out (renting it), in giving it into a gratuitous use or in pawning it, or to effect the deals, entailing the renouncement of the rights possessed by the ward, the division of his property into parts or the apportioning of shares out of it, which would entail the reduction of the ward's property.

The procedure for managing the property of a ward is defined by the Federal Law on Custodianship and Guardianship.

3. The guardian, the trustee, their spouses and close relations shall have no right to effect any deals with the ward, with the exception of those involved in giving their own property to the ward as a gift or into a gratuitous use, or to substitute the ward in signing the deals or in conducting the court proceedings between the ward and the guardian's or the trustee's spouse and their close relations.

#### **Article 38. Confidential Management of the Ward's Property**

1. In case of a need for the permanent management of the ward's realty and valuable movable property, the guardianship and trusteeship body shall sign with the manager, selected by this body, a contract on the confidential management of such property. In this case, the guardian or the trustee shall retain his powers with respect to that property of the ward, which has not been given into the confidential management.

While the manager exerts the legal powers, involved in the management of the ward's property, the rules, stipulated by Items 2 and 3 of Article 37 of the present Code, shall be extended to his activity.

2. The confidential management of the ward's property shall be terminated on the grounds, stipulated by the law for cancelling the contract on the confidential management of the property, and also in the cases, when the guardianship and the trusteeship are recalled.

#### **Article 39. Relieving and Dismissal the Guardians and the Trustees from the Execution of Their Duties**

1. The guardianship and trusteeship body shall relieve the guardian or the trustee of the execution of his duties in case the ward is returned to his parents or is adopted.

When a ward is placed under supervision in an educational organisation, medical organisation, social-services organisation or another organisation, including an organisation for orphan children and the children left without parental care the body of custodianship and guardianship shall relieve the custodian or guardian appointed earlier from their duties, unless it contradicts the interests of the ward.

2. A custodian or guardian may be relieved from his/her duties on their request.

A custodian or guardian may be relieved from his/her duties at the initiative of the body of custodianship and guardianship if contradictions have come into being between the interests of the ward and the interests of the custodian or guardian, for instance on a temporary basis.

3. In case of an improper execution by the guardian or by the trustee of the duties imposed on him, including in the case of his making use of his guardian's or trustee's status in his own selfish interests or of his leaving the ward without the proper supervision and the necessary assistance, the guardianship and trusteeship body shall have the right to dismiss the guardian or the trustee from the execution of these duties and to take the necessary measures for making the guilty citizen answerable in conformity with the law, stipulated liability.

#### **Article 40. Recalling the Guardianship and the Trusteeship**

1. The guardianship and the trusteeship over the adult citizens shall be recalled in the cases when the court passes the decision on recognizing the ward as legally capable or on cancelling the restriction of his active

capacity upon the petition of the guardian, of the trustee or of the guardianship and trusteeship body.

2. The guardianship over the young minor shall be recalled on his reaching the age of 14 years, and the citizen, who has formerly performed the functions of the young minor's guardian, shall become the minor's trustee without any additional decision made to this effect.

3. The trusteeship over the minor shall be recalled without any special decision upon his reaching the age of 18 years, and also in the case of his entering into a marriage, or in the other cases, when he acquires the full active capacity before attaining his majority (Item 2 of Article 21, and Article 27).

#### **Article 41. Patronage over Adult Citizens Having Dispositive Capacity**

1. Patronage may be established over an adult citizen having dispositive capacity who cannot on his/her own exercise and protect his/her rights and execute his/her duties due to the state of his/her health.

2. Within one month after the discovery of an adult citizen having dispositive capacity who cannot on his/her own exercise and protect his/her rights and execute his/her duties the body of custodianship and guardianship shall appoint an aid for him/her. The aid may be appointed on his/her consent in writing and also on the consent in writing of the citizen over whom the patronage is being established. An employee of the organisation responsible for the provision of social services to an adult citizen who has dispositive capacity and is in need for patronage shall not be appointed as aid for the citizen.

3. An aid of an adult citizen who has dispositive capacity shall commit actions in the interests of the citizen who is under patronage, on the basis of an agency contract, contract of trust administration of property or another contract.

4. The body of custodianship and guardianship shall monitor the execution of duties by the aid of the adult citizen who has dispositive capacity and notify the citizen who is under patronage of irregularities committed by his/her aid and deemed ground for rescission of the agency contract, contract of trust administration of property or the other contract concluded between them.

5. The patronage over an adult citizen who has dispositive capacity that has been established in accordance with Item 1 of the present article shall be terminated in connection with the termination of the agency contract, contract of trust administration of property or other contract on the grounds set out in a law or the contract.

#### **Article 42. Recognition of the Citizen as Missing for an Unknown Reason**

The citizen may be recognized by the court, on the ground of an application, filed by the interested persons, as missing for an unknown reason, if at the place of his residence there is no information on the place of his stay in the course of one year.

If it is impossible to establish the date of receiving the last information on the missing person, the first day of the month, next to that during which the last information on the missing person was received, shall be regarded as the beginning of the term to be calculated for recognizing the fact of the given person to be missing for an unknown reason, and in the case of the impossibility to establish this month - the first day of January of the next year.

#### **Article 43. The Consequences of Recognizing the Citizen as Missing for an Unknown Reason**

1. If the property, belonging to the citizen, who has been recognized as missing for an unknown reason, requires a permanent management, it shall be passed, on the grounds of the court decision, to the person, who shall be appointed by the guardianship and trusteeship body and who shall act on the ground of the contract of confidential management, signed with the said body.

Out of this property an allowance shall be paid for the maintenance of the citizens, whom the person, missing for an unknown reason, is obliged to keep, and the debts by the other obligations of the said person, missing for an unknown reason, shall be serviced.

2. The guardianship and trusteeship body shall have the right to appoint the manager of the missing citizen's property before the expiry of one year from the date of receiving the last information on the place of his stay.

3. The consequences of recognizing the person as missing for an unknown reason, not stipulated by the present Article, shall be defined by the law.

#### **Article 44. Repeal of the Decision on Recognizing the Person as Missing for an Unknown Reason**

In case the citizen, who has been recognized as missing for an unknown reason, turns up, or the place of his stay is discovered, the court shall repeal its decision on recognizing him as missing for an unknown reason. On the grounds of the court's decision, the management of this citizen's property shall be recalled.

#### **Article 45. Declaring the Citizen as Dead**

1. The citizen may be declared by the court as dead, if at the place of his residence there has been no

information on the place of his stay in the course of five years, and in case he has disappeared under the life-hazardous circumstances, or under such circumstances as give the ground for supposing that he might have perished as a result of a definite accident - if he has been missing in the course of six months.

**2.** The serviceman or the other citizen, who has been missing in connection with military operations, shall not be declared by the court as dead until the expiry of two years from the date of the cessation of the military operations.

**3.** The date of the departure of the citizen, who has been declared as dead, shall be the date of the coming into force of the court decision on declaring him as dead. In the case of declaring as dead the citizen, who has disappeared under the life-hazardous circumstances or under such circumstances as give the ground to suppose that he might have perished as a result of a definite accident, the court may recognize the day of this citizen's supposed perish as the date of his death.

#### **Article 46.** The Consequences of the Turning up of the Citizen, Declared as Dead

**1.** In the case the citizen, who has been declared as dead, turns up, or the place of his stay is discovered, the court shall cancel its decision on declaring him as dead.

**2.** Regardless of the time of his turning up, the citizen shall have the right to demand from any person the return of the remaining property, which has been gratuitously passed to that person after the citizen was declared as dead, with the exception of the cases, stipulated by Item 3 of Article 302 of the present Code.

The persons, to whom the property of the citizen, who has been declared as dead, passed as a result of commercial deals, shall be obliged to return to him this property, in case it has been proved that, while acquiring the property at issue, they were aware that the citizen, declared as dead, is actually alive. If the property at issue cannot be returned in kind, its cost shall be recompensed.

#### **Article 47.** Registration of the Civil State Acts

**1.** The following civil state acts shall be liable to the state registration:

- 1) the birth;
- 2) entering into a marriage;
- 3) the dissolution of the marriage;
- 4) the adoption;
- 5) the establishment of the paternity;

6) the change of the name;

7) the death of the citizen.

2. The registration of the civil state acts shall be effected by the civil registration bodies by making the corresponding entries into the Civil Registers (Civil Acts Books) and by issuing certificates to the citizens on the ground of these entries.

3. The civil state acts shall be corrected and amended by the civil registration bodies in case there are sufficient grounds for effecting this and there is no dispute between the interested persons.

If there is a dispute between the interested persons, or if the civil registration body refuses to correct or to amend the entry, the dispute shall be resolved by the court.

The entries on the civil state acts shall be annulled or restored by the civil registration body on the ground of the court decision.

4. The bodies, performing the registration of the civil state acts, the procedure for registering these acts, the order of the restoration and annulment of the entries of the civil state acts, the forms for the civil acts books and for the certificates, as well as the procedure for and the term of the keeping of the civil acts books shall be defined by the Law on the Civil State Acts.

## **Chapter 4. The Legal Entities**

### **§ 1. The Basic Provisions**

#### **Article 48. The Concept of the Legal Entity**

1. The legal entity shall be recognized as an organization, which has in its ownership, economic management or operative management the set-apart property and which is answerable by its obligations with this property and may on its own behalf acquire and exercise the property and the personal non- property rights, to discharge duties and to come out as a plaintiff and as a defendant in the court.

The legal entities shall have an independent balance or an estimate.

2. In connection with taking part in the formation of the property of the legal entity, its founders (participants) shall be entitled to the rights of obligation with respect to this legal entity, or the rights of estate to its property.

To the legal entities, with respect to which their participants have the rights of obligation, shall be referred the economic partnerships and companies, and the production and consumer cooperatives.

To the legal entities, with respect to whose property their founders have the right of ownership or another right of estate, shall be referred the state and the municipal unitary enterprises, as well as the institutions.

3. To the legal entities, with respect to which their founders (participants) shall not have the property rights, shall be referred the public and religious organizations (the associations), the charity and other funds, and the amalgamations of the legal entities (the associations and the unions).

#### **Article 49. The Legal Capacity of the Legal Entity**

1. The legal entity shall enjoy the civil rights that correspond to the goals of its activity, stipulated in its constituent documents, and shall discharge the duties related to this activity.

The commercial organizations, with the exception of the unitary enterprises and the other law-stipulated kinds of organizations, shall possess the civil rights and discharge the civil duties, indispensable for the performance of any kinds of activity that are not prohibited by the law.

The legal entity shall engage in the individual kinds of activity, the list of which shall be defined by the law, only on the ground of a special permit (license).

2. The legal entity may be restricted in its rights only in the cases and in conformity with the procedure, stipulated by the law. The decision on the restriction of its rights may be disputed by the legal entity in the court.

3. The legal capacity of a legal entity shall arise at the time of its establishment and shall cease at the time of making an entry on its exclusion from the Comprehensive State Register of Legal Entities.

The right of the legal entity to engage in an activity, for the performance of which a license shall be drawn, shall arise from the moment of its obtaining such a license, or from the time indicated in the license, and shall

cease after the expiry of the term of its operation, unless otherwise stipulated by the law or by the other legal acts.

#### **Article 50. Commercial and Non-Profit Organizations**

1. The legal entities may be either the organizations, which see deriving profits as the chief goal of their activity (the commercial organizations), or those organizations, which do not see deriving profits as such a goal and which do not distribute the derived profit among their participants (the non-profit organizations).

2. The legal entities that are commercial organizations, may be set up in the form of the economic partnerships and companies, of the production cooperatives and of the state and the municipal unitary enterprises.

3. The legal entities that are non-profit organizations, may be set up in the form of the consumer cooperatives, of the public or religious organizations (associations), of the institutions, of the charity and other funds, and also in the other law-stipulated forms.

The non-profit organizations shall engage in the business activity only so far as it helps them to achieve the goals, in the name of which they have been established, and of the kind that corresponds to these goals.

4. The creation of the alliances of the commercial and (or) the non-profit organizations in the form of associations and unions shall be admissible.

#### **Article 51. State Registration of Legal Entities**

1. A legal entity shall be subject to state registration with the authorized state body in conformity with the procedure, laid down by the Law on Registration of Legal Entities. The data on state registration shall be entered to the Unified State Register of Legal Entities, which shall be open to the general public.

The refusal of state registration of a legal entity shall be only allowed in the cases stipulated by law.

The refusal of state registration of a legal entity, as well as the avoidance of such registration, may be

disputed with the court.

2. The legal entity shall be regarded as established from the moment of making an appropriate entry to the Unified State Register of Legal Entities.

## **Article 52. Constituent Documents of the Legal Entity**

1. The legal entity shall operate on the ground of the Rules, or of the constituent agreement and the Rules, or only of the constituent agreement. In the law-stipulated cases, the legal entity, which is not a non-profit organization, may operate on the ground of the general provisions on the given type of organizations.

The constituent agreement of the legal entity shall be signed, and the Rules shall be approved by its founders (participants).

The legal entity, created in conformity with the present Code by one founder, shall operate on the ground of the Rules, approved by this founder.

2. In the constituent documents of the legal entity shall be indicated the name of the legal entity, the place of its location, the way in which the legal entity's activity is managed, and the other information, required by the law for legal entities of the corresponding type. In the constituent documents of the non-profit organizations and of the unitary enterprises, and in the law-stipulated cases - also of the other commercial organizations, shall be defined the object and the goals of the legal entity's activity. The definition of the object and of the goals, pursued by the commercial organization, may also be stipulated by the constituent documents, in the cases, when it is not obligatory by the law.

In the constituent agreement, the founders shall assume upon themselves an obligation to create the legal entity, shall delineate the order of their joint activities, involved in its creation, and the terms for the transfer to it of their property and for their participation in its activity. The agreement shall also define the terms and procedure for the distribution of the profits and losses among the participants, for the management of the legal entity's activity and for the founders' (the participants') withdrawal from its structure.

3. The amendments made in the constituent documents, shall come into force for the third persons from the moment of their state registration, and in the cases, established by the law - from the moment of notifying about the effecting of such amendments the body, performing the state registration. However, the legal entities and their founders (participants) shall not have the right to refer to the absence of the registration of such amendments in their relationships with the third persons, who have acted with account for such amendments.

#### **Article 53. The Legal Entity's Bodies**

1. The legal entity shall acquire the civil rights and shall assume upon itself the civil duties through its bodies, acting in conformity with the law, with the other legal acts and with the constituent documents.

The procedure for the appointment or the election of the legal entity's bodies shall be laid down by the law and by the constituent documents.

2. In the law-stipulated cases, the legal entity shall have the right to acquire the civil rights and to assume upon itself the civil duties through its participants.

3. The person, who by force of the law or of the legal entity's constituent documents comes out on its behalf, shall act in the interests of the legal entity it represents honestly and wisely. He shall be obliged, upon the demand of the founders (the participants) of the legal entity, to recompense the losses he has inflicted upon the legal entity, unless otherwise stipulated by the law or by the agreement.

#### **Article 54. The Name and the Place of Location of the Legal Entity**

1. The legal entity shall have its own name, which shall contain an indication of its legal-organizational form. The names of non-commercial organisations, and in the cases specified by law, the names of commercial organisations shall contain an indication of the nature of the legal person's activity.

2. The place of location of a legal entity shall be determined by the place of its state registration. The state registration of a legal entity shall be carried out at the location of a standing executive body thereof, and in the event of the absence of a standing executive body, it shall be done by other body or person empowered to act on behalf of the legal entity without a letter of authority.

3. The name and the place of location of the legal entity shall be pointed out in its constituent documents.

4. The legal entity, which is a commercial organization, shall have a trade name.

Demands on the official name shall be established in the present Code and in the other laws. The rights to the official name shall be defined in conformity with the rules of Section VII of the present Code.

#### **Article 55.** The Representations and the Subsidiaries

1. The representation shall be a set-apart subdivision of the legal entity, situated outside of the place of its location, which represents and protects the legal entity's interests.

2. The subsidiary shall be the legal entity's set-apart subdivision, situated outside of the place of its location and performing all its functions or a part thereof, including the functions of representation.

3. The representations and the subsidiaries shall not be legal entities. They shall be given the property of the legal entity, by which they have been set up, and shall operate in conformity with the provisions it has approved.

The managers of the representations and the subsidiaries shall be appointed by the legal entity and shall act on the ground of its warrant.

The representations and the subsidiaries shall be named in the constituent documents of the legal person, who has set them.

#### **Article 56.** The Legal Entity's Responsibility

1. The legal entities, with the exception of the institutions, shall be answerable by their obligations with the entire property in their possession.

2. The state-run enterprise and the institution shall be answerable by their obligations in conformity with the order and on the terms, stipulated by Item 5 of Article 113 and by Articles 115 and 120 of the present Code.

3. The founder (the participant) of the legal entity or the owner of its property shall not be answerable by the legal entity's obligations, and the legal entity shall not be answerable by the obligations of the founder (the participant) or of the owner, with the exception of the cases, stipulated by the present Code or by the constituent documents of the legal entity.

If the insolvency (bankruptcy) of the legal person has been caused by the founders (participants), by the owner of the legal entity's property or by the other persons, who have the right to issue the obligatory instructions for the given legal entity, or may determine its actions in any other way, in case the legal entity's property proves to be insufficient, the subsidiary liability by the legal entity's obligations may be imposed upon such persons.

#### **Article 57. Reorganization of the Legal Entity**

1. The reorganization of the legal entity (the merger, affiliation, division, branching off, transformation) shall be effected by the decision of its founders (participants) or of the legal entity's body, authorized for this by the constituent documents.

2. In the law-stipulated cases, the reorganization of the legal entity in the form of its division or of the branching off from its structure of one or of several legal entities, shall be effected by the decision of the authorized state bodies or by the court decision.

If the founders (the participants) of the legal entity, its authorized body or the legal entity's body, which has been authorized to effect the reorganization by its constituent documents, fail to effect the legal entity's reorganization within the term, fixed in the decision of the authorized state body, the court shall appoint, upon the claim of the said state body, an outside manager as the legal entity and shall entrust to him the given legal entity's reorganization. From the moment of the appointment of an outside manager, the powers, involved in the management of the legal entity's affairs, shall pass to him. The outside manager shall come out on behalf of the legal entity in the court, shall compile the divisional balance and shall present it for examination to the court, together with the constituent documents of the legal entities, created as a result of the reorganization. The endorsement of the said documents by the court shall be the ground for the state registration of the newly emerging legal entities.

3. In the law-stipulated cases, the reorganization of the legal entities in the form of the merger, affiliation or transformation shall be effected only upon the consent of the authorized state bodies.

4. The legal entity shall be regarded as reorganized, with the exception of the cases of reorganization in the form of affiliation, from the moment of the state registration of the newly created legal entities.

In case of the reorganization of the legal entity in the form of another legal entity's affiliation to it, the former shall be regarded as reorganized from the moment of making an entry about the cessation of activity of the legal entity, affiliated to it, into the State Register of the Legal Entities.

#### **Article 58. Legal Succession in the Reorganization of Legal Entities**

1. In case of the merger of the legal entities, the rights and duties of every one of them shall pass to the newly emerged legal entity in conformity with the transfer deed.

2. In case of the legal entity's affiliation to another legal entity, the rights and duties of the former legal entity shall pass to the latter legal entity in conformity with the transfer deed.

3. In case of the division of the legal entity, its rights and duties shall pass to the newly emerged legal entities in conformity with the divisional balance.

4. In case of the branching off from the structure of the legal entity of one or of several legal entities, the rights and duties of the reorganized legal entity shall pass to every one of these in conformity with the divisional balance.

5. In case of the transformation of the legal entity of one type into a legal entity of a different type (the change of its legal-organizational form), the rights and duties of the reorganized legal entity shall pass to the newly emerged legal entity in conformity with the transfer deed.

#### **Article 59. The Transfer Deed and the Divisional Balance**

1. The transfer deed and the divisional balance shall contain provisions on the legal succession by all obligations of the reorganized legal entity with respect to all its creditors and debtors, including the obligations, disputed by the parties.

2. The transfer deed and the divisional balance shall be endorsed by the founders (participants) of the legal entity or by the body, which has adopted the decision on the reorganization of the legal entities, and shall be presented, together with the constituent documents, for the state registration of the newly emerged legal entities, or for the introduction of amendments into the constituent documents of the existing legal entities.

The failure to present, together with the constituent documents, correspondingly, the transfer deed or the divisional balance, and the absence in these of the provisions on the legal succession by the obligations of the reorganized legal entity, shall entail the refusal to effect the state registration of the newly emerged legal entities.

#### **Article 60. Guarantees for the Rights of the Creditors of a Legal Entity in Re-Organisation**

1. Within three business days after the date of a decision on its re-organisation, a legal entity shall provide information in writing to the body responsible for the state registration of legal entities about the commencement of a re-organisation procedure and the form of the reorganisation. If two and more legal entities are involved in the

reorganisation such notice shall be sent by the legal entity that was the last to take a decision on the re-organisation or was designated by the decision on the re-organisation. On the basis of the notice the body responsible for the state registration of legal entities shall make an entry in the comprehensive state register of legal entities about the fact that the legal entity (legal entities) is/are in re-organisation.

After the entry is made in the comprehensive state register of legal entities on the commencement of the re-organisation procedure the legal entity in re-organisation shall place a notice of its reorganisation twice at least once in a month in the mass media used to publish information on the state registration of legal entities. If two and more legal entities are involved in the re-organisation a notice of re-organisation shall be published on behalf of all the legal entities involved in the re-organisation by the legal entity that was the last to take a decision on the re-organisation or is designated by the decision on the re-organisation. Information shall be disclosed in the notice of re-organisation concerning each legal entity taking part in the reorganisation, being formed (continuing to operate) as the result of the re-organisation, the form of the re-organisation, a description of the procedure and conditions for creditors to declare their claims as well as the other information envisaged by a law.

**2.** A creditor of the legal entity -- if the creditor's rights of claim had come into being before the publication of the notice of reorganisation of the legal entity -- is entitled to claim an early discharge of the relevant obligation by the debtor, or if no early discharge is possible, termination of the obligation and a compensation for the losses relating thereto, except for the cases established by a law.

**3.** A creditor of a legal entity being a joint-stock company reorganised in the form of merger, accession or transformation -- if the creditor's rights of claim have come into being before the publication of an announcement of re-organisation of the legal entity -- is entitled to claim in the court an early discharge of the obligation for which the legal entity is a debtor or termination of the obligation and a compensation for losses, unless a sufficient security has been provided by the legal entity in re-organisation, its stake-holders or third persons for the discharge of the relevant obligations.

The claims mentioned in the present item may be presented by creditors within 30 days after the date of the last publication of a notice of re-organisation of the legal entity.

The claims declared by creditors shall not cause the suspension of actions relating to the re-organisation.

**4.** If claims for early discharge or termination of obligations and a compensation for losses have been met after the completion of the reorganisation the legal entities that have been newly formed (are continuing their operation) as the result of the re-organisation shall bear solidary liability for the obligations of the legal entity reorganised.

5. The discharge by a legal entity in re-organisation of the obligations owing creditors shall be secured in the procedure established by the present Code.

If the obligations owing the creditors of a legal entity in reorganisation being a debtor are secured by a mortgage such creditors are not entitled to claim an additional security.

6. The details of a re-organisation of credit organisations, for instance a procedure for notification of the body responsible for state registration about the commencement of the procedure of re-organisation of the credit organisation, a procedure for notification of creditors of the credit organisations in re-organisation, a procedure for creditors to present their claims for early discharge or termination of relevant obligations and for a compensation for losses and also a procedure for disclosing information affecting the financial and economic activities of the credit organisation in re-organisation shall be defined by the laws regulating the activities of credit organisations. In this case, the provisions of Items 1-5 of the present Article shall not be applicable to credit organisations.

#### **Article 61. Liquidation of the Legal Entity**

1. The liquidation of the legal entity shall entail its termination without the transfer of its rights and duties to the other entities by way of legal succession.

2. The legal entity may be liquidated:

- by the decision of its founders (participants), or of the legal entity's body, authorized for this by the constituent documents, including in connection with the expiry of the term, for which the given legal entity has been created, with its achieving the goal, for the sole purpose of which it has been established;

- by the court decision in the event of gross violations of law made when establishing it, if these violations are of irremovable nature, or of the exercise of an activity without a proper permit (licence) or of the one prohibited by law, or in defiance of the Constitution, or with other repeated or gross violations of law or of other legal acts, or in the event of the systematic exercise by a non-profit organization, in particular by a social or religious organization (association), by a charitable or other fund, of the activity contravening their statutory goals, as well as in other instances provided for by this Code.

3. The claim for the liquidation of the legal entity on the grounds, stipulated in Item 2 of the present Article, may be lodged with a court by the state body or by the local self-government body, to which the right to present

such a claim has been granted by the law.

By the court decision on the liquidation of the legal entity, the fulfillment of the duties, involved in implementing the liquidation of the legal entity, may be imposed upon its founders (participants), or upon the body, authorized to effect the liquidation of the legal entity by its constituent documents.

**4.** A legal entity, except for a treasury enterprise, institution, political party and religious organisation is also liquidated in accordance with Article 65 of the present Code as a result of its being deemed insolvent (bankrupt). A state corporation may be liquidated as a result of declaring it insolvent (bankrupt), where it is allowed by the federal law providing for establishment thereof. The Fund may not be declared insolvent (bankrupt) in so far as that prescribed is under the law providing for the setting up and operation of that fund.

If the cost of the legal entity's property proves to be insufficient to satisfy the creditors' claims, it shall be liquidated only in conformity with the procedure, stipulated by Article 65 of the present Code.

#### **Article 62.** The Duties of the Person Who Has Adopted the Decision on the Liquidation of the Legal Entity

**1.** The founders (the participants) of a legal entity or the body, who (which) have adopted the decision on liquidation of the legal entity, shall be obliged to immediately notify about this in written form the authorized state body which shall enter the information on the given legal entity, being in the process of liquidation, to the Unified State Register of Legal Entities.

**2.** The founders (the participants) of a legal entity or the body, who (which) have adopted the decision on liquidation of the legal entity, shall appoint a liquidation commission (the liquidator), and shall establish, in conformity with the present Code and other laws, the procedure for, and the term of, liquidation thereof.

**3.** From the moment of appointment of the liquidation commission, the powers involved in the management of the legal entity's affairs shall pass to it. The liquidation commission shall also come out on behalf of the

liquidated legal entity in the court.

**Article 63. Procedure for the Legal Entity's Liquidation**

1. The liquidation commission shall send to the press organs, in which information on the state registration of the legal entity is published, an advertisement on its liquidation and on the procedure and the term for the claims to be filed by its creditors.

The liquidation commission shall take measures for the exposure of the creditors and the exaction of the debit indebtedness, and shall notify the creditors in written form about the liquidation of the legal entity.

2. After the expiry of the term fixed for the creditors' filing claims, the liquidation commission shall compile an intermediary liquidation balance, containing information on the structure of the legal entity's property, on the list of the creditors' claims and on the results of their examination.

The intermediary liquidation balance shall be approved by the founders (the participants) of a legal entity or by the body, which has adopted the decision on the legal entity's liquidation. In the cases established by law the intermediary liquidation balance shall be endorsed by agreement with the authorized state body.

3. If the monetary means at the disposal of the legal entity under liquidation (except for the institutions) prove to be insufficient to satisfy the creditors' claims, the liquidation commission shall organize the sale of the legal entity's property at a public auction in conformity with the procedure, laid down for the execution of the court decisions.

4. The payment of monetary amounts to the creditors of the liquidated legal entity shall be effected by the liquidation commission according to the order of priority, established by Article 64 of the present Code, in conformity with the intermediary liquidation balance, beginning with the date of its approval, except for creditors of the third and fourth priority ranking, to whom the payments shall be made on the expiry of one month from the date of the endorsement of the intermediary liquidation balance.

5. After completing the settlements with the creditors, the liquidation commission shall compile the

liquidation balance, which must be approved by the founders (the participants) of the legal entity, or by the body, which has adopted the decision on the legal entity's liquidation. In the cases established by law the liquidation balance shall be approved by agreement with the authorized state body.

6. In case the property at the disposal of the liquidated state-run enterprise, or the monetary means at the disposal of the liquidated institution are insufficient to satisfy the creditors' claims, the latter shall have the right to turn to the court with a claim for the satisfaction of the rest of the claims at the expense of the owner of the property of this enterprise or institution.

7. The property of the liquidated legal person, left after the creditors' claims are satisfied, shall be passed to its founders (participants), who have the rights of estate to this property, if not otherwise stipulated by the law, by the other legal acts or by the founding documents of the legal entity.

8. The liquidation of the legal entity shall be regarded as completed and the legal entity as having ceased existence after an entry to this effect has been made into the Unified State Register of the Legal Entities.

#### **Article 64. Satisfaction of the Creditors' Claims**

1. In case of the liquidation of a legal entity, the creditors' claims shall be satisfied in the following order of priority:

- first of all satisfaction shall be given to claims of citizens to whom the liquidated legal entity is liable for a harm inflicted to their life or health, by means of capitalising relevant time-based payments and also on claims for compensation for a moral harm;

- in the second turn shall be effected the settlements, involved in the payment of retirement allowances and the remuneration for the labour of persons who work or who have been working under a labour contract, and also those involved in the payment of fees to the authors of the results of intellectual activity.

- the third priority ranking category includes settlements of accounts for compulsory payments owing a budget or a non-budget fund;

- the fourth priority ranking category included settlements of accounts with other creditors.

Where banks raising natural persons' funds get liquidated the first priority ranking category in particular includes claims of the natural persons being the banks' creditors under contracts of bank deposit and/or contracts

of bank account concluded with them (except for natural persons' claims for compensation of damages in the form of a lost gain, and for the payment of amounts of financial sanctions and claims of natural persons pursuing entrepreneurial activities without the formation of a legal entity or claims of lawyers, notaries if such accounts have been opened for the purpose of a entrepreneurial or professional activity of such persons for which there is a provision in a law, claims of an organisation carrying out the functions of compulsory insurance of deposits, in connection with the disbursement of a compensation for deposits in keeping with a law on the insurance of natural persons' bank deposits, and of the Bank of Russia in connection with the making of disbursements relating to natural persons' bank deposits in accordance with a law.

**2.** Claims of creditors of each priority ranking category are met after the claims of creditors of the preceding category have been satisfied in full, except for creditors' claims relating to obligations secured by a pledge of property of a legal entity in liquidation.

Creditors' claims relating to obligations secured by a pledge of property of a legal entity in liquidation shall be met with proceeds from the sale of the object of the pledge as a priority over other creditors, except for the obligations to the creditors of the first and second priority ranking categories for which claims had come into being before the conclusion of the pertinent contract of pledge.

Creditors' claims for obligations secured with a pledge of property of a legal entity in liquidation that have not been met with proceeds from the sale of the object of the pledge shall be satisfied together with the claims of creditors of the fourth priority ranking category.

**3.** In case the property of the liquidated legal entity proves to be insufficient, it shall be distributed among the creditors of the corresponding group proportionately to the amounts of the claims liable to satisfaction, if not otherwise stipulated by the law.

**4.** In case the liquidation commission refuses to satisfy the creditor's claim or evades its consideration, the creditor shall have the right, until the approval of the legal entity's liquidation balance, to turn to the court with a claim against the liquidation commission. By the court decision, the creditor's claims may be satisfied at the expense of the remaining property of the liquidated legal entity.

**5.** The creditor's claims, lodged after the expiry of the term, fixed by the liquidation commission for their presentation, shall be satisfied from the property of the liquidated legal entity, which has been left after the duly lodged creditors' claims have been satisfied.

**6.** The creditors' claims, left unsatisfied because of the insufficiency of the property of the liquidated legal entity, shall be regarded as settled, the same as the claims of the creditors, which have not been recognized by the

liquidation commission, if the creditor did not file the claim with a court, and also those claims, which have been rejected by the court ruling.

#### **Article 65. Insolvency (Bankruptcy) of the Legal Entity**

1. A legal entity, except for a treasury enterprise, institution, political party and religious organisation may be deemed insolvent (bankrupt) by a court's decision. A state corporation may be liquidated as a result of declaring it insolvent (bankrupt), where this is allowed by the federal law providing for establishment thereof. The Fund may not be declared insolvent (bankrupt) in so far as that is prescribed under the law providing for the setting up and operation of that fund.

The recognition of the legal entity to be bankrupt shall entail its liquidation.

2. Abolished.

3. The grounds for the court to deem a legal entity insolvent (bankrupt), the procedure for liquidating such a legal entity, and also the priority ranking for the purpose of satisfying claims of creditors shall be established by a law on insolvency (bankruptcy).

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

#### **1. The General Provisions**

##### **Article 66. The Basic Provisions on the Economic Partnerships and Companies**

1. The economic partnerships and companies shall be recognized as commercial organizations with the authorized (joint) capital, divided into the shares (investments) of the founders (the participants). The property, formed at the expense of the founders' (the participants') contributions, the same as that produced and acquired by the economic partnership or by the company in the process of its activity, shall belong to it by the right of ownership.

In the cases, stipulated by the present Code, an economic company may be created by one person, who becomes its only participant.

**2.** The economic partnerships may be established in the form of a general partnership and of a limited (commandite) partnership.

**3.** The economic partnerships may also be created in the form of a joint-stock company with a limited or a double responsibility.

**4.** The participants in the general partnerships and the general partners in the limited (commandite) partnerships may be the individual businessmen and (or) the commercial organizations.

The participants in the economic companies and the investors in the limited (commandite) partnerships may be the citizens and the legal entities.

The state bodies and the local self-government bodies shall not have the right to be the participants in the economic companies and the investors in the limited partnerships, if not otherwise stipulated by the law.

The institutions may be the participants in the economic companies and the investors in the partnerships upon the owner's permission, unless otherwise stipulated by the law.

The law may prohibit or restrict the participation of the individual categories of citizens in the economic partnerships and companies, with the exception of the public joint-stock companies.

**5.** The economic partnerships and companies may be the founders (the participants) of the other economic partnerships and companies, with the exception of the cases, stipulated by the present Code and by the other laws.

**6.** Contributed to the property of an economic partnership or of a company may be the money, the securities and the other things, or the property and the other rights that may be evaluated in money.

The monetary evaluation of the contribution, made by the participant in the economic company, shall be effected by an agreement between the founders (participants) of the company; in the law-stipulated cases, it shall be subject to an independent expert examination.

**7.** The economic partnerships, and also the companies with a limited and a double responsibility shall not

have the right to issue shares.

**Article 67.** The Rights and Duties of the Participants in the Economic Partnership or Company

1. The participants in the economic partnership or company shall have the right:

- to take part in the management of affairs of the partnership or company, with the exception of the cases, stipulated by Item 2, Article 84 of the present Code and by the Law on the Joint-Stock Companies;
- to get informed on the activity of the partnership or company and to get acquainted with its accounting books and other documentation in conformity with the procedure, laid down by the constituent documents;
- to take part in the distribution of profits;
- to receive, in the case of the partnership's or the company's liquidation, a part of its property, left after the settlements with the creditors, or the cost thereof.

2. The participants in the economic partnership or company shall be obliged:

- to make investments in the order, in the amount, in the ways and within the term, stipulated by the constituent documents;
- to keep secret the confidential information on the partnership's or the company's activity.

The participants in the economic partnership or company may also discharge the other duties, stipulated by the constituent documents.

**Article 68.** Transformation of the Economic Partnerships and Companies

1. The economic partnerships and companies of one type may be transformed into the economic partnerships and companies of another type or into the production cooperatives, by the decision of the general meeting of their participants in conformity with the procedure, stipulated by the present Code.

2. In case the partnership is transformed into a company, each general partner, who has become the participant (the share-holder) of the company, shall bear in the course of two years the subsidiary responsibility with his entire property by the obligations, which have passed to the company from the partnership. The alienation by the former partner of the participation shares (shares) in his possession shall not exempt him from such responsibility. The rules, expatiated in the present Item, shall be correspondingly applied in case the partnership is transformed into a production cooperative.

**2. The General Partnership**

#### **Article 69.** The Basic Provisions on the General Partnership

1. The partnership, whose participants (general partners) are engaged, in conformity with the agreement signed between them, in business activities on behalf of the partnership and bear responsibility by its obligations with the property in their possession, shall be recognized as the general partnership.

2. The person shall have the right to be the participant of only one general partnership.

3. The trade name of the general partnership shall contain either the names (the titles) of all its participants and the words "general partnership", or the name (the title) of one or of several of its participants, with the words "and Co." and "general partnership" to be added.

#### **Article 70.** The Constituent Agreement of the General Partnership

1. The general partnership shall be created and shall operate on the ground of a constituent agreement. The constituent agreement shall be signed by all its participants.

2. The constituent agreement of the general partnership shall contain, in addition to the information, stipulated in Item 2, Article 52 of the present Code, the terms for the amount and structure of the joint capital of the partnership; on the amount and the procedure for changing the share of each of the participants in the joint capital; on the amount, the structure, the term and the order, set for their making investments; and on the liability for the violation of the duties, involved in making such investments.

#### **Article 71.** Management in the General Partnership

1. The activity of the general partnership shall be managed by the general agreement of all its participants. The constituent agreement of the partnership may also indicate the cases, when the decision shall be adopted by the majority of the participants' votes.

2. Every participant of the general partnership shall have one vote, if the constituent agreement does not stipulate a different order for the definition of its participants' votes.

3. Every participant of the partnership shall have the right to get acquainted with the entire documentation on the business management, regardless of whether he has been authorized to perform the partnership's business management. The renouncement of this right or its restriction, including by the agreement of the partnership's participants, shall be insignificant.

