CIVIL CODE, AS OF 1ST JULY 2013

TEAM IN CHARGE OF THE TRANSLATION (SEPTEMBER 2014):

TRANSLATION: DAVID W. GRUNING, PROFESSOR OF LAW, LOYOLA UNIVERSITY, SCHOOL OF LAW, NEW ORLEANS

REVISION: JURISCOPE

EXPERT COMMITTEE: PROF. ALAIN A. LEVASSEUR, HERMANN MOYSE, SR. AND HENRY PLAUCHÉ DART PROFESSOR OF LAW; DIRECTOR, EUROPEAN STUDIES PROGRAM; LOUISIANA STATE UNIVERSITY PAUL M. HEBERT LAW CENTER; FONDATION POUR LE DROIT CONTINENTAL, CONSEIL SCIENTIFIQUE, AND PROF. JOHN R. TRAHAN, PROFESSOR OF LAW, LOUISIANA STATE UNIVERSITY, LAW CENTER, BATON ROUGE.

CIVIL CODE

1 July 2013

PRELIMINARY TITLE. – THE PUBLICATION, EFFECTS, AND APPLICATION OF LEGISLATION IN GENERAL

Article 1

Statutes and administrative acts, when the latter are published in the Journal officiel de la République française, take effect on the date they specify or, if none is specified, on the day following the date of their publication. Nevertheless, if the enforcement of some provisions of such acts requires an additional enactment, the effective date of the enforcement of these provisions is deferred to the effective date of the additional enactment.

In case of an emergency, statutes whose decree of promulgation so declares and administrative acts for which the Government so orders by special provision, shall enter into force immediately upon their publication.

The provisions of this Article do not apply to acts applicable to individuals.

Article 2

Legislation provides only for the future; it has no retroactive effect.

Article 3

Statutes concerning public policy and safety are binding on all those living on the territory.

French law governs immovables, even those possessed by aliens.

Statutes concerning the status and capacity of persons govern French citizens even those residing in a foreign country.

Article 4

A judge who refuses to give judgment on the pretext of legislation being silent, obscure or insufficient may be prosecuted for being guilty of a denial of justice.

Article 5

In the cases that are referred to them, judges are forbidden to pronounce judgment by way of general and regulatory dispositions.

Article 6

One may not by private agreement derogate from laws that concern public order and good morals.

Article 6-1

Marriage and filiation through adoption produce the same effects, rights, and obligations provided by legislation, with the exception of those provided for in Book I, Title VII, of this Code, regardless whether the spouses or parents are of different sexes or same sex.

TITLE I. – CIVIL RIGHTS

Article 7

The exercise of civil rights is independent of the exercise of political rights, which are acquired and preserved in accordance with constitutional and electoral statutes.

Article 8

Every French person enjoys civil rights.

Article 9

Everyone has the right to respect for his private life.

Without prejudice to the right to recover indemnification for injury suffered, judges may prescribe any measures, such as sequestration, seizure and others, suited to the prevention or the ending of an infringement of the intimate character of private life; in case of emergency those measures may be provided for by summary proceedings.

Article 9-1

Everyone is entitled to the presumption of innocence.

When, before any sentence is pronounced, a person is publicly portrayed to be guilty of acts that are subject to an inquest or preliminary judicial investigation, the judge, even by summary proceedings and without prejudice to the right to recover indemnification for injury suffered, may prescribe any measures, such as the insertion of a correction or the circulation of a communiqué, in order to put an end to the infringement of the presumption of innocence, at the expense of the natural or juridical person responsible for that infringement.

Article 10

Everyone is required to lend his aid to the court so that the truth may be revealed.

He who, without legitimate reason, evades that obligation when it is legally required of him, may be compelled to comply with it, if need be on pain of a periodic penalty payment or of a civil fine, without prejudice to the right to recover damages.

Article 11

An alien enjoys in France the same civil rights as those that are or will be granted to French persons by the treaties of the nation to which that alien belongs.

