

Autor:

Kancelaria "Kuczek-Maruta" - Tomasz Bil (tłum.), Aleksandra Broniek (tłum.), Aleksandra Cincio (tłum.), Marcin Kielbasa (tłum.), Gerhard Dannemann (konsult.), Susanna Frederick Fischer (konsult. i rec.) i Fryderyk Zoll (konsult. i rec.)

ACT

of 23 April 1964

CIVIL CODE ¹

(consolidated text)

BOOK ONE

GENERAL PART

TITLE I

Preliminary provisions

Article 1.

The present Code governs civil law relations between natural persons and legal persons.

Article 2.

(repealed).

Article 3.

The statute shall not have retroactive effect unless it results from its wording or purpose.

Article 4.

(repealed).

Article 5.

One may not use his right in a manner which would be contrary to its social and economic purpose or to the principles of community coexistence. Any such act or refraining from acting by the entitled person shall not be treated as the exercise of the right and shall not be protected.

Article 6.

The burden of proving a fact shall lie with the person who asserts legal consequences arising from this fact.

Article 7.

Where the statute makes legal consequences contingent on good or bad faith, the existence of good faith shall be presumed.

TITLE II

Persons

SECTION I

Natural persons

Chapter I

Legal capacity and capacity for juridical acts

Article 8.

§ 1. Every human being shall have legal capacity from the moment of birth.

§ 2. (repealed).

Article 9.

Where a child is given birth to, he shall be presumed to have been born alive.

Article 10.

§ 1. A person shall attain majority upon reaching eighteen years of age.

§ 2. A minor shall attain majority by contracting a marriage. He shall not lose the majority status in the case of the marriage being invalidated.

Article 11.

Full capacity for juridical acts shall be acquired at the moment of attaining majority.

Article 12.

Persons who have not attained thirteen years of age and persons completely incapacitated shall not have the capacity for juridical acts.

Article 13.

§ 1. A person who has attained thirteen years of age may be fully incapacitated, if he is incapable of controlling his own behaviour due to mental illness, mental retardation or another kind of mental disorders, in particular alcoholism or drug addiction.

§ 2. Guardianship shall be established for a fully incapacitated person unless he is still under parental authority.

Article 14.

§ 1. A juridical act carried out by a person who has no capacity for juridical acts shall be invalid.

§ 2. However, where a person incapable of juridical acts has entered into contract of the type that is generally concluded within petty, current matters of everyday life, such a contract shall become valid upon its performance, unless it results in a gross detriment to a person incapable of juridical acts.

Article 15.

Minors who have attained thirteen years of age as well as partially incapacitated persons shall have limited capacity for juridical acts.

Article 16.

§ 1. A person who has attained majority may be partially incapacitated due to mental illness, mental retardation or another kind of mental disorders, in particular alcoholism or drug addiction, if that person's state does not justify full incapacitation yet he requires assistance in managing his affairs.

§ 2. Curatorship shall be established for a person who is partially incapacitated.

Article 17.

Subject to exceptions provided for by the statute, the validity of a juridical act, by which a person limited in his capacity for juridical acts assumes an obligation or disposes of his right shall require the consent of his statutory representative.

Article 18.

§ 1. The validity of a contract concluded by a person limited in the capacity for juridical acts without the

required consent of the statutory representative shall depend on subsequent confirmation of the contract by this representative.

§ 2. A person limited in the capacity for juridical acts may himself confirm the contract upon attaining full capacity for juridical acts.

§ 3. A party who has entered into a contract with a person limited in his capacity for juridical acts may not invoke a lack of consent of the latter's statutory representative. Such a party may, however, set for this representative a suitable time limit to confirm the contract; the party shall become free after the set time limit elapses to no avail.

Article 19.

If a person limited in his capacity for juridical acts has carried out by himself a unilateral juridical act for which the statute requires consent of a statutory representative, the juridical act shall be invalid.

Article 20.

A person limited in his capacity for juridical acts may enter into contracts of the type that are generally concluded within petty, current matters of everyday life without the consent of his statutory representative.

Article 21.

A person limited in his capacity for juridical acts may dispose of his earnings without the consent of his statutory representative, unless a guardianship court decides otherwise due to important reasons.

Article 22.

If the statutory representative of a person limited in his capacity for juridical acts has given him specific assets to use freely, that person shall acquire full capacity with regard to juridical acts which concern these assets. Juridical acts, for which the consent of the statutory representative is not sufficient according to the statute, constitute an exception.

Article 22¹.

A natural person who carries out with an entrepreneur a juridical act which is not directly related to his economic or professional activity shall be deemed a consumer.

Article 23.

Personal interests of a human being, such as in particular health, freedom, dignity, freedom of conscience, surname or pseudonym, image, confidentiality of correspondence, inviolability of home as well as scientific, artistic, inventive and reasoning activities shall be protected by the civil law regardless of the

protection provided for by other provisions.

Article 24.

- § 1. A person whose personal interests are jeopardized by another person's action may demand that the action be abandoned, unless it is not illegal. In the case of actual violation, he may also demand that the person who committed the violation perform acts necessary to remove its consequences, in particular that the latter make a statement of a relevant content and in a relevant form. On the basis of the principles provided for by the Code he may also demand pecuniary compensation or a payment of an adequate amount of money for a specified community purpose.
- § 2. If, as a result of a of personal interests damage to the property was inflicted, the injured party may demand it to be redressed on the basis of general principles.
- § 3. The above provisions shall not prejudice the entitlements provided for by other provisions, in particular by copyright law and by patent law.

Chapter II

Domicile

Article 25.

The domicile of a natural person is the place where that person resides and where the person intends to remain permanently.

Article 26.

- § 1. The domicile of a child being under parental authority is the domicile of his parents or of that one parent who is exclusively vested with parental authority or who has been entrusted with the exercise of parental authority.
- § 2. If both parents are equally vested with parental authority and have separate domiciles, the domicile of a child shall be with the parent with whom the child resides on a permanent basis. If the child does not reside on a permanent basis with either parent, his domicile shall be determined by the guardianship court.

Article 27.

The domicile of a person being under guardianship is his guardian's domicile.

Article 28.

One may have only one domicile.

Chapter III

Declaring a person dead

Article 29.

- § 1. A missing person may be declared dead where ten years have elapsed from the end of the calendar year in which according to available information he was still alive; where, however, at the moment of declaring a person dead the missing person would have attained seventy years of age, the lapse of five years shall suffice.
- § 2. Declaring a person dead may not take place before the end of the calendar year in which the missing person would have attained twenty-three years of age.

Article 30.

- § 1. A person who went missing during a journey by air or by sea in connection with an aircraft or a vessel's disaster or in connection with any other particular event may be declared dead after the lapse of six months from the day of the disaster or any other particular event.
- § 2. If the aircraft or a vessel's disaster cannot be ascertained, the six-month period shall commence upon the lapse of a year from the day when the aircraft or the vessel was due at her port of destination and where she did not have a port of destination - upon the lapse of two years from the day when she was last heard of.
- § 3. A person who went missing in connection with an direct danger threatening his life not provided for in the preceding paragraphs, may be declared dead after the lapse of a year from the day when the danger ceased to exist or when, pursuant to the circumstances, it should have ceased to exist.

Article 31.

- § 1. It shall be presumed that the missing person died at the moment indicated in a court decision on declaring a person dead.
- § 2. A moment which, according to the circumstances, is the most probable moment of death shall be indicated as the moment of the presumed death and where there is no data whatsoever - it shall be the first day of the time limit upon the lapse of which declaring the person dead has become possible.
- § 3. If in the court decision on declaring a person dead the date of death was indicated only by the day, the end of that day shall be considered the moment of the presumed death of the missing person.

Article 32.

If several persons lost their lives during a peril jeopardising all of them, it is presumed that they all died simultaneously.

SECTION II

Legal persons

Article 33.

The State Treasury and the organizational entities in which specific provisions vest legal personality shall be legal persons.

Article 33¹.

§ 1. The provisions on legal persons shall apply accordingly to the organizational entities not being legal persons, in which a statute vests legal capacity.

§ 2. Unless otherwise provided by a separate provision, members of the entity referred to in § 1 shall bear subsidiary liability. The liability shall arise at the moment when the entity becomes insolvent.

Article 34.

The State Treasury, in civil law relations, shall be the subject of rights and duties which are related to state-owned property not belonging to other state-owned legal persons.

Article 35.

The formation, constitution and cessation of legal persons shall be specified by relevant provisions of law; in the cases and within the scope provided for by those provisions, the organization and the manner of a legal person's operation shall also be governed by its articles.

Article 36.

(repealed).

Article 37.

§ 1. Unless otherwise provided by specific provisions, an organizational entity shall attain legal personality upon being entered in a relevant register.

§ 2. The types of registers, their organization and the manner in which they are kept shall be governed by separate provisions.

Article 38.

A legal person shall act through its organs in a manner provided for by statute and by its articles grounded in statute.

Article 39.

- § 1. Where a person who concludes the contract as an organ of a legal person does not have an empowerment or where he goes beyond its scope, the validity of the contract shall depend on its confirmation by the legal person on whose behalf the contract was concluded.
- § 2. The other party may set for the person on whose behalf the contract was concluded an appropriate time limit to confirm the contract; the party shall become free when the set time limit elapses to no avail.
- § 3. In the case of lack of confirmation, the person who concluded the contract as the organ of the legal person without empowerment or exceeding its scope, shall be obliged to return what he had received from the other party in the course of the contract's performance, and to redress the damage that the other party incurred owing to the fact that the party concluded the contract being aware of the lack of empowerment or the excess in its scope.
- § 4. A unilateral juridical act carried out by a person acting as an organ of a legal person without an empowerment or exceeding its scope shall be invalid. However, when the person to whom the declaration of intent on behalf of the legal person had been made, agreed to an action with no empowerment, the provisions on conclusion of a contract with no empowerment shall apply accordingly.
- § 5. The provision of § 3 shall apply accordingly if the juridical act was concluded on behalf of a legal person that does not exist.

Article 40.

- § 1. Unless otherwise provided by a separate provision, the State Treasury shall not be liable for obligations of state-owned legal persons. State-owned legal persons shall not be liable for obligations of the State Treasury.
- § 2. Where a specified part of property is gratuitously taken over from a state-owned legal person by the State Treasury on the basis of binding statute, the latter together with the legal person shall be jointly and severally liable for the obligations which arose in a period when the part of property was owned by the legal person, to the extent of the value of the part specified as at the moment of the takeover and according to the prices as at the moment of payment.

§ 3. The provisions of § 1 and 2 shall apply accordingly to the liability of entities of local government and local government-owned legal persons.

Article 41.

Unless a statute or the articles grounded in it provide otherwise, the seat of a legal person shall be a place where its managing organ has the seat.

Article 42.

- § 1. If a legal person cannot be represented or manage its own affairs due to the lack of organs or the incomplete composition of the organs authorized to represent it, the court shall appoint a curator for it. The curator shall be subject to judicial supervision by the court that has appointed him.
- § 2. Until the appointment or supplementation of the composition of the organ referred to in § 1, or the appointment of a liquidator, the curator shall represent the legal person and manage its affairs within the limits specified in the court's decision.
- § 3. The curator shall immediately undertake actions aimed at appointing or supplementing the composition of the organ authorized to represent, or if necessary, to liquidate, the legal person.
- § 4. Under pain of nullity, the curator is obliged to obtain the permission of the registry court for:
- 1) the acquisition and alienation of an enterprise or its organized part and for carrying out legal transactions, under which the enterprise or its organized part is transferred for temporary usufruct;
 - 2) the acquisition, alienation and encumbrance of real estate, perpetual usufruct or shares in real estate.

Article 42¹.

- § 1. The curator shall be appointed for a period not exceeding one year. In particularly justified cases, the appointment of a curator may be extended for a specified period, if the duties of the curator, referred to in Article 42 § 3, could not be completed before the end of the period for which he was appointed.
- § 2. If the actions taken by the curator have not led to the appointment or supplementation of the organ authorized to represent or liquidate the legal person, the curator shall immediately submit, to the registry court, a petition for dissolution of the legal person. This shall not affect the rights of the curator to request a dissolution of the legal person in accordance with separate regulations.

Article 43.

The provisions on the protection of personal interests of natural persons shall apply to legal persons accordingly.

SECTION III

Entrepreneurs and their designations

Article 43¹.

A natural person, a legal person and an organizational entity referred to in article 33¹ § 1 that conducts economic or professional activity on one's own behalf shall be referred to as entrepreneur.

Article 43².

- § 1. An entrepreneur shall operate under a business name.
- § 2. Unless separate provisions provide otherwise, a business name shall be disclosed in a relevant register.

Article 43³.

- § 1. A business name of an entrepreneur should be sufficiently distinguishable from the business names of other entrepreneurs that conduct activity on the same market.
- § 2. A business name may not be misleading, in particular as to the identity of the entrepreneur, the subject matter of the entrepreneur's activity, the place of activity, the sources of supply.

Article 43⁴.

The first name and the surname of a natural person shall be his business name. This does not exclude that a pseudonym or designations which indicate the subject matter of the entrepreneur's activity, the place of its conduct or other designations chosen at free discretion be introduced to a business name.

Article 43⁵.

- § 1. The name of a legal person shall be its business name.
- § 2. A business name includes a designation of the legal person's legal form which may be introduced as an abbreviation, and it may indicate the subject matter of the activity, the seat of the legal person and other designations chosen at the free discretion.
- § 3. The business name of a legal person may include the surname or pseudonym of a natural person if it serves to show this person's connections to the establishment or activity of the entrepreneur.
Introducing the surname or a pseudonym of a natural person shall require this person's written consent and in the case of his death - the consent of his spouse and children.
- § 4. An entrepreneur may use a shortened form of a business name. A provision of article 43² § 2 shall apply accordingly.

Article 43⁶.

The business name of a branch of a legal person shall include a full name of that person and a designation 'branch' with an indication of a place where the branch has its location.

Article 43⁷.

Changing the business name shall require a disclosure in the register. In the case of transformation of a legal person its former business name may be retained except for a designation which indicates a legal form of the legal person where it was subject to a change. The same shall pertain to transformation of a partnership.

Article 43⁸.

- § 1. In the case of loss of a membership by a partner or a shareholder whose surname was included in the business name, a commercial company may retain the surname of the former partner or the former shareholder in its business name only following his written consent and in the case of his death - following the written consent of his spouse and children.
- § 2. The provision of § 1 shall apply accordingly in the case of continuation of a natural person's economic activity by another natural person who is his legal successor.
- § 3. A person who acquires an enterprise, may continue to conduct it under its former business name. He shall, however, introduce an addition indicating the business name or the surname of the acquiring party unless the parties have decided otherwise.

Article 43⁹.

- § 1. The business name may not be alienated.
- § 2. An entrepreneur may authorize another entrepreneur to make use of his business name, provided that this is not misleading.

Article 43¹⁰.

An entrepreneur whose right to a business name has been jeopardized by somebody else's activity, may demand that the action be abandoned, unless it is not illegal. In the case of an actual violation, he may also demand the removal of its consequences, a statement of appropriate content and in an appropriate form to be made, redress of the damage to the property on general principles or that the benefit obtained by the person who committed the violation be released.

TITLE III

Property

Article 44.

Property shall include ownership and other property rights.

Article 44¹.

§ 1. Ownership and other property rights which constitute the state property shall belong to the State Treasury or to other state-owned legal persons.

§ 2. The property rights of the State Treasury towards state-owned legal persons shall be specified by separate provisions, in particular by the ones which govern their structure.

Article 45.

Only tangible objects shall be considered things within the meaning of the present Code.

Article 46.

§ 1. Parts of the earth's surface constituting a separate object of ownership (land) as well as buildings permanently attached to land or parts of such buildings if on the basis of specific provisions they constitute an object of ownership separate from land, shall be immovable property.

§ 2. The keeping of land and mortgage books shall be governed by separate provisions.

Article 46¹.

Immovable property which is or may be used for carrying out agricultural production activity within the scope of plant and animal production, not excluding gardening, horticulture and fishery production shall be agricultural immovable property (agricultural land).

Article 47.

§ 1. A component part of the thing may not be a separate object of ownership and other proprietary rights.

§ 2. Anything that may not be detached from a thing without damaging or changing essentially its entirety or without damaging or changing essentially the detached object shall be a component part of the thing.

§ 3. Objects connected with the thing only for temporary use do not constitute its component parts.

Article 48.

Subject to exceptions provided for by statute, buildings and other installations attached permanently to land, as well as trees and other plants from the moment when they were planted or sown, shall in particular

be regarded as component parts of land.

Article 49.

- § 1. Installations which serve to supply and to channel liquids, steam, gas, electric energy and other similar installations shall not be regarded as component parts of immovable property where they are included in the composition of an enterprise.
- § 2. A person who incurred construction costs of installations referred to in § 1 and who is their owner, may demand that an entrepreneur who connected installations to his own network, acquires their ownership against an adequate remuneration, unless the parties stipulated otherwise in a contract. An entrepreneur may demand transfer of ownership of these installations as well.

Article 50.

The rights bound with ownership of immovable property shall also be regarded as its component parts.

Article 51.

- § 1. Movable things necessary to use another thing (the main thing) according to its purpose, provided that they remain in an actual relation which corresponds to that purpose shall be appurtenances.
- § 2. A thing which does not belong to the main thing's owner may not be an appurtenance.
- § 3. An appurtenance shall not lose its status by being temporarily deprived of an actual relation to the main thing.

Article 52.

A juridical act whose object is the main thing shall also have legal effect with regard to an appurtenance, unless something else results from the content of the juridical act or from specific provisions.

Article 53.

- § 1. A thing's produce and other component parts detached from it, as long as according to the principles of careful economic management they constitute the usual proceeds from the thing, shall be natural profits from the thing.
- § 2. Proceeds which the thing produces on the basis of a legal relation shall be civil profits from the thing.

Article 54.

Proceeds which a right produces according to its social and economic purpose shall be profits from that right.

Article 55.

- § 1. A person entitled to collect profits shall collect these natural profits which have been detached from the thing during his entitlement, and civil profits - in proportion to the period of this entitlement's duration.
- § 2. If the person entitled to collect profits made expenses aimed at obtaining profits which have fallen to another person, he shall be entitled to the remuneration for these expenditures. The remuneration may not exceed the value of the profits.

Article 55¹.

An enterprise is an organized set of intangible and tangible assets, which is dedicated to conduct economic activity.

It shall include in particular:

- 1) the designation which individualizes the enterprise or its separated parts (name of the enterprise);
- 2) ownership of immovable property or movable things, including installations, materials, goods and wares as well as other proprietary rights to immovable property or movable things;
- 3) rights resulting from contracts of lease and tenancy of immovable property or movable things as well as rights to use immovable property or movable things resulting from other legal relations;
- 4) receivables, rights from securities and pecuniary means;
- 5) concessions, licenses and permits;
- 6) patents and other industrial property rights;
- 7) economic rights arising from copyright and from neighbouring rights;
- 8) the enterprise's trade secrets;
- 9) books and documents related to conducting economic activity.

Article 55².

A juridical act whose object is an enterprise shall comprise everything that is included in the enterprises composition, unless something else results from the content of the juridical act or from special provisions.

Article 55³.

Agricultural land together with forest land, buildings and their parts, installations and livestock, if they constitute or may constitute an organized economic entirety along with the rights bound with conducting an agricultural farm shall be considered an agricultural farm.

Article 55⁴.

A party acquiring an enterprise or an agricultural farm shall be jointly and severally liable with an alienating party for the latter's obligations connected with conducting the enterprise or the farm, unless he did not know about these obligations at the moment of the acquisition, even though due diligence has been shown. Liability of the acquiring party shall be limited to the value of the acquired enterprise or farm as it stood at the moment of the acquisition and in conformity with the prices as at the time of satisfying the creditor. Such liability may not be excluded or limited without the consent of the creditor.

TITLE IV

Juridical acts

SECTION I

General provisions

Article 56.

A juridical act shall not only produce the consequences expressed in it but also those which result from statute, the principles of community coexistence and the established customs.

Article 57.

- § 1. One may not, through a juridical act, exclude or limit an entitlement to transfer, encumber, change or annul a right, if according to statute the right is alienable.
- § 2. The above-mentioned provision shall not exclude admissibility of an obligation that the entitled person will not dispose of the right in specified ways.

Article 58.

- § 1. A juridical act that is contrary to statute or whose purpose is to bypass statute shall be invalid unless a relevant provision provides for some other consequence, in particular such that the relevant statutory provisions shall replace the invalid provisions of the juridical act.
- § 2. A juridical act that is contrary to the principles of community coexistence shall be invalid.
- § 3. If only a part of a juridical act is affected by invalidity, the juridical act shall remain in force with regard to the other parts, unless it appears from the circumstances that the juridical act would not have been carried out without the provisions affected by invalidity.

Article 59.

In the case of the conclusion of a contract whose performance would make it impossible to meet fully or partially a claim of a third party, the third party may demand that the contract be found ineffective towards himself, provided that the parties knew of his claim or the contract was gratuitous. One may not demand the contract to be found ineffective after the lapse of a year from its conclusion.

Article 60.

Subject to exceptions provided for by statute, an intent of a person who carries out a juridical act may be expressed by any behaviour of that person which manifests his intent in a sufficient manner, including a disclosure of the intent by electronic means (declaration of intent).

Article 61.

- § 1. A declaration of intent which is to be made to another person shall be considered to have been made at the moment when it reached that person in a manner that he could acquaint himself with its content. A revocation of such a declaration shall be effective if it reached the person concerned at the same time as the declaration or earlier than that.
- § 2. A declaration of intent made by electronic means shall be considered to have been made to another person at the moment when it was entered into a means of electronic communication in such a manner that the person could acquaint himself with its content.

Article 62.

A declaration of intent which is to be made to another person shall not lose its force if before reaching the very person, the person making it had died or had lost the capacity for juridical acts, unless something else results from the content of the declaration, a statute or circumstances.

Article 63.

- § 1. If consent of a third party is required to carry out a juridical act, the third party may express the consent either before or after making the declaration by the persons carrying out the juridical act. The consent expressed following the declaration shall have retroactive effect from the date of its making.
- § 2. Where the special form is required for the validity of a juridical act, a declaration which includes the consent of a third party shall be made in the very same form.

Article 64.

A final court ruling that affirms a duty of a given person to make a determined declaration of intent shall replace this declaration.

Article 65.

- § 1. A declaration of intent shall be construed in such a manner as required by principles of community coexistence and established customs, taking into account the circumstances in which it was made.
- § 2. When contracts are concerned, the concurrent intention of the parties and the purpose of the contract shall rather be examined than its literal wording.

Article 65¹.

The provisions on declarations of intent shall apply to other declarations respectively.

SECTION II

Conclusion of contract

Article 66.

- § 1. A declaration of intent to conclude a contract made to another party shall constitute an offer if it specifies the essential provisions of the contract.
- § 2. If no time limit within which the offeror anticipates a reply was determined, the offer made in the presence of another party or with the use of a direct long-distance means of communication shall cease to be binding if it is not immediately accepted. The offer made in another way shall cease to be binding upon the lapse of a period of time within which the party making an offer could in the ordinary course of business receive a reply sent with no unjustified delay.

Article 66¹.

- § 1. An offer made by electronic means shall bind the party making it, if the other party immediately confirms its reception.
- § 2. An entrepreneur making an offer by electronic means shall be obliged to inform the other party before concluding the contract in an unambiguous and intelligible way about:
- 1) the technical activities which make up the contract conclusion procedure;
 - 2) the legal consequences of the confirmation of the receipt of the offer by the other party;
 - 3) the principles and manners of recording, securing and making available the content of the contract being concluded by the entrepreneur to the other party;
 - 4) methods and technical means to detect and to adjust errors in the data which is being introduced and which the entrepreneur is obliged to make available to the other party;
 - 5) the languages in which the contract may be concluded;

6) the codes of ethics which he applies and their availability through electronic means.

§ 3. The provision of § 2 shall apply accordingly where an entrepreneur invites the other party to negotiate, to make offers or to conclude the contract in another manner.

§ 4. The provisions of § 1-3 shall not be applicable to concluding contracts with the use of electronic mail or similar means of individual direct long-distance communication. They shall not be used in relations between entrepreneurs if the parties so agreed.

Article 66².

§ 1. In relations between entrepreneurs an offer may be revoked prior to the conclusion of a contract if a declaration on revocation had been made to the other party before the latter sent the declaration on the acceptance of the offer.

§ 2. However, the offer may not be revoked if it results from its content or if the time limit for its acceptance was set in it.

Article 67.

If a declaration on the acceptance of the offer came delayed but it results from its content or from the circumstances that it was sent in appropriate time, the contract shall become effective, unless the offering party notifies the other party immediately that it considers the contract not concluded as a result of the delayed reply.

Article 68.

Acceptance of an offer made with the reservation of change or a supplement of its content shall be considered a new offer.

Article 68¹.

§ 1. In relations between entrepreneurs a reply to an offer with a reservation of changes or supplements not changing the content of the offer in an essential manner shall be considered its acceptance. In such a case, the parties shall be bound by the contract whose content was specified in the offer, while taking into account the reservations contained in the reply to it.

§ 2. The provision of the preceding paragraph shall not apply where in the content of the offer it was indicated that it may only be accepted with no reservations or where the offeror immediately objected to introducing reservations into the contract or where the other party in reply to the offer made its acceptance dependent on the offeror's consent to introducing reservations in the contract, and he was not given that consent immediately.

Article 68².

Where an entrepreneur received an offer to conclude a contract within the scope of his activity from a person with whom he is in regular economic relations, lack of an immediate reply shall be considered the acceptance of the offer.

Article 69.

If according to the custom established in the given circumstances or according to the content of an offer, it is not required that the other party's declaration on the acceptance of an offer reach the party making the offer, in particular where the party making the offer demands immediate performance of the contract, the contract shall become effective if the other party sets about performing it in an appropriate time; otherwise the offer shall cease to be binding.

Article 70.

- § 1. In the case of doubt, a contract shall be considered concluded at the moment when the party making the offer received a declaration on its acceptance, and if it is not required that the declaration on the acceptance of an offer reach the party making the offer - at the moment when the other party sets about performing the contract.
- § 2. In the case of doubt, a contract shall be considered concluded at a place where the party making the offer received the declaration on its acceptance, and if it is not required that the declaration on the acceptance of an offer reach the party making the offer or if the offer is being made by electronic means - at the place where the party making the offer had his domicile or seat at the moment of the conclusion of the contract.

Article 70¹.

- § 1. A contract may be concluded by way of an auction or a tender.
- § 2. In an auction or in a tender announcement one should specify the time, place, subject matter as well as the terms of the auction or tender or indicate a manner of making these conditions available.
- § 3. The announcement as well as the conditions of an auction or tender may only be changed or revoked if the right to do so was reserved in their content.
- § 4. The organizer - from the moment when the conditions were made available and the offeror - from the moment of making an offer - shall be obliged to act in accordance with the provisions of the announcement as well as with the conditions of an auction or tender.

Article 70².

- § 1. An offer made in the course of an auction ceases to be binding when another participant (bidder) made a more advantageous offer, unless reserved otherwise in the conditions of the auction.
- § 2. The conclusion of a contract as a result of an auction shall come into being upon the knocking-down to the highest bidder.
- § 3. If the validity of a contract depends on satisfying particular requirements provided for by statute, both the organizer of the auction and its participant whose offer was accepted, may seek the conclusion of the contract.

Article 70³.

- § 1. An offer made in the course of a tender ceases to be binding when another offer was chosen or if the tender was closed with no offers having been chosen, unless reserved otherwise in the tender's conditions.
- § 2. The organizer shall be obliged to notify the participants of a tender immediately in writing of its result or of the closing of the tender with no offers having been chosen.
- § 3. Provisions regarding the acceptance of the offer shall apply to establishing the moment of the conclusion of the contract by way of a tender, unless reserved otherwise in the conditions of the tender. The provision of article 70² § 3 shall apply accordingly.

Article 70⁴.

- § 1. It may be reserved in the conditions of an auction or tender that a person entering an auction or tender should pay to an organizer a specified sum or put up an appropriate collateral for its payment (tender bond), on pain of not being admitted to participate in the auction or tender.
- § 2. Where a participant in an auction or tender, despite having his offer chosen, evades concluding the contract whose validity depends on satisfying particular requirements provided for by statute, the organizer of the auction or tender may keep the collected sum or he may seek satisfaction from the object of the collateral. In other cases the tender bond shall be returned immediately and the collateral shall expire. Where the organizer of the auction or tender evades concluding the contract, the participant whose offer was chosen may demand to be paid a double tender bond or the redress of the damage.

Article 70⁵.

- § 1. An organizer or a participant in an auction or tender may demand the invalidation of the contract which was concluded if the party to this contract, another participant or the person acting in concert with them influenced the result of the auction or tender in a manner contrary to law or good practices.

Where a contract was concluded on somebody else's behalf, the person on whose behalf the contract was concluded or the principal may also demand its invalidation.

- § 2. The above-mentioned entitlement shall expire upon the lapse of a month from the day when the person entitled learned about the existence of a reason for invalidation, however no later than upon the lapse of a year from the day when the contract was concluded.

Article 71.

Announcements, advertisements, price lists and other information directed at the general public or individual persons, shall in the case of doubt be considered not to be offers but rather invitations to treat.

Article 72.

- § 1. If the parties conduct negotiations aimed at the conclusion of a specified contract, the contract shall be concluded when the parties reach an agreement on all of its terms which were subject to the negotiations.
- § 2. The party that commenced or conducted negotiations in violation of good practices, in particular with no intention of concluding the contract, shall be obliged to redress the damage that the other party suffered as a result of his reliance on the conclusion of the contract.

Article 72¹.

- § 1. If in the course of negotiations a party made information available with the reservation of confidentiality, the other party shall be obliged neither to disclose it nor to hand it over to other persons nor to use the information for its own purposes, unless the parties agreed otherwise.
- § 2. In the case of non-performance or of improper performance of the obligations referred to in § 1, the entitled person may demand from the other party the redress of the damage or the return of the profits obtained by that party.

SECTION III

Form of juridical acts

Article 73.

- § 1. Where a statute reserves a written form, document form or electronic form for a juridical act, the juridical act carried out without complying with that reserved form shall be invalid only when such statute stipulates the pain of invalidity.
- § 2. Where a statute reserves some other special form for a juridical act, the juridical act carried out

without complying with that form shall be invalid. However, it shall not pertain to the cases where complying with this form has been reserved to produce specified consequences of a juridical act only.

Article 74.

- § 1. The reservation of the written form, document form or electronic form with no pain of invalidity shall have such a consequence that if the reserved form is not complied with, the testimony from witnesses or parties as to the fact of carrying out a juridical act shall not be admissible in the case of a dispute. The provision shall not apply where complying with the written form, document form or electronic form has been reserved to produce specified consequences of a juridical act only.
- § 2. However, despite not complying with the written form, document form or electronic form required for evidentiary purposes, a testimony from witnesses or parties shall be admissible if both parties agree to it, if a consumer demands it in the course of a dispute with an entrepreneur or if the fact that the juridical act was carried out is substantiated with a document.
- § 3. Where the written form, document form or electronic form has been stipulated for the purpose of making a declaration by one party and it has not been complied with, a testimony from witnesses or parties as to the fact of carrying out the juridical act shall be admissible at the request of the other party.
- § 4. The provisions on the consequences of failing to comply with the written, document or electronic form reserved for evidentiary purposes shall not apply to juridical acts in relations between entrepreneurs.

Article 75.

(repealed).

Article 75¹.

- § 1. Alienation of an enterprise or establishment of tenancy on the enterprise or establishment of usufruct on it shall be made in the written form with signatures certified by a notary.
- § 2. Alienation of an enterprise belonging to a person entered in the register shall be entered in the register.
- § 3. The provision of § 2 shall apply accordingly in the case of establishing tenancy on an enterprise or establishing usufruct on it.
- § 4. The above-mentioned provisions shall not prejudice the provisions on the form of juridical acts regarding immovable property.

Article 76.

If the parties have reserved in a contract that a determined juridical act between them should be made in a special form, the act shall become effective only provided that the reserved form has been complied with. However, where the parties reserved that the juridical act be carried out in the written form, document form or electronic form without determining the consequences of non-compliance, in the case of doubt it shall be deemed that it was stipulated exclusively for evidentiary purposes.

Article 77.

- § 1. Supplementing or amending the contract shall require compliance with the form which was envisaged for the purpose of its conclusion by statute or by the parties.
- § 2. If the contract has been concluded in the written form, document form or electronic form, its termination by the agreement of both parties, as well as its renunciation or its termination by notice shall be evidenced in the document form, unless the statute or the contract stipulate a different form.
- § 3. If a contract has been concluded in some other special form, its termination by the agreement of both parties shall require such a form that statute or the parties provided for the purpose of its conclusion, whereas its renunciation or its termination by notice shall be evidenced in writing.

Article 77¹.

- § 1. If a contract concluded between entrepreneurs without complying with the written form requirement is immediately confirmed by one party in a letter sent to the other party and the letter contains amendments or supplements to the contract which do not change its content essentially, the parties shall be bound by the contract whose content is specified in the confirmation letter, unless the other party immediately objects in writing.
- § 2. If a contract concluded between entrepreneurs without complying with the document form is immediately confirmed by one party in a document sent to the other party and the document contains amendments or supplements to the contract which do not change its content materially, the parties shall be bound by the contract whose content is specified in the confirmation document, unless the other party immediately objects to it in a document.

Art. 77².

In order to comply with the document form of a juridical act it shall suffice that the declaration of intent be made in the document form, in a manner enabling identification of the person making such declaration.

Art. 77³.

A document shall be any carrier of information enabling the perusal of its contents.

Article 78.

§ 1. Signing a document comprising the content of a declaration of intent in person shall be sufficient to comply with the written form requirement for a juridical act. An exchange of the documents that comprise the content of the declarations of intent, which are all signed by the respective parties or of the documents each of which comprises the content of the declaration of intent of one party and is signed by this party shall be sufficient to conclude a contract.

§ 2. (repealed).

Art. 78¹.

§ 1. Making a declaration of intent by electronic means and provide it with a qualified electronic signature shall be sufficient to comply with an electronic form requirement for a juridical act.

§ 2. A declaration of intent made by electronic means shall be equal to a declaration of intent made in a written form.

Article 79.

A person unable to write may make a declaration of intent in the written form in such a way that he affixes his fingerprint in ink to a document, next to which another person authorised by him writes his name and surname placing his own signature or in such a way that instead of the person making a declaration a person authorised by him signs it and his signature is certified by a notary or the head of a municipality (the mayor, the president of a town), a district chief executive or the president of a province, along with an indication that it was made upon the request of the person unable to write

Article 80.

(repealed).

Article 81.

§ 1. If the statute makes the validity or specified consequences of a juridical act contingent on an official certification of the date, such a certification shall also be valid with respect to persons who have not participated in this juridical act (certified date).

§ 2. A juridical act shall also have a certified date in the following cases:

- 1) where carrying out juridical act was evidenced in any official document - from the date of the official document;
- 2) where in a document comprising a juridical act a reference is made by a state organ, local government organ or by a notary - from the date of the reference.

3) where a document in an electronic form is provided with a qualified electronic time marking - from the date of the qualified electronic time marking provision.

§ 3. In the case of death of one of the persons who signed the document, the date when that person signed the document shall be deemed to have been certified from the date of that person's death.

SECTION IV

Defects of declaration of intent

Article 82.

A declaration of intent shall be invalid if it was made by a person who for whatever reason was in a state excluding conscious or free decision-making and expressing his intent. It shall in particular concern a mental illness, mental retardation or other, even a temporary, mental disorder.

Article 83.

§ 1. A declaration of intent made to another party with his consent for false appearances' sake shall be invalid. Where such a declaration was made to conceal another juridical act, the validity of the declaration shall be judged according to the nature of this juridical act.

§ 2. Making a declaration of intent for false appearances' sake shall not prejudice the effectiveness of a non-gratuitous juridical act made on the basis of the apparent declaration, if as a result of this juridical act a third party acquires a right or is released from a duty, unless he acted in bad faith.

Article 84.

§ 1. In the case of an error as to the content of a juridical act, one may free himself from the legal consequences of his declaration of intent. If, however, a declaration of intent was made to another person, freeing oneself from its legal consequences shall only be admissible when an error was provoked by that person, even without that person's fault, or where that person knew of the error or might have noticed the error with ease; the limitation shall not concern a gratuitous juridical act.

§ 2. One may only invoke an error that substantiates a conjecture that had the person making a declaration of intent not acted under the influence of an error and had he judged the matter reasonably, he would not have made the declaration of such a content (essential error).

Article 85.

A distortion of a declaration of intent by a person used to convey it shall have the same consequences as an error in making the declaration.

Article 86.

- § 1. If an error was provoked deceitfully by the other party, freeing oneself from the legal consequences of one's declaration of intent made under the influence of an error may also come into being when the error was not essential and when it did not concern the content of juridical act.
- § 2. A third party's deceit shall be tantamount to a deceit of a party, if the latter knew of the deceit and he failed to notify the other party of it or where a juridical act was gratuitous.

Article 87.

A person who made a declaration of intent under the influence of an illegal threat made by the other party or a third party, may free himself from the legal consequences of his declaration of intent if it results from the circumstances that he might have feared that a serious personal or an property-related peril jeopardised him or another person.

Article 88.

- § 1. Freeing oneself from the legal consequences of one's declaration of intent which was made to another person under the influence of an error or a threat, comes into being by a declaration made to that person in writing.
- § 2. The entitlement to free oneself shall expire: in the case of an error - upon the lapse of a year from its discovery, and in the case of a threat - upon the lapse of a year from the moment when the state of anxiety ceased to exist.

SECTION V

Condition

Article 89.

Subject to exceptions provided for by the statute or arising from the nature of a juridical act, the commencement or the cessation of the consequences of the juridical act may be made contingent on a future and uncertain event (condition).

Article 90.

The fulfilment of a condition shall not have retroactive effect, unless it was reserved otherwise.

Article 91.

A conditionally entitled person may perform all activities which aim at the preservation of his right.

Article 92.

- § 1. If a juridical act comprising the disposal of a right was made on condition, the subsequent dispositions of that right shall lose their force upon the fulfilment of the condition, insofar as they frustrate or limit the consequence of the condition's fulfilment.
- § 2. However, where on the basis of such a disposal a third party acquires a right or is released from a duty, provisions on the protection of persons who carried out a juridical act in good faith with a person not entitled to dispose of a right shall apply accordingly.

Article 93.

- § 1. If a party having an interest in the non-fulfilment of a condition frustrates the fulfilment of the condition in a manner which is contrary to the principles of community coexistence, such consequences shall arise as if the condition was fulfilled.
- § 2. If a party having an interest in the fulfilment of a condition brings about a fulfilment of the condition in a manner which is contrary to the principles of community coexistence, such consequences shall arise as if the condition was not fulfilled.

Article 94.

An impossible condition, as well as a condition contrary to the statute or the principles of community coexistence shall entail invalidity of a juridical act where it is a condition precedent; it shall not be considered reserved when it is a condition subsequent.

SECTION VI

Representation

Chapter I

General provisions

Article 95.

- § 1. Subject to exceptions provided for by statute or resulting from the nature of a juridical act, a juridical act may be carried out through a representative.
- § 2. A juridical act carried out by a representative within the scope of his empowerment shall entail consequences directly for the represented person.

Article 96.

The empowerment to act on behalf of someone else may be based on statute (statutory representation) or on a declaration of the represented party (power of attorney).

Article 97.

A person who is actively on duty on the premises of an enterprise whose purpose is to serve the general public shall, in the case of doubt, be presumed to have been empowered to carry out juridical acts of the type which are usually made with persons using the services of this enterprise.

Chapter II

Power of attorney

Article 98.

A general power of attorney shall comprise the empowerment for acts of ordinary management. For acts exceeding the scope of ordinary management a power of attorney determining their kind shall be required unless a statute requires a power of attorney for an individual act.

Article 99.

- § 1. Where a special form is required for the validity of a juridical act, a power of attorney to perform such act shall be granted in the same form.
- § 2. A general power of attorney shall be granted in writing on pain of invalidity.

Article 100.

A circumstance that an attorney-in-fact is limited in his capacity for juridical acts shall not prejudice the validity of an act which he performed on behalf of the principal.

Article 101.

- § 1. A power of attorney may be revoked at any time, unless a principal waived his right to revoke the power of attorney for reasons justified by the nature of the legal relation which forms the basis of the power of attorney.
- § 2. The empowerment shall expire upon the death of a principal or of an attorney-in-fact, unless it was otherwise reserved for the reasons justified by the nature of the legal relation which forms the basis of the power of attorney.

Article 102.

After the expiration of the empowerment, an attorney-in-fact shall be obliged to return the document of the power of attorney to the principal. He may demand a certified copy of that document; the expiration of the empowerment shall be indicated on the copy.

Article 103.

- § 1. Where a person who concludes a contract as an attorney-in-fact does not have the empowerment or where he goes beyond its scope, the validity of the contract shall depend on its confirmation by the person on whose behalf the contract was concluded.
- § 2. The other party may set for the person on whose behalf a contract was concluded an appropriate time limit to confirm the contract; the party shall become free when the set time limit elapses to no avail.
- § 3. In the case of lack of confirmation, the person who concluded the contract on someone else's behalf shall be obliged to return what he had received from the other party in the course of the contract's performance and to redress the damage which the other party incurred owing to the fact that the party concluded the contract being unaware of the lack of the empowerment or the excess in its scope.

Article 104.

A unilateral juridical act carried out on someone else's behalf with no empowerment or exceeding its scope shall be invalid. However, where the person to whom the declaration of intent on someone else's behalf had been made, agreed to an action with no empowerment, the provisions on the conclusion of a contract with no empowerment shall apply accordingly.

Article 105.

If an attorney-in-fact performs a juridical act on behalf of his principal within the scope of the original empowerment following the expiration of the empowerment, the juridical act shall be valid, unless the other party knew of the expiration of the empowerment or might have learned of it with ease.

Article 106.

An attorney-in-fact may appoint other attorneys for the principal only where such empowerment results from the content of the power of attorney, from a statute or from the legal relation constituting the basis for the power of attorney.

Article 107.

If a principal has appointed several attorneys-in-fact with the same scope of empowerment, each of them may act independently, unless something else results from the content of the power of attorney. This provision shall apply accordingly to attorneys that an attorney-in-fact himself appointed for the principal.

Article 108.

An attorney-in-fact may not be the other party to a juridical act which he carries out on behalf of his principal, unless something else results from the content of the power of attorney or where, given the content of the juridical act, the possibility of violating the interests of the principal is excluded. This provision shall apply accordingly where an attorney-in-fact represents both parties.

Article 109.

The provisions of the present section shall apply accordingly where a declaration of intent is to be made to a representative.

Chapter III
Commercial proxy

Article 109¹.

- § 1. Commercial proxy is a power of attorney granted by an entrepreneur who is subject to a duty to be entered into the Central Registration and Information on Business, or in the register of entrepreneurs of the National Court Register, which comprises the empowerment for judicial and extra-judicial acts which are connected with conducting the enterprise.
- § 2. The scope of commercial proxy may not be limited effectively with regard to third parties unless it is otherwise provided by a specific provision.

Article 109².

- § 1. Commercial proxy shall be granted in writing on pain of invalidity. The provision of article 99 § 1 shall not apply.
- § 2. A natural person with full capacity for juridical acts may be appointed a commercial proxy.

Article 109³.

A power of attorney for individual acts shall be required to alienate an enterprise, to carry out a juridical act by which the enterprise is given for a temporary use, as well as to alienate and encumber the immovable property.

Article 109⁴.

- § 1. Commercial proxy may be granted to several persons jointly (joint commercial proxy) or separately.

§ Commercial proxy may comprise an empowerment to carry out juridical acts either optionally or exclusively with a member of a managing organ or a shareholder authorised to represent a partnership.

§ 2. Declarations or deliveries of documents may be carried out towards one of the persons granted with a commercial proxy.

Article 109⁵.

Commercial proxy may be limited to the scope of the matters entered in the register of the enterprise's branch (branch commercial proxy).

Article 109⁶.

Commercial proxy may not be transferred. Person appointed as a commercial proxy may appoint an attorney-in-fact for individual act or for acts of a given kind.

Article 109⁷.

§ 1. Commercial proxy may be revoked at any time.

§ 2. Commercial proxy shall expire due to the entrepreneur being struck from the Central Registration and Information on Business, or off the register of entrepreneurs of the National Court Register, as well as due to the entrepreneur being declared bankrupt, subject to liquidation or being transformed.

§ 3. Commercial proxy shall expire upon the death of a person to whom it was granted.

§ 3¹.

Commercial proxy shall expire upon an appointment of a curator, in accordance with article 42 § 1. During the *ad hoc* guardianship, a commercial proxy cannot be granted.

§ 4. The loss of legal capacity by the entrepreneur does not result in expiration of the power of attorney.

Article 109⁸.

§ 1. An entrepreneur shall file with Central Registration and Information on Business, or the register of entrepreneurs of the National Court Register, a notification of the fact of granting commercial proxy and its expiration.

§ 2. A registry filing on granting the commercial proxy shall specify its kind, and in case of a joint commercial proxy or a commercial proxy referred to in article 109⁴ § 1¹, the manner of its exercise as well.

Article 109⁹.

(repealed).

TITLE V
Calculation of time

Article 110.

If a statute, a court ruling or a decision of another state organ or a juridical act provides for a time limit without specifying the manner of its calculation, the following provisions shall apply.

Article 111.

§ 1. A period of time specified in days shall end on the expiration of the last day.

§ 2. Where a certain event constitutes the commencement of a period of time specified in days, the day on which the event occurred shall not be considered when calculating the period of time.

Article 112.

A period of time specified in weeks, months or years shall end on the expiration of the day whose name or date matches the initial day of the time period, and in the absence of such a day in the last month - on the last day of that very month. However, in the case of calculating the age of a natural person, the time period shall end as of the commencement of the last day.

Article 113.

§ 1. Where a time limit is specified as of the beginning, the middle or the end of a month, these terms shall be understood to mean the first, the fifteenth or the last day of that month respectively.

§ 2. A time period of half a month shall be equal to fifteen days.

Article 114.

If a time period is specified in months and years and no continuity of the time period is required, a month shall amount to thirty days and a year to three hundred sixty five days.

Article 115.

Where the end of a time limit to carry out an act falls either on the day considered a statutory holiday or on Saturday, the time limit elapses on the following day that is neither a statutory holiday nor a Saturday.

Article 116.

§ 1. If the consequences of a juridical act are to arise at a certain time, the provisions on condition precedent shall be applied accordingly.

§ 2. If the consequences of a juridical act are to cease at a certain time, the provisions on condition subsequent shall be applied accordingly.

TITLE VI

Limitation of claims

Article 117.

§ 1. Subject to exceptions provided for by statute, property-related claims shall be subject to limitation.

§ 2. Following the lapse of the period of limitation, the one against whom a claim is to be pursued may avoid the duty to satisfy it, unless he waives his right to use the defence of limitation. However, waiving the defence of limitation before the lapse of the period of limitation shall be invalid.

§ 2¹.

After the period of limitation has lapsed, any claims against the consumer cannot be satisfied.

§ 3. (repealed).

Article 117¹.

§ 1. In exceptional cases, the court may, after considering the interests of the parties and if it is required by the considerations of equity, fail to take into account the lapse of the period of limitation of the claim against the consumer.

§ 2. Using the right referred to in § 1, the court should particularly consider:

- 1) the length of the period of limitation;
- 2) the length of the period between the lapse of the period of limitation and the asserting of the claim;
- 3) the nature of the circumstances that caused the non-assertion of the claim by the entitled person, including the influence of behavior of the liable person on the entitled person's delay in asserting the claim.

Article 118.

Unless a specific provision provides otherwise, the period of limitation shall amount to six years, and for periodical payments' claims as well as claims connected with conducting economic activity – it shall be three years. However, the end of the period of limitation shall fall on the last day of the calendar year, unless the period of limitation is shorter than two years.

Article 119.

Periods of limitation may not be shortened or prolonged by a juridical act.