## **Article 72. Business Management of the General Partnership**

1. Every participant of the general partnership shall have the right to operate on behalf of the partnership, unless the constituent agreement has laid it down that all its participants shall effect the business management jointly, or unless the business management has been entrusted to the individual participants.

If the partnership's participants effect a joint business management of the partnership, to make any one deal, the consent of all the participants of the partnership shall be required.

If the business management of the partnership has been entrusted by its participants to one or to several persons from among them, the other participants, who are going to make a deal on behalf of the partnership, shall receive a warrant from the participant (the participants), to whom the business management of the partnership has been entrusted.

The partnership shall not have the right to refer, in its relations with the third persons, to the provisions of the constituent agreement, restricting the powers of the partnership participants, with the exception of the cases, when the partnership can prove that at the moment of effecting the deal, the third person was aware, or should have been aware, of the partnership participant's having no right to act on behalf of the partnership.

2. The powers for the management of the partnership affairs, granted to one or to several of its participants, may be terminated by the court on the demand of one or of several other partnership participants, if there are serious grounds for this, in particular, if the authorized person (persons) has (have) committed a gross violation of their duties, or if he (they) have proved to be incapable of a wise management of the affairs. The necessary changes shall be introduced into the constituent agreement of the partnership on the grounds of the court decision.

## **Article 73. The Duties of the Participant of the General Partnership**

1. The participant of the general partnership shall take part in its activities in conformity with the terms of the constituent agreement.

2. The participant of the general partnership shall put at least a half of his contribution into the partnership's joint capital by the moment of its registration. The remaining part shall be put in by the participant within the term, fixed by the constituent agreement. In case he fails to discharge the said duty, the participant shall be obliged to pay to the partnership an annual 10 per cent from the underpaid part of the contribution and to recompense the inflicted losses, unless the other consequences have been stipulated by the constituent agreement.

3. The participant in a general partnership shall not have the right to make on his own behalf and in his own

interest, or in the interest of the third persons, without the consent of the rest of the participants, the deals, which are similar to those that are the object of the partnership's activity.

If this rule is violated, the partnership shall have the right to demand, according to his choice, either that the given participant recompense the losses he has caused to the partnership, or that the entire profit he has derived by such deals be transferred to the partnership.

#### **Article 74.** Distribution of the Profits and Losses of the General Partnership

1. The profits and losses of the general partnership shall be distributed among its participants proportionately to their shares in the joint capital, if not otherwise stipulated by the constituent agreement or by another agreement, signed by the participants. No agreement on the exclusion of any partnership participants from the distribution of the profits and losses shall be admitted.

2. If, as a result of the losses the partnership has sustained, the value of its net assets shrinks to less than the amount of its joint capital, the profit, derived by the partnership, shall not be distributed among its participants until the value of its net assets exceeds the amount of the joint capital.

#### **Article 75.** Responsibility of the Participants of the General Partnership by Its Obligations

1. The participants of the general partnership shall jointly bear the subsidiary responsibility by the partnership's obligations with their entire property.

2. The participant of the general partnership, who is not its founder, shall be answerable on a par with the other participants by the obligations, which have arisen before the date of his joining the partnership.

The participant, who has withdrawn from the partnership, shall be answerable by the partnership's obligations, which have arisen before the moment of his retirement, on a par with the rest of the participants in the course of 2 years from the date of the approval of the accounting report on the activity of the partnership over the year, during which he has retired from the partnership.

3. The agreement of the partnership participants on the restriction or elimination of the responsibility, stipulated in the present Article, shall be insignificant.

#### **Article 76.** The Change of the General Partnership's Membership

1. In case of the withdrawal or death of any one of the participants from the general partnership, the recognition of one of them as missing, legally incapable or partially capable, or as insolvent (bankrupt), or if the re-

organizational procedures are instituted against one of the participants by the court ruling, or if a legal entity, which is a member of the partnership, is liquidated or the creditor of one of the participants turns the exaction of his debt onto the part of the property, amounting to the participant's share in the partnership's joint capital, the partnership may continue its activity, if this is stipulated by the constituent agreement of the partnership or by an agreement, signed between the rest of its participants.

2. The participants of the general partnership shall have the right to demand through the court that a certain participant be expelled from the partnership in conformity with the unanimous decision of the remaining participants and in the face of the serious grounds, in particular, on account of his gross violation of his duties or of his proving to be incapable of a wise management of affairs.

#### **Article 77. The Participant's Withdrawal from the General Partnership**

1. The participant of the general partnership shall have the right to retire from it after having declared his refusal to take part in it.

The participant shall declare his refusal to take part in the general partnership, created without indicating the term of operation, not less than 6 months in advance before his actual withdrawal from the partnership. The refusal to take part in the general partnership, created for a certain term, before the expiry of the said term, shall be admitted only on the valid grounds.

2. The agreement on the renouncement of the right to withdraw from the partnership, signed between the partnership participants, shall be insignificant.

#### **Article 78. The Consequences of the Participant's Withdrawal from the General Partnership**

1. The participant, who has retired from the general partnership, shall be paid out the cost of the share of the partnership's property, corresponding to this participant's share in the joint capital, if not otherwise stipulated by the constituent agreement. By an agreement reached between the retiring participant and the rest of the participants, the payment out of the cost of the property may be replaced by the transfer of the property in kind.

The part of the partnership's property due to the retiring participant, or its cost shall be defined by the balance, which shall be compiled by the moment of his withdrawal, with the exception of the cases, stipulated by Article 80 of the present Code.

2. In case of the death of the participant of the general partnership, his heir may join the general partnership only upon the consent of all the other participants.

The legal entity - the successor of the reorganized legal entity, which was a member of the general partnership, shall have the right to join the general partnership upon the consent of its other participants, if not otherwise stipulated by the partnership's constituent agreement.

The settlements with the heir (successor), who has not joined the partnership, shall be effected in conformity with Item 1 of the present Article. The heir (successor) of the participant of the general partnership shall bear responsibility by the partnership's obligations to the third persons, by which, in conformity with Item 2 of Article 75 of the present Code, the departed participant was answerable, within the amount of the property of the departed participant, passed to him.

3. In the case of one of the participants retiring from the partnership, the shares of the remaining participants in the partnership's joint capital shall correspondingly increase, unless otherwise stipulated by the constituent documents.

#### **Article 79.** Transfer of the Participant's Share in the General Partnership's Joint Capital

The participant of the general partnership shall have the right, with the consent of the rest of its participants, to transfer his share in the joint capital, or a part thereof, to another participant of the partnership or to the third person.

When the share (a part of the share) is transferred to another person, the full rights or the corresponding part thereof, formerly possessed by the participant, who has effected the transfer of his share (a part of the share), shall also pass to the former. The person, to whom the share (a part of the share) has been transferred, shall bear responsibility by the partnership's obligations in conformity with the procedure, laid down by first paragraph of Item 2 of Article 75 of the present Code.

The transfer of his entire share to another person, effected by the participant of the partnership, shall entail the termination of his participation in the partnership and also the consequences, stipulated by Item 2 of Article 75 of the present Code.

#### **Article 80.** Turning the Penalty onto the Share of the Participant in the Joint Capital of the General Partnership

The turning of the penalty onto the participant's share in the joint capital of the partnership by the participant's own debts shall be admissible only if his own property proves to be insufficient to cover his debts. The creditors of such a participant shall have the right to demand from the general partnership that it separate the part

of the partnership's property that would correspond to the debtor's share in the joint capital, so that the penalty may be turned onto this property. The part of the partnership property, subject to being singled out, or the cost thereof, shall be defined by the balance, compiled by the moment when the creditors file the claim for it to be separated.

The turning of the penalty onto the property, which corresponds to the participant's share in the joint capital of the general partnership, shall signify the termination of his participation in the partnership and shall also entail the consequences, stipulated by Paragraph 2 of Item 2 of Article 75 of the present Code.

#### **Article 81. Liquidation of the General Partnership**

The general partnership shall be liquidated on the grounds, indicated in Article 61 of the present Code, and also in case only one participant is left in it. Such a participant shall have the right, in the course of 6 months from the moment when he has become the only participant of the partnership, to transform such a partnership into an economic company in conformity with the procedure, laid down by the present Code.

The general partnership shall also be liquidated in the cases, stipulated in Item 1 of Article 76 of the present Code, unless it has been stipulated by the constituent documents of the partnership, or by an agreement, signed between the remaining participants, that the partnership shall continue its activity.

### **3. The Limited Partnership**

#### **Article 82. The Basic Provisions for the Limited Partnership**

1. The limited (commandite) partnership shall be recognized as such a partnership, in which, alongside the participants, engaged in the performance of the business activity on behalf of the partnership and answerable by the obligations of the partnership with their property (the general partners), there is (are) also one or several participants-investors (commanditaires), who bear the risk of the losses in connection with the partnership's activity within the amount of their investments and who do not take part in the performance of the partnership's business activity.

2. The position of the general partners in the commandite partnership and their liability by the partnership's obligations shall be defined by the rules on the participants of the general partnership, laid down by the present Code.

3. The person shall be the general partner only in one commandite partnership.

The participant of the general partnership shall not be the general partner in the commandite partnership.

4. The trade name of the commandite partnership shall contain either the names (the titles) of all its general partners and the words "limited partnership" or "commandite partnership", or the name (the title) of at least one of its general partners and the words "and Co.", and also the words "limited partnership" or "commandite partnership".

If into the trade name of the partnership is included the name of the investor, this investor shall become the general partner.

5. Toward the limited (commandite) partnership shall be applied the rules on the general partnership, laid down in the present Code, so far as this does not contradict the rules of the present Code on the limited partnership.

#### **Article 83. The Constituent Agreement of the Limited Partnership**

1. The limited partnership shall be created and shall operate on the ground of the constituent agreement. The constituent agreement shall be signed by all the general partners.

2. The constituent agreement of the limited partnership shall contain, in addition to the information, indicated in Item 2, Article 52 of the present Code, the terms on the amount and structure of the joint capital of the partnership; on the amount of and the procedure for changing the shares of each of the general partners in the joint capital; on the amount, the structure, the term and the order of their making investments, their liability for violating the duties, involved in making the investments; on the aggregate amount of the contributions, made by the investors.

#### **Article 84. Administrative and Business Management in the Limited Partnership**

1. The activity of the limited partnership shall be led by its general partners. The procedure for the administrative and business management of such a partnership by its general partners shall be established according to the rules on the general partnership, laid down in the present Code.

2. The investors shall not have the right to take part in the administrative and business management of the limited partnership or to come out on its behalf other than by a warrant. Neither shall they have the right to dispute the actions of the general partners involved in the administrative and business management of the partnership.

#### **Article 85. The Rights and Duties of the Investor of the Limited Partnership**

1. The investor of the limited partnership shall be obliged to make an investment into the joint capital. The

fact of his making the investment shall be confirmed by the participation certificate, issued to the investor by the partnership.

2. The investor of the limited partnership shall have the right:

1) to receive a part of the partnership's profit, due for his share in the joint capital, in conformity with the procedure, stipulated by the constituent agreement;

2) to get acquainted with the partnership's annual reports and balances;

3) on the expiry of the fiscal year, to retire from the partnership and to withdraw his investment in conformity with the procedure, laid down by the constituent agreement;

4) to transfer his share in the joint capital or a part thereof to another investor or to a third person. The investors shall be entitled to the preferential right, in comparison with the third persons, to buy the share (a part thereof) as applied to the terms and order, stipulated by Item 2 of Article 93 of the present Code. The transfer by the investor of his entire share to another person shall amount to the termination of his membership in the partnership.

The constituent agreement of the limited partnership may also stipulate other rights of the investor.

#### **Article 86. Liquidation of the Limited Partnership**

1. The limited partnership shall be liquidated in case all the investors have retired from it. However, the general partners shall have the right, instead of the liquidation of the limited partnership, to transform it into a general partnership.

The limited partnership shall also be liquidated on the grounds, stipulated for the liquidation of the general partnership (Article 81). However, the limited partnership shall continue operation, if at least one general partner and one investor are left in it.

2. In case of the liquidation of the limited partnership, including in the case of its bankruptcy, the investors shall have the preferential right before the general partners to get back their investments from the property of the partnership, left after the creditors' claims have been satisfied.

The property of the partnership, left after this, shall be distributed among the general partners and the investors proportionately to their shares in the partnership's joint capital, if not otherwise stipulated by the constituent agreement or by an agreement between the general partners and the investors.

#### **4. The Limited Liability Company**

#### **Article 87.** The Basic Provisions on the Limited Liability Company

1. As a limited liability company shall be recognized a company whose authorized capital is divided into shares; the participants of a limited liability company shall not be answerable under its obligations and shall bear the risk of losses in connection with the company's activity within the cost of the shares they hold.

The participants of the company, who have not paid for their shares in full, shall bear joint responsibility under its obligations within the cost of the underpaid part of the share of each of the participants.

2. The trade name of the limited liability company shall contain the name of the company and the words, "limited liability".

3. The legal position of the limited liability company, and the rights and duties of its participants shall be defined by the present Code and by the Law on the Limited Liability Companies.

The peculiarities of the legal status of the credit organizations set up in the form of a limited liability company, the rights and duties of the stakeholders thereof shall also be provided by the laws governing the activities of credit organizations.

#### **Article 88.** Participants in the Limited Liability Company

1. The number of participants in the limited liability company shall not exceed the limit, established by the Law on the Limited Liability Companies. Otherwise it shall be subject to transformation into a joint-stock company in the course of a year; on the expiry of this term, if the number of its participants has not been reduced to the law-established limit, it shall be liquidated by the court decision.

2. A limited liability company may be established by a single person or may consist of a single person, in particular when established as a result of re-organisation.

A limited liability company may not include as a single participant another business company, consisting of

a single person.

#### **Article 89.** Establishment of a Limited Liability Company and Its Constituent Document

1. Founders of a limited liability company shall make an agreement among themselves on the company's establishment defining a procedure for their joint activities aimed at the company's establishment, the amount of their company's authorised capital, the rates of their shares in the company's authorised capital and other terms established by the law on limited liability companies.

The agreement on the establishment of a limited liability company shall be made in writing.

2. Founders of a limited liability company shall bear joint responsibility under the obligations connected with its establishment and arising prior to the state registration thereof.

A limited liability company shall be only held liable under the obligations of the company's founders connected with its establishment in case of subsequent approval of actions of the company's founders by a general meeting of the company's participants. The extent of the company's liability under these obligations of the founders thereof may be limited by the law on limited liability companies.

3. As the constituent document of a limited liability company shall be deemed the rules thereof.

The rules of a limited liability company, in addition to the information stipulated in Item 2 of Article 52 of the present Code, shall contain data on the amount of the company's authorised capital; on the composition and scope of authority of its managerial bodies, on the procedure for making decisions by them (including on the issues to be resolved unanimously or by a qualified majority of votes) and also other information, stipulated by the law on limited liability companies.

4. A procedure for making other actions involving the establishment of a limited liability company is defined by the law on the limited liability companies.

#### **Article 90.** Authorized Capital of the Limited Liability Company

1. The authorized capital of the limited liability company shall be comprised of the cost of the shares acquired by its participants.

The authorized capital of the limited liability company shall determine the minimum size of the company's property, guaranteeing the interests of its creditors. The authorized capital of the limited liability company shall not

be less than the amount, stipulated by the Law on the Limited Liability Companies.

2. It is prohibited to relieve a limited liability company's participant of the obligation to pay for the share thereof in the company's authorized capital, in particular by way of setting off claims against the company.

3. By the moment of registration, not less than a half of the authorized capital of the limited liability company shall be paid up by its participants. The remaining underpaid part of the authorized capital shall be subject to payment by its participants in the course of the first year of the company's operation. The effects of a failure to discharge this obligation are defined by the law on limited liability companies.

4. If, on the expiry of the second or of every subsequent fiscal year, the cost of the net assets of the limited liability company proves to be less than its authorized capital, the company shall be obliged to make a statement on the reduction of its authorized capital and to register its reduction in conformity with the established procedure. In case the cost of the company's said assets falls below the law-stipulated minimum size of the authorized capital, the company shall be subject to liquidation.

5. The reduction of the authorized capital of the limited liability company shall be admitted after all its creditors have been notified to this effect. In this case, the latter shall have the right to demand that the corresponding obligations of the company shall be discharged in advance and that their losses be recompensed.

The rights and duties of the creditors of credit organizations set up on the form of a limited liability company shall also be governed by the laws governing the activities of credit organizations.

6. The augmentation of the company's authorized capital shall be admitted after all its participants have paid for their sharers in full.

#### **Article 91. Administration in the Limited Liability Company**

1. The higher body of the limited liability company shall be the general meeting of its participants.

An executive body (collegiate and/or single-man) shall be set up in the limited liability company, which shall perform the current direction of its activity and which shall report to the general meeting of its participants. The single-man management body of the company may also be elected not from among its participants.

2. The jurisdiction of the company's management bodies and the procedure, laid down for its adoption of decisions and coming out on behalf of the company, shall be defined in conformity with the present Code and with the Law on the Limited Liability Companies.

**3.** To the jurisdiction of the general meeting of the limited liability company shall be referred:

1) the amendment of the company's Rules and the change of the size of its authorized capital;

2) forming of the company's executive bodies and preschedule termination of their authority, as well as adoption of the decision to transfer the authority of the company's sole executive body to the manager, endorsement of such manager and of the terms of the contract made with him/her, if the company's rules do not provide for adoption of decisions on such issues by the company's board of directors (supervisory board);

3) the approval of the company's annual reports and accounting balances and the distribution of its profits and losses;

4) the adoption of the decision on the company's reorganization or liquidation;

5) the election of the company's auditing committee (the auditor).

The settlement of other questions may also be referred to the jurisdiction of the general meeting of the company's partners by Law on the Limited Liability Companies.

The issues, referred to the jurisdiction of the general meeting of the company's participants, shall not be passed by it for adopting decisions to the company's executive body.

**4.** For the purposes of checking up and confirming the correctness of the annual financial reports of the limited liability company, it shall have the right annually to draw on the services of a certified auditor, whose material interests are not involved in the company or connected with its participants (the external audit). The audit examination of the company's annual financial reports may also be carried out on the demand of any of its participants.

The procedure for carrying out the audit examinations of the company's activities shall be defined by the law and by the company's Rules.

**5.** The publication by the company of the results of the management of its activity (the public reports) shall not be required, with the exception of the cases, stipulated by the Law on the Limited Liability Companies.

## **Article 92.** Reorganization and Liquidation of the Limited Liability Company

**1.** The limited liability company may be reorganized or liquidated voluntarily by a unanimous consent of its participants.

The other grounds for the reorganization and liquidation of the limited liability company and the procedure for its reorganization and liquidation shall be defined by the present Code and by the other laws.

2. A limited liability company shall have the right to transform itself into a business company of another kind, business partnership association or a production cooperative.

**Article 93.** Transfer of a Share in a Company's Authorised Capital to Another Person

1. The transfer of the share or of a part of the share of a limited liability company's participant to another person is allowed either on the basis of a deal or by way of legal succession, or on some other legal basis, subject to the specifics provided for by this Code and the law on limited liability companies.

2. The sale or other kind of alienation of the share or of a part of the share in the authorised capital of a limited liability company to third persons is only allowed subject to the requirements provided for by the law on limited liability companies, if it is not prohibited by the company's rules.

The company's participants shall enjoy the right of priority in acquiring the share or a part of the share of its participant. A procedure for exercising the right of priority and the time period within which the company's participants may exercise the said right are defined by the law on limited liability companies and the company's rules. The company's rules may likewise provide for the company's preemptive right to purchase the share or a part of the share of a company's participant, if other company's participants waive their preemptive right to purchase the share or the part of the share in the company's authorized capital.

3. If, in conformity with the rules of a limited liability company, the alienation of a participant's share or a part thereof to third persons is prohibited, while its other participants refuse to acquire it or the consent to alienation of the share or of a part of the share to the company's participant or to a third person is not obtained and the company's rules provide for the necessity of obtaining it, the company shall be obliged to pay to the participant in question the actual cost of the share or of the part of the shares, or to give him in kind the amount of property, which corresponds to such cost.

4. The share of a limited liability company's participant may be alienated prior to its full payment only in the part of it, which has already been paid.

5. In the participant's share or a part thereof has been acquired by a limited liability company itself, it shall be obliged to realize it to its other participants or to third persons within the term and in conformity with the order, stipulated by the law on the limited liability companies and by the company's rules, or to reduce its authorized

capital in conformity with Items 4 and 5 of Article 90 of the present Code.

6. The shares of the authorized capital of a limited liability company shall be transferred to heirs of the citizens and to legal successors of the legal entities, which have been the company's participants, if not otherwise provided for by the rules of the limited liability company. The company's rules may provide that the transfer of a share in the company's authorised capital to heirs of the citizens and to legal successors of the legal entities which have been the company's participants, the transfer of the share held by a liquidated legal entity to its founders (participants) that have real rights to its property or contractual rights in respect of this legal entity shall be only allowed with the consent of all other company's participants. The refusal to grant the consent to the transfer of the share shall entail the obligation of the company to pay up to the said persons the actual cost of it, or to give them in kind the property that amounts to such cost, in conformity with the order and on the terms, stipulated by the law on the limited liability companies and by the company's rules.

7. The transfer of the share of a limited liability company's participant to another person shall entail termination of the participation thereof in the company.

#### **Article 94. Withdrawal of a Limited Liability Company's Participant from the Company**

1. A limited liability company's participant shall have the right to withdraw from the company by way of alienation of the share thereof in the authorised capital to the company, regardless of the consent of its other participants, if it is provided for by the company's rules.

2. In case of withdrawal of a limited liability company's participant from the company, he shall be paid up the actual cost of the share thereof in the company's authorised capital or shall be given the part of the property, corresponding to such cost in the order, in the manner and within the term, which are stipulated by the law on the limited liability companies and by the company's rules.

### **5. The Double Liability Company**

#### **Article 95. The Basic Provisions on the Double Liability Companies**

1. As a double liability company shall be recognized a company whose authorised capital is divided into the shares; the participants of such a company shall bear in common the subsidiary liability under its obligations with

their property in the amount, divisible by the cost of their shares and equal for all of them, which shall be defined by the company's rules. In case of the bankruptcy of one of the participants, his liability by the company's obligations shall be distributed among the rest of the participants proportionately to their contributions, unless the other order for the liability sharing is stipulated by the company's constituent documents.

2. The trade name of the double liability company shall contain the name of the company and the words "double liability".

3. Toward the double liability company shall be applied the rules of the present Code on the limited liability company and the law on limited liability companies, unless otherwise stipulated by the present Article.

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

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

1. The joint-stock company shall be recognized as the company, whose authorized capital is divided into a definite number of shares; the participants of the joint-stock company (the share-holders) shall not be answerable by its obligations and shall take the risks, involved in the losses in connection with its activity, within the cost of the shares in their possession.

The share-holders, who have not paid up their shares in full, shall bear the joint responsibility by the obligations of the joint-stock company within the unpaid part of the cost of the shares in their possession.

2. The trade name of the joint-stock company shall contain its name and the indication of the fact that the company is a joint-stock one.

3. The legal status of the joint-stock company and the rights and duties of the share-holders shall be defined in conformity with the present Code and with the Law on the Joint-Stock Companies.

The specifics of the legal status of the joint-stock companies, founded by way of the privatization of the state-run and municipal enterprises, shall be also defined by the laws and by the other legal acts on the privatization of these enterprises.

The peculiarities of the legal status of the credit organizations set up in the form of a joint-stock company,

the rights and duties of the shareholders thereof shall also be provided by the laws governing the activities of credit organizations.

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

1. The joint-stock company, whose participants may alienate the shares in their possession without the consent of the other share-holders, shall be recognized as an open joint-stock company. This kind of the joint-stock company shall have the right to carry out a public subscription for the shares it issues and to sell them freely on the terms, fixed by the law and by the other legal acts.

The open joint-stock company shall be obliged every year to publish for general information an annual report, an accounting balance and also an account on the profits and the losses.

2. The joint-stock company, whose shares are distributed only among its founders or within another circle of persons, defined in advance, shall be recognized as a closed joint-stock company. Such a company shall not have the right to carry out a public subscription for the shares it issues or to offer them in any other way for acquisition to an unlimited circle of persons.

The share-holders of the closed joint-stock company shall enjoy a preferential right to acquire the shares offered for sale by the other share-holders of this company.

The number of the participants of the closed joint-stock company shall not exceed that fixed by the Law on the Joint-Stock Companies; otherwise, it shall be subject to the transformation into an open joint-stock company in the course of one year, and upon the expiry of this term - to the liquidation by the court ruling, if the number of its participants has not been reduced to the law-stipulated limit.

In the cases, stipulated by the Law on the Joint-Stock Companies, the closed joint-stock company may be obliged to publish for general information the documents, indicated in Item 1 of the present Article.

#### **Article 98.** The Founding of the Joint-Stock Company

1. The founders of the joint-stock company shall sign between themselves an agreement, defining the order of their performing a joint activity, involved in the establishment of the company, the size of its authorized capital, the categories of the shares it is going to issue and the way of their distribution, and also the other terms, stipulated by the Law on the Joint-Stock Companies.

The agreement on founding a joint-stock company shall be made out in written form.

2. The founders of the joint-stock company shall bear a joint responsibility by the obligations, which have

arisen before the company's registration.

The company shall bear responsibility by the founders' obligations, related to its creation, only in case their actions have been subsequently approved by the general meeting of the share-holders.

**3.** The constituent documents of the joint-stock company shall be its Rules, approved by the founders.

The Rules of the joint-stock company, in addition to the information, specified in Item 2 of Article 52 of the present Code, shall contain the terms on the categories of the shares, issued by the company, on their face value and number; on the size of the company's authorized capital; on the rights of the share-holders; on the structure and the jurisdiction of the company's management bodies and on the procedure, laid down for their decision-making, including on the issues, on which decisions shall be adopted unanimously or by a qualified majority of votes. The Rules of the joint-stock company shall also contain other information, stipulated by the Law on the Joint-Stock Companies.

**4.** The procedure for the performance of the other actions, involved in founding a joint-stock company, including the jurisdiction of the constituent assembly, shall be defined by the Law on the Joint-Stock Companies.

**5.** The specifics of the creation of the joint-stock companies as a result of the privatization of the state-run and the municipal enterprises shall be defined by the laws and by the other legal acts on the privatization of these enterprises.

**6.** The joint-stock company may be founded by one person, or it may consist of one person in case a single share-holder acquires all the company's shares. The data to this effect shall be contained in the company's Rules, shall be registered and published for general information.

The joint-stock company shall not have the right to enlist another economic company, consisting of a single person, as its only participant, if not otherwise established by laws.

#### **Article 99.** The Authorized Capital of the Joint-Stock Company

**1.** The authorized capital of the joint-stock company shall be comprised of the face value of the company's shares, acquired by the share-holders.

The company's authorized capital shall define the minimum amount of the company's property, guaranteeing the interests of its creditors. It shall not be less than it is stipulated by the Law on the Joint-Stock Companies.

2. The share-holder shall not be exempted from the duty to pay for the company's shares, including the exemption from this duty by taking into account his claims against the company.

3. The public subscription for the shares of the joint-stock company shall not be admitted until the authorized capital is paid up in full. When founding a joint-stock company, all its shares shall be distributed among the founders.

4. If upon the expiry of the second and of each of the next fiscal years the cost of the company's net assets proves to be less than its authorized capital, the company shall be obliged to declare and to register, in conformity with the established procedure, the reduction of its authorized capital. If the cost of the said company's assets falls below the minimum size of the authorized capital, fixed by the law (Item 1 of the present Article), the company shall be subject to liquidation.

5. The law or the Rules of the company may fix the limits upon the number, the total face value of its shares or the maximum number of the votes in the possession of a single share-holder.

#### **Article 100.** Augmentation of the Capital of the Joint-Stock Company

1. The joint-stock company shall have the right, by the decision of the general meeting of the share-holders, to inflate its authorized capital by raising the face value of its shares or by issuing additional shares.

2. The augmentation of the authorized capital of the joint-stock company shall be admitted after it has been paid up in full. The augmentation of the company's authorized capital for the purpose of covering its losses shall not be admitted.

3. In the cases, stipulated by the Law on the Joint-Stock Companies, the company's Rules may establish the preferential right of the share-holders, possessing ordinary (common) shares or the other kind of the voting shares, for acquiring the shares, additionally issued by the company.

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

1. The joint-stock company shall have the right, by the decision of the general meeting of the share-holders, to deflate its authorized capital by cutting down the face value of its shares, or by buying up a certain number of the shares in order to reduce their total number.

The deflation of the company's authorized capital shall be admitted after the notification of all its creditors in conformity with the procedure, laid down by the Law on the Joint-Stock Companies. The creditors of the company shall have the right to demand that the company terminate in advance or execute its corresponding obligations and

recompense their losses.

The rights and duties of the creditors of credit organizations set up in the form of a joint-stock company shall also be provided by the laws governing the activities of credit organizations.

2. The reduction of the authorized capital of the joint-stock company by acquiring and paying off a part of the shares shall be admitted in case this possibility has been stipulated in the company's Rules.

**Article 102. Restrictions on the Issue of Securities and on the Payment of Dividends of the Joint-Stock Company**

1. The proportion of the preference shares in the total volume of the authorized capital of the joint-stock company shall not exceed 25 per cent.

2. The joint-stock company shall be entitled to issue bonds solely after paying in full for the authorized capital.

The nominal value of all stocks issued by a joint-stock company must not exceed the amount of the joint-stock company's authorized capital and (or) the amount of the security provided to the company for this purpose by third persons. In the absence of security provided by third persons, bonds' issuance shall be allowed at earliest on the third year of the joint-stock company's existence and on condition of proper endorsement of the company's annual balance sheets for the last two complete financial years. The said restrictions shall not apply to issues of mortgage-covered bonds and in other cases established by the laws on securities.

3. The joint-stock company shall not have the right to declare and pay dividends:

- until the entire authorized capital is paid up in full;
- if the cost of the net assets of the joint-stock company is less than its authorized capital and its reserve fund, or if it will fall below their size as a result of the payment of the dividends.

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

1. The higher management body of the joint-stock company shall be the general meeting of its shareholders.

Within the exclusive jurisdiction of the general meeting of the share-holders shall be placed:

- 1) the amendment of the company's Rules, including the change of the size of its authorized capital;
- 2) the election of the members of the board of directors (the supervisory council) and of the auditing commission (the auditor) of the company, and the termination of their powers before the expiry of their term of office;
- 3) the formation of the company's executive bodies and the cessation of their powers before the expiry of their term of office, unless the company's Rules refer the resolution of these issues to the jurisdiction of the board of directors (the supervisory council);
- 4) the approval of the annual reports, the accounting balances and the accounts of the company's profits and losses, and the distribution of its profits and losses;
- 5) the adoption of the decision on the company's reorganization or liquidation.

The Law on the Joint-Stock Companies may also refer to the exclusive jurisdiction of the general meeting of the share-holders the resolution of the other issues.

The issues, placed by the law within the exclusive jurisdiction of the general meeting of the share-holders, shall not be turned over by it for resolution to the company's executive bodies.

**2.** In the company with over 50 share-holders, a board of directors (a supervisory council) shall be established.

In case of the establishment of the board of directors (the supervisory council), the company's Rules, in conformity with the Law on the Joint-Stock Companies, shall delineate the scope of its exclusive jurisdiction. The issues, placed by the Rules within the exclusive jurisdiction of the board of directors (the supervisory council), shall not be turned over by it for resolution to the company's executive bodies.

**3.** The company's executive body may be collegiate (the board, the directorate) and (or) single-man (the director, the director-general). It shall effect the current management of the company's activity and shall report to the board of directors (to the supervisory council) and to the general meeting of the share-holders.

To the jurisdiction of the company's executive body shall be referred the resolution of all issues, which are not placed within the exclusive jurisdiction of the other management bodies of the company, delineated by the law

or by the company's Rules.

By the decision of the general meeting of the share-holders, the powers of the company's executive body may be turned over by an agreement to another commercial organization, or to an individual businessman (manager).

4. The jurisdiction of the management bodies of the joint-stock company and the procedure for their adopting decisions and acting on behalf of the company shall be defined in conformity with the present Code by the Law on the Joint-Stock Companies and by the company's Rules.

5. The joint-stock company, which has been obliged, in conformity with the present Code or with the Law on the Joint-Stock Companies, to publish for general information the documents, indicated in Item 1 of Article 97 of the present Code, shall annually draw upon the services of a professional auditor, not bound up with the company or with its participants by property interests, for checking upon and confirming the correctness of the company's annual financial reports.

The auditor's examination of the activity of the joint-stock company, including of the company, which has not been obliged to publish for general information the said documents, shall be carried out at any time upon the demand of the share-holders, whose aggregate share of the authorized capital comprises 10 or more per cent.

The procedure for carrying out auditor's examinations of the activity of the joint-stock company shall be defined by the law and by the company's Rules.

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

1. The joint-stock company may be reorganized or liquidated voluntarily, by the decision of the general meeting of the share-holders.

The other grounds and the procedure for the reorganization and liquidation of the joint-stock company shall be stipulated by the present Code and by the other laws.

2. The joint-stock company shall have the right to transform itself into a limited liability company or into a production cooperative and also to a non-commercial organization in compliance with the law.

### **7. The Subsidiary and Dependent Companies**

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

1. The economic company shall be recognized as subsidiary, if the other (the parent) economic company or partnership, on account of its prevalent participation in its authorized capital, or in conformity with the agreement, signed between them, or in any other way, can exert a decisive impact on the decisions, adopted by such a company.

2. The subsidiary company shall not be answerable by the debts of the parent company (the partnership).

The parent company (the partnership), which has the right to issue to the subsidiary company, including by an agreement signed with it, the instructions that are obligatory for it, shall bear joint responsibility with the subsidiary company by the deals, effected by the latter in execution of such instructions.

In case of the insolvency (the bankruptcy) of the subsidiary company through the fault of the parent company (the partnership), the latter shall bear the subsidiary responsibility by its debts.

3. The participants (the share-holders) of the subsidiary company shall have the right to claim that the losses, caused to the subsidiary company through the fault of the parent company (the partnership), shall be recompensed to them by the latter, unless otherwise stipulated by the laws on the economic companies.

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

1. The economic company shall be recognized as dependent, if the other (the prevalent, the participant) company possesses over 20 per cent of the voting shares of the joint-stock company or over 20 per cent of the authorized capital of the limited liability company.

2. The economic company, which has acquired over 20 per cent of the voting shares of the joint-stock company, or over 20 per cent of the authorized capital of the limited liability company, shall be obliged to publish information to this effect without delay and in conformity with the procedure, stipulated by the laws on the economic companies.

3. The limits of the mutual participation of the economic companies in one another's authorized capitals and the number of the votes that one such company may use at the general meeting of the participants or of the share-holders of another company, shall be defined by the law.

### **§ 3. The Production Cooperatives**

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

1. The production cooperative (the artel) shall be recognized as a voluntary association of the citizens, based on the membership and set up for the purpose of the joint production or of the other kind of the economic activity (the manufacture, processing and sale of the industrial, farming and the other kind of produce, the performance of works, the trade, the rendering of everyday and other services), based on their personal labour and on the other kind of participation and on the putting together by its members (participants) of the property participation shares. The law and the constituent documents of the production cooperative may stipulate the participation in its activity of the legal entities. The production cooperative shall be a commercial organization.

2. The members of the production cooperative shall bear the subsidiary responsibility by the cooperative's obligations in the amount and in conformity with the procedure, stipulated by the Law on the Production Cooperatives and by the Rules of the production cooperative.

3. The trade name of the cooperative shall contain its name and the words "production cooperative" or "artel".

4. The legal status of the production cooperatives and the rights and duties of their members shall be defined by the laws on the production cooperatives in conformity with the present Code.

#### **Article 108. Formation of the Production Cooperative**

1. The constituent document of the production cooperative shall be its Rules, endorsed by the general meeting of its members.

2. The Rules of the production cooperative shall contain, in addition to the data, indicated in Item 2 of Article 52 of the present Code, the terms for the size of the share contributions to be made by the cooperative members; for the structure and the order of making the share contributions by the cooperative members and for their liability in case of violating the obligation on making the share contributions; for the nature and the order of the

labour participation by its members in the cooperative's activity and for their liability in case of violating the obligation on the personal labour participation; for the order of the distribution of the cooperative's profits and losses; for the size of and the terms for the subsidiary liability of its members by the cooperative's debts; for the structure and the scope of jurisdiction of the cooperative's management bodies and the order of their decision-making, including on the issues, the decisions on which shall be adopted unanimously or by a qualified majority of votes.

**3.** The number of cooperative members shall be not less than 5 persons.

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

**1.** The property in the possession of the production cooperative shall be divided into the shares of its members in conformity with the Rules of the cooperative.

The Rules of the cooperative may decree that a certain part of the property in the possession of the cooperative shall be comprised of the indivisible funds, which shall be used for the purposes, defined by the Rules.

The decision on the setting up of the indivisible funds shall be adopted by the cooperative members unanimously, unless otherwise stipulated by the Rules of the cooperative.

**2.** The member of the cooperative shall be obliged to put in, by the moment of the cooperative's registration, not less than 10 per cent of his share contributions; the rest shall be paid up in the course of one year from the moment of the cooperative's registration.

**3.** The cooperative shall not have the right to issue shares.

**4.** The profit of the cooperative shall be distributed among its members in accordance with their labour input, unless otherwise stipulated by the law and by the Rules of the cooperative.

The property, left after the cooperative's liquidation and the satisfaction of the claims of its creditors, shall be distributed in the same order.