Article 14

An alien, even if not residing in France, may be cited before French courts for the performance of obligations contracted by him in France with a French person; he may be brought before the courts of France for obligations contracted by him in a foreign country towards French persons.

Article 15

A French person may be brought before a court of France for obligations contracted by him in a foreign country, even with an alien.

CHAPTER II. RESPECT FOR THE HUMAN BODY

Article 16

Legislation ensures the primacy of the person, prohibits any infringement of the latter's dignity, and guarantees respect for the human being from the outset of his life.

Article 16-1

Everyone has the right to respect for his body.

The human body is inviolable.

The human body, its elements, and its products may not form the object of a patrimonial right.

Article 16-1-1

The respect owed to the human body does not end with death.

The remains of a deceased person, including the ashes of one whose body has been cremated, must be treated with respect, dignity, and decency.

Article 16-2

The judge may prescribe any measure appropriate to prevent or end an illicit infringement of the human body or illicit actions relating to its elements or products, even after death.

Article 16-3

There may be no infringement of the integrity of the human body except in case of medical necessity for the person or exceptionally in the therapeutic interest of another.

The consent of the interested person concerned must be obtained beforehand, except when his condition necessitates a therapeutic intervention to which he is not able to assent.

Article 16-4

No one may infringe upon the integrity of mankind.

Any eugenic practice which aims at organizing the selection of persons is forbidden.

Any medical procedure whose purpose is to cause the birth of a child genetically identical to another person alive or dead is forbidden

Without prejudice to any research that aims at preventing and treating genetic diseases, there may be no transformation of genes in order to alter the descent of a person.

Article 16-5

Agreements that have the effect of bestowing a patrimonial value on the human body, on its elements, or on its products are null.

Article 16-6

No remuneration may be allowed to a person who consents to experimentation on his person, to the removal of elements from his body, or to the collection of products thereof.

Article 16-7

All agreements relating to procreation or gestation for the benefit of another are null.

Article 16-8

No information enabling the identification of both the person who donates an element or a product of his body and the person who receives it may be divulged. The donor may not know the identity of the recipient nor the recipient know who the donor is.

In case of therapeutic necessity, only the physicians of the donor and recipient may have access to the information enabling the identification of these two persons.

Article 16-9

The provisions in this chapter are of public order.

CHAPTER III. EXAMINATION OF GENETIC CHARACTERISTICS OF A PERSON AND THE IDENTIFICATION OF A PERSON BY GENETIC MARKERS

Article 16-10

An examination of the genetic characteristics of a person may only be undertaken for medical purposes or for scientific research.

The express consent of the person must be obtained in writing before the carrying out of the examination, after the person has been duly informed of its nature and its purpose.

The consent shall specify the purpose of the examination. It may be revoked at any time without any formality.

Article 16-11

The identification of a person by his genetic fingerprint may only be sought:

1o Within the framework of investigative measures or the preparation of a case during a judicial proceeding;

2o For medical purposes or for scientific research;

3o In order to establish, when it is unknown, the identity of deceased persons;

In civil proceedings, such identification may only be sought as part of the preparation of case pursuant to judicial order by a court having jurisdiction to hear an action meant to establish or to deny filiation, or to obtain or to deny subsidies. The consent of the party concerned must be given beforehand and expressly. Unless there is express agreement by the person manifested while alive, no identification of that person may be carried out after his death.

When the identification process occurs for medical purposes or for scientific research, the express written consent of the person must be obtained before it is undertaken, and after he has been duly informed of its nature and its purpose. The consent specifies the purpose of the identification. The consent is revocable without formality and at any time.

When the search for identity referred to in 3o concerns either a deceased member of the military during an operation conducted by the armed forces or units attached to them, or the victim of a natural catastrophe, or a person who is the object of investigations under Article 26 of the Law no 95-73 of 21 January 1995 concerning orientation and programs of security and whose death is assumed, samples for the purpose of collecting the biological features of that person may be taken from places that person habitually frequented, with the consent of the authority in charge of those places, or in case of refusal by that authority or in case of the impossibility to obtain that consent, with the authorization of the judge of civil liberties and detention of the Tribunal de Grande Instance. Samples for the same purposes may be taken from the presumed ascendants, descendants, and collateral relatives of the person. The express and written consent of each person concerned is stated in writing before a sample is taken, after the person has been duly informed of the nature of the sample, of its purpose, and that the consent may be revoked at any time. The consent specifies the purpose of the sample taken and of the identification.