Article 120.

- § 1. The course of limitation shall commence on the day when the claim became mature. Where the maturity of the claim depends on undertaking a specified act by the entitled person, the course of the time limit shall commence on the day when the claim would have become mature if the entitled person undertook the act at the earliest possible opportunity.
- § 2. The course of limitation of claims for refraining from acting shall commence on the day when the one against whom a claim is to be pursued failed to comply with the content of the claim.

Article 121.

The course of limitation shall not commence, and where it commenced it shall be suspended:

- 1) for claims vested in children against their parents - for the duration of the parental authority;
- 2) for claims vested in persons not having full capacity for juridical acts against persons who exercise guardianship or curatorship - for the duration of guardianship or curatorship exercised by these persons;
- 3) for claims vested in one spouse against the other - for the duration of marriage;
- 4) for any claims where due to force majeure the entitled person may not pursue them before a court of law or another organ appointed to try cases of a given kind - for the duration of the impediment;
- 5) for claims covered by the mediation agreement - for the duration of the mediation;
- 6) for claims covered by the request for a summons to a conciliation attempt - for the duration of the conciliation procedure.

Article 122.

- § 1. The period of limitation towards a person who does not have full capacity for juridical acts may not end earlier than upon the lapse of two years from the appointment of a statutory representative for him or from the cessation of the cause for such an appointment.
- § 2. Where the period of limitation is shorter than two years, its course shall be counted from the day of the appointment of the statutory representative or from the cessation of the cause for such an appointment.
- § 3. The above-mentioned provisions shall apply accordingly to the course of limitation against a person in connection with whom there exists a basis for his full incapacitation.

Article 123.

§ 1. The course of limitation shall be interrupted:

- 1) by any act before a court of law or other authority appointed to try cases or to enforce claims of a given kind or before an arbitration court, which activity is taken up directly to pursue or to establish or to satisfy or to secure a claim;
- 2) by the acknowledgement of a claim by a person against whom the claim may be pursued;
- 3) (repealed).

§ 2. (repealed).

Article 124.

§ 1. Following each interruption of limitation, it shall commence to run afresh.

§ 2. In the case of the interruption of limitation by an act in the course of proceeding before a court of law or an organ appointed to try cases or to enforce claims of a given kind or before an arbitration court, the limitation shall not commence to run afresh, until the proceeding is over.

Article 125.

§ 1. A claim confirmed by a final court ruling or by ruling of any authority appointed to try cases of a given kind or an arbitration court ruling, as well as a claim confirmed by a settlement concluded before a court of law or an arbitration court or by a settlement concluded before a mediator and confirmed by a court of law shall be subject to limitation upon the lapse of six years. If the claim confirmed in such a manner comprises periodic payments, the claim for periodic payments to be due in the future shall be subject to limitation upon the lapse of three years.

§ 2. (repealed).

BOOK TWO

OWNERSHIP AND OTHER PROPRIETARY RIGHTS

TITLE I

Ownership

SECTION I

General provisions

Article 126.

(repealed).

Article 127.

(repealed).

Article 128.

(repealed).

Article 129.

(repealed).

Article 130.

(repealed).

Article 131.

(repealed).

Article 132.

(repealed).

Article 133.

(repealed).

Article 134.

(repealed).

Article 135.

(repealed).

Article 136.

(repealed).

Article 137.

(repealed).

Article 138.

(repealed).

Article 139.

(repealed).

SECTION II

Content and exercise of ownership rights

Article 140.

Within the limits specified by statute and the principles of community coexistence the owner may, to the exclusion of other persons, use the thing in conformity with the social and economic purpose of his right, in particular he may collect profits and other proceeds from the thing. He may dispose of the thing within the same limits.

Article 141.

(repealed).

Article 142.

- § 1. The owner may not oppose the use or even the damage or the destruction of the thing by another person if it is necessary to ward off an impending peril jeopardising directly the personal interests of that person or of a third party. However, he may demand the redress of the damage resulting from it.
- § 2. The above-mentioned provision shall apply in the case of a peril jeopardizing property-related interests, unless the impending damage is obviously and disproportionately smaller than the loss which the owner might have incurred owing to the use, damage or destruction of the thing.

Article 143.

Within the limits specified by the social and economic purpose of land, the ownership of land shall extend to the space above and below its surface. Such a provision shall not prejudice the provisions that govern rights to waters.

Article 144.

When exercising his right, an owner of immovable property, shall refrain from actions which would interfere with the use of the neighbouring immovable property exceeding the normal use, resulting from the social and economic purpose of the immovable property and from the local circumstances.

Article 145.

- § 1. Where immovable property does not have proper access to a public road or to utility buildings belonging to it, the owner may demand from the owners of the neighbouring land that they establish necessary servitude right of way for remuneration (right of way by necessity).
- § 2. When establishing the right of way one shall take into account the needs of the immovable property without access to a public road and the smallest possible encumbrance of the land over which the right of way is to be established. If a need to establish the right of way results from the sale of land or from another juridical act and the interested parties fail to reach an agreement, a court of law shall order, insofar as it is possible, to establish the way across the land which was subject to that juridical act.
- § 3. The establishment of the right of way shall take the social and economic interest into consideration.

Article 146.

The provisions of the preceding article shall apply accordingly to an autonomous possessor of immovable property, however, the possessor may only demand that the personal servitude be established.

Article 147.

An owner may not carry out earth works in such a manner that it would jeopardize the neighbouring immovable property with a loss of support.

Article 148.

Fruits fallen from a tree or a bush onto a neighbouring land shall constitute its profits. The provision shall not apply where the neighbouring land is designed for the public use.

Article 149.

A land owner may enter the neighbouring land to remove branches or fruits hanging down from his trees. The owner of the neighbouring land may however demand a redress of the damage resulting from it.

Article 150.

A land owner may cut down roots growing from the neighbouring land and keep them for himself. The same shall apply to branches and fruits hanging down from the neighbouring land; however, in such a case the owner shall previously set the neighbour an appropriate time limit to remove them.

Article 151.

Where during the construction of a building or of another installation the boundaries of the neighbouring land have been crossed with no intentional fault, the owner of that land may not demand the restoration of

the former state, unless he objected to the boundary crossing without unjustified delay or if a disproportionately large damage threatens him. He may either demand an adequate remuneration in return for the establishment of an appropriate land servitude or a re-purchase of the portion of the land which was taken up as well as of that portion which owing to the construction lost its economic importance for him.

Article 152.

Owners of the neighbouring land shall be obliged to co-operate at marking out land and at maintaining permanent boundary markers. They shall incur the costs of marking out land as well as the costs of establishment and maintenance of the permanent boundary markers in equal shares.

Article 153.

If the boundaries of land became disputable and their legal status may not be ascertained, the boundaries shall be determined in conformity with the last peaceful enjoyment of possession. If such a state were not to be ascertained and the marking out proceeding did not lead to a settlement between the interested parties, a court of law shall determine the boundaries taking into account all the circumstances; it may at the same time award to one of the owners an adequate supplementary payment in cash.

Article 154.

- § 1. It shall be presumed that walls, fences, baulks, ditches and other similar installations situated at the boundaries of the neighbouring land, serve the joint use of the neighbours. The same shall apply to the trees and bushes at the boundary.
- § 2. The persons using the above-mentioned installations shall be obliged to jointly incur the costs of their maintenance.

SECTION III

Acquisition and loss of ownership

Chapter I

Transfer of Ownership

Article 155.

- § 1. A contract of sale, exchange, donation, of property transfer or other contract obliging to transfer ownership of the thing specified as to its identity shall transfer the ownership to the acquiring party, unless a specific provision provides otherwise or the parties decided otherwise.

§ 2. Where things specified only as to their kind are the object of a contract obliging to transfer ownership, a transfer of ownership shall require a transfer of possession of the things. The same shall apply in the case where future things are the object of the contract obliging to transfer ownership.

Article 156.

Where conclusion of a contract transferring ownership arises in the performance of an obligation resulting from the previously concluded contract obliging to transfer ownership, from an ordinary legacy, from an unjust enrichment or from another event, the validity of the contract transferring ownership shall depend on the existence of this obligation.

Article 157.

§ 1. Ownership of immovable property may neither be transferred on condition nor with the reservation of a time limit.

§ 2. Where a contract obliging to transfer ownership was concluded on condition or with the reservation of a time limit, an additional agreement between the parties comprising their unconditional assent to the immediate passing of ownership shall be required to transfer the ownership.

Article 158.

A contract obliging to transfer ownership of immovable property shall be executed in the form of a notarial deed. The same requirement shall apply to a contract transferring ownership which is being concluded in order to perform a previously existing obligation to transfer ownership of immovable property; the obligation shall be indicated in the notarial deed.

Article 159.

(repealed).

Article 160.

(repealed).

Article 161.

(repealed).

Article 162.

(repealed).

Article 163.

(repealed).

Article 164.

(repealed).

Article 165.

(repealed).

Article 166.

§ 1. Where a co-owner of an agricultural immovable property sells a share in the co-ownership or a part of that share, a right of preemption shall be vested in the remaining co-owners if they run an agricultural farm on a land owned in common. However, it shall not apply in the case where a co-owner who at the same time runs the agricultural farm sells his share in the co-ownership along with that farm or where another co-owner or a person who would inherit the farm from the seller is the acquiring party.

§ 2. (repealed).

§ 3. The sale by a co-owner of an agricultural immovable property within the meaning of the Act of 11 April 2003 on the formation of an agrarian system (Journal of Laws of 2022, item 461) of his share in the co-ownership or a part of that share shall be subject to that act.

Article 167.

(repealed).

Article 168.

(repealed).

Article 169.

§ 1. If a person not entitled to dispose of a movable thing alienates the thing and releases it to the acquiring party, the acquiring party shall acquire the ownership upon taking the thing into possession, unless he acts in bad faith.

§ 2. However, where the thing lost, stolen or otherwise relinquished by an owner is alienated prior to the lapse of three years from the loss, theft or relinquishment, the acquiring party may acquire ownership only upon the lapse of the above-mentioned three-year period of time. Such a limitation shall neither apply to money nor to bearer documents nor to things acquired at an official public bidding or in the course of an enforcement proceeding.

§ 3. The provisions of § 1 and 2 shall not apply to a thing entered in the national register of lost cultural

heritage.

Article 170.

- § 1. In the case of a transfer of ownership of a movable thing which is encumbered with the right of a third party, such a right shall expire upon the release of the thing to the acquiring party, unless the latter acts in bad faith. The provision of paragraph two of the preceding article shall apply accordingly.
- § 2. The provision of § 1 shall not apply to a thing entered in the national register of lost cultural heritage.

Article 171.

(repealed).

Chapter II
Acquisitive Prescription

Article 172.

- § 1. A possessor of immovable property who is not its owner shall acquire ownership if he has possessed the immovable property without interruption for twenty years as an autonomous possessor unless he has acquired possession in bad faith (acquisitive prescription).
- § 2. After the lapse of thirty years the possessor of the immovable property shall acquire its ownership even though he acquired possession in bad faith.
- § 3. An agricultural immovable property, within the meaning of the act indicated in article 166 § 3, may be acquired by way of prescription exclusively by an individual farmer within the meaning of said act, if - as stipulated in article 5 section 2 and 3 of that act - the surface of the acquired agricultural immovable property along with agricultural immovable properties that belong to him does not exceed 300 ha of cultivated land.

Article 173.

Where an owner of immovable property against whom the prescription period runs is a minor, the prescription period may not end earlier than upon the lapse of two years from the owner attaining the majority.

Article 174.

- § 1. A possessor of a movable thing who is not its owner shall acquire ownership if he has possessed the thing without interruption for three years as an autonomous possessor, unless he has held possession

in bad faith.

§ 2. The provision of § 1 shall not apply to a thing entered in the national register of lost cultural heritage.

Article 175.

The provisions on the course of limitation of claims shall apply accordingly to the course of prescription.

Article 176.

§ 1. Where a transfer of possession took place in the course of prescription, the current possessor may add to the period that he himself has held the possession, the period of time of his predecessor's possession. Where, however, the previous possessor acquired possession of immovable property in bad faith, the period of his possession may be added only where it jointly amounts to thirty years with the period of possession of the current possessor.

§ 2. The above-mentioned provisions shall apply accordingly in the case where the current possessor is an heir of the previous possessor.

Article 177.

(repealed).

Article 178.

(repealed).

Chapter III

Other cases of acquisition and loss of ownership

Article 179.

(abrogated).

Article 180.

The owner of a movable thing may divest himself of its ownership by abandoning it with the intention to do so.

Article 181.

One shall acquire ownership of a movable thing being *res nullius* by taking it in autonomous possession.

Article 182.

- § 1. A swarm of honey bees shall become *res nullius*, if its owner has not found it before the lapse of three days from the date of swarming. The owner may enter somebody else's land in pursuit of the swarm, however, he shall redress the damage resulting from it.
- § 2. If the swarm gathered in somebody else's unoccupied hive, the owner may demand the release of the swarm in return for the reimbursement of costs.
- § 3. If the swarm gathered in somebody else's occupied hive, it shall become owned by the person whose swarm was originally in the hive. In such a case the former owner shall not be entitled to claim on account of unjust enrichment.

Article 183.

(repealed).

Article 184.

(repealed).

Article 185.

(repealed).

Article 186.

(repealed).

Article 187.

- § 1. A thing found, which has not been collected by an entitled person within one year from the service of the demand to collect it, and where it has been impossible to serve such a demand - within two years from the day it was found, becomes owned by the finder, if he has satisfied his duties. Where, however, such thing has been taken to the poviataroste, the finder shall gain ownership of the thing, if he has collected the thing within the time limit set by the poviataroste.
- § 2. The State Treasury shall gain ownership of a thing found being a historical heritage object or archive materials after the lapse of the time limit to collect it by an entitled person. The poviataroste shall gain ownership of other things found after the time limit to collect them by the finder elapses.
- § 3. Once the State Treasury, poviataroste or finder gain ownership of the thing, the limited proprietary rights encumbering it expire.

Article 188.

(repealed).

Article 189.

Where the thing is found in such circumstances that seeking the owner would obviously be futile, the finder and the owner of the immovable property where it was found shall acquire ownership of the thing in fractional parts, if, however, the thing constitutes a historical heritage object or archive materials, the State Treasury shall acquire its ownership, and the finder is obliged to release it immediately to an appropriate powiat staroste.

Article 190.

A person entitled to collect natural profits from a thing shall acquire their ownership by detaching them from the thing.

Article 191.

Ownership of immovable property shall extend to a movable thing which had been connected with the immovable property in such a manner that it became its component part.

Article 192.

- § 1. A person who created a new movable thing from somebody else's materials, shall become its owner if the value of the amount of work is larger than the value of the materials.
- § 2. Where a transformation of things was performed in bad faith or where the value of materials is larger than the value of the amount of work, the owner of the materials shall gain ownership of the thing created.

Article 193.

- § 1. If movable things have been connected or confused in such a manner that the restoration of the former state would entail excessive difficulties or costs, the former owners shall become the co-owners of the entirety. Their shares in the co-ownership shall be determined according to the proportion of the values of the things connected or confused.
- § 2. However, where one of the things connected has a much larger value than the other ones, the things of a smaller value shall become its component parts.

Article 194.

The provisions on transformation, connection and confusion shall neither prejudice the provisions on a duty to redress the damage nor the provisions on unjust enrichment.

SECTION IV

Co-ownership

Article 195.

Ownership of the same thing may be vested indivisibly in several persons (co-ownership).

Article 196.

§ 1. Co-ownership shall either be co-ownership in fractional shares or joint co-ownership.

§ 2. Joint co-ownership shall be governed by provisions regarding relation which it results from. The provisions of the present section shall apply to co-ownership in fractional shares.

Article 197.

It shall be presumed that shares of co-owners are equal.

Article 198.

Each co-owner may dispose of his share without the consent of other co-owners.

Article 199.

Consent of all the co-owners shall be required to dispose of the thing owned in common as well as to other acts which exceed the scope of ordinary management. In the absence of such consent the co-owners whose shares amount to at least a half may demand a court adjudication which shall rule taking into account the purpose of the deliberated act as well as the interests of all the co-owners.

Article 200.

Each co-owner shall be obliged to co-operate in management of the thing owned in common.

Article 201.

Consent of the majority of co-owners shall be required for an act of ordinary management of the thing owned in common. In the absence of such consent, each co-owner may demand court authorization to carry out the act.

Article 202.

If the majority of co-owners decide to carry out an act grossly contradictory to the principles of careful management of the thing owned in common, each of the other co-owners may demand a court adjudication.

Article 203.

Each co-owner may apply to a court of law for appointing an administrator if it is not possible to obtain consent of the majority of co-owners in essential matters regarding the ordinary management or where the majority of co-owners violate the principles of careful management or act to the detriment of the minority.

Article 204.

The majority of co-owners shall be calculated according to their shares.

Article 205.

A co-owner who exercises the management of the thing owned in common may demand remuneration matching a justified outlay of his work from the remaining co-owners.

Article 206.

Each of the co-owners shall be entitled to co-possess the thing owned in common and to use it to such an extent which may be reconciled with the co-possession and the use of the thing by other co-owners.

Article 207.

Profits and other proceeds from the thing owned in common shall fall to co-owners in proportion to their respective shares; the co-owners shall bear the expenditures and encumbrances related to the thing owned in common in the same proportion.

Article 208.

Each of the co-owners who does not exercise the management of the thing owned in common may demand to be provided with an account of management at appropriate time.

Article 209.

Each of the co-owners may carry out all acts and pursue all claims which aim at the preservation of a common right.

Article 210.

- § 1. Each of the co-owners may demand severance of co-ownership. Such an entitlement may be excluded by a juridical act for a period of time not exceeding five years. However, during the last year before the lapse of the reserved period of time its prolongation for another five years shall be admissible; such a prolongation may be repeated.
- § 2. Severance of co-ownership of an agricultural immovable property and an agricultural farm within the meaning of the act indicated in article 166§ 3 shall be subject to the provisions of said act.

Article 211.

Each of the co-owners may demand that severance of co-ownership be effected by a division of the thing owned in common, unless the division would be contrary to a statute or to the social and economic purpose of the thing or if it would result in an essential change of the thing or a substantial lowering of its value.

Article 212.

- § 1. If severance of co-ownership is effected by virtue of a court ruling, the value of respective shares may be made equal by supplementary pecuniary payments. At the division of land, a court of law may encumber its respective parts with the necessary land servitudes.
- § 2. A thing which is impossible to be divided may, with the expedience required by the circumstances, be granted to one of the co-owners along with the duty to pay off the other ones or be sold pursuant to the provisions of the Code of Civil Procedure.
- § 3. If supplementary payments or repayments were established, a court of law shall set a time limit and a manner of their payment, the amount and the time limit of the payment of the interests, and where necessary, the manner of securing them as well. In the case of dividing the supplementary payments and repayments into instalments, the time limits of their payment may not exceed ten years in total. In the cases, deserving special consideration, a court of law upon the debtor's application may adjourn the deadline for payment the instalments which have already matured.

Article 213.

- § 1. If severance of co-ownership of an agricultural farm by means of a division between co-owners would be contrary to the principles of careful agricultural management, a court of law shall grant the farm to the co-owner whom all the co-owners agree to.
- § 2. The court of law will grant the agricultural farm within the meaning of the act indicated in article 166 § 3 subject to the provisions of said act.

Article 214.

- § 1. In the absence of consent of all the co-owners, a court of law shall grant the agricultural farm to the one who runs it or who works on it on a permanent basis, unless a social and economic interest weights in favour of choosing some other co-owner.
- § 2. Where conditions provided for in the preceding paragraph are satisfied by several co-owners or where none of the co-owners satisfies them, a court of law shall grant the agricultural farm to the one who gives the best guarantee of running it appropriately.
- § 3. At the request of all the co-owners the court of law will order the sale of the agricultural farm pursuant

to the provisions of the Code of Civil Procedure, and where the agricultural farm is in the meaning of the provisions of the act indicated in 166 § 3, then subject to the provisions of said act.

§ 4. A court of law shall also order sale of the agricultural farm in the case where none of the co-owners gave their consent to being granted the farm.

Article 215.

The provisions of the two preceding articles shall apply accordingly in the case where the agricultural farm may be divided but a number of the parts portioned out is smaller than a number of the co-owners.

Article 216.

§ 1. The amount of supplementary payments to which co-owners are entitled shall be established in accordance with their unanimous agreement.

§ 2. In the absence of such an agreement, the supplementary payments to which co-owners are entitled may be reduced. At the determination of the extent of their reduction the following shall be taken into account:

- 1) type, size and state of the agricultural farm being the object of severance of co-ownership,
- 2) personal and property-related situation of a co-owner obliged to make supplementary payments and a co-owner entitled to receive them.

§ 3. A reduction in supplementary payments, in accordance with the preceding paragraph does not exclude a possibility to divide them into instalments or to adjourn the time limit of their payment, pursuant to the provision of article 212 § 3.

§ 4. The provisions of § 2 and 3 shall not apply to supplementary payments for the benefit of a spouse in the case of severance of co-ownership of an agricultural farm which pursuant to the provisions of the Family and Guardianship Code belongs to the joint property of spouses.

Article 217.

A co-owner who as a result of severance of co-ownership received an agricultural farm and then, prior to the lapse of five years from the severance of co-ownership, he alienated for payment the agricultural land included in the farm's composition shall be obliged to release to the remaining co-owners who received smaller supplementary payments than due - in proportion to their shares - benefits obtained from the reduction in the supplementary payments, unless the purpose of the alienation was to ensure the rational running of the farm.

Article 218.

- § 1. Co-owners, who were not granted an agricultural farm or a part of it but were residing on that farm until the moment of severance of co-ownership, shall retain the rights to further residence, yet not longer than for five years, and where at the moment of severance of co-ownership they are minors - for no longer than five years from the moment of attaining the majority. The limitation by the above-mentioned period of time shall not apply to co-owners permanently incapable of working.
- § 2. The provisions on the dwelling servitude shall apply accordingly to the entitlements resulting from the provisions of the preceding paragraph.

Article 219.

(repealed).

Article 220.

A claim for severance of co-ownership shall not be subject to limitation.

Article 221.

Juridical acts determining the management and the manner of using a thing owned in common or excluding the entitlement to sever co-ownership shall also be effective towards the party acquiring a share, where the acquiring party knew of them or might have learned about them with ease. The same shall apply to the case where the manner of using a thing was specified in a court ruling.

SECTION V

Protection of ownership

Article 222.

- § 1. An owner may demand from a person who holds actual control over his thing to release the thing to him, unless such a person has an entitlement to hold the thing which is effective towards the owner.
- § 2. An owner shall have the right to claim for restoration of the state compliant with the law and for cessation of infringements against the person who infringes the ownership in a manner other than by depriving the owner of actual control over the thing.

Article 223.

- § 1. Claims of the owner provided for in the preceding article shall not be subject to limitation, if they regard immovable property.
- § 2. (repealed).

§ 3. (repealed).

§ 4. The claim made by the owner, which is referred to in article 222 § 1, shall not be subject to limitation, if it has been entered in the national register of lost cultural heritage.

Article 224.

- § 1. An autonomous possessor in good faith shall neither be obliged to provide remuneration for using a thing, nor shall he be responsible for its wear and tear, nor for its deterioration or loss. He shall acquire ownership of natural profits which were detached from it during the period of his possession and he shall retain the civil profits collected, if they became mature within that time.
- § 2. However, from the moment when an autonomous possessor in good faith learned about the action for release of the thing being instituted against him, he shall be obliged to provide remuneration for the use of the thing and he shall be responsible for its wear and tear, deterioration or loss, unless the deterioration or loss happened without his fault. He shall be obliged to return the profits collected from the above-mentioned moment which he did not consume as well as to pay the value of the profits that he consumed.

Article 225.

The duties of an autonomous possessor in bad faith towards the owner shall be the same as the duties of an autonomous possessor in good faith from the moment when he learned about the action for release of the thing being instituted against him. However, an autonomous possessor in bad faith shall also be obliged to return the value of profits which he failed to obtain owing to his mismanagement and he shall be responsible for deterioration or loss of the thing, unless the thing would also have deteriorated or become lost if it had been in possession of the entitled person.

Article 226.

- § 1. An autonomous possessor in good faith may demand reimbursement of the necessary expenditures insofar as they are not covered by the profits that he obtained from the thing. He may demand reimbursement of other expenditures insofar as they increase the thing's value at the moment of its release to the owner. However, where the expenditures were made after the moment when the autonomous possessor in good faith learned of the action for release of the thing being instituted against him, he may demand reimbursement of the necessary expenditures only.
- § 2. An autonomous possessor in bad faith may only demand reimbursement of the necessary expenditures insofar as the owner would have otherwise become unjustly enriched at his expense.

Article 227.

- § 1. An autonomous possessor may, while restoring the former state, take away things which he had connected with the thing, even though they became its component parts.
- § 2. However, where the connection had been made by an autonomous possessor in bad faith or by an autonomous possessor in good faith after the moment when he learned of the action for release of the thing being instituted against him, the owner may retain the objects connected to the thing, while reimbursing the autonomous possessor their value and labour costs or an amount corresponding to the increase in the thing's value.

Article 228.

The provisions setting out rights and duties of an autonomous possessor in good faith from the moment when he learned of the action for release of the thing being instituted against him shall also apply in the case where the autonomous possessor of the thing being owned by the State has been called upon by a competent state organ to release the thing.

Article 229.

- § 1. The owner's claims against an autonomous possessor for remuneration for the use of the thing, for the return of profits or for the reimbursement of their value, as well as claims for the redress of the damage resulting from the thing's deterioration shall be subject to limitation upon the lapse of a year from the day when the thing was returned. The same shall apply to the autonomous possessor's claims against the owner for the reimbursement of expenditures on the thing.
- § 2. (repealed).

Article 230.

The provisions regarding the owner's claims against an autonomous possessor for remuneration for the use of the thing, for the return of profits or for the reimbursement of their value, as well as these for the redress of the damage resulting from deterioration or loss of the thing, as well as the provisions regarding the autonomous possessor's claims for reimbursement of expenditures on the thing, shall apply accordingly to a relation between an owner and a dependent possessor, unless the provisions governing this relation provide otherwise.

Article 231.

- § 1. An autonomous possessor of land in good faith who has erected a building or other installation on the land's surface or below its surface which has a value substantially exceeding the value of the plot of land which has been occupied for that purpose, may demand that the land owner transfer ownership of the occupied plot of land to him for an adequate remuneration.

§ 2. The owner of the land where the building or the other installation having a value substantially exceeding the value of the plot of land which had been occupied for that purpose, may demand that a person who has erected the building or the other installation, purchase ownership of the plot of land from him for an adequate remuneration.

§ 3. (repealed).

TITLE II

Perpetual usufruct

Article 232.

§ 1. Land owned by the State Treasury, situated within the administrative borders of towns as well as the State Treasury land situated beyond these borders but included in the land development plan of a town and implemented to accomplish tasks of its economy as well as land owned by entities of local government or their unions may be let as perpetual usufruct to natural and legal persons.

§ 2. In the cases provided for in specific provisions, the other land owned by the State Treasury, the entities of local government or their unions may be the object of perpetual usufruct as well.

Article 233.

Within the limits specified by statute and the principles of community coexistence as well as by a contract by means of which the State Treasury's land or land which is owned by the entities of local government or their unions is let as perpetual usufruct, a holder of perpetual usufruct may use the land to the exclusion of other persons. The holder of perpetual usufruct may dispose of his right within the same limits.

Article 234.

Provisions on transferring ownership of immovable property shall apply accordingly to letting of the State Treasury's land or the land which is owned by the entities of local government or their unions as perpetual usufruct.

Article 235.

§ 1. Buildings and other installations erected on the State Treasury's land or on the land which is owned by the entities of local government or their unions by a holder of perpetual usufruct shall constitute his ownership. The same shall apply to the buildings and other installations which the holder of perpetual usufruct acquired pursuant to the relevant provisions at the conclusion of a contract of letting land as perpetual usufruct.

§ 2. Ownership of the buildings and other installations on the land subject to perpetual usufruct which the holder of perpetual usufruct is entitled to shall be a right bound with perpetual usufruct.

Article 236.

- § 1. Letting the State Treasury's land or land which is owned by the entities of local government or their unions as perpetual usufruct shall be made for a period of ninety-nine years. In exceptional cases, where the economic purpose of perpetual usufruct does not require letting the land for ninety-nine years, it shall be admissible to let the land for a shorter period of time; however, for at least forty years.
- § 2. During the last five years before the lapse of the time limit which was reserved in a contract, the holder of perpetual usufruct may demand its prolongation to a further period from forty to ninety-nine years; the holder of perpetual usufruct may, however, express such a demand earlier, if the period of depreciation of expenditures envisaged on the land subject to perpetual usufruct is much longer than the period of time which remains until the lapse of a time limit reserved in the contract. A refusal to prolong the time limit shall only be admissible on account of an important social interest.
- § 3. A contract on the extension of perpetual usufruct shall be concluded in the notarial deed form.

Article 237.

Provisions on transferring ownership of immovable property shall apply accordingly to the transfer of perpetual usufruct.

Article 238.

A holder of perpetual usufruct shall pay a yearly rent through the entire period of his right's duration.

Article 239.

- § 1. The manner of using the State Treasury's land or the land which is owned by the entities of local government or their unions by a holder of perpetual usufruct shall be specified in a contract.
- § 2. Where letting land as perpetual usufruct takes place for the purpose of erecting buildings or other installations on it, a contract shall specify:
- 1) the date of commencement and completion of the works;
 - 2) the kind of buildings and installations and the duty to maintain them in an appropriate state;
 - 3) conditions and a time limit for rebuilding in the case of destruction or dismantling of buildings or installations during the period of perpetual usufruct;
 - 4) the remuneration due to a holder of perpetual usufruct for the buildings and installations existing on

the land on the day of perpetual usufruct's expiration.

Article 240.

A contract of letting the State Treasury's land or the land which is owned by the entities of local government or their unions as perpetual usufruct may be terminated before the lapse of a time limit specified in it, if a holder of perpetual usufruct uses the land in a manner which is obviously contrary to its purpose specified in the contract, in particular where the holder, in contradiction with the contract, has not erected specified buildings or installations.

Article 241.

Encumbrances established upon perpetual usufruct shall expire along with its expiration.

Article 242.

(repealed).

Article 243.

A claim against a holder of perpetual usufruct for redressing damage resulting from improper use of the State Treasury's land or the land which is owned by the entities of local government or their unions, as well as a claim of a holder of perpetual usufruct for remuneration for the buildings and installations existing on the day when the land subject to perpetual usufruct is returned, shall be subject to limitation upon the lapse of three years from that date.

TITLE III

Limited proprietary rights (iura in re aliena)

SECTION I

General provisions

Article 244.

§ 1. Usufruct, servitude, pledge, the right to premises of a cooperative member and mortgage shall be limited proprietary rights.

§ 2. The right to premises of a cooperative member and mortgage are governed by separate provisions.

Article 245.

- § 1. Subject to exceptions provided for by a statute, the provisions on transfer of ownership shall apply accordingly to the establishment of a limited proprietary right.
- § 2. However, the provisions on inadmissibility of a condition or of a time limit shall not apply to the establishment of a limited proprietary right on immovable property. The notarial deed form shall only be required for the declaration of an owner who establishes the right.

Article 245¹.

A transfer of a limited proprietary right on immovable property shall require a contract between the entitled party and the acquiring party and where the right has been disclosed in the land and mortgage book - an entry in that book, unless a specific provision stipulates otherwise.

Article 246.

- § 1. Where the entitled party waives a limited proprietary right, that right shall expire. A declaration on the waiver of the right shall be made to the owner of the encumbered thing.
- § 2. However, when the right was disclosed in the land and mortgage book, striking it off the book shall be required for its expiration, unless provided otherwise by a statute.

Article 247.

A limited proprietary right shall expire if it is passed to an owner of an encumbered thing or if a person who is entitled to such a right, acquires ownership of the encumbered thing.

Article 248.

- § 1. A contract between the entitled party and the owner of an encumbered thing shall be required to change the content of a limited proprietary right, and where the right was disclosed in the land and mortgage book - an entry in the book is required as well.
- § 2. Where a change of the content of a right affects the rights of a third party, the change shall require consent of that party. A declaration of the third party shall be made to one of the parties.

Article 249.

- § 1. If several limited proprietary rights encumber the same thing, a right that arose later may not be exercised to the detriment of a right which arose earlier (priority).
- § 2. The above-mentioned provision shall not prejudice the provisions which specify priority in a different manner.

Article 250.

- § 1. Priority of limited property rights may be changed. The change shall not infringe the rights which have a priority inferior to the right relinquishing priority nor these of a priority superior to the right which acquires priority over the relinquishing right.
- § 2. The change of priority of limited proprietary rights shall require a contract between the person whose right is to relinquish priority and the person whose right is to acquire priority over the relinquishing right. Where at least one of these rights has been disclosed in the land and mortgage book, an entry to the land and mortgage book shall be required as well.
- § 3. The change of priority shall become ineffective upon the expiration of the right which has relinquished priority.

Article 251.

The provisions on the protection of ownership shall apply accordingly to the protection of limited proprietary rights.

SECTION II

Usufruct

Chapter I

General provisions

Article 252.

A thing may be encumbered with a right to use it and to collect its profits (usufruct).

Article 253.

§ 1. The scope of usufruct may be limited through an exclusion of specified profits of a thing.

§ 2. The exercise of usufruct on immovable property may be limited to its specified part.

Article 254.

Usufruct shall be inalienable.

Article 255.

Usufruct shall expire as a result of non-exercise for ten years.

Article 256.

A holder of usufruct shall exercise his right in accordance with the requirements of careful management.

Article 257.

- § 1. If usufruct comprises a determined set of production means, a holder of usufruct may, within the limits of careful management, replace respective parts with other ones. An owner of the set of production means that is being subject to usufruct shall gain ownership of the parts included in the set in such a manner.
- § 2. Where the set of production means being subject to usufruct is to be returned in accordance with a valuation, the holder of usufruct shall acquire ownership of its respective parts at the moment when they were released to him; following the cessation of usufruct he shall be obliged to return the set of the same kind and of the same value, unless it has been reserved otherwise.

Article 258.

In reciprocal relations between a holder of usufruct and an owner, the holder of usufruct shall bear encumbrances which according to the requirements of careful management shall be covered from the profits of the thing.

Article 259.

An owner shall not be obliged to make expenditures on the thing encumbered with usufruct. If he has made such expenditures, he may demand their return according to the provisions on benevolent intervention in another's affairs without a mandate.

Article 260.

- § 1. A holder of usufruct shall be obliged to make repairs and other expenditures connected with an ordinary use of a thing. He shall immediately notify the owner of the need of other repairs and allow him to carry out the necessary works.
- § 2. Where a holder of usufruct made expenditures which he was not obliged to, the provisions on benevolent intervention in another's affairs without a mandate shall apply accordingly.

Article 261.

If a third party pursues claims regarding ownership of a thing against the holder of usufruct, the holder of usufruct shall notify the owner about it immediately.

Article 262.

Following the expiry of usufruct, a usufruct holder shall be obliged to return the thing to the owner in such

a state in which it should be in accordance with the provisions on the exercise of usufruct.

Article 263.

§ 1. An owner's claim against a holder of usufruct for the redress of damage resulting from the thing's deterioration or for the return of expenditures on the thing, as well as a claim of the holder of usufruct against the owner for the return of expenditures made on the thing shall be subject to limitation upon the lapse of a year from the day of returning the thing.

§ 2. (repealed).

Article 264.

Where usufruct comprises money or other things specified as to their kind only, a holder of usufruct shall become the owner of these things upon their release to him. Following the expiration of usufruct he shall be obliged to return them according to the provisions on the return of a loan (irregular usufruct).

Article 265.

§ 1. Rights may be the object of usufruct as well.

§ 2. Provisions on usufruct of things shall apply accordingly to usufruct of rights.

§ 3. Provisions on transferring a right shall apply accordingly to the establishment of usufruct on that right.

Chapter II

Usufruct by natural persons

Article 266.

Usufruct established for the benefit of a natural person shall expire upon his death at the latest.

Article 267.

§ 1. A holder of usufruct shall be obliged to preserve the substance of a thing and its former purpose.

§ 2. However, a holder of usufruct over land may build and utilize new installations for extraction of minerals, in compliance with the provisions of the geological and mining law.

§ 3. Before commencing the work, the holder of usufruct shall notify the owner of his intention at appropriate time. Where the intended installations would change the purpose of land or would infringe upon the requirements of careful management, the owner may demand their cessation or that a claim for the redress of damage be secured.

Article 268.

A holder of usufruct shall be entitled to establish new installations on the premises within the very same limits as a lessee.

Article 269.

- § 1. For important reasons an owner may demand a collateral from a holder of usufruct, setting an appropriate time limit for that purpose. After the indicated time limit lapses to no avail, the owner may ask a court of law to appoint an administrator.
- § 2. A holder of usufruct may demand the appointment of an administrator to be canceled, if he provides an adequate collateral.

Article 270.

An owner may refuse to release objects covered by irregular usufruct until he receives an adequate collateral.

Article 270¹.

(repealed).

Chapter III

Usufruct by agricultural production cooperatives

Article 271.

Usufruct of land owned by the State Treasury may be established for the benefit of an agricultural production cooperative as a right limited in time or a right unlimited in time. Such a usufruct shall in any case expire upon the cooperative's liquidation.

Article 272.

- § 1. If developed land owned by the State Treasury is transferred for usufruct to an agricultural production cooperative, the buildings and other installations may be transferred either for usufruct or as ownership.
- § 2. Buildings and other installations erected by an agricultural production cooperative on the land owned by the State Treasury, held by it in usufruct, shall constitute ownership of the cooperative, unless it has been reserved in a decision on the transfer of the land that the State Treasury was to gain their ownership.

§ 3. Separate ownership of buildings and other installations provided for in the preceding paragraphs shall be a right bound with usufruct of land.

Article 273.

If an agricultural production cooperative's usufruct of the land owned by the State Treasury has expired, the State Treasury shall gain ownership of buildings and other installations permanently attached to the land and owned by the cooperative. The cooperative may demand payment of the value of these buildings and installations at the moment of the usufruct's expiration, unless they were erected contrary to the social and economic purpose of the land.

Article 274.

Provisions regarding ownership of buildings and other installations on the land of the State Treasury held in usufruct by an agricultural production cooperative shall apply accordingly to trees and other plants.

Article 275.

An agricultural production cooperative may change the purpose of the State Treasury's land which it holds in usufruct or infringe their substance, unless otherwise reserved in a decision on the transfer of the land.

Article 276.

(repealed).

Article 277.

§ 1. Unless the articles of an agricultural production cooperative or a contract with a member of the cooperative provide otherwise, the cooperative shall acquire usufruct of land contributions brought in by the members upon taking over the land contributions.

§ 2. Provisions on the duty to observe the notarial deed form at the establishment of the usufruct of the land shall not apply to making land contributions to a cooperative.

Article 278.

The articles of an agricultural production cooperative may provide that - where it is required by the careful performance of the cooperative's tasks - the cooperative shall be entitled to change the purpose of land contributions as well as to infringe their substance or to one of the above entitlements.

Article 279.

§ 1. An agricultural production cooperative shall gain ownership of buildings and other installations

erected by it on the land constituting a land contribution. The same shall regard the trees and other plants which have been planted or sown by the cooperative.

§ 2. In the case of the expiration of usufruct of land, the ownership of the plot of land on which there are buildings or installations owned by the cooperative may be taken over by the cooperative against payment of the value at the moment of the usufruct's expiry. The owner of the land shall gain ownership of the trees and other plans which have been planted or sown by the cooperative.

Article 280.

(repealed).

Article 281.

(repealed).

Article 282.

(repealed).

Chapter IV
Other cases of usufruct

Article 283.

(repealed).

Article 284.

The provisions of chapter one and accordingly provisions of chapter two of the present section shall apply to other cases of usufruct by legal persons, unless that usufruct is governed otherwise by separate provisions.

SECTION III

Servitude

Chapter I

Land servitude

Article 285.

§ 1. Immovable property may be encumbered for the benefit of the owner of another immovable property (dominant immovable property) with a right whose content consists either in that the owner of the dominant immovable property may make use of the encumbered immovable property within a determined scope or in that the owner of the encumbered immovable property is limited in his possibilities of performing specified actions with regard to it or in that the owner of the encumbered immovable property may not exercise specified entitlements which he is entitled to on the basis of the provisions on the content and exercise of ownership towards the dominant immovable property (land servitude).

§ 2. Land servitude may only be aimed at enhancing the usefulness of a dominant immovable property or its determined part.

Article 286.

Land servitude may be established for the benefit of an agricultural production cooperative regardless of whether the cooperative owns the land.

Article 287.

The scope of land servitude and the manner of its exercise shall, in the absence of other data, be determined according to the principles of community coexistence while taking local customs into account.

Article 288.

Land servitude shall be exercised in such a manner as to make the use of the encumbered immovable property the least difficult possible.

Article 289.

§ 1. In the absence of a contract providing otherwise, the duty to maintain installations needed to exercise land servitude shall encumber the owner of a dominant immovable property.

§ 2. Where the duty to maintain such installations was imposed upon the owner of the encumbered immovable property, the owner shall also be personally liable for performing this duty. Personal liability of co-owners shall be joint and several.

Article 290.

§ 1. In the case of a division of a dominant immovable property the servitude shall remain effective for the benefit of each of the parts created following the division; however, where the servitude increases the usefulness of only one or several of them, the owner of the encumbered immovable property may demand to have the servitude lifted with regard to the remaining parts of the dominant property.

§ 2. In the case of a division of encumbered immovable property the servitude shall remain effective for each of the parts created following the division; however, where the exercise of servitude is limited to one or several of them, the owners of the remaining parts may demand to have the servitude lifted with regard to these parts.

§ 3. Where owing to a division of the dominant immovable property or the encumbered immovable property the manner of exercising the servitude requires a change, in the absence of the parties' agreement that manner will be established by a court of law.

Article 291.

If following the establishment of land servitude there arises an important economic need, the owner of the encumbered immovable property may demand the change of a content or the manner of the servitude's exercise for remuneration, unless the requested change would cause a disproportionate loss to the dominant immovable property.

Article 292.

Land servitude may be acquired by acquisitive prescription only in the case where it consists in making use of a permanent and visible installation. Provisions on acquisition of ownership of immovable property by acquisitive prescription shall apply accordingly.

Article 293.

§ 1. Land servitude shall expire as a result of non-exercise for ten years.

§ 2. Where the content of land servitude consists in the duty of refraining from acting, the above-mentioned provision shall apply only where a state contrary to the content of the servitude has existed at the encumbered immovable property for ten years.

Article 294.

The owner of the encumbered immovable property may demand the land servitude to be lifted for remuneration, where owing to a change in the circumstances the servitude has become particularly onerous and it is not necessary for the proper use of the dominant immovable property.

Article 295.

If land servitude has lost any significance to the dominant immovable property, the owner of the encumbered immovable property may demand the servitude to be lifted without remuneration.

Chapter II

Personal servitude

Article 296.

Immovable property may be encumbered for the benefit of a determined natural person with a right whose content corresponds with the content of land servitude (personal servitude).

Article 297.

The provisions on land servitudes shall apply accordingly to personal servitudes, while observing the provisions of the present chapter.

Article 298.

The scope of personal servitude and the manner of its exercise shall in the absence of other data be determined according to personal needs of the entitled person, while taking principles of community coexistence and local customs into account.

Article 299.

Personal servitude shall expire upon death of the entitled person at the latest.

Article 300.

Personal servitude shall be inalienable. The entitlement to their exercise may not be transferred either.

Article 301.

- § 1. A person who has dwelling servitude may take his spouse and children of a minor age into the dwelling. He may take other persons in only if they are supported by him or are required to run the household. Children taken in as minors may remain at the dwelling after attaining majority.
- § 2. It may be agreed that after the death of an entitled person his children, parents and spouse shall be entitled to dwelling servitude.

Article 302.

- § 1. A person who has a dwelling servitude may use the premises and installations designed for the joint use of the building's inhabitants.
- § 2. The provisions on usufruct by natural persons shall apply accordingly to reciprocal relations between the person who enjoys dwelling servitude and the owner of the encumbered immovable property.

Article 303.

Where a person entitled on account of dwelling servitude commits gross violations in exercising his right, the owner of the encumbered immovable property may demand to have the servitude changed to a pension.

Article 304.

Personal servitude may not be acquired by acquisitive prescription.

Article 305.

Where immovable property encumbered with personal servitude has been brought in as a contribution to an agricultural production cooperative, the cooperative for important reasons may demand a change of the manner of the servitude's exercise or its change into a pension.

Chapter III
Utility servitude

Article 305¹.

Immovable property may be encumbered for the benefit of an entrepreneur who intends to erect installations referred to in article 49 § 1 or who owns such installations, with a right consisting in the entrepreneur being entitled to use the encumbered immovable property within a specified scope, in compliance with the purpose of these installations (utility servitude).

Article 305².

- § 1. If the owner of the immovable property refuses to enter into a contract on establishment of utility servitude, while the servitude is necessary for a proper use of the installations referred to in article 49 § 1, the entrepreneur may demand the servitude to be established for an adequate remuneration.
- § 2. If the entrepreneur refuses to enter into a contract on establishment of utility servitude, while the servitude is necessary for use of the installations referred to in article 49 § 1, the owner of the immovable property may demand an adequate remuneration for establishing the utility servitude.

Article 305³.

- § 1. Utility servitude shall pass to the party acquiring the enterprise or to a party acquiring the installations referred to in article 49 § 1.
- § 2. The utility servitude shall expire upon the completion of the enterprise's liquidation at the latest.
- § 3. After the expiration of the utility servitude the duty to remove the installations referred to in article 49 § 1, hindering the use of the immovable property, shall lie with the entrepreneur. If it would involve

excessive difficulties or costs, the entrepreneur shall be obliged to redress the damage arising from it.

Article 305⁴.

The provisions on land servitude shall apply accordingly to utility servitude.

SECTION IV

Pledge

Chapter I

Pledge on movable things

Article 306.

§ 1. For the purpose of securing a particular receivable, a movable thing may be encumbered with a right giving the creditor the entitlement to enforce his rights against the thing regardless of who has become the owner of the thing and with priority over the personal creditors of the thing's owner, other than those who are entitled to specific priority pursuant to statute.

§ 2. A pledge may also be established for the purpose of securing a future or a conditional receivable.

Article 307.

§ 1. Establishing a pledge shall require a contract between the owner and the creditor and, subject to exceptions provided for by a statute, the release of the thing to the creditor or to a third party who the parties have agreed to.

§ 2. Where the thing is in dependent holding of the creditor, a contract itself shall be sufficient to establish a pledge.

§ 3. Where the contract on establishing a pledge has been concluded in writing with a certified date, the pledge shall be effective towards the pledgor's creditors.

Article 308.

A receivable may also be secured by a registered pledge, governed by separate provisions.

Article 309.

The provisions on acquisition of a movable thing's ownership from a person not entitled to dispose of the thing shall apply accordingly to the establishment of a pledge.

Article 310.

Where at the moment of establishing a pledge the thing had already been encumbered with another proprietary right, a pledge which arose later shall have priority over the right which has arisen earlier, unless the pledgee has acted in bad faith.

Article 311.

A reservation by means of which the pledgor obliges himself towards the pledgee not to alienate or to encumber the thing before the expiration of the pledge shall be invalid.

Article 312.

The pledgee's satisfaction from the encumbered thing shall take place according to the provisions on judicial enforcement proceeding.

Article 313.

Where things having a fixed price specified by an order of a competent state organ are an object of a pledge, it may be agreed that in the case of a qualified delay in payment of the debt, they shall fall in a relevant proportion to the pledgee instead of the payment, according to the price on the day of maturity of the secured receivable.

Article 314.

The pledge shall also secure claims for the interest for the last three years prior to the thing's alienation in the enforcement or bankruptcy proceeding, the awarded proceeding's costs in the amount not exceeding a tenth part of the capital, as well as other claims for accessory performance, in particular a claim for damages on account of non-performance or improper performance of an obligation as well as claim for the return of expenditures on the thing.