#### **Article 110.** Management in the Production Cooperatives

**1.** The higher management body of the cooperative shall be the general meeting of its members.

In the cooperative with over 50 members, a supervisory council may be established, which shall exert control over the activity of the cooperative's executive body.

The cooperative's executive bodies shall be its management board and (or) its chairman. They shall effect the current leadership of the cooperative's activity and shall report to the supervisory council and to the general meeting of the cooperative members.

Only the members of the cooperative shall have the right to be the members of the supervisory council and to fill the post of the chairman of the cooperative. The member of the cooperative shall not be simultaneously a member of the supervisory council and a member of the management board or the chairman of the cooperative.

2. The jurisdiction of the management bodies of the cooperative and the order for their decision-making shall be defined by the law and by the Rules of the cooperative.

3. The following functions shall be placed within the exclusive jurisdiction of the general meeting of the members of the cooperative:

1) the amendment of the Rules of the cooperative;

2) the establishment of the supervisory council and the termination of the powers of its members, and also the establishment and the termination of the powers of the cooperative's executive bodies, unless in conformity with the Rules of the cooperative this right has been vested in its supervisory council;

3) the admittance and expelling of the cooperative members;

4) the approval of the cooperative's annual reports and accounting balances and the distribution of its profits and losses;

5) the decision on the cooperative's reorganization and liquidation.

The Law on the Production Cooperatives and the Rules of the cooperative may also place other issues within the exclusive jurisdiction of the general meeting.

The issues, placed within the exclusive jurisdiction of the general meeting or of the supervisory council of the cooperative, shall not be turned over by these for resolution to the cooperative's executive bodies.

4. The member of the cooperative shall be entitled to one vote in the adoption of decisions by the general meeting.

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

1. The member of the cooperative shall have the right, at his own discretion, to withdraw from the cooperative. In this case, he shall be paid out the cost of his share or issued the property, corresponding to his

share; he shall also be entitled to certain other payments, stipulated by the Rules of the cooperative.

The payment out of the cost of the share or the issue of the other property to the retiring member of the cooperative shall be effected upon the expiry of the fiscal year and the approval of the accounting balance of the cooperative, unless otherwise stipulated by the Rules of the cooperative.

**2.** The member of the cooperative may be expelled from the cooperative by the decision of the general meeting in case of his non-performance or an improper performance of his duties, imposed upon him by the Rules of the cooperative, and also in the other cases, stipulated by the law and by the Rules.

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

The expelled member of the cooperative shall have the right to get back his share contribution and to receive certain other payments, stipulated by the Rules of the cooperative, in conformity with Item 1 of the present Article.

**3.** The member of the cooperative shall have the right to turn over his share or a part thereof to another member of the cooperative, unless otherwise stipulated by the law and by the Rules of the cooperative.

The turning over of the share (a part thereof) to the citizen, who is not a member of the cooperative, shall be admitted only upon the consent of the cooperative. In this case, the other members of the cooperative shall have the right of priority to the purchase of such a share (a part thereof).

**4.** In case of the death of a member of the production cooperative, his heirs may be admitted to the cooperative's membership, unless otherwise stipulated by the Rules of the cooperative. If this is not the case, the cooperative shall pay out to the heirs the cost of the share of the deceased member of the cooperative.

**5.** The turning of the claim for the property onto the share of the member of the production cooperative by the own debts of the cooperative member shall be admitted only in case his own property proves to be insufficient for covering such debts, in conformity with the order, stipulated by the law and by the Rules of the cooperative. The claim by the debts of the cooperative member shall not be turned onto the indivisible funds of the cooperative.

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

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

The other grounds and the procedure for the reorganization and the liquidation of the cooperative shall be defined by the present Code and by the other laws.

2. By the unanimous decision of its members, the production cooperative may transform itself into an economic partnership or into a company.

#### **§ 4. The State-Run and Municipal Unitary Enterprises**

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

1. The unitary enterprise shall be recognized as a commercial organization, not endowed with the right of ownership to the property, allotted to it by the property owner. The unitary enterprise's property shall be indivisible and shall not be distributed according to the instalments (the participation shares, the shares), including among the workers of the given enterprise.

The Rules of the unitary enterprise shall contain, in addition to the information, indicated in Item 2 of Article 52 of the present Code, that on the subject and on the goals of the enterprise's activity, and also on the size of its authorized fund and on the order and the sources of its formation, except for treasury enterprises.

Only the state-run and the municipal enterprises shall be set up in the form of unitary enterprises.

2. The property of the state-run or the municipal unitary enterprise shall correspondingly be in the state or in the municipal ownership, and shall belong to such an enterprise by the right of economic or operative management.

3. The trade name of the unitary enterprise shall contain an indication of the owner of its property.

4. The unitary enterprise shall be managed by its head, who shall be appointed either by the owner or by the owner's authorized body, and shall report to these.

5. The unitary enterprise shall be answerable by its obligations with the entire property in its possession.

The unitary enterprise shall not bear responsibility by the obligations of the owner of its property.

6. The legal status of the state-run and municipal unitary enterprises shall be defined by the present Code and by the Law on the State-Run and Municipal Unitary Enterprises.

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

1. The unitary enterprise, based on the right of economic management, shall be set up by the decision of the state or the local self-government body, authorized for this purpose.

2. The constituent document of the enterprise, based on the right of economic management, shall be its Rules, approved by the state body or by the local self-government body.

3. The size of the authorized fund of the enterprise, based on the right of economic management, shall not be less than that fixed by the Law on the State-Run and Municipal Unitary Enterprises.

4. The procedure for forming up the authorised fund of an enterprise founded by the right of economic jurisdiction shall be determined by a law on state and municipal unitary enterprises.

5. If upon the expiry of the fiscal year the cost of the net assets of the enterprise, based on the right of economic management, proves to be less than the size of its authorized fund, the body, authorized to set up such enterprises, shall be obliged to effect, in conformity with the established procedure, the reduction of the authorized fund. If the cost of the net assets falls below the law-fixed amount, the enterprise may be liquidated by the court decision.

6. In case the decision has been adopted on the reduction of the authorized fund, the enterprise shall be obliged to inform about it its creditors in written form.

The creditor of the enterprise shall have the right to demand that the obligations, by which the given enterprise is the debtor, be terminated or executed in advance and that his losses be recompensed.

7. The owner of the property of the enterprise, based on the right of economic management, shall not be answerable by the enterprise's obligations, with the exception of the cases, stipulated in Item 3 of Article 56 of the present Code. This rule shall also apply to the liability of the enterprise, which has founded the subsidiary enterprise, by the latter's obligations.

**Article 115.** The Unitary Enterprise Founded by the Right of Operative Management

1. In the cases and in the manner envisaged by a law on state and municipal unitary enterprise a unitary enterprise may be founded by the right of operative management (treasury enterprise) on the basis of state or

municipal property.

2. The constitutive document of the treasury enterprise shall be its constitution approved by the state or local governmental body authorised to do so.

3. The company name of a unitary enterprise founded by the right of operative management shall contain an indication of the fact that this enterprise is a treasury enterprise.

4. The rights of a treasury enterprise to the property consolidated thereto shall be determined according to Articles 296 and 297 of the present Code and by a law on state and municipal unitary enterprises.

5. The owner of property of a treasury enterprise shall bear subsidiary liability for the obligations of the enterprise if its property is insufficient.

6. The treasury enterprise may be reconstructed or liquidated in compliance with the law on state and municipal unitary enterprises.

## **§ 5. The Non-Profit Organizations**

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

1. The consumer cooperative shall be recognized as a voluntary association of the citizens and the legal entities, based on membership and aimed at satisfying the participants' material and other needs by its members putting together their property share contributions.

2. The Rules of the consumer cooperative shall contain, in addition to the information indicated in Item 2 of Article 52 of the present Code, the terms for the size of the share contributions, made by the members of the cooperative; for the structure and the order of making the share contributions by the members of the cooperative, and for the responsibility they shall bear for violating the obligation, involved in making the share contributions; for the composition and the scope of authority of the cooperative management bodies, and for the order of their decision-making, including on the issues, with respect to which decisions shall be adopted unanimously or by a qualified majority of votes; and also for the procedure, laid down for covering the losses the cooperative has sustained, by its members.

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

4. The members of the consumer cooperative shall be obliged, in the course of 3 months after the approval

of its annual balance, to cover the sustained losses by making new contributions. In case of the non-fulfillment of this duty, the cooperative may be liquidated by the court decision upon the creditor's demand.

The members of the consumer cooperative shall bear the joint subsidiary liability by its obligations within the unpaid part of the additional contribution of every one of the cooperative members.

5. The incomes, derived by the consumer cooperative as a result of the business activity, performed by the cooperative in conformity with the law and with its Rules, shall be distributed among its members.

6. The legal status of the consumer cooperatives, and the rights and duties of their members shall be defined in conformity with the present Code and with the Law on the Consumer Cooperatives.

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

1. The public and religious organizations (associations) shall be interpreted as the voluntary associations of the citizens, who have united in the law-stipulated order on the basis of the community of their interests for the purpose of satisfying their spiritual or other non-material needs.

The public and religious organizations shall be non-profit organizations. They shall have the right to engage in the business activity only in order to attain the goals, in the name of which they have been set up, and of the nature, consonant with these goals.

2. The participants (members) of the public and religious organizations shall not retain the right to the property, which they have passed into the possession of these organizations, including to the membership dues. They shall not be answerable by the obligations of the public and religious organizations, in which they participate in the capacity of their members, while the said organizations shall not be answerable by the obligations of their members.

3. The specifics of the legal status of the public and religious organizations as the participants of the relations, regulated by the present Code, shall be defined by the law.

## **Article 118. The Funds**

1. The fund shall be interpreted for the purposes of the present Code as a non-membership non-profit organization, instituted by the citizens and (or) the legal entities on the basis of voluntary property contributions and pursuing the public, charity, cultural, educational or the other socially useful goals.

The property, transferred to the fund by its founders (founder), shall be the fund's property. The founders shall not be answerable by the obligations of the fund they have created, while the fund shall not be answerable by the obligations of its founders.

2. The fund shall use the property for the purposes, defined in its Rules. The fund shall have the right to engage in business activities, necessary for it to attain the socially useful goals, in the name of which the fund has been established, and of the kind consonant with these goals. To perform the business activity, the funds shall have the right to set up economic companies or to take part in these.

The fund shall be obliged to annually publish reports on the use of its property.

3. The procedure for the fund's management and for the setting up of its bodies shall be defined by its Rules, approved by its founders.

4. The Rules of the fund, in addition to the information, indicated in Item 2 of Article 52 of the present Code, shall also contain: the name of the fund, including the word "fund"; the information on the fund's goal; the data on the fund's bodies, including on the board of guardians, supervising its activities, on the order of appointing and relieving the fund's official persons, on the place of the fund's location, and on the fate of the fund's property in case of its liquidation.

## **Article 119. Amendment of the Rules and the Liquidation of the Fund**

1. The Rules of the fund may be amended by the fund's bodies, if the possibility of their amendment in this way has been stipulated by the Rules.

If maintaining the Rules intact is fraught with the consequences, which it was impossible to foresee when the fund was established, but the possibility of introducing amendments into the Rules has not been stipulated by the latter, or the Rules are not amendable by the authorized persons, the right to effect such amendments shall be vested in the court upon the application of the fund's bodies or the body, authorized to exert supervision over its

activities.

2. The decision on the liquidation of the fund shall be adopted only by the court upon the application of the interested persons.

The fund may be liquidated:

1) if the fund's property is insufficient to attain its goals, and there is no realistic hope that the property it needs may be received;

2) if the fund's stipulated goals cannot be achieved, while they cannot be amended;

3) if in its activities the fund deviates from the goals, stipulated in its Rules;

4) in the other law-stipulated cases.

3. In case of the fund's liquidation, its property, left after the creditors' claims have been satisfied, shall be directed towards the achievement of the goals, pointed out in its Rules.

## **Article 120. The Institutions**

1. As an institution shall be seen a non-profit organisation created by the owner for the performance of managerial, socio-cultural or other functions of non-profit character.

An institution's right to the property assigned to him by the owner, as well as the property acquired by the institution shall be defined in conformity with Article 296 of the present Code.

2. An institution may be created by a citizen or by a legal entity (by a private institution) or, respectively, by the Russian Federation, by a subject of the Russian Federation or by a municipal entity (by a government or a municipal institution).

The government or the municipal institution may be a budgetary or an autonomous institution.

Private and budgetary institutions shall be fully or partially financed by the owner of their property. The procedure of the financial provision for the activity of the government and municipal institutions shall be determined by law.

A private or a budgetary institution shall answer for its liabilities by the monetary funds at its disposal. If these monetary funds are insufficient, the owner of its property shall bear subsidiary responsibility for such institution's liabilities.

An autonomous institution shall answer for its liabilities with all the property assigned to it, with the exception of the immovable property and particularly valuable movable property assigned to the autonomous institution by the owner of this property or acquired by the autonomous institution at the expense of the funds allocated by such owner. The owner of the property of an autonomous institution is not held responsible for the autonomous institution's liabilities.

3. The specifics of the legal status of the individual kinds of the state-run and of the other institutions shall be defined by the law and by the other legal acts.

#### **Article 121. Amalgamations of the Legal Entities (the Associations and the Unions)**

1. The commercial organizations shall have the right, by an agreement between themselves, to establish amalgamations in the form of associations or unions, which shall be non-profit organizations, for the purposes of coordinating their business activities and of representing and protecting their common property interests.

If, by the decision of its participants, upon the given association (union) has been imposed the performance of business activities, such an association (union) shall be transformed into an economic company or into a partnership in accordance with the procedure, stipulated by the present Code, or it shall set up a commercial company for the performance of business activities, or shall participate in such a company.

2. The public and the other kind of the non-profit organizations, including the institutions, shall have the right to voluntarily unite into the associations (the unions) of these organizations.

The association (the union) of non-profit organizations shall be a non-profit organization.

3. The members of the association (the union) shall retain their independence and the rights of a legal entity.

4. The association (the union) shall not be answerable by the obligations of its members. The members of the association (the union) shall bear the subsidiary liability by its obligations in the amount and in accordance with the order, stipulated by the constituent documents of the given association.

5. The name of the association (the union) shall contain an indication of the main object of its members' activities, with the word "association" or "union" included into it.

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

1. The constituent documents of the association (the union) shall be the constituent agreement, signed by its members, and the Rules approved by them.

2. The constituent documents of the association (the union) shall contain, in addition to the information indicated in Item 2 of Article 52 of the present Code, the terms for the composition and the authority of the management bodies of the association (the union) and for the order of their decision-making, including on the issues, the decisions on which shall be adopted unanimously or by a qualified majority of the votes of the association (the union) members, and also for the order, established for distributing the property, left after the liquidation of the association (the union).

**Article 123. The Rights and Duties of the Members of the Associations and the Unions**

1. The members of the association (the union) shall have the right to gratuitously enjoy its services.

2. The member of the association (the union) shall have the right, at his own discretion, to withdraw from the association (the union) upon the expiry of the fiscal year. In this case he shall bear the subsidiary liability by the obligations of the association (the union) proportionately to his contribution in the course of two years from the moment of his withdrawal.

The member of the association (the union) may be expelled from it by the decision of the remaining participants, in the cases and in accordance with the procedure, laid down by the constituent documents of the association (the union). Toward the liability of the expelled member of the association (the union) shall be applied the same rules as in the case of the member's withdrawal from the association (the union).

3. Upon the consent of the members of the association (the union), a new participant may join it. The joining to the association (the union) of a new member may be grounded on his subsidiary liability by the obligations of the association (the union), which has arisen before his joining it.

**Chapter 5. Participation of the Russian Federation, of the Subjects of the Russian Federation and of the  
Municipal Entities  
in the Relationships, Regulated by the Civil Legislation**

**Article 124. The Russian Federation, the Subjects of the Russian Federation and the Municipal Entities as  
the Subjects of Civil Law**

1. The Russian Federation, the subjects of the Russian Federation: the Republics, the territories, the

regions, the cities of federal importance, the autonomous region, the autonomous areas, and also the urban and rural settlements and the other municipal entities shall come out in the relationships, regulated by the civil legislation, on equal terms with the other participants of these relationships - the citizens and the legal entities.

2. Toward the subjects of civil law, indicated in Item 1 of the present Article, shall be applied the norms, defining the participation of the legal entities in the relationships, regulated by the civil legislation, unless otherwise following from the law or from the specifics of the given subjects.

**Article 125.** The Order of Participation of the Russian Federation, of the Subjects of the Russian Federation and of the Municipal Entities in the Relationships, Regulated by the Civil Legislation

1. The right to acquire and exercise by their actions the property and the personal rights, and to come out in the court on behalf of the Russian Federation and of the subjects of the Russian Federation shall be vested in the state power bodies within the scope of their jurisdiction, established by the acts, defining the status of these bodies.

2. The right to acquire and exercise by their actions the rights and duties, indicated in Item 1 of the present Article, on behalf of the municipal entities shall be vested in the local self-government bodies within the scope of their jurisdiction, established by the acts, defining the status of these bodies.

3. In the cases and in conformity with the procedure, stipulated by the federal laws, by the decrees of the President of the Russian Federation and the decisions of the Government of the Russian Federation, by the normative acts of the subjects of the Russian Federation and of the municipal entities, the state bodies, the local self-government bodies, and also the legal entities and the citizens may come out on their behalf upon their special order.

**Article 126.** Liability by the Obligations of the Russian Federation, of the Subject of the Russian Federation and of the Municipal Entity

1. The Russian Federation, the subject of the Russian Federation and the municipal entity shall be answerable by their obligations with the property they possess by the right of ownership, with the exception of the property that has been assigned to the legal entities, which they have set up by the right of economic or of operative management, and also of the property that shall be placed only in the state or in the municipal ownership.

The turning of the penalty onto the land and the other natural resources in the state or in the municipal ownership shall be admitted in the law-stipulated cases.

2. The legal entities, set up by the Russian Federation, by the subjects of the Russian Federation and by the municipal entities, shall not be answerable by their obligations.

3. The Russian Federation, the subjects of the Russian Federation and the municipal entities shall not be answerable by the obligations of the legal entities they have set up, with the exception of the law-stipulated cases.

4. The Russian Federation shall not be answerable by the obligations of the subjects of the Russian Federation and of the municipal entities.

5. The subjects of the Russian Federation and the municipal entities shall not be answerable by one another's obligations and also by those of the Russian Federation.

6. The rules, formulated in Items 2-5 of the present Article, shall not apply to the cases, when the Russian Federation has assumed upon itself the guarantee (surety) by the obligations of the subject of the Russian Federation, of the municipal or the legal entity, or when the said subjects have assumed upon themselves the guarantee (surety) by the obligations of the Russian Federation.

**Article 127.** The Specifics of the Liability of the Russian Federation and of the Subjects of the Russian Federation in the Relationships, Regulated by the Civil Legislation, in Which the Foreign Legal Entities, Citizens and States Are Involved

The specifics of the liability to be borne by the Russian Federation and by the subjects of the Russian Federation in the relationships, regulated by the civil legislation, in which the foreign legal entities, citizens and states are involved, shall be defined by the Law on the Immunity of the State and of Its Property.

**Subsection 3. The Objects of Civil Rights**

**Chapter 6. The General Provisions**

**Article 128.** Objects of Civic Rights

To the objects of civic rights are referred items, including money and securities, as well as the other property, including property rights; works and services; protected results of intellectual activity and the means for individualisation that are equated to them (the intellectual property); non-material benefits.

**Article 129.** The Circulation Capacity of the Objects of Civil Rights

1. The objects of civil rights may be freely alienated or may pass from one person to another by way of the universal legal succession (by inheritance or as a result of the reorganization of the legal entity), or in another way, if they have not been withdrawn from circulation or restricted in the circulation.

2. The kinds of the objects of civil rights, whose circulation shall not be admitted (the objects, withdrawn from circulation), shall be directly pointed out in the law.

The kinds of the objects of civil rights, which may only be possessed by definite participants in the circulation, or whose being in the circulation shall be admitted by a special permit (the objects with a restricted circulation capacity), shall be defined in accordance with the law-established procedure.

3. The land and the other natural resources shall be alienated or shall pass from one person to another in other ways so far as their circulation is admissible in conformity with the laws on the land and on the other natural resources.

4. The results of intellectual activity and the means of individualisation that are equated to them (Article 1225), cannot be alienated or passed from one person to another in the other ways. However, the rights to such results and means, as well as the material carriers in which the corresponding results or means are expressed may be alienated or passed from one person to another in the other ways in the cases and in the order established in the present Code.

**Article 130.** The Movable and the Immovable

1. To the immovables (the immovable property, realty) shall be referred the land plots, the land plots with mineral deposits and everything else, which is closely connected with the land, i.e., such objects as cannot be shifted without causing an enormous damage to their purpose, including the buildings and all kind of structures,

objects of incompleting construction.

To the immovables shall also be referred the air-borne and sea-going vessels, the inland navigation ships and the space objects. The law may also refer to the immovables certain other property.

2. The things, which have not been referred to the immovables, including money and securities, shall be regarded as the movables. The registration of the rights to the movables shall not be required, with the exception of the cases, pointed out in the law.

### **Article 131. The State Registration of the Realty**

1. The right of ownership and the other rights of estate to the immovables, the restriction of these rights, their arising, transfer and cessation shall be liable to the state registration in the Unified State Register, effected by the bodies carrying out the state registration of rights to real estate and transactions in it. Subject to the registration shall be: the right of ownership, the right of economic management, the right of operative management, the right of the inherited life possession, the right of the permanent use, the mortgage, the servitudes, and also the other rights in the cases, stipulated by the present Code and by the other laws.

2. In the law-stipulated cases, alongside the state registration, may be effected the special registration or the registration of the individual kinds of the realty.

3. The body, effecting the state registration of the rights to the realty and the deals with it, shall be obliged, upon the request of the owner of the rights, to certify the effected registration by issuing a document on the registered right or deals, or by making a superscription on the document, presented for registration.

4. The body, effecting the state registration of the rights to the realty and to the deals with it, shall be obliged to provide information on the effected registration and on the registered rights to any person.

The information shall be issued in any one body, engaged in the registration of the realty, regardless of the place of effecting the registration.

5. The refusal of the state registration of the right to the realty or of the deal with it, or the evasion by the

corresponding body from registering these, may be disputed in the court.

6. The order of the state registration and the grounds for the refusal thereof shall be established in conformity with the present Code by the Law on the Registration of the Rights to the Realty and the Deals with It.

### **Article 132. The Enterprise**

1. The enterprise as an object of rights shall be recognized as a property complex, used for the performance of business activities.

The enterprise in its entirety as a property complex shall be recognized as the realty.

2. The enterprise as a whole or a part thereof may be an object of the purchase and sale, of the mortgage, the lease and of the other deals, connected with the establishment, the change and the cessation of the rights of estate.

Within the enterprise as a property complex shall be included all kinds of the property, intended for the performance of its activities, including the land plots, the buildings, the structures, the equipment, the implements, the raw materials, the products, the rights, the claims and the debts, and also the rights to the symbols, individualizing the given enterprise, its products, works and services (such as the commercial designation, the trade and the service marks), as well as the other exclusive rights, unless otherwise stipulated by the law or by the agreement.

### **Article 133. The Indivisible Things**

The thing, whose division in kind is impossible without changing its purpose, shall be interpreted as indivisible.

The specifics of apportioning a share in the right of ownership to the indivisible thing shall be defined by the

rules, laid down in Articles 252 and 258 of the present Code.

**Article 134. The Composite Things**

In case a single whole is formed of heterogeneous things, presupposing their use for a single purpose, they shall be regarded as a single thing (a composite thing).

The effect of the deal, made with respect to a composite thing, shall concern all its component parts, unless otherwise stipulated by the agreement.

**Article 135. The Principal Thing and Its Accessory**

The thing, intended for the servicing of another thing - the principal one - and connected with it by the common purpose (an accessory), shall share the fate of the principal thing, unless otherwise stipulated by the agreement.

**Article 136. The Fruits, Products and Incomes**

The receipts, resulting from the use of the property (the fruits, products and incomes), shall belong to the person, who has been using this property on the legal grounds, unless otherwise stipulated by the law, by the other legal acts or by the agreement on the use of the said property.

**Article 137. The Animals**

Toward the animals shall be applied the general rules on the property, unless otherwise stipulated by the law or by the other legal acts.

While exercising the rights, a cruel treatment of the animals, contradicting the principles of humanity, shall not be admitted.

**Article 138. Abrogated from January 1, 2008.**

**Article 139. Abrogated from January 1, 2008.**

**Article 140. The Money (Hard Currency)**

1. The rouble shall be the legal means of payment, which shall be accepted by its face value on the entire territory of the Russian Federation.

The payments on the territory of the Russian Federation shall be effected both in cash and cashless.

2. The cases of, the procedure and the terms for the use of foreign currency on the territory of the Russian Federation shall be defined by the law or in conformity with the established order.

**Article 141. The Currency Valuables**

The kinds of property, recognized as the currency valuables, and the order established for the deals made with them, shall be defined by the Law on the Currency Regulation and the Currency Control.

The right of ownership to the currency valuables shall be protected in the Russian Federation on the general grounds.

**Chapter 7. The Securities**

**Article 142. The Security**

1. The security shall be a document, confirming, with the observance of the established form and obligatory requisites, the property rights, whose exercising or transfer shall be possible only upon its presentation.

With the transfer of the security, all the rights, certified by it, shall also be transferred in their aggregate.

2. In the cases, stipulated by the law, or in conformity with the order, established by the law for the exercising and the transfer of the rights, confirmed by the security, it shall be sufficient to present proofs of their being confirmed in the special register (a common-type or a computerized one).

**Article 143. The Kinds of Securities**

To the securities shall be referred: the government bond, the bond, the promissory note, the cheque, the deposit and the savings certificates, the savings-bank book to bearer, the bill of lading, the share, the privatization securities and also the other documents, which have been referred to the securities by the laws on the securities or in conformity with the order, established by these laws.

**Article 144. The Demands of the Security**

1. The kinds of the rights, certified by the securities, the obligatory requisites of the securities, the demands made on the form of the securities and the other indispensable requirements shall be defined by the law or in conformity with the law-established order.

2. The absence of the indispensable requisites of the security or the non-correspondence of the security to the form, established for it, shall entail its insignificance.

**Article 145. The Subjects of the Rights, Certified by the Security**

1. The rights, certified by the security, may belong to:

- 1) the bearer of the security (the security to bearer);
- 2) the person, named in the security (the registered security);
- 3) the person, named in the security, who shall exercise these rights himself or shall appoint by his instruction (order) another authorized person (the order security);

2. The law may preclude the possibility of issuing a certain kind of securities as the registered ones, or the order ones, or those to bearer.

**Article 146. Transfer of the Rights by the Security**

1. To effect the transfer to another person of the rights, certified by the security to bearer, it shall be sufficient to hand over the given security to the said person.

2. The rights, certified by the registered security, shall be transferred in accordance with the order, established for ceding the demands (the cession). In conformity with Article 390 of the present Code, the person, transferring the right by the security, shall bear responsibility for the invalidity of the corresponding demand, but not for its non-execution.

3. The rights by the order security shall be transferred by making a transfer superscription (endorsement) on the security in question. The endorser shall bear responsibility not only for the existence of the right, but also for its exercising.

The endorsement, effected on the security, shall transfer all the rights, certified by the security, to the person, to whom, or to whose jurisdiction, the rights by the security are being transferred - i.e., to the endorsee. The endorsement shall be either a blank one (without the indication of the person, to whom or to whose jurisdiction the execution shall be due), or an order one (indicating the person, to whom or to whose jurisdiction the execution shall be due).

The endorsement may amount only to the order to exercise the rights, certified by the security, without transferring these rights to the endorsee (the turnover endorsement). In this case, the endorsee shall come out in the capacity of the representative.

#### **Article 147. Execution by the Security**

1. The person, who has issued the security, and all those persons, who have endorsed it, shall bear the joint liability to its legal owner. In case of the satisfaction of the demand of the legal owner of the security concerning the execution of the obligation, certified by it, by one or by several persons from among those who have assumed the obligation by the security to him, they shall acquire the right of the reverse demand (the right of regress) to the rest of the persons, who have assumed the obligation by the security.

2. The refusal to execute the obligation, certified by the security, with a reference to the absence of the ground for the obligation or for its invalidity, shall not be admitted.

The owner of the security, who has discovered that the security has been forged or falsified, shall have the right to claim that the person, who has handed over this paper to him, properly execute the obligation, certified by the security, and recompense the losses.

#### **Article 148. Restoration of the Security**

The restoration of the rights by the lost securities to bearer and by the order securities shall be effected by the court in conformity with the procedure, stipulated by the procedural legislation.

#### **Article 149. The Non-Documentary Securities**

1. In the law-stipulated cases or in conformity with the law-established procedure, the person, who has been granted a special license, shall be able to effect the fixation of the rights, confirmed by the registered or by the

order security, including in the non-documentary form (using the computer technology, etc.). To this form of the fixation of the rights shall be applied the rules, laid down for the securities, unless otherwise following from the specifics of the fixation.

The person, who has effected the fixation of the right in the non-documentary form, shall be obliged, upon the demand of the owner of the right, to issue to him the document, testifying to the fact that the right has been fixed.

The rights, certified by way of the above-said fixation, the procedure for the official fixation of the rights and the owners of the rights, for the documentary confirmation of the entries and for performing operations with the non-documentary securities shall be defined by the law or in conformity with the procedure, established by it.

2. Operations with the non-documentary securities may be performed only drawing on the services of the person, who has been officially authorized to make the entries on the rights. The transfer, granting and restriction of the rights shall all be officially fixed by this person, who shall bear responsibility for the safety of the official entries, for guaranteeing their confidentiality, for the issue of true information on such entries, and for making official entries on the performed operations.

## **Chapter 8. The Non-Material Values and Their Protection**

### **Article 150. The Non-Material Values**

1. The life and health, the personal dignity and personal immunity, the honour and good name, the business reputation, the immunity of private life, the personal and family secret, the right of a free movement, of the choice of the place of stay and residence, the right to the name, the copyright and the other personal non-property rights and non-material values, possessed by the citizen since his birth or by force of the law, shall be inalienable and untransferable in any other way. In the cases and in conformity with the procedure, stipulated by the law, the personal non-property rights and the other non-material values, possessed by the deceased person, may be exercised and protected by other persons, including the heirs of their legal owner.

2. The non-material values shall be protected in conformity with the present Code and with the other laws

in the cases and in the order, stipulated by these, and also in those cases and within that scope, in which the use of the ways of protecting the civil rights (Article 12) follow from the substance of the violated non-material right and from the nature of the consequences of this violation.

#### **Article 151. Compensation of the Moral Damage**

If the citizen has been inflicted a moral damage (the physical or moral sufferings) by the actions, violating his personal non-property rights or infringing upon the other non-material values in his possession, and also in the other law-stipulated cases, the court may impose upon the culprit the duty to pay out the monetary compensation for the said damage.

When determining the size of compensation for the moral damage, the court shall take into consideration the extent of the culprit's guilt and the other circumstances, worthy of attention. The court shall also take into account the depth of the physical and moral sufferings, connected with the individual features of the person, to whom the damage has been done.

#### **Article 152. Protection of the Honour, Dignity and Business Reputation**

1. The citizen shall have the right to claim through the court that the information, discrediting his honour, dignity or business reputation be refuted, unless the person who has spread such information proves its correspondence to reality.

By the demand of the interested persons, the citizen's honour and dignity shall also be liable to protection after his death.

2. If the information, discrediting the honour, dignity or business reputation of the citizen, has been spread by the mass media, it shall be refuted by the same mass media.

If the said information is contained in the document, issued by an organization, the given document shall be liable to an exchange or recall.

In the other cases, the procedure for the refutation shall be ruled by the court.

3. The citizen, with respect to whom the mass media have published the information, infringing upon his rights or his law-protected interests, shall have the right to publish his answer in the same mass media.

4. If the ruling of the court has not been executed, the court shall have the right to impose upon the culprit a

fine, to be exacted in the amount and in the order, stipulated by the procedural legislation, into the revenue of the Russian Federation. The payment of the fine shall not exempt the culprit from the duty to perform the action, ruled by the court decision.

5. The citizen, with respect to whom the information, discrediting his honour, dignity or business reputation has been spread, shall have the right, in addition to the refutation of the given information, also to claim the compensation of the losses and of the moral damage, caused by its spread.

6. If the person, who has spread the information, discrediting the honour, dignity or business reputation of the citizen, cannot be identified, the citizen shall have the right to turn to the court with the demand that it recognize the spread information as not corresponding to reality.

7. The rules of the present Article on the protection of the business reputation of the citizen shall be applied, correspondingly, to the protection of the business reputation of the legal entity.

#### **Article 152.1. Protection of the Citizen's Depiction**

The publication and further use of a citizen's depiction (including his photographs, audio records or the works of fine arts, in which he is depicted) are admissible only with his consent. After the citizen's death his depiction may be used only with the consent of his children and his live spouse, and if such are absent - with the consent of his parents. Such consent is not required in the cases, when:

- 1) the depiction is used in the state, social or other public interests;
- 2) the citizen's depiction is obtained when shooting a film in the freely visited places or during public events (meetings, congresses, conferences, concerts, performances, sport competitions and such like events), with the exception of the cases, when such depiction is the principal object of use;
- 3) the citizen has sat for the depiction for a payment.

### **Subsection 4. The Deals and the Representation**

## **Chapter 9. The Deals**

### **§ 1. The Concept, the Kinds and the Form of the Deals**

**Article 153. The Concept of the Deal**

The deals shall be interpreted as the actions, performed by the citizens and by the legal entities, which are aimed at the establishment, the amendment or the cessation of the civil rights and duties.

**Article 154. The Agreements and the Unilateral Deals**

1. The deals may be bilateral or multilateral (agreements), and also unilateral.
2. The deal shall be regarded as unilateral, if for its performance in conformity with the law, with the other legal acts or with the agreement between the parties, the expression of the will of only one party to it is necessary and sufficient.
3. To conclude an agreement, the expression of the agreed will of the two parties (bilateral deals), or of the three or more parties (multilateral deals) shall be required.

**Article 155. The Duties by the Unilateral Deal**

The unilateral deal shall create duties for the person, who has effected it. It shall create duties for other persons only in the cases, established by the law or by an agreement with these persons.

**Article 156. Legal Regulation of the Unilateral Deals**

Toward the unilateral deals shall be correspondingly applied the general provisions on the obligations and on the agreements, so far as this does not contradict the law, the unilateral character and the substance of the deal.

**Article 157. The Deals, Made Under a Condition**

1. The deal shall be regarded as made under the suspensive condition, if the parties have made the arising of the rights and duties dependent on the circumstance, about which it is unknown, whether it will, or will not, take place.
2. The deal shall be regarded as made under the subsequent condition, if the parties have made the cessation of the rights and duties dependent upon the circumstance, about which it is unknown, whether it will, or will not, take place.
3. If the arrival of the condition has been obstructed in bad faith by the party, for which its taking place is

undesirable, the said condition shall be recognized as having taken place.

If the arrival of the condition has been obstructed in bad faith by the party, for which its taking place is desirable, the said condition shall be recognized as not having taken place.

**Article 158. The Form of the Deals**

1. The deals shall be effected orally or in written form (simple or notarial).

2. The deal, which may be made orally, shall be regarded as having been effected also in the case, when the behaviour of the person clearly testifies to his will to effect the deal.

3. Silence shall be recognized as the expression of the will to effect the deal in the cases, stipulated by the law or by the agreement between the parties.

**Article 159. The Oral Deals**

1. The deal, for which no written (simple or notarial) form has been stipulated by the law or by the agreement between the parties, may be effected orally.

2. Unless otherwise ruled by the agreement between the parties, all the deals, executed at the moment of their being made, may be effected orally, with the exception of those, for which the notarial form has been established, and also of those, the non-observance of the simple written form of which causes their invalidity.

3. The deals, effected in the execution of the agreement, concluded in written form, may by the agreement of the parties be effected orally, unless this contradicts the law, the other legal acts and the agreement.

**Article 160. The Written Form of the Deal**

1. The deal in written form shall be effected by way of compiling a document, expressing its content and signed by the person or by the persons, who are effecting the deal, or by the persons, properly authorized by them to do so.

The bilateral (multilateral) deals may be made in the ways, stipulated by Items 2 and 3 of Article 434 of the present Code.

The law, the other legal acts and the agreement between the parties may decree additional requirements, to which the form of the deal shall correspond (it shall be made on the form of a definite kind, shall be certified by the stamp, etc.), and also the consequences of not satisfying these requirements. If such consequences have not been stipulated, the consequences of not observing the simple written form of the deal shall be applied (Item 1 of

Article 162).

2. The use in effecting the deals of a facsimile reproduction of the signature, made with the assistance of the means of the mechanical or the other kind of copying, of the electronic-numerical signature or of another analogue of the sign manual shall be admitted in the cases and in the order, stipulated by the law and by the other legal acts, or by the agreement of the parties.

3. If the citizen, as a result of a physical defect, illness or illiteracy cannot put down his signature himself, another citizen may sign the deal upon his request. The latter's signature shall be certified by the notary or by another official person, possessing the right to perform such kind of the notarial action, with the indication of the reasons, by force of which the person, effecting the deal, was unable to put under it his sign manual himself.

However, in effecting the deals, indicated in Item 4, Article 185 of the present Code, and in issuing warrants for their effecting, the signature of the person, signing the deal, may also be certified by the organization, where the citizen, who is unable to put under it his sign manual himself, works, or by the administration of the in-patient medical institution, where he is undergoing medical treatment.