The manner in which the implementation of the search for identification under 3o of this article is conducted is specified in a decree en Conseil d'État.

Article 16-12

Only persons who have been authorized as prescribed by a decree en Conseil d'État are entitled to undertake identifications using genetic fingerprints or imprintings. In the instance of judicial proceedings, those persons must, besides, be registered on a list of judicial experts.

Article 16-13

No one may be discriminated against on the basis of his genetic characteristics.

CHAPTER IV. - USE OF BRAIN IMAGING TECHNOLOGY

Article 16-14

Brain imaging technology can be resorted to only for medical purposes or scientific research, or within the scope of a court ordered expert examination. The express consent of the person must be obtained in writing before the examination is conducted, after the person has been duly informed of its nature and its purpose. The consent shall specify the purpose of the examination. It can be revoked without formality and at any time.

TITLE I BIS. FRENCH NATIONALITY

Chapter i. GENERAL PROVISIONS

Article 17

French nationality is granted, acquired, or lost according to the provisions laid down in this Title, subject to the application of any treaties and other international commitments of France.

Article 17-1

New statutes concerning the granting nationality by birth shall apply to persons who are minors when the statutes take effect, without prejudice to the vested rights of third parties and without the validity of acts previously entered into being allowed to be challenged on the ground of nationality.

The provisions of the preceding paragraph shall apply for purposes of interpretation to the statutes on nationality by birth that have come into force after the promulgation of Title I of this Code.

Article 17-2

The acquisition and loss of the French nationality are governed by the statute in force at the time of the act or fact to which that statute gives its effects.

The provisions of the preceding paragraph shall govern for purposes of interpretation, the application in time of the statutes on nationality that have been in force before 19 October 1945.

Article 17-3

The applications concerning the acquisition, loss of the French nationality, or to be reinstated into that nationality, as well as declarations of nationality, may, under the conditions provided for by statute , be made without authorization from the age of sixteen.

A minor under sixteen must be represented by the person or persons who exercise parental authority over him.

Likewise, must also be represented any minor whose mental or physical impairments prevent him from expressing his intent. The impediment is established by the judge of tutorships sua sponte, on application of a member of the family of the minor, or on application of the State Prosecutor's office, upon presentation of a certificate issued by a physician specialist selected from a list drawn up by the State Prosecutor's office.

When the minor mentioned in the preceding paragraph is placed under tutorship, he is represented by the tutor authorized to this end by the family council.

Article 17-4

In this Title, the phrase "in France" is to be understood as meaning the metropolitan territory, the overseas departments and territories, as well as New Caledonia and the French Southern and Antarctic Lands.

Article 17-5

In this Title, majority and minority shall be understood according to the meaning they have in French law.

Article 17-6

In order, at any time, to determine the French territory, account shall be taken of modifications resulting from enactments of the French Government under the Constitution and legislation, as well as under international treaties previously concluded.

Article 17-7

In the absence of conventional stipulations, the effects on French nationality of the annexations and cessions of territories are governed by the following provisions.

Article 17-8

The nationals of the ceding State domiciled in the annexed territories on the day of the transfer of sovereignty acquire the French nationality, unless they actually establish their domiciles outside those

territories. Under the same reservation, French nationals domiciled in the ceded territories on the day of the transfer of sovereignty lose that nationality.

Article 17-9

The effects upon the French nationality of the accession to independence of former overseas departments or territories of the Republic are determined in Chapter VII of this Title.

Article 17-10

The provisions of Article 17-8 apply for purposes of interpretation to changes of nationality following the annexations and cessions of territories resulting from treaties concluded before 19 October 1945.