Article 315.

A pledgor who is not a debtor may, regardless of the defences which he is personally entitled to against the pledgee, raise defences which the debtor is entitled to, as well as these which the debtor waived after the establishment of the pledge.

Article 316.

A pledgee may seek satisfaction from the thing encumbered with a pledge regardless of the the debtor's liability being limited according to the provisions of the succession law.

Article 317.

The limitation of a receivable secured by a pledge shall not prejudice an entitlement of a pledgee to receive satisfaction from the encumbered thing. The above-mentioned provision shall not apply to a claim for interest or for other accessory performance.

Article 318.

A pledgee to whom a thing has been released, shall preserve it pursuant to the provisions on bailment for remuneration. After the expiration of the pledge he shall return the thing to the pledgor.

Article 319.

If a thing encumbered with a pledge produces profits, the pledgee shall, in the absence of a different agreement, collect them and count them towards the receivable and claims connected with it. After the expiration of the pledge, he shall be obliged to present the accounts to the pledgor.

Article 320.

Where a pledgee has made expenditures on a thing which he was not obliged to make, the provisions on benevolent intervention in another's affairs without a mandate shall apply accordingly.

Article 321.

- § 1. Where the thing encumbered with a pledge is put at risk of loss or damage, the pledgor may demand either that the thing be placed at the court deposit or that the thing be returned along with a simultaneous establishment of another collateral for the receivable or that the thing is sold.
- § 2. In the case of the sale of the thing, the pledge shall encumber the received price, which shall be placed at the court deposit.

Article 322.

- § 1. The pledgor's claim against the pledgee for the redress of the damage resulting from deterioration of the thing, as well as the pledgee's claim against the pledgor for the return of the expenditures on the thing shall be subject to limitation upon the lapse of a year from the day of the thing was returned.
- § 2. (repealed).

Article 323.

- § 1. The transfer of a receivable secured by the pledge shall entail the transfer of the pledge. In the case of the transfer of a receivable excluding the pledge, the pledge shall expire.
- § 2. A pledge may not be transferred without the receivable which it secures.

Article 324.

The party acquiring the receivable secured by a pledge may demand from the alienating party the release of the encumbered thing, if the pledgor gives his consent to it. In the absence of such a consent, the acquiring party may demand placing the thing at the court deposit.

Article 325.

- § 1. If the pledgee returns the thing to the pledgor, the pledge shall expire regardless of any reservations to the contrary.
- § 2. A pledge shall not expire despite acquisition of the encumbered thing's ownership by the pledgee, where a receivable secured by the pledge has been encumbered with a third party's right or attached for a third party's benefit.

Article 326.

The provisions of the present chapter shall apply accordingly to a pledge which arises from a statute.

Chapter II

Pledge on rights

Article 327.

Rights may also be the object of pledge, provided that they are alienable.

Article 328.

The provisions on the pledge on movable things shall apply accordingly to the pledge on rights, while observing provisions of the present chapter.

Article 329.

- § 1. The provisions on the transfer of a right shall apply accordingly to the establishment of a pledge on that right. However, the contract establishing the pledge shall be concluded in writing with a certified date, even if for a contract on transferring the right it is not required to comply with such a form.
- § 2. If the pledge on a receivable is not established by the release of a document or by an endorsement, the pledgor shall give a written notification to the receivable's debtor for a pledge to be established.

Article 330.

The pledgee may carry out all acts and pursue all claims which aim at preserving the right encumbered with

a pledge.

Article 331.

§ 1. If the maturity of an encumbered receivable depends on termination by notice made by the creditor, the pledgor may give the notice without the consent of the pledgee. If the receivable secured by a pledge has already matured, the pledgee may terminate the encumbered receivable by notice to the extent of the secured receivable.

§ 2. If the maturity of the receivable encumbered with a pledge depends on termination by notice by a debtor, the termination by notice shall also take place with regard to the pledgee.

Article 332.

In the case of rendering performance, the pledge on a receivable shall encumber the object of this performance.

Article 333.

The pledgor of a receivable and the pledgee shall be jointly entitled to receive the performance. Each of them may demand the performance to be made to both of them jointly or the object of the performance to be placed at the court deposit.

Article 334.

If the debtor of the receivable encumbered with a pledge renders performance before the secured receivable becomes mature, both the pledgor and the pledgee may demand placing the object of the performance at the court deposit.

Article 335.

If a pecuniary receivable secured by a pledge has already matured, a pledgee may demand that the pledgor, instead of making a payment should transfer the encumbered receivable to the pledgee to the amount of the receivable secured by the pledge, provided that the encumbered receivable is a pecuniary one. The pledgee may seek the part of the receivable which falls to him on that account with a priority over the part falling to the pledgor.

TITLE IV

Possession

Article 336.

The possessor of a thing shall be a person who actually holds it like an owner (autonomous possessor) as well as a person who actually holds the thing like a holder of usufruct, a pledgee, a lessee, a tenant or a person holding another right which is connected with a specified control over a somebody else's thing (dependent possessor).

Article 337.

An autonomous possessor shall not lose possession by giving the thing to another person into dependent possession.

Article 338.

A person who actually holds the thing on behalf of someone else shall be a dependent holder.

Article 339.

It shall be presumed that the person who actually holds the thing is an autonomous possessor.

Article 340.

The continuity of possession shall be presumed. Inability to possess caused by a temporary obstacle shall not interrupt the possession.

Article 341.

It shall be presumed that possession is compliant with the legal state of the matters. The presumption shall also regard possession by the previous possessor.

Article 342.

Possession may not be lawlessly infringed upon, even if a possessor has been in bad faith.

Article 343.

- § 1. The possessor may employ self-defence in order to repulse lawless infringement of possession.
- § 2. The possessor of immovable property may immediately after lawless infringement of possession restore the former state by his own action; however, he may not use violence towards persons. The possessor of a movable thing, where he is at peril of an irreparable damage, may immediately after having been lawlessly deprived of possession restore the former state by his own action when necessary.
- § 3. The provisions of the preceding paragraphs shall apply accordingly to a dependent holder.

Article 343¹.

The provisions on the protection of possession shall apply accordingly to the protection of the holding of premises.

Article 344.

§ 1. The possessor shall be entitled to a claim for the restoration of the former state and for the cessation of infringements against a person who lawlessly infringed possession as well as against a person on whose benefit the infringement has been committed. The claim shall neither depend on good faith of the possessor nor on possession being compliant with the legal state, unless a final court ruling or a ruling of a state organ appointed to try such cases has ascertained that the state of possession which arose as a result of the infringement is compliant with the law.

§ 2. The claim shall expire if it is not pursued within a year from the moment of the infringement.

Article 345.

Restored possession shall be considered uninterrupted.

Article 346.

A claim for the protection of possession shall not be enjoyed in relations between the co-possessors of the same thing, if the scope of co-possession may not be determined.

Article 347.

§ 1. The possessor of immovable property shall be entitled to a claim for the suspension of the construction process, where the construction might infringe his possession or threaten to inflict damage on him.

§ 2. A claim may be pursued before the commencement of the construction process; it shall expire if it is not pursued within one month from the commencement of the construction process.

Article 348.

The transfer of possession shall come into being by releasing the thing. The release of documents which enable a person to dispose of the thing as well as the release of means which enable actual holding of the thing shall be tantamount to the release of the thing itself.

Article 349.

The transfer of autonomous possession may also come into being in such a manner that the former autonomous possessor shall retain the holding of the thing as a dependent possessor or as a dependent holder on the basis of a legal relation which the parties will determine at the same time.

Article 350.

If a thing is in dependent possession or in dependent holding of a third party, a transfer of an autonomous possession shall come into being by a contract between the parties and by notifying the dependent possessor or the dependent holder.

Article 351.

The transfer of autonomous possession to a dependent possessor or to a dependent holder shall come into being by a mere contract between the parties.

Article 352.

§ 1. A person who effectively uses someone else's immovable property within the scope which corresponds to the content of servitude, shall be the possessor of the servitude.

§ 2. The provisions on possession of things shall apply accordingly to possession of servitude.

BOOK THREE

OBLIGATIONS

TITLE I

General provisions

Article 353.

§ 1. An obligation shall consist in that the creditor may demand performance from the debtor and the debtor shall render the performance.

§ 2. The performance may consist in acting or in refraining from acting.

Article 353¹.

Parties entering into a contract may determine the legal relation at their own discretion, provided that its content or purpose do not prejudice the nature of the relation, a statute or the principles of community coexistence.

Article 354.

§ 1. The debtor shall perform an obligation according to its content and in a manner corresponding to its social and economic purpose and to the principles of community coexistence, and where there exist

customs in that regard - also in a manner corresponding to these customs.

§ 2. The creditor shall cooperate at the performance of an obligation in the same manner.

Article 355.

§ 1. The debtor shall be obliged to show diligence which is generally required in the relations of a given kind (due diligence).

§ 2. The debtor's due diligence within the scope of his economic activity shall be specified while taking into account the professional character of that activity.

Article 356.

§ 1. The creditor may demand the debtor's performance in person only where it results from the content of a juridical act, from the statute or from the nature of the performance.

§ 2. Where a pecuniary receivable is mature, the creditor may not refuse to accept the performance of a third party, even if the third party acted without the debtor being aware of this.

Article 357.

Where the debtor is obliged to render performance of things specified as to their kind only, and the quality of the things has not been determined by relevant provisions or by a juridical act and it does not result from the circumstances, the debtor should render the performance of things of average quality.

Article 357¹.

§ 1. If owing to an extraordinary change of circumstances, the performance of an obligation would entail excessive difficulties or would threaten one of the parties with a glaring loss, which the parties did not predict at the moment of the conclusion of the contract, a court of law may, having weighed the parties' interests, according to the principles of community coexistence, determine the manner of the obligation's performance, the amount of the obligation or it may even rule on termination of the contract. When terminating the contract, a court of law may, where necessary, rule on the settlements between the parties, bearing the principles set out in the preceding sentence in mind.

§ 2. (repealed).

Article 358.

§ 1. Where the object of an obligation being performed on the territory of the Republic of Poland is a pecuniary sum expressed in a foreign currency, the debtor may render performance in the Polish currency, unless a statute, a court ruling being the source of the obligation or a juridical act reserves the performance of the obligation exclusively in a foreign currency.

- § 2. The value of the foreign currency shall be calculated according to the average exchange rate announced by the National Bank of Poland on the day of the obligation's maturity, unless a statute, a court ruling or a juridical act provides otherwise.
- § 3. Where the debtor delays in the performance, the creditor may demand performance of the obligation in the Polish currency according to the average exchange rate announced by the National Bank of Poland on the day when the payment is made.

Article 358¹.

- § 1. If the object of the obligation from the moment of its creation is a pecuniary sum, an obligation shall be performed by way of payment of the nominal amount, unless specific provisions provide otherwise.
- § 2. The parties may reserve in a contract that the amount of a pecuniary performance will be determined according to a measure of value other than money.
- § 3. In the case of a substantial change of money's purchasing power after the creation of an obligation, a court of law may, having weighed the parties' interests, according to the principles of community coexistence, change the amount or the manner of rendering the pecuniary obligation, even if they have already been determined in a ruling or in a contract.
- § 4. If performance is connected with conducting an enterprise, a party that conducts the enterprise may not demand the change of the amount or the manner of rendering the pecuniary obligation.
- § 5. The provisions of § 2 and 3 do not prejudice the provisions governing the level of prices and other pecuniary performance.

Article 359.

- § 1. The interest on a pecuniary sum shall be due only where it results from a juridical act or from a statute, from a court ruling or from a decision of another competent organ.
- § 2. Unless the interest rate has been stipulated otherwise, statutory interest is due in an amount equal to the guiding rate of the National Bank of Poland and 3,5 percentage points.

§ 2¹.

The maximum interest rate resulting from a juridical act may not exceed annually double the amount of statutory interest (maximum interest).

§ 2².

If the rate of interest resulting from a juridical act exceeds the rate of maximum interest, the maximum interest shall be due.

§ 2³.

Contractual provisions may not exclude nor limit provisions on maximum interest even where the foreign law has been chosen as applicable. In such a case the statutory provisions shall be applied.

§ 3. (repealed).

§ 4. The Minister of Justice shall announce, by way of a regulation, in the Official Journal of the Republic of Poland "Monitor Polski" the statutory interest rate.

Article 360.

Unless otherwise reserved as to the interest's time limit for payment, interest shall be payable every year at the end of it and where the time limit for payment of a pecuniary sum is shorter than a year - along with the payment of that sum.

Article 361.

§ 1. A person obliged to pay damages shall only be liable for ordinary effects of an action or omission which the damage resulted from.

§ 2. Within the above-mentioned limits, in the absence of a different statutory or contractual provision, the redress of damage shall involve losses which the injured party has suffered as well as profits which it could have obtained, if no damage were inflicted.

Article 362.

If the injured party has contributed to the infliction of damage or to the aggravation of damage, the duty to redress it shall be reduced accordingly to the circumstances, and particularly to the extent of both parties' fault.

Article 363.

§ 1. The redress of damage shall come into being according to the injured party's choice either by the restoration of the former state or by the payment of an adequate sum of money. However, if the restoration of the former state was proved impossible or if it entailed excessive difficulties or expenses to the obliged party, a claim of the injured party shall be limited to pecuniary performance.

§ 2. If the redress of damage is to be made in cash, the amount of damages shall be determined according to the prices on the date of calculating damages unless particular circumstances require that the prices existing at a different moment be adopted as its basis.

Article 364.

§ 1. Where a statute provides for a duty to establish a collateral, the collateral shall be made by placing

money at the court deposit.

§ 2. However, for important reasons, the collateral may be made in a different manner.

Article 365.

§ 1. If a debtor is obliged in such a manner that the performance of an obligation may be completed by rendering one out of several performances (alternative obligation), the choice of the performance shall belong to the debtor, unless it results from a juridical act, a statute or from the circumstances that the creditor or a third party shall be entitled to exercise the choice.

§ 2. The choice shall be exercised by making a declaration to the other party. If the debtor is entitled to exercise the choice, he may exercise it by rendering performance as well.

§ 3. If a party entitled to choose the performance fails to exercise the choice, the other party may set him an appropriate time limit for that purpose. When the indicated time limit elapses to no avail, the entitlement to exercise the choice shall pass to the other party.

Article 365¹.

An obligation of continuous nature unlimited in time shall expire after its termination by the debtor's or the creditor's notice while complying with the time limits arising from a contract, statute or custom and in the absence of such time limits, immediately after termination by notice.

TITLE II

Plurality of debtors or creditors

SECTION I

Joint and several obligations

Article 366.

§ 1. Several debtors may be obliged in such a manner that a creditor may demand the entirety or some part of the obligation to be performed jointly by all the debtors, by several of them or by each of them separately, and where the creditor obtains satisfaction of the obligation from any of the debtors, this shall release the remaining debtors from liability (joint and several liability of debtors).

§ 2. All joint and several debtors shall remain obliged until the obligation towards the creditor has been fully satisfied.

Article 367.

§ 1. Several creditors may be entitled in such a manner that a debtor may render the entire performance to one of them, and by satisfying any of the creditors the debt shall expire towards all of them (joint and several creditors).

§ 2. The debtor may render performance, according to his choice, to any one of joint and several creditors. However, where an action is instituted by one of the creditors, the debtor shall render the performance to him.

Article 368.

An obligation may be joint and several, even if each debtor was obliged in a different manner or even if a joint debtor was obliged towards each creditor in a different manner.

Article 369.

An obligation shall be joint and several where it results from a statute or from a juridical act.

Article 370.

If several persons have assumed an obligation regarding their joint property, they shall be jointly and severally obliged, unless it has been otherwise agreed.

Article 371.

Actions and omissions of one of the joint and several debtors may not be of prejudice to the co-debtors.

Article 372.

An interruption or a suspension of the course of limitation towards one of the joint and several debtors shall not be effective towards the co-debtors.

Article 373.

The release from the debt or a waiver of the joint and several liability by the creditor towards one of the joint and several debtors shall not be effective towards the co-debtors.

Article 374.

§ 1. Novation made between the creditor and one of the joint and several debtors shall release the co-debtors, unless the creditor has reserved that he shall retain his rights against them.

§ 2. A creditor's qualified delay towards one of the joint and several debtors shall be effective towards the co-debtors as well.

Article 375.

- § 1. A joint and several debtor may defend himself using the defences which he is entitled to personally towards the creditor, as well as the ones which are common to all debtors on account of the obligation's origin or the obligation's content.
- § 2. A ruling rendered in favour of one of the joint and several debtors shall release the co-debtors if it takes into account defences which are common to all of them.

Article 376.

- § 1. If one of the joint and several debtors rendered performance, the content of the legal relation existing between the co-debtors shall determine if and in what parts he may demand reimbursement from the co-debtors. If nothing else results from the content of this relation, the debtor who rendered the performance may demand reimbursement in equal parts.
- § 2. The part attributed to an insolvent debtor shall be divided between the co-debtors.

Article 377.

A debtor's qualified delay as well as an interruption or suspension of the course of limitation towards one of the joint and several creditors, shall be effective towards the co-creditors as well.

Article 378.

If one of the joint and several creditors accepted performance, the content of the legal relation existing between the co-creditors shall determine if and in what parts he shall be liable towards the co-creditors. If nothing else results from the content of this relation, the debtor who accepted the performance shall be liable in equal parts.

SECTION II

Divisible and indivisible obligations

Article 379.

- § 1. If there are several debtors or several creditors and performance is a divisible one, both the debt and the receivable shall be divided into as many parts independent from each other as many debtors or creditors there are. If nothing else results from the circumstances, these parts shall be equal.
- § 2. Performance shall be divisible if it may be rendered partially with no essential change to its object or value.

Article 380.

- § 1. Debtors obliged to indivisible performance shall be liable for rendering the performance as joint and several debtors.
- § 2. Unless agreed otherwise, debtors obliged to render divisible performance shall be liable for rendering it jointly and severally if the creditor's reciprocal performance is an indivisible one.
- § 3. The debtor who rendered the indivisible performance may demand from the remaining debtors the reimbursement of the performance's value according to the same principles as a joint and several debtor.

Article 381.

- § 1. If there are several creditors entitled to receive indivisible performance, each of them may demand rendering of the entire performance.
- § 2. However, in the case of an objection by even one of the creditors, the debtor shall be obliged to perform to all the creditors jointly or to place the object of the performance at the court deposit.

Article 382.

- § 1. A debtor's release from debt by one of the creditors entitled to receive indivisible performance shall not be effective towards the remaining creditors.
- § 2. A debtor's qualified delay, as well as an interruption or suspension of the course of limitation towards one of the creditors entitled to receive indivisible performance shall be effective towards the remaining creditors.

Article 383.

If one of the creditors entitled to receive indivisible performance has accepted the performance, he shall be liable towards the remaining creditors according to the same rules as a joint and several creditor.

TITLE III

General provisions on contractual obligations

Article 383¹.

The entrepreneur may not charge the consumer a fee for using a specific mode of payment in excess of the costs the entrepreneur incurred in connection with such mode of payment.

Article 384.

- § 1. A contract template determined by one of the parties, in particular the general terms of contracts, the

contract form, the rules and regulations, shall bind the other party if it was delivered to it prior to the conclusion of the contract.

§ 2. In the case where using the template is customarily accepted in relations of a given kind, it shall also be binding where the other party might have learned of its content with ease. However, it shall not regard the consumer contracts, save for the contracts generally concluded in petty current matters of everyday life.

§ 3. (repealed).

§ 4. If one of the parties uses a contract template in an electronic form, he shall make it available to the other party prior to the conclusion of the contract in such a manner that the latter is able to store and retrieve the template in the regular course of actions.

§ 5. (repealed).

Article 384¹.

A contract template issued during the course of a contractual relation of continuous nature shall bind the other party if the requirements provided for in article 384 were fulfilled, and the party has not terminated the contract by notice at the earliest possible time.

Article 385.

§ 1. Where the content of a contract is contrary to the contract template, the parties shall be bound by the contract.

§ 2. A contract template shall be drafted in plain and intelligible language. The unintelligible provisions shall be construed in favour of the consumer. The principle provided for in the preceding sentence shall not be applied in the proceeding to declare the contract templates' terms as unfair.

Article 385¹.

§ 1. The terms of a contract concluded with a consumer which have not been individually negotiated shall not bind the consumer, if they shape his rights and duties in a manner contrary to good practices with gross violation of his interests (unfair contractual terms). It shall not regard the provisions specifying the main performances of the parties, including the price or the remuneration, if they are made in plain and intelligible language.

§ 2. If a contractual term does not bind the consumer according to § 1, the parties shall be bound by the remaining part of the contract.

§ 3. The terms shall be regarded as not having been individually negotiated where the consumer did not have real influence on their substance. It shall in particular concern the contractual terms adopted

from a contract template which had been offered to the consumer by a contracting party.

§ 4. The burden of proof that a term has been individually negotiated shall lie with the person who invokes it.

Article 385².

The assessment of contract's compliance with good practices shall be made in accordance with the state at the time of conclusion of the contract, taking into account its content, the circumstances of its conclusion and considering contracts which are related to the contract comprising the provision which is subject to the assessment.

Article 385³.

In the case of doubt it shall be presumed that unfair contractual terms are these which in particular:

- 1) exclude or limit liability towards the consumer in the event of an injury to a person;
- 2) exclude or substantially limit liability towards the consumer in the event of non-performance or improper performance of the obligation;
- 3) exclude or substantially limit the right to set off the consumer's receivable against the other party's receivable;
- 4) include the terms which the consumer may not have acquainted himself with prior to the conclusion of the contract;
- 5) allow the other contracting party to transfer the rights and convey duties arising from the contract without the consumer's consent;
- 6) make the conclusion of the contract dependent on the consumer's promise to conclude further contracts of a similar kind in the future;
- 7) make the conclusion, the content or the performance of the contract dependent on the conclusion of another contract which is not directly related to the contract comprising the provision which is subject to the assessment;
- 8) make the performance dependent on the circumstances which depend on the other contracting party's intent alone;
- 9) grant to the other contracting party a right to carry out a binding interpretation of the contract;
- 10) entitle the other contracting party to change the contract unilaterally without an important reason specified in the contract;

grant an entitlement to determine the compliance of the performance with the contract only to the other contracting party;

12) exclude the duty to reimburse to the consumer the payment for the performance which has not been rendered at all or in part, where the consumer decides not to conclude the contract or not to perform it;

13) envisage a loss of a right to demand the return of the consumer's performance rendered prior to the contracting party's performance, in the event where the parties terminate the contract by notice, terminate it or renounce it;

14) deprive only the consumer of an entitlement to terminate the contract, to renounce it or to terminate it by notice;

15) reserve an entitlement for the other contracting party to terminate by notice the contract concluded for an indefinite period of time, without any indication of important reasons and an appropriate period of notice;

16) impose only on the consumer a duty to pay a specified amount in the event of abandoning the conclusion or the performance of the contract;

17) impose on the consumer who has failed to perform the obligation or who has renounced the contract a duty to pay a disproportionately high liquidated damages or compensation for renunciation;

18) stipulate that the contract concluded for a definite period of time shall be extended if the consumer for whom a disproportionately short time limit has been reserved fails to declare otherwise;

19) envisage a unilateral entitlement to change substantial features of the performance without important reasons, exclusively for the other contracting party;

20) envisage the other contracting party's entitlement to specify or to increase the price or the remuneration after the conclusion of the contract, without granting the consumer the right to renounce the contract;

21)

make the other contracting party's liability dependent on performing the obligations by persons, through whose agency the party concludes the contract or with whose help the latter performs his obligation or which make the liability dependent on the consumer fulfilling excessively burdensome formalities;

22)

envisage a duty to perform an obligation by the consumer despite the failure to perform or inappropriate performance of the other contracting party;

23)

exclude the jurisdiction of Polish courts of law or submit a case to be adjudicated by a Polish or foreign arbitration court or by some other organ or which impose the examination of the case by a court of law, which is not competent as to the place pursuant to the statute.

Article 385⁴.

- § 1. An agreement between entrepreneurs who use different templates of contracts shall exclude these terms of the templates which are contrary to each other.
- § 2. The contract shall not be concluded where after having received an offer the party notifies the other immediately that he has no intention to conclude the contract on terms provided for in § 1.

Article 385⁵.

Provisions regarding a consumer as referred to in art. 385¹ – 385³ shall apply to a natural person that concludes a contract directly related to their economic activity when from that contract it can be implied it is not of professional nature for that person as denoted especially in relation to subject matter of their economic activity disclosed according to provisions on Central Registration and Information on Business.

Article 386.

(repealed).

Article 387.

- § 1. A contract for an impossible performance shall be invalid.
- § 2. The party who at the moment of the conclusion of the contract knew of the impossibility of the performance and failed to put the other right shall be obliged to redress the damage which the other party incurred by having entered into the contract while not knowing of the impossibility of the performance.

Article 387¹.

A contract in which a natural person undertakes to transfer the ownership of immovable property which serves to satisfy his accommodation needs, in order to secure claims resulting from this or other contract which is not directly related to economic or professional activity of that person, shall be invalid where:

- 1) the value of immovable property is higher than the value of pecuniary claims secured by this immovable property increased by the maximum interest for delay from this value for the period of 24 months, or
- 2) the value of pecuniary claims secured by property is not specified, or
- 3) the conclusion of this contract was not preceded by valuation of the market value of immovable property carried out by an expert.

Article 388.

§ 1. If one of the parties, taking advantage of the forced circumstances, infirmity, inexperience or lack of sufficient discernment of the other party as to the subject of the contract, in exchange for his performance accepts or reserves for himself or for a third party the performance whose value at the moment of the conclusion of the contract exceeds to a glaring extent the value of his own performance, the other party may at its own discretion demand a reduction in his performance or an increase in the performance due to him, or invalidation of the contract.

§ 1¹.

If the value of the performance of one of the parties at the time of the conclusion of the contract exceeds at least twice the value of the reciprocal performance, it shall be presumed that it exceeds it to a glaring extent.

§ 2. The entitlements provided for in § 1 shall expire upon the lapse of three years from the day of the conclusion of the contract, and if the party to the contract is a consumer - upon the lapse of six years.

Article 389.

- § 1. A contract by which one of the parties or both of them oblige themselves to conclude a determined contract (preliminary contract), shall specify the essential provisions of the promised contract.
- § 2. Where the time limit within which the promised contract is to be concluded has not been specified, the contract shall be concluded within an appropriate time limit specified by the party entitled to demand the conclusion of the promised contract. If both parties are entitled to demand the conclusion of the promised contract and each of them specified a different time limit, the parties shall be bound by the time limit specified by the party which had made the relevant declaration earlier. If the time limit for the conclusion of the promised contract has not been set within a year from the day of the preliminary

contract's conclusion, one may not demand its conclusion.

Article 390.

- § 1. If the party obliged to conclude a promised contract evades its conclusion, the other party may demand the redress of damage which it incurred by expecting the conclusion of the promised contract. The parties may otherwise specify the scope of the damages in the preliminary contract.
- § 2. However, where the preliminary contract complies with the requirements which the validity of the promised contract depends on, in particular the requirements regarding its form, the entitled party may seek the conclusion of the promised contract.
- § 3. Claims arising from the preliminary contract shall be subject to limitation upon the lapse of a year from the day on which the promised contract was to be concluded. If a court of law dismisses the claim to conclude the promised contract, the claims arising from the preliminary contract shall be subject to limitation upon the lapse of a year from the day on which the ruling became final.

Article 391.

If it has been reserved in the contract that a third party would assume a specified obligation or would render the specified performance, a person who made such a promise shall be liable for the damage which the other party incurs by the fact that the third party refuses to assume the obligation or fails to render the performance. However, he may release himself from the obligation to redress the damage by rendering the promised performance, unless it contradicts the contract or the nature of the performance.

Article 392.

If a third party obliged himself through a contract with the debtor to release him from the duty to perform, the third party shall be liable towards the debtor that the creditor does not demand the debtor to render the performance.

Article 393.

- § 1. If it has been reserved in a contract that the debtor would render performance for the benefit of a third party, this party, unless contract provides otherwise, may demand directly from the debtor that the performance be rendered.
- § 2. A reservation as to the duty to render performance for the benefit of a third party may not be revoked or changed, if the third party has declared to either of the parties that he would like to make use of the reservation.
- § 3. The debtor may raise defences arising from the contract against a third party as well.

Article 394.

- § 1. In the absence of a different contractual reservation or a custom, a down payment given at the conclusion of a contract shall have such a meaning that in the case of non-performance of the contract by one of the parties, the other party may renounce the contract without setting an additional time limit and retain the down payment, and where he himself has given the down payment, he may demand the double amount.
- § 2. Where the contract is performed, a down payment shall be recognised as a part of the performance of a party who has given it; where a recognition is not possible, the down payment shall be returned.
- § 3. In the case of the termination of a contract a down payment shall be returned, and the duty of payment of the double amount shall cease. The same shall apply where a non-performance of the contract resulted from the circumstances for which neither of the parties has been responsible, or for which both parties have been responsible.

Article 395.

- § 1. It may be reserved that one or both of the parties will have a right to renounce the contract within a set time limit. The right shall be exercised by declaration made to the other party.
- § 2. In the case of the exercise of the right of renunciation, the contract shall be considered as not having been concluded. What the parties have already performed shall be subject to return in an unchanged condition, unless the change was necessary within the limits of ordinary management. An adequate remuneration shall be due to the other party for the services provided and for the use of the thing.

Article 396.

If it has been reserved that one or both parties may renounce the contract when paying a determined sum (compensation for renunciation), a declaration on renunciation shall be effective only where it has been made along with the payment of the compensation for renunciation.

TITLE IV

(with art. 397-404 - repealed)

Article 397.

(repealed).

Article 398.

(repealed).

Article 399.

(repealed).

Article 400.

(repealed).

Article 401.

(repealed).

Article 402.

(repealed).

Article 403.

(repealed).

Article 404.

(repealed).

TITLE V
Unjust enrichment

Article 405.

A person who has gained an property-related profit at another person's expense with no legal ground, shall be obliged to release the profit in kind, and where it proved impossible, to reimburse its value.

Article 406.

The duty to release the profit shall not only include the directly obtained profit but also everything which in the case of alienation, loss or damage has been obtained in exchange for that profit or as the redress of the damage.

Article 407.

If a person who had gained an property-related profit at another person's expense with no legal ground, disposed of the profit in a gratuitous manner for the benefit of a third party, a duty to release the profit shall pass on this third party.

Article 408.

- § 1. A person obliged to release the profit may demand reimbursement of necessary expenditures inasmuch as they have not been matched by the use which he has obtained from it. He may demand reimbursement of other expenditures inasmuch as it increases the value of the profit at the moment of its release; however he may take away these expenditures, restoring the former state.
- § 2. A person who, while making the expenditures, knew that the profit was not due to him, may demand reimbursement of the expenditures only inasmuch as they increase the value of the profit at the moment of its release.
- § 3. If the party demanding the release of the profit is obliged to reimburse the expenditures, a court of law, instead of the release of the profit in kind, may order reimbursement of its value in cash along with the deduction of the value of the expenditures, which the demanding party would be obliged to return.

Article 409.

The duty to release profit or to reimburse its value shall expire if a person who had obtained the profit, consumed it or lost it in such a manner that he is no longer enriched, unless he should have taken the duty to reimburse into account when relinquishing the profit or consuming it.

Article 410.

- § 1. The provisions of the preceding articles shall apply in particular to undue performance.
- § 2. The performance shall be undue if a person who rendered it had not been obliged at all or had not been obliged towards the person to whom he rendered the performance, or if the basis for the performance has ceased to be binding or if an intended purpose of the performance has not been achieved or if a juridical act obliging to perform had been invalid and has not become valid after the performance was rendered.

Article 411.

One may not demand return of performance:

- 1) if the party rendering the performance knew that he was not obliged to perform, unless he performed with the reservation of return or in order to escape duress or when performance arose from an invalid juridical act;
- 2) if rendering the performance complies with the principles of community coexistence;
- 3) if the performance has been rendered to satisfy a claim barred by limitation;

4) if the performance had been rendered before a receivable became mature.

Article 412.

A court of law may rule to forfeit the performance for the benefit of the State Treasury if the performance has been rendered in exchange for committing an act prohibited by statute or for a fraudulent purpose. If the object of the performance has been consumed or lost, its value may be subject to forfeiture.

Article 413.

- § 1. A person who renders performance arising from gambling or betting may not demand its return, unless the gambling or betting have been illegal or unfair.
- § 2. One may pursue claims arising from gambling or betting only provided that gambling or betting have been organized on the basis of a permit issued by relevant state agency.

Article 414.

The provisions of the present title shall not prejudice the provisions on the duty to redress the damage.

TITLE VI

Delicts

Article 415.

A person who has inflicted damage to another person by his own fault shall be obliged to redress it.

Article 416.

A legal person shall be obliged to redress the damage caused by its organs and for which these organs were at fault.

Article 417.

- § 1. The State Treasury or an entity of local government or some other legal person who by virtue of law exercises public authority shall be liable for the damage inflicted by an illegal act or omission committed while exercising the public authority.
- § 2. Where the exercise of duties within the scope of public authority has been commissioned on the basis of an agreement to an entity of local government or to some other legal person, the executor of those duties and the entity of local government or the State Treasury commissioning it shall be held jointly and severally liable for the damage incurred.

Article 417¹.

- § 1. If the damage has been inflicted by issuing a normative act, one may demand its redress after it has been acknowledged in an appropriate proceeding that this act contradicts the Constitution, a ratified international treaty or a statute.
- § 2. If the damage has been inflicted by issuing a final court ruling or a final decision, its redress may be demanded after it has been acknowledged in an appropriate proceeding that the ruling or decision contradict the law unless otherwise provided by separate provisions. It shall also apply to the case where the final ruling or the final decision have been issued on the basis of a normative act incompatible with the Constitution, a ratified international treaty or a statute.
- § 3. If the damage has been inflicted by the failure to issue a ruling or a decision where the law provides for a duty to issue them, its redress may be demanded after it has been acknowledged in an appropriate proceeding that the failure to issue the ruling or the decision contradicted the law, unless separate provisions provide otherwise.
- § 4. If the damage has been inflicted by the failure to issue a normative act where the law provides for a duty to issue it, a court of law that hears the case for the redress of the damage may adjudicate that a failure to issue that act contradicts the law.

Article 417².

Where an injury to a person has been inflicted by the exercise of the public authority compliant with the law, the injured party may demand a complete or partial redress of it as well as pecuniary compensation for the wrong suffered, where the circumstances and in particular an inability of the injured party to work or his grave financial situation indicate that the reasons of equity require it.

Article 418.

(abrogated).

Article 419.

(repealed).

Article 420.

(repealed).

Article 420¹.

(repealed).

Article 420².

(repealed).

Article 421.

The provisions of articles 417, 417¹ and 417² shall not apply if liability for the damage inflicted while exercising public authority has been regulated in specific provisions.

Article 422.

Not only a person who has directly inflicted damage but also the person who has induced another person to inflict the damage or who has assisted him, as well as the person who consciously benefited from the damage inflicted to another person shall be liable for the damage.

Article 423.

A person who acts in self-defence repulsing a direct and lawless attempt at his own interest or another person's interest, shall not be liable for the damage inflicted on the attacker.

Article 424.

A person who has destroyed or inflicted damage to somebody else's thing or has killed or injured somebody else's animal for the purpose of warding off a peril to himself or to another person which that thing or animal were posing, shall not be liable for the damage resulting from it, if he himself had not provoked the peril and the peril could not have been otherwise prevented and if the interest being saved has been obviously more important than the interest that has been violated.

Article 425.

- § 1. A person who for whatever reasons has been in a state excluding conscious or free decision-making and expressing his intent, shall not be liable for the damage inflicted when in such a state.
- § 2. However, a person who had his mental activities disturbed as a result of using intoxicating drinks or other similar substances, shall be obliged to redress the damage unless the state of disturbance had been triggered without his fault.

Article 426.

A minor who has not attained thirteen years of age shall not be liable for the damage inflicted by himself.

Article 427.

A person who under a statute or contract is obliged to supervise a person who due to their age or mental or

physical state may not be imputed fault shall be obliged to redress the damage inflicted by that person, unless he satisfied a duty of supervision or if the damage would also have arisen despite the careful exercise of supervision. The provision shall also apply to persons who without a statutory or a contractual duty exercise a permanent care of a person who due to their age or mental or physical state may not be imputed fault.

Article 428.

If the perpetrator is not liable for the damage due to his age or mental or physical state, and there are no persons obliged to supervision or where the redress of the damage may not be obtained from them, the injured party may demand full or partial redress from the perpetrator himself, if it results from the circumstances and particularly from the comparison of property-related standing of the injured party and the perpetrator that it is required by the principles of community coexistence.

Article 429.

A person who entrusts another with the exercise of an act shall be liable for the damage inflicted by the perpetrator while the latter has been exercising the act entrusted to him, unless he has not been at fault of an error in appointment or unless he entrusted the exercise of the act to a person, an enterprise or an establishment that exercise such acts within the scope of their professional activity.

Article 430.

A person who on his own account entrusts the exercise of an act to a person who at the exercise of that act is subject to his supervision and who is obliged to abide by his guidelines, shall be liable for damage inflicted by that person's own fault at the exercise of the act entrusted to him.

Article 431.

- § 1. Who raises an animal or uses it shall be obliged to redress the damage inflicted by it, regardless whether the animal has been under his supervision or if it has strayed or escaped, unless neither himself nor the person who he is liable for are at fault.
- § 2. Even if the person who raises an animal or uses it is not liable according to the provisions of the preceding paragraph, the injured party may demand from him the redress of the damage in full or in part if it results from the circumstances and particularly from the comparison of property-related standing of the injured party and this person, that it is required by the principles of community coexistence.

Article 432.

- § 1. A possessor of land may seize somebody else's animal which inflicts damage on the land if the attachment is required for securing a claim for the redress of the damage.
- § 2. The possessor of land shall obtain the statutory right of pledge on the animal which is subject to the seizure in order to secure the redress of the damage as well as the costs of the animal's feeding and maintenance which are due to him.
- § 3. (repealed).

Article 433.

A person who occupies premises shall be liable for the damage inflicted by the ejection, effusion or falling of any object from the premises, unless the damage came into being due to force majeure or only due to the injured party's fault or due to the fault of a third party who the person occupying the premises is not liable for and whose act he could not have prevented.

Article 434.

An autonomous possessor of a construction shall be liable for the damage inflicted by a collapse of the construction or by a detachment of its part, unless the collapse of the construction or the detachment of its part has neither resulted from failure to maintain the construction in the proper state, nor from the construction's defect.

Article 435.

- § 1. A person who on his own account runs an enterprise or an establishment powered by the forces of nature (steam, gas, electricity, liquid fuels etc.) shall be liable for an injury to a person or for damage to the property, inflicted to any party by the operation of the enterprise or establishment, unless the injury or damage came into being owing to force majeure or only due to the injured party's fault or the fault of the third party that he is not liable for.
- § 2. The above provision shall apply accordingly to enterprises or establishments producing explosives or using such materials.

Article 436.

- § 1. The liability provided for in the preceding article shall also be borne by an autonomous possessor of a mechanical means of transportation powered by the forces of nature. However, where the autonomous possessor has given the means of transport in dependent possession, the dependent possessor shall bear liability.
- § 2. In the case of a collision of mechanical means of communication powered by the forces of nature, the

above-mentioned persons may reciprocally demand the redress of damage incurred only on the basis of the general principles. These persons shall also be liable on the basis of general principles for the damage inflicted to these who they have transported out of politeness.

Article 437.

The liability specified in the two preceding articles may not be excluded or limited in advance.

Article 438.

A person who forcibly or even voluntarily suffered damage to the property for the purpose of warding off a peril threatening the other party or for the purpose of warding off a peril posed jointly to him and some other persons may demand the redress of the losses suffered in the appropriate proportion from the persons who benefited from it.

Article 439.

A person who is threatened directly by damage as a result of another person's behaviour, in particular, as a result of lack of proper supervision of the operation of an enterprise or establishment run by that person or of the state of the building or other installation possessed by that person, may demand that such a person undertakes measures indispensable to ward off the peril and where necessary, to provide an adequate collateral.

Article 440.

In relations among natural persons the extent of the duty to redress damage may be limited according to the circumstances should such a limitation be required by principles of community coexistence on account of the property-related state of the injured party or of the person liable for the damage.

Article 441.

- § 1. If several persons are liable for the damage inflicted by a delict, their liability shall be joint and several.
- § 2. If the damage was a result of an act or omission by several persons, a person who redressed the damage may demand from the other ones reimbursement of an appropriate part depending on the circumstances, particularly a given person's fault and the extent of contribution to the infliction of the damage.
- § 3. A person who has redressed the damage which he is liable for, despite not being at fault, shall have the right of recourse towards the perpetrator, if the damage arose by the perpetrator's fault.

Article 442.

(repealed).

Article 442¹.

- § 1. A claim for the redress of the damage inflicted by a delict shall be subject to limitation upon the lapse of three years from the day when the injured party learned about the damage and about the person liable to redress it or might have learned about it if he had exercised due diligence. However, such a time limit may not be longer than ten years from the day when the event causing the damage occurred.
- § 2. Where the damage resulted from a crime or an offence, a claim for the redress of the damage shall be subject to limitation upon the lapse of twenty years from the day when the offence was committed regardless of when the injured party learned of the damage and of the person obliged to its redress.
- § 3. In the case of inflicting injury to a person limitation may not end earlier than upon the lapse of three years from the day when the injured party has learned about the injury and the person obliged to redress it.
- § 4. Limitation of a minor's claims for redress of the injury to a person may not end earlier than upon the lapse of two years from becoming of full age.

Article 443.

A circumstance that an act or omission which the damage resulted from constituted non-performance or improper performance of a pre-existing obligation shall not exclude a claim for the redress of the damage resulting from the delict, unless something else results from the content of the pre-existing obligation.

Article 444.

- § 1. In the case of a bodily harm or a health disorder the redress of the damage shall include all expenditures resulting from it. At the request of the injured party, the person obliged to redress the damage shall lay out in advance an amount required to cover the treatment costs and where the injured party has become a disabled person, an amount required to cover the costs of training for another profession as well.
- § 2. Where the injured party has lost ability to carry out gainful work entirely or in part or where his needs have increased or his prospects for the future success have been reduced, he may demand a relevant pension from the party obliged to redress injury.
- § 3. If at the moment of issuing the ruling the extent of injury is impossible to be assessed precisely, a temporary pension may be granted to the injured party.

Article 445.

- § 1. In the case provided for in the preceding article, a court of law may grant to the injured party a relevant amount on account of pecuniary compensation for the wrong suffered.
- § 2. The above provision shall also apply in the case of false imprisonment or in the case of inducing somebody by deceit, violence or abuse of a dependency relation to submit to an indecent act.
- § 3. A claim for compensation shall devolve on heirs only where it has been acknowledged in writing or where statements of claim were instituted during the life of the injured party.

Article 446.

- § 1. If the injured party died due to bodily harm or health disorder, the party obliged to redress the injury shall reimburse the treatment and the funeral expenditure to the person who incurred them.
- § 2. A person towards whom the deceased had a statutory maintenance duty may demand from the party obliged to redress the injury a pension calculated according to the needs of the injured party as well as to the earning and proprietary capacity of the deceased throughout the period of the probable duration of the maintenance duty. Other persons in close relations with the deceased to whom he provided means of subsistence voluntarily and on a permanent basis, may demand the same pension if it results from the circumstances that it is required by the principles of community coexistence.
- § 3. A court of law may also grant relevant damages to the closest family members of the deceased where due to his death a considerable deterioration in their living situation has occurred.
- § 4. A court of law may also grant a relevant amount to the closest family members of the deceased on account of pecuniary compensation for the wrong suffered.

Article 446¹.

A child, from the moment of his birth, may demand the redress of the damage he suffered before the birth.

Article 446².

In case of a severe and permanent injury or health disorder resulting in the lack of ability to establish or continue familial relations, the court may award an appropriate amount to the closest family members of the injured party as compensation for the harm inflicted on them.

Article 447.

For important reasons, at the request of the injured party, a court of law may grant him one-time damages instead of the pension or its part. It shall in particular be pertinent to the case where the injured party has become a disabled person and granting him one-time damages will make it easier for him to perform the

new profession.

Article 448.

In the case of violation of a personal interest, a court of law may grant to the person whose personal interest has been violated an appropriate amount on account of pecuniary compensation for the wrong suffered or following his demand it may award an appropriate pecuniary amount for a community purpose indicated by him, regardless of other means required to remove the effects of the violation. The provision of article 445 § 3 shall apply.

Article 449.

The claims provided for in articles 444-448 may not be alienated, unless they have already matured and they have been acknowledged in writing or awarded by a final ruling.

TITLE VI¹

Liability for damage inflicted by unsafe product

Article 449¹.

- § 1. A person who produces an unsafe product within the scope of his economic activity (producer), shall be liable for the damage inflicted to anybody by this product.
- § 2. A movable thing, even if it has been connected with another thing, shall be a product. Animals and electric energy shall also be regarded as a product.
- § 3. A product which does not ensure safety which one may expect taking into account the ordinary use of the product, shall be an unsafe product. The circumstances at the moment of putting the product into circulation, and particularly the manner of presenting it onto the market, as well as the information on the product's features provided to the customer, shall decide whether the product is safe. A product may not be considered as failing to ensure safety only because a similar improved product has subsequently been put into circulation.

Article 449².

The producer shall be liable for the damage to the property only where the thing destroyed or damaged belongs to things ordinarily intended for a personal use and the injured party has used it mainly in such a manner.

Article 449³.

- § 1. The producer shall not be liable for the damage inflicted by an unsafe product if he has not put the product into circulation or where the product has been put into circulation outside the scope of his economic activity.
- § 2. Neither shall the producer be liable where unsafe qualities of the product were revealed after it had been put into circulation, unless they resulted from a reason inherent in the product. Neither shall he be liable where the unsafe qualities of the product might not have been foreseen, taking into consideration the state of scientific and technical knowledge at the time when the product was put into circulation, or where these qualities resulted from the compliance with the provisions of law.

Article 449⁴.

It shall be presumed that an unsafe product which has inflicted the damage had been manufactured and put into circulation within the scope of the producer's economic activity.

Article 449⁵.

- § 1. The manufacturer of the material, raw material or the product's component part shall be liable like the producer, unless a defective design of the product or the producer's instructions have been the only reason for the damage.
- § 2. A person who presents himself as the producer by putting his name, trademark or some other distinguishing feature shall be liable like the producer. A person who puts a product of a foreign origin into the domestic circulation within the scope of his economic activity (importer) shall be liable in the same manner.
- § 3. The producer and the persons set forth in the preceding paragraphs shall be jointly and severally liable.
- § 4. If it is unknown who the producer is or who the person specified in § 2 is, a person who has alienated the unsafe product within the scope of his economic activity shall be liable, unless within a month of the date of the notification on the damage he indicates the identity and address of the producer or the person specified in the first sentence of § 2 to the injured party, and in the case of imported goods - the identity and address of the importer.
- § 5. If the party alienating the product is unable to indicate the producer or the persons specified in § 4, the indication of the person from whom he himself has acquired the product shall release him from liability.

Article 449⁶.

If the third party is also liable for the damage inflicted by the unsafe product, liability of that party and of

the persons set forth in the preceding articles shall be joint and several. The provisions of article 441 § 2 and 3 shall apply accordingly.

Article 449⁷.

§ 1. The damages payable for the damage inflicted to the property shall not cover the damage done to the product itself or the profits which the injured party might have achieved in relation to its use.

§ 2. The damages payable on the basis of article 449¹ shall not be due where the damage inflicted to the property does not exceed the amount being an equivalent of 500 euro.

Article 449⁸.

A claim for the redress of the damage inflicted by the unsafe product shall be subject to limitation upon the lapse of three years of the day when the injured party learned about the damage and of the person obliged to redress it or might have learned about it if he had exercised due diligence. However, in any case the claim shall be subject to limitation upon ten years from putting the product into circulation.