#### **Article 161. The Deals, Made in the Simple Written Form**

1. Shall be effected in the simple written form, with the exception of the deals, requiring notarial certification:

- 1) the deals of the legal entities between themselves and with the citizens;
- 2) the deals of the citizens between themselves to the sum at least ten times exceeding the minimum size of wages, fixed by the law, and in the law-stipulated cases - regardless of the sum of the deal.

2. The observance of the simple written form shall not be required for the deals, which, in conformity with Article 159 of the present Code, may be effected orally.

#### **Article 162. The Consequences of the Non-observance of the Simple Written Form of the Deal**

1. The non-observance of the simple written form of the deal shall in the case of a dispute deprive the parties of the right to refer to the testimony for the confirmation of the deal and of its terms, while not depriving them of the right to cite the written and the other kind of proofs.

2. In the cases, directly pointed out in the law or in the agreement between the parties, the non-observance

of the simple written form of the deal shall entail its invalidity.

3. The non-observance of the simple written form in a foreign economic deal shall entail its invalidity.

**Article 163. The Notarially Certified Deal**

1. The notarial certification of the deal shall be performed by making upon the document, corresponding to the requirements of Article 160 of the present Code, of the certifying superscription by the notary or by another official person, possessing the right to perform such kind of the notarial action.

2. The notarial certification of the deals shall be obligatory:

- 1) in the cases, pointed out by the law;

- 2) in the cases, stipulated by the parties' agreement, even if this form is not required for the given kind of the deals by the law.

**Article 164. The State Registration of the Deals**

1. The deals with the land and with the other realty shall be subject to the state registration in the cases and in conformity with the order, stipulated by Article 131 of the present Code and by the Law on the Registration of the Rights to the Realty and the Deals with It.

2. The law may decree the state registration of the deals with the realty of certain kinds.

**Article 165. The Consequences of the Non-Observance of the Notarial Form of the Deal and of the Requirement for Its Registration**

1. The non-observance of the notarial form of the deal and, in the law-stipulated cases, of the requirement for its state registration, shall entail its invalidity. Such kind of the deal shall be regarded as insignificant.

2. If one of the parties has executed, in full or in part, the deal, requiring the notarial certification, while the other party has been evading such certification of the deal, the court shall have the right, upon the claim of the party, which has executed the deal, to recognize the deal as valid. In this case, no subsequent certification of the deal shall be required.

3. If the deal, requiring the state registration, has been made in the proper form, but one of the parties is evading its registration, the court shall have the right, upon the claim of the other party, to adopt the decision on the registration of the deal. In this case the deal shall be registered in conformity with the court ruling.

4. In the cases, stipulated by Items 2 and 3 of the present Article, the party, ungroundlessly evading the

notarial certification or the state registration of the deal, shall be obliged to recompense to the other party the losses, inflicted by the delay in the effecting or in the registration of the deal.

## **§ 2. The Invalidity of the Deals**

### **Article 166. The Disputable and the Insignificant Deals**

1. The deal shall be invalid on the grounds, established by the present Code, by force of its being recognized as such by the court (a disputable deal), or regardless of such recognition (an insignificant deal).

2. The claim for recognizing the disputed deal to be invalid may be lodged by the persons, pointed out in the present Code.

The claim for the application of the consequences of an insignificant deal may be submitted by any interested person. The court shall also have the right to apply such consequences on its own initiative.

### **Article 167. The General Provisions on the Consequences of the Invalidity of the Deal**

1. The invalid deal shall not entail legal consequences, with the exception of those involved in its invalidity, and shall be invalid from the moment of its effecting.

2. If the deal has been recognized as invalid, each of the parties shall be obliged to return to the other party all it has received from it by the deal, and in the case of such return to be impossible in kind (including when the deal has been involved in the use of the property, the work performed or the service rendered), its cost shall be recompensed in money - unless the other consequences of the invalidity of the deal have been stipulated by the law.

3. If it follows from the content of the disputed deal that it may only be terminated for the future, the court, while recognizing the deal to be invalid, shall terminate its operation for the future.

### **Article 168. Invalidity of the Deal Not Corresponding to the Law or to the Other Legal Acts**

The deal, which does not correspond to the requirements of the law or of the other legal acts, shall be regarded as insignificant, unless the law establishes that such a deal is disputable or stipulates the other consequences of the breach.

### **Article 169. Invalidity of the Deal, Made for the Purpose, Contradicting the Foundations of the Law and**

## Order, and of Morality

The deal, which has been aimed at the goal, flagrantly contrary to the foundations of the law and order, or of morality, shall be regarded as insignificant.

If the malicious intent has been found on the part of both parties to such a deal, in the case of the execution of the deal by both parties, all they have gained by the deal shall be exacted from them into the revenue of the Russian Federation, and in the case of the deal being executed by one party, into the revenue of the Russian Federation shall be exacted all the gain by the deal, derived by the other party, and also all that was due from it to the first party in compensation of the gain.

If the malicious intent has been found in only one party to such a deal, all it has gained by the deal shall be returned to the other party, while what the latter has received, or what is due to it in compensation of the executed, shall be exacted into the revenue of the Russian Federation.

### **Article 170.** Invalidity of the Sham and of the Feigned Deal

1. The sham deal, i.e., the deal, effected only for the form's sake, without an intention to create the legal consequences, corresponding to it, shall be regarded as insignificant.

2. The feigned deal, i.e., the deal, which has been effected for the purpose of screening another deal, shall be regarded as insignificant. Toward the deal, which has actually been intended, shall be applied the relevant rules, with account for its substance.

### **Article 171.** Invalidity of the Deal, Made by the Citizen, Recognized as Legally Incapable

1. The deal, effected by the citizen, who has been recognized as legally incapable on account of a mental derangement, shall be regarded as insignificant.

Each of the parties to such a deal shall be obliged to return to the other party all it has received in kind, and if it is impossible to return what has been received in kind - to recompense its cost in money.

Besides that, the legally capable party shall also be obliged to recompense to the other party the actual damage the latter has sustained, if the legally capable party has been aware, or should have been aware, of the legal incapability of the other party.

2. In the interest of the citizen, recognized as legally incapable on account of a mental derangement, the deal he has effected may be recognized by the court as valid upon the demand of his guardian, if it has been made

to the benefit of the said citizen.

**Article 172. Invalidity of the Deal, Made by the Minor Below 14 Years of Age**

1. The deal, effected by the minor, who has not reached 14 years of age (the young minor), shall be regarded as invalid. Toward such a deal shall be applied the rules, stipulated by the second and the third paragraphs of Item 1 of Article 171 of the present Code.

2. In the interest of the young minor, the deal he has effected may be recognized by the court as valid upon the demand of his parents, adopters or guardian, if it has been made to the benefit of the young minor.

3. The rules of the present Article shall not concern the petty everyday and other kind of deals, effected by the young minors, which they have the right to make independently in conformity with Article 28 of the present Code.

**Article 173. Invalidity of the Deal, Made by the Legal Entity, Which Is Beyond the Scope of Its Legal Capacity**

The deal, effected by the legal entity in contradiction to the goals of the activity, definitely restricted in its constituent documents, or by the legal entity, which has no license for the performance of the corresponding activity, may be recognized by the court as invalid upon the claim of this legal entity, of its founder (participant), or of the state body, exerting control over the activity of the legal entity, if it has been proved that the other party to the deal has been aware, or should have been aware, of its being illegal.

**Article 174. The Consequences of the Restriction of Powers for Making the Deal**

If the powers of the person for effecting the deal have been restricted by the agreement, or the powers of the legal entity's body have been restricted by its constituent documents, as compared to the way they have been delineated in the warrant or in the law, or to the extent to which they may be regarded as evident from the actual setting, in which the deal is being effected, and if, while effecting the deal, such person or such body have trespassed the borders of such restrictions, the deal may be recognized by the court as invalid upon the claim of the person, in whose interest the said restrictions have been imposed, only in the cases, when it has been proved that the other party to the deal has been aware, or should have been aware, of the said restrictions.

**Article 175.** Invalidity of the Deal, Made by the Minor of 14-18 Years of Age

1. The deal, effected by the minor, aged from 14 to 18 years, without the consent of his parents, adopters or his trustee, in the cases when such consent is required in conformity with Article 26 of the present Code, may be recognized by the court as invalid upon the claim of the parents, adopters or the trustee.

If such a deal has been recognized as invalid, the rules, stipulated by the second and the third paragraphs of Item 1 of Article 171 of the present Code, shall be correspondingly applied.

2. The rules of the present Article shall not concern the deals of the minors, who have acquired the full legal capacity.

**Article 176.** Invalidity of the Deal, Made by the Citizen Whose Legal Capacity Has Been Restricted by the Court

1. The deal, involved in the disposal of the property, which has been effected without the consent of his trustee by the citizen, whose legal capacity has been restricted by the court on account of his abuse of alcohol or drug addiction, may be recognized by the court as invalid upon the claim of the trustee.

If such a deal has been recognized as invalid, the rules, stipulated by the second and the third paragraphs of Item 1 of Article 171 of the present Code, shall be correspondingly applied.

2. The rules of the present Article shall not concern the petty everyday deals, which the citizen, restricted in his legal capacity, has the right to effect independently in conformity with Article 30 of the present Code.

**Article 177.** Invalidity of the Deal, Made by the Citizen, Incapable of Realizing the Meaning of His Actions or of Keeping Them Under Control

1. The deal, effected by the citizen, who, while being legally capable, at the moment of making the deal was in such a state that he was incapable of realizing the meaning of his actions or of keeping them under control, may be recognized by the court as invalid upon the claim of this citizen or of the other persons, whose rights or law-protected interests have been violated as a result of its being effected.

2. The deal, effected by the citizen, who has been recognized as legally incapable at a later date, may be recognized by the court as invalid upon the claim of his guardian, if it has been proved that at the moment of making the deal, the citizen was incapable of realizing the meaning of his actions or of keeping them under control.

3. If the deal has been recognized as invalid on the ground of the present Article, the rules, stipulated by the second and the third paragraphs of Item 1 of Article 171 of the present Code, shall be correspondingly applied.

**Article 178.** Invalidity of the Deal, Made Under the Impact of Delusion

1. The deal, effected under the impact of the delusion, which has been of an essential importance, may be recognized by the court as invalid upon the claim of the party, which has acted under the impact of the delusion.

Of an essential importance shall be the delusion about the nature of the deal, or about the identity of the features of its object, which essentially narrow down the possibility of its use for the intended purpose. The delusion about the motives of the deal shall not be regarded as essential.

2. If the deal has been recognized as invalid as that effected under the impact of the delusion, the rules, stipulated by Item 2, Article 167 of the present Code, shall be correspondingly applied.

In addition to that, the party, upon whose claim the deal has been recognized as invalid, shall have the right to claim from the other party the compensation of the actual damage inflicted upon it, if it proves that the delusion has arisen through the fault of the other party. If this has not been proven, the party, upon whose claim the deal has been recognized as invalid, shall be obliged to recompense to the other party upon its claim the actual damage inflicted upon it, even if the delusion has arisen on account of the circumstances, not depending on the deluded party.

**Article 179.** Invalidity of the Deal, Made Under the Impact of the Fraud, Coercion, a Threat or an Ill-Intentioned Agreement of the Representative of One Party with the Other Party, or of the Coincidence of Ill Circumstances

1. The deal, effected under the impact of the fraud, coercion, a threat or an ill-intentioned agreement of the representative of one party with the other party, and also the deal, which the person has been forced to make on the extremely unfavourable terms because of the coincidence of ill circumstances, while this has been made use of by the other party (the bondage deal), may be recognized as invalid by the court upon the claim of the victim.

2. If the deal has been recognized as invalid on one of the grounds, pointed out in Item 1 of the present Article, all that the other party has received by the deal shall be returned by it to the victim, and in case it is impossible to return all this in kind, its cost shall be recompensed in money. The property, which the victim has received by the deal from the other party, shall be passed into the revenue of the Russian Federation. In case of the impossibility to pass the property into the revenue of the state in kind, its cost shall be exacted in money. In addition, the victim shall be recompensed by the other party all the actual damage inflicted upon him.

**Article 180. The Consequences of the Invalidity of a Part of the Deal**

The invalidity of a part of the deal shall not entail the invalidity of its other parts, if it may be supposed that the deal could have been effected without the incorporation into it of the invalidated part.

**Article 181. Statute of Limitations for Invalid Transactions**

1. The time limit of the statute of limitations for a claim for applying the consequences of the invalidity of a transaction deemed null and void is three years. The period of limitations for such a claim is counted from the day on which the performance of the transaction commenced.

2. The time limit of the statute of limitations for a claim for declaring a voidable transaction invalid and for the application of consequences of the invalidity thereof is one year. The period of limitations for such a claim is counted from the day of termination of the violence or duress under the influence of which the transaction has been concluded (Item 1 of Article 179) or from the day when the plaintiff learned or should have learned about other circumstances deemed a ground for declaring the transaction invalid.

**Chapter 10. The Representation. The Warrant**

**Article 182. The Representation**

1. The deal, effected by one person (the representative) on behalf of another person (the representee) by force of the power, based on the warrant, on the indication of the law or on the act, issued by the state body or by the local self-government body, authorized for this purpose, shall directly create, amend or terminate the civil rights and duties of the representee.

The power may also stem from the setting, in which the representative operates (the salesman in retail trade, the cashier, etc.).

2. The persons, who operate in the interest of the other persons, but on their own behalf (the trade agents, the trustees of a bankrupt's estate, the executors of the will, etc.), and also the persons, authorized to enter into negotiations on the deals, which may be possibly effected in the future, shall not act as representatives.

3. The representative shall not effect the deals on behalf of the representee in his own interest. Neither

shall he effect such deals in the interest of another person, whose representative he is at the same time, with the exception of the cases of the commercial representation.

4. The effecting through the representative of the deal, which by its nature shall be effected only in person, and also of the other deals, which have been pointed out in the law, shall not be admitted.

#### **Article 183.** The Effecting of the Deal by an Unauthorized Person

1. If the deal has been effected on behalf of the other person in the absence of relevant powers, or in case such powers have been exceeded, the deal shall be regarded as made on behalf and in the interest of the person who has made it, unless the other person (the representee) subsequently directly approves of such a deal.

2. The subsequent approval of the deal by the representee shall create, amend and terminate for him the civil rights and duties by the given deal from the moment of its being effected.

#### **Article 184.** The Commercial Representation

1. The trade agent shall be the person, who constantly and independently represents and acts on behalf of businessmen in their concluding agreements in the sphere of business activities.

2. The simultaneous commercial representation of different parties in the deal shall be admitted upon the consent of these parties and in the other law-stipulated cases. The trade agent shall be obliged to execute the orders he has been given with the circumspection of a common businessman.

The trade agent shall have the right to claim the payment of the agreed remuneration and the compensation of the expenses, he has incurred while executing the commission, from the parties to the agreement in equal shares, unless otherwise stipulated by the agreement between them.

3. The commercial representation shall be performed on the ground of a commission contract, concluded in written form and containing instructions on the agent's powers, and in the absence of such instructions - also the warrant.

The trade agent shall be obliged to keep in secret the information on the commercial deals even after the execution of the commission given to him.

4. The specific features of the commercial representation in the individual spheres of business activities shall be established by the law and by the other legal acts.

## **Article 185. The Warrant**

1. The warrant shall be recognized as the written authorization document, granted by one person to the other person for the purpose of representing him before the third persons. The written authorization document for effecting the deal by the representative may be presented by the representee directly to the corresponding third person.

2. The warrant for effecting the deals, requiring the notarial form, shall be notarially certified, with the exception of the law-stipulated cases.

3. To the notarially certified warrants shall be equalized:

1) the warrants of the servicemen and of the other persons, undergoing medical treatment in military hospitals and sanatoria, and in other military medical institutions, certified by the head of such an institution, by his deputy for medicine, by the senior doctor, or by the doctor on duty;

2) the warrants of the servicemen, and in the places of the stationing of military units, formations, institutions and military educational establishments, where there are no notary's offices or other bodies, performing notarial actions, also the warrants of the workers and employees, of their family members and of the family members of the servicemen, certified by the commander (the head) of this unit, formation, institution or establishment;

3) the warrants of the persons, maintained in the places of the deprivation of freedom (in the prisons and the prison camps), certified by the head of the corresponding place of the deprivation of freedom;

4) the warrants of the adult legally capable citizens, staying at the institutions for the social maintenance of the population, certified by the administration of the given institution or by the head (the deputy head) of the corresponding body for the social maintenance of the population.

4. The warrant for the receipt of the wages and the other payments, connected with labour relations, for the receipt of the author's and the inventor's fees, of the pensions, allowances and grants, of the citizens' deposits in the banks and of their correspondence, including money orders and parcels, may also be certified by the organization, in which the trustee works or studies, by the housing-maintenance organization at the place of his residence and by the administration of the in-patient medical institution, in which he is undergoing medical treatment.

A power of attorney for the drawing by a representative of a citizen of his deposit in a bank, or monetary

funds from his bank account, or for the receipt of correspondence addressed thereto in organizations of communications, and also for the making on behalf of a citizen of any other transactions mentioned in Paragraph One of the present Item may be attested by the relevant bank or organization of communications. Such power of attorney shall be attested free of charge.

5. The warrant, granted on behalf of the legal entity, shall bear the signature of its head or of the other person, authorized for this action by its constituent documents, and shall be certified by the stamp of this organization.

The warrant, granted on behalf of the legal entity, which is based on the state or municipal property, for the receipt or for the issue of money and of other property values, shall also be signed by the chief (senior) accountant of this organization.

#### **Article 186.** The Period of the Warrant

1. The period of the warrant shall not exceed three years. If no term has been indicated in it, the warrant shall stay in force in the course of one year from the date of its granting.

The warrant, in which no date of its granting has been indicated, shall be regarded as insignificant.

2. The notarially certified warrant, intended for the performance of actions abroad and containing no indication of the term of its operation, shall stay in force until it is revoked by the person, who has granted it.

#### **Article 187.** Transfer of the Warrant

1. The person, to whom the warrant has been granted (the warrantee) shall be obliged to perform the actions, for which he has been authorized, in person. He shall be able to transfer their performance to another person, if he is authorized to do so by the warrant, or if he has been forced to do so on account of the circumstances in order to protect the interests of the person, who has granted him the warrant (the warrantor).

2. The person, who has transferred the power of attorney to another person, shall be obliged to notify about it the warrantor, and to pass to him all the essential information on the person, to whom he has transferred the said power. The failure to discharge this duty shall impose upon the person, who has transferred the power of attorney by the warrant, the same responsibility for the actions of the person, to whom he has passed the power, as he would have borne for his own actions.

3. The warrant, granted by way of transferring the power of attorney, shall be notarized, with the exception of the cases, stipulated in Item 4 of Article 185 of the present Code.

4. The period of operation of the warrant, granted by way of transferring the power of attorney, shall not exceed the period of the warrant, on the ground of which it has been granted.

**Article 188. Withdrawal of the Warrant**

1. The operation of the warrant shall be terminated as a result of:

- 1) the expiry of the period of the warrant;
- 2) the revoking of the warrant by the person, who has granted it;
- 3) refusal on the part of the person, to whom it has been granted;
- 4) the termination of the legal entity, on whose behalf the warrant has been granted;
- 5) the termination of the legal entity, in whose name the warrant has been granted;
- 6) the death of the citizen, who has granted the warrant, or his recognition as legally incapable, partially capable or missing;
- 7) the death of the citizen, to whom the warrant has been granted, or his recognition as legally incapable, partially capable or missing.

2. The person, who has granted the warrant (the warrantor), shall have the right at any time to revoke the warrant or the transfer of the warrant, while the person, to whom the warrant has been granted (the warrantee), shall have the right at any time to reject it. An agreement on the renouncement of these rights shall be insignificant.

3. The transfer of the warrant shall lose power with the termination of the warrant.

**Article 189. The Consequences of the Termination of the Warrant**

1. The person, who has granted the warrant and who has subsequently revoked it, shall be obliged to notify about it the person, to whom the warrant has been issued, and also the third persons he knows, for the representation before whom the warrant has been granted. The same responsibility shall be imposed upon the legal successors of the warrantor, in the cases of the termination of the warrant on the grounds, stipulated in Subitems 4 and 6 of Item 1 of Article 188 of the present Code.

2. The rights and duties, which have arisen as a result of the actions of the person, to whom the warrant has been granted (the warrantee), before the moment when he has learned, or should have learned, about its termination, shall stay in force for the warrantor and his legal successors with respect to the third persons. This rule shall not be applied, if the third person has been aware, or should have been aware, of the fact that the operation of the warrant has been terminated.

3. After the termination of the warrant, the warrantee or his legal successors shall be obliged to immediately return it.

## **Subsection 5. The Term. The Limitation of Actions**

### **Chapter 11. The Counting of the Term**

#### **Article 190. Definition of the Term**

The term, established by the law, by the other legal acts and by the deal, or that fixed by the court, shall be defined by the calendar date or by the expiry of the period of time, counted in years, months, weeks, days or hours.

The term may also be defined by the reference to the event, which shall inevitably take place.

#### **Article 191. The Start of the Term, Defined by a Period of Time**

The proceeding of the term, defined by a period of time, shall start on the next day after the calendar date or after the occurrence of the event, by which its start has been defined.

#### **Article 192. The End of the Term, Defined by a Period of Time**

1. The term, counted in years, shall expire in the corresponding month and on the corresponding day of the last year of the term.

Toward the term, defined as a half of the year, shall be applied the rules for the terms, counted in months.

2. Toward the term, counted in the quarters of the year, shall be applied the rules for the terms, counted by months. The quarter of the year shall be equal to three months, and the quarters shall be counted from the beginning of the year.

3. The term, counted in months, shall expire on the corresponding day of the last month of the term.

The term, defined as a fortnight, shall be regarded as the term, counted in days, and shall be equal to 15 days.

If the term, counted in months, expires in the month, which has no corresponding date, it shall expire on the last day of this month.

4. The term, counted in weeks, shall expire on the corresponding day of the last week of the term.

**Article 193.** Expiry of the Term on a Holiday

If the last day of the term falls on a holiday, the day of the expiry of the term shall be the working day, following right after it.

**Article 194.** Procedure for Performing Actions on the Last Day of the Term

1. If the term has been fixed for the performance of a certain action, it may be performed before the expiry of 24 hours of the last day of the term.

However, if this action has to be performed in an organization, the term shall expire at the hour, when, in conformity with the established rules, the performance of the corresponding actions in this organization is terminated.

2. Written applications and notifications, handed in to a communications agency before the expiry of 24 hours of the last day of the term, shall be regarded as executed on time.

## **Chapter 12. The Limitation of Actions**

**Article 195.** The Concept of the Limitation of Actions

The limitation of actions shall be recognized as the term, fixed for the protection of the right by the claim of the person, whose right has been violated.

**Article 196.** The General Term of the Limitation of Actions

The general term of the limitation of actions shall be laid down as three years.

**Article 197.** Special Terms of the Limitation of Actions

1. For the individual kinds of claims, the law may establish special terms of the limitation of actions, reduced or extended as compared to the general term.

2. The rules of Articles 195 and 198-207 of the present Code shall also be extended to the special terms of the limitation of actions, unless otherwise established by the law.

**Article 198.** Invalidity of the Agreement on Changing the Terms of the Limitation of Actions

The terms of the limitation of actions and the order of their counting shall not be changed by an agreement between the parties.

The grounds for the suspension and the interruption of the proceeding of the terms of the limitation of actions shall be laid down by the present Code and by the other laws.

**Article 199.** Application of the Limitation of Actions

1. The claim for the protection of the violated right shall be accepted by the court for consideration regardless of the expiry of the term of the limitation of actions.

2. The limitation of actions shall be applied by the court only upon the application of the party to the dispute, filed before the court has passed the decision.

The expiry of the term of the limitation of actions, the application of which has been pleaded by the party to the dispute, shall be the ground for the court passing the decision on the rejection of the claim.

**Article 200.** The Start of the Proceeding of the Term of the Limitation of Actions

1. The proceeding of the term of the limitation of actions shall start from the day, when the person has learned, or should have learned, about the violation of his right. Exceptions to this rule shall be established by the present Code and by the other laws.

2. By the obligations with a fixed term of execution, the proceeding of the term of the limitation of actions shall start after the expiry of the term of execution.

By the obligations without a fixed term of execution, or by those, whose term of execution has been defined as that on demand, the proceeding of the term of the limitation of actions shall start from the moment, when the creditor's right to present the claim for the execution of the obligation arises, and if the debtor has been granted a privileged term for the execution of such a claim, the term of the limitation of actions shall be counted after the expiry of the said term.

3. By the regress obligations, the proceeding of the term of the limitation of actions shall start from the moment of execution of the basic obligation.

**Article 201.** The Term of the Limitation of Actions in the Substitution of the Persons in the Obligation

The substitution of the persons in the obligation shall not entail a change of the term of the limitation of

actions or of the order of its counting.

**Article 202.** Suspension of the Proceeding of the Term of the Limitation of Actions

1. The proceeding of the term of the limitation of actions shall be suspended:

1) if the filing of the claim has been obstructed by an extraordinary and under the given conditions inexorable circumstance (a force-majeure);

2) if the plaintiff or the defendant is in the Armed Forces, put under the martial law;

3) by force of the postponement of the execution of the obligations (a moratorium), decreed on the ground of the law by the Government of the Russian Federation;

4) by force of the suspension of the operation of the law or of the other legal act, regulating the corresponding relationship.

2. The proceeding of the term of the limitation of actions shall be suspended under the condition that the circumstances, pointed out in the present Article, have arisen or have been existing over the last six months of the term of the limitation, and if this term is equal to six months or is less than six months - over the period of the term of the limitation of actions.

3. From the day of the termination of the circumstance, which has served as the ground for the suspension of the limitation, the proceeding of its term shall be resumed. The remaining part of the term shall be extended to six months, and in case the term of the limitation of actions is equal to six months or is less than six months - up to the term of the limitation.

**Article 203.** Interruption of the Proceeding of the Term of Limitation of Actions

The proceeding of the term of the limitation of actions shall be interrupted by the filing of a claim in conformity with the established order, and also by the obligator's performing the actions, which testify to his admitting the debt.

After the interruption, the proceeding of the term of the limitation shall start anew; the time that has expired before the interruption, shall not be included into the new term.

**Article 204.** Proceeding of the Term of Limitation if the Claim Is Dismissed

If the court dismisses the claim, the term of limitation, which has started before the claim was filed, shall

continue to proceed in the general order.

If the court dismisses the claim, filed in a criminal case, the term of limitation, which has started before the claim was filed, shall be suspended until the sentence on dismissing the claim comes into legal force; the time, over which the limitation has been suspended, shall not be included into the term of limitation. In case the remaining part of the term of the limitation of actions is less than six months, it shall be extended to six months.

#### **Article 205.** Restoration of the Term of the Limitation of Actions

In exceptional cases, when the court recognizes the cause of missing the term of limitation as valid on the ground of the circumstances (it being related to the plaintiff's personal characteristics, such as a grave illness, total disability, illiteracy, etc.), the citizen's violated right shall be liable to protection. The reasons for his missing the term of the limitation of actions may be recognized as valid, if they have taken place within the last six months of the term of limitation, and if this term is equal to six months or is less than six months - over the term of limitation.

#### **Article 206.** Execution of the Duty After the Expiry of the Term of the Limitation of Actions

The debtor or another obligator, who has executed the duty after the expiry of the term of limitation, shall not have the right of regress, even if at the moment of the execution the said person was not aware of the expiry of the term of limitation.

#### **Article 207.** Application of the Limitation of Actions to Supplementary Claims

With the expiry of the term of limitation by the basic claim, that by the supplementary claims (the forfeit, pledge, surety, etc.) shall also expire.

#### **Article 208.** The Claims to Which the Limitation of Actions Shall Not Be Apply

The limitation of actions shall not be apply to:

- the claims for the protection of personal non-property rights and the other non-material values, with the exception of the cases, stipulated by the law;
- the claims of the depositors to the bank on the issue of deposits;
- the claims on recompensing the damage, inflicted on the life or the health of the citizen. However, the claims, made after the expiry of three years from the moment, when the right to the compensation of such damage

has arisen, shall be satisfied for the past time for no more than three years, preceding the filing of the claim;

- the claims of the owner or another possessor for the elimination of all violations of his right, even though these violations have not been involved in the deprivation of the possession (Article 304);

- the other claims in the cases, established by the law.

## **Section II. The Right of Ownership and the Other Rights of Estate**

### **Chapter 13. The General Provisions**

#### **Article 209. The Content of the Right of Ownership**

1. The owner shall be entitled to the rights of the possession, the use and the disposal of his property.

2. The owner shall have the right at his own discretion to perform with respect to the property in his ownership any actions, not contradicting the law and the other legal acts, and not violating the rights and the law-protected interests of the other persons, including the alienation of his property into the ownership of the other persons, the transfer to them, while himself remaining the owner of the property, of the rights of its possession, use and disposal, the putting of his property in pledge and its burdening in other ways, as well as the disposal thereof in a different manner.

3. The possession, the use and the disposal of the land and of the other natural resources so far as their circulation is admitted by the law (Article 129), shall be freely effected by their owner, unless this inflicts damage to the natural environment or violates the rights and the legal interests of the other persons.

4. The owner may pass his property over into the confidential management, or into the trusteeship (to a confidential manager, or to the trustee). The transfer of the property into the confidential management shall not entail the transfer of the rights of ownership to the confidential manager, who shall be obliged to perform the management of the property in the interest of the owner or of the third person the owner has named.

**Article 210. The Burden of Maintaining the Property**

The owner shall bear the burden of maintaining the property in his ownership, unless otherwise stipulated by the law or by the contract.

**Article 211. The Risk of an Accidental Destruction of the Property**

The risk of an accidental destruction of the property or of an accidental damage inflicted on it shall be borne by its owner, unless otherwise stipulated by the law or by the contract.

**Article 212. The Subjects of the Right of Ownership**

1. In the Russian Federation shall be recognized the private, the state, the municipal and the other forms of ownership.

2. The property may be in the ownership of the citizens and of the legal entities, and also of the Russian Federation, of the subjects of the Russian Federation and of the municipal entities.

3. The specifics of the acquisition and of the cessation of the right of ownership to the property, of the possession, the use and the disposal thereof may be established only by the law, depending on whether the given property is in the ownership of the citizen or of the legal entity, in the ownership of the Russian Federation, of the subject of the Russian Federation or of the municipal entity.

The law shall stipulate the kinds of the property, which may be only in the state or in the municipal ownership.

4. The rights of all the owners shall be equally protected.

**Article 213. The Right of Ownership of the Citizens and of the Legal Entities**

1. In the ownership of the citizens and of the legal entities may be any property, with the exception of the individual kinds of the property, which, in conformity with the law, may not be owned by the citizens or by the legal entities.

2. The amount and the cost of the property in the ownership of the citizens and of the legal entities shall not be limited, with the exception of the cases, when such limitations have been established by the law for the purposes, stipulated by Item 2, Article 1 of the present Code.

3. The commercial and the non-profit organizations, with the exception of the state and of the municipal enterprises, and also of the institutions shall be the owners of the property, transferred to them by way of the investments (the contributions), made by their founders (participants, members), and also of the property, acquired by these legal entities on the other grounds.

4. The public and the religious organizations (the associations), the charity and the other kind of funds shall be the owners of the property they have acquired and shall have the right to use it only for achieving the goals, stipulated in their constituent documents. The founders (the participants, the members) of these organizations shall lose the right to the property, which they have transferred into the ownership of the corresponding organization. In case of the liquidation of such an organization, its property, left after the creditors' claims have been satisfied, shall be used for the purposes, pointed out in its constituent documents.

#### **Article 214. The Right of the State Ownership**

1. The state property in the Russian Federation shall be the property, owned by the right of ownership by the Russian Federation (the federal, or the federally owned property), and also the property, owned by the right of ownership by the subjects of the Russian Federation - by the Republics, the territories, the regions, the cities of federal importance, by the autonomous region and by the autonomous areas (the property of the subject of the Russian Federation).

2. The land and the other natural resources, which are not in the ownership of the citizens, the legal entities or the municipal entities, shall be the state property.

3. On behalf of the Russian Federation and of the subjects of the Russian Federation, the rights of the owner shall be exercised by the bodies and by the persons, indicated in Article 125 of the present Code.

4. The property, which is in the state ownership, shall be assigned to the state-run enterprises and institutions into the possession, the use and the disposal in conformity with the present Code (Articles 294 and 296).

The means of the corresponding budget and the other state property, not assigned to the state enterprises and institutions, shall comprise the state treasury of the Russian Federation, the treasury of the Republic within the Russian Federation, of the territory, the region, the city of federal importance, of the autonomous region and of the autonomous area.

5. Referring the state property to the federal property and to the property of the subjects of the Russian Federation shall be effected in conformity with the procedure, laid down by the law.

**Article 215.** The Right of the Municipal Ownership

1. The property, belonging by the right of ownership to the urban and to the rural settlements, and to the other municipal entities, shall be the municipal property.

2. On behalf of the municipal entity, the rights of the owner shall be exercised by the local self-government bodies and by the persons, indicated in Article 125 of the present Code.

3. The property in the municipal ownership shall be assigned to the municipal enterprises and to the institutions into the possession, the use and the disposal in conformity with the present Code (Articles 294 and 296).

The means of the local budget and the other municipal property, not assigned to the municipal enterprises and to the institutions, shall comprise the municipal treasury of the corresponding urban or rural settlement or of the other municipal entity.

**Article 216.** The Rights of Estate of the Persons, Who Are Not the Owners

1. The rights of estate shall be, alongside the right of ownership:

- the right of the inherited life possession of the land plot (Article 265);
- the right of the permanent (perpetual) use of the land plot (Article 268);
- the servitudes (Articles 274 and 277);
- the right of the economic management of the property (Article 294) and the right of the operation management of the property (Article 296).

2. The rights of estate to the property may be possessed by the persons, who are not the owners of this property.

3. The transfer of the right of the ownership to the property to the other person shall not be a ground for the cessation of the other rights of estate to this property.

4. The rights of estate of the person, who is not the owner of the property, shall be protected from their violation by any person in the order, stipulated by Article 305 of the present Code.

**Article 217.** Privatization of the State and of the Municipal Property

The property in the state or in the municipal ownership may be transferred by its owner into the ownership of the citizens and of the legal entities in the order, stipulated by the laws on the privatization of the state and of the

municipal property.

In the course of the privatization of the state and of the municipal property, the provisions, stipulated by the present Code, which regulate the order of the acquisition and of the cessation of the right of ownership, shall be applied, unless otherwise stipulated by the laws on the privatization.

## **Chapter 14. The Acquisition of the Right of Ownership**

### **Article 218. The Grounds for the Acquisition of the Right of Ownership**

1. The right of ownership to a new thing, manufactured or created by the person for himself, while abiding by the law and by the other legal acts, shall be acquired by this person.

The right of ownership to the fruits, the products and the incomes, derived through the use of the property, shall be acquired on the grounds, stipulated by Article 136 of the present Code.

2. The right of ownership to the property, which has its owner, may be acquired by the other person on the grounds of the contract of the purchase and sale, of the exchange and of making a gift, or on the ground of another kind of the deal on the alienation of this property.

In the case of the citizen's death, the right of ownership to the property he has owned shall pass by the right of succession to the other persons in conformity with the will or with the law.

In the case of the reorganization of the legal entity, the right of ownership to the property it has owned shall pass to the legal entities, which are the legal successors of the reorganized legal entity.

3. In the cases and in the order, stipulated by the present Code, the person may acquire the right of ownership to the ownerless property, to the property, whose owner is unknown, and to the property, which the owner has renounced or to which he has lost the right of ownership on the other law-stipulated grounds.

4. The member of the housing, housing-construction, country cottage, garage or another kind of the consumer cooperative, and also the other persons, enjoying the right to make share accumulations, who have paid up in full their share contribution for the flat, the country cottage, the garage or the other quarters, given to these persons by the cooperative, shall acquire the right of ownership to the said property.

### **Article 219. Arising of the Right of Ownership to the Newly Created Realty**

The right of ownership to the buildings, the structures and the other newly created realty, subject to the state registration, shall arise from the moment of such registration.

#### **Article 220. The Processing**

1. Unless otherwise stipulated by the contract, the right of ownership to a new movable thing, which the person has manufactured by processing the materials he does not own, shall be acquired by the owner of the materials.

However, if the cost of the processing essentially exceeds the cost of the materials, the right of ownership to the new thing shall be acquired by the person who, while acting in good faith, has effected the processing for himself.

2. Unless otherwise stipulated by the contract, the owner of the materials, who has acquired the right of ownership to the thing, manufactured from them, shall be obliged to recompense the cost of the processing to the person, who has performed it, and in the case of the right of ownership to the new thing being acquired by the latter, this person shall be obliged to recompense the cost of the materials to their owner.

3. The owner of the materials, who has been deprived of them as a result of the actions in bad faith of the person, who has executed the processing, shall have the right to claim that the new thing be transferred into his ownership and that the losses, inflicted upon him, be compensated.

#### **Article 221. Turning into the Ownership of the Objects, Generally Available for Collection**

In the cases, when in conformity with the law or with the general permission of the owner, or in conformity with the local custom, in a certain area, the berry-picking, procurement (catching) of fish and other aquatic biological resources, gathering, extraction, hunting and trapping of the generally available objects and animals is admitted, the right of ownership to the corresponding objects shall belong to the person, who has performed these actions.