Nevertheless, aliens who had their domiciles in territories retroceded by France under the Treaty of Paris of 30 May 1814 and who transferred their domiciles to France following this Treaty, could not acquire the French nationality on this ground unless they complied with the provisions of the Law of 14 October 1814. French persons who were born outside the retroceded territories and have kept their domiciles on those territories have not lost their French nationality under the terms of the aforementioned Treaty.

Article 17-11

Without infringing on the interpretation given to former agreements, a change of nationality may not, in any case, follow from an international convention, unless the convention so provides expressly.

Article 17-12

When, under the terms of an international convention, a change of nationality is subject to the performance of an act of choice, that act shall be determined as to its form by the law of the contracting state in which it is performed.

CHAPTER II. FRENCH NATIONALITY BY ORIGIN

Section 1. Being French by filiation

Article 18

A French child is one who has at least one French parent.

Article 18-1

However, if only one parent is French, the child not born in France has the option to repudiate his French status within six months preceding his becoming of age and within twelve months thereafter.

This option is lost if the parent who is alien or stateless, acquires the french nationality during the minority of the child.

Section 2. Being French by birth in France

Article 19

A child born in France of unknown parents is French.

He shall, however, be deemed never to have been French if, during his minority, his parentage is established to an alien and if, under the national law of his parent, he has the nationality of the latter.

Article 19-1

A child is French if born in France:

1° Of stateless parents;

2° Of alien parents and to whom the transmission of the nationality of either parent is by no means allowed by foreign Nationality Acts. He shall, however, be deemed never to have been French if, during his minority, the foreign nationality acquired or possessed by one of his parents happens to pass to him.

Article 19-2

A child whose record of birth was drawn up in accordance with Article 58 of this Code is presumed to have been born in France.

Article 19-3

A child born in France is French if one at least of his parents was himself or herself born there.

Article 19-4

If, however, only one parent was born in France, a child who is French under the terms of Article 19-3 has the option to repudiate this status within six months preceding his becoming of age and twelve months thereafter.

This option is lost where one of the parents acquires french nationality during the minority of the child.

Section 3. Common provisions

Article 20

A child who is French under the provisions of this Chapter shall be deemed to have been French from birth, even when the existence of the statutory requirements for the granting of the French nationality was fulfilled only at a later date.

The nationality of a child who benefitted from a plenary adoption is determined according to the distinctions set out in Articles 18 and 18-1, 19-1, 19-3 and 19-4 above.

However, the establishment of the status of being French later than the birth may not affect the validity of acts previously concluded by the party concerned nor the rights previously acquired by third parties on the ground of the apparent nationality of the child.

Article 20-1

The filiation of a child has effect on his nationality only when it is established during his minority.

Article 20-2

A French person who has the option to repudiate the French nationality in the instances listed under this Title may exercise that option by way of a declaration made in accordance with Articles 26 and following.

He may renounce that option beginning at age sixteen under the same conditions.

Article 20-3

In the instances referred to in the preceding Article, no one may repudiate the French nationality unless he proves that he has by filiation the nationality of a foreign country.

Article 20-4

A French person who enlists in the French forces loses the option to repudiate.

Article 20-5

The provisions of Articles 19-3 and 19-4 shall not apply to the children born in France of diplomatic agents or of career consuls of foreign nationalities.

But such children do have the option to acquire voluntarily the status of a French person as provided for in Article 21-11 below.

CHAPTER III. THE ACQUISITION OF FRENCH NATIONALITY

Section 1. Means of acquisition of French nationality

Sub-article 1. Acquisition of French nationality by filiation

Article 21

A simple adoption does not have any effect as a matter of law on the nationality of an adopted child.

Sub-article 2. Acquisition of French nationality by marriage

Article 21-1

Marriage has no effect as a matter of law on nationality

Article 21-2

The alien or stateless person who enters into a marriage with a spouse of French nationality may, after a period of four years from the marriage, acquire the French nationality by means of a declaration provided that, at the time of the declaration, their life in common both affective and material has not come to an end since the marriage and that the French spouse has kept his nationality.