Article 449⁹.

Liability for the damage inflicted by the unsafe product may neither be excluded nor limited.

Article 449¹⁰.

The provisions on liability for the damage inflicted by the unsafe product shall not exclude the liability for the damage based on general principles, for the damage resulting from the non-performance or improper performance of an obligation as well as the liability on account of warranty for defects and guarantee of quality.

Article 449¹¹.

(repealed).

TITLE VII

Performance of obligations and effects of their non-performance

SECTION I

Performance of obligations

Article 450.

The creditor may not refuse to accept the partial performance, even if the entire receivable has already matured, unless accepting such performance violates his justified interest.

Article 451.

- § 1. The debtor having several debts of the same kind towards the same creditor may, when rendering the performance, indicate which debt he wants to satisfy. However, what falls towards a given debt, may be first of all recognised by the creditor towards the accessory amounts due connected with that debt or towards the outstanding main performances.
- § 2. If the debtor has not indicated which one of several debts he wants to satisfy and he has accepted a receipt in which the creditor had recognised the performance received towards one of those debts, the debtor may not demand it any more to be recognised towards any other debt.
- § 3. In the absence of the debtor's or the creditor's declaration, the performance which has been rendered shall be first of all recognised towards a mature debt, and where there are several mature debts - towards the one which has been mature the longest.

Article 452.

If performance has been rendered to the person not entitled to accept it, and the acceptance has not been confirmed by the creditor, the debtor shall be released to such an extent to which the creditor has taken benefit of the performance. That provision shall apply accordingly in the case where the performance has been rendered to the creditor who was not capable of accepting it.

Article 453.

Where the debtor in order to release himself from the obligation renders different performance with the creditor's consent, the obligation shall expire. However, where the object of the performance has defects, the debtor shall be obliged to provide a warranty for defects pursuant to the provisions on warranty for defects in the case of sale.

Article 454.

- § 1. If the place of the performance has neither been specified nor it results from the nature of the obligation, the performance shall be rendered at the place where at the moment the obligation arose the debtor had his domicile or seat. However, pecuniary performance should be rendered at the creditor's domicile or seat at the moment of performance; if the creditor changed the domicile or seat after the obligation had arisen, he shall incur the extra shipment costs, brought about by the change.
- § 2. If the obligation is related to the debtor's or the creditor's enterprise, the place of the performance shall be contingent upon the enterprise's seat.

Article 454¹.

Where the entrepreneur is obliged to send a thing to a consumer to a specified place, such place shall be deemed a place of performance. A reservation to the contrary shall be invalid.

Article 455.

If the time limit for the performance has not been specified or if it does not result from the nature of the obligation, the performance shall be rendered immediately after the debtor has been called upon to render it.

Article 456.

If the parties have reserved in the contract that the performance is to be rendered in parts within a definite period of time, yet have not specified the amounts of respective partial performances or the time limits within which each of the performances were to be rendered, the creditor may by a declaration made to the debtor at appropriate time set both the amount of the respective partial performances as well as the time limit to render each of them, however, he shall take into consideration the debtor's capabilities and the manner in which the performance is to be rendered.

Article 457.

The time limit for the performance specified by a juridical act in the case of doubt shall be construed to have been reserved for the debtor's benefit.

Article 458.

If the debtor has become insolvent, or where as a result of the circumstances which he is liable for the receivable's collateral has been substantially reduced, the creditor may demand the performance regardless of the time limit which had been reserved.

Article 459.

- § 1. A person obliged to release a set of things or assets of an estate or to provide information on the set of things or on the assets of an estate shall present to the creditor a list of things which comprise the set or a list of things which comprise the assets of the estate.
- § 2. Where there exists a justified conjecture that the list which has been presented is not honest or precise, the creditor may demand that the debtor make an assertion before a court of law that he has drawn up the list to the best of his knowledge.

Article 460.

- § 1. A person obliged to provide an account of his management, shall produce to the creditor a written collation of takings and expenses along with the required evidence.
- § 2. Where there exists a justified conjecture that the collation which has been presented is not honest or precise, the creditor may demand that the debtor make an assertion before a court of law that he has drawn up the collation to the best of his knowledge.

Article 461.

- § 1. A person obliged to release somebody else's thing may retain it until his claims for the reimbursement of expenditures on the thing or claims for the redress of the damage inflicted by the thing are satisfied or secured (right of retention).
- § 2. The above-mentioned provision shall not apply where the duty to release the thing results from a delict or where it concerns the return of things which have been leased, rented or loaned for use.
- § 3. (repealed).

Article 462.

- § 1. When rendering performance, the debtor may demand a receipt from the creditor.
- § 2. The debtor may demand a receipt in the special form if he has interest in that.
- § 3. The costs of the receipt shall be borne by the debtor, unless it has been agreed otherwise.

Article 463.

If the creditor refuses to issue a receipt, the debtor may refrain from rendering the performance or place the object of the performance at the court deposit.

Article 464.

Rendering performance to the person who shows a receipt issued by the creditor shall release the debtor, unless it has been reserved that the performance was to be rendered to the creditor personally or unless the debtor has acted in bad faith.

Article 465.

- § 1. If there exists a document confirming the obligation, the debtor may demand a return of the document when he renders the performance. However, where the creditor has interest in retaining the document, in particular where the performance has been rendered only in part, the debtor may demand that a relevant reference be made in the document.
- § 2. In the case of loss of the document, the debtor, besides the receipt, may demand a written declaration

from the creditor that the document has been lost.

§ 3. If the creditor refuses to return the document or to make a relevant reference in it or a written declaration on the document's loss, the debtor may refrain from rendering the performance or place its object at the court deposit.

Article 466.

A presumption that accessory dues have been paid shall result from the receipt document of the amount due. A presumption that periodical performances which had matured beforehand have also been rendered shall result from a periodical performance's receipt document.

Article 467.

Apart from the cases envisaged in other provisions, the debtor may place the object of the performance at the court deposit:

- 1) if due to the circumstances, which he is not liable for, he does not know who the creditor is or he does not know the creditor's domicile or seat;
- 2) if the creditor does not have full capacity for juridical acts nor a representative entitled to accept the performance;
- 3) if a dispute about the identity of the creditor has arisen;
- 4) if due to other circumstances regarding the person of the creditor the performance may not be rendered.

Article 468.

§ 1. The debtor shall notify the creditor immediately of placing the object of the performance at the court deposit, unless the notification encounters obstacles which are difficult to overcome. The notification shall be made in writing.

§ 2. In the case of failure to perform the above duty, the debtor shall be liable for the damage resulting from it.

Article 469.

§ 1. The debtor may collect the object of the performance placed at the court deposit until the creditor demands the release of the object from it.

§ 2. If the debtor collects the object of the performance from the court deposit, placing it at the deposit shall be deemed as non-existent.

Article 470.

A valid act of placing at the court deposit shall have the same effect as rendering the performance and it shall oblige the creditor to reimburse to the debtor the costs of the deposit.

SECTION II

The effects of non-performance of obligations

Article 471.

The debtor shall be obliged to redress the damage arising from non-performance or from improper performance of an obligation, unless the non-performance or the improper performance are an outcome of circumstances which the debtor shall not be liable for.

Article 472.

If nothing else results from a specific provision of the statute or from a juridical act, the debtor shall be liable for failure to show due diligence.

Article 473.

- § 1. By contract the debtor may assume liability for non-performance or for improper performance of an obligation resulting from the determined circumstances which pursuant to the statute he is not liable for.
- § 2. A reservation that the debtor will not be liable for damage that he may inflict intentionally on the creditor shall be invalid.

Article 474.

The debtor shall be liable for an act and omission of persons who assist him in performing the obligation, as well as the persons who he entrusts with the performance of the obligation as if for his own act or omissions. The above-mentioned provision shall also apply where the obligation is performed by the debtor's statutory representative.

Article 475.

- § 1. If performance has become impossible due to the circumstances which the debtor is not liable for, the obligation shall expire.
- § 2. If the thing which had been the object of performance was disposed of, lost or damaged, the debtor shall be obliged to release everything which he obtained in exchange for that thing or as the redress of

the damage.

Article 476.

The debtor is in qualified delay if he fails to render performance within its time limit, and in the case where the time limit has not been specified, if he fails to render performance immediately after the creditor's call. It shall not apply to the case where a delay in the performance results from the circumstances which the debtor is not liable for.

Article 477.

- § 1. In the case of the debtor's qualified delay, the creditor may demand the redress of the damage resulting from the delay, regardless of the performance of the obligation's.
- § 2. However, if owing to the debtor's qualified delay the performance has lost entirely or to the prevailing extent its significance to the creditor, the creditor may refuse to accept the performance and demand the redress of the damage resulting from the non-performance of the obligation.

Article 478.

If the object of the performance is a thing specified as to its identity, the debtor who is in qualified delay shall be liable for loss or damage to the object of the performance, unless the loss or the damage would have also come into being if the performance was rendered in appropriate time.

Article 479.

If a determined number of things specified only as to their kind is the object of the performance, the creditor in the case of the debtor's qualified delay may purchase at the debtor's expense the same number of things of the very same kind or he may demand the payment of their value from the debtor, while retaining in both cases the claim for the redress of the damage resulting from the qualified delay.

Article 480.

- § 1. In the case of the debtor's qualified delay in performing an obligation to act, the creditor may, while retaining the claim for the redress of the damage, demand a court's authorization to perform the act at the debtor's expense.
- § 2. If the performance consists in refraining from acting, the creditor may, while retaining the claim for the redress of the damage, demand a court's authorization to remove everything that the debtor has made contrary to the obligation at the debtor's expense.
- § 3. In urgent cases the creditor may, while retaining the claim for the redress of the damage, perform an act at the debtor's expense without a court's authorization or remove what the debtor has made

contrary to the obligation at the debtor's expense.

Article 481.

§ 1. If the debtor delays in rendering pecuniary performance, the creditor may demand interest for the time of delay, even if he suffered no damage and even if the delay was the result of the circumstances which the debtor is not liable for.

§ 2. Unless the interest rate for the delay has been determined, statutory interest for the delay is due at the rate equal to the guiding rate of the National Bank of Poland and 5,5 percentage points. If, however, a receivable accrues interest at a higher rate, the creditor may demand interest for the delay at the higher rate.

§ 2¹.

Maximum interest for the delay may not exceed annually double the statutory interest rate for the delay (maximum interest for the delay).

§ 2².

If the rate of interest resulting from the delay exceeds the rate of maximum interest for the delay, maximum interest for the delay shall be due.

§ 2³.

Contractual provisions may not exclude nor limit provisions on maximum interest for the delay even where a foreign law has been chosen as applicable. In such a case the statutory provisions shall apply.

§ 2⁴.

The Minister of Justice shall announce, by way of a regulation, in the Official Journal of the Republic of Poland "Monitor Polski" statutory interest rate for the delay.

§ 3. In the case of the debtor's qualified delay, the creditor may also demand the redress of the damage pursuant to the general principles.

Article 482.

§ 1. One may demand interest for the delay on the outstanding interest only from the moment of instituting an action for it, unless following the accrual of the arrears the parties have agreed to add the outstanding interest to the amount due.

§ 2. (repealed).

Article 483.

§ 1. It may be reserved in the contract that the damage resulting from the non-performance or from an improper performance of a non-pecuniary obligation shall be redressed by the payment of a specified

amount (liquidated damages).

- § 2. The debtor may not release himself from the obligation through the payment of the liquidated damages without the creditor's consent.

Article 484.

- § 1. In the case of non-performance or an improper performance of an obligation the liquidated damages shall be due to the creditor in the amount reserved for such a case regardless of the amount of the damage suffered. It shall not be admissible to demand damages exceeding the amount of liquidated damages, unless the parties have decided otherwise.
- § 2. If the obligation has been performed in a significant part, the debtor may demand a reduction in liquidated damages; the same shall apply in the case where liquidated damages are grossly excessive.

Article 485.

If a specific provision stipulates that in the case of non-performance or an improper performance of the non-pecuniary obligation, the debtor, even if without a contractual reservation, is obliged to pay to the creditor a specified amount, the provisions on liquidated damages shall apply accordingly.

Article 486.

- § 1. In the case of the creditor's qualified delay, the debtor may demand a redress of the damage arising from it; he may also place the object of the performance at the court deposit.
- § 2. The creditor commits qualified delay if without any justified reason he either evades to accept the performance having been offered to him or where he refuses to perform the act without which the performance may not be rendered, or if he declares to the debtor that he will not accept the performance.

SECTION III

Performance and effects of non-performance of obligations arising from reciprocal contracts

Article 487.

- § 1. Performance and effects of non-performance of obligations arising from reciprocal contracts shall be subject to the provisions of the preceding sections of the present title, unless the provisions of the present section provide otherwise.
- § 2. The contract is a reciprocal one if both parties oblige themselves in such a manner that performance of one of them is to be a counterpart of the other party's performance.

Article 488.

- § 1. Performances being the object of obligations arising from reciprocal contracts (reciprocal performances) should be made simultaneously, unless it results from a contract, from the statute or from a court ruling, or from a decision of any other competent organ, that one of the parties shall be obliged to an earlier performance.
- § 2. If reciprocal performances are to be made simultaneously, each of the parties may refrain from rendering performance, until the other party offers the reciprocal performance.

Article 489.

(repealed).

Article 490.

- § 1. If one of the parties is obliged to render reciprocal performance earlier, and performance of the other party is doubtful because of his proprietary state, the party obliged to perform earlier may refrain from the performance until the other party offers reciprocal performance or provides a collateral.
- § 2. The party who at the moment of the conclusion of the contract knew of the bad proprietary state of another party shall not enjoy the above-mentioned entitlements.
- § 3. (repealed).

Article 491.

- § 1. If one of the parties commits a qualified delay in performing the obligation arising from a reciprocal contract, the other party may set him an appropriate, additional time limit to perform it, with a warning that when the set time limit lapses to no avail, the other party shall be entitled to renounce the contract. He may also demand the performance of the obligation and the redress of the damage without setting an additional time limit or upon its lapse to no avail.
- § 2. If performances of the two parties are divisible, and one of the parties commits qualified delay with regard to a part of the performance only, the entitlement to renounce the contract shall be limited according to the choice of the latter, either with regard to that part or to the entire remaining part of the performance that was not rendered. That party may renounce the contract entirely if partial performance would not be of significance on account of the nature of the obligation or of the purpose of the contract intended by that party, which was known to the party in qualified delay.

Article 492.

If the right to renounce reciprocal contract has been reserved for the case of non-performance of the

obligation within a strictly-specified time limit, the party entitled may in the case of qualified delay of the other party renounce the contract without setting an additional time limit. The same applies in the case where rendering the performance by one of the parties after the lapse of the time limit would not have significance to the other party on account of the nature of the obligation or of the purpose of the contract intended by that party, which was known to the party in qualified delay.

Article 492¹.

If the party obliged to render performance declares that he will not perform, the other party may renounce the contract without setting an additional time limit, also before the time limit specified for the performance arrives.

Article 493.

- § 1. If one of the reciprocal performances has become impossible on account of the circumstances, for which the obliged party shall be liable, the other party may, according to his own choice either demand the redress of the damage resulting from the non-performance of the obligation or renounce the contract.
- § 2. In the case of partial impossibility to render performance by one of the parties, the other party may renounce the contract if partial performance would not have significance for it given the nature of the obligation or on account of the purpose of the contract intended by that party and known to the party, whose performance has become partially impossible.

Article 494.

- § 1. A party which renounces a reciprocal contract shall be obliged to return to the other party everything that he received from the other party on the basis of the contract, and the other party shall be obliged to accept it. The party which renounces the contract may not only demand the return of what he has performed, but he may also demand on the basis of general principles the redress of the damage arising from the non-performance of the obligation.
- § 2. The return of the performance to a consumer shall be made immediately.

Article 495.

- § 1. If one of the reciprocal performances has become impossible due to the circumstances which neither of the parties is liable for, the party who was to render the performance may not demand reciprocal performance, and in the case it had already received it, it shall be obliged to return it according to the provisions on the unjust enrichment.
- § 2. If the performance of one of the parties has become only partially impossible, such a party shall lose

the right to receive an adequate part of the reciprocal performance. However, the other party may renounce the contract if partial performance would not have significance for it on account of the nature of the performance or of the purpose of the contract intended by that party, known to the party whose performance has become partially impossible.

Article 496.

If owing to the renunciation of the contract the parties are to return their reciprocal performances, each of them shall be entitled to the right of retention until the other party offers the return of the performance received or until it provides a collateral for the claim for the return of the performance.

Article 497.

The provision of the preceding article shall apply accordingly in the case of termination or invalidity of a reciprocal contract.

TITLE VIII

Set-off, novation, release from debt

Article 498.

§ 1. If two persons are simultaneously debtors and creditors with regard to each other, each of them may set off their receivable against the receivable of the other party, if the object of both receivables is money or things of the same quality specified as to their kind and both receivables are mature and may be pursued before a court of law or before another state organ.

§ 2. Owing to a set-off both receivables shall cancel each other to the amount of the lower receivable.

Article 499.

A set-off shall be effected by a declaration made to the other party. The declaration shall have retroactive force from the moment when the set-off has become possible.

Article 500.

If the receivables whose places of performance are different constitute the object of the set-off, the party making use of the possibility of a set-off shall be obliged to pay to the other party an amount necessary to cover the detriment resulting from it.

Article 501.

Adjournment of the performance granted by the court of law or gratuitously by the creditor shall not

exclude a set-off.

Article 502.

A receivable barred by limitation may be set-off if at the moment when the set-off became possible the limitation has not occurred yet.

Article 503.

The provisions relating to the recognition of a payment shall apply accordingly to set-off.

Article 504.

Attachment of a receivable by a third party shall exclude the cancellation of that receivable by set-off only if the debtor has become his creditor's creditor upon attachment or where his receivable has matured after that moment, and yet later than the attached receivable.

Article 505.

The following may not be cancelled by set-off:

- 1) receivables which are not subject to attachment;
- 2) receivables regarding the supply of the means of subsistence;
- 3) receivables arising from delicts;
- 4) receivables towards which set-off is excluded by specific provisions.

Article 506.

§ 1. If in order to cancel an obligation the debtor, upon the creditor's consent, undertakes to render another performance or even the same performance yet arising from another legal basis, the former obligation shall expire (novation).

§ 2. In the case of doubt, it shall be construed that a change of content of the former obligation does not constitute a novation. It shall, in particular, regard the case where the creditor receives a bill of exchange or a cheque from the debtor.

Article 507.

If a receivable has been secured by suretyship or by a limited proprietary right established by a third party, the suretyship or a limited proprietary right shall expire upon novation, unless the surety or the third party gives his consent to continue the collateral.

Article 508.

The obligation shall expire when the creditor releases the debtor from the debt and the debtor accepts the release.

TITLE IX

Change of creditor or of debtor

SECTION I

Change of creditor

Article 509.

- § 1. The creditor may without the debtor's consent transfer a receivable to a third party (assignment) unless it would be contrary to statute, to a contractual reservation or to the nature of the obligation.
- § 2. All rights connected with a receivable, in particular a claim for the outstanding interest shall pass along with it to the acquiring party.

Article 510.

- § 1. A contract of sale, exchange, donation or other contract obliging to transfer the receivable, shall transfer the receivable to the acquiring party, unless a specific provision provides otherwise or the parties have decided otherwise.
- § 2. Where conclusion of the contract of assignment arises in the performance of an obligation resulting from a previously concluded contract obliging to transfer the receivable, from an ordinary legacy, from an unjust enrichment or from another event, the validity of the contract of assignment shall depend on the existence of that obligation.

Article 511.

Where a receivable has been evidenced in writing, the assignment of this receivable shall also be evidenced in writing.

Article 512.

Performance of an obligation to the former creditor shall be effective towards the acquiring party until the alienating party notified the debtor of the assignment, unless at the moment of the performance the debtor knew of the assignment. The provision shall apply accordingly to another juridical act carried out between the debtor and the former creditor.

Article 513.

- § 1. The debtor shall be entitled to use any defences against the party acquiring a receivable, which the debtor had against the alienating party at the moment of learning about the assignment.
- § 2. The debtor may set off a receivable which he is entitled to towards the alienating party against the receivable assigned, even if the former matured after the debtor had received a notification of the assignment. It shall not regard a case where the receivable towards the alienating party matured later than the receivable which is subject to assignment.

Article 514.

Where a receivable has been evidenced in writing, a contractual reservation that an assignment may not come into being without the debtor's consent shall be effective towards the acquiring party only where the writing contains a reference of that reservation unless the acquiring party knew of the reservation at the moment of the assignment.

Article 515.

When the debtor who had received a written notification of assignment from the alienating party, rendered performance to the party acquiring the receivable, the alienating party may invoke towards the debtor the invalidity of the assignment or defences arising from the assignment's legal grounds only where at the moment of the performance they were known to the debtor. The provision shall apply accordingly to other juridical acts made between the debtor and the party acquiring the receivable.

Article 516.

The party alienating a receivable shall be liable towards the acquiring party for the fact that he is entitled to the receivable. The former shall be liable for the debtor's solvency inasmuch as he himself assumed the liability.

Article 517.

- § 1. The provisions on assignment shall not apply to receivables connected with a bearer document or with a document alienable through endorsement.
- § 2. The transfer of a receivable from a bearer document shall take place by the transfer of the document's ownership. The release of the document shall be required to transfer its ownership.

Article 518.

- § 1. A third party who pays off the creditor shall acquire the receivable which has been paid off up to the

- 1) amount of the payment concerning debt which he is liable for personally or with certain property-related objects;
 - 2) where he is entitled to a right over which the paid off receivable has priority in satisfaction;
 - 3) if he acts upon the debtor's consent to enter into the creditor's rights; the debtor's consent shall be expressed in writing on pain of invalidity;
 - 4) if it has been provided for by specific provisions.
- § 2. In the above-mentioned cases the creditor may not refuse to accept performance which has already matured.
- § 3. If the creditor has been paid off by a third party only in part, he shall be entitled to priority in satisfaction with regard to the remaining part over the receivable which passed to the third party as a result of the partial payment.

SECTION II

Change of debtor

Article 519.

- § 1. A third party may take the debtor's position and the debtor shall thereby be released from the debt (*ex promissio*).
- § 2. *Expromissio* may come into being:
- 1) by a contract between the creditor and a third party made with the debtor's consent; the debtor's declaration may be made to either of the parties;
 - 2) by a contract between the debtor and a third party with the creditor's consent; the creditor's declaration may be made to either of the parties; it shall be ineffective if the creditor did not know that the person taking the debt over was insolvent.

Article 520.

Either of the parties who concluded the contract of *expromissio* may set for the person whose consent is required for the effectiveness of *expromissio* an appropriate time limit to grant consent; an ineffective lapse of the time limit which has been set shall be tantamount to the refusal to grant the consent.

Article 521.

- § 1. If the effectiveness of the contract of *expromissio* depends on the debtor's consent and the debtor has refused the consent, the contract shall be deemed not concluded.

§ 2. If the effectiveness of the contract of *expromissio* depends on the creditor's consent and the creditor has refused to grant the consent, the party that pursuant to the contract was to take the debt over shall be liable towards the debtor for the creditor not demanding the performance from him.

Article 522.

The contract of *expromissio* shall be concluded in writing on pain of invalidity. The same shall regard the creditor's consent for taking over a debt.

Article 523.

If the acquiring party has obliged himself in a contract on immovable property ownership transfer to release the alienating party from debts connected with the ownership, in the case of doubt it shall be deemed that the parties have concluded the contract of *expromissio* concerning taking over these debts by the acquiring party.

Article 524.

§ 1. The *expromissor* shall be entitled against the creditor to all the defences which the former debtor had, except for the defence of the set-off from the former debtor's receivable.

§ 2. The *expromissor* may not invoke against the creditor defences resulting from the legal relation which forms the legal basis for *expromissio*, existing between the *expromissor* and the former debtor; however, it shall not regard the defences which the creditor knew of.

Article 525.

If a receivable was secured by suretyship or by a limited proprietary right established by a third party, the suretyship or the limited proprietary right shall expire upon the taking over a debt, unless the surety or the third party agrees to the further duration of the collateral.

Article 526.

(repealed).

TITLE X

Protection of creditor in case of debtor's insolvency

Article 527.

§ 1. Where owing to the debtor's juridical act carried out to the creditors' detriment a third party obtained a property-related benefit, each creditor may demand the act to be found ineffective towards him, if the

debtor acted while being aware of the creditors' detriment and the third party knew of it or could have learned of it if he exercised due diligence.

- § 2. The debtor's juridical act is carried out to the creditors' detriment if owing to that act the debtor has become insolvent or he has become insolvent to a higher extent than he was prior to having carried out the act.
- § 3. If owing to the debtor's juridical act carried out to the creditor's detriment, a person being in a close relation with the debtor has obtained a property-related benefit, it is presumed that the very person knew that the debtor acted while being aware of the creditor's detriment.
- § 4. If owing to the debtor's juridical act performed to the creditors' detriment, an entrepreneur being in permanent economic relations with the debtor has obtained a property-related benefit, it is presumed that the entrepreneur knew that the debtor acted while aware of the creditors' detriment.

Article 528.

If owing to a juridical act carried out by the debtor to the creditors' detriment a third party has gratuitously obtained a property-related benefit, the creditor may demand the act to be found ineffective even though the very person did not know and even if he exercised due diligence he could not have learned that the debtor acted while being aware of the creditors' detriment.

Article 529.

If at the moment of making a donation the debtor was insolvent, it is presumed that he acted while being aware of the creditors' detriment. The same shall apply where the debtor has become insolvent due to making a donation.

Article 530.

The provisions of the preceding articles shall apply accordingly where the debtor has acted with an intent to inflict a detriment on future creditors. However, where a third party has obtained a non-gratuitous property-related benefit, the creditor may demand the juridical act to be found ineffective only when the third party knew of the debtor's intent.

Article 531.

- § 1. Declaring ineffective the debtor's juridical act carried out to the creditors' detriment shall come into being by way of an action or a defence against a third party who has obtained a property-related benefit owing to this juridical act.
- § 2. Where a third party has disposed of a property-related benefit that he gained, the creditor may act

directly against the person for whose benefit the disposal was made, if the very person knew of circumstances justifying the debtor's act to be found ineffective or if the disposal was a gratuitous one.

Article 532.

A creditor towards whom the debtor's juridical act has been declared ineffective may pursue satisfaction with priority over the third party's creditors from assets which owing to the act which was declared ineffective have left the debtor's property or have not entered the debtor's property.

Article 533.

A third party who has obtained a property-related benefit owing to the debtor's juridical act carried out to the creditors' detriment may release himself from compensating the claim of the creditor who demands that the act be declared ineffective, if he satisfies that creditor or indicates to him a debtor's property sufficient to satisfy him.

Article 534.

One may not demand declaring a juridical act carried out to the creditors' detriment ineffective after the lapse of five years from the date of that act.

TITLE XI

Sale

SECTION I

General provisions

Article 535.

§ 1. By the contract of sale the seller undertakes to transfer the ownership of a thing to the buyer and to release the thing to him and the buyer undertakes to collect the thing and to pay the price to the seller.

§ 2. (repealed).

Article 535¹.

(repealed).

Article 536.

§ 1. The price may be specified by indication of the grounds for its determination.

§ 2. If it results from the circumstances that the parties took into account the price accepted in the relations of a given kind, in case of doubt it shall be deemed that the parties meant the price at the place and the time when the thing was to be released to the buyer.

Article 537.

- § 1. If at the place and the time of the contract's conclusion an order is binding to the effect that only a precisely specified price (the fixed price) may be paid for things of a given sort or kind, this price shall bind the parties regardless of the price they determined in the contract.
- § 2. The seller who received a price higher than the fixed price shall be obliged to reimburse to the buyer the difference he charged.
- § 3. The buyer who under the contract was to pay a price lower than the fixed price and has used up or has resold the thing at a price calculated on the basis of a price agreed on, shall be obliged to pay the fixed price only where prior to using up or reselling he knew of the fixed price or where he could have known it if he had exercised due diligence. The buyer who has neither used the thing up nor has resold it may renounce the contract.

Article 538.

If at the place and time of the contract's conclusion an order is binding to the effect that a price higher than the specified one (maximum price) may not be paid for things of a given sort or kind, the buyer shall not be obliged to pay the higher price and the seller who has received the higher price shall be obliged to return to the buyer the difference he charged.

Article 539.

If at the place and time of the contract's conclusion an order is binding to the effect that a price lower than the specified one (minimum price) may not be paid for things of a given sort or kind, the seller who received the lower price shall be entitled to the claim for a surcharge on the difference.

Article 540.

- § 1. If a competent state organ has determined the manner in which the seller is to calculate the price for things of a given sort or kind (resultant price), either the provisions on the fixed price or the provisions on the maximum price shall be applied depending on the nature of such a price.
- § 2. In the case of a dispute concerning the correctness of the resultant price's calculation, the price shall be determined by a court of law.

Article 541.

The seller's claim for a surcharge of a difference in price as well as the buyer's claim for reimbursement of the difference resulting from the provisions on the fixed, maximum, minimum or the resultant price shall be subject to limitation upon the lapse of a year from the date of the payment.

Article 542.

(repealed).

Article 543.

Putting a thing on view in public at a regular place of sale along with an indication of price shall be considered an offer of sale.

Article 543¹.

- § 1. If the buyer is a consumer, the seller shall be obliged to immediately release the thing to him, not later than thirty days as of the conclusion of the contract, unless the contract stipulates otherwise.
- § 2. If the seller falls into delay, the buyer may set an additional time limit to release the thing, and where such additional time limit elapses to no avail, he may renounce the contract. The provisions of articles 492, 492¹ and 494 shall apply.

Article 544.

- § 1. If a thing sold is to be sent by the seller to a place which is not the place of performance, in the case of doubt, it shall be deemed that the release was made at the moment when the seller has entrusted the thing to a carrier who transports things of that sort for a living, in order to have the thing delivered to its destination.
- § 2. However, the buyer shall be obliged to pay the price only following the arrival of the thing to its destination and after he had a possibility to examine the thing.

Article 545.

- § 1. The manner of release and collection of the thing sold should ensure its integrity and inviolability; in particular the manner of packing and transporting should correspond to the nature of the thing.
- § 2. In the case of sending the thing sold to its destination through a carrier, the buyer shall be obliged to examine the consignment at a time and in a manner accepted in the case of consignments of that sort; if he found that a loss or damage occurred in transport, he shall be obliged to perform all the acts indispensable to establish the liability of the carrier.

Article 546.

- § 1. Prior to the conclusion of the contract the seller shall be obliged to provide the buyer with any necessary explanations on legal and factual relations regarding the thing.
- § 2. The seller shall be obliged to release the documents concerning the thing which are in his possession. If the content of such a document regards other things as well, the seller shall be obliged to release an authenticated abstract of the document. Additionally, if it is necessary to correctly use the thing in compliance with its intended use, the seller shall be obliged to enclose an instruction and provide explanations concerning the manner of using the thing.

Article 546¹.

- § 1. If the buyer is a consumer, the seller shall be obliged prior to the conclusion of the contract to provide him with clear, understandable and not misleading information in Polish, sufficient to correctly and fully use the thing sold. In particular, the following shall be provided: type of the thing, its producer or importer, the safety mark and conformity mark required by separate provisions, information on its approval for marketing in the Republic of Poland and, as appropriate for the type of thing, an indication of its energy consumption and other data indicated in separate provisions.
- § 2. If the thing is packaged separately or as a set, the information set forth in § 1 shall be placed on the thing sold or be attached permanently to it. In other cases the seller shall be obliged to provide in the place of sale information which may be limited to the type of thing, its main functional property and its producer or importer.
- § 3. The seller shall be obliged to create in the place of sale appropriate technical and organisational conditions allowing the choice of the thing sold and allowing the examination of its quality, completeness and functionality of its main mechanisms and main components.
- § 4. At the request of the buyer the seller shall be obliged to clarify the meaning of specific provisions of the contract.
- § 5. The seller shall be obliged to release to the buyer together with the thing sold all its accessory components and prepared in Polish operational and maintenance manuals as well as other documents required by separate provisions.

Article 547.

- § 1. If it results neither from the contract nor from the orders specifying the price who is to bear the costs of the release and collection of the thing, the seller shall incur the costs of the release, in particular the costs of measuring, weighing, packing, insurance for the transportation time and the costs of sending the thing whereas the costs of collection shall be borne by the buyer.
- § 2. If the thing is to be sent over to a place which is not the place of performance, the costs of insurance

and sending shall be borne by the buyer.

§ 3. Costs not named in the preceding paragraphs shall be borne by both parties in equal shares.

Article 548.

§ 1. Upon the release of the thing sold, profits and burdens connected with the thing as well as the peril of its accidental loss or damage shall pass to the buyer.

§ 2. If the parties have reserved another moment for the passing of the profits and burdens, in the case of doubt it shall be deemed that the peril of the accidental loss or damage to the thing shall pass to the buyer at the very same moment.

§ 3. If the thing sold is to be sent by the seller to the buyer who is a consumer, the peril of accidental loss or damage of the thing shall pass to the buyer upon the release of the thing to the buyer. The thing shall be deemed released when it is entrusted by the seller to the carrier if the seller had no influence on the choice of carrier by the buyer. The contractual provisions less beneficial for the buyer shall be invalid.

Article 549.

If the buyer has reserved the right to specify the shape, dimension or other properties of the thing or the time and place of its release but falls into qualified delay in its specification, the seller may:

- 1) exercise the entitlements which the creditor is entitled to in the case of the debtor's qualified delay in performing a reciprocal obligation or
- 2) provide the specification himself and notify the buyer of it, while setting him an appropriate time limit to provide a different specification; where the set time limit determined elapses to no avail, the specification provided by the seller shall become binding on the buyer.

Article 550.

If exclusive rights have been reserved for the buyer's benefit in the contract of sale in such a manner that the seller will not deliver the things of a specified kind to other persons or in such a manner that the buyer will be the only re-selling party of the things purchased within a specified area, the seller may not, within the scope in which the exclusive rights have been reserved, neither directly nor indirectly enter into sale contracts that could violate the exclusive rights to which the buyer is entitled.

Article 551.

§ 1. If the buyer has committed qualified delay in collecting the thing sold, the seller may leave the thing in bailment at the buyer's cost and peril.

§ 2. The seller may also sell the thing on the buyer's account, he should, however, set for the buyer an additional time limit beforehand to collect it, unless setting the time limit is not possible or the thing is perishable or be damaged for other reasons. The seller shall be obliged to notify the buyer immediately of the sale.

Article 552.

If the buyer has committed qualified delay in paying the price for the delivered part of the things sold or if given his financial state it is doubtful if payment for the part of things which are to be delivered later will be effected on time, the seller may refrain from delivering further parts of the things sold, while setting for the buyer an adequate time limit to secure the payment and where the time limit lapses to no avail, he may renounce the contract.

Article 553.

(repealed).

Article 554.

Claims arising on account of sale made within the scope of the seller's enterprise's activity, artisans' claims on such accounts as well as claims of those who run agricultural farms on account of sale of agricultural and forest produce, shall be subject to limitation upon the lapse of two years.

Article 555.

The provisions on the sale of a thing shall apply respectively to the sale of energy, rights and water.

Article 555¹.

(repealed).

SECTION II

Warranty for defects

Article 556.

The seller shall be liable towards the buyer if the thing sold has a physical or legal defect (warranty for defects).

Article 556¹.

§ 1. A physical defect involves inconsistency of the thing sold with the contract. In particular, the thing

sold is inconsistent with the contract if:

- 1) it fails to have a property, which a thing of that kind should have regarding the purpose stipulated in the contract or arising from the circumstances or its intended use;
 - 2) it fails to have a property, about which the seller has assured the buyer, specifically by presenting to the buyer a sample or a model;
 - 3) it fails to lend itself to the purpose, which the buyer indicated to the seller at the conclusion of the contract, and the seller failed to make a reservation to such an intended use;
 - 4) it was released to the buyer incomplete.
- § 2. If the buyer is a consumer, the seller's representations shall be treated as tantamount to the assertions of the producer or its representative, a person who put the thing into circulation in the scope of its economic activity as well as a person who by placing its name, trademark or other distinctive designation on the thing sold purports to be a producer.
- § 3. The thing sold shall be deemed to have a physical defect also when it has been incorrectly assembled and set in motion, if such activities were performed by the seller or a third party, for which the seller bears liability, or by the buyer, who followed the instruction received from the seller.

Article 556².

If the buyer is a consumer, and the physical defect has been discovered before the lapse of a year after the release of the thing sold, it shall be deemed that the defect or its source existed at the time the peril passed to the buyer.

Article 556³.

The seller shall be liable towards the buyer if the thing sold is owned by a third party or if it is encumbered with a third party's right, and if the limitation in its use or disposal arises from a decision or ruling of a competent authority; where a right is sold, the seller is liable for the existence of such right (legal defect).

Article 556⁴.

With the exception of second sentence of the article 558 § 1, provisions regarding a consumer as referred to in this section shall apply to a natural person that concludes a contract directly related to their economic activity when from that contract it can be implied it is not of professional nature for that person as denoted especially in relation to subject matter of their economic activity disclosed according to provisions on Central Registration and Information on Business.

Article 556⁵.

Provisions of the articles 563 and 567 § 2 regarding a buyer shall not apply to a natural person that concludes a contract directly related to their economic activity when from that contract it can be implied it is not of professional nature for that person as denoted especially in relation to subject matter of their economic activity disclosed according to provisions on Central Registration and Information on Business.

Article 557.

- § 1. The sellers shall be released from liability on account of warranty for defects, if the buyer knew of the defect at the moment of the contract's conclusion.
- § 2. Where things specified as to their kind or things to come into existence in future are the object of sale, the seller shall be released from liability on account of warranty for defects if the buyer knew of the defect at the moment of the thing's release. This provision shall not apply when the buyer is a consumer.
- § 3. The seller shall not be liable towards the buyer who is a consumer for the fact that the thing sold fails to have the properties included in the public assertions set forth in article 556¹ § 2, if he was not aware of such assertions and, if judging reasonably, could not have known or if such assertions could not have had any influence on the buyer's decision to conclude the contract of sale, or if their content was rectified before the conclusion of the contract of sale.

Article 558.

- § 1. The parties may extend, limit or exclude liability on account of warranty for defects. If the buyer is a consumer, the limitation or the exclusion of liability on account of warranty for defects shall only be admissible in the cases provided for in specific provisions.
- § 2. The exclusion or limitation of liability on account of warranty for defects shall be invalid if the seller held back the defect deceitfully from the buyer.

Article 559.

The seller shall be liable on account of warranty for physical defects which existed at the time when the peril passed to the buyer or resulted from a reason inherent in the thing sold at that time.

Article 560.

- § 1. If the thing sold has defects, the buyer may make a declaration on reduction in price or a declaration on renunciation of the contract, unless the seller immediately and without excessive inconvenience for the buyer replaces the defective thing with a thing free from defects or where he removes the defect. This limitation shall not apply if the thing has already been replaced or repaired by the seller or the seller failed to meet his duty to replace the thing for the thing free from defects or to remove the

defect.

- § 2. If the buyer is a consumer, he may demand instead of the seller's offer to remove the defect to have the defective thing replaced with a thing free from defects, or instead of replacement he may demand to have the defect in the thing removed, unless restoring the thing to a condition consistent with the contract specification in the manner chosen by the buyer is impossible or would involve excessive costs in comparison with the manner proposed by the seller. At the assessment of excessive costs the value of the thing free from defects, its kind and significance of the established defect shall be considered as well as the inconvenience the buyer would incur if a different manner of satisfaction were chosen.
- § 3. The reduced price shall remain in such proportion to the price resulting from the contract as the value of the defective thing remains to the value of the thing without a defect.
- § 4. The buyer may not renounce the contract if the defect is insignificant.

Article 561.

- § 1. If the thing sold has a defect, the buyer may demand a replacement of such thing for a thing free from defects or removal of the defect.
- § 2. The seller is obliged to replace the defective thing for a thing free from defects or remove the defect in reasonable time without exposing the buyer to excessive inconvenience.
- § 3. The seller may refuse to comply with the buyer's request if restoring the defective thing to a condition consistent with the contract in a manner chosen by the buyer is impossible or in comparison to the second available manner of restoring the thing to a condition consistent with the contract would incur excessive costs. If the buyer is an entrepreneur, the seller may refuse to replace the thing for a thing free from defects or to remove the defect also when the costs of meeting this obligation exceed the price of the thing sold.

Article 561¹.

- § 1. If the defective thing has been assembled, the buyer may demand that the seller disassemble it and assemble it anew after it has been replaced with a thing free from defects or after the defect has been removed. Where the seller fails to comply with such obligation the buyer shall be entitled to perform such activities at the cost and peril of the seller.
- § 2. The seller may refuse to disassemble and assemble anew, if the cost of such activities exceeds the price of the thing sold.
- § 3. If the buyer is a consumer, he may demand that the seller disassemble and assemble the thing anew,

but he shall be obliged to cover in part the costs connected with it which exceed the price of the thing sold, or he may demand that the seller pay part of his costs of disassembling and assembling anew the thing to the extent of the price of the thing sold.

Article 561².

- § 1. The buyer who exercises his entitlements arising from the warranty for defects shall be obliged to deliver the defective thing to the place indicated in the contract of sale, and if such place has not been stipulated in the contract - to the place where the defective thing was released to the buyer.
- § 2. If owing to the kind of thing or the manner of its assembly the delivery of such thing to the buyer would be excessively difficult, the buyer shall be obliged to make the thing available to the seller at the place where it is situated.
- § 3. The provisions of § 1 and 2 shall apply to the return of the thing upon renunciation of the contract and upon replacement for a thing free from defects.

Article 561³.

Subject to article 561¹ § 2 and 3 the costs of replacing or repairing the thing shall be borne by the seller. Such costs shall comprise in particular the costs of disassembling and delivering the thing, labour costs, materials and assembling anew and setting the thing in motion.

Article 561⁴.

The seller shall be obliged to accept from the buyer the defective thing upon the replacement of such thing with a thing free from defects or the renunciation of the contract.

Article 561⁵.

If the buyer who is a consumer has demanded to have the thing replaced or to have the defect removed or if he has made a declaration on the reduction in price where he indicated the sum by which the price is to be reduced, and the seller failed to react to such demand within the time limit of fourteen days, it shall be deemed that he has accepted the demand as justified.

Article 562.

- § 1. If it had been reserved in a sale contract that the delivery of things sold is to be made in parts and the seller despite the buyer's demand failed to deliver, instead of defective things, the same amount of things free from defects, the buyer may renounce the contract with regard to the part of things which are to be subsequently delivered as well.
- § 2. (repealed).

Article 563.

- § 1. In the case of sale between entrepreneurs the buyer loses his entitlements on account of warranty for defects if he failed to examine the thing at a time and in a manner customary for things of that kind and if he failed to immediately notify the seller of the defect, and if the defect was only subsequently disclosed - if he failed to notify the seller immediately after discovering such defect.
- § 2. Sending notification of the defect prior to the lapse of the abovementioned time limit shall suffice to observe such time limit.

Article 564.

In the cases provided for in article 563, loss of entitlements on account of warranty for physical defects shall not arise despite the failure to observe time limits for the thing's examination by the buyer or for notifying the seller of the defect if the seller had known about the defect or assured the buyer that there were no defects.

Article 565.

If among the things sold only some are defective and may be separated from the things free from defects without any damage to both parties, the buyer's entitlement to renounce the contract shall be limited to defective things.

Article 566.

- § 1. If due to a physical defect of the thing sold the buyer has made a declaration on renunciation of the contract or reduction in price, he may demand the redress of the damage he incurred by concluding the contract unaware of the existence of the defect, even if the defect results from circumstances the seller is not liable for, and, in particular, he may demand the reimbursement of the costs of concluding the contract, the costs of collection, transport, bailment and insurance of the thing as well as the return of the outlays made to the extent he has not derived profits from such outlays. It shall not prejudice the provisions on a duty to redress the damage on general principles.
- § 2. The provision of § 1 shall apply respectively where the thing delivered instead of the defective thing is free from defects or where the seller has removed the defect.

Article 567.

- § 1. If the seller commits qualified delay in collecting the thing, the buyer may send the thing at the cost and peril of the seller.
- § 2. In the sale between entrepreneurs the buyer is entitled to, and where the seller's interest requires so - he is obliged to sell the thing while exercising due diligence, if there exists a peril of the thing's

deterioration. The buyer shall, whenever possible, notify the seller of his intention to sell the thing, in any case he shall send the seller notification immediately after such sale has been made. The buyer may also send back the thing to the seller at his cost and peril.

Article 568.

- § 1. The seller shall be liable on account of warranty for defects if the physical defect has been discovered prior to the lapse of two years, and when it comes to defects of immovable property - prior to the lapse of five years from the day when the thing was released to the buyer. If the buyer is a consumer and the object of sale is a second hand movable thing, the seller's liability may be limited, not less than to a year from the day when the thing was released to the buyer.
- § 2. A claim for removal of a defect or for replacement of the thing sold for one free from defects expires after one year from the day the defect is discovered. If the buyer is the consumer, the period of limitation may not end before the expiry of the deadlines specified in the first sentence of § 1.
- § 3. In the time limits set forth in § 2 the buyer may make a declaration on renouncing the contract or on reducing the price due to the defect of the thing sold. If the buyer has demanded to have the thing replaced with a thing free from defects or to have the defect removed, the course of the time limit to make a declaration on renouncing the contract or on reducing the price begins when the time limit to replace the thing or to remove the defect has lapsed to no avail.
- § 4. Where one of the entitlements on account of warranty for defects is pursued before a court of law or arbitration court, the time limit to exercise other entitlements vested in the buyer on that account shall be suspended until such proceedings are final and unappealable.
- § 5. The provision of § 4 shall apply accordingly to mediation proceedings, providing that the time limit to exercise other entitlements on account of warranty for defects vested in the buyer shall begin to run on the day when the court of law refused to validate the settlement made before a mediator or on the day of an ineffective conclusion of mediation.
- § 6. The lapse of the time limit to discover the defect shall not preclude exercising entitlements on account of warranty for defects if the seller held back the defect deceitfully.

Article 568¹.

If the use-by time limit for the thing specified by the seller or producer ends upon the lapse of two years from the day when the thing was released to the buyer, the seller shall be liable on account of warranty for defects for the thing's physical defects discovered before the lapse of such time limit. The provision of article 568 § 6 shall be applicable.

Article 569.

(repealed).

Article 570.

(repealed).

Article 571.

(repealed).

Article 572.

(repealed).

Article 572¹.

(repealed).

Article 573.

The buyer against whom the third party pursues claims regarding the thing sold shall be obliged to notify the seller of it immediately and call upon him to take part in the case. If the buyer has neglected to do so and a third party has obtained a ruling favourable for him, the seller shall be released from liability on account of warranty for legal defects insofar as his share in the proceeding was required to prove that the third party's claims were totally or partially groundless.

Article 574.

- § 1. If as a result of a legal defect of the thing sold the buyer has made a declaration on renunciation of the contract or a declaration on reduction in price, he may demand the redress of the damage incurred due to the fact that he concluded the contract being unaware of the defect, even if the damage resulted from the circumstances which the seller is not liable for, and in particular he may demand reimbursement of the costs of the contract's conclusion, the costs of collection, transportation, bailment and the thing's insurance as well as the return of the outlays made to such an extent as he did not derive profits from them and he did not receive the reimbursement of them from a third party, as well as the cost of the proceedings. It shall not prejudice the provisions concerning the duty to redress the damage on the basis of general principles.
- § 2. The provision of § 1 shall apply accordingly where the thing free from defects has been delivered instead of the defective thing.

Article 575.

If as a result of a legal defect in the thing sold the buyer is forced to release the thing to a third party, contractual exclusion of liability on account of warranty for defects shall not release the seller from the duty to reimburse the price received, unless the buyer knew that the seller's rights were disputable or that he acquired the thing at his own peril.

Article 575¹.