#### **Article 222. The Unauthorized Structure**

1. The unauthorized structure shall be a living house and any other building or structure, erected on the land plot, which has not been allotted for this purpose in conformity with the order, established by the law or by the other legal acts, or that erected without having obtained the necessary permit to this effect, or that built with the substantial violation of the norms and rules, laid down for the town-development and construction.

2. The person, who has built an unauthorized structure, shall not acquire the right of ownership to it. He shall have no right to dispose of the said structure, i.e., to sell it, to make a gift of it, to give it in rent and to perform the other deals with it.

The unauthorized structure shall be subject to demolition by the person, who has erected it, or at his expense, with the exception of the cases, stipulated by Item 3 of the present Article.

3. The right of ownership to an unauthorized structure may be recognized by the court and in other legal procedure established by laws in the cases provided for by laws in the person, in whose ownership, inherited life possession or permanent (perpetual) use the land plot, on which the said structure has been built, is situated. In this case, the person, whose right of ownership to the structure has been recognized, shall recompense the expenses, involved in its erection, to the person, who has built it, in the amount, defined by the court.

The right of ownership to the unauthorized structure shall not be adjudged to the said person, if the maintenance of the structure infringes upon the rights and the law-stipulated interests of the other persons or if it jeopardizes the citizens' life and health.

#### **Article 223.** The Moment of the Right of Ownership Arising in the Acquirer by the Contract

1. The right of ownership shall arise in the acquirer of the thing from the moment of its transfer, unless otherwise stipulated by the law or by the contract.

2. In the cases, when the alienation of the property is subject to the state registration, the right of ownership shall arise with the buyer from the moment of such registration, unless otherwise established by the law.

Immovable property shall be declared belonging to a good faith acquirer (Item 1 of Article 302) on the right of ownership from the moment of such registration, except for the cases stipulated by Article 302 of this Code when the owner has the right to recover such property from a good faith acquirer.

#### **Article 224.** The Transfer of the Thing

1. The transfer shall be recognized as the handing in of the thing to the acquirer, and also as the handing in to a transporter for the delivery to the acquirer or the passing to a communications agency for forwarding to the

acquirer of the things, alienated without an obligation of delivery.

The thing shall be regarded as handed in to the acquirer from the moment of its actually being placed into the possession of the acquirer or of the person, whom he has named.

2. If by the moment of concluding the contract on the alienation of the thing it has already been placed into the acquirer's possession, it shall be regarded as transferred to him from this moment.

3. The transfer of the thing shall be equalized to the transfer of the bill of lading or of another document of title to the thing.

#### **Article 225. Ownerless Things**

1. As ownerless shall be recognized the thing that has no owner, or whose owner is unknown, or, if not otherwise provided for by laws, whose owner has renounced the right of ownership thereof to the said thing.

2. Unless this is excluded by the rules of the present Code on the acquisition of the right of ownership to the things, which have been renounced by the owner (Article 226), on the find (Articles 227 and 228), on the neglected animals (Articles 230 and 231) and on the treasure (Article 233), the right of ownership to the ownerless movables may be acquired by force of the acquisitive prescription.

3. The ownerless immovable things shall be registered by the body, engaged in the state registration of the right to the realty, upon the application of the local self-government body, on whose territory they are situated.

After the expiry of one year from the day of registration of the ownerless immovable thing, the body, authorized to manage the municipal property, may file a claim with the court for recognizing the municipal ownership to the given thing.

The ownerless immovable thing, which has not been recognized by the court ruling as given into the municipal ownership, may once again be accepted into the possession, the use and the disposal by its owner, who has formerly left it, or it may be acquired into ownership by force of the acquisitive prescription.

4. In the cities of federal significance Moscow and St. Petersburg ownerless immovable things located on

the territories of these cities shall be accepted for recording by the bodies conducting state registration of the right to immovable property upon the applications of the authorised state bodies of these cities.

Upon the expiry of a year from the day of placing an ownerless thing on the records, the authorised state body of the city of federal significance Moscow or St. Petersburg may apply to a court with a demand for recognition of the right of ownership of the city of federal significance Moscow or St. Petersburg to this thing.

An ownerless immovable thing which has not been recognised by decision of a court as having gone into the ownership of the city of federal significance Moscow or St. Petersburg may be retaken into the possession, use, and disposition of the owner who has left it or may be acquired for ownership by virtue of acquisitive prescription.

#### **Article 226. The Movable, Renounced by the Owner**

1. The movable things, abandoned by their owner, or left by him in another way with the purpose of renouncing his right of their ownership (the abandoned things), may be turned by the other persons into their ownership in conformity with the order, stipulated by Item 2 of the present Article.

2. The person, in whose ownership, possession or use is the land plot, body of water or another object, where the abandoned thing, which costs obviously less than the sum, corresponding to the five-fold minimum amount of the remuneration of labour, and also the abandoned metal scrap, the rejected products, the sinken logs in the floating, the dumps and the drains formed in the extraction of minerals, the production and the other kind of wastes are located, shall have the right to turn these things into his ownership by starting to use them, or by performing the other actions, testifying to the thing being turned into ownership.

The other abandoned things shall go into the ownership of the person, who has entered into their possession, if, upon the application of this person, the court has recognized them as ownerless.

#### **Article 227. The Find**

1. The person, who has found a lost thing, shall be obliged to immediately notify about this the person, who has lost it, or the person, who is its owner, or somebody else from among the persons he knows, who have the right to obtain it, and to return the thing he has found to this person.

If the thing has been found indoors or in a transport vehicle, it shall be subject to being handed over to the person, representing the owner of the quarters or of the transport vehicle in question. In this case, the person, to

whom the find has been handed over, shall acquire the rights and shall discharge the obligations of the person, who has found the thing.

2. If the person, who has the right to claim that the found thing be returned to him, or the place of his stay is not known, the person, who has found the thing, shall be obliged to declare the find to the militia or to the local self-government body.

3. The person, who has found the thing, shall have the right to keep it or to give it for keeping to the militia, to the local self-government body, or to the person these have pointed out.

The perishable thing or the thing, the cost of whose storage is inordinately great compared with its cost, may be realized by the person, who has found it; the latter shall obtain a written proof of the earnings he has derived. The money, received from the sale of the find, shall be subject to the return to the person, legally entitled to obtain it.

4. The person, who has found the thing, shall be answerable for the said thing's loss or damage only in the case of an evil intent or of a flagrant carelessness on his part, and then only within the limits of its cost.

#### **Article 228. Acquisition of the Right of Ownership to the Find**

1. If in the course of six months from the moment of the declaration of the find to the militia or to the local self-government body (Item 2 of Article 227), the person, legally entitled to obtain the found thing, is not identified, or does not himself declare his right to the thing to the person, who has found it, to the militia or to the self-government body, the person, who has found it, shall acquire the right of ownership to the given thing.

2. In case the person, who has found the thing, refuses to acquire the found thing into his ownership, it shall be turned into the municipal ownership.

#### **Article 229. Compensation of the Expenses, Involved in the Find, and the Reward to the Person, Who Has Found It**

1. The person, who has found and returned the thing to the person, legally entitled to obtain it, shall have the right to receive from this person, and in case the thing is turned into the municipal ownership - from the corresponding local self-government body, the compensation of the necessary expenses, involved in the keeping, handing in or realization of the thing, as well as the outlays he has made in his efforts to discover the person, who has the right to obtain the thing.

2. The person, who has found the thing, shall have the right to claim from the person, legally entitled to

obtain it, the reward for the find, amounting to up to 20 per cent of its cost. If the found thing presents a value only to the person, legally entitled to obtain it, the amount of the reward shall be defined by an agreement with this person.

The right to the reward shall not arise, if the person, who has found the thing, has not declared the find or has tried to conceal it.

#### **Article 230. The Neglected Animals**

1. The person, who has detained the neglected or stray cattle or the other neglected domestic animals, shall be obliged to return them to the owner, and if the owner of the animals or the place of his stay is not known, shall declare, within three days from the moment of their detention, about his finding the said animals to the militia or to the local self-government body, which shall take measures to find their owner.

2. The person, who has detained the animals, may maintain and use them during the time, required to find their owner, or turn them over for the maintenance and use to another person, disposing of the necessary facilities. By the request of the person, who has detained the neglected animals, the search for a person, who disposes of the necessary facilities for their maintenance, and the transfer of the said animals to this person shall be effected by the militia or by the local self-government body.

3. The person, who has detained the neglected animals, and also that person, to whom they have been turned over for the maintenance and for the use, shall be obliged to keep them properly and shall be answerable for their perish and for the harm done to the animals through their fault within the limits of the animals' cost.

#### **Article 231. Acquisition of the Right of Ownership to the Neglected Animals**

1. If, in the course of six months from the moment, when the declaration about the detention of the neglected animals was made, their owner has not been found or has not himself claimed his right to them, the person, in whose maintenance and use the animals have been, shall acquire the right of ownership to them.

In case this person has refused to acquire the right of ownership to the animals in his maintenance, they shall be turned into the municipal ownership and shall be used in conformity with the procedure, laid down by the local self-government body.

2. If the former owner of the animals turns up after their being passed over into the ownership of another person, the former owner shall have the right, in case the said animals are showing the signs of affection for him, or in case the new owner treats them cruelly or improperly, to claim that they be returned to him on the terms, defined

by an agreement with the new owner, and if it is impossible to reach such an agreement - on the terms, ruled by the court.

**Article 232.** Compensation of the Expenses Involved in Keeping Neglected Animals and the Reward for Them

In case the neglected domestic animals are returned to the owner, the person, who has detained the animals, and also the person, in whose maintenance and use they have been, shall be entitled to the compensation by the owner of their outlays on the maintenance of the animals, with offsetting the profits, derived from their use.

The person, who has detained the neglected domestic animals, shall have the right to the reward in conformity with Item 2 of Article 229 of the present Code.

**Article 233.** The Treasure

1. The treasure, i.e., the money or the other valuable things, buried underground or hidden away in any other manner, whose owner cannot be identified or, by force of the law, has lost the right to them, shall be turned into the ownership of the person, who is the owner of the property (the land plot, the building, etc.), where the treasure was hidden, and of the person, who has discovered the treasure, in equal shares, unless another kind of agreement has been reached between them.

In case the treasure is discovered by the person, who has been performing excavation work or the search for valuables without obtaining a permission to this effect from the owner of the land plot or of the other property, where it was hidden, the treasure shall be subject to the transfer to the owner of the land plot or of the other property, where the treasure was discovered.

2. In case of discovering a treasure, containing things, which have a bearing to the monuments of culture or history, they shall be handed over into the state ownership. The owner of the land plot or of the other kind of property, where the treasure was hidden, and the person, who has discovered the treasure, shall be together entitled to a reward, amounting to 50 per cent of the cost of the treasure. The reward shall be divided between these persons in equal shares, unless another kind of agreement has been reached between them.

In case the treasure has been discovered by the person, who has performed excavation work or the search for valuables without the consent of the owner of the property, where the treasure was hidden, the reward shall not be paid to this person and shall be paid in full to the property owner.

3. The rules of the present Article shall not be applied to the persons, who have been engaged in the excavation work and in the search, aimed at the discovery of the treasure, by force of such duties being included within the range of their labour or official duties.

#### **Article 234. Acquisitive Prescription**

1. The person - the citizen or the legal entity - who is not the owner of the property, but who has, in good faith, openly and uninterruptedly, possessed the realty as his own immovable property in the course of fifteen years, or any other property in the course of five years, shall acquire the right of ownership to this property (the acquisitive prescription).

The right of ownership to the realty and to the other property, subject to the state registration, shall arise in the person, who has acquired this property by force of the acquisitive prescription, from the moment of such registration.

2. Before the acquisition of the right of ownership to the property by force of the acquisitive prescription, the person, possessing the given property as his own, shall have the right to protect his possession against the third persons, who are not the owners of the said property, and also against those, who have no rights to its possession on the other grounds, stipulated by the law or by the agreement.

3. The person, referring to the long term of possession, may add to the period of his possession the entire period of time, in the course of which the property has been possessed by the person, whose legal successor the given person is.

4. The proceeding of the term of the acquisitive prescription with respect to the things, which are in the custody of the person, from whose possession they could be claimed in conformity with Articles 301 and 305 of the present Code, shall start not earlier than after the expiry of the term of the limitation of actions by the corresponding claims.

### **Chapter 15. The Cessation of the Right of Ownership**

#### **Article 235. The Grounds for the Cessation of the Right of Ownership**

1. The right of ownership shall cease with the alienation by the owner of his property in favour of the other persons, with the owner's renouncement of his right of ownership, with the perish or the destruction of the property and with the loss of the right of ownership in the other law-stipulated cases.

2. The forcible withdrawal of the property from the owner shall not be admitted, with the exception of the cases, when, on the law-stipulated grounds, shall be effected:

- 1) the turning of the penalty onto the property by the obligations (Article 237);
- 2) the alienation of the property, which by force of the law may not be owned by the given person (Article 238);
- 3) the alienation of the realty in connection with the withdrawal of the land plot (Article 239);
- 4) the redemption of the mismanaged cultural values and of domestic animals (Articles 240 and 241);
- 5) the requisition (Article 242);
- 6) the confiscation (Article 243);
- 7) the alienation of the property in the cases, stipulated by Item 4 of Article 252, by Item 2 of Article 272, and by Articles 282, 285 and 293, by Items 4 and 5 of Article 1252 of the present Code.

By the owner's decision and in conformity with the procedure, stipulated by the laws on the privatization, the property, which is in the state or in the municipal ownership, shall be alienated into the ownership of the citizens and of the legal entities.

The turning into the state ownership of the property, which is in the ownership of the citizens and of the legal entities (the nationalization), shall be effected on the ground of the law with the recompensing of the cost of this property and of the other losses in conformity with the procedure, laid down by Article 306 of the present Code.

#### **Article 236. Renouncement of the Right of Ownership**

The citizen or the legal entity may renounce the right of ownership to the property in his (its) ownership by announcing this or by performing the other actions, definitely testifying to his abstaining from the possession, the use and the disposal of the property without an intention to preserve any rights to this property.

The renouncement of the right of ownership shall not entail the cessation of the rights and duties of the owner with respect to the corresponding property until the right of ownership to it is acquired by the other person.

#### **Article 237. Turning of the Penalty onto the Property by the Owner's Obligations**

1. The withdrawal of the property by way of turning onto it the penalty by the owner's obligations shall be effected on the grounds of the court decision, unless the other order of turning the penalty is stipulated by the law

or by the agreement.

2. The right of ownership to the property, onto which the penalty has been turned, shall cease in its owner from the moment, when the right of ownership to the withdrawn property arises in the person, to whom this property is transferred.

**Article 238.** Cessation of the Right of Ownership to the Property in the Person, Who May Not Own It

1. If on the grounds, admitted by the law, in the ownership of the person has been found the property, which he may not own by force of the law, this property shall be alienated by the owner in the course of one year from the moment of the arising of the right of ownership to the property, unless the law has established another term.

2. In the cases, when the property has not been alienated by the owner within the term, established by Item 1 of the present Article, such property, with account for its nature and purpose, shall be subject, in accordance with the court decision, passed upon the application of the state body or of the local self-government body, to the forcible sale with the transfer to the former owner of the money, derived from this sale, or to the transfer into the state or into the municipal ownership, with the compensation to the former owner of the cost of the property, defined by the court. The outlays, involved in the alienation of the property, shall be detracted.

3. If, on the grounds, admitted by the law, in the ownership of the person or of the legal entity has been found the thing, for the acquisition of which a special permit is required, while its issue has been refused to the owner, this thing shall be subject to alienation in the order, established for the property, which may not be owned by the given owner.

**Article 239.** Alienation of the Realty in Connection with the Withdrawal of the Land Plot, on Which It Is Situated

1. In the cases, when the withdrawal of the land plot for the state or for the municipal needs, or because of the improper use of land, is impossible without the cessation of the right of ownership to the buildings, the structures or the other immovable property, situated on the given land plot, this property may be withdrawn from the owner by way of its redemption by the state or by way of its sale at a public auction in conformity with the procedure, stipulated, correspondingly, by Articles 279-282 and 284-286 of the present Code.

The claim for the withdrawal of the immovable property shall not be liable to satisfaction, if the state body

or the local self-government body, which has filed this claim with the court, does not prove that the use of the land plot for the purposes, for which it is being withdrawn, would be impossible, unless the right of ownership to the given immovable property is terminated.

2. The rules of the present Article shall correspondingly be applied, when the rights of ownership to the immovable property are terminated in connection with the withdrawal of the allotted mountain land plots, water bodies and of the other set-apart nature objects, on which the given property is situated.

#### **Article 240. Redemption of the Mismanaged Cultural Values**

In the cases, when the owner of the cultural values, referred in conformity with the law to those particularly valuable and protected by the law, carelessly maintains these values, as a result of which they may lose their importance, such values may be withdrawn from the owner in accordance with the court decision, by way of their redemption by the state or by their sale at an open auction.

In case of the redemption of the cultural values, the owner shall be recompensed their cost in the amount, fixed by the agreement between the parties, and in the case of a dispute arising between them - by the court. If the values are sold at an open auction, the owner shall receive the earnings from the sale, less the outlays for holding the auction.

#### **Article 241. Redemption of the Domestic Animals in Case of Their Improper Treatment**

In the cases, when the owner's treatment of the domestic animals is in glaring contradiction with the rules of the humane attitude toward the animals, established on the ground of the rules and norms, accepted in society, these animals may be withdrawn from the owner by way of their redemption by the person, who has filed the corresponding claim with the court. The redemption price shall be defined by the agreement between the parties, and in case of a dispute arising between them - by the court.

#### **Article 242. Requisition**

1. In case of the natural calamities, the accidents, the epidemics or the epizootics, and under the other circumstances of an extraordinary nature, the property may be, in the interest of society and by the decision of the state bodies, withdrawn from the owner in accordance with the procedure and on the terms, laid down by the law,

with the cost of the requisitioned property paid out to him (the requisition).

2. The estimate, according to which the owner shall be paid the cost of the requisitioned property, may be disputed by him in the court.

3. The person, whose property has been requisitioned, shall have the right to claim through the court the return to him of the preserved property, if the circumstances, in connection with which the requisition was performed, have ceased to operate.

#### **Article 243. Confiscation**

1. In the law-stipulated cases, the property may be withdrawn from the owner without any compensation in accordance with the court decision as a sanction, inflicted for his committing a crime or another violation of the law (the confiscation).

2. In the law-stipulated cases, the confiscation may be carried out in the administrative order. The decision on the confiscation, adopted in the administrative order, may be disputed in the court.

### **Chapter 16. The Common Property**

#### **Article 244. The Concept and the Grounds for the Common Property to Arise**

1. The property, which is in the ownership of two or of several persons, shall belong to them by the right of common ownership.

2. The property may be in the common ownership, with the share of each of the owners in the right of ownership defined (the share ownership), or not defined (the joint ownership).

3. The common ownership of the property shall be the share ownership, with the exception of the cases, when the law stipulates the formation of the joint ownership to this property.

4. The common ownership shall arise when into the ownership of two or of several persons falls the property, which cannot be divided without changing its intended purpose (the indivisible things) or which shall not be subject to division by force of the law.

The common ownership of the divisible property shall arise in the cases, stipulated by the law or by an agreement.

5. By an agreement between the participants in the joint ownership, and if no agreement can be reached - by the court decision, the share ownership to the common property may be established.

**Article 245.** Definition of the Shares in the Right of the Share Ownership

1. If the shares of the participants in the share ownership cannot be defined on the ground of the law and have not been established by an agreement between all its participants, the shares shall be regarded as equal.

2. By an agreement between all the participants in the share ownership, the order of defining and amending their shares, which would depend on the contribution of each of them into the formation and the increment of the common property, may be established.

3. The participant in the share ownership, who has effected at his own expense and with the observation of the order, established for the use of the common property, the inseparable improvements in this property, shall be entitled to the corresponding increase of his share in the right of ownership to the common property.

The separable improvements, made in the common property, unless otherwise stipulated by the agreement between the participants in the common property, shall be the property of that of the participants, who has effected them.

**Article 246.** Disposal of the Property in the Share Ownership

1. The disposal of the property, which is in the share ownership, shall be effected in accordance with the agreement between all its participants.

2. The participant in the share ownership shall have the right at his own discretion to sell, to make a gift of, to leave by will, or to pledge his share, or to dispose of it in any other way, with the observation in its gratuitous alienation of the rules, stipulated by Article 250 of the present Code.

**Article 247.** Possession and Use of the Property in the Share Ownership

1. The possession and the use of the property, which is in the share ownership, shall be effected in accordance with an agreement between all its participants, and in case such an agreement cannot be reached - in accordance with the order, ruled by the court.

2. The participant in the share ownership shall have the right to put into his possession and use the part of the common property, proportionate to his share, and in case of this being impossible, he shall have the right to claim the corresponding compensation from the other participants, who possess and use the property, comprising

his share.

**Article 248.** The Fruits, Products and Incomes from the Use of the Property in the Share Ownership

The fruits, products and incomes, derived from the use of the property, which is in the share ownership, shall comprise the common property and shall be distributed between the participants in the share ownership proportionately to their shares, unless otherwise stipulated by an agreement between them.

**Article 249.** Expenses Involved in the Maintenance of the Property in the Share Ownership

Every participant in the share ownership shall be obliged to take part, proportionately to his share, in the payment of the taxes, collections and other dues by the common property, as well as in the expenses, involved in its maintenance and storage.

**Article 250.** Preferential Right of the Purchase

1. In case a share in the right of the common ownership is sold to an outsider, the rest of the participants in the share ownership shall have the right of priority in the purchase of the share on sale for the price, for which it is being sold, and on the other equal terms, with the exception of the case, when it is being sold at an open auction.

An open auction for the sale of the share in the right of the common ownership in the absence of the consent to it of all the participants in the share ownership, may be held in the cases, stipulated by the second part of Article 255 of the present Code, and also in the other law-stipulated cases.

2. The seller of the share shall be obliged to notify in written form the rest of the participants in the share ownership about his intention to sell his share to an outsider, with an indication of the price and of the other terms, on which he is selling his share. If the rest of the participants in the share ownership refuse to buy it or do not acquire the share in the right of the ownership to the immovable property, offered for sale, in the course of one month, and in the right of the ownership to the movable property - within ten days from the date of notification, the seller shall have the right to sell his share to any person.

3. If the share is sold with a violation of the right of priority to the purchase, any other participant in the share ownership shall have the right to claim through the court, in the course of three months, that the buyer's rights and duties be transferred to him.

4. The cession of the right of priority to the purchase of the share shall not be admitted.

5. The rules of the present Article shall also be applied in case of the alienation of the share by a barter

agreement.

**Article 251.** The Moment of the Transfer of the Share in the Right of the Common Ownership to the Acquirer by the Contract

The share in the right of the common ownership shall be transferred to the acquirer by the contract from the moment of its conclusion, unless otherwise stipulated by the agreement between the parties.

The moment of the share in the right of the common ownership being transferred by the contract, which is subject to the state registration, shall be defined in conformity with Item 2 of Article 223 of the present Code.

**Article 252.** Division of the Property in the Share Ownership and the Setting Apart of a Share from It

1. The property, which is in the share ownership, may be divided between its participants by an agreement between them.

2. The participant in the share ownership shall have the right to claim that his share be set apart from the common property.

3. If the participants in the share ownership have failed to come to an agreement on the way and the terms for the division of the common property or for the setting apart of the share of one of the participants, the participant in the share ownership shall have the right to claim through the court that his share be set apart from the common property in kind.

If the setting apart of the share in kind is not admitted by the law or is impossible without causing an inordinate harm to the property in the common ownership, the withdrawing owner shall have the right to the payment out to him of the cost of his share by the other participants in the share ownership.

4. The rift between the property, set apart in kind to the participant in the share ownership on the ground of the present Article, and his share in the right of ownership shall be eliminated by paying out to him of the corresponding sum of money or by the other kind of compensation.

The payment out to the participant in the share ownership by the rest of the participants of a compensation instead of the setting apart of his share in kind, shall be admitted only with his consent. In case the owner's share is insignificant, cannot be realistically set apart and he doesn't display a serious interest in the use of the common property, the court may obligate the rest of the participants in the share ownership to pay him out the compensation even in the absence of his consent.

5. Upon the receipt of the compensation in conformity with the present Article, the owner shall lose the right

to a share in the common property.

**Article 253.** Possession, Use and Disposal of the Property in the Joint Ownership

1. The participants in the joint ownership, unless otherwise stipulated by the agreement between them, shall possess and use the common property jointly.

2. The property in the joint ownership shall be disposed of by the consent of all the participants, which shall be presumed regardless of which particular participant performs the deal, involved in the disposal of the property.

3. Each of the participants in the joint ownership shall have the right to perform the deals, involved in the disposal of the common property, unless otherwise following from the agreement between all the participants. The deal, effected by one of the participants in the joint ownership, involved in the disposal of the common property, may be recognized as invalid upon the demand of the rest of the participants for the reason of the participant, who has made the deal, not having the necessary powers, only if it has been proved that the other party to the deal has known, or should have known, about it.

4. The rules of the present Article shall be applied so far as no other rules have been laid down for the individual kinds of the joint ownership by the present Code or by the other laws.

**Article 254.** Division of the Property in the Joint Ownership and the Setting Apart of a Share from It

1. The division of the common property between the participants in the joint ownership, as well as the setting apart of the share of one of them may be effected after making a preliminary estimate of the share of each of the participants in the right to the common property.

2. Unless otherwise stipulated by the law or by the agreement between the participants, when dividing the common property and setting apart a share from it, their shares shall be recognized as equal.

3. The grounds and the order for the division of the common property and for the setting apart of a share from it shall be defined according to the rules of Article 252 of the present Code, so far as no other rules have been laid down for the individual kinds of the joint ownership by the present Code and by the other laws or follow from the substance of the relationships between the participants in the joint ownership.

**Article 255.** Turning of the Penalty onto the Share in the Common Property

The creditor of the participant in the share or in the joint ownership shall have the right, in case the given owner's other property proves to be insufficient, to claim the setting apart of the debtor's share in the common property for turning the penalty onto it.

If in such cases the setting apart of the share in kind is impossible or if the rest of the participants in the share or in the joint ownership object to it, the creditor shall have the right to claim the sale by the debtor of this share to the rest of the participants of the common property for the price, proportionate to the market cost of this share, with the means, derived from the sale, going to service the debt.

In case of the refusal of the rest of the participants in the common ownership to acquire the debtor's share, the creditor shall have the right to claim through the court that the penalty be turned onto the debtor's share in the right of the common ownership by way of selling this share at an open auction.

#### **Article 256. The Community Property**

**1.** The property, accumulated by the spouses during their married life, shall be their joint, or community property, unless another regime has been established for this property by an agreement between them.

**2.** The property, which was owned by each of the spouses before they entered into the marriage, or that received by one of the spouses during their married life as a gift or by inheritance, shall be the property of this particular spouse.

The things of personal use (such as the clothes, the footwear, etc.), with the exception of the jewels and the other luxury goods, even though acquired during the married life at the expense of the spouses' common means, shall be recognized as the property of that spouse, who has used them.

The property of each of the spouses may be recognized as their joint property, if it has been established that during their married life, at the expense of the common property of the spouses or of the personal property of the other spouse, have been made the contributions, which have essentially increased the cost of that property (the overhaul, the reconstruction, the re-equipment, etc.). The present rule shall not be applied, if otherwise stipulated by an agreement between the spouses.

An exclusive right to the result of intellectual activity belonging to the author of such result (Article 1228) shall not be included into the spouses' common property. However, incomes derived from the use of such result are the spouses' common property, unless otherwise stipulated in the contract signed by them.

3. By the obligations of one of the spouses, the penalty may be turned only onto the property in his ownership and onto his share in the common property of the spouses, which should be due to him in case of the division of this property.

4. The rules for defining the spouses' shares in the common property during its division and the order of such a division, shall be laid down by the family legislation.

#### **Article 257. The Ownership of the Peasant (Farmer's) Economy**

1. The property of the peasant (the farmer's) economy shall belong to its members by the right of joint ownership, unless otherwise stipulated by the law or by an agreement between them.

2. In the joint ownership of the members of the peasant (the farmer's) economy shall be the land plot, assigned into the ownership of this economy or acquired, the economic and the other kind of buildings, the amelioration and the other kind of structures, the productive and the draft animals, the poultry, the farm and the other kind of machinery and equipment, the transportation vehicles, the implements and the other kind of property, acquired for the economy at the expense of the common means of its members.

3. The fruits, products and incomes, derived as a result of the activity of the peasant (the farmer's) economy, shall be the common property of the members of the peasant (the farmer's) economy and shall be used by an agreement between them.

#### **Article 258. Division of the Peasant (the Farmer's) Economy**

1. Upon the termination of the peasant (the farmer's) economy in connection with the retirement of all its members or on the other grounds, the common property shall be subject to division in accordance with the rules, stipulated by Articles 252 and 254 of the present Code.

The land plot in such cases shall be divided according to the rules, established by the present Code and by the land legislation.

2. The land plot and the means of production, belonging to the peasant (the farmer's) economy, shall not be subject to division in case of the retirement of one of its members. The retired member shall have the right to

receive the money compensation, proportionate to his share in the common ownership of this property.

3. In the cases, stipulated by the present Article, the shares of the members of the peasant (the farmer's) economy in the right of the joint ownership to the property of the economy shall be recognized as equal, unless otherwise stipulated by an agreement between them.

**Article 259.** The Ownership of the Economic Partnership or of the Cooperative, Based on the Property of the Peasant (the Farmer's) Economy

1. The members of the peasant (the farmer's) economy may set up, on the basis of the economy's property, an economic partnership or a production cooperative. Such an economic partnership or a cooperative as a legal entity shall possess the right of ownership to the property, transferred to it in the form of investments and other contributions by the members of the peasant (the farmer's) economy, and also to the property, which has resulted from its activity or has been acquired on the other grounds, admitted by the law.

2. The size of the contributions of the participants in the partnership or of the members of the cooperative, set up on the basis of the peasant (the farmer's) economy, shall be fixed, proceeding from their shares in the right of the common ownership to the economy's property, to be defined according to Item 3 of Article 258 of the present Code.

**Chapter 17. Right of Ownership and Other Real Rights to Land**

**Article 260.** The General Provisions on the Right of Ownership to the Land

1. The persons, having in their ownership a land plot, shall have the right to sell it, to make a gift of it, to pledge it or to give it in rent, and to dispose of it in any other way (Article 209), so far as the corresponding lands have not been withdrawn from, or restricted in the circulation in conformity with the law.

2. On the ground of the law and of the law-established order, shall be defined the lands, intended for agricultural and other special purposes, whose use for the different purposes is not admitted or is restricted. The land plot, referred to this category of lands, may be used within the limits, defined by its intended purpose.

**Article 261.** The Land Plot as an Object of the Right of Ownership

**1.** Abrogated.

**2.** Unless otherwise decreed by the law, the right of ownership to the land plot shall be spread to the surface (the soil) layer, the bodies of water, the other plants, situated within the boundaries of this land plot.

**3.** The owner of the land plot shall have the right to use at his own discretion everything, which is over and under the surface of this land plot, unless otherwise stipulated by the laws on the mineral wealth and on the use of the air space and by the other laws, and so far as it does not violate the rights of the other persons.

**Article 262.** The Land Plots of the Common Use. Access to the Land Plot

**1.** The citizens shall have the right to freely pass, without being obliged to draw any permits, to the land plots, which have not been closed for the common access, in the state or in the municipal ownership, and to use the natural objects, located on these plots within the limits, admitted by the law and by the other legal acts, as well as by the owner of the corresponding land plot.

**2.** Unless the land plot has been fenced off or its owner has clearly indicated that no trespassing is admitted without his permission, any person shall have the right to walk across the land plot under the condition that this does not inflict a loss or cause worry to the owner.

**Article 263.** Construction on the Land Plot

**1.** The owner of the land plot shall have the right to erect on it buildings and structures, to rebuild or to pull them down, and also to permit the construction on his land plot to the other persons. These rights shall be exercised under the condition that the town-development and construction norms and rules, as well as the demands with regard to the special purpose of the land plot (Item 2 of Article 260) be complied with.

**2.** Unless otherwise stipulated by the law or by the agreement, the owner of the land plot shall acquire the right of ownership to the building, the structure or the other kind of the immovable property, which he has erected or created for himself on the land plot in his ownership.

The consequences of the unauthorized construction, effected by the owner on the land plot in his ownership, shall be defined by Article 222 of the present Code.

**Article 264.** The Rights to the Land of the Persons, Who Are Not the Owners of the Land Plots

1. Land plots may be granted by the owners thereof to other persons on the terms and in the procedure set out in the civil and land legislation.

2. The person, who is not the owner of the land plot, shall exercise the rights to the possession and to the use of the land plot on the terms and within the limits, laid down by the law or by the agreement with the owner.

3. The possessor of the land plot, who is not the owner, shall not have the right to dispose of this land plot, unless otherwise stipulated by the law.

**Article 265.** The Grounds for the Acquisition of the Right to the Inherited Life Possession of the Land Plot

The right of the inherited life possession of the land plot, which is in the state or in the municipal ownership, shall be acquired by the citizens on the grounds and in the order, stipulated by the land legislation.

**Article 266.** Possession and Use of the Land Plot by the Right of the Inherited Life Possession

1. The citizen, enjoying the right of the inherited life possession (the possessor of the land plot) shall have the right of the possession and of the use of the land plot, which shall be passed by the right of succession.

2. Unless otherwise following from the terms, established for the use of the land plot by the law, the owner of the land plot shall have the right to erect on it buildings and structures and to create the other kinds of the immovable property, acquiring to it the right of ownership.

**Article 267.** Disposing of a Land Plot in Inheritable Possession for Life

It is hereby prohibited to dispose of a land plot in inheritable possession for life, except for the case of transfer of the right to the land plot in line of succession.

**Article 268.** The Grounds for the Acquisition of the Right of the Permanent (Perpetual) Use of the Land

## Plot

1. The right of the permanent (perpetual) use of the land plot, which is in the state or in the municipal ownership, shall be granted to the state or municipal institution, treasury enterprise, governmental body, local self-government body on the ground of the decision of the state or of the municipal body, authorized to grant land plots into this kind of use.

2. Abrogated.

3. In case of the reorganization of the legal entity, its right of the permanent (perpetual) use shall be passed in the order of the legal succession.

### **Article 269.** Possession and Use of the Land by the Right of the Permanent (Perpetual) Use

1. The person, to whom the land plot has been given into the permanent (perpetual) use, shall exercise the possession and the use of this land plot within the limits, established by the law, by the other legal acts and by the act on granting the land plot into the use.

2. The person, to whom the land plot has been granted into the permanent (perpetual) use, shall have the right, unless otherwise stipulated by the law, to independently use the land plot for the purposes, for which it has been granted, including the erection with these purposes in view on the land plot of the buildings, the structures and the other kinds of the immovable property. The buildings, the structures and the other kinds of the immovable property, erected by this person for himself, shall be his property.

**Article 270.** Abrogated.

### **Article 271.** The Right of the Use of the Land Plot by the Owner of the Immovable Property

1. The owner of the building, of the structure or of the other kind of the realty, situated on the land plot, which is in the ownership of another person, shall have the right of the use to the land plot granted by such person for the immovable property.

2. If the right of ownership to the realty, situated on the other man's land plot, is transferred to another person, the latter shall acquire the right of the use of the land plot on the same terms and in the same volume, as the former owner of the realty.

The transfer of the right of ownership to the land plot shall not be the ground for the termination or the amendment of the right to the use of this land plot, belonging to the owner of the realty.

3. The owner of the realty, situated on the other man's land plot, shall have the right to possess, to use and to dispose of this realty at his own discretion, including the pulling down of the corresponding buildings and structures, so far as this does not contradict the terms, laid down for the use of the given land plot by the law or by the agreement.

**Article 272.** The Consequences of the Loss by the Realty Owner of the Right to the Use of the Land Plot

1. If the right to the use of the land plot, granted to the owner of the realty, situated on this land plot, is terminated (Article 271), the rights to the realty, left by its owner on the land plot, shall be defined in conformity with an agreement between the owner of the land plot and the owner of the corresponding immovable property.

2. In the absence of, or in case of the failure to reach an agreement, stipulated in Item 1 of the present Article, the consequences of the termination of the right to the use of the land plot shall be defined by the court upon the claim of the owner of the land plot or of the owner of the realty.

The owner of the land plot shall have the right to claim through the court that the owner of the realty remove it from his land plot after the termination of the right to the use of the land plot and bring the land plot into its primary state.

In the cases, when the demolition of the building or of the structure, situated on the land plot, is prohibited in conformity with the law or with the other legal acts (the living quarters, the monuments of culture and history, etc.), or is not subject to being effected in view of an obvious excess of the cost of the building or the structure over the cost of the land plot assigned for it, the court, taking into account the grounds for the termination of the right to the use of the land plot and in case of the corresponding claims being filed by the parties, shall have the right:

- to recognize the right of the owner of the realty to the acquisition into ownership of the land plot, on which this realty is situated, or the right of the owner of the land plot to the acquisition of the realty left upon it, or to lay down the terms for the use of the land plot by the owner of the realty for a new period of time.

3. The rules of the present Article shall not be applied, if the land plot is withdrawn for the state or for the municipal needs (Article 283), and also in case the rights to the land plot are terminated in view of its improper use (Article 286).

**Article 273.** Transfer of the Right to the Land Plot in Case of the Alienation of the Buildings or the Structures, Situated on It

In the transfer of the right of ownership to the building or to the structure, belonging to the owner of the land plot, on which it is situated, the right of ownership to the land plot occupied by a building or structure and required for using it is transferred, shall pass to the acquirer of the building (the structure), except as otherwise envisaged by a law.