The duration of the life in common shall be raised to five years if the alien, at the time of the declaration, either does not prove that he has resided in France without interruption for at least three years from the marriage, or is not able to show proof that his French spouse was registered on the list of French persons established outside France for the duration of their life in common abroad. Moreover, the marriage celebrated outside France must have been transcribed beforehand on the registers of French civil status.

The foreign spouse must also prove a sufficient knowledge, according to his condition, of the French language, whose level and manner of evaluation are fixed by decree en Conseil d'État.

Article 21-3

Subject to the provisions of Articles 21-4 and 26-3, the party concerned acquires the French nationality at the date when the declaration is made.

Article 21-4

By a decree en Conseil d'État, the Government may, on grounds of indignity or lack of assimilation other than linguistic, oppose the acquisition of the French nationality by the foreign spouse within a period of two years after the date of the acknowledgement of receipt provided for in Article 26, paragraph 2, or, if the registration was refused, after the day when the judgment which admits the lawfulness of the declaration has become final.

The polygamous status of the foreign spouse or a sentence pronounced against him on account of the offense defined in Article 222-9 of the Penal Code, when that offense was committed on a minor of fifteen years of age, are proof of a lack of assimilation.

If there is an opposition by the Government, the party concerned shall be deemed to have never acquired the French nationality.

However, the validity of acts concluded between the time of the declaration and the decree of opposition cannot be contested on the ground that the maker of the declaration was unable to acquire the French nationality.

Article 21-5

The marriage declared null by a judgment of a French court or by a foreign court whose authority is recognized in France, does not render null the declaration made under Article 21-2 with regard to the spouse who married in good faith.

Article 21-6

The annulment of a marriage has no effect on the nationality of the children born thereof.

Sub-article 3. Acquisition of French nationality by reason of birth and residence in France

Article 21-7

Every child born in France of foreign parents acquires the French nationality on his coming of age when, at that time, he resides in France and has had his habitual residence in France for a continuous or discontinuous period of at least five years, from the age of eleven.

The tribunaux d'instance, local authorities, public bodies and services and especially educational establishments are obliged to provide information to the public, and in particular those persons to whom paragraph 1 applies, regarding the provisions in force in matters of nationality. The terms regarding this information shall be determined by a decree en Conseil d'État.

Article 21-8

The party concerned has the option to declare, as provided in Articles 26 and following and subject to his proving that he has the nationality of a foreign State, that he rejects his French nationality within six months before or twelve months after reaching the age of majority.

In this last case, he shall be deemed never to have been French.

Article 21-9

Any person who fulfils the requirements laid down in Article 21-7 in order to acquire the status of being French loses the option to reject it if he enlists in the French forces.

Any minor born in France of foreign parents who voluntarily enlists acquires the French nationality as of the date of his enlistment.

Article 21-10

The provisions of Articles 21-7 to 21-9 do not apply to the children born in France of diplomatic agents and of career consuls of foreign nationality. Such children, however, have the option to acquire the French nationality voluntarily as provided for in Article 21-11 below.

Article 21-11

The minor child born in France of foreign parents may from the age of sixteen claim the French nationality by declaration, as provided under Articles 26 and following if, at the time of his declaration, he resides in France and has had his habitual residence in France for a continuous or discontinuous period of at least five years, from the age of eleven.

Under the same terms, the French nationality may be claimed, on behalf of the minor child born in France of foreign parents, from the age of thirteen, the requirement of habitual residence in France having to be met from the age of eight years. The consent of the minor is required, except if he is unable to express his intent on an account of an impairment of his mental or physical faculties as established under the provision of the third paragraph of article 17-3.

Sub-article 4. Acquisition of the French nationality by declaration of nationality

Article 21-12

A child who was the subject of a simple adoption by a person of French nationality may, up to his majority, declare, under the conditions laid down in Article 26 and following, that he claims the status of being French, if he resides in France at the time of his declaration.

Nevertheless, the obligation of residence is dispensed when the child was adopted by a person of French nationality who does not have his usual residence in France.