If the buyer avoided losing the acquired thing in full or in part or avoided the consequences of encumbering it for the benefit of a third party by paying an amount of money or by rendering another performance, the seller may release himself from liability on account of warranty for defects by reimbursing to the buyer the amount paid or a value of the performance rendered along with the interest and expenditures.

Article 576.

The provisions of article 568 § 2-5 shall apply to the exercise of entitlements on account of warranty for legal defects of the thing sold, however, the course of the time limit referred to in article 568 § 3 shall commence on the day when the buyer learned about the existence of the defect and where the buyer learned of the defect only owing to a court action instituted by a third party - from the day when the court ruling issued in the dispute with such third party has become final and unappealable.

SECTION II¹

A seller's claim regarding the defectiveness of the thing sold

Article 576¹.

- § 1. If the thing failed to have properties which it should have had pursuant to its intended use or pursuant to publicly made assertions, which are referred to in article 556¹ § 2, or it was released incomplete, the seller which incurred the costs on account of exercising the rights on account of warranty for physical defects of the thing by a consumer, may demand the redress of the damage sustained by the one of the previous sellers whose act or omission rendered the thing defective.
- § 2. The liability set forth in § 1 shall be borne by such previous seller who, while being aware of the thing's defect, failed to inform the buyer of such defect or prepared an instruction in respect of its assembly and setting in motion attached to the thing, if the defect arose due to the thing's assembly and setting in motion by the consumer pursuant to such instruction.
- § 3. Damages, referred to in § 1, comprise the reimbursement of the outlays necessary to exercise the consumer's entitlements, in particular connected with the replacement or removal of the defect in the

thing sold, its disassembly, transport and renewed assembly, and additionally an amount of money by which the price of the thing was decreased, as well as lost profits.

Article 576².

- § 1. The seller's claim shall be subject to limitation upon the lapse of six months. The period of limitation begins to run on the day the seller incurred costs as a result of exercising entitlements on account of warranty by the consumer, not later, however, than on the day when the seller should have performed its duties towards the consumer.
- § 2. If a court of law has dismissed the claim to redress the damage, holding that the defendant was not liable for rendering the thing defective, the course of limitation towards all other sellers may not end before the lapse of six months from the day when the decision on dismissing the lawsuit became final and unappealable.

Article 576³.

The provisions of this section shall not prejudice other provisions regarding the duty to redress the damage.

Article 576⁴.

The liability provided for in this section shall not be excluded or limited.

Article 576⁵.

Provisions regarding a consumer as referred to in this section shall apply to a natural person that concludes a contract directly related to their economic activity when from that contract it can be implied it is not of professional nature for that person as denoted especially in relation to subject matter of their economic activity disclosed according to provisions on Central Registration and Information on Business.

SECTION III

Guarantee at sale

Article 577.

- § 1. Issuance of a guarantee shall be effected upon making a guarantee statement, which sets forth the guarantor's obligations and the buyer's entitlements where the thing sold fails to have properties specified in such statement. A guarantee statement may be made in advertising.
- § 2. The guarantor's obligations may, in particular, involve reimbursing the price paid, replacing the thing or repairing it as well as providing other services.

- § 3. If a guarantee in respect of quality of the thing sold has been issued, it shall be deemed in the case of doubt that the guarantor is obliged to remove the physical defect in the thing or to provide a thing free from defects provided that such defects were revealed within the time limit set forth in the guarantee statement.
- § 4. Unless a different time limit is reserved, the time limit of a guarantee statement shall amount to two years from the day when the thing was released to the buyer.

Article 577¹.

- § 1. The guarantor shall formulate the guarantee statement in a clear and comprehensible manner and where the kind of information allows it - in a universally comprehensible graphic form. Where the thing is presented onto the market in the territory of the Republic of Poland, the guarantee statement shall be drawn up in the Polish language. The requirement to use the Polish language shall not apply to proper names, trademarks, trading names, designation of source as well as customarily used scientific and technical terminology.
- § 2. The guarantee statement shall contain basic information necessary to exercise entitlements under a guarantee, in particular the name and address of the guarantor or his representative in the Republic of Poland, its duration and territorial scope of guarantee protection, entitlements on account of discovery of defect, and a statement that the guarantee shall not exclude, limit or suspend the buyer's entitlements arising from the provisions on warranty for defects of the thing sold.
- § 3. Non-observance of the requirements set forth in § 1 and 2 shall not affect the validity of the guarantee statement and shall not deprive of the entitlements arising from them.

Article 577².

A person entitled under a guarantee may demand that the guarantor issue a guarantee statement recorded on paper or other permanent data carrier (guarantee document).

Article 577³.

The seller shall release to the buyer together with the thing sold a guarantee document and shall ensure that the designations on the thing are consistent with the data contained in the guarantee document as well as the condition of the seals and other safety features placed on the thing.

Article 578.

If it has not been otherwise reserved in the document of guarantee, liability on account of guarantee shall only include defects inherent in the thing sold.

Article 579.

- § 1. The buyer may exercise entitlements on account of warranty for physical defects independently of entitlements arising from the guarantee.
- § 2. Exercising entitlements on account of guarantee shall not affect the seller's liability on account of warranty.
- § 3. However, upon exercising by the buyer entitlements under a guarantee the course of limitation on account of warranty shall be suspended as of the day of the seller's notification of the defect. Such time limit shall run further from the day of the guarantor's refusal to perform the duties arising under the guarantee or the ineffective lapse of the time to perform them.

Article 580.

- § 1. A person who exercises entitlements resulting from guarantee should deliver the thing at the guarantor's expense to the place indicated in the document of quality guarantee or to the place where the thing has been released upon granting the guarantee unless it results from the circumstances that the defect should be removed at the place where the thing was at the moment of revealing the defect.
- § 2. The guarantor is obliged to carry out his duties within the time limit stipulated in the content of the guarantee statement, and where such time limit is not specified - immediately, but not later than within the time limit of fourteen days, counting from the day of the delivery of the thing by the party entitled under a guarantee, as well as to deliver the thing to him at his own expense to the place indicated in § 1.
- § 3. The peril of accidental loss or damage to a thing during the period of time from its release to the guarantor to its collection by the party entitled under guarantee shall be borne by the guarantor.

Article 581.

- § 1. If within the exercise of his duties the guarantor has delivered to the party entitled under guarantee a thing free from defects in place of the defective thing or if he has made essential repairs to the thing included in the scope of guarantee, the period of guarantee shall run anew from the moment of delivering the thing free from defects or the delivery of the repaired thing. If the guarantor has replaced a part of the thing, the above provision shall apply accordingly to the replaced part.
- § 2. In other cases the period of guarantee shall be extended by the period during which the party entitled under guarantee has not been able to use the thing under guarantee due to its defect.

Article 582.

(repealed).

SECTION IV
Special kinds of sale

Chapter I
Sale by instalments

Article 583.

- § 1. A sale by instalments is a sale of a movable thing to a natural person, carried out within the scope of business's activity at a price payable in specified instalments, if according to the contract the thing is to be released to the buyer prior to the full payment of the price.
- § 2. Drawing bills of exchange by the buyer to cover or to secure the purchase price shall not exclude the application of the present chapter.

Article 584.

- § 1. The seller's liability on account of warranty for defects of the thing sold by instalments may be excluded or limited by a contract only in cases provided for by specific provisions.
- § 2. The contract may not make it difficult to the buyer to exercise the entitlements on account of warranty for defects.

Article 585.

The buyer may pay instalments prior to the date of payment. In the case of an early payment the buyer may deduct the amount that corresponds to an interest rate which is in force for a given type of credit at the National Bank of Poland.

Article 586.

- § 1. A reservation of an immediate maturity of the unpaid price in the case of a breach of time limits of respective instalments shall be effective only where it was made in writing at the contract's conclusion and the buyer is in qualified delay in payment of at least two instalments and the total amount of outstanding instalments exceeds one-fifth of the price agreed on.
- § 2. The seller may renounce the contract for the reason of non-payment of the price only where the buyer is in qualified delay in payment of at least two instalments and the total amount of outstanding instalments exceeds one-fifth of the price agreed on. In such a case the seller shall set the buyer an appropriate additional period of time to pay the arrears with a warning that where the period of time

determined lapses to no avail he shall be entitled to renounce the contract.

§ 3. Contractual provisions less advantageous to the buyer shall be invalid. The provisions of the present article shall apply in place of them.

Article 587.

The provisions of the present chapter shall not apply to sale by instalments if the buyer has purchased the thing within the scope of his enterprise's activity.

Article 588.

§ 1. The provisions of the present chapter shall apply accordingly in cases where a movable thing is being sold to a natural person who avails himself of a credit granted by a bank for that purpose, if the credit is to be repaid in instalments and the thing has been released to the buyer prior to the complete repayment of the credit.

§ 2. The bank which grants the credit shall, in order to secure its claims, be entitled to a statutory right of pledge on the thing sold until the thing is at the buyer's place.

§ 3. Liability on account of warranty for the thing's defects shall be borne only by the seller.

Chapter II

Reservation of ownership rights of the thing sold. Sale on approval

Article 589.

If the seller has reserved himself the ownership rights in a movable thing which was sold until the payment of the price in full, in the case of doubt, it shall be construed that the transfer of ownership rights in the thing took place under a condition precedent.

Article 590.

§ 1. If the thing is released to the buyer, the reservation of ownership rights shall be evidenced in writing. It shall be effective towards the buyer's creditors if the letter bears a certified date.

§ 2. (repealed).

Article 591.

In the case of ownership right's reservation, the seller when collecting the thing may demand adequate remuneration for the wear and tear or damage to the thing.

Article 592.

- § 1. Sale on approval or with a reservation of the thing's examination by the buyer shall in the case of doubt be construed to have been concluded under such a condition precedent that the buyer will regard the object of sale as fit. In the absence of the date of approval or examination, the seller may set for the buyer an appropriate time limit.
- § 2. If the buyer collected the thing and failed to make a declaration prior to the lapse of the time limit agreed on by the parties or set by the seller, it shall be construed that he regarded the object of sale as fit.

Chapter III

Right of repurchase

Article 593.

- § 1. The right of repurchase may be reserved for a period of time not exceeding five years; a longer period of time shall be shortened to five years.
- § 2. The right of repurchase shall be exercised by the seller's declaration made to the buyer. If the contract's conclusion required observance of the special form, the declaration on the exercise of the right of repurchase shall be made in the same form.

Article 594.

- § 1. Upon the exercise of the right of repurchase the buyer shall be obliged to transfer the ownership of the thing bought back to the seller against reimbursement of the price and the costs of sale, as well as the reimbursement of the expenditures; however, the buyer shall be entitled to the reimbursement of the expenditures which proved not to be necessary only within the limits of an existing increase of the thing's value.
- § 2. If the repurchase price set out in the contract of sale exceeds the price and the costs of sale, the seller may demand a reduction in the repurchase price to the level of the thing's value at the moment of exercising the right of repurchase, however, not below the amount calculated according to the preceding paragraph.

Article 595.

- § 1. The right of repurchase shall be inalienable and indivisible.
- § 2. If there are several parties entitled to repurchase and some of them do not exercise this right, the

others may exercise it in full.

Chapter IV

Right of preemption

Article 596.

If a statute or a juridical act reserves the priority of purchase of a specified thing to one party in the case where the other party sells the thing to a third party (right of preemption), the provisions of the present chapter shall apply in the absence of specific provisions.

Article 597.

- § 1. The thing which the right of preemption refers to, may be sold to a third party only on condition that the party entitled to the right of preemption does not exercise his right.
- § 2. The right of preemption shall be exercised by a declaration made to the obliged party. If the conclusion of the contract which the right of preemption refers to requires observance of a special form, the declaration on the exercise of the right of preemption shall be made in the same form.

Article 598.

- § 1. The party obliged on account of the right of preemption should immediately notify the entitled party about the content of the sale contract concluded with the third party.
- § 2. The right of preemption regarding immovable property may be exercised within a month and the right of preemption regarding other things - within a week from receiving notification about the sale, unless other time limits were reserved.

Article 599.

- § 1. If the party obliged on account of the right of preemption sold the thing to the third party unconditionally or where it did not notify the entitled party about the sale or where he provided the latter with information on the essential provisions of the contract contrary to the facts he shall be liable for damage arising from it.
- § 2. However, if the State Treasury or an entity of local government, a co-owner or a tenant are entitled to the right of preemption by virtue of a statute, a sale performed unconditionally shall be invalid.

Article 600.

- § 1. By exercising the right of preemption a contract of the same content as the one concluded by the

obliged party with a third party shall be effective between the obliged party and the entitled party, unless a specific provision provides otherwise. However, the provisions of the contract with the third party aimed at thwarting the right of preemption shall be ineffective towards the entitled party.

- § 2. If a contract of sale concluded with a third party provides for additional performances which the party entitled to preemption is not in a position to render, it may exercise its right by paying the value of these performances. However, where the State Treasury or an entity of local government are entitled to the right of preemption by virtue of statute, such additional performance shall be deemed not to have been reserved.

Article 601.

If according to the contract of sale concluded with a third party the price is to be paid at a later date, the party entitled to preemption may avail itself of the date only where it secures the payment of the price. The provision shall not apply where a state-owned organizational entity is the entitled party.

Article 602.

- § 1. The right of preemption shall be inalienable. It shall be indivisible, unless specific provisions allow partial exercise of that right.
- § 2. If there are several parties entitled and some of them do not exercise the right of preemption, the others may exercise it in full.

TITLE XII

Exchange

Article 603.

By the contract of exchange each party undertakes to transfer to the other party the ownership of a thing in exchange for an obligation to transfer the ownership of the other thing.

Article 604.

The provisions on sale shall apply to exchange accordingly.

TITLE XIII

Delivery

Article 605.

By the contract of delivery the delivering party undertakes to produce things specified as to their kind only and to deliver them in parts or periodically and the receiving party undertakes to collect the things and to pay the price.

Article 605¹.

(repealed).

Article 606.

The contract of delivery should be evidenced in writing.

Article 607.

If raw materials or materials indispensable for the production of the object of delivery and which are delivered by the receiving party are not suitable for producing the delivery's object properly, the delivering party shall be obliged to notify the receiving party about it immediately.

Article 608.

§ 1. If it has been reserved in the contract that the things ordered are to be produced from raw materials of a specified kind or origin, the delivering party should notify the receiving party about them being ready for production and he shall be obliged to enable the receiving party to control their quality.

§ 2. If it has been reserved in the contract that the things ordered are to be produced in a specified manner, the delivering party shall be obliged to enable the receiving party to control the production process.

Article 609.

The delivering party shall be liable on account of warranty for physical defects of things delivered also where production of the things took place in a manner specified by the receiving party or in accordance with the technological documentation supplied by the latter, unless the delivering party, despite having observed due diligence, could not have detected imperfection of the production's manner or of the technological documentation or that the receiving party, despite having been sensitized to the above-mentioned imperfections by the delivering party, persisted in the production manner or the technological documentation provided by him.

Article 610.

If the delivering party delays in commencing to produce the object of the delivery or its respective parts to such an extent that it is unlikely that he delivers it on the agreed time, the receiving party may renounce the contract without setting an additional time limit prior to the lapse of the time limit for the delivery of its

object.

Article 611.

If during the production process of the delivery object it transpires that the delivering party produces the object in an imperfect manner or in a manner contrary to the contract, the receiving party may call upon the delivering party to change the manner of production, setting an appropriate time limit for that purpose and he may renounce the contract when the set time limit elapses to no avail.

Article 612.

In matters not governed by the provisions of the present title, the provisions on sale shall apply accordingly to the rights and duties of the delivering party and the receiving party.

TITLE XIV

Pre-contracted deliveries of agricultural produce

Article 613.

- § 1. By the contract of delivery of pre-contracted agricultural produce the agricultural producer undertakes to produce and to deliver to the pre-contracting party a specified amount of agricultural produce of a determined kind and the pre-contracting party undertakes to collect that produce within the time limit agreed on, pay the price agreed on and perform specified additional performance if the contract or specific provisions provide for a duty to render such performance.
- § 2. The amount of agricultural produce may be specified in the contract according to the area which the produce is to be collected from.
- § 3. The provisions regarding sale in accordance with the fixed, maximum, minimum and the resultant prices shall apply accordingly.
- § 4. The agricultural producer is also understood as a group of agricultural producers or their association, and an agricultural cooperative within the meaning of the statute of 4th October 2018 on agricultural cooperatives (Journal of Laws item 2073) or their association.

Article 614.

If the object of the pre-contracted delivery of agricultural produce is to be produced at a farm run jointly by several persons, the liability of those persons towards the pre-contracting party shall be joint and several.

Article 615.

The pre-contracting party's additional performances may be in particular:

- 1) providing the producer with a possibility to acquire certain means of production and to obtain financial aid;
- 2) agrotechnological and zootechnical aid;
- 3) pecuniary bonuses;
- 4) non-cash bonuses.

Article 616.

The contract of delivery of pre-contracted agricultural produce shall be concluded in writing.

Article 617.

The pre-contracting party shall be entitled to supervise and control the performance of the contract of delivery of pre-contracted agricultural produce by the producer.

Article 618.

The producer's performance shall be rendered at the place where the pre-contracted products are being produced, unless something else results from the contract.

Article 619.

(repealed).

Article 620.

If the object of the pre-contracted deliveries of agricultural produce is divisible, the pre-contracting party may not refuse to accept partial performance, unless it has been reserved otherwise.

Article 621.

The provisions on warranty at sale shall apply accordingly to warranty for physical and legal defects of the object of the contract of pre-contracted deliveries of agricultural produce and for the production means supplied by the pre-contracting party to the producer including such a change that the right to renounce the contract due to a physical defect of the object of the pre-contracted deliveries of agricultural produce shall be vested in the pre-contracting party only where the defects are substantial.

Article 622.

§ 1. If, owing to the circumstances which neither of the parties is liable for, the producer is unable to deliver the object of the pre-contracted deliveries of agricultural produce, he shall only be obliged to

reimburse the advance payments and bank credits.

- § 2. The parties may reserve in a contract the terms of the reimbursement of the advance payments and credits more favourable for the producer.

Article 623.

If a contract of delivery of pre-contracted agricultural produce imposes upon the producer a duty to report within a specified time his inability to deliver the object of the contract owing to the circumstances that the producer is not liable for, non-compliance with that duty due to the producer's fault shall exclude the possibility for him to invoke such circumstances. This shall not, however, apply where the pre-contracting party has known of the above-mentioned circumstances or where they have been commonly known.

Article 624.

- § 1. Reciprocal claims of the producer and of the pre-contracting party shall be subject to limitation upon the lapse of two years from the day of the producer's performance and where the producer's performance has not been rendered - from the day when it should have been rendered.
- § 2. If the producer's performance has been rendered in parts, the limitation period shall run from the day when the last partial performance was rendered.

Article 625.

If following the conclusion of the contract of delivery of pre-contracted agricultural produce, the producer's farm passed into somebody else's possession, the rights and duties arising from this contract shall pass to the new possessor. However, it shall not regard the case where the passing of possession was a result of non-gratuitous acquisition of the farm and the acquiring party has not known and despite exercising due diligence could not have learned about the existence of the contract of delivery of pre-contracted agricultural produce in question.

Article 626.

- § 1. If following the conclusion of the contract of delivery of pre-contracted agricultural produce the producer contributed the farm in his possession as his contribution to an agricultural production cooperative, the cooperative shall enter the producer's rights and duties, unless the state of the farm contributed provides an obstacle to that.
- § 2. If the state of the producer's farm at the moment of him becoming a member of the cooperative does not enable it to perform the contract of delivery of pre-contracted agricultural produce, the contract shall expire and the producer shall be obliged to reimburse the advance payments and bank credits received; he shall be obliged to reimburse other benefits resulting from that contract to the extent to

which he has not used them for the purpose of the contract's performance.

§ 3. If the producer after having become a member of the cooperative collects individually the pre-contracted crops, he shall bear the exclusive liability for the performance of the contract of the delivery of pre-contracted agricultural produce.

TITLE XV

A project contract

Article 627.

By a project contract the party accepting the order undertakes to complete a specified project and the party ordering the project undertakes to pay him remuneration.

Article 627¹.

(repealed).

Article 628.

§ 1. Remuneration for completing the specific project may be defined by the indication of the basis for its calculation. If the parties have neither determined the remuneration nor indicated the basis for its calculation, in the case of doubt, it shall be considered that they intended ordinary remuneration for the specific project of that kind. If remuneration may not be established in such a way either, the remuneration due shall correspond to the justified input of work and other expenditures made by the party accepting the order.

§ 2. The provision regarding sale at fixed, maximum, minimum and resultant prices shall apply accordingly.

Article 629.

If the parties have determined remuneration on the basis of the listed planned operations and the expected costs (remuneration by cost estimation) and in the process of the specified project's performance an order of a competent state organ changed the amount of the prices or rates which had previously been in force in the cost estimation calculations, either party may demand a respective change of the remuneration agreed upon. This, however, shall not apply to the amounts due for materials or rates which were paid before the change of the prices and rates.

Article 630.

- § 1. If in the process of performing of the specified project it proves necessary to carry out operations which were not envisaged on the list of the planned operations as the basis for the calculation of the remuneration based on cost estimation, and if the list was drawn up by the ordering party, the party accepting the order may demand an appropriate increase in the remuneration agreed on. If the list of the planned operations was drawn up by the party accepting the order he may demand an increase in the remuneration only provided that despite having exercised due diligence he could not have expected the necessity of additional operations.
- § 2. The party accepting the order may not demand the increase in the remuneration if he has performed the additional operations without obtaining the ordering party's consent.

Article 631.

Where in the case provided for in the two preceding articles, a necessity to substantially increase the remuneration based on cost estimation would occur, the party ordering the project may renounce the contract, yet he should do it immediately and he should pay to the party accepting the order an appropriate part of the remuneration agreed on.

Article 632.

- § 1. If the parties have agreed on lump-sum remuneration, the party accepting the order may not demand the increase in the remuneration even if it was impossible, at the time of concluding the contract, to fully predict the volume or the cost of the operations to be performed.
- § 2. However, if as a result of a change of the circumstances which might not have been predicted, the completion of the project would jeopardise the party accepting the commission with a glaring loss, a court of law may increase the lump sum or terminate the contract.

Article 633.

If the materials for the project are delivered by the party ordering the project, the party accepting the order should use them in an appropriate manner and provide an account of their use as well as return the part which has not been used up.

Article 634.

If the materials for the specific work delivered by the party ordering the project prove not suitable for completing the specific project appropriately or if there arise other circumstances which may prevent the appropriate completion, the party accepting the order should notify the party ordering the project of it immediately.

Article 635.

If the party accepting the order delays in the commencement or finishing the specific project to such an extent that it is not likely that he is able to complete it in time agreed on, the party ordering the project may renounce the contract without setting an additional time limit even prior to the lapse of the time limit for completing the specific project.

Article 636.

- § 1. If the party accepting the order is performing the specific project in an inadequate manner or in a manner inconsistent with the contract, the party ordering the project may call upon him to change the manner of its performance and set for him an appropriate time limit for that purpose. If the set time limit elapses to no avail the party ordering the project may renounce the contract or he may entrust another person with the correction or the further performance of the specific project, at the cost and risk of the party accepting the order.
- § 2. If the party ordering the project has supplied the material himself, in the case of renouncing the contract or entrusting another person with performing the specific project, he may demand to have the material returned and the commenced project released.

Article 636¹.

Where a consumer has ordered a specific project being a movable thing, the provisions of articles 543¹, 546¹ and 548 shall apply.

Article 637.

(repealed).

Article 638.

- § 1. The provisions on warranty at sale shall apply to liability for defects of a specific project. Liability of the party accepting the order shall be excluded where the defect of the specific project arose from a reason inherent in the material supplied by the ordering party.
- § 2. Where the ordering party has been issued with a guarantee for the completion of a specific project, the provisions on guarantee at sale shall apply accordingly.

Article 639.

The party ordering the project may not refuse the payment of the remuneration despite the specific project not having been completed if the party accepting the order was ready to complete it but he was prevented from completing it for reasons due to the party ordering the project. However, in such a case, the party

ordering the project may deduct what the party accepting the order has saved for not having completed the specific project.

Article 640.

If the cooperation of the party ordering the project is required for the completion of the specific project and there is no such cooperation, the party accepting the order may set for the party ordering the project an appropriate time limit with a warning that where the time limit lapses to no avail, he will be entitled to renounce the contract.

Article 641.

- § 1. A peril of accidental loss or damage to the material for the specific project to be completed shall be borne by the supplier of the material.
- § 2. If the specific project has been destroyed or damaged due to the defects of the material supplied by the party ordering the project or due to the fact that the project has been completed in accordance with the instructions of this party, the party accepting the order may demand the remuneration agreed on for the work performed or its appropriate part, if he had warned the party ordering the project of the peril of destruction or damage to the specific project.

Article 642.

- § 1. In the absence of a different agreement, the party accepting the order shall be entitled to remuneration at the moment of delivery of the specific project.
- § 2. If the specific project is to be delivered in parts and the remuneration has been calculated separately for each part, the remuneration shall be due upon rendering each partial performance.

Article 643.

The party ordering the project shall be obliged to collect the specific project which the party accepting the order releases to him according to his obligation.

Article 644.

The party ordering the project may at any time, until the specific project is completed, renounce the contract while paying the remuneration agreed on. However, in such a case, the party ordering the project may deduct what the party accepting the order has saved due to its failure to complete the specific project.

Article 645.

- § 1. The project contract whose completion depends on personal attributes of the party accepting the order

shall be terminated due to his death or inability to work.

§ 2. If the party accepting the order owned the material and the specific project which has been completed in part given the intended purpose of the contract is of value to the party ordering the project, the party accepting the order or his heir may demand that the party ordering the project collect the material in such a state in which it is, in exchange for the payment of its value and of an appropriate part of the remuneration.

Article 646.

Claims arising from the project contract shall be subject to limitation upon the lapse of two years from the day of the specific project's delivery; and if the specific project has not been delivered - from the day on which it had to be delivered according to the contract's content.

TITLE XVI

Construction works contract

Article 647.

By a construction works contract the contractor undertakes to complete the object, envisaged in the contract and made according to a project and the principles of technical knowledge and the investor undertakes to perform the activities required by relevant provisions which are connected with the preparation of works, in particular to hand over the construction site and to provide the project as well as to accept the object and to pay the remuneration agreed on.

Article 647¹.

§ 1. The investor is jointly and severally liable with a contractor (general contractor) for the payment of remuneration due to subcontractor for the construction works performed by the latter, that have been previously notified to the investor in details either by the contractor or the subcontractor prior to commencing the works, unless within 30 days from the receiving a suitable notification the investor has objected towards the subcontractor or the contractor in regard to performing such works by the subcontractor.

§ 2. The notification referred to in § 1 is not required where the investor and the contractor have determined in a contract, made in a written form on pain of invalidity, a precise subject of construction works that shall be performed by a given subcontractor.

§ 3. The investor is liable for the payment of subcontractor's remuneration in amount contractually determined between the contractor and the subcontractor unless such remuneration exceeds the

contractor's remuneration for performing the construction works determined in details either in the notification or in the contract referred to in § 1 or § 2. In such a case the investor's liability for the payment of subcontractor's remuneration shall be limited to the amount equal to contractor's remuneration due for the construction works determined in details either in the notification or in the contract referred to in § 1 or § 2.

- § 4. The notification and the objection referred to in § 1 require written form on pain of invalidity.
- § 5. Provisions § 1-4 shall apply accordingly where there is joint and several liability of the investor, the contractor and the subcontractor that entered into a contract with further subcontractor, for the payment of further subcontractor's remuneration.
- § 6. Any contractual provisions contrary to the content of § 1 -5 shall be invalid.

Article 648.

- § 1. The construction works contract shall be evidenced in writing.
- § 2. The documentation required by the appropriate provisions shall constitute a component part of the contract.
- § 3. (repealed).

Article 649.

In the case of doubt it shall be deemed that the contractor has undertaken all the works included in the specification which constitutes a component part of the contract.

Article 649¹.

- § 1. The investor shall grant to the contractor (general contractor) a guarantee of payment for the construction works, hereinafter referred to as 'the guarantee of payment' for the purpose of securing a timely payment of the agreed remuneration for carrying out construction works.
- § 2. A bank guarantee or an insurance guarantee as well a bank's letter of credit or a bank's suretyship granted at the investor's order shall be the guarantee of payment.
- § 3. The parties shall incur in equal parts the documented costs of securing a receivable.

Article 649².

- § 1. One may not, through a juridical act exclude or limit the right of the contractor (the general contractor) to demand a guarantee of payment from the investor.
- § 2. The investor's renunciation of the contract caused by the contractor's (general contractor's) demand to be provided with a guarantee of payment shall be ineffective.

Article 649³.

- § 1. The contractor (the general contractor) of the construction works may at any time demand from the investor a guarantee of payment to an extent of a potential claim on account of the remuneration resulting from the contract as well as on account of works which will be additional or necessary to perform the contract, and which were approved in writing by the investor.
- § 2. Granting the guarantee of payment shall not prejudice the right to demand a guarantee of payment to an aggregate amount set out in § 1.

Article 649⁴.

- § 1. If the contractor (the general contractor) does not receive the guarantee he has demanded within the time limit he has set, not shorter than 45 days, he shall be entitled to renounce the contract by the contractor's fault with effect from the day of the renunciation.
- § 2. Lack of the guarantee of payment which has been requested shall constitute an obstacle in completing construction works for reasons related to the investor.
- § 3. The investor may not refuse the payment of the remuneration despite a failure to complete the construction works if the contractor (general contractor) has been ready to complete them but encountered an obstacle for reasons related to the investor. However, in such a case the investor may deduct what the contractor (the general contractor) has saved due to the failure to complete the construction works.

Article 649⁵.

The provisions of articles 649¹-649⁴ shall be applied to the contract concluded between the contractor (general contractor) and further contractors (subcontractors).

Article 650.

(repealed).

Article 651.

If the documentation provided by the investor, the construction site, machines or installations are not suitable for performing works appropriately or if other circumstances occur which may disturb performing works properly, the contractor shall notify the investor of it immediately.

Article 652.

If the contractor has taken over the construction site by official protocol, he shall be liable pursuant to the

general principles for the damage occurring on the site until the moment of delivering the object.

Article 653.

(repealed).

Article 654.

In the absence of a different contractual provision the investor shall at the contractor's request be obliged to accept the works which have been performed in part, as they are being completed, while paying the appropriate part of the remuneration.

Article 655.

Should a completed object be destroyed or damaged as a result of defectiveness of materials, machines or installations supplied by the investor or as a result of having performed the works to the investor's instructions, the contractor may request the remuneration agreed on or its relevant part, if he had warned the investor of the peril of the object's destruction or damage or if despite having observed due diligence, he could not have detected the defectiveness of the materials, machines or installations supplied by the investor.

Article 656.

§ 1. The provisions on the contract of project contract shall apply accordingly to the effects of the contractor's delay in commencing the works or in the object's completion or of performing the works in a manner which was defective or contrary to the contract; to the warranty for the object's defects as well as to the investor's entitlement to renounce the contract prior to the object's completion.

§ 2. (repealed).

Article 657.

The entitlement to renounce the contract by the contractor or by the investor may be limited or excluded by specific provisions.

Article 658.

The provisions of the present title shall apply accordingly to a contract regarding repairs of a building or a structure.

TITLE XVII

Lease and tenancy

SECTION I

Lease

Chapter I

General provisions

Article 659.

- § 1. By the contract of lease the lessor undertakes to give to the lessee the thing for use for a definite or an indefinite period of time and the lessee undertakes to pay the lessor the agreed rent.
- § 2. The rent may be determined in cash or in performances of other kind.

Article 660.

A contract of lease of immovable property or of premises for a period of time longer than a year shall be concluded in writing. If the form is not observed, the contract shall be deemed to have been concluded for an indefinite period of time.

Article 661.

- § 1. The lease concluded for a period of time longer than ten years shall, following the lapse of that time limit, be deemed to have been concluded for an indefinite period of time.
- § 2. The lease concluded between entrepreneurs for a period of time longer than thirty years shall, following the lapse of the period of time, be deemed to have been concluded for an indefinite period of time.

Article 662.

- § 1. The lessor shall release the thing to the lessee in a state appropriate for the purpose it was leased and maintain it in such a state through the entire period of lease.
- § 2. Petty expenditures connected with an ordinary use of thing shall encumber the lessee.
- § 3. If the thing has been destroyed due to the circumstances which the lessor was liable for, the lessor shall have no obligation of restitution to the former state.

Article 663.

If the thing during the lease period requires repairs which encumber the lessor and without which the thing is not fit for the agreed use, the lessee may set for the lessor an appropriate time limit to carry out the

repairs. Where such a time limit elapses to no effect, the lessee may carry out the necessary repairs at the lessor's expense.

Article 664.

- § 1. If the thing has defects which limit its fitness for the agreed use, the lessee may demand that the rent for the time of the defects' duration to be reduced accordingly.
- § 2. Where the thing upon its release to the lessee had defects which made it impossible to use it in the way provided for by the contract, or where such defects arose at a later time, and the lessor, despite having been notified, has failed to make them good within an appropriate time or where the defects are impossible to be made good, the lessee may terminate the lease without notice.
- § 3. The lessee shall neither be entitled to a claim for reduction of rent due to defects of the thing leased nor to an entitlement to terminate the lease without notice if he knew of the defects upon the conclusion of the contract.

Article 665.

Where a third party asserts against the lessee any claims which concern the thing, the lessee shall notify the lessor about it immediately.

Article 666.

- § 1. Throughout the entire period of the lease the lessee shall use the thing in a manner provided for in the contract and where the contract does not determine it - in a manner that corresponds to its nature and its intended use.
- § 2. Where during the lease period a need for repairs arises which encumbers the lessor, the lessee shall inform the latter about it immediately.

Article 667.

- § 1. Without the consent of the lessor the lessee may not change the thing contrary to the contract or to the intended use of the thing.
- § 2. Where the lessee uses the thing in a manner contrary to the contract or to the intended use of the thing and if despite a warning he fails to use it in such a manner or if he neglects the thing to such an extent that it is exposed to loss or damage, the lessor may terminate the lease without observing the term of notice.

Article 668.

- § 1. If the contract does not prohibit it to the lessee, he may sublease all or part of the thing to a third party

or give it for gratuitous use to it. If the thing is given to a third party, the lessee as well as the third party shall be liable towards the lessor for the thing to be used according to the duties arising from the contract of lease.

§ 2. A relation arising from the sublease contract or the gratuitous use contract executed by the lessee shall terminate upon the end of the lease relation at the latest.

Article 669.

§ 1. The lessee shall be obliged to pay the rent within the time limit agreed on.

§ 2. If the term for payment of the rent has not been determined in the contract, the rent shall be paid in advance in the following manner: where the lease is to last no longer than a month - for the entire lease period, and where the lease is to last longer than a month or where the contract was concluded for an indefinite period of time - on a monthly basis, by the tenth day of each month.

Article 670.

§ 1. In order to secure the payment of rent as well as to secure additional performances which the lessee is in arrears with for no more than one year, the lessor shall be entitled to a statutory right of pledge on the lessee's movable property brought into the object of the lease, unless such things are not subject to attachment.

§ 2. (repealed).

Article 671.

§ 1. A statutory right of pledge that the lessor is entitled to shall expire when the things encumbered with the pledge are removed from the object of the lease.

§ 2. The lessor may oppose the removal of the things that are encumbered with the pledge and keep them at his own risk until the outstanding rent is either paid or secured.

§ 3. If the things that are encumbered with the pledge are removed by virtue of a state organ's order, the lessor shall retain the statutory right of pledge if he reports it to the organ which ordered their removal before the lapse of three days.

Article 672.

If the lessee fails to pay the rent in at least two complete periods of payment, the lessor may terminate the contract of lease without notice.

Article 673.

- § 1. Where the period of lease has not been definite, the lessor as well as the lessee may terminate the lease while observing the terms of notice set out in the contract and, in its absence, while observing the statutory time limits.
- § 2. The following are the statutory time limits for the termination of lease by notice: where the rent is payable in time intervals longer than a month, the lease may be terminated three months in advance at the end of a calendar quarter of a year; where the rent is payable on a monthly basis - one month in advance at the end of a calendar month; where the rent is payable in shorter time intervals - three days in advance; where the rent is payable on a daily basis - one day in advance.
- § 3. If the lease period has been definite, the lessor as well as the lessee may terminate the lease by notice in the cases set out in the contract.

Article 674.

If the lessee, after the lapse of the time limit set out in the contract or in the notice of termination, continues to use the thing with the consent of the lessor, it shall be considered, in the case of doubt, that the lease was extended for an indefinite period of time.

Article 675.

- § 1. Upon the lapse of the lease the lessee shall be obliged to return the thing in a non-deteriorated state; however he shall not be liable for the wear and tear of the thing resulting from its correct use.
- § 2. If the lessee has subleased or has given the thing for gratuitous use to the other person, the above-mentioned duty shall also be borne by that person.
- § 3. It is presumed that the thing was released to the lessee in a good state of repair and fit for the agreed use.

Article 676.

If the lessee has improved the thing, the lessor, unless agreed otherwise, may at his discretion either retain the improvements while paying the amount corresponding to their value at the moment of its return or he may demand restitution to the former state.

Article 677.

The lessor's claims against the lessee for the redress of the damage caused by an impairment or deterioration of the thing as well as the lessee's claims against the lessor for the reimbursement of expenditures on the thing or for the reimbursement of the overpaid rent shall be subject to limitation upon the lapse of a year from the day of the thing's return.

Article 678.

- § 1. In the case of alienation of the thing leased during the lease, the acquiring party shall enter the lease relation in place of the alienating party; the acquiring party may, however, terminate the contract of lease by notice while observing its statutory time limits.
- § 2. The acquiring party shall not be entitled to the above termination of the lease by notice if the contract of lease has been concluded for a definite period of time while observing the written form and with a certified date, as well as the thing has been released to the lessee.

Article 679.

- § 1. If owing to the termination of the lease by notice by the party that acquired the leased thing the lessee is forced to return the thing earlier than he would have been obliged to under the lease contract, he may demand the redress of the damage from the alienating party.
- § 2. The lessee should notify the alienating party immediately on the acquiring party's premature termination of the contract by notice; otherwise the alienating party shall be entitled to all the defences towards the lessee that the latter has not raised and whose raising would result in the ineffectiveness of termination by notice on the acquiring party's side.

Chapter II
Lease of premises

Article 680.

The provisions of the preceding chapter with the observance of the below provisions shall apply to the lease of premises.

Article 680¹.

- § 1. Spouses are the premises' lessees regardless of the property relations existing between them, if entering into the lease relation of the premises that is to serve the satisfaction of the accommodation needs of the family they started occurred in the course of their marriage. If the spouses have separate estates in matrimony or separate marital property with equalization of their gained property the provisions on statutory joint property shall apply accordingly.
- § 2. The cessation of joint property in the course of marriage shall not cause the cessation of a joint lease of the premises which are to serve the satisfaction of the accommodation needs of the family. A court of law, applying accordingly the provisions on the establishment of the system of separate marital property in a ruling may for important reasons at the request of one of the spouses sever the joint lease

of the premises.

Article 681.

Minor expenditures which burden the lessee of the premises are in particular: minor repairs of flooring, doors and windows, the painting of walls, floorings and the internal side of the entrance doors, as well as petty repairs of the technical system and installations ensuring the use of light, heating of premises, inflow and outflow of water.

Article 682.

If the defects of the premises leased are of such a kind that they threaten the health of the lessee, member of his household or persons employed by him, the lessee may terminate the lease without notice, even though at the moment of concluding the contract he knew of the defects.

Article 683.

A lessee of premises should abide by the home order insofar as it is not contrary to entitlements resulting from the contract; he should also show consideration to the needs of other inhabitants and neighbours.

Article 684.

The lessee may install electrical lighting, gas, telephone, radio and other similar appliances unless the manner of their installation is contrary to the provisions in force or it threatens the premises' security. If the lessor's cooperation is required for the installation of appliances, the lessee may demand such cooperation against the reimbursement of the costs resulting from it.

Article 685.

If a lessee of the premises violates the binding home order in a glaring or persistent manner or by his improper behaviour renders it burdensome to use other premises in the building, the lessor may terminate the lease without notice.

Article 685¹.

A lessor of the premises may increase the rent by giving notice regarding the former amount of rent one month in advance at the latest, at the end of a calendar month.

Article 686.

The statutory right of pledge of the lessor who leases out residential premises shall extend to movable things brought onto the premises which belong to the lessee's family members who live with him.

Article 687.

If a lessee of the premises commits qualified delay in payment of the rent for at least two full payment periods and the lessor intends to terminate the lease without notice, the latter should forewarn the lessee in writing, granting him at the same time an additional period of one month to pay the outstanding rent.

Article 688.

If the duration of premises' lease has not been definite and the rent is payable on a monthly basis, the lease may be terminated by notice three months ahead of the end of a calendar month.

Article 688¹.

- § 1. Persons of legal age living with the lessee on a permanent basis shall be jointly and severally liable for the payment of rent and other due charges, except for his dependent descendants of legal age who are unable to support themselves.
- § 2. Liability of persons referred to in § 1 shall be limited to the amount of the rent and other charges due for the period of their permanent living on the premises.

Article 688².

Without consent of the lessor the lessee may neither give the premises or their part for a gratuitous use nor sublease them. The lessor's consent shall not be required as to the person towards whom the lessee is encumbered with a maintenance duty.

Article 689.

(repealed).

Article 690.

The provisions on the protection of ownership shall apply accordingly to the protection of the lessee's rights to use premises.

Article 691.

- § 1. In the case of death of the residential premises' lessee the following persons shall enter into the relation of the premises' lease: the spouse not being a co-lessee of the premises, children of the lessee and his spouse, other persons towards whom the lessee was obliged to render maintenance performances as well as a person who has been in actual cohabitation with the lessee.
- § 2. The persons set out in § 1 shall enter into the residential premises' lease relation if they lived permanently with the lessee on these premises until his death.

§ 3. In the absence of persons set out in § 1 the residential premises' lease relation shall expire.

§ 4. Persons who enter into the residential premises' lease relation on the basis of § 1 may terminate it by notice while observing the statutory time limits even though the contract of lease was concluded for a definite period of time. In the case of termination by notice of the lease relation by some of these persons, the relation shall expire towards the persons who terminated it.

§ 5. The provisions of § 1-4 shall not apply in the case of death of one of the residential premises' co-lessees.

Article 692.

The provisions on termination of lease by the party acquiring the thing leased shall not apply to the lease of residential premises unless the lessee has not taken the premises into possession yet.

SECTION II

Tenancy

Article 693.

§ 1. By the contract of tenancy the landlord undertakes to give to the tenant a thing for use and collection of profits for a definite or an indefinite period of time and the tenant undertakes to pay to the landlord the rent agreed on.

§ 2. The rent may be reserved in money or in performances of other kind. It may also be determined as a fraction of profits.

Article 694.

The provisions on lease shall apply accordingly to tenancy, while observing the provisions mentioned below.

Article 695.

§ 1. Tenancy concluded for a period of time longer than thirty years shall, following the lapse of that time limit, be construed to have been concluded for an indefinite period of time.

§ 2. (repealed).

Article 696.

The tenant shall exercise his right according to the requirements of careful management and he may not change the purpose of the tenancy's object without the landlord's consent.

Article 697.

The tenant shall be obliged to make repairs indispensable to maintain the tenancy object in a non-deteriorated state.

Article 698.

§ 1. Without the consent of the landlord, the tenant may neither give the tenancy's object for a gratuitous use to the third party nor for sub-tenancy.

§ 2. In the case of infringement of the above duty, the landlord may terminate the tenancy without notice.

Article 699.

If the time limit for payment of the rent has not been determined in the contract, the rent shall be payable at the end of a customarily accepted payment period; and in the absence of such a custom, every half a year, at the end of that period.

Article 700.

If owing to the circumstances which the tenant is not liable for and which do not concern his person, the usual revenue from the tenancy's object has been subject to a substantial reduction, the tenant may demand a reduction of the rent due for a given economic period.

Article 701.

Things used to run a farm or an enterprise, where they are within the tenancy's object, shall also belong to the movable things covered by the statutory right of pledge vested in the landlord.

Article 702.

If it has been reserved in the contract that apart from the rent the tenant would be obliged to pay taxes and other burdens related to ownership or possession of the tenancy's object as well as to incur costs of insuring it, the statutory right of pledge to which the landlord is entitled shall also secure the latter's claim towards the tenant for reimbursement of sums that the landlord paid on the above-mentioned accounts.

Article 703.

If the tenant commits qualified delay in payment of the rent for at least two full payment periods and where the rent is payable on a yearly basis, if he commits qualified delay in payment for over three months, the landlord may terminate the tenancy without notice. However, the landlord should forewarn the tenant, setting him at the same time an additional period of three months to pay the outstanding rent.

Article 704.

In the absence of a contrary agreement, the tenancy of an agricultural land may be terminated by notice one year in advance at the end of a tenancy year, and the other tenancy six months in advance before the lapse of a tenancy year.

Article 705.

Upon the end of tenancy, the tenant, in the absence of an agreement to the contrary, shall be obliged to return the tenancy's object in such a state that it should be in accordance with the provisions on the exercise of tenancy.

Article 706.

If at the end of tenancy the tenant of an agricultural land leaves the sowing behind pursuant to his duties, he may demand reimbursement of the expenditure he made on the sowing insofar as he has not received, contrary to the requirements of careful management, appropriate sowing at the beginning of the tenancy.

Article 707.

If the tenancy ends prior to the lapse of a tenancy year, the tenant shall be obliged to pay the rent in such a ratio in which the profits which he collected or could have collected throughout that year are to the entire tenancy year's profits.

Article 708.

The provisions of the present section shall apply accordingly where a person who takes an agricultural land to use and to collect its profits is not obliged to pay the rent but only to incur taxes and other burdens related to ownership or possession of land.

Article 709.

The provisions on tenancy of things shall apply accordingly to tenancy of rights.

TITLE XVII¹
Contract of leasing

Article 709¹.

By the contract of leasing the financing party undertakes, within the scope of its enterprise's activity, to acquire a thing from a specified alienating party on conditions set out in this contract and give the thing to the leasing party to use it or to use it and collect its profits for a definite period of time, and the leasing

party undertakes to pay the financing party in agreed instalments the pecuniary remuneration equalling at least the price or the remuneration on account of the thing's acquisition by the financing party.

Article 709².

The contract of leasing shall be concluded in writing on pain of invalidity.

Article 709³.

If the thing is not released to the leasing party within the time limit which had been set due to the circumstances which he is liable for, the time limits of instalments' payment agreed on shall remain unchanged.

Article 709⁴.

- § 1. The financing party should release the thing to the leasing party in such a state in which it was at the moment when it was released to the financing party by the alienating party.
- § 2. The financing party shall not be liable towards the leasing party for the thing's fitness for the agreed use.
- § 3. The financing party shall be obliged to release to the leasing party, along with the thing, a copy of the contract concluded with the alienating party or copies of other documents in its possession regarding that contract, in particular a copy of a document of quality guarantee, received from the alienating party or the producer.

Article 709⁵.

- § 1. If after the release of the thing to the leasing party the thing has been lost due to the circumstances which the financing party is not liable for, the contract of leasing shall expire.
- § 2. The leasing party shall notify the financing party immediately of the thing's loss.
- § 3. If the contract of leasing has expired due to the reasons set out in § 1, the financing party may demand from the leasing party an immediate payment of all the instalments, which had been provided in the contract and were not paid, reduced by the profits which the financing party has obtained due to their payment prior to the time limit agreed on and due to the expiry of the contract of leasing as well as on account of the thing's insurance, and it may also demand the redress of damage.

Article 709⁶.

If it has been reserved in the contract of leasing that the leasing party is obliged to incur the cost of the thing's insurance against its loss in the course of the leasing's duration, in the absence of a different contractual provision, these costs shall comprise an insurance premium on generally accepted conditions.

Article 709⁷.