**Article 274.** The Right of the Limited Use of the Other Person's Land Plot (the Servitude)

1. The owner of the immovable property (the land plot and the other realty) shall have the right to claim from the owner of the neighboring land plot, and if necessary, also from the owner of yet another land plot (the neighboring plot) that the right of the limited use of the neighboring land plot (the servitude) be granted to him.

The servitude may be established to guarantee the passage across the neighboring land plot both on foot and by a motor vehicle, to provide for the laying and operating of the electric power and communication lines, as well as of the pipelines, for the water supply and amelioration, and also for the other needs of the owner of the realty, which cannot be provided for without establishing the servitude.

2. The burdening of the land plot with the servitude shall not deprive the owner of the land plot of the rights of the possession, the use and the disposal of this land plot.

3. The servitude shall be established by an agreement between the person, claiming the institution of the servitude, and the owner of the neighboring land plot, and shall be subject to the registration in conformity with the procedure, laid down for the registration of the immovable property. In case of the failure to reach an agreement on the establishment or on the terms of the servitude, the dispute shall be resolved by the court upon the claim of person, demanding that the servitude be instituted.

4. On the terms and in conformity with the order, stipulated by Items 1 and 3 of the present Article, the servitude may also be established in the interest and upon the claim of the person, to whom the land plot has been granted by the right of the inherited life possession or by the right of the permanent (perpetual) use and of other persons where it is provided for by federal laws.

5. The owner of the land plot, burdened with the servitude, shall have the right, unless otherwise stipulated

by the law, to claim from the persons, in whose interest the servitude has been established, a proportionate payment for the use of the land plot.

**Article 275.** Preservation of the Servitude in the Transfer of the Rights to the Land Plot

1. The servitude shall be preserved in the case of the transfer of the land plot, burdened with this servitude, to the other person.

2. The servitude shall not be an independent object of the purchase and sale or of the mortgage, and shall not be transferred in any way to the persons, who are not the owners of the immovable property, to provide for the use of which the servitude has been established.

**Article 276.** Termination of the Servitude

1. Upon the claim of the owner of the land plot, burdened with the servitude, the servitude may be terminated in view of the disappearance of the grounds, on account of which it has been instituted.

2. In the cases, when the land plot, owned by the citizen or by the legal entity, cannot be used in conformity with its special purpose as a result of its being burdened with the servitude, the owner shall have the right to claim through the court that the servitude be terminated.

**Article 277.** The Burdening with the Servitude of the Buildings and the Structures

As applied to the rules, stipulated by Articles 274-276 of the present Code, with the servitude may also be burdened the buildings, the structures and the other immovable property, whose limited use is necessary, regardless of the use of the land plot.

**Article 278.** The Turning of the Penalty onto the Land Plot

The turning of the penalty onto the land plot by the obligations of its owner shall be admitted only on the grounds of the court decision.

**Article 279.** Redemption of the Land Plot for the State and for the Municipal Needs

1. The land plot may be withdrawn from the owner for the state or for the municipal needs by way of redemption.

Depending on for whose needs the land plot is being withdrawn, the redemption shall be effected by the Russian Federation, by the corresponding subject of the Russian Federation, or by the municipal entity.

2. The decision on the withdrawal of the land plot for the state or for the municipal needs shall be adopted by the federal executive power bodies, the executive power bodies of a constituent entity of the Russian Federation or local authorities.

The federal executive bodies, executive bodies of a constituent entity of the Russian Federation and local authorities empowered to take decisions on the withdrawal of land plots for the state or for the municipal needs, and the order of the preparation and the adoption of these decisions shall be defined by the federal land legislation.

3. The owner of the land plot shall be notified in written form about the forthcoming withdrawal of the land plot not later than one year in advance by the body, which has passed the decision on the withdrawal. The redemption of the land plot before the expiry of one year from the date of the owner's receipt of the notification shall be effected only upon his consent.

4. The decision of the federal executive body, executive body of a constituent entity of the Russian Federation or a local authority on the withdrawal of the land plot for the state or for the municipal needs shall be subject to the state registration with the body, engaged in the registration of the rights to the land plot. The owner of the land plot shall be notified about the registration having been effected with the indication of its date.

5. Abrogated.

**Article 280.** The Rights of the Owner of the Land Plot, Subject to Withdrawal for the State or for the Municipal Needs

The owner of the land plot, subject to the withdrawal for the state or for the municipal needs, shall have the right to possess, use and dispose of the plot at his own discretion, and also to make the necessary outlays, providing for the use of the land plot in conformity with its special purpose, over the period of time from the moment of the registration of the decision on the withdrawal of the land plot and up to the moment of reaching an agreement, or of the court passing the decision on the redemption of the land plot. However, the owner shall take

the risk that the outlays and the losses he has borne in connection with the new construction, with the extension and the reconstruction of the buildings and the structures on the land plot during the said period may be turned against himself when defining the redemption price of the land plot (Article 281).

**Article 281.** Redemption Price of the Land Plot, Withdrawn for the State or for the Municipal Needs

1. The payment for the land plot, being withdrawn for the state or for the municipal needs (the redemption price), the term and the other conditions of the redemption shall be defined by an agreement with the owner of the land plot. The agreement shall incorporate an obligation of the Russian Federation, of the subject of the Russian Federation or of the municipal entity to pay the redemption price for the withdrawn land plot.

2. While defining the redemption price, incorporated into it shall be the market cost of the land plot and of the immovable property, situated on it, as well as all the losses, inflicted upon the owner by the withdrawal of the land plot, including the losses, borne by him in connection with an advanced termination of his obligations to the third persons, including the missed profit.

3. By an agreement with the owner, he may be allotted, instead of the land plot, withdrawn for the state or for the municipal needs, another land plot, with the offsetting of its cost against the redemption price.

**Article 282.** Redemption of the Land Plot for the State and Municipal Needs by the Court Decision

If the owner does not agree with the decision on the withdrawal from him of his land plot for the state or for the municipal needs, or if no agreement has been reached with him on the redemption price or on the other terms of the redemption, the federal executive body, the executive body of a constituent entity of the Russian Federation or a local authority, which has adopted the said decision, shall have the right to file a claim for the redemption of the land plot with the court. The claim for the redemption of the land plot for the state or for the municipal needs may be presented within three years from the moment of forwarding the notification, indicated in Item 3, Article 279 of the present Code, to the owner of the land plot.

**Article 283.** Cessation of the Rights of the Possession or the Use of the Land Plot When It Is Withdrawn  
for the State or Municipal Needs

In the cases, when the land plot, being withdrawn for the state or for the municipal needs, is in the

ownership and in the use by the right of the inherited life possession or of the permanent (perpetual) use, the cessation of these rights shall be effected in accordance with the rules, stipulated by Articles 279-282 of the present Code.

**Article 284.** Withdrawal of the Land Plot, Which Is Not Used in Conformity with Its Special Purpose

The land plot may be withdrawn from the owner in the cases, when it is purposed for agricultural production or for the housing or the other kind of construction, but is not used for the corresponding purpose in the course of three years, unless a longer term has been stipulated by the law. Within this period shall not be included the time, which is necessary for the development of the land plot, as well as the time, during which the land plot could not have been put to its purported use because of the natural calamities or of the other circumstances, precluding such use.

**Article 285.** Withdrawal of the Land Plot, Used with the Violation of the Legislation

The land plot may be withdrawn from the owner, if the use of the land plot proceeds with a crude violation of the rules for the rational use of the land, laid down by the land legislation, in particular, if the land plot is not used in conformity with its special purpose, or if its use causes an essential fall in the fertility of the farming lands or seriously deteriorates the ecological situation.

**Article 286.** The Order of Redemption of the Land Plot in View of Its Improper Use

1. The state power body or the local self-government body, authorized to adopt decisions on the withdrawal of land plots on the grounds, stipulated by Articles 284 and 285 of the present Code, as well as the procedure for an obligatory advance warning of the land plot owners on the violations, committed by them, shall be defined by the law.

2. If the owner of the land plot notifies in written form the body, which has adopted the decision on the withdrawal of the land plot, about his consent to execute this decision, the land plot shall be subject to the sale at an open auction.

3. If the owner of the land plot does not agree with the decision on the withdrawal of the land plot from him, the body, which has passed the decision on the withdrawal of the land plot, may file the claim for the sale of the land plot with the court.

**Article 287.** Termination of the Rights to the Land Plot, Belonging to the Persons, Who Are Not Its Owners

The termination of the rights to the land plot, belonging to the lease-holders and to the other persons, who are not its owners, for the reason of an improper use of the land plot by these persons, shall be effected on the grounds and in conformity with the order, established by the land legislation.

## **Chapter 18. The Right of Ownership and the Other Rights of Estate to the Living Quarters**

**Article 288.** The Ownership of the Living Quarters

1. The owner shall exercise his rights of the possession, the use and the disposal of the living quarters in his ownership in conformity with their intended purpose.

2. The living quarters shall be intended for the citizens' residence.

The citizen-the owner of the living quarters may use them for his own residence and for the residence of the members of his family.

The living quarters may be given by their owner in rent for residence on the ground of a contract.

3. The accommodation in the dwelling houses of various kinds of industrial production shall not be admitted.

The accommodation by the owner in the living quarters he owns of the enterprises, institutions and organizations shall be admitted only after the said quarters have been turned from the living into the non-living ones. The transfer of the quarters from the living into the non-living ones shall be effected in conformity with the procedure, defined by the housing legislation.

**Article 289.** The Flat as an Object of the Right of Ownership

To the owner of the flat in an apartment house, alongside the quarters he owns, occupied by his flat, shall also belong a share in the right of the ownership to the common property of the house (Article 290).

**Article 290.** The Common Property of the Owners of Flats in an Apartment House

1. The owners of flats in an apartment house shall own by the right of the common share ownership the common quarters of the house, the house's load-carrying structures, the mechanical and electrical equipment, the

plumbing fixtures and the other equipment outside or within the flat, servicing more than one flat.

2. The owner of the flat shall not have the right to alienate his share in the right of the ownership to the common property of the apartment house, or to perform other actions, entailing the transfer of this share apart from the right of the ownership to the flat.

#### **Article 291.** The Partnership of the Housing Owners

1. To provide for the exploitation of the apartment house, the use of the flats and of their common property, the owners of flats shall set up the partnerships of the owners of flats (of the housing).

2. The partnership of the owners of flats shall be the non-profit organization, set up and operating in conformity with the Law on the Partnerships of the Owners of Flats.

#### **Article 292.** The Rights of the Family Members of the Owners of the Living Quarters

1. The family members of the owner, residing in the living quarters he owns, shall have the right to use these quarters on the terms, stipulated by the housing legislation.

The family members who have dispositive capacity and who are limited by a court in their dispositive capacity, living in housing premises belonging to the owner shall bear joint and several liability with the owner for the obligations arising from the use of the housing premises.

2. The transfer of the right of the ownership to the dwelling house or to the flat to the other person shall be the ground for the cessation of the right of the use of the living quarters by the family members of the former owner, unless otherwise established by law;

3. The family members of the owner of the living quarters may claim the elimination of the violations of their rights to the living quarters on the part of any persons, including on the part of the owner of the living quarters.

4. Alienation of a dwelling in which there live members of the family of the owner of the dwelling who are under guardianship or curatorship or minor members of the family of the owner who are left without parental care (of which the body of guardianship and curatorship is aware), if it affects the rights or legally protected interests of the indicated persons, shall be permitted with the consent of the body of guardianship and curatorship.

#### **Article 293.** Cessation of the Right of the Ownership to the Mismanaged Living Quarters

If the owner of the living quarters uses them other than for their intended purpose, systematically violates

the rights and interests of the neighbors or mismanages the housing by allowing its destruction, the local self-government body shall warn the owner about the need to eliminate the said violations, and if these violations entail the destruction of the living quarters - it shall also fix an approximate term for the owner to perform the repairs of the quarters.

If the owner after the warning continues to violate the rights and interests of the neighbors or to use the living quarters for other than their intended purpose, or does not perform the necessary repairs without serious grounds, the court, upon the claim of the local self-government body, shall have the right to adopt the decision on the sale of such living quarters at an open auction with the subsequent payment to the owner of the means, derived from the sale, minus the expenses, involved in the execution of the court decision.

## **Chapter 19. The Right of Economic Management and the Right of Operation Management**

### **Article 294. The Right of Economic Management**

The state or the municipal unitary enterprise, which owns the property by the right of economic management, shall possess, use and dispose of this property within the limits, defined in conformity with the present Code.

### **Article 295. The Rights of the Owner with Respect to the Property in Economic Management**

1. The owner of the property in economic management, in conformity with the law, shall resolve the issues, involved in the setting up of the enterprise, in defining the object and the goals of its activity, in its reorganization and liquidation; he shall appoint the director (the head) of the enterprise and shall exert control over the use in conformity with the stipulated purpose and over the maintenance of the property, assigned to it.

The owner shall have the right to obtain a part of the profit, derived from the use of the property in the economic management of the enterprise.

2. The enterprise shall not have the right to sell the immovable property, belonging to it by the right of economic management, to give it in rent, to mortgage it, to contribute it as an investment into the authorized (joint) capital of the economic companies and the partnerships, or to dispose of it in any other way without the consent of the owner.

The enterprise shall dispose of the rest of the property, belonging to it, independently, with the exception of the cases, established by the law or by the other legal acts.

**Article 296.** The Right of Operative Management

1. A state-run enterprise and institution to which the property is assigned by the right of operative management shall use this property and dispose of it within the law-established framework in accordance with the goals set in their activity, with the tasks of the owner of this property and with its purpose.

2. The owner of this property has the right to exact an excessive property, not used or used not to the purpose, which he has assigned to a state-run enterprise or institution or which is acquired by the state-run enterprise or institution at the expense of the funds allocated to it by the owner for the acquisition of this property. The owner of this property has the right to dispose of the property exacted from the state-run enterprise or institution at his own discretion.

**Article 297.** Disposal of the Property of the State Enterprise

1. The state enterprise shall have the right to alienate or to dispose in another way of the property, assigned to it, only with the consent of the owner of this property.

The state enterprise shall independently realize the products it manufactures, unless otherwise established by the law or by the other legal acts.

2. The order for the distribution of the incomes of the state enterprise shall be defined by the owner of its property.

**Article 298.** Disposal of the Property of the Institution

1. A private or a budgetary institution has no right to alienate or dispose in any other way of the property assigned to it by the owner or acquired by this institution at the expense of the funds allocated to it by the owner for the acquisition of this property.

An autonomous institution has no right to dispose of the immovable property and of the particularly valuable movable property assigned to it by the owner or acquired by it at the expense of the funds allocated to it by the owner for the acquisition of such property, without the owner's consent.

2. If, in conformity with the constituent documents, the institution has been granted the right to engage in a profitable activity, the incomes, derived from such an activity, and the property, acquired at the expense of these incomes, shall be independently disposed of by the institution and shall be registered on a separate balance.

**Article 299.** The Acquisition and the Termination of the Right of Economic Management and of the Right of Operation Management

1. The right of economic management or the right of operation management of the property, with respect to which the owner has adopted the decision to assign it to a unitary enterprise or to an institution, shall arise with the given enterprise or institution from the moment of the transfer of this property, unless otherwise established by the law and by the other legal acts, or by the owner's decision.

2. The fruits, products and incomes from the use of the property in the economic or in the operation management, as well as the property, which the unitary enterprise or the institution has acquired by a contract or on the other grounds, shall pass into the economic or into the operation management of the enterprise or of the institution in conformity with the order, established by the present Code, by the other laws and the other legal acts for the acquisition of the right of ownership.

3. The right of economic management and the right of operation management shall be terminated on the grounds and in conformity with the order, stipulated by the present Code, by the other laws and the other legal acts for the termination of the right of ownership, and also in the case of the lawful withdrawal of the property from the enterprise or from the institution by the owner's decision.

**Article 300.** Preservation of the Rights to the Property When the Enterprise or the Institution Is Transferred to Another Owner

1. When the right of the ownership to the state or to the municipal enterprise as a property complex is transferred to another owner of the state or of the municipal property, such an enterprise shall preserve the right of economic management to the property, belonging to it.

2. When the right of the ownership to the institution is transferred to another person, this institution shall preserve the right of operation management with respect to the property, belonging to it.

**Chapter 20. Protection of the Right of Ownership and of the Other Rights of Estate**

**Article 301.** Reclamation of the Property from the Other Person's Adverse Possession

The owner shall have the right to reclaim his property from the other person's adverse possession.

**Article 302.** Reclamation of the Property from the Bona Fide Acquirer

1. If the property has been purchased for a price from the person, who had no right to alienate it, of which the acquirer has been unaware and could not have been aware (the bona fide acquirer, or the acquirer in good faith), the owner shall have the right to reclaim this property from the acquirer, if the said property was lost by the owner or by the person, to whom the owner has passed the property into possession, or if it was stolen from the one or from the other, or if it has gone out of their possession in another way contrary to their will.

2. If the property has been acquired gratuitously from the person, who had no right to alienate it, the owner shall have the right to reclaim the property in any case.

3. The money, and also the securities to bearer shall not be reclaimed from the bona fide acquirer.

**Article 303.** Settlements in the Reclamation of the Property from the Adverse Possession

In reclaiming the property from the other person's adverse possession, the owner shall also have the right to claim from the person, who has known, or should have known, that his possession is adverse (the possessor in bad faith), the return or the compensation of all the incomes, which he has derived, or should have derived, over the entire period of the possession; and from the bona fide possessor - the return or the compensation of all the incomes, which he has derived, or should have derived from the moment, when he has learned, or should have learned, about the adversity of the possession or when he has received the summons by the owner's claim for the return of the property.

The possessor, both in good and in bad faith, shall in his turn have the right to claim that the owner recompense the necessary outlays for the property he has made over that period of time, for which the incomes from the property are due to the owner.

The bona fide possessor shall have the right to retain the improvements he has made in his own possession, if they can be set apart without damaging the property. If such separation of the improvements is impossible, the bona fide possessor shall have the right to claim the compensation of the outlays for the improvements he has made, but not in excess of the amount of the increment in the property's cost.

**Article 304.** Protection of the Owner's Rights from the Violations, Not Involved in the Deprivation of the Possession

The owner shall have the right to claim that all violations of his right be eliminated, even though these violations have not entailed the deprivation of the possession.

**Article 305.** Protection of the Rights of the Possessor, Who Is Not the Owner

The rights, stipulated by Articles 301-304 of the present Code, shall also belong to the person, who, even though he is not the owner but possesses the property by the right of the inherited life possession, of the economic management, of the operation management or on the other grounds, stipulated by the law or by the contract. This person shall have the right to the protection of his possession also against the owner.

**Article 306.** The Consequences of the Termination of the Right of Ownership by Force of the Law

If the Russian Federation passes the law, terminating the right of ownership, the losses, inflicted upon the owner as a result of the adoption of this act, including the cost of the property, shall be recompensed by the state. The disputes on the compensation for the losses shall be resolved by the court.

### **Section III. The General Part of the Law of Obligation**

#### **Subsection 1. The General Provisions on Obligations**

#### **Chapter 21. The Concept and the Aspects of an Obligation**

**Article 307.** The Concept of an Obligation and the Grounds for It to Arise

1. By force of an obligation, one person (the debtor) shall be obliged to perform in favour of another person (the creditor) a certain action, such as: to transfer the property, to perform a job, to pay the money, etc., or to abstain from a certain action, while the creditor shall have the right to claim that the debtor discharge his obligation.

2. Obligations shall arise from an agreement, from the infliction of a damage, or on the other grounds, indicated in the present Code.

#### **Article 308. The Parties to an Obligation**

1. One or several persons simultaneously may take part in the obligation in the capacity of each of its parties.

The invalidity of the creditor's claims against one of the persons, participating in the obligation on the side of the debtor, the same as the expiry of the term of the limitation of actions by the claim against such a person, shall not of themselves have a bearing on his claims against the rest of these persons.

2. If each of the parties by the contract shall bear a duty in favour of the other party, it shall be regarded as the debtor of the other party by what it is obliged to do in its favour, and simultaneously as its creditor by what it has the right to claim from it.

3. The obligation shall not create the duties for the persons, who do not participate in it in the capacity of the parties (for the third persons).

In the cases, stipulated by the law, by the other legal acts or by an agreement between the parties, the obligation may create for the third persons the rights with respect to one or to both parties of the obligation.

### **Chapter 22. The Discharge of Obligations**

#### **Article 309. The General Provisions**

Obligations shall be discharged in the proper way in conformity with the terms of the obligation and with the requirements of the law and of the other legal acts, and in the absence of such terms and requirements - in conformity with the customs of the business turnover or with the other habitually presented demands.

#### **Article 310. Inadmissibility of the Unilateral Refusal to Discharge the Obligation**

The unilateral refusal to discharge the obligation and the unilateral amendment of its terms shall not be admitted, with the exception of the law-stipulated cases. The unilateral refusal to discharge the obligation, connected with its parties' performing the business activity, and the unilateral amendment of the terms of such an obligation shall also be admissible in the cases, stipulated by the contract, unless otherwise following from the law or from the substance of the obligation.

#### **Article 311. Discharge of the Obligation by Parts**

The creditor shall have the right not to accept the discharge of the obligation by parts, unless otherwise stipulated by the law, by the other legal acts and by the terms of the obligation, and does not follow from the customs of the business turnover or from the substance of the obligation.

#### **Article 312.** Discharge of the Obligation to the Proper Person

Unless otherwise stipulated by the agreement between the parties and follows from the customs of the business turnover, or from the substance of the obligation, the debtor shall have the right, while discharging the obligation, to demand proofs of the fact that the discharge is accepted by the creditor himself or by the person he has authorized for this purpose, and shall take the risk of the consequences of his failure to present such a demand.

#### **Article 313.** Discharge of the Obligation by the Third Person

1. The discharge of the obligation may be imposed by the debtor upon the third person, unless the debtor's duty to discharge the obligation in person follows from the law, from the other legal acts, from the terms of the obligation or from its substance. In this case the creditor shall be obliged to accept the discharge, offered by the third person instead of by the debtor.

2. The third person, undergoing the threat of losing his right to the property of the debtor (the right of the lease, of the mortgage, etc.) as a result of the creditor's turning the penalty onto this property, may at his own expense satisfy the creditor's claim without obtaining the debtor's consent. In this case, the rights of the creditor by the obligation shall pass to the third person in conformity with Articles 382-387 of the present Code.

#### **Article 314.** The Term of the Discharge of the Obligation

1. If the obligation stipulates, or allows to stipulate the day of its discharge or the period of time, within which it shall be discharged, the obligation shall be subject to discharge on this particular day or, correspondingly, at any moment within this period.

2. In the cases, when the obligation does not stipulate the deadline for its discharge and does not contain the terms, making it possible to define this deadline, it shall be discharged within a reasonable term after the inception of the obligation.

The obligation, which has not been discharged within a reasonable term, the same as the obligation, the term of whose discharge has been defined by the moment of demand, shall be discharged by the debtor within seven days from the day of the creditor's presenting the claim for its discharge, unless the duty of the discharge within a different term follows from the law, from the other legal acts, from the provisions of the obligation, from the customs of the business turnover, or from the substance of the obligation.

#### **Article 315. Advanced Discharge of the Obligation**

The debtor shall have the right to discharge the obligation in advance of the deadline, unless otherwise stipulated by the law, by the other legal acts or by the terms of the obligation or follows from its substance. However, an advanced discharge of the obligations, involved in the performance by its parties of the business activity, shall be admitted only in the cases, when the possibility to discharge the obligation before the fixed date has been stipulated by the law, by the other legal acts or by the terms of the obligation, or follows from the customs of the business turnover or from the substance of the obligation.

#### **Article 316. The Place of Discharge of the Obligation**

Unless the place of the discharge has been defined by the law, by the other legal acts or by the agreement or follows from the customs of the business turnover or from the substance of the obligation, the discharge shall be effected:

- by the obligation to transfer the land plot, the building, the structure or the other immovable property - at the place of location of the property;
- by the obligation to transfer the commodity or the other property, envisaging its shipment - at the place of the ceding the property to the first shipper for its being forwarded to the creditor;
- by the other obligations of the businessman to transfer the commodity or the other property - at the place of the manufacture or of the storage of the property, if this place has been known to the creditor at the moment of the inception of the obligation;
- by the pecuniary obligation - at the place of residence of the creditor at the moment of the inception of the obligation, and if the creditor is a legal entity - at the place of its location at the moment of the inception of the obligation; if the creditor by the moment of the discharge of the obligation has changed the place of his residence or the place of his stay and has informed about this the debtor - at the new place of the creditor's residence or stay, with referring the expenses, involved in the change of the place of discharge, onto the creditor's account;

- by all the other obligations - at the place of residence of the debtor, and in case the debtor is a legal entity
- at the place of its location.

#### **Article 317. The Currency of the Pecuniary Obligations**

1. The pecuniary obligations shall be expressed in roubles (Article 140).

2. In the pecuniary obligation it may be stipulated that it shall be liable to the payment in roubles in the amount, equivalent to the definite amount in the foreign currency, or in the agreed monetary units (ECU, the "special borrowing rights", etc.). In this case, the amount liable to the payment in roubles shall be defined in conformity with the official exchange rate of the corresponding currency or of the conventional monetary units by the day of the payment, unless the other exchange rate or the other day of its formulation has been established by the law or by the parties' agreement.

3. The use of the foreign currency and also of the payment documents in the foreign currency on the territory of the Russian Federation by obligations shall only be admitted in the cases, in the order and on the terms, defined by the law or established in conformity with the procedure, laid down by it.

#### **Article 318. The Increase of the Amounts, Paid Out for the Maintenance of the Citizen**

The amount, paid out by the direct pecuniary obligation for the maintenance of the citizen: to recompense for the harm, inflicted to the life or to the health, by the contract for a life maintenance, and in the other cases - shall be indexed taking into account the level of the inflation in the procedure and cases stipulated by law.

#### **Article 319. Priority for Satisfaction of Claims under the Monetary Obligation**

The amount of the effected payment, insufficient for the discharge of the pecuniary obligation in full, in the absence of another agreement, shall first of all cover the creditor's expenses, involved in the enforcement of the discharge, then - the interest, and in the remaining part - the basic amount of the debt.

#### **Article 320. Discharge of the Alternative Obligation**

The debtor, who is obliged to transfer to the creditor this or that property, or to perform one of the two or of several actions, shall have the right of choice, unless otherwise following from the law, from the other legal acts or

from the terms of the obligation.

**Article 321.** Discharge of the Obligation, in Which Several Creditors or Several Debtors Participate

If several creditors or several debtors take part in the obligation, each of the creditors shall have the right to claim the discharge, and each of the debtors shall be obliged to discharge the obligation in an equal share with the others, unless otherwise following from the law, from the other legal acts, or from the terms of the obligation.

**Article 322.** Joint Obligations

1. The joint duty (the liability), or the joint claim shall arise, if the joint nature of the duty or of the claim has been stipulated by the contract or has been established by the law, in particular, in the case of the indivisibility of the object of the obligation.

2. The duties of several debtors by the obligation, involved in the business activity, the same as the claims of several creditors in such an obligation, shall be joint ones, unless otherwise stipulated by the law, by the other legal acts, or by the terms of the obligation.

**Article 323.** The Creditor's Rights in the Joint Duty

1. In case of the debtors' joint duty, the creditor shall have the right to claim the discharge both from all the debtors jointly, and also from any one of them taken apart, and both in full and in the part of the debt.

2. The creditor, who has not been fully satisfied by one of the joint debtors, shall have the right to claim the rest from the joint debtors.

The joint debtors shall stay obligated until the moment, when the obligation has been discharged in full.

**Article 324.** Objections to the Creditor's Claims in the Joint Duty

In the case of the joint duty, the debtor shall not have the right to put forward against the creditor's claims the objections, which are based on such relations of the other debtors with the creditor, in which the said debtor does not participate.

**Article 325.** Discharge of the Joint Duty by One of the Debtors

1. The discharge of the joint duty in full by one of the debtors shall absolve the rest of the debtors from the discharge toward the creditor.

**2.** Unless otherwise following from the relations between the joint debtors:

1) the debtor, who has discharged the joint duty, shall have the right of the claim of regress to the rest of the debtors in equal shares, less his own share;

2) that which has not been paid by one of the joint debtors to the debtor, who has discharged the joint duty, shall fall in equal shares on this debtor and on the rest of the debtors.

**3.** The rules of the present Article shall be applied correspondingly to the termination of the joint obligation by offsetting the claim of regress, filed by one of the debtors.

#### **Article 326. The Joint Claims**

**1.** In the case of the joint claims, any of the joint creditors shall have the right to present to the debtor the claim in the full volume.

Before the claim has been presented by one of the joint creditors, the debtor shall have the right to discharge the obligation toward any one of them at his own discretion.

**2.** The debtor shall not have the right to put forward the objections against the claim of one of the creditors, that are based on such relations of the debtor with the other joint creditor, in which the given creditor does not take part.

**3.** The discharge of the obligations in full toward one of the creditors shall absolve the debtor from the discharge toward the other creditors.

**4.** The joint creditor, who has accepted the discharge from the debtor, shall be obliged to recompense what is due to the other creditors in equal shares, unless otherwise following from the relationships between them.

#### **Article 327. Discharge of the Obligation by Placing the Debt on a Deposit**

**1.** The debtor shall have the right to place the money or the securities he owes on the notary's deposit, and in the law-established cases - on the court's deposit, if the obligation cannot be discharged by the debtor on account of:

1) the absence of the creditor or of the person, whom he has authorized to accept the discharge of the obligation, at the place, where the obligation shall be discharged;

2) the creditor's legal incapacity and his having no substitute;

3) an obvious absence of any certainty about who is the creditor by the obligation, in particular, in connection with the dispute on this issue arising between the creditor and the other persons;

4) the creditor's avoidance of accepting the discharge of the obligation or any other delay on his part.

2. The placing of the sum of money or of the securities on the notary's or on the court's deposit shall be regarded as the discharge of the obligation.

The notary or the court, on whose deposit the money or the securities have been placed, shall notify about this the creditor.

#### **Article 328. The Recourse Discharge of Obligations**

1. The recourse discharge shall be recognized as the discharge of the obligation by one of the parties, which in conformity with the agreement has been stipulated by the discharge of its obligations by the other party.

2. In case of the obliged party's failure to discharge the obligations, stipulated by the agreement, or of the existence of the circumstances, obviously testifying to the fact that such discharge will not be effected within the fixed term, the party, onto which the recourse discharge has been imposed, shall have the right to suspend the discharge of its obligation or to refuse to discharge this obligation, and to claim the compensation of the losses.

If the obligation, stipulated by the agreement, has not been discharged in the full volume, the party, onto which the recourse discharge has been imposed, shall have the right to suspend the discharge of its obligation or to refuse to discharge it in the part, corresponding to the above-said underdischarge.

3. If the recourse discharge of the obligation has been effected, despite the fact that the other party has not discharged its obligation, stipulated by the agreement, this party shall be obliged to effect such discharge.

4. The rules, stipulated by Items 2 and 3 of the present Article, shall be applied, unless otherwise stipulated by the law.

### **Chapter 23. Providing for the Discharge of Obligations**

#### **§ 1. The General Provisions**

#### **Article 329. The Ways of Providing for the Discharge of Obligations**

1. The discharge of obligations may be provided for by the forfeit, the pledge, the retention of the debtor's property, the surety, the bank guarantee, the advance and also in the other ways, stipulated by the law or by the agreement.

2. The invalidity of the agreement on providing for the discharge of the obligation shall not entail the invalidity of this obligation (the principal obligation).

3. The invalidity of the principal obligation shall entail the invalidity of the obligation, providing for it, unless otherwise established by the law.

## **§ 2. The Forfeit**

### **Article 330. The Concept of the Forfeit**

1. The forfeit (the fine, the penalty) shall be recognized as the sum of money, defined by the law or by the agreement, which the debtor is obliged to pay to the creditor in case of his non-discharge, or an improper discharge, of the obligation, in particular, in the case of the delay of the discharge. By the claim for the payment of the forfeit, the creditor shall not be obliged to prove that the losses have actually been inflicted upon him.

2. The creditor shall not have the right to claim the payment of the forfeit, if the debtor is not responsible for the non-discharge or an improper discharge of the obligation.

### **Article 331. The Form of the Agreement on the Forfeit**

The agreement on the forfeit shall be made out in written form, irrespective of the form of the principal obligation.

The non-observance of the written form shall entail the invalidity of the agreement on the forfeit.

### **Article 332. The Legal Forfeit**

1. The creditor shall have the right to claim the payment of the forfeit, defined by the law (the legal forfeit), irrespective of whether the obligation for its payment has been stipulated by the agreement between the parties.

2. The amount of the legal forfeit may be increased by the agreement between the parties, unless it is prohibited by the law.

### **Article 333. The Reduction of the Forfeit**

If the forfeit, liable to the payment, is obviously out of proportion compared with the consequences of the violation of the obligation, the court shall have the right to reduce the forfeit.

The rules of the present Article shall not infringe upon the debtor's right to the reduction of the volume of

his liability on the ground of Article 404 of the present Code and upon the creditor's right to the compensation of the losses in the cases, stipulated by Article 394 of the present Code.

### **§ 3. The Pledge**

#### **Article 334. The Concept and the Grounds for the Pledge to Arise**

1. By force of the law, the creditor by the obligation, guaranteed against by the pledge (the pledgee), shall have the right of priority before the other creditors of the person, to whom this property belongs (the pledger), in the case of the debtor's non-discharge of this obligation, to be satisfied from the cost of the pledged property after the deductions, established by the law. In the cases and in the procedure established by laws the claim of the creditor under a pledge-secured obligation (of the pledge holder) may be allowed by way of transferring the subject of pledge under the pledge holder's ownership.

The pledgee shall have the right to receive, on the same principle, satisfaction from the insurance compensation for the loss or for the damage of the pledged property, regardless of the fact, in whose favour it has been insured, unless the loss or the damage has taken place for the reasons, for which the pledgee shall be answerable.

2. The pledge of the land plots, the enterprises, the buildings, the structures, the flats and of the other immovable property (the mortgage) shall be regulated by the Law on the Mortgage. The general rules on the pledge, contained in the present Code, shall be applied to the mortgage in the cases, for which no other rules have been laid down by the present Code or by the Law on the Mortgage.

3. The pledge shall arise by force of an agreement. It shall also arise on the ground of the law in the case, when the circumstances, indicated in it, occur, if the law has stipulated, what kind of the property and for securing against the discharge of what kind of obligation shall be recognized as that in pledge.

The rules of the present Code on the pledge, arising by force of an agreement, shall be correspondingly

applied to the pledge, arising on the ground of the law, unless otherwise stipulated by the law.

#### **Article 335. The Pledger**

1. Both the debtor himself and the third person may come out in the capacity of the pledger.

2. The pledger of the thing may be its owner or the person, having with respect to it the right of economic management.

The person, to whom the thing belongs by the right of economic management, shall have the right to pawn it without the consent of the owner in the cases, stipulated by Item 2 of Article 295 of the present Code.

3. The pledger of the right may be the person, to whom the pledged right belongs.

The pledge of the right of lease or of the other right to the other person's thing shall not be admitted without the consent of its owner or of the person, to whom the right of its economic management belongs, if by the law or by the agreement the alienation of this right without the consent of the said persons has been prohibited.

#### **Article 336. The Object of Pledge**

1. The object of pledge shall be any property, including the things and the property rights (the claims), with the exception of the property, withdrawn from the circulation, of the claims, inseparably linked with the creditor's personality, in particular, the claims for the alimony, for the compensation for the harm, inflicted to the life or to the health, and of the other rights, whose ceding to the other persons is prohibited by the law.

2. The pledge of the individual kinds of property, in particular, of the property of the citizens, onto which no penalty shall be turned, may be prohibited or restricted by the law.

#### **Article 337. The Claim, Secured Against by the Pledge**

Unless otherwise stipulated by the agreement, the pledge shall secure the claim in the volume, which it possesses by the moment of its satisfaction, in particular, the interest, the forfeit, the compensation of the losses, caused by the delay in the discharge, and also the compensation of the necessary outlays, made by the pledgee for keeping the pledged thing, as well as the expenses, involved in the exaction.

**Article 338.** The Pledge Without and With the Transfer of the Pledged Property to the Pledgee

1. The pledged property shall remain in the custody of the pledger, unless otherwise stipulated by the agreement.

The property, on which the mortgage has been imposed, and also the pawned commodities, which are in circulation, shall not be transferred to the pledgee.

2. The object of pledge may be left with the pledger under the lock and seal of the pledgee.

The object of pledge may be left with the pledger with putting upon it the signs, testifying to the pledge (the firm pledge).

3. The object of pledge, transferred by the pledger into a temporary possession or use to the third person, shall be regarded as left with the pledger.

4. In the pledge of the property right, certified by the security, the latter shall be transferred to the pledgee or given into the notary's deposit, unless otherwise stipulated by the agreement.

**Article 339.** The Contract on the Pledge, Its Form and Registration

1. Indicated in the contract on the pledge shall be the object of pledge and its estimate, substance and amount, and the term of discharging the obligation, secured against by the pledge. It shall also contain the indication, in the custody of which party the pledged property is.

2. The agreement on the pledge shall be made out in written form.

The agreement on the pledge of the movable property or of the rights to this property as the security against the obligations by the contract, which shall be notarially certified, shall be subject to the notary's certification.

3. The agreement on the mortgage shall be registered in conformity with the procedure, laid down for the registration of the deals with the corresponding property.

4. The non-observance of the rules, contained in Items 2 and 3 of the present Article, shall entail the invalidity of the agreement on the pledge.