Likewise, a child may claim French nationality:

1° Who, for at least five years, has been given a home and brought up in France by a person of French nationality or who, for at least three years, has been entrusted to the service of social assistance to children;

2° Who has been accepted in France and brought up in conditions that allowed him to receive, during five years at least, a French education from either a public institution, or by a private institution, offering the characteristics determined by a decree en Conseil d'État.

Article 21-13

Persons who have enjoyed in a constant manner the possession of the status of French nationality for ten years before making a signed declaration, may also claim the French nationality by such a signed declaration under Articles 26 and following.

When the validity of acts passed before the date of the declaration depended on the possession of the French nationality, that validity may not be challenged on the sole ground that the declarant lacked that nationality.

Article 21-14

Persons who have lost the French nationality under Article 23-6 or against whom was raised the exception of inadmissibility laid down by Article 30-3 may claim the French nationality by declaration signed as provided for in Articles 26 and following.

They must have kept or acquired open cultural, professional, economic, or family connections with France, or actually performed military services in a unit of the French army, or fought in French or allied armies in time of war.

The surviving spouses of the persons who have actually performed military services in a unit of the French army or fought in French or allied armies in time of war may likewise benefit from the provisions of paragraph 1 of this Article.

Sub-article 5. Acquisition of the French nationality by decision of a public authority

Article 21-14-1

French nationality may be conferred by decree, on a proposal from the Minister of Defense, to an alien recruited in French armies who was wounded on duty during or on the occasion of an operational action and who makes a request for it.

If the party concerned is dead, subject to the conditions outlined in the first paragraph, the same procedure is open to his minor children who, at the day of the death, fulfilled the requirement of residence laid down in Article 22-1.

Article 21-15

Besides the circumstances referred to in Article 21-14-1, the acquisition of the French nationality by a decision of the Government results from a naturalization granted by decree at the request of the alien.

Article 21-16

No one may be naturalized unless he has his residence in France at the time of the signature of the decree of naturalization.

Article 21-17

Subject to the exceptions laid down in Articles 21-18, 21-19 and 21-20, naturalization may be granted only to an alien who proves a habitual residence in France during the five years preceding the submission of the request.

Article 21-18

The probationary period referred to in Article 21-17 shall be reduced to two years:

1° As regards the alien who has successfully completed two years of university education in view of getting a diploma conferred by a French university or establishment of higher education;

2° As regards the alien who gave or can give significant services to France owing to his competences and talents;

3° For the alien who manifests an unusual record of integration, judged by his actions or accomplishments in the civic, scientific, economic, cultural, or athletic realm.

Article 21-19

The following persons may be naturalized without the requirement of a probationary period:

1° [Repealed];

2° [Repealed];

3° [Repealed]

4° An alien who actually performed military services in a unit of the French army or who, in time of war, enlisted voluntarily in French or allied armies;

5° [Repealed];

6° An alien who gave exceptional services to France or one whose naturalization is of exceptional interest for France. In this event, the decree of naturalization may be granted only upon an opinion of the Conseil d'État, and upon the basis of a properly justified report from the competent Minister;

7° An alien who obtained the status of refugee in accordance with law no 52-893 of 25 July 1952 establishing a French Office for the protection of refugees and stateless persons.

Article 21-20

A person may be naturalized without any requirement as to a probationary period who belongs to the French cultural and linguistic entity, where he is a national of territories or States whose official language or one of whose official languages is French, either if French is his mother tongue or if he proves having attended school for at least five years in an institution teaching in French.

Article 21-21

The French nationality may be conferred by naturalization on a proposal from the Minister of Foreign Affairs to any French-speaking alien who makes the request thereof and who contributes by his eminent deeds to the influence of France and to the prosperity of its international economic relations.

Article 21-22

No one may be naturalized who has not reached the age of eighteen years.

Nevertheless, naturalization may be granted to a minor child who remained an alien even though one of his parents has acquired French nationality if he justifies having resided in France with that parent during the five years that precede the deposit of his demand.

Article 21-23

No one may be naturalized if he is not of good character or has been sentenced under Article 21-27 of this Code.