- § 1. The leasing party shall be obliged to maintain the thing in an appropriate state, in particular to perform its conservation and repairs indispensable to preserve the thing in a non-deteriorated state, while taking into account its wear and tear due to appropriate use as well as to incur encumbrances connected with the thing's ownership or possession.
- § 2. If it has not been reserved in the contract of leasing that conservation and repairs shall be performed by a person with specified qualification, the leasing party should immediately notify the financing party of the necessity to perform any substantial repair of the thing.
- § 3. The leasing party shall be obliged to enable the financing party to examine the thing within the scope set out in § 1 and 2.

Article 709⁸.

- § 1. The financing party shall not be liable towards the leasing party for defects of the thing, unless these defects have arisen due to the circumstances which the financing party is held liable for. Contractual provisions less favourable to the leasing party shall be invalid.
- § 2. At the moment of conclusion of the contract by the financing party with the alienating party, entitlements on account of the defects of the thing to which the financing party shall be entitled towards the alienating party shall pass to the leasing party by virtue of the statute, except for the financing party's entitlement to renounce the contract with the alienating party.
- § 3. The exercise of the entitlements set out in § 2 by the leasing party shall not influence his duties resulting from the contract of leasing, unless the financing party renounces the contract with the alienating party due to the thing's defects.
- § 4. The leasing party may demand that the financing party renounces the contract with the alienating party due to the thing's defects, if the financing party's entitlement to renounce, results from the provisions of law or from the contract with the alienating party. The financing party may not renounce the contract with the alienating party due to the thing's defects if the leasing party fails to lodge a relevant request.
- § 5. Where the financing party renounces the contract with the alienating party due to the thing's defects, the contract of leasing shall expire. The financing party may demand from the leasing party an immediate payment of all the instalments which had been provided in the contract and were not paid, reduced by the profits which the financing party has obtained due to their payment prior to the time limit agreed on and due to the expiry of the contract of leasing as well as of the contract with the alienating party.

Article 709⁹.

The leasing party should use the thing and collect its profits in the manner specified in the contract of leasing, and where the contract does not specify it - in a manner corresponding to the characteristics and purpose of the thing.

Article 709¹⁰.

Without the consent of the financing party, the leasing party may not apply changes to the thing, unless they result from the purpose of the thing.

Article 709¹¹.

If despite the financing party's written warning, the leasing party infringes the duties set out in article 709⁷ § 1 or in article 709⁹ or where he fails to remove the changes applied to the thing in violation of article 709¹⁰, the financing party may terminate the contract of leasing without notice, unless the parties have agreed a time limit for the termination by notice.

Article 709¹².

- § 1. Without the financing party's consent the leasing party may not give the thing to a third party to use.
- § 2. In the case of violation of the duty set out in § 1, the financing party may terminate the contract of leasing without notice, unless the parties have agreed a time limit for the termination by notice.

Article 709¹³.

- § 1. The leasing party shall be obliged to pay instalments within the time limits agreed on.
- § 2. If the leasing party commits a qualified delay in payment of at least one instalment, the financing party should set to the leasing party in writing an appropriate additional time limit to pay the arrears along with a warning that where the set time limit lapses to no avail he may terminate the contract of leasing without notice, unless the parties have agreed a time limit for the termination by notice.
Contractual provisions less favourable to the leasing party shall be invalid.

Article 709¹⁴.

- § 1. In the case of the thing's alienation by the financing party, the acquiring party shall enter into the leasing relation in place of the financing party.
- § 2. The financing party should notify the leasing party immediately of the alienation of the thing.

Article 709¹⁵.

In the case of the termination by notice of the contract of leasing by the financing party due to the circumstances which the leasing party is liable for, the financing party may demand from the leasing party an immediate payment of all the instalments, which had been provided in the contract and were not paid, reduced by the profits which the financing party has obtained due to the payment made prior to the time limit agreed on and due to the contract of leasing's termination.

Article 709¹⁶.

If the financing party has undertaken to transfer to the leasing party ownership of the thing after the lapse of the time of the leasing's duration specified in the contract without any additional performance to be made, the leasing party may demand the transfer of the thing's ownership within a month from the lapse of that period, unless the parties have agreed on a different time limit.

Article 709¹⁷.

The provisions on lease shall apply accordingly to the financing party's liability for the thing's defects which occurred due to the circumstances which the financing party is liable for, to entitlements and duties of the parties in the case where a third party pursues against the leasing party claims regarding the thing, to the leasing party and a third party's liability towards the financing party in the case of giving to the third party the thing for use by the leasing party, to secure the leasing instalments and additional performances of the leasing party, to the thing's return by the leasing party after the end of the leasing as well as to the thing's improvement by the leasing party. The provisions on sale by instalments shall apply accordingly to the payment of instalments by the leasing party prior to the payment time limit.

Article 709¹⁸.

The provisions of the present title shall apply accordingly to a contract by which one party undertakes to give the thing it owns to the other party to use and to collect profits, and the other party undertakes to pay to the thing's owner pecuniary remuneration in instalments which are at least equal to the value of the thing at the moment of the contract's conclusion.

TITLE XVIII

Loan for use

Article 710.

By the contract of loan for use the lender for use undertakes to allow the borrower for use to gratuitously use the thing given to the latter for this purpose for a definite or an indefinite period of time.

Article 711.

If the thing lent for use has defects, the lender for use shall be obliged to redress the damage which is inflicted upon the borrower for use by not having notified the latter about the defects even though he knew of them. The above-mentioned provision shall not apply where the borrower for use might have noticed the defect with ease.

Article 712.

- § 1. If the contract does not set out the manner of the thing's use, the borrower for use may use the thing in a manner corresponding to its characteristics and purpose.
- § 2. Without the lender for use's consent the borrower for use may not give the thing lent for use to a third party to use.

Article 713.

The borrower for use shall bear the usual costs of maintenance of the thing lent for use. If he made other expenses or other expenditures on the thing, the provisions on benevolent intervention in another's affairs without a mandate shall apply accordingly.

Article 714.

The borrower for use shall be liable for accidental loss or damage to the thing if he uses it in a manner contrary to the contract or contrary to the characteristics or purpose of the thing or where, while neither having been authorized to it under the contract nor forced by the circumstances, he entrusts somebody else with the thing and the thing would not have been lost or damaged if he had used it in an appropriate manner or if he had kept it with himself.

Article 715.

If the contract of loan for use has been concluded for an indefinite period of time, the loan for use shall end when the borrower for use has made use of it corresponding to the contract's content or when the time in which he might have made that use elapsed.

Article 716.

If the borrower for use uses the thing in a manner contrary to the contract or to the characteristics or purpose of the thing, if he entrusts somebody else with the thing while neither having been authorized to it under the contract nor forced by the circumstances, or if the thing becomes necessary to the lender for use for reasons not expected at the moment of the contract's conclusion, the lender for use may demand the return of the thing, even though the contract has been concluded for a definite period of time.

Article 717.

If several persons took the thing jointly for use, their liability shall be joint and several.

Article 718.

§ 1. After the end of the loan for use, the borrower for use shall be obliged to return the thing to the lender for use in a non-deteriorated state; however, the borrower for use shall not be liable for the thing's wear and tear resulting from its appropriate use.

§ 2. If the borrower for use has entrusted somebody else with the thing, the above duty shall rest with this person as well.

Article 719.

The lender's for use claim against the borrower for use to redress the damage for having damaged or deteriorated the thing, as well as the borrower's for use claims against the lender for use to reimburse expenditures on the thing as well as to redress the damage incurred due to the thing's defects, shall be subject to limitation upon the lapse of a year from the day of the thing's return.

TITLE XIX**Loan****Article 720.**

§ 1. By the contract of loan the lender undertakes to transfer to the borrower the ownership of a specified amount of money or of things specified as to their kind only, and the borrower undertakes to return the same amount of money or the same amount of things of the same kind and of the same quality.

§ 2. The contract of loan whose value exceeds one thousand zlotys (PLN) must be evidenced in the document form.

Article 721.

The lender may renounce the contract and refuse to release the object of the loan, if the return of the loan is dubious as a result of bad financial state of the other party. The lender shall not have this entitlement if at the moment of the contract's conclusion he knew of the bad financial state of the other party or he could have learned about it with ease.

Article 722.

The borrower's claim for release of the loan's object shall be subject to limitation upon the lapse of six

months from the moment when the object should have been released.

Article 723.

If the loan's return date has not been determined, the borrower shall be obliged to return the loan within six weeks after the termination by notice by the lender.

Article 724.

If the things received by the borrower have defects, the lender shall be obliged to redress the damage, which he inflicted upon the borrower by not having notified the latter about the defects even though he knew of them. The above provision shall not apply where the borrower might have noticed the defect with ease.

TITLE XX

Bank account contract

Article 725.

By the bank account contract, a bank undertakes towards a bank account holder, for a definite or indefinite period of time, to keep the latter's pecuniary means as well as, where the contract so provides, to perform settlements of accounts on his order.

Article 726.

The bank may temporarily conduct financial banking transactions with free pecuniary means amassed on the bank account with a duty to return them in full or in part upon any request, unless the contract makes the duty to return them contingent upon termination by notice.

Article 727.

The bank may refuse to perform the bank account holder's order only in the cases provided for in specific provisions.

Article 728.

- § 1. In the case of a contract concluded for an indefinite period of time the bank shall be obliged to inform the bank account holder in the manner set out in the contract of any change in the bank account balance.
- § 2. The bank shall be obliged to gratuitously send to the bank account holder a bank statement regarding the account at least once a month, containing information about the changes in the account's state and

the establishment of a balance, unless the holder expressed his written consent to be informed about the changes and establishment of the account balance in a different manner.

§ 3. The bank account holder shall be obliged to notify the bank of inconsistencies in the changes in the account balance within fourteen days from the day of receiving the bank statement.

Article 729.

A holder of a personal bank account shall be obliged to notify the bank of each change of his domicile or seat.

Article 730.

Termination of the bank account contract concluded for an indefinite period of time may take place at all times as a result of a notice by either of the parties; however, the bank may terminate the contract by notice for important reasons only.

Article 731.

Claims resulting from the bank account relation shall be subject to limitation upon the lapse of two years. It shall not refer to claims for the return of savings deposits.

Article 732.

The provisions of the present title shall also apply accordingly to accounts kept by the savings and loan cooperative associations.

Article 733.

The provisions of the present title shall not prejudice the provisions on settlements of accounts.

TITLE XXI

Mandate

Article 734.

- § 1. By the contract of mandate the party accepting the mandate undertakes to perform a specific juridical act for the principal.
- § 2. In the absence of a different agreement the mandate shall comprise empowerment to carry out the juridical act on behalf of the principal. This provision shall not prejudice the provisions on the form of power of attorney.

Article 735.

- § 1. If neither from the contract nor from the circumstances it results that the party accepting the mandate has undertaken to perform it without remuneration, the remuneration shall be due for the performance of the mandate.
- § 2. If there is no scale of charges in operation and no agreements have been made as to the amount of remuneration, remuneration corresponding to the work performed shall be due.

Article 736.

A person who lives by handling affairs for the others on a professional basis should, if he does not want to accept the mandate, notify the principal of it immediately. The same duty shall lie with a person who has declared himself to the principal ready to perform acts of a given kind.

Article 737.

The party accepting the mandate may without the previous consent of the principal abandon the manner of performing the mandate indicated by the latter where there exists no possibility of obtaining his consent and there are justified reasons to suppose that the principal would have agreed to the change if he had known of the present state of affairs.

Article 738.

- § 1. The party accepting the mandate may entrust a third party with the performance of the mandate only where it results from the contract, or from custom, or where he is forced to it by the circumstances. In such a case he is obliged to notify the principal immediately of the person and the domicile of his substitute and in the case of notification he shall only be liable for lack of due diligence in selecting the substitute.
- § 2. The substitute shall be liable for the performance of the mandate towards the principal as well. If the party accepting the mandate is held liable for acts of its substitute as for his own acts, their liability shall be joint and several.

Article 739.

In the case where the party accepting the mandate has entrusted somebody else with the performance of the mandate while not having been authorized to do so and the thing belonging to the principal has been lost or damaged while performing the mandate, the party accepting the mandate shall also be liable for accidental loss or damage, unless both of them would have occurred even if he had performed the mandate himself.

Article 740.

The party accepting the mandate should provide the principal with necessary information on the course of the affair, and after having performed the mandate or after earlier termination of the contract the former should submit a report to the latter. The party accepting the mandate should release to the principal everything that he obtained for him while performing the mandate, even if it was done in his own name.

Article 741.

The party accepting the mandate may not use his principal's things and money in his own interest. The former should pay the principal the statutory interest on pecuniary sums which he keeps beyond what is required for the performance of the mandate.

Article 742.

The principal should reimburse the party accepting the mandate for such expenses which the latter made for the purpose of performing the mandate adequately, along with the statutory interest, the former should also release the party accepting the mandate from obligations that the latter has assumed in his own name for the above-mentioned purpose.

Article 743.

If the performance of the mandate requires expenses, the principal should make to the party accepting the mandate an appropriate advance payment at the latter's request.

Article 744.

In the case of a non-gratuitous mandate, the party accepting the mandate shall be entitled to remuneration only after having performed the mandate, unless something else results from the contract or from specific provisions.

Article 745.

If several persons have given or have accepted the mandate jointly, their liability towards the other party shall be joint and several.

Article 746.

§ 1. The principal may terminate the mandate by notice at all times. He should, however, reimburse the party accepting the mandate for such expenses which the latter made for the purpose of performing the mandate properly; in the case of a non-gratuitous mandate the former shall be obliged to pay to the party accepting the mandate a part of the remuneration corresponding to the acts already performed by him, and where the termination by notice has occurred without an important reason, he should redress the damage as well.

§ 2. The party accepting the mandate may terminate it by notice at all times. However, where the mandate is a non-gratuitous one, and the termination by notice has occurred without an important reason, the party accepting the mandate shall be liable for the damage.

§ 3. One may not waive in advance an entitlement to terminate the mandate by notice for important reasons.

Article 747.

In the absence of a different agreement, the mandate shall not expire as a result of the principal's death or as a result of him losing the capacity for juridical acts. However, where pursuant to the contract, the mandate has expired, the party accepting the mandate should continue to manage the affairs, where damage might have resulted from an interruption of the acts entrusted to him, until an heir or the principal's statutory representative is able to order otherwise.

Article 748.

In the absence of a different agreement, the mandate shall expire as a result death of the party accepting the mandate or as a result of him losing the full capacity for juridical acts.

Article 749.

If the mandate has expired, it shall nonetheless be deemed existing for the benefit of the party accepting the mandate until the moment when he learned about the expiry of the mandate.

Article 750.

The provisions on mandate shall apply accordingly to contracts for services, which are not governed by other provisions.

Article 751.

The following shall be subject to limitation upon the lapse of two years:

- 1) claims for remuneration for the acts performed and for reimbursement of expenses incurred, which are due to persons who live professionally by performing acts of such a kind on a permanent basis or within the scope of their enterprise's activity; the same shall apply to claims on account of advance payment granted to these persons;
- 2) claims on account of maintenance, care-taking, upbringing or education, if they are due to persons who live by such acts on a professional basis or to persons who run establishments designed for that purpose.

TITLE XXII

Benevolent intervention in another's affairs without a mandate

Article 752.

Whoever intervenes in another's affair without a mandate should act to the benefit of the person whose affair he intervenes in and according to the probable intention of that person, and he shall be obliged to observe due diligence in intervening in the affair.

Article 753.

- § 1. A person intervenes in another's affair without a mandate should, whenever possible, notify the person whose affairs he intervenes in of it and according to the circumstances either await the latter's instructions or intervene in the affair until that very person is able to look after it himself.
- § 2. The person who intervenes in another's affair without a mandate should provide an account of it and release everything which he has obtained for the person whose affair he intervenes in while doing it. If he acted in conformity with his duties he may demand reimbursement of the justified costs and expenditures along with the statutory interest as well as to be released from obligations which he assumed while intervening in the affair.

Article 754.

A person who intervenes in another's affair in a manner contrary to the intention of the person whose affair he intervenes in known to him, may not demand reimbursement of the costs incurred and he shall be liable for the damage unless that person's intent is contrary to statute or to the principles of community coexistence.

Article 755.

If a person who intervenes in another's affair has made changes in the property of the person whose affair he intervenes in without any distinct need or that person's benefit or contrary to the latter's intention known to him, he shall be obliged to restore the former state, and where it proved impossible, to redress the damage. He may take the expenditures back insofar as he is able to do it without damaging the thing.

Article 756.

A confirmation of the person whose affair has been intervened in shall endow the benevolent intervention with the effects of the mandate.

Article 757.

A person who saves somebody else's interest for the purpose of warding off this person from a peril he was threatened with may demand the reimbursement of justified expenses even though his actions produced no effect. The former shall only be liable for intentional fault or for gross negligence.

TITLE XXIII

Contract of agency

Article 758.

- § 1. By the contract of agency the party accepting the mandate (agent) undertakes, within the scope of his enterprise's activities, to act as an intermediary, against remuneration, at the conclusion of contracts with clients for the benefit of the entrepreneur acting as a principal, or to conclude them on his behalf.
- § 2. The agent shall be entitled to conclude contracts on behalf of the principal or to accept declarations for the latter only where he is empowered to it.

Article 758¹.

- § 1. If the manner of remuneration has not been specified in the contract, the agent shall be entitled to a commission.
- § 2. Commission shall be remuneration whose amount depends on the number or value of the contracts concluded.
- § 3. If the amount of the commission has not been specified in the contract, it shall be due in the amount customarily accepted in relations of a given kind, at the place where the agent conducts his activities and where it proves impossible to determine the commission in such a manner, the agent shall be entitled to a commission in an appropriate amount, which takes into account all the circumstances directly connected with performing acts for which he was given a mandate.

Article 758².

Either party may demand from the other one a written confirmation of the contract's content as well as of the provisions which amend it or supplement it. A waiver of such an entitlement shall be invalid.

Article 759.

In the case of doubt it shall be deemed that the agent shall be authorized to accept a payment for the benefit of the principal for performance that the former renders for the latter, as well as to accept performances for his benefit for which he pays, as well as to accept notifications on defects and declarations regarding the performance of the contract which he concluded on the principal's behalf.

Article 760.

Either of the parties shall be obliged to remain loyal to the other party.

Article 760¹.

- § 1. The agent shall in particular be obliged to transmit all information which matters to the principal and to observe the latter's instructions justified in the given circumstances as well as to perform, within the scope of the affair managed, acts required to protect the rights of the principal.
- § 2. Any contractual provisions contrary to the content of § 1 shall be invalid.

Article 760².

- § 1. The principal shall be obliged to hand over to the agent the documents and information required for an appropriate performance of the contract.
- § 2. The principal shall be obliged to notify the agent within a reasonable period of time of having accepted or having refused an offer to conclude a contract as well as of non-performance of the contract, at whose conclusion the agent acted as an intermediary or which he concluded on the principal's behalf.
- § 3. The principal shall be obliged to notify the agent within a reasonable period of time that a number of contracts whose conclusion he envisages or the value of their object will be significantly lower than the one which the agent might have expected in the ordinary course of matters.
- § 4. Contractual provisions contrary to the content of § 1-3 shall be invalid.

Article 760³.

Where the agent who concludes the contract on behalf of the principal does not have the empowerment to do so or where he exceeds its scope, the contract shall be deemed to have been confirmed if the principal immediately upon receiving information on the contract's conclusion does not declare to the client that he refuses to confirm the contract.

Article 761.

- § 1. The agent may demand the commission on contracts concluded during the term of the contract of agency, if they have been concluded as a result of his activities or if they have been concluded with clients formerly obtained by the agent for the contracts of the same kind.
- § 2. If the agent has been granted an exclusivity right with reference to a specified group of clients or a geographic area, and during the term of the contract of agency a contract with a client from the very group or area has been concluded without the agent's participation, the agent may demand a

commission on that contract. The principal shall be obliged to notify the agent within a reasonable period of time of the conclusion of such a contract.

Article 761¹.

- § 1. The agent may demand a commission on the contract concluded after the termination of the contract of agency if - provided that the premises of article 761 are fulfilled - an offer from a client to conclude the contract has been received by the principal or the agent prior to the termination of the contract of agency.
- § 2. The agent may also demand a commission on a contract concluded after the termination of the contract of agency where its conclusion has been attained predominantly due to his activity in the course of duration of the contract of agency and at the same time within a reasonable period of time from its termination.

Article 761².

The agent may not demand a commission referred to in article 761, if the provision is due pursuant to article 761¹ to the former agent, unless it stems from the circumstances that considerations of equity call for a division of the commission between the two agents.

Article 761³.

- § 1. In the absence of a different provision of the contract of agency, the agent shall acquire a right to commission upon the moment when the principal, pursuant to the contract, should have rendered the performance or when the latter has rendered it or when the client has rendered the proper performance. However, the parties may not agree that the agent shall acquire the right to the commission later than at the moment when the client has rendered the performance or when he should have rendered it, if the principal had rendered the performance.
- § 2. If the contract concluded between the principal and the client is to be performed in parts, the agent shall acquire the right to the commission as the contract is being performed.
- § 3. The claim for the commission's payment shall become mature upon the lapse of the last day of the month following the quarter of a year in which the agent acquired the right to the commission. A contractual provision less favourable to the agent shall be invalid.

Article 761⁴.

The agent may not demand the commission where it is obvious that the contract with the client will not be performed due to the circumstances which the principal is not liable for, and where the commission has already been paid to the agent it shall be subject to reimbursement. A provision of the contract of agency

less favourable to the agent shall be invalid.

Article 761⁵.

- § 1. The principal shall be obliged to make a declaration to the agent containing information on the commission due to the latter not later than on the last day of the month following the quarter of a year in which the agent acquired the right to the commission. The declaration should indicate all information providing the basis for the calculation of the amount of the commission due. A provision of the contract of agency less favourable to the agent shall be invalid.
- § 2. The agent may demand to be furnished information required to establish whether the amount of the commission due to him has been calculated correctly, in particular, he may demand excerpts from the principal's books of account or demand that access to and an excerpt from these books be made available to a chartered accountant chosen by the parties. A provision of the contract of agency less favourable to the agent shall be invalid.
- § 3. In the case of failure to furnish to the agent information referred to in § 2, the agent may demand to be furnished with it by way of a court action instituted within six months from the day of notifying the principal of the demand.
- § 4. Where the parties fail to reach an agreement as to the choice of a chartered accountant referred to in § 2, the agent may demand, by way of a court action filed within six months from the day of notifying the principal, that the chartered accountant indicated by the court of law be granted access and take an excerpt from the books.

Article 761⁶.

The provisions of articles 761-761⁵ shall apply where the commission constitutes the entire or a part of remuneration, unless the parties have agreed to apply these provisions to another kind of remuneration.

Article 761⁷.

- § 1. It may be reserved in the contract of agency concluded in writing that the agent, for the separate remuneration (del credere commission), within the scope agreed on, shall be liable for the client's performance of the obligation. Unless the contract provides otherwise, the agent shall be liable for the client's performance. In the case of a non-observance of the written form, the contract of agency shall be deemed to have been concluded without this reservation.
- § 2. The agent's liability may regard only a specified contract or contracts with a specified client, at which conclusion he has acted as an intermediary or which he has concluded on the principal's behalf.

Article 762.

In the absence of a different contractual provision the agent may demand the reimbursement of expenses connected with the performance of mandate insofar only as they have been justified and insofar as their amount exceeds the rate which is customary in the given relations.

Article 763.

In order to secure a claim for remuneration as well as for the reimbursement of expenses and advance payments made to the principal, the agent shall be entitled to the statutory right of pledge on the principal's things and securities, received in connection with the contract of agency until these objects are in his possession or are in a third party's possession who holds them dependently on the agent's behalf or until the agent may dispose of them using documents.

Article 764.

A contract concluded for a definite period of time which performed by the parties after the lapse of the period it was concluded for, shall be construed to have been concluded for an indefinite period of time.

Article 764¹.

- § 1. The contract concluded for an indefinite period of time may be terminated by notice a month in advance during the first year of the contract's duration, two months in advance during the second year and three months in advance in the third and the following years of the contract's duration. The statutory time limits for termination by notice may not be shortened.
- § 2. The statutory time limits for termination by notice may be contractually prolonged, however, the time limit for the principal may not be shorter than the time limit set for the agent. The prolongation of the time limit for the agent shall cause the same prolongation for the principal.
- § 3. If the contract does not provide otherwise, a time limit for the termination by notice shall lapse upon the end of a calendar month.
- § 4. The provisions of § 1-3 shall apply to a contract concluded for a definite period of time, which on the strength of article 764 has been converted into a contract concluded for an indefinite period of time. The period that the contract for a definite period of time was concluded for, shall be taken into account while establishing the time limit for the termination by notice.

Article 764².

- § 1. The contract of agency, even though it has been concluded for a definite period of time, may be terminated by notice without notice as a result of non-performance of duties in their entirety or in part by one of the parties as well as where extraordinary circumstances occur.

§ 2. If the termination without notice has been performed due to the circumstances which the other party is liable for, the latter shall be obliged to redress the damage incurred by the party who terminates the contract by notice as a result of the termination of the contract.

Article 764³.

- § 1. After the termination of the contract of agency, the agent may demand from the principal compensatory remuneration, if during the term of the contract of agency the former solicited new clients or led to a substantial turnover growth with the already procured clients and the principal still derives significant profits from the contracts with these clients. The agent shall be entitled to the claim, if, taking all the circumstances into account, and particularly that the agent has lost his commission on the contracts concluded by the principal with these clients, the considerations of equity call for that.
- § 2. The compensatory remuneration may not exceed the amount of the agent's remuneration for one year, calculated on the basis of an average yearly remuneration, obtained in the course of the last five years. If the contract of agency lasted less than five years, the remuneration shall be calculated while taking into account the average from the entire period of its duration.
- § 3. Having received the compensatory remuneration, shall not deprive the agent of the possibility to seek damages on general principles.
- § 4. In the case of the agent's death, his heirs may demand the compensatory remuneration, referred to in § 1.
- § 5. The possibility to seek the claim for the compensatory performance shall depend on lodging by the agent or by his heirs an appropriate demand towards the principal prior to the lapse of one year from the termination of the contract.

Article 764⁴.

The compensatory remuneration shall not be due to the agent if:

- 1) the principal has terminated the contract without notice as a result of the circumstances which the agent had been liable for, justifying the termination of the contract,
- 2) the agent has terminated the contract by notice, unless the termination by notice is justified by the circumstances which the principal is liable for or if it is justified by the agent's age, disability or disease and the considerations of equity do not permit to demand from him to continue to perform the acts of an agent,
- 3) the agent at the principal's consent has transferred to somebody else his rights and duties

resulting from the contract.

Article 764⁵.

Until the termination of the contract the parties may not agree in a manner less favourable to the agent than the provisions of article 764³ and 764⁴.

Article 764⁶.

- § 1. The parties may, in writing on pain of invalidity, limit the agent's activity of a competitive character during the period after the termination of the contract of agency (limitation of competitive activity). The limitation shall be valid if it regards a group of clients or a geographic area, comprised in the agent's activity as well as a kind of goods or services constituting the object of the contract.
- § 2. The limitation of competitive activity may not be reserved for a period longer than two years from the contract's termination.
- § 3. The principal shall be obliged to pay the agent an appropriate pecuniary sum for limiting his competitive activity in the course of the limitation's duration, unless something else results from the contract or unless the contract of agency has been terminated due to the circumstances which the agent shall be held liable for.
- § 4. If the amount of the sum referred to in § 3 has not been specified in the contract, a sum in the amount appropriate to the profits obtained by the principal as a result of the limitation of the agent's competitive activity and his earning possibilities lost for this reason shall be due.

Article 764⁷.

The principal may until the day of the contract's termination revoke the limitation of competitive activity with such an effect that after the lapse of six months from the moment of revocation he shall be exempt from the duty to pay the amount referred to in article 764⁶ § 3 and 4. The limitation of competitive activity's revocation shall require the written form on pain of invalidity.

Article 764⁸.

If the agent has terminated the contract due to the circumstances which the principal is liable for, the former may release himself from the duty to abide by the limitation of competitive activity by filing a written declaration before the lapse of a month from the day of the termination by notice with the principal.

Article 764⁹.

The provisions of the present title, excluding articles 761-761², article 761⁵ as well as articles 764³-764⁸, shall apply to a contract of the content set out in article 758 § 1 concluded with the agent by a person who is

not an entrepreneur.

TITLE XXIV

Contract of consignment

Article 765.

By the contract of consignment the party accepting the mandate (the consigning agent) undertakes to buy or sell movable things within the scope of his enterprise's activity on the account of the principal (the consigning party), yet in his own name.

Article 766.

The consigning agent shall release to the consigning party everything that he has obtained for him at the performance of the mandate, in particular, he shall transfer to him the receivables which he has acquired on the latter's account. The above-mentioned entitlements of the consigning party shall be effective towards the consigning agent's creditors as well.

Article 767.

If the consigning agent has concluded a contract on conditions more favourable than these specified by the consigning party, the benefit acquired shall fall to the consigning agent.

Article 768.

- § 1. If the consigning agent has sold the thing given to him to be sold at a price lower than the price specified by the consigning party, he shall be obliged to pay the difference to the latter.
- § 2. If the consigning agent has acquired the thing at a price higher than the price specified by the consigning party, the latter may declare, immediately after having received a notification of the performance of mandate, that he does not acknowledge the act as having been performed on his account; the lack of such a declaration shall be tantamount to having expressed consent to a higher price.
- § 3. The consigning party may neither demand to be paid the difference in price nor may he refuse to give consent to a higher price, if the mandate could not have been performed at the specified price and the conclusion of the contract has prevented the consigning party from incurring the damage.

Article 769.

- § 1. If the thing is perishable and one is not in a position to wait for the consigning party's order, the

consigning agent shall be entitled, and if the consigning party's interest so requires - obliged to sell the thing while observing due diligence. He shall be obliged to notify the consigning party immediately of having performed the sale.

§ 2. If the consigning party has committed qualified delay in collecting the thing, the provisions on consequences of the buyer's qualified delay in collecting the thing sold shall apply accordingly.

Article 770.

§ 1. The consigning agent shall neither be held liable for latent physical defects of the thing nor for its legal defects, if prior to the conclusion of the contract he informed the buyer of them. However, the exclusion of liability shall not regard the thing's defects which the consigning party knew of or might have learned about with ease.

§ 2. The provision of § 1 shall not apply if the buyer is a consumer.

Article 770¹.

(repealed).

Article 771.

The consigning agent who granted a credit or an advance payment without the consigning party's authorization shall act at his own risk.

Article 772.

§ 1. The consigning agent shall acquire the claim for the commission's payment at the moment when the consigning party received the thing or the price. If the contract is to be performed in parts, the consigning agent shall acquire the right to the commission as the contract is being performed.

§ 2. The consigning agent may also demand the commission where the contract has not been performed for reasons regarding the consigning party.

Article 773.

§ 1. In order to secure claims for commission as well as claims for reimbursement of expenses and advance payments made to the consigning party, as well as to secure any other dues resulting from consignment mandates, the consigning agent shall be entitled to the statutory right of pledge on things constituting the object of consignment, until these things are in his possession or are in somebody else's possession who holds them dependently on his behalf or until the consigning agent may dispose of them using documents.

§ 2. The above-mentioned dues may be satisfied from receivables acquired by the consigning agent on the

consigning party's account, with priority over the consigning party's creditors.

§ 3. (repealed).

TITLE XXV

Contract of carriage

SECTION I

General provisions

Article 774.

By the contract of carriage the carrier undertakes to carry persons or things for remuneration within the scope of his enterprise's activity.

Article 775.

The provisions of the present title shall apply to carriage within the scope of respective kinds of transport only insofar as the given carriage is not governed by separate provisions.

SECTION II

Carriage of persons

Article 776.

The carrier shall be obliged to provide passengers with secure and hygienic conditions corresponding to the kind of transport as well as such amenities which on account of the kind of transport are deemed indispensable.

Article 777.

- § 1. The carrier shall be held liable for the luggage which the passenger carries with him only where the damage resulted from the carrier's intentional fault or gross negligence.
- § 2. The carrier shall be held liable for the luggage he has been entrusted with according to the principles envisaged for the carriage of things.

Article 778.

Claims arising from the contract of carriage shall be subject to limitation upon the lapse of a year from the

day of performing the carriage; and where the carriage has not been performed - from the day when it was to be performed.

SECTION III

Carriage of things

Article 779.

The sending party should provide the carrier with his address and the receiving party's address, the destination, the specification of the parcel as to the kind, quantity and manner of packing as well as the value of particularly precious things.

Article 780.

- § 1. At the carrier's demand the sending party should issue a bill of lading containing the information enumerated in the preceding article, as well as all other important contractual provisions. The sending party shall bear the consequences of an inaccurate and false declaration.
- § 2. The sending party may demand from the carrier a copy of the bill of lading or other confirmation that the parcel has been accepted for carriage.

Article 781.

- § 1. If the parcel's external state or its packaging are not appropriate for the given kind of carriage, the carrier may demand that the sending party issue a written declaration on the state of the parcel, and in the case of glaring deficiencies, the carrier may refuse the carriage.
- § 2. If the carrier accepts the parcel without reservations, it shall be presumed that it has been in an appropriate state.

Article 782.

The sending party should provide the carrier with any documents required on account of customs, tax and administrative provisions.

Article 783.

If commencement or performance of carriage is affected by a temporary obstacle as a result of the circumstances regarding the carrier, the sending party may renounce the contract; he should, however, provide the carrier with an appropriate remuneration for the performed part of the carriage within the limits of what the latter has saved up on carriage costs. It shall not exclude a claim for the redress of damage if the

obstacle has resulted from the circumstances which the carrier has been liable for.

Article 784.

The carrier should immediately notify the receiving party of the arrival of the parcel at its destination.

Article 785.

After the arrival of the parcel at its destination, the receiving party may in his own name exercise any rights resulting from the contract of carriage, in particular, he may demand the release of the parcel and of the bill of lading provided that he exercises simultaneously his obligations resulting from the contract.

Article 786.

By having accepted the parcel and the bill of lading the receiving party undertakes to pay the carrier's dues specified in the bill of lading.

Article 787.

- § 1. If the receiving party refuses to accept the parcel or if for other reasons it is impossible to deliver it to him, the carrier should immediately notify the sending party of it. If the sending party fails to send instructions within an appropriate period of time, the carrier should leave the thing for bailment or otherwise secure it, notifying the sending party and the receiving party of it.
- § 2. If the parcel is perishable or if its bailment requires expenses, which are not covered, the carrier may sell it while applying accordingly the provisions on the consequences of the buyer's qualified delay in collecting the thing sold.

Article 788.

- § 1. Damages for loss, decrease or damage to the parcel in the period from its acceptance for carriage until releasing it to the receiving party may not exceed the parcel's usual value unless the damage resulted from the carrier's intentional fault or gross negligence.
- § 2. The carrier shall not be held liable for a decrease not exceeding the limits specified by relevant provisions and in the absence of such provisions - customarily accepted limits (natural decrease).
- § 3. The carrier shall be held liable for loss, decrease or damage to money, valuables, securities or particularly precious things only where the parcel's characteristics have been indicated at the conclusion of the contract, unless the damage has resulted from the carrier's intentional fault or gross negligence.

Article 789.

- § 1. The carrier may leave the parcel to be carried by another carrier throughout the entire range of carriage or its part, however, he shall be held liable for acts of further carriers as for his own acts.
- § 2. Every carrier that accepts the parcel on the basis of the same bill of lading shall be held jointly and severally liable for the entire carriage according to the content of the bill of lading.
- § 3. The carrier that has paid damages on account of his joint and several liability for the entire carriage, shall be entitled to the right of recourse towards the carrier liable for the circumstances which the damage resulted from. However, if it is impossible to establish these circumstances, all carriers shall bear liability in proportion to the freight fee which they are entitled to. The carrier who proves that the damage has not occurred within the range in which he carried the thing shall be free from liability.

Article 790.

- § 1. In order to secure claims resulting from the contract of carriage, in particular from: the freight fee, storage fees, customs charges and other expenses as well as to secure such claims which the former forwarding agents and carriers are entitled to, the carrier shall be entitled to the statutory right of pledge on the parcel until the very parcel is in his possession or is in a third party's possession who holds it dependently on the carrier's behalf or until he may dispose of it using documents.
- § 2. (repealed).

Article 791.

- § 1. Once the carrier's charge has been paid and the parcel has been accepted with no reservations, all claims against the carrier under the contract of carriage shall expire. However, it shall not apply to claims on account of the parcel's latent damage if the receiving party notifies the carrier of the damage within a week from having accepted the parcel.
- § 2. The above-mentioned provision shall not apply where the damage has resulted from the carrier's intentional fault or gross negligence.

Article 792.

Claims arising from the contract of carriage of things shall be subject to limitation upon the lapse of a year from the day of the parcel's delivery, and in the case of a complete loss of the parcel or its delayed delivery - from the day when it was to be delivered.

Article 793.

Claims to which the carrier is entitled against other carriers who participated in the carriage of the parcel shall be subject to limitation upon the lapse of six months from the day when the carrier redressed the

damage or from the day when a court action was instituted against him.

TITLE XXVI

Contract of forwarding

Article 794.

§ 1. By the contract of forwarding the forwarding agent undertakes for remuneration to send or to receive a parcel or to perform other services connected with its carriage within the scope of his enterprise's activity.

§ 2. The forwarding agent may act in his own name or on behalf of the principal.

Article 795.

The provisions of the present title shall apply to forwarding insofar as it is not governed by separate provisions.

Article 796.

If the provisions of the present title or specific provisions do not provide otherwise, the provisions on the contract of mandate shall apply accordingly.

Article 797.

The forwarding agent shall be obliged to perform acts required to obtain reimbursement of sums unduly collected on account of freight fees, customs fees and other dues connected with the parcel's carriage.

Article 798.

The forwarding agent shall be obliged to perform acts required to secure the rights of the principal or of the person indicated by him towards the carrier or other forwarding agent.

Article 799.

The forwarding agent shall be liable for carriers and for further forwarding agents that he uses at the performance of the mandate unless he has not been at fault in the appointment.

Article 800.

The forwarding agent may perform the carriage himself. In such a case the forwarding agent shall simultaneously have the rights and duties of a carrier.

Article 801.

- § 1. Damages for loss, decrease or damage to the parcel in the period from its acceptance until releasing it to the carrier, a further forwarding agent, the principal or the person indicated by him, may not exceed the parcel's ordinary value unless the damage resulted from the carrier's intentional fault or gross negligence.
- § 2. The carrier shall not be held liable for a decrease not exceeding the limits specified by relevant provisions and in the absence of such provisions - customarily accepted limits.
- § 3. The forwarding agent shall be held liable for loss, decrease or damage to money, valuables, securities or particularly precious things only where the parcel's characteristics have been indicated at the conclusion of the contract, unless the damage has resulted from the forwarding agent's intentional fault or gross negligence.

Article 802.

- § 1. In order to secure claims for the freight fee as well as claims for the commission, for reimbursement of expenses and other dues resulting from forwarding mandates, as well as to secure such claims which the former forwarding agents and carriers are entitled to, the forwarding agent shall be entitled to the statutory right of pledge on the parcel until the very parcel is in his possession or is in somebody else's possession who holds it dependently on the forwarding agent's behalf or until he may dispose of it using documents.
- § 2. (repealed).

Article 803.

- § 1. Claims arising from the contract of forwarding shall be subject to limitation upon the lapse of a year.
- § 2. The period of limitation shall commence to run: in the case of claims on account of the parcel's damage or decrease - from the day of the parcel's delivery; in the case of a complete loss of the parcel or its delayed delivery - from the day when it was to be delivered; in all other cases - from the day of the mandate's performance.

Article 804.

Claims, to which the forwarding agent is entitled against carriers and the further forwarding agents that the former has used at the parcel's carriage, shall be subject to limitation upon the lapse of six months from the day when the forwarding agent redressed the damage or from the day when a court action was instituted against him. The provision shall apply accordingly to the above-mentioned claims between the persons that the forwarding agent has used at the parcel's carriage.

TITLE XXVII
Contract of insurance

SECTION I
General provisions

Article 805.

- § 1. By the contract of insurance the insurer undertakes within the scope of his enterprise's activity to render specified performance when an accident envisaged in the contract occurs and the insuring party undertakes to pay a premium.
- § 2. The insurer's performance shall involve in particular a payment:
- 1) in the case of property insurance - of specified damages for the damage arising due to an accident envisaged in the contract;
 - 2) in the case of personal insurance - of a sum of money agreed on, a pension or other performance when an accident envisaged in the contract occurs in the life of the insured party.
- § 3. The provisions of the present Code on pension shall not apply to a pension arising under the contract of insurance.
- § 4. The provisions of articles 385¹-385³ shall apply accordingly if a natural person concluding a contract directly connected with his economic or professional activity is the insuring party.

Article 806.

- § 1. The contract of insurance shall be invalid if the occurrence of the accident envisaged in the contract is not possible.
- § 2. Covering by the insurance a period preceding the contract's conclusion shall be ineffective if at the moment of the contract's conclusion either of the parties knew or might have learned, if they had exercised due diligence, that the accident had occurred or that the possibility of its occurrence had no longer existed at that period.

Article 807.

- § 1. Provisions of general insurance terms or the insurance contract provisions contrary to the provisions of the present title shall be invalid, unless further provisions envisage exceptions.
- § 2. (repealed).

Article 808.

- § 1. The insuring party may conclude the contract of insurance on somebody else's account. The insured party may not be indicated personally in the contract unless it is necessary to specify the object of insurance.
- § 2. The insurer shall be entitled to a claim for payment of the premium only against the insuring party. The insurer may raise a defence influencing his liability against the insured party as well.
- § 3. The insured party shall be obliged to demand an appropriate performance directly from the insurer, unless the parties have agreed otherwise; however, such an arrangement may not be made if the accident has already occurred.
- § 4. The insured party may demand that the insurer provides him with information on the provisions of the contract concluded as well as on the general insurance terms within the scope in which they regard the insured party's rights and duties.
- § 5. If the contract of insurance does not directly involve a natural person's economic or professional activity, articles 385¹-385³ shall apply accordingly within the scope in which the contract concerns the insured party's rights and duties.

Article 809.

- § 1. The insurer shall be obliged to confirm the contract's conclusion by an insurance document.
- § 2. With the exception provided for by article 811, in the case of doubt, the contract shall be deemed to have been concluded at the moment of delivering the insurance document to the insuring party.

Article 810.

(repealed).

Article 811.

- § 1. If in response to an offer which has been made, the insurer delivers to the insuring party an insurance document containing provisions which differ to the latter's disadvantage from the content of the offer made by him, the insurer shall be obliged to draw the insuring party's attention to it in writing at the delivery of that document, setting him a period of at least seven days to raise an objection. In the case of failure to comply with this duty, the changes made to the insuring party's disadvantage shall not be effective and the contract has been concluded according to the offer's conditions.
- § 2. In the absence of an objection the contract shall be effective in accordance with the content of the insurance document on the following day after the lapse of the time limit set to file the objection.

Article 812.

§ 1. (repealed).

§ 2. (repealed).

§ 3. (repealed).

§ 4. If the contract of insurance has been concluded for a period longer than six months, the insuring party shall be entitled to renounce the contract of insurance within 30 days, and where the insuring party is an entrepreneur, within 7 days from the contract's conclusion. If, upon the conclusion of the contract of insurance at the latest, the insurer fails to inform the insuring party who is a consumer about his right to renounce the contract, the thirty-day term runs from the day, when the insuring party who is a consumer learned about such a right. Renouncing the contract of insurance shall not release the insuring party from the duty to pay the premium for the period throughout which the insurer provided insurance protection.

§ 5. If the contract has been concluded for a definite period of time, the insurer may renounce it only in the cases provided for in a statute, as well as for important reasons set out in the contract and in general insurance terms.

§ 6. (repealed).

§ 7. (repealed).

§ 8. The insurer shall be obliged to present to the insuring party in writing, prior to the contract conclusion, the difference between the content of the contract and the general insurance terms. In the case of failure to comply with that duty, the insurer may not invoke the difference disadvantageous to the insuring party. This provision shall not apply to contracts of insurance concluded by way of negotiations.

§ 9. Provisions § 5 and 8 shall apply accordingly in the case of change of general insurance terms in the course of the contractual relation. It shall not prejudice the use of the provision of article 384¹ in such a case.

Article 813.

§ 1. The premium shall be calculated for the duration of the insurer's liability. In the case of the insurance relation's expiry prior to the lapse of the period of time for which the contract has been concluded, the insuring party shall be entitled to the reimbursement of the premium for the period of the insurance protection which has not been used up.

§ 2. Unless it has been agreed otherwise, the premium should be paid simultaneously with the conclusion of the contract of insurance, and if the contract was effective prior to the insurance document's service

- within fourteen days from its service.

Article 814.

- § 1. Unless it has been agreed otherwise, the insurer's liability shall commence on the day following the contract's conclusion, however, no sooner than on the day following the payment of the premium or its first instalment.
- § 2. If the insurer is liable even prior to the payment of the premium or its first instalment, and the premium or its first instalment has not been paid within the time limit, the insurer may terminate the contract by notice with an immediate effect and demand the payment of the premium for the period for which he bore liability. In the absence of termination by notice the contract shall expire upon the lapse of the period for which the unpaid premium was due.
- § 3. In the case of paying the premium in instalments, failure to pay the premium's next instalment may cause a cessation of the insurer's liability only where such a consequence was provided for by the contract or the general insurance terms and the insurer after the lapse of the time limit called upon the insuring party to pay it along with a warning that failure to pay within seven days from the day of receiving the request for payment would bring about the cessation of liability.

Article 815.

- § 1. The insuring party shall be obliged to provide the insurer with information on any circumstances known to him which the insurer asked for in the offer form or prior to the contract's conclusion in other letters. If the insuring party concludes the contract by a representative, such a duty shall burden the representative as well and it shall, moreover, comprise the circumstances known to him. Where the insuring party concludes the contract of insurance despite the lack of answer to the respective questions, the circumstances which have been omitted shall be presumed to be irrelevant.
- § 2. If it has been reserved in the contract of insurance that in the course of its duration one shall report changes of circumstances set out in the preceding paragraph, the insuring party shall be obliged to notify the insurer on these changes immediately after having received information of such changes. This provision shall not apply to life insurances.
- § 2¹.
In the case of concluding the contract of insurance on somebody else's account the duties set out in the preceding paragraphs shall rest both on the insuring party and the insured party, unless the insured party has not known of the conclusion of the contract on his account.
- § 3. The insurer shall not be held liable for the consequences of the circumstances which have not been announced to him in violation of the preceding paragraphs. If the violation of the preceding

paragraphs has been caused by intentional fault, in the case of doubt, it shall be deemed that an accident envisaged by the contract and its consequences are the results of the circumstances referred to in the preceding sentence.

Article 816.

In the case where a circumstance which entails a significant change in an accident's probability is being disclosed, either of the parties may demand an appropriate change of the premium's amount to commence from the moment when the circumstance occurred, however, no sooner than from the beginning of the current insurance period. If such a demand is lodged, the other party may terminate the contract without notice within 14 days. That provision shall not apply to life insurances.

Article 817.

- § 1. The insurer shall be obliged to render performance within thirty days, from the date of having received notification on the accident.
- § 2. Where explaining the circumstances necessary for establishing the insurer's liability or calculating the performance's amount has proven impossible within the above-mentioned time limit, the performance should be rendered within 14 days from the day on which, while having observed due diligence, the explanation of these circumstances has become possible. However, the indisputable part of the performance shall be rendered by the insurer within the time limit provided for in § 1.
- § 3. The contract of insurance or general insurance terms may contain provisions which are more favourable to the entitled party than these set out in the preceding paragraphs.

Article 818.

- § 1. The contract of insurance or the general insurance terms may provide that the insuring party shall have a duty to notify the insurer of an accident within a specified time limit.
- § 2. In the case of concluding the contract of insurance on somebody else's account both the insuring party and the insured party may be encumbered with the duty set out in the preceding paragraph, unless the insured party does not know of the conclusion of the contract on his account.
- § 3. Where the duties set out in the preceding paragraphs have been violated by intentional fault or gross negligence, the insurer may reduce the performance appropriately, if the violation contributed to the increase in the damage or made it impossible for the insurer to establish the circumstances and consequences of the accident.
- § 4. The consequences of the failure to notify the insurer of an accident shall not come into being if the insurer, within a time limit set for notification, has received information on the circumstances which

he was to be informed of.