5. Laws may provide for keeping records and/or registration of contracts of pledge and pledges of individual immovable property items by virtue of law.

**Article 340.** The Property, to Which the Pledgee's Rights Shall Be Extended

1. The rights of the pledgee (the right of pledge) to the thing, which is the object of pledge, shall be extended to its accessories, unless otherwise stipulated by the agreement.

To the fruits, products and incomes, obtained as a result of the use of the pledged property, the right of pledge shall be extended in the law-stipulated cases.

2. In the mortgage of an enterprise or of another property complex as a whole, the right of pledge shall be extended to all the property, included into its composition, both movable and immovable, including the right of claim and the exclusive rights, among them those that have been acquired during the period of the mortgage, unless otherwise stipulated by the law or by the agreement.

3. The mortgage of a building or of a structure shall be admitted only with the simultaneous mortgage by the same contract of the land plot, on which this building or this structure stands, or of the right of the lease of this land plot, belonging to the pledger.

4. In the mortgage of the land plot, the right of mortgage shall be extended to the buildings and the structures, which have been, or are being constructed on the given land plot by the mortgager, unless otherwise stipulated by the contract.

In the presence of the relevant term in the contract, in case the penalty is turned onto the mortgaged land plot, the mortgager shall retain the right to a limited use (the servitude) of that part of the plot, which is necessary for the use of the building or of the structure in conformity with their intended purpose. The terms for the use of this part of the land plot shall be defined by the agreement, concluded between the mortgager and the mortgagee, and in case a dispute arises - by the court.

5. If the mortgage has been established over the land plot, where the buildings or the structures are

situated, which belong not to the mortgager, but to another person, in case the mortgagee turns the penalty onto this plot and it is sold at an open auction, the rights and duties, possessed with respect to this person by the mortgager, shall pass to the acquirer of the land plot.

6. The contract on the pledge, and with respect to the pledge, arising on the ground of the law - the law, may stipulate the pledge of the things and of the property rights, which the pledger will acquire in the future.

#### **Article 341.** Arising of the Right of Pledge

1. The right of pledge shall arise from the moment of concluding the contract of pledge, and with respect to the pledge of the property, subject to the transfer to the pledgee - from the moment of the transfer of this property, unless otherwise stipulated by the contract of pledge.

2. The right of pledge for the commodities in circulation shall arise in conformity with the rules of Item 2 of Article 357 of the present Code.

#### **Article 342.** The Subsequent Pledge

1. If the property in pledge becomes the object of yet another pledge as a security against other claims (the subsequent pledge), the claims of the subsequent pledgee shall be satisfied from the cost of this property after the claims of the previous pledgees.

2. The subsequent pledge shall be admitted, unless it is prohibited by the previous contracts of pledge.

3. The pledger shall be obliged to supply information on all the existing pledges of the given property, stipulated by Item 1 of Article 339 of the present Code, to every one of the subsequent pledgees, and shall be answerable for the losses, caused to the pledgees by his non-discharge of this obligation.

4. In the event of levying execution upon pledged property in respect of the claims secured by a subsequent pledge, concurrently may be required preschedule discharge of the obligation secured by the pledge and execution may be levied upon this property also in respect of the claims which are secured by the previous pledge and for which the time for levying execution has not yet come. If the pledge holder under the previous contract of pledge has not availed himself of this right, the property upon which execution is levied under the claims

secured by the previous pledge shall pass over to the acquirer thereof as the one encumbered by the previous pledge.

**Article 343.** The Content and the Security of the Pledged Property

1. The pledger or the pledgee, depending on in whose custody the pledged property is (Article 338), shall be obliged, unless otherwise stipulated by the law or by the contract:

1) to insure at the expense of the pledger the pledged property in its full cost against the risks of the loss and damage, and if the full cost of the property exceeds the amount of the claim, secured against by the pledge - for the amount not less than that of the claim;

2) to take measures, necessary to guarantee the security of the pledged property, including those involved in its protection against the encroachments and claims on the part of the third persons;

3) to immediately notify the other party about the arising of a threat of the loss or the damage of the pledged property.

2. The pledgee and the pledger shall both have the right to check by the documents and by the fact upon the existence, the quantity, the state and the storage conditions of the pledged property, which is in the custody of the other party.

3. In case of a crude violation by the pledgee of the obligations, indicated in Item 1 of the present Article, which creates a threat of the loss or the damage of the pledged property, the pledger shall have the right to demand that the pledge be terminated in advance.

**Article 344.** The Consequences of the Loss or the Damage of the Pledged Property

1. The pledger shall take the risks of an accidental perish or an accidental damage of the pledged property, unless otherwise stipulated by the contract of pledge.

2. The pledgee shall be answerable for the full or the partial loss or damage of the object of pledge, transferred to him, unless he proves that he may be relieved of the responsibility in conformity with Article 401 of the present Code.

The pledgee shall be answerable for the loss of the object of pledge in the amount of its actual cost, and for its damage - in the amount of the sum, by which this cost has been reduced, regardless of the sum, by which the object of pledge was estimated at the moment of its transfer to the pledgee.

If as a result of the damage of the object of pledge it has changed so much that it cannot be any more used

for its intended purpose, the pledger shall have the right to reject it and to claim the compensation for its loss.

The contract may also stipulate the pledgee's obligation to recompense to the pledger the other losses, inflicted upon him by the loss or the damage of the object of pledge.

The pledger, who is the debtor by the obligation, secured against by the pledge, shall have the right to offset his claim against the pledgee for the compensation of the losses, caused to him by the loss or by the damage of the object of pledge, when discharging the obligation, secured against by the pledge.

#### **Article 345.** The Replacement and Restoration of the Object of Pledge

1. The replacement of the object of pledge shall be admitted with the consent of the pledgee, unless otherwise stipulated by the law or by the contract.

2. If the object of pledge has perished or has been damaged, or if the right of ownership to it or the right of its economic management has been terminated on the grounds, established by the law, the pledger shall have the right to restore the object of pledge or to replace it with the other property of an equal value within a reasonable term, unless otherwise stipulated by the contract.

#### **Article 346.** The Use and Disposal of the Object of Pledge

1. The pledger shall have the right, unless otherwise stipulated by the contract or following from the substance of the pledge, to use the object of pledge in conformity with its intended purpose, including deriving from it the fruits and incomes.

2. Unless otherwise stipulated by the law or by the contract or following from the substance of the pledge, the pledger shall have the right to alienate the object of pledge, to give it in rent or into a gratuitous use to another person, or to dispose of it in any other way with the pledgee's consent.

An agreement, restricting the pledger's right to bequeath the pledged property, shall be insignificant.

3. The pledgee shall have the right to use the object of pledge, put into his custody, only in the cases, stipulated by the contract, and shall regularly present a report on its use to the pledger. By the contract, upon the pledgee may be imposed the duty to derive the fruits and incomes from the object of pledge for the purpose of discharging the principal obligation or in the interest of the pledger.

#### **Article 347.** The Pledgee's Protection of His Rights to the Object of Pledge

1. The pledgee, in whose custody the pledged property is or should have been, shall have the right to claim

it from the other person's illegal possession, including from that of the pledger (Articles 301, 302 and 305).

2. In the cases, when by the terms of the contract the pledgee has been granted the right to use the object of pledge, transferred to him, he may demand from the other persons, including from the pledger, that all violations of his right be removed, even though these violations have not been connected with the deprivation of the possession (Articles 304 and 305).

#### **Article 348. The Grounds for Turning the Penalty onto the Pledged Property**

1. The penalty may be turned onto the pledged property in order to satisfy the pledgee's (the creditor's) claims in case of the non-discharge or of an improper discharge by the debtor of the obligation, secured against by the pledge, because of the circumstances, for which he is answerable.

The pledge holder shall acquire the right to levy execution upon the subject of pledge, if on the date of maturity of the obligation secured by the pledge it is not discharged, except when by virtue of law or under an agreement such right emerges later or by virtue of law execution may be levied later.

2. Levying of execution shall not be allowed, if the debtor's violation of the obligation secured by pledge is extremely insignificant and the extent of pledge holder's claims is clearly disproportionate to the cost of pledged property, provided that the following conditions are concurrently met:

1) the amount of the non-discharged obligation constitutes less than five per cent of the value of the subject of pledge under a contract of pledge;

2) the period of delay in the discharge of the pledge-secured obligation is less than three months.

3. If not otherwise provided for by a contract of pledge, levying of execution upon the property pledged for the purpose of securing an obligation discharged by making periodical payments shall be allowed in case of systematic failure to observe the deadlines for their making, that is, in case of failure to observe the deadlines for making payments more than three times within twelve months, even if such delay is insignificant.

#### **Article 349. Procedure for Levying Execution upon Pledged Property**

1. The claims of the pledge holder (creditor) shall be satisfied at the expense of the cost of the property put in pledge on the basis of a court decision.

2. The claims of the pledge holder may be satisfied on account of pledged property without judicial

recourse, if not otherwise provided for by laws on the basis of an agreement made by the pledger and the pledge holder.

The pledge holder's claims shall be satisfied on account of pledged immovable property without judicial recourse in the procedure established by the laws on mortgage, if not otherwise provided for by laws.

**3.** An agreement on levying execution upon pledged property in an extrajudicial procedure may be made at any time.

An agreement on levying execution upon pledged property in an extrajudicial procedure may be made within the framework of a contract of pledge.

Such agreement may be declared invalid by court on the basis of a claim of the person whose rights are violated by such agreement.

**4.** If the pledger is a natural person, the agreement shall be made, where there is the pledger's consent certified by a notary to levying execution upon pledged movable property in an extrajudicial procedure.

**5.** In the event of the pledger's failure to execute an agreement on levying execution upon pledged property in an extrajudicial procedure, it shall be allowed to levy execution upon the pledged property in an extrajudicial procedure, if not otherwise provided for by laws, on the basis of a notary's execution notation in the procedure established by the legislation on execution proceedings.

**6.** Execution may be levied upon the subject of pledge solely on the basis of a court decision where:

1) for making a contract of pledge of a natural person's property the consent or permit of another person or body is required;

2) the subject of pledge is the property of major historical, artistic or other cultural value for the community;

3) the pledger is absent and it is impossible to find the place of location thereof;

4) the subject of pledge are residential premises which natural persons have in their ownership;

5) the contract of pledge or other agreement made by the pledger and the pledge holder has not established a procedure for levying execution upon pledged movable property or levying of execution in the procedure established by the parties is impossible;

6) other instances established by laws.

## **Article 350. Realization of Pledged Property**

**1.** The realization (sale) of pledged immovable property, upon which, in conformity with Article 349 of the

present Code, execution has been levied, shall be effected in the procedure established by the mortgage law, if not otherwise provided for by laws.

2. Pledged movable property upon which execution is levied in compliance with Article 349 of this Code shall be realised (sold) in the procedure established by the mortgage law, if not otherwise provided for by laws.

3. If the amount, derived from the realization of pledged property, proves to be insufficient to cover the pledge holder's claim, he shall have the right (in the absence of any other instruction in the law or in the contract) to obtain the deficient amount from the other property of the debtor, while not enjoying the privilege based on the pledge.

4. If the amount derived from realization of pledged property exceeds the size of the pledge holder's claim, secured by the pledge, the difference shall be returned to the pledger.

5. The debtor and the pledger, who are third persons, shall have the right, at any time before the sale of the object of pledge, to terminate levying execution upon it and its realization by discharging the obligation, secured by the pledge, or the part thereof, whose discharge has been delayed. An agreement, restricting this right, shall be regarded as null and void.

6. In case the auction is declared as having failed, the pledge holder shall have the right, by an agreement made with the pledger, to acquire the pledged property and to offset the selling price by the amount of his claims, secured by the pledge. To such an agreement, the rules of a contract of purchase and sale shall apply.

In case the repeatedly held auction is declared as having failed, too, the pledge holder shall have the right to keep the object of pledge for himself, while appraising its cost at an amount, which is at most by 10 per cent lower than its initial selling price at the repeatedly held auction.

If the pledge holder has not availed himself of the right to keep the object of pledge for himself within one month from the day of declaring the repeated auction as having failed, the contract of pledge shall be terminated.

**Article 351.** Advanced Discharge of the Obligation, Secured Against by the Pledge and Turning of the Obligation onto the Pledged Property

1. The pledgee shall have the right to demand an advanced discharge of the obligation, secured against by the pledge, in the following cases:

1) if the object of pledge has been withdrawn from the custody of the pledger, with whom it has been left, other than in conformity with the terms of the contract of pledge;

2) if the pledger has violated the rules on the replacement of the object of pledge (Article 345);

3) if the object of pledge has been lost because of the circumstances, for which the pledger is not answerable in case the pledger has not availed himself of the right, stipulated by Item 2, Article 345 of the present Code;

4) if execution is levied upon pledged property in respect of the claims secured by a subsequent pledge.

**2.** The pledgee shall have the right to claim an advanced discharge of the pledge, secured against by the pledge, and if his claim is not satisfied, to turn the penalty onto the object of pledge in the following cases:

1) if the pledger has violated the rules on the subsequent pledge (Article 342);

2) if the pledger has not discharged the duties, stipulated by Subitems 1 and 2 of Item 1 and by Item 2, Article 343 of the present Code;

3) if the pledger has violated the rules on the disposal of the pledged property (Item 2 of Article 346).

#### **Article 352. Termination of the Pledge**

**1.** The pledge shall be terminated:

1) with the termination of the obligation, secured against by the pledge;

2) upon the demand of the pledger in the presence of the circumstances, stipulated by Item 3, Article 343 of the present Code;

3) in case of the perish of the pledged thing or of the termination of the pledged right, unless the pledger has availed himself of the right, stipulated by Item 2, Article 345 of the present Code;

4) in case of realization (sale) of pledged property for the purpose of allowing the pledge holder's claims in the procedure established by laws, as well as when realization thereof has turned out to be impossible.

**2.** About the termination of the mortgage, a note shall be made in the register, into which the mortgage contract has been entered.

**3.** Upon the termination of the pledge as a result of the discharge of the obligation, secured against by the pledge, or upon the pledger's claim (Item 3 of Article 343), the pledgee, in whose custody the pledged property has been kept, shall immediately return it to the pledger.

**Article 353.** Maintaining the Pledge in Force When the Right to the Pledged Property Is Transferred to Another Person

1. If the right of ownership to pledged property or the right of economic management of this property is transferred from the pledger to another person as a result of a pecuniary or gratuitous alienation of this property (except when this property is realized for the purpose of satisfying the pledge holder's claims in the procedure established by laws) or by way of universal legal succession, the right of pledge shall be maintained in force.

The legal successor of the pledger shall occupy the place of the pledger and shall discharge all his duties, unless otherwise stipulated by the agreement with the pledgee.

2. If the property of the pledger, which is the object of pledge, has passed, by way of the legal succession, to several persons, each one of the legal successors (acquirers of the property) shall bear the consequences, following from the non-discharge of the obligation, secured against by the pledge, in proportion to that part of the said property, which has passed to him. However, in case the object of pledge is indivisible or remains in the common ownership of the legal successors, they shall become joint pledgers.

**Article 354.** The Consequences of the Forcible Withdrawal of the Pledged Property

1. If the pledger's right of ownership to the property, which is the object of pledge, is terminated on the grounds and in the way, established by the law, as a result of the withdrawal (redemption) for the state or for the municipal needs, of the requisition or of the nationalization, and if the pledger is given the other property or the corresponding compensation, the right of pledge shall be extended to the new property, given instead of the old property, or the pledgee shall correspondingly acquire the right of priority in the satisfaction of his claim from the amount of the compensation due to the pledger. The pledgee shall also have the right to claim an advanced discharge of the obligation, secured against by the pledge.

2. In the cases, when the property, which is the object of pledge, is withdrawn from the pledger in conformity with the law-established order on the ground that another person is in actual fact the owner of this property (Article 301), or as a sanction for committing a crime or for another violation of the law (Article 243), the pledge with respect to this property shall be terminated. In these cases, the pledger shall have the right to claim an advanced discharge of the obligation, secured against by the pledge.

**Article 355. The Cession of the Rights by the Contract of Pledge**

The pledgee shall have the right to transfer his rights by the contract of pledge to another person, while observing the rules on the transfer of rights by the cession of the claim (Articles 382-390).

The cession by the pledgee of his rights by the contract of pledge to another person shall be valid, if the rights of claim against the debtor by the principal obligation, secured against by the pledge, have also been ceded to the same person.

Unless otherwise proved, the cession of the rights by the contract of mortgage shall also imply the cession of the rights by the obligation, secured against by the mortgage.

**Article 356. Transfer of the Debt by the Obligation, Secured Against by the Pledge**

In case of the transfer of the obligation, secured against by the pledge, to another person, the pledge shall be terminated, if the pledger has not given his consent to the creditor to be answerable for the new debtor.

**Article 357. The Pledge of Commodities in Circulation**

1. The pledge of commodities in circulation shall be recognized as the pledge of commodities with leaving them in the pledger's custody and with granting the latter the right to modify the composition and the natural form of the pledged property (the commodity stocks, the raw and other materials, the semi-finished and finished products, etc.), provided that their total cost does not become less than that indicated in the contract of pledge.

The reduction of the cost of the pledged commodities in circulation shall be admitted in proportion to the discharged share of the obligation, secured against by the pledge, unless otherwise stipulated by the contract.

2. The commodities in circulation, alienated by the pledger, shall cease to be the object of pledge from the moment of their passing into the ownership or into the economic or the operation management of the acquirer, while the commodities, acquired by the pledger, which have been indicated in the contract of pledge, shall become the object of pledge from the moment, when the right of their ownership or of their economic management arises with the pledger.

3. The pledger of the commodities in circulation shall be obliged to keep a register for entering the pledges, into which he shall make entries on the terms of the pledge of the commodities and on all the operations, entailing the change of the composition or of the natural form of the pledged commodities, including their processing, by the date of the last operation.

4. In case the pledger violates the terms of the pledge of commodities in circulation, the pledgee shall have

the right to hold up the operations with them by way of putting upon them his signs and seals until the elimination of the violation.

#### **Article 358. Pawning of Things at the Pawn-Shop**

1. The movable property, intended for personal use, may be accepted as a security against a short-term loans by way of the business activity of specialized organizations - the pawn-shops.

2. The contract of the loan shall be legalized by issuing by the pawn-shop of a pawn-ticket.

3. The pawned things shall be passed to the pawn-shop.

The pawn-shop shall be obliged to insure the things in favour of the pawner at its own expense in the full amount of their estimated cost, made in conformity with the prices of things of the same category and standard, usually fixed in trade by the moment of their being accepted in pawn.

The pawn-shop shall not have the right to use and to dispose of the things in pawn.

4. The pawn-shop shall bear responsibility for the loss and the damage of the pawned things, unless it proves that the loss and the damage have occurred because of a force-majeure.

5. If the amount of a loan secured by the pledge of things at a lombard has not been returned at the established time, then, upon the expiry of the grace monthly period, the lombard may sell such property in the procedure established by the law on lombards. Thereafter, the lombard's demands to the pledger (debtor) shall be redeemed, even if the amount received in the realisation of the pledged property is not sufficient for their complete satisfaction.

6. The rules for the citizens' crediting by the pawn-shops under the pledge of things, belonging to the citizens, shall be laid down by the law on lombards and by the present Code.

7. The terms of the contract of the loan, restricting the rights of the pledger as compared with the rights, granted to him by the present Code and by the other laws, shall be insignificant. Instead of such terms, the corresponding provisions of the law shall be applied.

### **§ 4. The Retention**

#### **Article 359. The Grounds for the Retention**

1. The creditor, in whose custody is the thing, subject to the transfer to the debtor or to the person, named

by the debtor, shall have the right, in case the debtor fails to discharge in time the obligation on the payment for this thing or on the compensation to the creditor of the expenses and of the other losses he has borne in connection with it, to retain it until the corresponding obligation is discharged.

By way of the thing's retention may also be secured the claims, which, while not being connected with the payment for the thing or with the compensation of the expenses and of the other losses, have nevertheless arisen from the obligation, whose parties are acting as businessmen.

2. The creditor may retain the thing in his custody, despite the fact that after this thing has passed into the creditor's possession, the rights to it have been acquired by the third person.

3. The rules of the present Article shall be applied, unless otherwise stipulated by the contract.

#### **Article 360. Satisfaction of Claims at the Expense of the Retained Property**

The claims of the creditor, who is retaining the thing, shall be satisfied from its cost in the volume and in the order, stipulated for the satisfaction of the claims, secured against by the pledge.

### **§ 5. The Surety**

#### **Article 361. The Contract of Surety**

By the contract of surety, the surety shall be obliged to the creditor of the other person to be answerable for the latter's discharge of his obligation in full or in part.

The contract of surety may also be concluded to provide security for an obligation, which will arise in the future.

#### **Article 362. The Form of the Contract of Surety**

The contract of surety shall be legalized in written form. The non-observance of the written form shall entail the invalidity of the contract of surety.

#### **Article 363. Responsibility of the Surety**

1. In case of the failure to discharge, or of an improper discharge by the debtor, of the obligation, secured by the surety, the surety and the debtor shall be jointly answerable to the creditor, unless the surety's subsidiary

liability is stipulated by the law or by the contract of surety.

2. The surety shall be answerable to the creditor in the same volume as the debtor, including the payment of the interest, the compensation of the court expenses, involved in the exaction of the debt and of the other losses, borne by the creditor, which have been caused by the debtor's non-discharge or improper discharge of the obligation, unless otherwise stipulated by the contract of surety.

3. The persons, who have provided a joint surety, shall be jointly answerable to the creditor, unless otherwise stipulated by the contract of surety.

#### **Article 364.** The Right of the Surety to Object to the Creditor's Claim

The surety shall have the right to put forward against the creditor's claim the objections, which could have been put forward by the debtor, unless otherwise following from the contract of surety. The surety shall not lose the right to these objections even in case the debtor has renounced them or has recognized his debt.

#### **Article 365.** The Rights of the Surety, Who Has Discharged the Obligation

1. To the surety, who has discharged the obligation, shall pass the creditor's rights by this obligation and also the rights, which have belonged to the creditor as the pledgee, in the volume, in which the surety has satisfied the creditor's claim. The surety shall also have the right to claim that the debtor pay the interest on the amount of money, paid up to the creditor, and recompense the other losses, which he has borne in connection with the liability for the debtor.

2. After the surety has discharged the obligation, the creditor shall be obliged to pass to the surety the documents, certifying the claim against the debtor, and to transfer to him the rights, securing this claim.

3. The rules, established by the present Article, shall be applied, unless otherwise stipulated by the law, by the other legal acts or by the contract, concluded by the surety with the debtor, or unless otherwise following from the relationships between them.

#### **Article 366.** Notification of the Surety on the Debtor's Discharge of the Obligation

The debtor, who has discharged the obligation, secured against by the surety, shall immediately notify about it the surety. Otherwise, the surety, who in his turn has discharged the obligation, shall have the right to exact from the creditor what he has groundlessly obtained, or to file the claim of regress against the debtor. In the latter case, the debtor shall have the right to exact from the creditor only what has been groundlessly obtained.

#### **Article 367. Termination of the Obligation**

1. The surety shall be terminated with the termination of the secured obligation, and also in case of the amendment of this obligation, entailing an increase of the liability, or the other unfavourable consequences for the surety without the latter's consent.

2. The surety shall be terminated as a result of the transfer to another person of the debt by the obligation, secured by the surety, unless the surety has given his consent to the creditor to be answerable for the new debtor.

3. The surety shall be terminated, if the creditor has refused to accept the proper discharge, offered by the debtor or by the surety.

4. The surety shall be terminated after the expiry of the term, indicated in the contract of surety, for which it has been issued. In case such term has not been stipulated, the surety shall be terminated, if the creditor does not file the claim against the debtor in the course of one year from the date of the expiry of the term, fixed for the discharge of the secured obligation. If the term of the discharge of the principal obligation has not been stipulated and cannot be defined, or if it has been defined by the moment of the demand, the surety shall be terminated, unless the creditor files the claim against the surety in the course of two years from the date, when the contract of surety was concluded.

### **§ 6. The Bank Guarantee**

#### **Article 368. The Concept of the Bank Guarantee**

By force of the bank guarantee, the bank, the other credit institution or the insurance company (the guarantor) shall issue, upon the request of the other person (the principal) a written obligation to pay to the creditor (the beneficiary), in conformity with the terms of the obligation, given by the guarantor, a certain amount of money upon the beneficiary's presenting the written claim on its payment.

#### **Article 369. Security by the Bank Guarantee of the Principal's Obligation**

1. The bank guarantee shall provide for the proper discharge by the principal of his obligation to the beneficiary (the principal obligation).

2. The principal shall pay out to the guarantor a reward for the issue of the bank guarantee.

**Article 370.** Independence of the Bank Guarantee from the Principal Obligation

The obligation of the guarantor to the beneficiary, stipulated by the bank guarantee, shall not depend in the relationships between them upon that principal obligation, to provide for whose discharge it has been issued, even if the guarantee contains a reference to this obligation.

**Article 371.** Irrevocability of the Bank Guarantee

The bank guarantee shall not be revoked by the guarantor, unless otherwise stipulated in it.

**Article 372.** Untransferability of the Rights by the Bank Guarantee

The right of claim against the guarantor, possessed by the beneficiary by the bank guarantee, shall not be transferred to the other person, unless otherwise stipulated in the guarantee.

**Article 373.** The Coming of the Bank Guarantee in Force

The bank guarantee shall come in force from the date of its issue, unless otherwise stipulated in it.

**Article 374.** Presentation of the Claim by the Bank Guarantee

1. The beneficiary's claim for the payment of the sum of money by the bank guarantee shall be presented to the guarantor in written form, with the documents, indicated in the guarantee, enclosed to it. The beneficiary shall point out, either in the claim itself or in the enclosed documents, in what consists the principal's violation of the principal obligation, to secure which the guarantee was issued.

2. The beneficiary's claim shall be presented to the guarantor before the expiry of the term, defined in the guarantee, for which it has been issued.

**Article 375.** The Guarantor's Obligations in Considering the Beneficiary's Claim

1. On receiving the beneficiary's claim, the guarantor shall without delay notify about it the principal and shall pass to him the copies of the claim with all the related documents.

2. The guarantor shall be obliged to examine the beneficiary's claim and the enclosed documents within a reasonable term, displaying a reasonable solicitude in order to establish, whether or not the claim and the enclosed

documents correspond to the terms of the guarantee.

**Article 376. The Guarantor's Refusal to Satisfy the Beneficiary's Claim**

1. The guarantor shall refuse to satisfy the beneficiary's claim, if this claim or the documents enclosed to it do not correspond to the terms of the guarantee or if they are presented to the guarantor after the expiry of the term, fixed in the guarantee.

The guarantor shall be obliged to immediately notify the beneficiary about the refusal to satisfy his claim.

2. If the guarantor has learned before the satisfaction of the beneficiary's claim that the principal obligation, secured against by the bank guarantee, has already been discharged in full or in the corresponding part, that it has been terminated on the other grounds or has been invalidated, he shall be obliged to immediately notify about this the beneficiary and the principal.

The repeated beneficiary's claim, received by the guarantor after such a notification, shall be liable to satisfaction by the guarantor.

**Article 377. The Limits of the Guarantor's Obligation**

1. The guarantor's obligation to the beneficiary, stipulated by the bank guarantee, shall be limited by the payment of the sum of money, for which the guarantee was issued.

2. The guarantor's responsibility to the beneficiary for his non-discharge or improper discharge of the obligation by the guarantee shall not be limited to the sum of money, for which the guarantee was issued, unless otherwise stipulated in the guarantee.

**Article 378. Termination of the Bank Guarantee**

1. The guarantor's obligation to the beneficiary by the guarantee shall be terminated:

- 1) by the payment to the beneficiary of the sum of money, for which the guarantee was issued;
- 2) after the expiry of the term, fixed in the guarantee, for which it was issued;
- 3) as a result of the beneficiary's renouncement of his rights by the guarantee and his return of the guarantee to the guarantor;
- 4) as a result of the beneficiary's renouncement of his rights by the guarantee by way of his handing in of a written application on relieving the guarantor of his obligations.

The termination of the guarantor's obligation on the grounds, pointed out in Subitems 1, 2 and 4 of the

present Item, shall not depend on whether or not the guarantee has been returned to him.

2. The guarantor, who has learned about the termination of the guarantee, shall be obliged to immediately notify about it the principal.

#### **Article 379.** The Guarantor's Claims of Regress to the Principal

1. The guarantor's right to claim by way of regress that the principal recompense the sums of money, paid to the beneficiary by the bank guarantee, shall be defined by the agreement, concluded between the guarantor and the principal, for the discharge of which the guarantee was issued.

2. The guarantor shall not have the right to claim that the principal return the sums of money, paid to the beneficiary other than in correspondence with the terms of the guarantee, or for the violation of the guarantor's obligation to the beneficiary, unless otherwise stipulated by the agreement, concluded between the guarantor and the principal.

### **§ 7. The Advance**

#### **Article 380.** The Concept of the Advance. The Form of an Agreement on the Advance

1. The advance shall be recognized as the sum of money, issued by one of the contracting parties to offset the payments to the other party due from it, as a proof that the contract has been concluded and that its discharge has been secured against.

2. The agreement on the advance, regardless of the sum of money involved, shall be effected in written form.

3. In case of the doubt about whether the sum of money, paid to offset the payments, due from the party by the contract, is the advance, in particular, as a result of the non-advance by the rule, laid down by Item 2 of the present Article, this sum of money shall be regarded as paid up by way of an advance, unless proved otherwise.

#### **Article 381.** The Consequences of the Termination and of the Non-Discharge of the Obligation, Secured Against by the Advance

1. If the obligation is terminated before the start of its discharge by an agreement between the parties or as a result of its discharge being impossible (Article 416), the advance shall be returned.

2. If the responsibility for the non-performance of the contract lies with the party, which has given the

advance, it shall be left with the other party. If the responsibility for the non-performance of the contract lies with the party, which has received the advance, it shall be obliged to pay to the other party the double amount of the advance.

In addition, the party, responsible for the non-execution of the contract, shall be obliged to recompense to the other party the losses, offsetting the amount of the advance, unless otherwise stipulated by the contract.

## **Chapter 24. The Substitution of Persons in an Obligation**

### **§ 1. The Transfer of the Creditor's Rights to Another Person**

#### **Article 382. The Grounds and the Order of the Transfer of the Creditor's Rights to Another Person**

1. The right (the claim), belonging to the creditor on the grounds of an obligation, may be transferred by him to another person by the deal (the cession of the claim), or may pass to another person on the legal grounds.

The rules on the transfer of the creditor's rights to another person shall not be applied to the claims of regress.

2. To effect the transfer to another person, the consent of the debtor shall not be required, unless otherwise stipulated by the law or by the contract.

3. If the debtor has not been notified in written form on the effected transfer of the creditor's rights to another person, the new creditor shall bear the risk of the unfavourable consequences, which may arise for him as a result of this. In this case, the discharge of the obligation to the primary creditor shall be recognized as the discharge to the proper creditor.

#### **Article 383. The Rights, Which May not Be Passed to the Other Persons**

The transfer to the other person of the rights, inseparably linked with the creditor's personality, in particular, with the claims for the alimony and for the compensation of the harm, caused to the life or to the health, shall not be admitted.

#### **Article 384. The Scope of the Creditor's Rights, Transferred to the Other Person**

Unless otherwise stipulated by the law or by the contract, the right of the primary creditor shall be passed

to the new creditor in the volume and on the terms, which have existed by the moment of the transfer of the right. In particular, to the new creditor shall pass the rights, guaranteeing the discharge of the obligations, and also the other rights, involved in the claim, including the right to the unpaid interest.

**Article 385.** The Proofs of the Rights of the New Creditor

1. The debtor shall have the right not to discharge the obligation to the new creditor, until the proofs of the transfer of the claim to this person have been presented to him.

2. The creditor, who has ceded the claim to the other person, shall be obliged to pass to him the documents, certifying the right of the claim, and to supply to him the information, which is important for the discharge of the claim.

**Article 386.** The Debtor's Objections to the New Creditor's Claim

The debtor shall have the right to put forward objections against the new creditor's claims, which he has had to the primary creditor by the moment of receiving the notification about the transfer of the rights by the obligation to the new creditor.

**Article 387.** The Transfer of the Creditor's Rights to the Other Person on the Grounds of the Law

The creditor's rights by the obligation shall pass to the other person on the grounds of the law and of the occurrence of the circumstances, pointed out in it:

- as a consequence of the universal legal succession in the creditor's rights;
- by the court decision on the transfer of the creditor's rights to the other person, when the possibility of such transfer is stipulated by the law;
- as a consequence of the discharge of the debtor's obligation by his surety or by the pledger, who is not the debtor by this obligation;
- in the subrogation to the insurer of the creditor's rights with respect to the debtor, responsible for the occurrence of the insurance case;
- in the other law-stipulated cases.

**Article 388.** The Terms for Ceding the Claim

1. The creditor's ceding of the claim to the other person shall be admitted, unless it contradicts the law, the

other legal acts or the contract.

2. The cession of the claim by the obligation, in which the creditor's personality is of essential importance for the debtor, shall not be admitted without the debtor's consent.

#### **Article 389.** The Form of Ceding the Claim

1. The cession of the claim, based on the deal, performed in the simple written or in the notarial form, shall be effected in the corresponding written form.

2. The cession of the claim by the deal, requiring the state registration, shall be registered in conformity with the order, established for the registration of this deal, unless otherwise established by the law.

3. The cession of the claim by the order security shall be effected by way of making an endorsement upon this security (Item 3 of Article 146).

#### **Article 390.** Responsibility of the Creditor, Who Has Ceded the Claim

The primary creditor, who has ceded the claim, shall be answerable to the new creditor for the invalidity of the claim, transferred to the latter, but shall not be answerable for the non-satisfaction of this claim by the debtor, with the exception of the cases, when the primary creditor has assumed upon himself the surety for the debtor to the new creditor.

## **§ 2. The Transfer of the Debt**

#### **Article 391.** The Terms and the Form of the Transfer of the Debt

1. The transfer by the debtor of his debt to the other person shall be admitted only with the creditor's consent.

2. To the form of the transfer of the debt shall be correspondingly applied the rules, contained in Items 1 and 2, Article 389 of the present Code.

#### **Article 392.** Objections of the New Debtor Against the Creditor's Claim

The new debtor shall have the right to put forward objections against the creditor's claims, based on the relationships between the creditor and the primary debtor.

## **Chapter 25. Responsibility for the Violation of Obligations**

### **Article 393. The Debtor's Obligation to Recompense the Losses**

1. The debtor shall be obliged to recompense to the creditor the losses, caused to him by the non-discharge or by an improper discharge of the obligations.
2. The losses shall be defined in conformity with the rules, stipulated by Article 15 of the present Code.
3. Unless otherwise stipulated by the law, by the other legal acts or by the agreement, when defining the losses, the prices shall be taken into account, which existed in the place, where the obligation should have been discharged, on the date of the debtor's voluntary satisfaction of the creditor's claims, and if the claim has not been voluntarily satisfied - on the date of its presentation. Proceeding from the circumstances, the court may satisfy the claim for the compensation of the losses, taking into account the prices, which existed on the day of its adopting the decision.
4. When defining the lost profit, the measures, taken by the creditor to derive it, and the preparations, made for the same purpose, shall be considered.

### **Article 394. The Losses and the Forfeit**

1. If for the non-discharge or an improper discharge of the obligation the forfeit has been ruled, the losses shall be recompensed in the part, which has not been covered by the forfeit.

The law or the agreement may stipulate the cases: when only the forfeit, but not the losses shall be exacted; when the losses may be exacted in full above the forfeit; when, according to the creditor's choice, either the forfeit or the losses may be exacted.

2. In the cases, when a limited responsibility for the non-discharge or an improper discharge of the obligation has been established (Article 400), the losses, liable to compensation in the part, not covered by the forfeit, or above it, or instead of it, may be exacted up to the limit, fixed by such a restriction.

### **Article 395. Responsibility for the Non-Discharge of the Pecuniary Obligation**

1. For the use of the other person's money as a result of its illegal retention, of the avoidance of its return or of another kind of delay in its payment, or as a result of its ungroundless receipt or saving at the expense of the other person, the interest on the total amount of these means shall be due. The interest rate shall be defined by the

discount rate of the bank interest, existing by the date of the discharge of the pecuniary obligation or of the corresponding part thereof at the place of the creditor's residence, and if the creditor is a legal entity - at the place of its location. If the debt is exacted through the court, the court may satisfy the creditor's claim, proceeding from the discount rate of the bank interest on the date of filing the claim or on the date of its adopting the decision. These rules shall be applied, unless the other interest rate has been fixed by the law or by the agreement.

2. If the losses, caused to the creditor by an illegal use of his money, exceed the amount of the interest, due to him on the ground of Item 1 of the present Article, he shall have the right to claim that the debtor recompense him the losses in the part, exceeding this amount.

3. The interest for the use of the other person's means shall be exacted by the date of payment of the amount of these means to the creditor, unless the law, the other legal acts or the contract have fixed a shorter term for the calculation of the interest.

#### **Article 396.** Responsibility and the Discharge of Obligations in Kind

1. The payment of the forfeit and the compensation of the losses in case of an improper discharge of the obligation shall not absolve the debtor from the discharge of the obligations in kind, unless otherwise stipulated by the law or by the contract.

2. The compensation of the losses in case of the non-discharge of the obligation and the payment of the forfeit for its non-discharge shall absolve the debtor from the discharge of the obligation in kind, unless otherwise stipulated by the law or by the contract.

3. The creditor's refusal to accept the discharge, which as a consequence of the delay has lost all interest for him (Item 2 of Article 405), and also the payment of the forfeit, imposed by way of compensation (Article 409), shall absolve the debtor from the discharge of the obligation in kind.

#### **Article 397.** Discharge of the Obligation at the Debtor's Expense

In case of the non-discharge by the debtor of the obligation to manufacture and transfer the thing into the ownership, into the economic or into the operation management, or into the use of the creditor, or to perform for him a certain job, or to render him a service, the creditor shall have the right, within a reasonable term and for a reasonable pay, to commission the third persons with the performance of the obligation, or to perform it through his own effort, unless otherwise following from the law, the other legal acts or the contract, or from the substance of the

obligation, and to claim that the debtor recompense the necessary expenses and the other losses he has borne.

**Article 398.** The Consequences of the Non-discharge of the Obligation to Transfer an Individually-definite Thing

In case of the non-discharge of the obligation to transfer an individually-definite thing into the ownership, into the economic or the operation management, or into the gratuitous use of the creditor, the latter shall have the right to claim the forcible withdrawal of this thing from the debtor and its transfer to the creditor on the terms, stipulated by the obligation. This right shall cease to exist, if the thing has already been transferred to the third person, possessing the right of ownership, of economic or of operation management. If the thing has not yet been transferred, the right of priority shall belong to that creditor, with respect to whom the obligation has arisen at an earlier date, and if this is impossible to establish - to that creditor, who has filed the claim at an earlier date.

Instead of the claim for the transfer to him of the thing, which is the object of the obligation, the creditor shall have the right to claim the compensation of his losses.

**Article 399.** The Subsidiary Liability

1. Before presenting the claims against the person, who, in conformity with the law, with the other legal acts or with the terms of the obligation, is bearing liability in addition to the liability of the other person, who is the principal debtor (the subsidiary liability), the creditor shall be obliged to present the claim against the principal debtor.

If the principal debtor has refused to satisfy the claim of the creditor, or if the creditor has not received from him, within a reasonable term, a response to the presented claim, this claim may be presented against the person, bearing the subsidiary liability.

2. The creditor shall have no right to claim the satisfaction of his claim against the principal debtor from the person, bearing the subsidiary liability, if this claim may be satisfied by offsetting the claim of regress to the principal debtor, or by an indisputable recovery of the means involved from the principal debtor.

3. The person, bearing the subsidiary liability, shall be obliged, before satisfying the claim, presented against him by the creditor, to warn about it the principal debtor, and if the claim has been filed against such a person - to draw the principal debtor into the court case. Otherwise, the principal debtor shall have the right to put forward against the claim of regress of the person, bearing the subsidiary liability, the objections, which he has had against the creditor.

**Article 400.** Limitation of the Scope of Liability by Obligations

1. By the individual kinds of obligations and by those obligations, which are related to a definite type of activity, the right to the full compensation of the losses may be limited by the law (the limited responsibility).

2. The agreement on limiting the scope of the debtor's responsibility by the contract of affiliation or by another kind of contract, in which the creditor is the citizen, coming out in the capacity of the consumer, shall be insignificant, if the scope of responsibility for the given kind of obligations or for the given violation has been defined by the law and if the agreement has been concluded before the setting in of the circumstances, entailing the responsibility for the non-discharge or for an improper discharge of the obligation.

**Article 401.** The Grounds of Responsibility for the Violation of the Obligation

1. The person, who has not discharged the obligation or who has discharged it in an improper way, shall bear responsibility for this, if it has happened through his fault (an ill intention or carelessness on his part), with the exception of the cases, when the other grounds of the responsibility have been stipulated by the law or by the contract.

The person shall be recognized as not guilty, if, taking into account the extent of the care and caution, which has been expected from him in the face of the nature and the terms of the circulation, he has taken all the necessary measures for properly discharging the obligation.

2. The absence of the guilt shall be proven by the person, who has violated the obligation.

3. Unless otherwise stipulated by the law or by the contract, the person, who has failed to discharge, or has discharged in an improper way, the obligation, while performing the business activity, shall bear responsibility, unless he proves that the proper discharge has been impossible because of a force-majeure, i.e., because of the extraordinary circumstances, which it was impossible to avert under the given conditions. To such kind of circumstances shall not be referred, in particular, the violations of obligations on the part of the debtor's counter-agents, or the absence on the market of commodities, indispensable for the discharge, or the absence of the necessary means at the debtor's disposal.

4. An agreement on eliminating or limiting the liability for an intentional violation of the obligation, concluded at an earlier date, shall be insignificant.

**Article 402.** The Debtor's Responsibility for His Employees

The actions of the debtor's employees, involved in the discharge of his obligation, shall be regarded as those of the debtor himself. The debtor shall be answerable for these actions, if they have caused the non-discharge or an improper discharge of the obligation.

**Article 403. The Debtor's Responsibility for the Actions of the Third Persons**

The debtor shall be answerable for an improper discharge of the obligation by the third persons, on whom the discharge of the obligation has been imposed, unless it has been laid down by the law that the responsibility shall be borne by the third person, who has been an immediate discharger.

**Article 404. The Creditor's Guilt**

1. If the non-discharge or an improper discharge of the obligation has occurred through the fault of both parties, the court shall correspondingly reduce the scope of the debtor's responsibility. The court shall also have the right to reduce the scope of the debtor's responsibility, if the creditor has intentionally or through carelessness contributed to the increase of the losses, caused by the non-discharge or by an improper discharge, or if he has not taken reasonable measures to reduce them.

2. The rules of Item 1 of the present Article shall also be correspondingly applied in the cases, when the debtor, by force of the law or of the contract, bears responsibility for the non-discharge or for an improper discharge of the obligation regardless of whether he is, or is not, at fault.

**Article 405. The Debtor's Delay**

1. The debtor, who has failed to discharge the obligation on time, shall be answerable to the creditor for the losses, inflicted by the delay, and also for the consequences of the discharge having accidentally become impossible during the period of the delay.

2. If, because of the debtor's delay, the discharge has lost all interest for the creditor, he shall have the right to refuse to accept the discharge and to claim the compensation of the involved losses.

3. The debtor shall not be regarded as guilty of the delay during the period of time, when the obligation could not have been discharged because of the creditor's delay.

**Article 406. The Creditor's Delay**

1. The creditor shall be regarded as guilty of the delay, if he has refused to accept the proper discharge,

offered to him by the debtor, or if he has not performed the actions, stipulated by the law, by the other legal acts, or by the contract, or those stemming from the customs of the business turnover or from the substance of the obligation, before the performance of which the debtor could not have discharged his obligation.

The creditor shall also be regarded as guilty of the delay in the cases, pointed out in Item 2 of Article 408 of the present Code.

2. The creditor's delay shall give to the debtor the right to the compensation of losses, caused to him by the said delay, unless the creditor proves that the delay has occurred through the circumstances, for which neither he himself, nor the persons, to whom, by force of the law, of the other legal acts or of the creditor's commission, the acceptance of the discharge has been entrusted, are answerable.

3. The debtor shall not be obliged to pay the interest by the pecuniary obligation over the period of the creditor's delay.

## **Chapter 26. The Termination of Obligations**

### **Article 407. The Grounds for the Termination of Obligations**

1. The obligation shall be terminated in full or in part on the grounds, stipulated by the present Code, by the other laws and the other legal acts, or by the contract.

2. The termination of the obligation upon the claim of one of the parties shall be admitted only in the cases, stipulated by the law or by the contract.

### **Article 408. The Termination of the Obligation by the Discharge**

1. The proper discharge shall terminate the obligation.

2. While accepting the discharge, the creditor shall be obliged, upon the debtor's claim, to give him a receipt for accepting the discharge in full or in the corresponding part thereof.

If the debtor has issued to the creditor a promissory document to certify the obligation, the creditor, while accepting the discharge, shall be obliged to return it, and in case it is impossible to return the said document, he shall be obliged to indicate this in the receipt he issues. The receipt may be replaced by an inscription made on the returned document. The debtor's custody of the promissory document shall certify the termination of the obligation, unless otherwise proved.

If the creditor refuses to issue the receipt, to return to the debtor the promissory document, or to indicate in

the receipt that it is impossible to return it, the debtor shall have the right to delay the discharge. In these cases, the creditor shall be regarded as having delayed it.

#### **Article 409. The Indemnity**

By an agreement between the parties, the obligation may be terminated by way of paying an indemnity instead of the discharge (the payment of money, the transfer of the property, etc.). The amount, the term and the procedure for paying the indemnity shall be established by the parties.

#### **Article 410. Termination of the Obligation by an Offset**

The obligation shall be terminated in full or in part by offsetting a similar claim of regress, whose deadline has arrived or has not been fixed, or has been defined by the moment of the demand. For the offset, the application from one of the parties shall be sufficient.

#### **Article 411. The Cases of the Offset Being Inadmissible**

Inadmissible shall be the offset of the claims:

- if, by the application of the other party, the term of the limitation of actions shall be applicable to the given claim, and the said term has expired;
- for the compensation of the harm, inflicted to the life or to the health;
- on the exaction of the alimony;
- for the life maintenance;
- in the other cases, stipulated by the law or by the contract.

#### **Article 412. The Offset in the Cession of the Claim**

In case of the cession of the claim, the debtor shall have the right to offset against the claim of the new creditor his own claim of regress against the primary creditor.

The offset shall be effected, if the claim has arisen on the grounds, which have existed by the moment of the debtor's receipt of the notification about the cession of the claim, and if the deadline of the claim has set in before its receipt or if this deadline has not been indicated or defined by the moment of the demand.

**Article 413.** Termination of the Obligation by the Debtor and the Creditor Coinciding in One Person

The obligation shall be terminated in case the debtor and the creditor coincide in a single person.

**Article 414.** Termination of the Obligation by the Novation

1. The obligation shall be terminated by an agreement between the parties on replacing the primary obligation, which has existed between them, with another obligation between the same persons, stipulating a different object or a different way of the discharge (the novation).

2. The novation shall not be admissible with respect to the obligations on the compensation for the harm, inflicted to the life or to the health, and also with respect to those on the alimony.

3. The novation shall terminate the additional liabilities, connected with the primary obligation, unless otherwise stipulated by the agreement between the parties.

**Article 415.** Forgiving the Debt

The obligation shall be terminated by the creditor's absolving the debtor from the obligations, borne by him, if this does not violate the rights of the other persons with respect to the creditor's property.

**Article 416.** Termination of the Obligation Because of the Impossibility to Discharge It

1. The obligation shall be terminated because of the impossibility to discharge it, caused by the circumstance, for which neither of the parties is answerable.

2. In case of the impossibility for the debtor to discharge the obligation because of the faulty actions of the creditor, the latter shall not have the right to claim the return of what he has discharged by the obligation.

**Article 417.** Termination of the Obligation on the Grounds of an Act, Issued by the State Body

1. If as a result of an act, issued by the state body, the discharge of the obligation has become impossible in full or in part, the obligation shall be terminated in full or in the corresponding part. The parties, which have suffered losses as a result of this, shall have the right to claim their compensation in conformity with Articles 13 and

16 of the present Code.

2. In case the act, issued by the state body, on whose grounds the obligation has been terminated, is recognized as invalid in conformity with the established procedure, the obligation shall be restored, unless otherwise following from the agreement between the parties or from the substance of the obligation and unless its discharge has lost all interest for the creditor.

**Article 418. Termination of the Obligation with the Citizen's Death**

1. The obligation shall be terminated with the death of the debtor, if it cannot be discharged without the debtor's personal participation, or if it is indissolubly linked with the debtor's personality in any other way.

2. The obligation shall be terminated with the death of the creditor, if its discharge is intended personally for the creditor, or if the obligation is indissolubly linked with the creditor's personality in any other way.

**Article 419. Termination of the Obligation with the Liquidation of the Legal Entity**

The obligation shall be terminated with the liquidation of the legal entity (the debtor or the creditor), with the exception of the cases, when the law or the other legal acts impose the discharge of the obligation of the liquidated legal entity upon the other person (by the claims for the compensation of the harm, caused to the life or to the health, etc.).

**Subsection 2. The General Provisions on the Contract**

**Chapter 27. The Concept and the Terms of the Contract**

**Article 420. The Concept of the Contract**

1. The contract shall be recognized as the agreement, concluded by two or by several persons on the institution, modification or termination of the civil rights and duties.

2. Toward the contracts shall be applied the rules on bilateral and multilateral deals, stipulated by Chapter 9 of the present Code.

3. Toward the obligations, arising from the contract, shall be applied the general provisions on obligations (Articles 307-419), unless otherwise stipulated by the rules of the present Chapter and the rules on the individual

kinds of contracts, contained in the present Code.

4. Toward the contracts, concluded by more than two parties, the general provisions on the contract shall be applied, unless this contradicts the multilateral nature of such contracts.

#### **Article 421. The Freedom of the Contract**

1. The citizens and the legal entities shall be free to conclude contracts.

Compulsion to conclude contracts shall be inadmissible, with the exception of the cases, when the duty to conclude the contract has been stipulated by the present Code, by the law or by a voluntarily assumed obligation.

2. The parties shall have the right to conclude a contract, both stipulated and unstipulated by the law or by the other legal acts.

3. The parties shall have the right to conclude a contract, in which are contained the elements of different contracts, stipulated by the law or by the other legal acts (the mixed contract). Toward the relationships between the parties in the mixed contract shall be applied in the corresponding parts the rules on the contracts, whose elements are contained in the mixed contract, unless otherwise following from the agreement between the parties or from the substance of the mixed contract.

4. The contract terms (provisions) shall be defined at the discretion of the parties, with the exception of the cases, when the content of the corresponding term (provision) has been stipulated by the law or by the other legal acts (Article 422).

In the cases, when the contract provision has been stipulated by the norm, applied so far as it has not been otherwise stipulated by the agreement between the parties (the dispositive norm), the parties may by their own agreement exclude its application, or may introduce the provision, distinct from that, which has been stipulated by it. In the absence of such an agreement, the contract provision shall be defined by the dispositive norm.

5. Unless the contract provision has been defined by the parties or by the dispositive norm, the corresponding provisions shall be defined by the customs of the business turnover, applicable to the relationships between the parties.

#### **Article 422. The Contract and the Law**

1. The contract shall be obliged to correspond to the rules, obligatory for the parties, which have been laid down by the law and by the other legal acts (the imperative norms), operating at the moment of its conclusion.

2. If after the conclusion of the contract the law has been passed, laying down the rules, obligatory for the

parties, which differ from those in operation when the contract was concluded, the provisions of the concluded contract shall stay in force, with the exception of the cases, when the law decrees that its action shall be extended to the relationships that have arisen from the contracts, concluded at an earlier date.

#### **Article 423. The Pecuniary and the Gratuitous Contracts**

1. The contract, by which the party shall receive a pay or a different kind of the regress remuneration for the discharge of its duties, shall be a pecuniary one.

2. The contract shall be recognized as gratuitous, if by it one party assumes an obligation to provide something to the other party without receiving from it a pay or another kind of the regress remuneration.

3. The contract shall be supposed to be a pecuniary one, unless otherwise following from the law, from the other legal acts, or from the content or the substance of the contract.

#### **Article 424. The Price**

1. The performance of the contract shall be paid by the price, fixed by an agreement between the parties.

In the law-stipulated cases, the prices (the tariffs, estimates, rates, etc.) shall be applied, fixed or regulated by the specially authorized state bodies and/or bodies of local self-government.

2. Change in price after the conclusion of the contract shall be admitted in cases and on the terms, provided for by the contract, law, or in the procedure established by law.

3. In the cases, when the price in the pecuniary contract has not been stipulated and cannot be defined proceeding from the contract terms, the performance of the contract shall be remunerated by the price, which is usually paid under the comparable circumstances for the similar kind of commodities, works or services.

#### **Article 425. The Operation of the Contract**

1. The contract shall come in force and shall become obligatory for the parties from the moment of its conclusion.

2. The parties shall have the right to establish that the terms (provisions) of the contract, concluded by them, shall be applied to their relations, which have arisen before the conclusion of the contract.

3. The law or the contract may stipulate that the end of the term of operation of the contract entails the

termination of the parties' obligations by the contract.

The contract, in which such a term is absent, shall be recognized as operating until the moment, when the parties complete the performance of the obligation, defined in it.

4. The expiry of the term of operation of the contract shall not absolve the parties from the responsibility for its violation.

#### **Article 426. The Public Contract**

1. The public contract shall be recognized as a contract, concluded by a commercial organization and establishing its duties by the sale of commodities, by the performance of works and by rendering services, which such an organization shall effect in conformity with the nature of its activity with respect to anybody, who turns to it (in the sphere of the retail trade, the passenger traffic in the public transport vehicles, the communications services, the supply of electric energy, the medical services, the hotel accommodation, etc.).

The commercial organization shall have no right to show preference to some persons as compared with the others as concerns the conclusion of a public contract, with the exception of the cases, stipulated by the law and by the other legal acts.

2. The price of commodities, works and services, as well as the other terms of the public contract shall be equal for all the consumers, with the exception of the cases, when the law and the other legal acts admit the granting of privileges for the individual consumer categories.

3. Refusal on the part of the commercial organization to conclude a public contract, if it can provide to the consumer the corresponding commodities and services and to perform for him the corresponding works, shall not be admitted.

If the commercial organization ungroundlessly avoids the conclusion of a public contract, the provisions, stipulated by Item 4 of Article 445 of the present Code, shall be applied.

4. In the law-stipulated cases, the Government of the Russian Federation, as well as the federal executive bodies authorised by the Government of the Russian Federation, may issue rules binding for the parties in concluding and performing public contracts (standard contracts, the provisions, etc.).

5. The terms of the public contract, not corresponding to the requirements, laid down in Items 2 and 4 of the present Article, shall be insignificant.

#### **Article 427. The Model Contract Rules**

1. It may be stipulated in the contract that its individual terms are defined by the model terms, elaborated for the corresponding type of the contracts and published in the press.

2. In the case, when the contract contains no reference to the model terms, such model terms shall be applied toward the relationships between the parties as the customs of the business turnover, if they comply with the requirements, laid down by Article 5 and by Item 5, Article 421 of the present Code.

3. The model terms may be exposed in the form of a model contract or of another document, containing these terms.

#### **Article 428. The Contract of Affiliation**

1. The contract of affiliation shall be recognized as the contract, whose terms have been defined by one of the parties in the official lists or in the other standard forms and could have been accepted by the other party only by way of its joining the offered contract as a whole.

2. The party, which has joined the contract, shall have the right to demand that the contract be dissolved or amended, if the contract of affiliation, while not contradicting the law and the other legal acts, deprives this party of the rights, which are usually granted by the contracts of the given kind, if it excludes or limits the responsibility of the other party for the violation of the obligations or contains the other terms, clearly onerous for the affiliated party, which it would have rejected, proceeding from its own reasonably interpreted interests, could it have taken part in defining the contract terms.

3. In the face of the circumstances, stipulated in Item 2 of the present Article, the demand about the dissolution or the amendment of the contract, put forward by the party, which has joined the contract in connection with the performance of its business activity, shall not be liable to satisfaction, if the affiliated party has known, or should have known, on what terms it was concluding the contract.

#### **Article 429. The Preliminary Contract**

1. By the preliminary contract, the parties shall assume an obligation to conclude in the future a contract on the transfer of the property, on the performance of works or on rendering services (the basic contract) on the terms, stipulated by the preliminary contract.

2. The preliminary contract shall be concluded in the form, established for the basic contract, and if the

form of the basic contract has not been established, in written form. The non-observance of the rules on the form of the preliminary contract shall entail its insignificance.

3. The preliminary contract shall contain the terms, making it possible to identify the object, and also the other essential terms of the basic contract.

4. In the preliminary contract shall be pointed out the term, within which the parties are obliged to conclude the basic contract.

If such term has not been defined in the preliminary contract, the basic contract shall be subject to conclusion in the course of one year from the moment of concluding the preliminary contract.

5. In the cases, when the party, which has concluded the preliminary contract, is avoiding the conclusion of the basic contract, shall be applied the provisions, stipulated by Item 4, Article 445 of the present Code.

6. The obligations, stipulated by the preliminary contract, shall be terminated, if before the expiry of the term, within which the parties have been obliged to conclude the basic contract, it is not concluded, or if one of the parties does not forward to the other party an offer to conclude this contract.

#### **Article 430. The Contract in Favour of the Third Person**

1. The contract in favour of the third person shall be recognized as a contract, in which the parties have laid down that the debtor shall be obliged to discharge the obligation not to the creditor, but to the third person, who is, or is not mentioned in the contract and who shall have the right to claim from the debtor that he discharge the obligation in his favour.

2. Unless otherwise stipulated by the law, by the other legal acts or by the contract, from the moment of the third person expressing to the debtor his intention to avail himself of his right by the contract, the parties shall not have the right to dissolve or to amend the contract, concluded by them, without the consent of the third person.

3. The debtor by the contract shall have the right to put forward the objections against the claims of the third person, which he could have put forward against the creditor.

4. In the case, when the third person has renounced the right, granted to him by the contract, the creditor may avail himself of this right, unless this contradicts the law, the other legal acts or the contract.

#### **Article 431. The Interpretation of the Contract**

While interpreting the terms of the contract, the court shall take into account the literal meaning of the words and expressions, contained in it. The literal meaning of the terms of the contract in case of its being vague

shall be identified by way of comparison with the other terms and with the meaning of the contract as a whole.

If the rules, contained in the first part of the present Article, do not make it possible to identify the content of the contract, the actual common will of the parties shall be found out with account for the purpose of the contract. All the corresponding circumstances, including the negotiations and the correspondence, preceding the conclusion of the contract, the habitual practices in the relationships between the parties, the customs of the business turnover and the subsequent behaviour of the parties shall be taken into account.

## **Chapter 28. The Conclusion of the Contract**

### **Article 432. The Basic Provisions on the Conclusion of a Contract**

1. The contract shall be regarded as concluded, if an agreement has been achieved between the parties on all its essential terms, in the form proper for the similar kind of contracts.

As essential shall be recognized the terms, dealing with the object of the contract, the terms, defined as essential or indispensable for the given kind of contracts in the law or in the other legal acts, and also all the terms, about which, by the statement of one of the parties, an accord shall be reached.

2. The contract shall be concluded by way of forwarding the offer (the proposal to conclude the contract) by one of the parties and of its acceptance (the acceptance of the offer) by the other party.

### **Article 433. The Moment of the Conclusion of the Contract**

1. The contract shall be recognized as concluded at the moment, when the person, who has forwarded the offer, has obtained its acceptance.

2. If in conformity with the law, the transfer of the property is also required for the conclusion of the contract, it shall be regarded as concluded from the moment of the transfer of the corresponding property (Article 224).

3. The contract, subject to the state registration, shall be regarded as concluded from the moment of its registration, unless otherwise stipulated by the law.

### **Article 434. The Form of the Contract**

1. The contract may be concluded in any form, stipulated for making the deals, unless the law stipulates a definite form for the given kind of contracts.

If the parties have agreed to conclude the contract in a definite form, it shall be regarded as concluded after the agreed form has been rendered to it, even if the law does not require such form for the given kind of contracts.

2. The contract in written form shall be concluded by compiling one document, signed by the parties, and also by way of exchanging the documents by mail, telegraph, teletype, telephone, by the electronic or any other type of the means of communication, which makes it possible to establish for certain that the document comes from the party by the contract.

3. The written form of the contract shall be regarded as observed, if the written offer to conclude the contract has been accepted in conformity with the order, stipulated by Item 3, Article 438 of the present Code.

#### **Article 435. The Offer**

1. The offer shall be recognized as the proposal, addressed to one or to several concrete persons, which is sufficiently comprehensive and which expresses the intention of the person, who has made the proposal, to regard himself as having concluded the contract with the addressee, who will accept the proposal.

The offer shall contain the essential terms of the contract.

2. The offer shall commit the person, who has forwarded it, from the moment of its receipt by the addressee.

If the notification about the recall of the offer comes in before, or simultaneously with the offer, the offer shall be regarded as not received.

#### **Article 436. The Irrevocability of the Offer**

The offer, received by the addressee, shall not be revoked in the course of the term, fixed for its acceptance, unless otherwise stipulated in the offer itself or follows from the substance of the proposal, or from the setting, in which it has been made.

#### **Article 437. The Invitation to Make the Offers. The Public Offer**

1. The advertisements and the other proposals, addressed to an indefinite circle of persons, shall be regarded as an invitation to make the offers, unless directly pointed out otherwise in the proposal.

2. The proposal, containing all the essential terms of the contract, in which is seen the will of the person, who is making the proposal, to conclude the contract on the terms, indicated in the proposal, with any responding

person, shall be recognized as an offer (the public offer).

#### **Article 438. The Acceptance**

1. The acceptance shall be recognized as the response of the person, to whom the offer has been addressed, about its being accepted.

The acceptance shall be full and unconditional.

2. The silence shall not be regarded as the acceptance, unless otherwise following from the law, from the custom of the business turnover, or from the former business relations between the parties.

3. The performance by the person, who has received an offer, of the actions, involved in complying with the terms of the contract, pointed out in the offer (the dispatch of commodities, the rendering of services, the performance of works, the payment of the corresponding amount of money, etc.), shall be regarded as the acceptance, unless otherwise stipulated by the law or by the other legal acts, or pointed out in the offer.

#### **Article 439. Recall of the Offer**

If the notification about the recall of the offer has come to the person, who has forwarded the offer, before the acceptance or simultaneously with it, the acceptance shall be regarded as not obtained.

#### **Article 440. Conclusion of the Contract on the Ground of the Offer, Fixing the Term of Acceptance**

When the term of acceptance has been fixed in the offer, the contract shall be regarded as concluded, if the acceptance has been obtained by the person, who has forwarded the offer, within the term, stipulated in it.

#### **Article 441. Conclusion of the Contract on the Ground of the Offer, Not Fixing the Term of Acceptance**

1. When in the written offer no term of acceptance has been stipulated, the contract shall be regarded as concluded, if the acceptance has been obtained by the person, who has forwarded the offer, before the expiry of the term, fixed by the law or by the other legal acts, and if such term has not been fixed - in the course of the normally required time.

2. When the offer has been made orally and no term of acceptance has been indicated, the contract shall be regarded as concluded, if the other party immediately declared its acceptance.

#### **Article 442. The Acceptance, Obtained with a Delay**

In the cases, when the duly forwarded notification about the acceptance is received with a delay, the acceptance shall not be regarded as belated, unless the party, which has forwarded the offer, immediately notifies the other party about the arrival of the acceptance with a delay.

If the party, which has forwarded the offer, immediately notifies the other party about the obtaining of its acceptance, which has come in with a delay, the contract shall be regarded as concluded.

#### **Article 443.** The Acceptance on the Other Terms

The answer, indicating the consent to conclude the contract on the terms other than those indicated in the offer, shall not be regarded as the acceptance.

Such an answer shall be recognized as the refusal of the acceptance and at the same time as a new offer.

#### **Article 444.** The Place of the Conclusion of the Contract

If no place of its conclusion has been indicated in the contract, it shall be recognized as concluded at the place of residence of the citizen or at the place of location of the legal entity, who (which) has forwarded the offer.

#### **Article 445.** The Obligatory Conclusion of the Contract

1. In the cases, when in conformity with the present Code or with the other laws, the conclusion of the contract is obligatory for the party, to which the offer (the draft contract) has been forwarded, this party shall forward to the other party the notification about the acceptance, or about the refusal of the acceptance, or about the acceptance of the offer on different terms (the records on the differences by the draft contract) within 30 days from the date, when the offer was received.

The party, which has forwarded the offer and which has received from the party, for which the conclusion of the contract is obligatory, the notification about its acceptance on different terms (the records on the differences by the draft contract), shall have the right to pass the differences, which have arisen during the conclusion of the contract, for consideration to the court within 30 days from the day of receiving such a notification or from the day of the expiry of the term of acceptance.

2. In the cases, when in conformity with the present Code or with the other legal acts, the conclusion of the contract is obligatory for the party, which has forwarded the offer (the draft contract), and when within 30 days the records on the differences by the draft contract are forwarded to it, this party shall be obliged to notify the other party, within 30 days from the receipt of the records on the differences, about the acceptance of the contract in its

own version, or about the rejection of the records on the differences.

In the case of the records on the differences being rejected, or of the non-receipt of the notification about the results of their examination within the stipulated term, the party, which has forwarded the records of the differences, shall have the right to pass the differences that have arisen during the conclusion of the contract, for consideration to the court.

**3.** The rules on the term, stipulated by Items 1 and 2 of the present Article, shall be applied, unless the other term has been stipulated by the law or by the other legal acts, or has been agreed upon between the parties.

**4.** If the party, for which, in conformity with the present Code or with the other laws, the conclusion of the contract is obligatory, avoids its conclusion, the other party shall have the right to turn to the court with a claim for compelling it to conclude the contract.

The party, groundlessly avoiding the conclusion of the contract, shall be obliged to recompense to the other party the losses, thus inflicted upon it.

#### **Article 446.** The Pre-Contract Disputes

In the cases, when the differences, arising during the conclusion of the contract, are passed for consideration to the court on the ground of Article 445 of the present Code or by an agreement between the parties, the terms of the contract, by which the parties have displayed differences, shall be defined in conformity with the court decision.

#### **Article 447.** Conclusion of the Contract by a Tender

**1.** The contract, unless otherwise following from its substance, shall be concluded by way of holding a tender. In this case, the contract shall be concluded with the person, who has won it.

**2.** In the capacity of the organizer of a tender shall come out the owner of the thing, or the holder of any other property right thereto. As the tender organizer may likewise act a specialized organization or other person acting on the basis of an agreement made with the thing's owner or with the holder of any other property right to it who act on their behalf or on their own behalf, if not otherwise provided for by laws.

**3.** In the cases, pointed out in the present Code or in the other law, the contracts on the sale of the thing or of the right of ownership may be concluded only by way of holding a sale.

**4.** The sale shall be held in the form of an auction or of a tender.

The winner of the bidding at an auction shall be recognized as the person, who has offered the highest price, and at the tender - the person, who, as has been concluded by the tender commission, appointed in advance by the organizer of the tender, has offered the best terms.

The form of the bidding shall be defined by the owner of the thing on sale or by the possessor of the realized right of ownership, unless otherwise stipulated by the law.

**5.** The auction and the tender, in which only one customer has participated, shall be recognized as having failed.

**6.** The rules, stipulated by Articles 448 and 449 of the present Code, shall be applied to the public auctions, held by way of execution of the court ruling, unless otherwise stipulated by the procedural legislation.

**Article 448.** The Organization and the Order of Holding the Sales

**1.** The auctions and tenders shall be open and closed.

In an open auction and in an open tender anybody may take part. In a closed auction and in a closed tender only the persons, specially invited for this purpose, shall take part.

**2.** Unless otherwise stipulated by the law, the statement on the holding of the sale shall be made by its organizer not later than 30 days in advance. The statement shall in any case contain information on the time, the place and the form of the sale, on its object and procedure, including that involved in formalizing the participation in the sale, in the way of determining the winner in the bidding, and shall also name the starting price.

If the object of the bidding is only the right to conclude a contract, the statement on the forthcoming auction shall contain the indication of the term, granted for this.

**3.** Unless otherwise stipulated by the law or by the statement on the holding of the sale, the organizer of an open auction, who has made the statement, shall have the right to refuse to hold the auction at any time, but not later than three days before the date of its holding, and in the case of the tender - not later than 30 days before its holding.

In the cases, when the organizer of the open sale has refused to hold it with the violation of the fixed term, he shall be obliged to recompense to the participants the actual losses they have suffered.

The organizer of the closed auction or of a closed tender shall be obliged to recompense to the invited participants their actual losses, regardless of fact, on what particular date after forwarding to them the notification the refusal to hold it followed.

4. The participants in the sale shall put in an advance in the amount, within the term and in conformity with the order, which have been pointed out in the notification about the holding of the sale. In case it has not taken place, the advance shall be liable to return. The advance shall also be returned to the persons, who, while having taken part in the bidding, have not won it.

When concluding the contract with the person, who has won the bidding, the amount of the advance put in by him shall be offset against the discharge of obligations by the concluded contract.

5. The person, who has won the sale, and its organizer shall sign the records on the results of the bidding, which shall possess the power of a contract, on the day of the bidding. The winner of the sale shall lose the advance, put in by him, in case he tries to avoid the signing of the records. The organizer of the sale, who has avoided the signing of the records, shall be obliged to return the advance in the double amount, and also to recompense to the winner of the sale his losses, involved in his taking part in the bidding, in the part, exceeding the amount of the advance.

If the object of the sale has been only the right to conclude a contract, such a contract shall be signed by the parties not later than within 20 days, or within another term, pointed out in the notification, after the end of the bidding and the formalization of the records. In case of one of the parties avoiding the signing of the contract, the other party shall have the right to file a claim with the court for a compulsory conclusion of the contract, and also for the compensation of the losses, caused by such an attempt to avoid its conclusion.

#### **Article 449. The Consequences of Violation of the Rules for Holding the Sale**

1. The sale, held with the violation of the rules, laid down by the law, may be recognized by the court as invalid upon the claim of the interested persons.

2. The recognizing of the bidding to be invalid shall entail the invalidity of the contract, concluded with the person, who has won it.

### **Chapter 29. The Amendment and the Cancellation of the Contract**

#### **Article 450. The Grounds for the Amendment and the Cancellation of the Contract**

1. The amendment and the cancellation of the contract shall be possible only by an agreement between the parties, unless otherwise stipulated by the present Code, by the other legal acts or by the contract.

2. Upon the demand of one of the parties, the contract may be amended or cancelled by the court decision

only:

- 1) in case of an essential violation of the contract by the other party;
- 2) in the other cases, stipulated by the present Code, by the other legal acts or by the contract.

As an essential violation shall be recognized such violation of the contract by one of the parties, which entails for the other party the losses, to a considerable extent depriving it of what it could have counted upon when concluding the contract.

3. In case of the unilateral refusal to discharge the contract in full or in part, when such refusal is admitted by the law or by the agreement between the parties, the contract shall be correspondingly regarded as cancelled or as amended.

#### **Article 451.** The Amendment and the Cancellation of the Contract Because of an Essential Change of Circumstances

1. An essential change of the circumstances, from which the parties have proceeded when concluding the contract, shall be the ground for its amendment or cancellation, unless otherwise stipulated by the contract or following from its substance.

The change of the circumstances shall be recognized as essential, if they have changed to such an extent that in case the parties could have wisely envisaged it, the contract would not have been concluded by them or would have been concluded on the essentially different terms.

2. If the parties have failed to reach an agreement on bringing the contract into correspondence with the essentially changed circumstances or on its cancellation, the contract may be cancelled, and on the grounds, stipulated by Item 4 of the present Article, it may be amended by the court upon the claim of the interested party in the face of the simultaneous existence of the following conditions:

1) at the moment of concluding the contract, the parties have proceeded from the fact that no such change of the circumstances will take place;

2) the change of the circumstances has been called forth by the causes, which the interested party could not overcome after they have arisen, while displaying the degree of care and circumspection, which have been expected from it by the nature of the contract and by the terms of the circulation;

3) the execution of the contract without amending its provisions would so much upset the balance of the

property interests of the parties, corresponding to the contract, and would entail such a loss for the interested party that it would have been to a considerable extent deprived of what it could have counted upon when concluding the contract;

4) neither from the customs of the business turnover, nor from the substance of the contract does it follow that the risk, involved in the change of the circumstances, shall be borne by the interested party.

3. In case of the cancellation of the contract because of the essentially changed circumstances, the court shall, upon the claim of any one of the parties, define the consequences of the cancellation of the contract, proceeding from the need to justly distribute the expenses, borne by them in connection with the execution of this contract, between the parties.

4. The amendment of the contract in connection with an essential change of the circumstances shall be admitted by the court decision in extraordinary cases, when the cancellation of the contract contradicts the public interests, or if it entails the losses for the parties, considerably exceeding the expenses, necessary for the execution of the contract on the terms, amended by the court.

#### **Article 452.** The Procedure for the Amendment and the Cancellation of the Contract

1. The agreement on the amendment or on the cancellation of the contract shall be legalized in the same form as the contract itself, unless otherwise following from the law, from the other legal acts, from the contract or from the customs of the business turnover.

2. The claim for the amendment or for the cancellation of the contract may be filed by the party with the court only after it has received the refusal from the other party in response to its proposal to amend or to cancel the contract, or in case of its non-receipt of any response within the term, indicated in the proposal or fixed by the law or by the contract, and in the absence thereof - within a 30-day term.

#### **Article 453.** The Consequences of the Amendment and of the Cancellation of the Contract

1. In case of the amendment of the contract, the parties' obligations shall be preserved in the amended form.

2. In case of the cancellation of the contract, the parties' obligations shall be terminated.

3. In case of the amendment or of the cancellation of the contract, the obligations shall be regarded as

amended or as terminated from the moment of the parties' concluding an agreement on the amendment or on the cancellation of the contract, unless otherwise following from the agreement or from the nature of the contract's amendment, and in case of the amendment or the cancellation of the contract by the court decision - from the moment of the enforcement of the court ruling on the amendment or on the cancellation of the contract.

**4.** The parties shall have no right to claim the return of what has been discharged by them by their obligations up to the moment of the amendment or the cancellation of the contract, unless otherwise stipulated by the law or by the agreement between the parties.

**5.** If an essential violation of the contract by one of the parties has served as the ground for the amendment or for the cancellation of the contract, the other party shall have the right to claim the compensation of the losses, inflicted upon it by the amendment or by the cancellation of the contract.