Article 819.

- § 1. Claims arising from the contract of insurance are subject to limitation upon the lapse of three years.
- § 2. (repealed).
- § 3. In the case of civil liability insurance, the injured party's claim to the insurer for damages or compensation shall be subject to limitation upon the lapse of the time limit envisaged for such a claim in the provisions on liability for damage inflicted by way of delict or resulting from non-performance or improper performance of an obligation.
- § 4. The course of limitation of a claim to the insurer for performance shall also be interrupted by lodging this claim with the insurer or by lodging a notification of an event comprised by the insurance. The course of limitation shall commence anew from the day when the party lodging the claim or informing of the event received the insurer's declaration in writing on the award or refusal of performance.

Article 820.

The provisions of the present title shall not apply to marine insurances or to indirect insurances (reinsurance).

SECTION II

Property insurance

Article 821.

The object of property insurance may be any property-related interest which is not contrary to law and may be assessed in monetary terms.

Article 822.

- § 1. By the contract of civil liability insurance, the insurer undertakes to pay damages specified in the contract for the damage inflicted to third parties towards whom the insuring party or the insured party bears liability for the damage.
- § 2. Unless the parties have agreed otherwise, the contract of civil liability insurance shall comprise the damage referred to in § 1, which results from an accident envisaged by the contract, which occurred in the course of the insurance's duration.
- § 3. The parties may decide that the contract will comprise the damage arising, disclosed or submitted in the course of the insurance's duration.

- § 4. The person entitled to damages in relation to an accident comprised by the contract of civil liability insurance may pursue the claim directly from the insurer.
- § 5. The insurer may not raise against the person entitled to damages a defence concerning violation of the duties resulting from the contract or from the general insurance terms by the insuring party or by the insured party, if it occurred after the accident.

Article 823.

- § 1. In the case of alienation of the insurance's object, the rights arising from the contract of insurance may be transferred to the party acquiring the object of insurance. The transfer of these rights shall require consent of the insurer, unless the contract of insurance or the general insurance terms provide otherwise.
- § 2. In the case of the transfer of the rights, referred to in § 1, the duties which encumbered the alienating party shall pass to the party acquiring the object, unless the parties at the insurer's consent have otherwise agreed. Despite the passing of the duties, the alienating party shall be jointly and severally liable with the acquiring party for the payment of the premium due for the period from the passing of the insurance's object to the acquiring party.
- § 3. If the rights referred to in § 1 have not been transferred to the party acquiring the insurance's object, the insurance relation shall expire when the insurance's object passes to the acquiring party.
- § 4. The provisions of § 1-3 shall not apply to transferring receivables which arose or may arise as a result of the occurrence of the accident envisaged under the contract.

Article 824.

- § 1. Unless it has been agreed otherwise, the insurance sum set in the contract shall constitute an upper limit of the insurer's liability.
- § 2. If after the conclusion of the contract the value of the insured property has been reduced, the insurer may demand an appropriate reduction in the insurance sum. The insurer may for the same reason unilaterally perform a reduction in the insurance sum, while simultaneously notifying the insuring party of it.
- § 3. A reduction in the insurance sum shall entail an appropriate reduction in the premium, to commence from the first day of that month in which the insurer demanded a reduction in the insurance sum or in which the insurer himself notified the insuring party of a unilateral reduction in that sum.

Article 824¹.

- § 1. Unless it has been agreed otherwise, a pecuniary sum paid out by the insurer on account of the

insurance may not be higher than the damage sustained.

- § 2. If the same insurance's object is at the same time insured against the same risk with two or more insurers for sums which cumulatively exceed its insurance value, the insuring party may not demand performance exceeding the value of the damage. Between the insurers, each of them shall be liable in such proportion, in which the insurance sum accepted by the insuring party is to the aggregate sums resulting from a double or multiple insurance.
- § 3. If it has been agreed on in any of the contracts of insurance referred to in § 2 that the sum paid out by the insurer may be higher than the damage sustained, the insuring party may demand payment of the performance in its part exceeding the amount of the damage only from that insurer. In such a case, in order to establish the scope of liability between the insurers, it shall be presumed that in the insurance referred to in the present paragraph, the insurance sum equals the insurance value.

Article 825.

(repealed).

Article 826.

- § 1. When an accident occurs, the insuring party shall use the means available to him to rescue the object of insurance as well as to prevent the damage or to reduce its scope.
- § 2. The contract of insurance or the general insurance terms may provide that when the accident occurs, the insuring party shall be obliged to ensure the possibility to pursue compensatory claims towards persons liable for the damage.
- § 3. If the insuring party has intentionally or due to his gross negligence failed to use the means set out in § 1, the insurer shall be free from liability for the damage which arose for this reason.
- § 4. The insurer shall be obliged to, within the limits of the insurance's sum, reimburse the costs resulting from using the means stipulated in § 1, if these means were appropriate, even if they turned out to be ineffective. The contract or the general insurance terms may contain provisions more favourable for the insuring party.
- § 5. In the case of insurance on somebody else's account, the provisions of the preceding paragraphs shall apply to the insured party as well.

Article 827.

- § 1. The insurer shall be free from liability where the insuring party has inflicted the damage intentionally; in the case of gross negligence the damages shall not be due, unless the contract or the general insurance terms provide otherwise or the payment of the damages corresponds in the given

circumstances to the considerations of equity.

- § 2. Other principles of the insurer's liability than the ones specified in § 1 may be set out in the civil liability contract.
- § 3. Unless it has been otherwise agreed, the insurer shall not be held liable for the damage inflicted intentionally by a person living with the insuring party in a joint household.
- § 4. In the case of concluding the contract of insurance on somebody else's account, the principles set out in the preceding paragraphs shall apply accordingly to the insured party.

Article 828.

- § 1. Unless it has been agreed otherwise, the claim of the insuring party against a third party liable for the damage shall pass to the insurer by operation of law, up to the amount of damages paid out on the damages' payment day. If the insurer has covered only a part of the damage, the insuring party shall be entitled to priority in satisfaction as to the remaining part of it before the insurer's claim.
- § 2. The insuring party's claim against the persons living with the insuring party in a joint household shall not pass to the insurer, unless the perpetrator has intentionally inflicted the damage.
- § 3. The principles resulting from the preceding paragraphs shall apply accordingly in the case of concluding the contract on somebody else's account.

SECTION III
Personal insurance

Article 829.

- § 1. Personal insurance may in particular refer to:
 - 1) at the life insurance - the insured party's death or him reaching a specified age;
 - 2) at the accident insurance - bodily harm, health disorder or death as a result of an unfortunate accident.
- § 2. In the contract of life insurance concluded on somebody else's account, the insurer's liability shall commence not earlier than on the day following the one when the insured person declared to the party indicated in the contract that he wished to use the reservation of the insurance protection made for him. The declaration should comprise the amount of the insurance sum. A change of the contract to the prejudice of the insured party or the person entitled to receive the insurance sum in the case of the insured party's death shall require the insured party's consent.

Article 830.

- § 1. At the personal insurance, the insuring party may terminate the contract by notice at all times while observing the time limit specified in the contract or in the general insurance terms; and in its absence - with an immediate effect.
- § 2. In the absence of a reservation to the contrary the contract shall be deemed to have been terminated by notice by the insuring party if the premium or its instalment has not been paid within the time limit specified in the contract or in the general insurance terms despite a previous request for payment within an additional time limit set out in the general insurance terms; the consequences of a failure to pay the premium should be announced to the insuring party in the request for payment.
- § 3. The insurer may terminate the contract of life insurance by notice only in the cases indicated in a statute.
- § 4. The provisions of § 3 and article 812 § 8 shall apply accordingly in the case of a change of the general terms of life insurance in the course of a contractual relation. In such a case it shall not prejudice the application of article 384¹.

Article 831.

- § 1. The insuring party may indicate one or more persons entitled to receive the insurance sum in the case of the insured party's death; the former may also conclude a bearer contract of insurance. The insuring party may change or revoke each of these reservations at all times.

§ 1¹.

In the case of concluding the contract of insurance on somebody else's account, prior consent of the insured party shall be required to exercise entitlements referred to in the preceding paragraph; the contract or the general insurance terms may provide that the insured party may exercise these entitlements independently.

- § 2. If several entitled persons have been indicated to receive the insurance sum and no indications as to their shares have been made, their shares shall be equal.
- § 3. The insurance sum falling to the entitled person shall not be included in the insured person's inheritance.

Article 832.

- § 1. The indication of the person entitled to receive the insurance sum shall become ineffective if the entitled person died before the insured person's death or if the former intentionally contributed to the latter's death.
- § 2. If upon the insured person's death there is no person entitled to receive the insurance sum, the sum shall fall to the closest family of the insured person in an order specified in the general insurance

terms, unless it has been otherwise agreed.

Article 833.

At the life insurance, the insured party's suicide shall not release the insurer from the duty to render performance if the suicide occurred after the lapse of two years from the conclusion of the contract of insurance. The contract or the general insurance terms may shorten this time limit, however, not more than up to 6 months.

Article 834.

If the accident occurred after the lapse of three years from the conclusion of the contract of life insurance, the insurer may not raise a defence that false information was provided at the conclusion of the contract, in particular, that the insured person's disease was concealed. The contract or the general insurance terms may shorten the above-mentioned time limit.

TITLE XXVIII

Bailment

Article 835.

By the contract of bailment the bailee undertakes to keep a movable thing which has been left to him in bailment in a non-deteriorated state.

Article 836.

If the amount of remuneration for bailment has not been specified in the contract or in a relevant scale of charges, the bailee shall be entitled to the remuneration accepted in the given relations, unless it results from the contract or from the circumstances that he undertook to keep the thing with no remuneration.

Article 837.

The bailee should keep the thing in the manner which he undertook and where there has been no contract in that regard, in a manner that results from the nature of the thing being kept and from the circumstances.

Article 838.

The bailee shall be entitled and even obliged to change the place and the manner of the thing's keeping specified in the contract if it proves to be necessary to protect it from loss or damage. If obtaining the bailor's consent beforehand is possible, the bailee shall obtain it prior to making the change.

Article 839.

The bailee may not use the thing without the bailor's consent, unless it is necessary to keep the thing in a non-deteriorated state.

Article 840.

- § 1. The bailee may not leave to somebody else the thing in bailment, unless he is forced to it by the circumstances. In such a case he shall be obliged to notify the bailor where and who he deposited the thing with, and in the case of making such notification he shall be liable merely for the lack of due diligence in selecting the substitute.
- § 2. The substitute shall also be liable towards the bailor. If the bailee is held liable for his substitute's acts as for his own acts, their liability shall be joint and several.

Article 841.

If the bailee uses the thing or changes the place or the manner in which it is kept or if he leaves the thing in bailment to somebody else, without the bailor's consent and with no such need, the bailee shall be liable for accidental loss or damage to the thing which would not have otherwise occurred.

Article 842.

The bailor shall reimburse the bailee for the expenses that the bailee has incurred to properly keep the thing along with the statutory interest and shall release the bailee from the obligations assumed by the latter for the above purpose in his own name.

Article 843.

If several persons have jointly accepted or left the thing in bailment, their liability towards the other party shall be joint and several.

Article 844.

- § 1. The bailor may at all times demand the return of the thing left in bailment.
- § 2. The bailee may demand that the thing be collected prior to the lapse of the time limit set in the contract if due to the circumstances that he might not have foreseen he may not be able to keep the thing in the manner to which he is obliged, without his own detriment or without posing a peril to the thing. If the period of bailment has not been specified or if the thing has been accepted for keeping without remuneration, the bailee may at all times demand that the thing be collected, as long as it is not returned at an inappropriate moment for the bailor.
- § 3. The return of the thing should happen at a place where it was to have been kept.

Article 845.

If it results from specific provisions or from the contract or the circumstances that the bailee may dispose of the money or other things specified only as to their kind which have been left in bailment, the provisions on loan shall apply accordingly (irregular deposit). The provisions on bailment shall specify the date and the place of the return of it.

TITLE XXIX

Liability, right of pledge and limitation of claims of persons who run hotels and similar establishments

Article 846.

- § 1. A person who gainfully runs a hotel or a similar establishment shall be liable for loss or damage to the things brought in by a person making use of the services of a hotel or a similar establishment, hereinafter referred to as 'a guest', unless the damage resulted from the nature of the thing brought in or due to force majeure or it resulted only from the fault of the injured party or a person who accompanied the latter, who was employed by him or who visited him.
- § 2. The thing brought in as defined by the provisions of the present title shall be a thing which is in a hotel or in a similar establishment at the time when the guest made use of a hotel or a similar establishment or which is outside it and was entrusted to the person gainfully running the hotel or a similar establishment or with a person employed by the latter, or when the thing was put at a place indicated by them or designed for this purpose.
- § 3. A thing which for a short, customarily accepted period preceding or following the time when the guest made use of the services of the hotel or a similar establishment, was entrusted to the person gainfully running the hotel or a similar establishment or with a person employed by the latter or which has been put at a place indicated by them or designed for that purpose, shall also be defined as a thing brought in.
- § 4. Motor vehicles and things left in them or living animals shall not be regarded as things brought in. The person gainfully running a hotel or a similar establishment may be held liable for them as the depositing party if the contract of bailment has been concluded.
- § 5. Exclusion or limitation of liability referred to in § 1 by way of contract or an announcement shall not be legally effective.

Article 847.

A claim for the redress of the damage resulting from loss or damage to the things brought into a hotel or a similar establishment shall expire if the injured party after having learned of the damage failed to immediately notify of it the person running the establishment. The provision shall not apply where the damage has been inflicted by the person gainfully running the hotel or a similar establishment or where such a person accepted the thing in bailment.

Article 848.

Claims for the redress of the damage resulting from loss or damage to the things brought in to a hotel or a similar establishment shall expire upon the lapse of six months from the day on which the injured party learned of the damage and in any case upon the lapse of a year from the day when the injured party stopped using the services of the hotel or a similar establishment.

Article 849.

- § 1. In the case of loss or damage to the things brought in, the scope of the duty to redress the damage by a person gainfully running a hotel or a similar establishment shall be limited towards each one guest to a hundredfold of the amount due for the accommodation he was provided with, as charged for one day. However, liability for each thing may not exceed a fiftyfold of the amount due.
- § 2. The limitations in the scope of the duty to redress the damage shall not regard the case where the person gainfully running a hotel or a similar establishment has accepted the things in bailment or has refused to accept them despite having been obliged to do so, as well as the case where the damage resulted from an intentional fault or gross negligence of the latter or of a person employed by him.
- § 3. The person gainfully running a hotel or a similar establishment shall be obliged to accept money, securities and precious things, in particular, valuables and objects of scientific or artistic value, in bailment. He may refuse to accept these things only where they threaten the security or if compared to the size or to the standard of the hotel or a similar establishment their value is too high or if they occupy too much space.

Article 850.

In order to secure payment of dues for accommodation, maintenance and services provided to the person making use of a hotel or a similar establishment, as well as to secure claims for the reimbursement of expenses incurred for this person, the person gainfully running a hotel or a similar establishment shall be entitled to the statutory right of pledge on the things brought in. The right shall be subject to the provisions on the lessor's statutory right of pledge.

Article 851.

Claims which have arisen within the scope of hotel enterprises' activities on account of dues for accommodation, maintenance and services provided, as well as on account of expenses incurred for persons who make use of such enterprises' services shall be subject to limitation upon the lapse of two years. This provision shall apply accordingly to catering enterprises.

Article 852.

The provisions on the liability and on the statutory right of pledge of the person gainfully running a hotel or a similar establishment shall apply accordingly to bathing establishments. However, when it comes to the objects which are not usually brought in by persons making use of these establishments' services, the liability of the person running the establishment shall be limited to the case where he has accepted such an object for bailment or where the damage has resulted from an intentional fault or gross negligence of himself or the person employed by him.

TITLE XXX

Contract of storage

Article 853.

- § 1. By the contract of storage the storage warehouse entrepreneur undertakes to keep movable things specified in the contract for remuneration.
- § 2. The storage warehouse entrepreneur shall be obliged to issue to the depositing party a receipt, which should list the kind, the amount, the specification and the manner of the thing's packing as well as other essential contractual provisions.

Article 854.

The provisions of the present title shall not apply in cases where the storage warehouse entrepreneur acquires ownership of the things stored in a warehouse and is obliged to return only the same amount of the things of the same kind and of the same quality.

Article 855.

- § 1. The storage warehouse entrepreneur shall be liable for the damage resulting from loss, decrease or damage to the thing from its acceptance for storage to its release to the person entitled to collect it, unless the former proves that he could not have prevented the damage despite having exercised due diligence.
- § 2. The storage warehouse entrepreneur shall be entitled to carry out relevant maintenance activities. A

contractual provision to the contrary shall be invalid.

§ 3. The storage warehouse entrepreneur shall not be held liable for a decrease not exceeding the limits specified by relevant provisions and in the absence of such provisions, customarily accepted limits.

§ 4. The damages may not exceed the ordinary value of the thing unless the damage results from the storing party's intentional fault or gross negligence.

Article 856.

The storage warehouse entrepreneur shall be obliged to insure the thing only if he was given such a mandate.

Article 857.

If the state of the things sent in to the storage warehouse entrepreneur raises a suspicion that a loss, decrease, decay or damage to the thing has occurred, the storage warehouse entrepreneur should perform acts indispensable to secure the property and the rights of the depositing party.

Article 858.

The storage warehouse entrepreneur should notify the depositing party of any events which are important given the protection of the depositing party's rights or which regard the state of the things left for storage, unless such notification is impossible.

Article 859.

If the thing is perishable and one may not wait for the depositing party's order, the storage warehouse entrepreneur shall have a right, and where the depositing party's interest requires so - also a duty - to sell the thing while exercising due diligence.

Article 859¹.

The storage warehouse entrepreneur shall enable the depositing party to examine the thing, to divide or to combine its parts, to take samples of it as well as to perform other acts to preserve the thing in an appropriate state.

Article 859².

§ 1. The storage warehouse entrepreneur may combine fungible things of the same kind and of the same quality, belonging to several depositing parties upon their consent in writing.

§ 2. Releasing to the depositing party a part of the things that he is entitled to combined in that manner shall not require the consent of the other depositing parties.

§ 3. Dividing and combining such things should be disclosed in the storing party's documents.

Article 859³.

The storage warehouse entrepreneur in order to secure claims for storage fees and for accessory dues, for reimbursement of expenses and costs, in particular, the freight fees and customs fees, for reimbursement of advance payments made to the depositing party as well as any other dues resulting from the contract or contracts of storage, shall be entitled to the statutory right of pledge on the things left for storage, as long as they are in his possession or in the possession of a person who holds them dependently on his behalf or until the storage warehouse entrepreneur may dispose of them using documents.

Article 859⁴.

The contract of storage concluded for a definite period shall be presumed to have been prolonged for an indefinite period of time, if 14 days prior to the lapse of the time limit the storage warehouse entrepreneur failed to request, by means of a registered letter or at the address for electronic delivery referred to in article 2 point 1 of the Act of 18 November 2020 on electronic delivery (Journal of Laws of 2022, items 569 and 1002), the thing to be collected within the time limit agreed on.

Article 859⁵.

The contract of storage concluded for an indefinite period may be terminated by a storage warehouse entrepreneur by means of a registered letter or at the address for electronic delivery referred to in article 2 point 1 of the Act of 18 November 2020 on electronic delivery, with a monthly deadline, but not earlier than 2 months after the item was deposited.

Article 859⁶.

If the depositing party fails to collect the thing despite the lapse of the time limit agreed on or the time limit of the notice of the contract's termination, the storage warehouse entrepreneur may leave the thing in bailment at the depositing party's expense and peril. The former may, however, execute this right only where he has forewarned the depositing party of the intention to exercise its right by means of a registered letter or at the address for electronic delivery referred to in article 2 point 1 of the Act of 18 November 2020 on electronic delivery, sent no later than 14 days prior to the lapse of the time limit agreed on.

Article 859⁷.

Despite having concluded the contract for a definite period of time, the storage warehouse entrepreneur may at all times for important reasons call upon the depositing party to collect the things, yet setting an appropriate time limit for their collection.

Article 859⁸.

- § 1. By collecting things without reservations as well as by paying all the dues of the storage warehouse entrepreneur all claims against the storage warehouse entrepreneur on account of the contract of storage shall expire, except for claims on account of the thing's latent damage, if the depositing party has notified the storage warehouse entrepreneur of it within seven days from collection.
- § 2. The provision of § 1 shall not apply where the defect results from an intentional fault or gross negligence.

Article 859⁹.

Claims arising from the contract of storage shall be subject to limitation upon the lapse of a year.

TITLE XXXI

Civil law partnership

Article 860.

- § 1. By the contract of civil law partnership the partners undertake to strive to achieve a joint economic aim by acting in a specified manner, in particular, by making contributions.
- § 2. The contract of civil law partnership should be evidenced in writing.

Article 861.

- § 1. The partner's contribution may consist in contributing to the civil-law partnership ownership or other rights, or providing services.
- § 2. It shall be presumed that the contributions of partners have equal value.

Article 862.

If a partner undertook to contribute ownership of a thing to the civil-law partnership, the provisions on sale shall apply accordingly to performing that obligation as well as to liability on account of warranty for defects. If things are to be contributed for use only, the provisions on lease shall apply accordingly within the above-mentioned scope.

Article 863.

- § 1. The partner may neither dispose of his share in the partners' joint property nor of his share in the respective parts in this property.
- § 2. The partner may not demand a division of the partners' joint property in the course of the civil law

partnership's duration.

- § 3. In the course of the civil law partnership's duration a partner's creditor may neither demand to be satisfied from the share in the partners' joint property nor from the share in the respective parts in this property.

Article 864.

The partners shall be jointly and severally liable for the civil law partnership's obligations.

Article 865.

- § 1. Each partner shall be entitled to and obliged to manage the civil law partnership's affairs.
- § 2. Each partner may, without a prior resolution of the partners, manage the civil-law partnership's affairs which do not exceed the scope of the ordinary course of the partnership's business. However, if before completing such an affair, any other partner objects to managing it, the partners' resolution shall be required.
- § 3. Each partner may, without a prior resolution of the partners, perform an urgent act whose non-performance might cause irreparable losses to the civil law partnership.

Article 866.

In the absence of a contract to the contrary or the partners' resolution, each partner shall be empowered to represent the civil law partnership within such limits as he is entitled to manage its affairs.

Article 867.

- § 1. Each partner shall be entitled to an equal share in profits and shall participate in losses in the same proportion, regardless of the type and value of his contribution. The partners' share in profits and losses may be set differently in the contract of the civil law partnership. Some of the partners may even be released from a share in losses. The partner may not be, however, exempt from a share in the profits.
- § 2. The partner's share in the profits set out in the contract shall, in the case of doubt, also be equal to the share in the losses.

Article 868.

- § 1. The partner may demand a division and payment of profits only after the termination of the civil law partnership.
- § 2. However, where the civil law partnership has been established for a longer period of time, the partners

may demand a division and payment of profits at the end of each financial year.

Article 869.

- § 1. If the civil law partnership has been established for an indefinite period of time, each partner may leave the partnership by terminating his share three months in advance at the end of the financial year.
- § 2. For important reasons a partner may terminate his share without observance of the notice periods, even if the civil law partnership was established for an indefinite period of time. Any reservation to the contrary shall be invalid.

Article 870.

If during the last six months the enforcement proceedings on the partner's movable things have proven ineffective, his personal creditor, who obtained an attachment of rights to which the partner would be entitled in the case of him leaving the civil law partnership or its termination, may terminate by notice the partner's share in the partnership three months in advance, even though the partnership was established for a definite period of time. If the contract of the civil law partnership provides for a shorter period of notice, the creditor may make use of this period.

Article 871.

- § 1. The things which the partner contributed to the civil law partnership for use shall be returned to the partner who leaves the partnership; he shall be also paid the value of his contribution specified in the contract of the civil law partnership in money, and in the absence of such a specification, the value of the contribution upon making it. The value of the contribution consisting in performance of services or in using things belonging to the partner by the partnership shall not be returned.
- § 2. Moreover, the partner leaving the civil law partnership shall be paid in money such a part of the joint property remaining after having deducted the value of all the partners' contributions which corresponds to the proportion in which the partner leaving the partnership has participated in its profits.

Article 872.

It may be reserved that the partner's heirs will enter into the civil law partnership in his place. In such a case they should indicate to the partnership one person who will exercise their powers. Until then, the remaining partners shall be able to undertake all acts within the scope of managing the partnership's affairs.

Article 873.

If despite the existence of reasons for termination of the civil law partnership provided for in the contract,

the partnership continues its existence with all the partners' consent, it shall be construed as having been prolonged for an indefinite period of time.

Article 874.

- § 1. Each partner may demand to have the civil law partnership terminated for important reasons by a court of law.
- § 2. The partnership shall be terminated upon declaring a partner bankrupt.

Article 875.

- § 1. From the moment of the civil law partnership's termination the provisions on co-ownership in fractional parts shall apply accordingly to the partners' joint property without prejudice to the provisions below.
- § 2. The partners shall have their contributions reimbursed from the assets remaining after the payment of the partnership's debts. The provisions on reimbursement of contributions on the partner's leaving the partnership shall apply accordingly.
- § 3. The remaining surplus of the joint property shall be divided between the partners in such a proportion in which they participated in the partnership's profits.

TITLE XXXII

Suretyship

Article 876.

- § 1. By the contract of suretyship the surety undertakes towards the creditor to render performance, should the debtor fail to render the performance.
- § 2. The surety's declaration shall be made in writing on pain of invalidity.

Article 877.

In the case of providing a suretyship for the debt of a person who could not have contracted an obligation due to the lack of the capacity for juridical acts, the surety should render performance as a main debtor if at the moment of providing the suretyship he knew of that person's lack of capacity or might have learned with ease of it.

Article 878.

- § 1. One may provide a suretyship for a future debt up to the amount specified in advance.

§ 2. A suretyship unlimited in time for a future debt may be revoked at all times prior to the debt's arising.

Article 879.

§ 1. The scope of the debtor's obligation shall be decided each time by reference to the scope of the surety's obligation.

§ 2. However, a juridical act performed by the debtor with the creditor after granting suretyship may not increase the surety's obligation.

Article 880.

If the debtor delays in rendering performance, the creditor should notify the surety of it immediately.

Article 881.

In the absence of a different reservation the surety shall be liable as a joint and several co-debtor.

Article 882.

If a time limit for the debt's payment has not been set or if the debt's payment depends on termination by notice, the surety, after the lapse of six months from the date of granting the suretyship, and where he granted suretyship for a future debt - from the date when the debt arose, may demand that the creditor call upon the debtor to pay or that the creditor give notice at the earliest date. If the creditor fails to satisfy the above-mentioned request, the surety's obligation shall expire.

Article 883.

§ 1. The surety may raise against the creditor all such defences which the debtor is entitled to; in particular, the surety may set off a receivable which the debtor is entitled to towards the creditor.

§ 2. The surety shall not lose the above defences even if the debtor has waived them or acknowledged the creditor's claim.

§ 3. In the case of the debtor's death, the surety may not invoke the limitation of an heir's liability arising from the inheritance law provisions.

Article 884.

§ 1. The surety, who the creditor pursues a claim against, should notify the debtor immediately by calling upon him to take part in the court case.

§ 2. If the debtor fails to take part in the case, he may not raise against the surety such defences which he was entitled to towards the creditor and which the surety failed to raise for he had not know of them.

Article 885.

The surety should notify the debtor immediately that he paid the debt for which he granted suretyship. Should he fail to do so and should the debtor perform the obligation, he may not demand from the debtor reimbursement for what he himself has paid to the creditor, unless the debtor has acted in bad faith.

Article 886.

If suretyship has been granted with the debtor's consent, the debtor should notify the surety immediately on having performed the obligation. Should he fail to do so, the surety who has satisfied the creditor may demand from the debtor the reimbursement for what he himself has paid to the creditor, unless he acted in bad faith.

Article 887.

If the creditor has divested of the receivable's collateral or of the means of evidence, he shall be held liable towards the surety for the damage arising from it.

TITLE XXXIII

Donation

Article 888.

§ 1. By the contract of donation the donating party undertakes to render gratuitous performance for the benefiting party at the expense of his own property.

§ 2. (repealed).

Article 889.

The following gratuitous gains shall not constitute a donation:

- 1) where the obligation to render gratuitous performance results from a contract governed by other provisions of the Code;
- 2) where a person waives his right which he has not acquired yet or which he acquired in such a manner that in the case of the waiver it shall be regarded as not having been acquired.

Article 890.

§ 1. A declaration of the donating party should be made in the notarial deed form. However, the contract of donation concluded without observance of the notarial form shall be valid if the promised performance has been rendered.

§ 2. The above provisions shall not prejudice the provisions which because of the donation's object shall require observance of the special form for the declarations of both parties.

Article 891.

§ 1. The donating party shall be obliged to redress the damage resulting from the non-performance or improper performance of the obligation if the damage has been inflicted intentionally or due to gross negligence.

§ 2. If the donating party delays in rendering pecuniary performance, the benefiting party may demand payment of the interest for the delay only from the day of instituting an action.

Article 892.

If the thing donated has defects, the donating party shall be obliged to redress the damage which he has inflicted upon the benefiting party by not having notified him in appropriate time of the defects, despite having known of them. The provision shall not apply where the benefiting party might have noticed the defect with ease.

Article 893.

The donating party may vest in the benefiting party a duty to perform a specified act or omission while not making any person a creditor (instruction).

Article 894.

§ 1. The donating party who performed the obligation resulting from the contract of donation may demand that the instruction be performed, unless its scope is only to benefit the benefiting party.

§ 2. After the donating party's death, heirs of the donating party may demand the performance of the instruction, and where the instruction takes into account the social interest - also a competent state organ.

Article 895.

§ 1. The benefiting party may refuse to perform the instruction if it is justified due to a substantial change in the relations.

§ 2. If the donating party or his heirs demand the performance of the instruction, the benefiting party may release himself by releasing the object of donation in kind in such a state in which the object is at that time. The provision shall not apply where a competent state organ demands the performance of the instruction.

Article 896.

The donating party may revoke a donation which has not been performed yet if after the conclusion of the contract his financial position was subject to such a change that the donation's performance may not occur without prejudice to his own maintenance according to his justified needs or without prejudice to the statutory maintenance duties which encumber him.

Article 897.

If the donating party, after having performed the donation, has become impoverished, the benefiting party shall be obliged, within the limits of his still existing enrichment, to provide the donating party with the means which the latter lacks to maintain himself according to his justified needs or to perform statutory maintenance duties which encumber him. The benefiting party may, however, release himself from that duty by returning to the donating party the value of the enrichment.

Article 898.

- § 1. The donating party may revoke the donation which has already been performed if the benefiting party has shown gross ingratitude towards him.
- § 2. The reimbursement of the revoked donation's object should come into being pursuant to the provisions on unjust enrichment. From the moment of an event justifying the revocation, the benefiting party shall be held equally liable as an unjustly enriched person, who should take a duty of reimbursement into consideration.

Article 899.

- § 1. The donation may not be revoked due to ingratitude if the donating party has forgiven the benefiting party. If the donating party did not have the capacity for juridical acts at the moment of forgiving, the forgiveness shall be effective if it occurred with sufficient awareness.
- § 2. The donating party's heirs may revoke the donation on account of ingratitude only when the donating party at the moment of his death was entitled to revoke it or where the benefiting party has intentionally deprived the donating party of life or has intentionally brought about a health disorder whose consequence was the donating party's death.
- § 3. The donation may not be revoked after the lapse of a year from the day when the donating party learned about the benefiting party's ingratitude.

Article 900.

The donation's revocation shall come into being by a declaration made in writing to the benefiting party.

Article 901.

- § 1. A representative of an incapacitated person may demand the termination of the contract of donation made by that person prior to his incapacitation, if given the value of the performance and lack of justified incentives the donation is excessive.
- § 2. One may not demand the termination of the contract of donation after the lapse of two years from its performance.

Article 902.

The provisions on revocation of donation shall not apply where the donation satisfies the duty arising from the principles of community coexistence.

TITLE XXXIII¹

Immovable property transfer

Article 902¹.

- § 1. By the contract of immovable property transfer, the owner of immovable property undertakes to gratuitously transfer the ownership of immovable property to a municipality or the State Treasury.
- § 2. The State Treasury may conclude a contract of immovable property transfer, if the municipality where the entire or a part of the immovable property is situated fails to accept an invitation to conclude it within three months from the day of the invitation by the immovable property's owner.

Article 902².

Unless the parties have decided otherwise, the owner transferring the immovable property shall not be held liable for its defects.

TITLE XXXIV

Pension and life-annuity

SECTION I

Pension

Article 903.

By the contract of pension one of the parties undertakes towards the other one to render specified periodical

performances in money or in things specified only as to their kind.

Article 903¹.

The contract of pension shall be evidenced in writing.

Article 904.

If time limits for the payment of a pension have not been set otherwise, a pecuniary pension shall be paid monthly in advance, and a pension consisting in things specified only as to their kind shall be payable within the time limits arising from the nature of the performance and the pension's aim.

Article 905.

If the entitled person has reached the day of payment of the pension payable in advance, he shall be entitled to the entire performance due for the given period. The pension payable in arrears should be paid for the period until the day when the duty has ceased to exist.

Article 906.

§ 1. The provisions on sale shall apply accordingly to the pension established for remuneration.

§ 2. The provisions on donation shall apply to the pension established with no remuneration.

Article 907.

§ 1. In the absence of specific provisions the provisions of the present section shall also apply in the case where a pension results from non-contractual sources.

§ 2. If the duty to pay the pension results from the statute, either of the parties in the case of the change of relations may demand a change of the pension's amount or the change of its duration, even if the amount of the pension and its duration were set in a court ruling or in a contract.

SECTION II

Life-annuity

Article 908.

§ 1. If in return for a transfer of ownership of immovable property the acquiring party has undertaken to provide the alienating party with lifelong maintenance (contract of life-annuity), he should, in the absence of a different contract, accept the alienating party as a member of his household, provide him with food, clothes, accommodation, electricity and fuel, provide him with an appropriate help and nursing during an illness and give him a funeral corresponding to the local customs at his expense.

§ 2. If in the contract of life-annuity the party acquiring immovable property undertook to encumber it for the alienating party's benefit with a usufruct whose exercise is limited to a part of the immovable property, with a servitude of dwelling or other personal servitude, or if the former undertook to render repeated performances in cash or in things specified as to their kind, the usufruct, the personal servitude and the entitlement to repeated performances shall belong to the content of the right of life-annuity.

§ 3. One may reserve life-annuity for a person close to the party alienating the immovable property as well.

Article 909.

(repealed).

Article 910.

§ 1. The transfer of immovable property's ownership on the basis of the contract of life-annuity shall come into being along with a simultaneous encumbrance of the immovable property with a right to life-annuity. The provisions on limited proprietary rights shall apply accordingly to such an encumbrance.

§ 2. In the case of alienation of immovable property encumbered with a right to life-annuity, the alienating party shall be held personally liable for performances comprised by this right, unless they become mature when the immovable property was not owned by him. Personal liability of the co-owners shall be joint and several.

Article 911.

The right to life-annuity established for the benefit of several persons shall be subject to an appropriate reduction in the case of death of any of these persons.

Article 912.

The right to life-annuity shall be inalienable.

Article 913.

§ 1. If for any reasons whatsoever there should arise such relations between the life-annuitant and the obliged person that one may not require the parties to maintain a direct contact between them, a court of law at the request of either of them shall convert all or several entitlements comprised by the content of the right to life-annuity's into a lifelong pension corresponding to the value of these entitlements.

§ 2. In exceptional cases a court of law may terminate the contract of life-annuity at the request of the

obliged person or of the life-annuitant if the latter is the party alienating the immovable property.

Article 914.

If the person obliged on account of the contract of life-annuity has alienated the immovable property which he received, the life-annuitant may demand the right to life-annuity to be converted into a lifelong pension corresponding to the value of this right.

Article 915.

The provisions of the two preceding articles shall apply accordingly to the contracts by means of which the party acquiring immovable property has undertaken to encumber the immovable property with a usufruct along with the limitation of its exercise to the immovable property's part in order to provide the alienating party with lifelong maintenance.

Article 916.

- § 1. A person towards whom the life-annuitant is encumbered with a statutory duty of maintenance may demand that the contract of life-annuity be considered ineffective towards the former if due to this contract the life-annuitant has become insolvent. This entitlement shall be due regardless of whether the life-annuitant acted while aware of the creditors' detriment as well as regardless of the date when the contact was concluded.
- § 2. One may not demand a contract of life-annuity to be considered ineffective after the lapse of five years from the date of this contract.

TITLE XXXV

Settlement

Article 917.

By the contract of settlement the parties shall make reciprocal concessions within the scope of the legal relation existing between them for the purpose of setting aside uncertainty as to the claims arising from that relation or ensuring their performance or setting aside a dispute which exists or which might arise.

Article 918.

- § 1. Freeing oneself from the legal consequences of a settlement concluded when under the influence of an error shall be admissible only where the error regarded the state of facts which both of the parties considered undisputable according to the settlement's content, and the dispute or uncertainty would not have arisen had the parties known of the real state of affairs.

- § 2. One may not free himself from the legal consequences of a settlement due to having found evidence as to the claims which the settlement regards, unless it has been concluded in bad faith.

TITLE XXXVI

Public promise

Article 919.

- § 1. A person who by means of public promise has promised a reward for performing a specified act, shall be obliged to abide by this promise.
- § 2. If no time limit for performing the act has been set in the promise or if it had not been reserved that the promise was irrevocable, the promising party may revoke it. The revocation should take place by means of public declaration in the same manner as the one in which the promise was made. The revocation shall be ineffective towards the person who previously performed the act.

Article 920.

- § 1. If the act has been performed by several persons independently, each of them shall be entitled to a full reward, unless only one reward has been promised.
- § 2. If only one reward has been promised, a person who first comes forward shall receive it; and where several persons come forward at the same time - the person who first performed the act.
- § 3. If the act was jointly performed by several persons, in the case of a dispute a court of law shall divide the reward accordingly.

Article 921.

- § 1. Promising a reward publicly for the best specific work or for the best act shall be ineffective if no time limit, within which one may seek the reward, has been set.
- § 2. Unless otherwise reserved in the reward's promise, it shall be the promiser's decision whether any specific work or an act, and which one, deserves the reward.
- § 3. The party promising the reward shall acquire ownership of the specific work only where he reserved it in the promise. In such a case the acquisition of ownership shall take place upon the payment of the reward. The very provision shall apply to the acquisition of the author's rights or the inventor's rights.

TITLE XXXVII

Remittance and securities

SECTION I

Remittance

Article 921¹.

A person, who passes to the other (the party receiving the remittance) the performance of the third party (the remitted party), authorizes the party receiving the remittance to accept the performance and the remitted party to render the performance on the remitting party's account.

Article 921².

- § 1. If the remitted party has declared to the party receiving the remittance that he accepted the remittance, the former shall be obliged towards the latter to render the performance set out in the remittance.
- § 2. In such a case the remitted party may invoke only the defences resulting from the content of the remittance as well as the defences to which he is personally entitled towards the party receiving the remittance.
- § 3. Claims of the party receiving the remittance against the remitted party, arising from the remittance's acceptance, shall be subject to limitation upon the lapse of a year.

Article 921³.

The remitting party may revoke the remittance until the remitted party accepts it or renders performance.

Article 921⁴.

If the remitted party is the remitting party's debtor with regard to the remitted performance, the former shall be obliged towards the latter to satisfy the remittance.

Article 921⁵.

Where the remitting party is the debtor of the party receiving the remittance, the debt's cancellation shall come into being only by means of rendering the performance, unless it has been agreed otherwise.

SECTION II

Securities

Article 921⁶.

If the obligation results from a security which has been issued, the debtor shall be entitled to perform

against the return of the document or against making it available to the debtor in order to deprive it of its binding force in a manner which is customarily accepted.

Article 921⁷.

Having rendered performance to the hands of the possessor who is entitled by the security's content shall release the debtor, unless he acted in bad faith.

Article 921⁸.

Registered securities shall provide entitlement to a person whose name is indicated in the document's content. A transfer of rights shall take place by means of assignment combined with the release of the document.

Article 921⁹.

- § 1. Endorsable securities shall provide entitlement to a person set forth in the document as well as to anybody to whom the rights have been transferred by endorsement.
- § 2. A written declaration put on the endorsable security and containing at least the alienating party's signature denoting a transfer of rights to the other person shall be the endorsement.
- § 3. The release of the document as well as the existence of an uninterrupted sequence of endorsements shall be required for the transfer of rights arising from the document.

Article 921¹⁰.

- § 1. If a permit of a competent state organ is required to put a bearer security into circulation, the document issued without such a permit shall be invalid.
- § 2. The debtor's signature may be mechanically stamped, unless specific provisions provide otherwise.

Article 921¹¹.

- § 1. The debtor shall not have a duty to examine whether the bearer is the owner of the document. However, in the case of justified doubts whether the document's bearer is the creditor, the debtor should place the object of the performance at the court deposit.
- § 2. Where a competent state organ has issued a ban on the performance, the release from the obligation shall come into being by placing the object of the performance at the court deposit.

Article 921¹².

A transfer of rights under a bearer document shall require the release of the document.

Article 921¹³.

The debtor may invoke towards the creditor the defences which regard the document's validity or which result from its content or to which the former is entitled towards the creditor. The debtor may also invoke the defences which he is entitled to towards the former creditor if the party acquiring the document acted deliberately to the debtor's detriment.

Article 921¹⁴.

- § 1. Specific provisions shall govern the redemption of securities.
- § 2. If the security has been redeemed in a final manner, the debtor shall be obliged to release a new document to the person to whose benefit the redemption was performed, at that person's expense, and where the receivable is mature - the debtor shall be obliged to render the performance.

Article 921¹⁵.

- § 1. The provisions on securities shall apply accordingly to entitlement instruments confirming the duty to render performance.
- § 2. In the case of a loss of the entitlement instrument confirming in its content the duty to render performance at the creditor's request, the debtor may make the performance dependent on that the person making such a request proves his entitlement.
- § 3. The provisions on bearer securities shall apply accordingly to the entitlement instrument which does not specify the name of the entitled person, unless something else results from specific provisions.

Article 921¹⁶.

The provisions of the present section shall apply accordingly to securities which carry rights other than receivables.

BOOK FOUR

SUCCESSION

TITLE I

General provisions

Article 922.

- § 1. The property rights and obligations of the deceased shall devolve upon his death on one or several

persons pursuant to the provisions of this Book.

- § 2. The inheritance shall not involve the rights and obligations of the deceased which are closely connected with him as well as the rights which, upon his death, devolve onto designated persons regardless of whether they are his heirs.
- § 3. The estate debts shall also involve the expenses of the decedent's funeral to the extent that the customs accepted within a given environment so require, the expenses of the inheritance proceeding, the obligation to satisfy claims for the reserved portion and the obligation to perform ordinary legacies and instructions, as well as other obligations envisaged by the provisions of this Book.

Article 923.

- § 1. The spouse and other persons in close relations to the decedent who had lived with him until his death, shall be entitled to enjoy, within three months from the opening of the inheritance, the dwelling and household equipment to the same extent as before. The disposition of the decedent which excludes or limits this entitlement shall be invalid.
- § 2. The above-mentioned provisions shall not limit the entitlement of the spouse and other persons in close relations to the decedent which arise from the lease of the premises or the right to premises of a cooperative member.

Article 924.

The inheritance shall be opened upon the death of the decedent.

Article 925.

An heir shall acquire the inheritance upon the opening of the inheritance.

Article 926.

- § 1. The inheritance entitlement shall result from the statute or a testament.
- § 2. Statutory succession of the entire estate shall come into being if the decedent has not appointed an heir or if none of the persons appointed by him to inherit wants to or may become an heir.
- § 3. With the exceptions provided for by the statute, the statutory succession of a part of the estate shall come into being if the decedent has not appointed an heir to this part or if any of the several persons appointed by him to inherit the entire estate does not want to or may not become an heir.

Article 927.

- § 1. A natural person who is not alive at the time of opening the inheritance as well as a legal person who

does not exist at that time may not be an heir.

- § 2. However, a child already conceived at the time of opening the inheritance may be an heir provided that he is born alive.
- § 3. A foundation established by the decedent in his testament may be an heir provided that it is entered in the register within two years from the date of the announcement of the testament.

Article 928.

- § 1. An heir may be adjudged unworthy by a court of law if:
 - 1) he has intentionally committed a serious crime against the decedent;
 - 2) he has induced the decedent using deceit or threat to either draw up or to revoke the testament or frustrated the carrying out of one of these acts in the same manner;
 - 3) he has intentionally concealed or destroyed the decedent's testament, counterfeited or altered the testament or has deliberately taken advantage of the testament counterfeited or altered by another person.
- § 2. An unworthy heir shall be excluded from succession as if he predeceased the opening of the inheritance.

Article 929.

Every person who has an interest in it may demand that an heir be adjudged unworthy. Such a demand may be lodged within a year from the day on which this person became aware of the reason for unworthiness, however, not later than before the lapse of three years from the opening of the inheritance.

Article 930.

- § 1. An heir may not be adjudged unworthy if the decedent has forgiven him.
- § 2. If, at the time of forgiveness, the decedent did not have capacity for juridical acts, the act of forgiveness shall be effective if it was made with sufficient awareness.

TITLE II
Statutory succession

Article 931.

- § 1. Under the statute, the children and spouse of the decedent shall be entitled to inherit first; they shall inherit in equal parts. However, the part of the spouse shall not be smaller than a quarter of the entire estate.

§ 2. If a child of the decedent predeceased the opening of the inheritance, the share in the estate which would fall to him shall fall to his children in equal parts. This provision shall be applicable to further descendants accordingly.

Article 932.

§ 1. In the absence of the descendants of the decedent, his spouse and parents shall be appointed to inherit by the statute.

§ 2. The share in the estate of each of the parents who inherit in concurrence with the spouse of the decedent shall amount to a quarter of the entire estate. If paternity of the parent has not been established, the share in the estate of the mother of the decedent who inherits in concurrence with the decedent's spouse shall amount to half of the estate.

§ 3. In the absence of the descendants and the spouse of the decedent, the entire estate shall fall to his parents in equal parts.

§ 4. If one of the decedent's parents predeceased the opening of the inheritance, the share in the estate which would fall to him shall fall to the siblings of the decedent in equal parts.

§ 5. If any of the decedent's siblings predeceased the opening of the inheritance while leaving descendants, the share in the estate which would fall to him, shall fall to his descendants. The division of this share shall be made pursuant to the principles governing the division among further descendants of the decedent.

§ 6. If one of the parents predeceased the opening of the inheritance and there are no siblings of the decedent or their descendants, the share in the estate of a parent who inherits in concurrence with the spouse of the decedent shall amount to half of the estate.

Article 933.

§ 1. The share in the estate of the spouse who inherits in concurrence with the parents, siblings and descendants of the siblings of the decedent shall amount to half of the estate.

§ 2. In the absence of the descendants of the decedent, as well as his parents, siblings and their descendants, the entire estate shall fall to the decedent's spouse.

Article 934.

§ 1. In the absence of the descendants of the decedent, as well as of his spouse, parents, siblings and the siblings' descendants, the entire estate shall fall to the grandparents of the decedent; they shall inherit in equal parts.

§ 2. If any of the grandparents of the decedent predeceased the opening of the inheritance, the share in the

estate, which would fall to him, shall fall to his descendants. The division of this share shall be made pursuant to the rules governing the division of the estate among the descendants of the decedent.

§ 3. In the absence of the descendants of the grandparent who predeceased the opening of the inheritance, the share in the estate, which would fall to him, shall fall to the remaining grandparents in equal parts.

Article 934¹.

In the absence of the decedent's spouse and relatives, appointed to succession by the statute, the estate shall fall in equal parts to these children of the decedent's spouse whose both parents predeceased the opening of the inheritance.

Article 935.

In the absence of the spouse of the decedent, as well as of his relatives and children of the decedent's spouse appointed to succession by the statute, the estate shall fall to the municipality of the last domicile of the decedent, as the statutory heir. If it is not possible to determine the last domicile of the decedent in the Republic of Poland or the last domicile of the decedent has been abroad, the estate shall fall to the State Treasury, as a statutory heir.

Article 935¹.

The provisions on the succession entitlement resulting from the statute shall not be applicable to the spouse of the decedent remaining in separation.

Article 936.

§ 1. The adopted party shall inherit from the adopting party and his relatives as if he were a child of the adopting party and the adopting party and his relatives shall inherit from the adopted party as if the adopting party were a parent of the adopted party.

§ 2. The adopted party shall not inherit from his natural ascendants and their relatives and these persons shall not inherit from him.

§ 3. Where one of the spouses has adopted a child of the other spouse, the provision of § 2 shall not be applicable to this spouse and his relatives, and if such adoption was made after the death of the other parent of the adopted party, also to the relatives of the deceased whose rights and obligations resulting from kinship were retained in the ruling on adoption.

Article 937.

If the consequences of adoption involve only the establishing the relation between the adopting party and the adopted party, the following provisions shall apply:

- 1) the adopted party shall inherit from the adopting party equally with his children and the descendants of the adopted party shall inherit from the adopting party under the same rules as the further descendants of the decedent;
- 2) the adopted party and his descendants shall not inherit from the relatives of the adopting party and the relatives of the adopting party shall not inherit from the adopted party and his descendants;
- 3) the parents of the adopted party shall not inherit from the adopted party and it is the adopting party who inherits from the adopted party in their place; apart from this, the adoption shall not affect the succession entitlement resulting from kinship.

Article 938.

If grandparents of the decedent live in want and may not receive means of subsistence they are entitled to from persons who are encumbered with the statutory maintenance duty, they may demand from an heir who is not encumbered with such obligation duty the means of subsistence proportionate to their needs and to the value of his share in the estate. The heir may satisfy the claim by paying to the grandparents of the decedent a pecuniary sum equivalent to the value of a quarter of his share in the estate.

Article 939.

- § 1. The spouse who inherits by the statute in concurrence with other heirs, except for the descendants of the decedent who lived with him at the time of his death, may demand, beyond his share in the estate, the objects belonging to the household equipment, which he used together with the decedent or exclusively by himself when the decedent was alive. The provisions on ordinary legacy shall apply accordingly to these claims of the spouse.
- § 2. The spouse shall not be entitled as mentioned above if the cohabitation of the spouses ceased when the decedent was alive.

Article 940.

- § 1. The spouse shall be excluded from succession if the decedent filed for divorce or separation due to the spouse's fault and this demand was legitimate.
- § 2. The exclusion of the spouse from succession shall be subject to a court ruling. The exclusion may be demanded by any other statutory heir entitled to succession in concurrence with the spouse; the time limit for instituting an action shall amount to six months from the day when the heir learned of the opening of the inheritance, however, not later than one year after the opening of the inheritance.

TITLE III
Disposition in case of death

SECTION I
Testament

Chapter I
General provisions

Article 941.

A disposition of the property in the case of death may only be made by way of a testament.

Article 942.

A testament may include dispositions of only one decedent.

Article 943.

The decedent may at any time revoke both the entire testament and individual provisions of it.

Article 944.

§ 1. A testament may be drawn up and revoked only by a person having full capacity for juridical acts.

§ 2. A testament may not be drawn up and revoked by a representative.

Article 945.

§ 1. A testament shall be invalid if it was drawn up:

- 1) in a state excluding conscious or free decision-making and expressing intent;
- 2) under the influence of an error which justifies a conjecture that if the decedent had not acted under the influence of the error, he would not have drawn up the testament to that effect;
- 3) under threat.

§ 2. The invalidity of the testament for the above-mentioned reasons may not be invoked after the lapse of three years from the day when the person who had an interest in doing so became aware of the reason for the invalidity and, in any case, after the lapse of ten years from the opening of the inheritance.

Article 946.

A testament may be revoked either by the decedent drawing up a new testament, or by him destroying it or

depriving it of features on which its validity is contingent with an intent of revocation or by introducing amendments to the testament which indicate the intention of revoking its provisions.

Article 947.

If the decedent drew up a new testament without indicating that the previous one was revoked, only these provisions of the previous testament which are inconsistent with the content of the new testament shall be revoked.

Article 948.

§ 1. A testament shall be construed in a manner ensuring as complete fulfillment of the decedent's intent as possible.

§ 2. If a testament may be construed in differing manners, the interpretation which allows to maintain the decedent's dispositions in effect and to give them reasonable meaning shall be accepted.

Chapter II

Form of testament

Subsection 1

Ordinary testaments

Article 949.

§ 1. The decedent may draw up a testament by writing it entirely by hand, signing it and affixing a date.

§ 2. However, the absence of the date shall not imply the invalidity of the hand-written testament if there is no doubt as far as the decedent's capability for drawing up the testament, the content of the testament or the reciprocal relation of several testaments are concerned.

Article 950.

A testament may be drawn up in the form of a notarial deed.

Article 951.

§ 1. The decedent may also draw up a testament by declaring, in the presence of two witnesses, his last will orally before the head of municipality (mayor, or president of a town), district chief executive, president of a province, secretary of a district or municipality or a registrar.

§ 2. The declaration of the decedent shall be made in the form of minutes with the date of drawing them up

provided. The minutes shall be read out to the decedent in the presence of the witnesses. The minutes shall be signed by the decedent, the person in whose presence the will has been declared, and by the witnesses. If the decedent may not sign the minutes, the reason for the lack of the signature shall be indicated in the minutes.

§ 3. Deaf and mute persons may not draw up a testament in the manner envisaged in this article.

Subsection 2

Extraordinary testaments

Article 952.

- § 1. If there is a risk of an imminent death of the decedent, or if due to extraordinary circumstances it is not possible or made very difficult to comply with the ordinary form of a testament, the decedent may declare his last will orally in the simultaneous presence of at least three witnesses.
- § 2. The content of the oral testament may be confirmed in such a way that one of the witnesses or a third party writes down the decedent's declaration not later than one year from making it, providing the place and date of the declaration and the place and date of drawing the document up, and the document being signed by the decedent and two witnesses or all the witnesses.
- § 3. If the content of the oral testament was not confirmed in the above-mentioned manner, it may be confirmed within six months from the day of opening the inheritance by way of concordant testimonies of the witnesses provided before a court of law. If it is not possible to hear one of the witnesses or there are obstacles difficult to overcome, a court of law may confine itself to the concordant testimonies of the two witnesses.

Article 953.

A testament may be drawn up during travel on a Polish seagoing vessel or aircraft before the commander of the vessel or aircraft or the deputy commander so that the decedent declares his intent to the commander or his deputy in the presence of two witnesses; the commander or his deputy shall write down the decedent's will providing its date, and this document shall be read out to the decedent in the presence of the witnesses after which the document shall be signed by the decedent, witnesses and the commander of the vessel or aircraft or the deputy commander. If the decedent may not sign the document, the reason for the lack of the decedent's signature shall be provided in the document. If it is not possible to comply with such a form, an oral testament may be drawn up.

Article 954.

The special form of military testaments shall be specified by a regulation of the Minister of National Defence issued in concert with the Minister of Justice.

Article 955.

An extraordinary testament shall expire after the lapse of six months from the cessation of the circumstances justifying the non-compliance with the form of an ordinary testament, unless the decedent died before the lapse of this time limit. The course of the time limit shall be suspended for the time within which it is not possible for the decedent to draw up an ordinary testament.

Subsection 3

Common provisions for ordinary and extraordinary testaments

Article 956.

The following persons may not be witnesses at the drawing up of a testament:

- 1) a person who does not have a full capacity for juridical acts;
- 2) a person who is blind, deaf or mute;
- 3) a person who is unable to read or write;
- 4) a person who cannot speak a language used by the decedent to draw up his testament;
- 5) a person convicted of false testimony by a final court sentence.

Article 957.

- § 1. A person who is envisaged in a testament as the beneficiary may not be a witness at the drawing up of the testament. The following persons may not be witnesses either: the spouse of this person, the relatives of this person up to the second degree of kinship or affinity as well as persons remaining with him in the relation of adoption.
- § 2. If one of the persons listed in the preceding paragraph was a witness, invalidity shall be applicable only to such a provision which brings benefits to that person, his spouse, relatives up to the second degree of kinship or affinity, or a person remaining with him in the relation of adoption. However, if the content of the testament or the circumstances imply that in the absence of the invalid provision the decedent would not have drawn up the testament of a given content, the entire testament shall be invalid.

Article 958.

A testament drawn up in breach of the provisions of this Chapter shall be invalid, unless these provisions

provide otherwise.

SECTION II

Appointment of heir

Article 959.

The decedent may appoint one or several persons to the entire estate or to a part of it.

Article 960.

If the decedent appointed several heirs to the estate or to a specified part of the estate without determining their shares in the estate, they shall inherit in equal parts.

Article 961.

If the decedent has allocated to a person specified in the testament particular assets that exhaust almost the entire estate, such a person shall not in the case of doubt be deemed as a legatee, but as the heir appointed to the entire estate. If such a testamentary disposition was made for the benefit of several persons, such persons shall in the case of doubt be deemed as having been appointed to the entire estate in fractional parts equivalent to the proportion of the value of the assets allocated to them.

Article 962.

A reservation of a condition or a time limit made upon the entitlement of a testamentary heir shall be deemed non-existent. If, however, the content of the testament or the circumstances imply that without the reservation the heir would not have been entitled to inherit, the entitlement of the heir shall be invalid. These provisions shall not be applicable if the condition had been fulfilled or not fulfilled or the time limit had elapsed before the inheritance was opened.

Article 963.

A testamentary heir may be appointed to inherit in the case when another person entitled as a statutory or testamentary heir does not want to or may not be an heir (substitution).

Article 964.

A provision of the testament by which the decedent obliges an heir to keep the acquired estate and leave it to another person shall result only in that the other person shall be entitled to inherit in the case when the heir does not want to or may not be an heir. If, however, the content of the testament or the circumstances imply that without such a limitation the heir would not be appointed, the appointment of the heir shall be

invalid.

Article 965.

If the decedent has appointed several testamentary heirs and one of them does not want to or may not be an heir, the share allocated to him shall fall to the remaining testamentary heirs in proportion to the shares falling to them (accrual), unless the decedent decides otherwise.

Article 966.

If, under the testament, the inheritance falls to an heir who is not encumbered with the statutory maintenance duty towards the grandparents of the decedent, the grandparents may demand from the heir means of subsistence corresponding to their needs and the value of his share in the estate if they live in want and may not receive any means of subsistence from the persons encumbered with the statutory maintenance duty. The heir may satisfy this claim by paying to the grandparents of the decedent an amount of money equivalent to the value of a quarter of his share in the estate.

Article 967.

- § 1. If a person entitled to be the testamentary heir does not want to or may not be an heir, a statutory heir who the share allocated to this person fell to shall be obliged to perform ordinary legacies, instructions and other dispositions of the decedent which encumber this person, unless the decedent decides otherwise.
- § 2. The above-mentioned provision shall apply accordingly to the substituted heir and to the heir to whom the share in the estate falls on account of the accrual.

SECTION III

Legacy and instruction

Chapter I

Ordinary legacy

Article 968.

- § 1. The decedent may, by way of a testamentary disposition, oblige a statutory or testamentary heir to render specific property-related performance for the benefit of the specified person (ordinary legacy).
- § 2. The decedent may also encumber a legatee with the ordinary legacy (sublegacy).

Article 969.

(repealed).

Article 970.

Unless the decedent decides otherwise, a legatee may demand the legacy to be performed immediately after the announcement of the testament. However, the legatee encumbered with the sublegacy may refrain from performing it until the heir performs the legacy.

Article 971.

If the inheritance falls to several heirs, the legacy encumbers them correspondingly to the value of their shares in the estate, unless the decedent has decided otherwise. This provision shall apply accordingly to the sublegacy.

Article 972.

The provisions on the appointment of an heir, the capacity to inherit and unworthiness shall be applicable accordingly to legacies.

Article 973.

If a person who is a beneficiary of the legacy does not want to or may not be a legatee, the person encumbered with the legacy shall be released from the obligation to perform it but shall, nevertheless, perform the sublegacies, unless the decedent decides otherwise.

Article 974.

The legatee encumbered with the obligation to perform the sublegacy may release himself from this obligation by transferring gratuitously for the benefit of the sublegatee the rights vested in him under the legacy or by assigning the claim for the performance of the legacy.

Article 975.

The legacy may be made on condition or with the reservation of the time limit.

Article 976.

Unless the decedent decides otherwise, the legacy of a thing indicated as to its identity shall be ineffective if the thing bequeathed does not belong to the inheritance upon its opening or if the decedent was, upon his death, obliged to alienate the thing.

Article 977.

If the thing specified as to its identity is the object of legacy, the provisions on claims between an owner and an independent possessor of the thing shall be applicable accordingly to the claims of a legatee for remuneration for using the thing, for the return of profits or for payment of their value, as well as to the claims of a person encumbered with the legacy for the return of the expenditures on the thing.

Article 978.

If the thing specified as to its identity is the object of legacy, a person encumbered with the legacy shall be liable towards the legatee for the defects of the thing like a donating party.

Article 979.

If things specified only as to their kind are the object of the legacy, the encumbered person shall perform things of an average quality, taking into account the needs of the legatee.

Article 980.

If things specified only as to their kind are the object of legacy, the provisions on warranty at sale shall apply accordingly to the liability of the encumbered person towards the legatee for physical and legal defects of the things. However, the legatee may demand from the person encumbered with the legacy only damages for an improper performance of the legacy or a supply of things of the same kind free from defects in place of the defective things, as well as the redress of the damage caused by a delay.

Article 981.

A claim on account of legacy shall be subject to limitation with the lapse of five years from the day of the legacy's maturity.

Chapter II

Specific bequest

Article 981¹.

- § 1. In a testament drawn up in the form of a notarial deed, the decedent may decide that a specified person shall acquire the object of the bequest upon the opening of the inheritance (specific bequest).
- § 2. The following may be the object of the specific bequest:
- 1) a thing specified as to its identity,
 - 2) an alienable property-related right,
 - 3) an enterprise or an agricultural farm,

- 4) establishing usufruct or servitude for the benefit of a recipient of the specific bequest;
- 5) all rights and obligations pertaining to a partner of a partnership.

Article 981².

A specific bequest shall be ineffective if upon the opening of the inheritance an object of the bequest does not belong to the decedent or the decedent was obliged to alienate it. If establishing usufruct or servitude for a recipient of the specific bequest has been the object of the bequest, the bequest shall be ineffective, where, upon the opening of the inheritance, a property-related object which was to have been encumbered by usufruct or by servitude does not belong to the inheritance or the decedent was obliged to alienate it.

Article 981³.

- § 1. A reservation of a condition or a time limit made upon the establishment of a specific bequest shall be deemed non-existent. If, however, the content of the testament or the circumstances imply that without the reservation the bequest would not have been made, the specific bequest shall be invalid. These provisions shall not be applicable if the condition had been fulfilled or not fulfilled or the time limit had elapsed before the inheritance was opened.
- § 2. A specific bequest invalid because of a reservation of a condition or a time limit shall produce the consequences of an ordinary legacy made on condition or with the reservation of a time limit, unless something else results from the content of a testament or from the circumstances.

Article 981⁴.

The decedent may encumber a person whose benefit he made a specific bequest for with an ordinary legacy.

Article 981⁵.

The provisions on the appointment of an heir, acceptance and rejection of inheritance, on the capacity to inherit and on unworthiness shall be applicable accordingly to specific bequests.

Article 981⁶.

In matters not governed by the provisions of the present chapter as well as in specific provisions, the provisions on ordinary legacy shall be applicable accordingly to specific bequest.

Chapter III
Instruction

Article 982.

The decedent may, in the testament, impose on an heir or a legatee the obligation of specific acting or refraining from acting without making anyone a creditor (instruction).

Article 983.

The legatee encumbered with the instruction may refrain from its performance until an heir performs the legacy. This provision shall apply accordingly in the case when the instruction encumbers a sublegatee.

Article 984.

If a person, for whose benefit the legacy with the obligation to perform the instruction has been made, does not want to or may not be a legatee, an heir free from the obligation to perform the legacy shall perform the instruction, unless the decedent decides otherwise. This provision shall apply accordingly in the case when the instruction encumbers a sublegatee.

Article 985.

Each heir, as well as the executor of the testament, may demand to execute the instruction, unless the only aim of the instruction involves the benefit of a person encumbered with the instruction. If the instruction pursues public interest, a competent state organ may also demand the performance of the instruction.

SECTION IV

Executor of testament

Article 986.

§ 1. The decedent may appoint the executor or the executors of the testament in the testament.

§ 2. A person who does not have a full capacity for juridical acts may not be the executor of a testament.

Article 986¹.

The decedent may appoint the executor of the testament to the management of the estate, of its organized part or of a specific part.

Article 987.

If a person appointed as the executor of a testament refuses to accept this duty, he may submit a declaration to this effect before a court of law or a notary.

Article 988.

- § 1. Unless the decedent has decided otherwise, the executor of the testament shall manage the estate, pay off estate debts, in particular, perform ordinary legacies and instructions, and then release the estate to the heirs, pursuant to the intent of the decedent and the statute, and in any case immediately after performing the division of the estate.
- § 2. The executor of the testament may sue and be sued in cases resulting from the management of the estate, of its organized part or of a specific part. He may also sue in cases concerning the rights belonging to the estate and be sued in cases concerning the estate debts.
- § 3. The executor of the testament should release the object of a specific bequest to a person whose benefit the bequest was made for.

Article 989.

- § 1. The provisions on mandate for remuneration shall be applicable accordingly to the reciprocal claims between an heir and the executor of the testament resulting from the management of the estate, of its organized part or of a specific part.
- § 2. The costs borne for the management of the estate, of its organized part or of a specific part and the remuneration of the executor of the testament shall be included in the estate debts.

Article 990.

A court of law may release the executor of a testament for important reasons.

Article 990¹.

The decedent may appoint the executor of the testament to the management of the object of a specific bequest, until the moment, when a person whose benefit the specific bequest was made for becomes a holder of that object.

TITLE IV

Reserved portion

Article 991.

- § 1. The descendants, spouse and parents of the decedent who would be entitled to inheritance by the statute, shall be, if the entitled person is permanently unable to work or if the entitled descendant is a minor, entitled to two thirds of the value of a share in the estate which would fall to him at the statutory succession, and in other cases - half the value of this share (reserved portion).
- § 2. If the entitled person did not receive the reserved portion he is entitled to, either in the form of a

donation made by the decedent, or in the form of inheritance appointment, or in the form of a legacy, he shall have a claim against an heir for payment of a pecuniary sum needed to cover the reserved portion or to supplement it.

Article 992.

When establishing the share in the estate which constitutes the basis for calculating the reserved portion, unworthy heirs and heirs who rejected the inheritance shall also be taken into account, unlike the heirs who waived the inheritance or were disinherited.

Article 993.

When calculating the reserved portion, ordinary legacies and instructions shall not be taken into account, unlike the donations and specific bequests made by the decedent, which shall be added to the estate, pursuant to the below-mentioned provisions.

Article 994.

- § 1. When calculating the reserved portion, the estate shall not include minor donations which are customarily accepted in given relations or made more than ten years before the opening of the inheritance, as well as donations made for the benefit of persons who are not heirs or are not entitled to the reserved portion.
- § 2. Donations made by the decedent at the time when he had no descendants shall not be added to the estate when calculating the reserved portion to which the descendant is entitled. This, however, shall not apply if the donation was made within a period of less than three hundred days before the birth of the descendant.
- § 3. Donations made by the decedent before contracting marriage shall not be added to the estate when calculating the reserved portion to which the decedent's spouse is entitled.

Article 995.

- § 1. The value of the object of donation shall be calculated pursuant to its state as at the date of performing it and pursuant to the prices set as at the date of establishing the reserved portion.
- § 2. The value of the object of a specific bequest shall be calculated pursuant to its state as at the opening of the inheritance and pursuant to the prices set as at the date of establishing the reserved portion.

Article 996.

A specific bequest and a donation made by the decedent for the benefit of a person entitled to the reserved portion shall be included in the reserved portion the latter is entitled to. If a further descendant of the

decedent is entitled to the reserved portion, a specific bequest as well as a donation made by the decedent for the benefit of the entitled person's ascendant shall also be included in the reserved portion such a further descendant is entitled to.

Article 997.

If the decedent's descendant is entitled to the reserved portion, the costs of bringing him up and providing comprehensive and vocational education to him borne by the decedent shall be included in the reserved portion the descendant is entitled to, insofar as the costs exceed the average amount accepted in the given environment.

Article 998.

- § 1. If a person entitled to the reserved portion is appointed to succession, he shall be liable for ordinary legacies and instructions only up to the amount of the surplus exceeding the value of his share in the estate, which constitutes the basis for calculating the reserved portion he is entitled to.
- § 2. The above-mentioned provision shall apply accordingly in the case when an ordinary legacy for the benefit of the person entitled to the reserved portion was encumbered with a sublegacy or instruction or was made on condition or with the reservation of a time limit.

Article 999.

If an heir who is obliged to pay the reserved portion is himself entitled to the reserved portion, his liability shall be limited only up to the amount of the surplus exceeding his own reserved portion.

Article 999¹.

- § 1. If the entitled person may not receive from an heir the reserved portion he is entitled to, he may demand a pecuniary sum needed to supplement the reserved portion from a person whose benefit a specific bequest added to the estate was made for. However, that person shall be obliged to pay the above-mentioned sum only within the scope of the enrichment resulting from the specific bequest.
- § 2. If a person whose benefit a specific bequest was made for is himself entitled to the reserved portion, he shall be liable to other persons who are entitled to the reserved portion only up to the amount of the surplus exceeding his own reserved portion.
- § 3. A person whose benefit a specific bequest was made for may release himself from the duty to pay the sum needed to supplement the reserved portion by releasing the object of the bequest.
- § 4. If the decedent made specific bequests for the benefit of several persons, their liability towards a person entitled to the reserved portion shall be joint and several. If one of the persons whose benefit

specific bequests were made for rendered performance to the person entitled to the reserved portion, he may demand from the remaining persons parts of the performance proportional to the value of the specific bequests received.

Article 1000.

- § 1. If the entitled person may not receive from an heir or from a person whose benefit a specific bequest was made for the reserved portion he is entitled to, he may demand a pecuniary sum needed to supplement the reserved portion from a person who received from the decedent a donation added to the estate. However, the benefiting party shall be obliged to pay the above-mentioned sum only within the scope of the enrichment resulting from the donation.
- § 2. If the benefiting party is himself entitled to the reserved portion, he shall be liable to other persons who are entitled to the reserved portion only up to the amount of the surplus exceeding his own reserved portion.
- § 3. The benefiting party may release himself from the duty to pay the amount of money needed to supplement the reserved portion by releasing the object of the donation.

Article 1001.

From several benefiting parties, the one who has received a donation earlier shall be liable pursuant to the provisions of the preceding article only in the case when the person entitled to the reserved portion may not have his reserved portion supplemented by the person who received the donation at a later date.

Article 1002.

A claim on account of the reserved portion shall devolve onto an heir of a person entitled to the reserved portion only in the case when the heir is among the persons who are entitled to the reserved portion from the first decedent.

Article 1003.

Heirs who are obliged to satisfy the claim on account of the reserved portion may demand a proportional reduction in ordinary legacies and instructions.

Article 1004.

- § 1. A reduction in ordinary legacies and instructions shall take place in proportion to their value, unless from the content of the testament there results a different intent of the decedent.
- § 2. In the case of a reduction in the ordinary legacy encumbered with a sublegacy or instruction, the sublegacy or instruction shall be proportionally reduced.

Article 1005.

- § 1. If an heir who is obliged to satisfy a claim on account of the reserved portion is himself entitled to the reserved portion, he may demand to have ordinary legacies and instructions reduced to the extent that he retains his own reserved portion.
- § 2. If a legatee is himself entitled to the reserved portion, an ordinary legacy made for his benefit shall be reduced only up to the amount of the surplus exceeding his own reserved portion.

Article 1006.

If an ordinary legacy, whose object may not be divided without an important alteration or a substantial reduction in its value, is reduced, a legatee may demand the full performance of the legacy by paying a relevant pecuniary sum.

Article 1007.

- § 1. The claims of a person entitled on account of the reserved portion and the claims of heirs for a reduction in ordinary legacies and instructions shall be subject to limitation upon the lapse of five years from the announcement of the testament.
- § 2. A claim against a person obliged to supplement the reserved portion on account of a specific bequest or a donation received from the decedent shall be subject to limitation upon the lapse of five years from the opening of the inheritance.

Article 1008.

The decedent may in the testament deprive his descendants, spouse and parents of the reserved portions (disinheritance), if the person entitled to the reserved portion:

- 1) persists in violating the principles of community coexistence against the intent of the decedent;
- 2) has committed an intentional crime against life, health or freedom towards the decedent or one of persons he is in the closest relations with or has grossly insulted their dignity;
- 3) persistently fails to fulfill family obligations towards the decedent.

Article 1009.

The reason for disinheritance of a person entitled to the reserved portion shall result from the content of the testament.

Article 1010.

- § 1. The decedent shall not disinherit a person entitled to the reserved portion if he has forgiven him.

§ 2. If at the time of forgiveness, the decedent did not have capacity for juridical acts, the act of forgiveness shall be effective provided that it was made with sufficient awareness.

Article 1011.

The descendants of a disinherited descendant shall be entitled to the reserved portion, even if he has outlived the decedent.

TITLE V

Acceptance and rejection of inheritance

Article 1012.

An heir may either accept the inheritance without limitation of liability for debts (simple acceptance), or accept the inheritance with limitation of liability (acceptance with the benefit of inventory), or else reject the inheritance.

Article 1013.

(repealed).

Article 1014.

- § 1. Acceptance or rejection of a share in the estate which falls to an heir on account of substitution may take place irrespective of acceptance or rejection of the share in the estate which falls to the heir on account of another title.
- § 2. An heir may reject a share in the estate which falls to him on account of accrual and accept the share which falls to him as an appointed heir.
- § 3. Apart from the cases envisaged in the preceding paragraphs, an heir may not partially accept and partially reject the inheritance.

Article 1015.

- § 1. A declaration on the acceptance or rejection of the inheritance may be made within six months following the day when an heir became aware of the title of his inheritance entitlement.
- § 2. The absence of the heir's declaration within the time limit set forth in § 1 shall be tantamount to acceptance of the inheritance with the benefit of inventory.

Article 1016.

(repealed).

Article 1017.

If, before the lapse of the time limit for making a declaration on the acceptance or rejection of the inheritance, an heir deceases without making the declaration, the declaration on the acceptance or rejection of the inheritance may be made by his heirs. The time limit for making the declaration shall not expire before the time limit for making the declaration with regard to the inheritance of the deceased heir.

Article 1018.

- § 1. A declaration on the acceptance or rejection of the inheritance made on condition or with the reservation of a time limit shall be invalid.
- § 2. A declaration on the acceptance or rejection of the inheritance may not be revoked.
- § 3. A declaration on the acceptance or rejection of the inheritance shall be made before a court of law or before a notary. It may be made orally or in writing with an officially certified signature. The power of attorney for making the declaration on the acceptance or rejection of the inheritance shall be made in writing and affixed with an officially certified signature.

Article 1019.

- § 1. If a declaration on the acceptance or rejection of the inheritance has been made under the influence of an error or a threat, the provisions on the defects in the declaration of intent shall apply with the following modifications:
 - 1) declaration on freeing oneself from the legal consequences of the declaration of intent shall be made before a court of law;
 - 2) an heir shall simultaneously declare whether and how he accepts or rejects the inheritance.
- § 2. An heir, who under the influence of an error or a threat failed to make any declaration within the time limit, may free himself from the legal consequences of non-compliance with the time limit in the above-mentioned manner.
- § 3. Freeing oneself from the legal consequences of the declaration on the acceptance or rejection of the inheritance shall require approval by a court of law.

Article 1020.

An heir, who rejected the inheritance, shall be excluded from succession as if he predeceased the opening of the inheritance.

Article 1021.

If an heir managed the inheritance and then rejected it, the provisions on benevolent intervention in another's affairs without a mandate shall apply accordingly to the relations between him and the heirs who have received the inheritance in his place.

Article 1022.

An heir entitled to the inheritance both under the testament and under the statute may reject the inheritance as a testamentary heir and accept the inheritance as a statutory heir.

Article 1023.

- § 1. Neither the State Treasury nor a municipality may reject the inheritance which fell to them by statute.
- § 2. Neither the State Treasury nor a municipality shall make a declaration on the acceptance of the inheritance, and the inheritance shall be deemed accepted with the benefit of inventory.

Article 1024.

- § 1. If an heir rejected the inheritance with a detriment to his creditors, each of the creditors whose receivable existed upon the rejection of the inheritance may demand that the rejection of the inheritance be found ineffective towards him pursuant to the provisions on the protection of creditors in the case of the debtor's insolvency.
- § 2. One may demand the rejection of the inheritance to be found ineffective within six months from the day of becoming aware of the rejection of the inheritance, however, not later than within three years from the rejection of the inheritance.

TITLE VI

**Acknowledgement of inheritance acquisition or of the object of a specific bequest acquisition,
certificate of inheritance and protection of heir**

Article 1025.

- § 1. Upon application of a person having an interest in it, a court of law shall acknowledge the acquisition of the inheritance by an heir. A notary shall draw up a document certifying inheritance pursuant to the principles provided for in the separate provisions.
- § 2. It shall be presumed that a person who has obtained the acknowledgement of inheritance acquisition or the certificate of inheritance is an heir.
- § 3. The presumption resulting from the registered document certifying inheritance may not be invoked against the presumption resulting from the acknowledgement of inheritance acquisition.

Article 1026.

The acknowledgement of inheritance acquisition and the certificate of inheritance may not be made prior to the lapse of six months from the opening of the inheritance, unless all known heirs have already made their declarations on acceptance or rejection of the inheritance.

Article 1027.

An heir may prove his rights resulting from succession towards a third party, who has no claims to the inheritance under succession only by way of the acknowledgement of inheritance acquisition or the registered document certifying inheritance.

Article 1028.

If a person, who has obtained the acknowledgement of inheritance acquisition or the certificate of inheritance and is not an heir, disposes of a right belonging to the estate for the benefit of a third party, the person who is the beneficiary of the disposition shall acquire the right or shall be freed from the obligation, unless he acts in bad faith.

Article 1029.

- § 1. An heir may demand that the person who holds the estate as an heir but is not an heir release the estate to him. The same shall apply to particular assets belonging to the estate.
- § 2. The provisions on the claims between the owner and an autonomous possessor of the thing shall apply accordingly to the claims of an heir for remuneration for using the assets belonging to the estate, for the return of profits or payment of their value, as well as for the redress of the damage resulting from use, deterioration or loss of the assets and to the claims against the heir for the reimbursement of the expenditures.
- § 3. The above-mentioned provisions shall apply accordingly in the case when the release of his property is requested by a person with regard to whom the decision declaring him dead has been reversed.

Article 1029¹.

The provisions of the present title shall be applicable accordingly to acknowledgement of acquisition of the object of a specific bequest.

TITLE VII**Liability for estate debts**

Article 1030.

Until the moment of the acceptance of the inheritance an heir shall be liable for estate debts only with the estate. Upon acceptance of the inheritance, he shall be liable for the estate debts with his entire property.

Article 1031.

- § 1. In the case of simple acceptance of the inheritance, an heir shall be liable for estate debts without limitation.
- § 2. Where the heir accepts the inheritance with the benefit of inventory, he shall be liable for the estate debts only up to the value specified in the register of inventory or in the list of the assets of succession. Such limitation of liability shall be unavailing, if the heir deceitfully omitted in the register of inventory or deceitfully failed to submit to the list of the assets of succession things belonging to the estate or the objects of specific bequests, or he deceitfully included in the register of inventory or deceitfully submitted to the list of the assets of succession non-existent debts.

Article 1031¹.

- § 1. An heir who accepts the inheritance with the benefit of inventory, a legatee of a specific bequest or an executor of a testament may submit in a court of law or before a notary a register of inventory. Such register of inventory submitted before a notary shall be recorded in the minutes.
- § 2. The register of inventory may be submitted jointly by more than one heir, legatee of a specific bequest or an executor of a testament.
- § 3. In the register of inventory shall be disclosed with due diligence the assets belonging to the estate and objects of specific bequests, together with their value according to their condition and price at the time of the opening of the inheritance, as well as the inheritance debts and their scope at the opening of the inheritance.
- § 4. Where it has been discovered after the submission of the register of inventory that any assets belonging to the estate, objects of specific bequests or estate debts have been omitted, the person submitting such register shall supplement it. The provisions on submission of the register of inventory shall apply to supplementing the register of inventory.

Article 1031².

- § 1. The register of inventory submitted in the court of law shall be drawn up according to a fixed template.
- § 2. The Minister of Justice shall set forth, by way of a regulation:

1) ~~adaptation of article 1031~~ ¹ comprising:

- b) first name and surname, PESEL number (Common Electronic System of Population Recording) if it has been generated, and the last address of the deceased,
- c) first name and surname, PESEL number or the number in the National Court Registry, and in its absence - a number in other appropriate register, record or tax identification number (NIP), if it has been allotted, and the address of the person submitting the register of inventory,
- d) notification for the person submitting the register of inventory of his duty to supplement it in cases set forth in article 1031¹ § 4

- having regard for inclusion of data necessary to establish the assets of succession and the need to standardize the data contained in the register;

2) the manner of making available template forms for the register of inventory having regard for expediting the inheritance proceeding.

Article 1031³.

- § 1. An heir who submits a register of inventory shall settle estate debts pursuant to such submitted register. He may not, however, invoke his ignorance of the register of inventory submitted by another heir, legatee of a specific bequest or an executor of a testament.
- § 2. Once the list of the assets of succession has been drawn up, an heir shall settle the estate debts pursuant to such drawn up list.
- § 3. The provisions of § 1 and 2 shall apply respectively to legatees of specific bequests and executors of a testament.

Article 1031⁴.

The creditor which requests the drawing up of the list of the assets of succession may not decline to accept performance due to him, even if the debt is not yet mature.

Article 1032.

- § 1. An heir, who has accepted the inheritance with the benefit of inventory and satisfied some inheritance debts but was unaware of and by exercising due diligence could not have learned about the existence of other estate debts, shall be liable for the outstanding debts only to the value of the difference between the value of the assets of succession and the value of the performances rendered in order to satisfy the estate debts, which he has satisfied.
- § 2. An heir, who has accepted the inheritance with the benefit of inventory and while satisfying some inheritance debts was aware of or by exercising due diligence could have learned about the existence

of other estate debts, shall be liable for such debts above the value of the assets of succession, but only to such an extent to he would have been obliged had he been duly satisfying all the estate debts. This shall not apply to an heir without full capacity for juridical acts or an heir with a basis for his full incapacitation.

Article 1033.

The liability of an heir on account of ordinary legacies and instructions shall be limited to the value of the net assets of the estate.

Article 1034.

- § 1. Heirs shall be jointly and severally liable for estate debts before the division of the estate. If one of the heirs renders the performance, he may demand from the other heirs the reimbursement in parts corresponding to the size of their respective shares.
- § 2. The heirs shall be liable for estate debts with respect to the size of their shares from the moment of the division of the estate.

Article 1034¹.

- § 1. Persons whose benefit specific bequests were made for shall also, along with heirs, be jointly and severally liable for estate debts before the division of the estate.
- § 2. Settlements between the heirs and the persons whose benefit specific bequests were made for shall come into being in proportion to the value of the gains received by them. Heirs shall have their share in the value established in a register of inventory or a list of the assets of succession accounted for.

Article 1034².

From the moment of the division of the estate, the heirs and the persons whose benefit specific bequests were made for shall be liable for estate debts in proportion to the value of the gains received by them.

Article 1034³.

The liability for estate debts of a person whose benefit a specific bequest was made for shall be limited to the value of the object of the specific bequest pursuant to its state and prices set as at the opening of the inheritance.

TITLE VIII

Community of estate and division of the estate

Article 1035.

If the inheritance falls to several heirs, the provisions on co-ownership in fractional parts, without prejudice to the provisions of this title, shall apply accordingly to the community of the estate and to the division of the estate.

Article 1036.

An heir may, with the consent of the remaining heirs, dispose of a share in the asset belonging to the estate. In the absence of the consent of any of the remaining heirs, the disposition shall be ineffective inasmuch as it would infringe the rights that the heir is entitled to pursuant to the provisions on the division of the estate.

Article 1037.

- § 1. The division of the estate shall come into being either by a contract concluded among all the heirs or by a court ruling upon demand of any of the heirs.
- § 2. If the estate includes immovable property, the contract on the division of the estate shall be concluded in the form of a notarial deed.
- § 3. If an enterprise is part of the estate, the contract on the division of the estate should be concluded in a written form, with the signatures certified by a notary. However, if a part of the enterprise consists of immovable property or the enterprise is under succession administration, the contract on the division of the estate should be concluded in the form of a notarial deed.

Article 1038.

- § 1. The division of the estate by a court of law shall cover the entire estate. However, it may be limited to a part of it for important reasons.
- § 2. The division of the estate by contract may cover the entire estate or be limited to a part of it.
- § 3. The division of the estate by a court of law may occur, in particular, if an enterprise is a part of the estate.

Article 1038¹.

If an enterprise is part of the estate, the division of the estate shall include the enterprise into account the need to ensure a continuation of its business activity, unless an heir and the spouse of the decedent, who is eligible to participate in the enterprise, did not reach an agreement on the continuation of this business.

Article 1039.

- § 1. If, in the case of statutory succession, the division of the estate is made among the descendants or

among the descendants and the spouse, the heirs shall be mutually obliged to include in the inherited share the donations and the specific bequests received from the decedent, unless the declaration of the decedent or the circumstances imply that the donation or the specific bequest were made with the release from the obligation to be included in the estate.

§ 2. The decedent may impose the obligation to include the donation or the specific bequest in the inherited share also on a statutory heir not specified in the preceding paragraph.

§ 3. Small donations which are customarily accepted in given relations shall not be included in the inherited share.

Article 1040.

If the value of the donation or of the specific bequest which are subject to the inclusion exceeds the value of the inherited share, an heir shall not be obliged to return the surplus. In this case neither the donation or the specific bequest nor an heir obliged to its inclusion shall be taken into account upon the division of the estate.

Article 1041.

A further descendant of the decedent shall be obliged to include in the inherited share the donation as well as the specific bequest made by a decedent for the benefit of his ascendant.

Article 1042.

§ 1. The inclusion in the inherited share shall be made in such a manner that the value of the donations or of the specific bequests which are subject to the inclusion shall be added to the estate or to a part of it which is divided among the heirs mutually obliged to the inclusion, after which the inherited share of each of the heirs shall be calculated and then the value of the donation or of the specific bequest which is subject to the inclusion shall be included in their inherited shares.

§ 2. The value of the object of donation shall be calculated pursuant to its condition as of the date when the donation was performed and pursuant to the prices set as of the date of the division of the estate.

§ 2¹.

The value of the object of the specific bequest shall be calculated pursuant to its state as at the opening of the inheritance and pursuant to the prices set as of the date of the division of the estate.

§ 3. The profits from the object of donation or of the specific bequest shall not be taken into account upon the inclusion in the inherited share.

Article 1043.

The provisions on the inclusion of donations in the inherited share shall apply accordingly to the costs of bringing up and providing comprehensive and vocational education borne by the decedent for the benefit of the descendant inasmuch as the costs exceed the average amount accepted in the given environment.

Article 1044.

Upon demand of two or more heirs, a court of law may allot the inherited share to them in whole or in part by granting them a certain asset or certain assets belonging to the estate as co-ownership in specified fractional parts.

Article 1045.

Freeing oneself from of the legal consequences of the contract on the division of the estate concluded under the influence of an error shall be possible only when the error concerned the facts which the parties deemed undisputable.

Article 1046.

After the division of the estate is completed, the heirs shall be mutually obliged to provide warranty for physical and legal defects according to the provisions on the warranty upon sale. The warranty concerning the inherited receivables shall also cover the debtor's solvency.

TITLE IX

Contracts concerning inheritance

Article 1047.

With the exceptions provided for in this title, a contract concerning the inheritance from a person who is still alive shall be invalid.

Article 1048.

A statutory heir may, by way of a contract with a person from whom he might inherit in the future, waive the right to inherit from this person. Such a contract shall be concluded in the form of a notarial deed.

Article 1049.

- § 1. The waiver of inheritance shall be also effective towards the descendants of the waiving party, unless it was agreed otherwise.
- § 2. The waiving party and his descendants who are subject to the waiver of inheritance, shall be excluded from succession as if they predeceased the opening of the inheritance.

Article 1050.

The waiver of inheritance may be cancelled by a contract concluded between the person who has waived the inheritance and the person the inheritance from whom has been waived. The contract shall be concluded in the form of a notarial deed.

Article 1051.

An heir who has accepted the inheritance may alienate the entire estate or a part of it. The same shall apply to the alienation of a share in the estate.

Article 1052.

- § 1. A contract of sale, exchange, donation or other contract obligating to alienate the estate shall transfer the estate to the acquiring party, unless the parties decide otherwise.
- § 2. If the conclusion of the contract transferring the estate arises in the performance of the obligation resulting from the previously concluded contract obligating to alienate the estate, the validity of the contract transferring the estate shall depend on the existence of this obligation.
- § 3. The contract obligating to alienate the estate shall be concluded in the form of a notarial deed. The same shall apply to the contract transferring the estate which is concluded with the aim of performing the previously existing obligation to alienate the estate.

Article 1053.

The party that acquires the estate shall assume the rights and obligations of an heir.

Article 1054.

- § 1. The alienating party shall be obliged to release anything that, as a result of alienation, loss or damage of the assets belonging to the estate, was obtained in their place or as redress of the damage, and if the alienation of the estate was non-gratuitous one, he shall be also obliged to supplement for the decrease in the value resulting from the use or gratuitous disposition of the assets belonging to the estate.
- § 2. The alienating party may demand from the acquiring party the reimbursement of expenses and other expenditures made on the estate.

Article 1055.

- § 1. The acquiring party shall be liable for the estate debts to the same extent as the alienating party. Their liability towards the creditors shall be joint and several.
- § 2. In the absence of a different agreement, the acquiring party shall be liable towards the alienating party

for the fact that the creditors will not demand rendering performances for the satisfaction of the estate debts from him.

Article 1056.

In the case of the alienation of the estate, an heir shall not be liable under the warranty for physical and legal defects of individual assets belonging to the estate.

Article 1057.

The profits and burdens connected with the assets belonging to the estate as well as the peril of their accidental loss or damage shall pass to the acquiring party upon conclusion of the contract upon the alienation of the estate, unless it was agreed otherwise.

TITLE X

Specific provisions on succession of agricultural farms

Article 1058.

The provisions of the preceding titles of this book with modifications resulting from the provisions below shall apply to the statutory succession of agricultural farms including agricultural land of an area exceeding 1 hectare.

Article 1059.

Heirs shall inherit an agricultural farm by statute if, upon the opening of the inheritance:

- 1) they are directly and on a permanent basis engaged in agricultural production, or
- 2) have vocational training to run the agricultural production, or
- 3) are minors or undergo vocational training or attend education institutions, or
- 4) are permanently unable to work.

Article 1060.

Within the limits provided for in article 931 § 2, the decedent's grandchildren who upon the opening of the inheritance meet the conditions envisaged in article 1059, points 1 and 2, shall inherit an agricultural farm also in the case when their father or mother may not inherit the farm due to non-compliance with the conditions envisaged in article 1059. This provision shall apply accordingly to further descendants.

Article 1061.

(repealed).

Article 1062.

§ 1. The siblings of the descendant who upon the opening of the inheritance meet the conditions envisaged in article 1059, points 1 and 2, shall inherit an agricultural farm also in the case when the descendants of the decedent may not inherit the farm due to non-compliance with the conditions envisaged in article 1059 or in article 1060.

§ 2. Within the limits provided for in article 934, the children of the decedent's siblings who upon the opening of the inheritance meet the conditions envisaged in article 1059, points 1 and 2, shall inherit an agricultural farm also in the case when their father or mother may not inherit the farm due to non-compliance with the conditions envisaged in article 1059 or in paragraph 1 of this article. This provision shall apply accordingly to further descendants.

Article 1063.

If neither the spouse of the descendant nor any of his relatives entitled to the inheritance in accordance with the law meet the criteria necessary for inheriting agricultural farm, or if the persons entitled to inherit are, at the time of opening the inheritance, permanently unable to work, agricultural farm shall be inherited by heirs on the basis of general principles.

Article 1064.

A regulation of the Council of Ministers shall determine what kind of vocational training shall be deemed appropriate to conduct agricultural production and it shall determine cases in which undergoing vocational training and attending education institutions shall entitle to the inheritance of an agricultural farm as well as the principles and the procedure of declaring permanent inability to work.

Article 1065.

(repealed).

Article 1066.

(repealed).

Article 1067.

§ 1. The provision of article 216 shall apply accordingly to a legacy whose object is a pecuniary performance.

§ 2. If the performance of legacy resulted in the division of an agricultural farm or land contribution to the

agricultural production cooperative which is contrary to the principles of careful agricultural management, the heir obliged to perform the legacy may demand to have the object of the legacy replaced with a pecuniary performance.

Article 1068.

(repealed).

Article 1069.

(repealed).

Article 1070.

In the case of the division of an agricultural farm belonging to the estate, the provisions on the division of agricultural farms upon the severance of co-ownership shall apply accordingly.

Article 1070¹.

Where alienating an estate or part of an estate or a share in the estate comprising an agricultural farm or an agricultural immovable property within the meaning of the act indicated in article 166 § 3, the provisions of said act on alienation of an agricultural immovable property shall apply.

Article 1071.

(repealed).

Article 1072.

(repealed).

Article 1073.

(repealed).

Article 1074.

(repealed).

Article 1075.

(repealed).

Article 1076.

(repealed).

Article 1077.

(repealed).

Article 1078.

(repealed).

Article 1079.

If, apart from an agricultural farm, the estate comprises other assets, the shares of the heirs in the agricultural farm shall be included in their respective shares in the entire estate.

Article 1080.

(repealed).

Article 1081.

The liability for estate debts connected with the running of an agricultural farm shall be borne, from the moment of the division of the estate, by the heir to whom the farm has fallen as well as heirs receiving repayment from him. Each of the heirs shall be liable with respect to the value of the received share. All the heirs shall be liable for other debts on general principles.

Article 1082.

If an agricultural farm belongs to the estate, the reserved portion shall be established with observance of the provisions of this title as well as to article 216 accordingly.

Article 1083.

(deleted).

Article 1084.

(repealed).

Article 1085.

(repealed).

Article 1086.

The provisions of this title shall apply accordingly in the case when land contribution to the agricultural production cooperative belongs to the estate, unless the provisions below provide otherwise.

Art. 1087¹.

- § 1. The land contribution to the agricultural production cooperative belonging to the estate shall be inherited by the heirs who upon the opening of the inheritance:
- 1) are members of this cooperative, or
 - 2) are either minors or undergo vocational training or attend education institutions, or
 - 3) are permanently unable to work.
- § 2. In the absence of the heirs specified in the first point of the preceding paragraph, the contribution of land to the agricultural production cooperative shall also be inherited by the heirs who work on the agricultural farm of the cooperative or who will become members of the cooperative within six months from the opening of the inheritance.
- § 3. The provisions of the preceding paragraphs shall also apply to homestead adjacent land and residential agricultural land if they belong to the estate.

Article 1088.

(repealed).

¹ This Act, to the extent provided for herein, shall transpose Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) (Official Journal of the European Communities L 178, 17 July 2000, page 1; Official Journal special Polish edition, chapter 13, volume 25, page 399).