Sentences handed down abroad, however, may be ignored; in that case, the decree that pronounces naturalization may be enacted only after conforming assent of the Conseil d'État.

Article 21-24

Nobody may be naturalized unless he proves his assimilation into the French community, and notably by a sufficient knowledge, according to his condition, of the language, history, culture, and society of France, whose level and whose means of evaluation are fixed by decree en Conseil d'État, and of the rights and duties conferred by the French nationality, as well as an adherence to the essential principles and values of the Republic.

Upon issuance of the verification of his assimilation, the person concerned signs the charter of the rights and duties of the French citizen. This charter, approved by decree en Conseil d'État, restates the essential principles, values, and symbols of the Republic of France.

Article 21-24-1

The requirement of knowledge of the French language does not apply to political refugees and stateless persons who have resided in France regularly and habitually for at least fifteen years and who are over seventy years of age.

Article 21-25

The manner of verification of assimilation and state of health of an alien awaiting his naturalization shall be prescribed by decree in the Council of State.

Article 21-25-1

The response of the public authority to a request for acquisition of the French nationality by naturalization must be made at the latest within eighteen months after the date when the acknowledgement of receipt that establishes the delivery of all the documents needed for the completion of a comprehensive file is issued to the applicant.

The delay specified in the first paragraph is reduced to twelve months when the alien during a naturalization hearing shows he has maintained his primary residence in France for at least ten years at the time of the submission.

That period may be extended only once for three months by a reasoned decision.

Sub-article 6. Provisions common to certain modes of acquiring French nationality

Article 21-26

The following forms of residence are equivalent to residence in France when that is a requirement for the acquiring of the French nationality:

1° A residence abroad of an alien who exercises a private or public professional activity on behalf of the French state or of an institution whose activity is of special interest for the French economy or culture;

2° A residence in those countries in customs union with France that are identified by a decree;

3° A presence outside France, in time of peace as in time of war, in a regular unit of the French army or in fulfillment of the duties laid down in Book II of the Code of National Service;

4° A residence outside France as a volunteer for national service.

The equivalence as to residence that benefits one spouse shall be extended to the other where they actually live together.

Article 21-27

No one may acquire the French nationality or be reinstated in that nationality if he has been sentenced either for ordinary or serious offences that constitute a violation of the fundamental interests of the nation or an act of terrorism or, whatever the offence concerned may be, to a penalty of six months' imprisonment or more without suspension.

It shall be likewise for the person who has been subject either to an exclusion order not expressly revoked or repealed or to a banishment of the French territory not fully enforced.

It shall be likewise for the person whose residence in France is irregular with respect to the legislation and treaties concerning the residence of aliens in France.

The provisions of this Article shall not apply to a minor child who may acquire the French nationality under Articles 21-7, 21-11, 21-12 and 22-1, nor to a condemned person who has benefited from a rehabilitation by operation of law or by a judicial rehabilitation in accordance with Article 133-12 of the Penal Code, or the entry of whose sentence has been excluded from the certificate no 2 of the police record, in accordance with Articles 775-1 and 775-2 of the Code of Criminal Procedure

Article 21-27-1

Upon acquiring the French nationality by decision of the public authority or by declaration, the person concerned indicates to the competent authority either the nationalities he possesses already, the nationality or nationalities he maintains in addition to French nationality, as well as the nationalities he intends to renounce.

Sub-article 7. Ceremony of welcome into the French citizenship

Article 21-28

The representative of the State in the department or, in Paris, the prefect of police organizes, within six months from the date of the acquisition of the French nationality, a ceremony of welcome into French citizenship for persons residing in the department as provided under Articles 21-2, 21-11, 21-12, 21-14, 21-14-1, 21-15, 24-1, 24-2, and 32-4 of the present Code, and under Article 2 of Law no 64-1328 of 26 December 1964 authorizing approval of the convention of the Council of Europe on the reduction of the cases of plurality of nationalities and on military obligations in case of plurality of nationalities, signed at Strasbourg 6 May 1963.

The deputies and senators elected in the department are invited to the welcome ceremony.

Persons having acquired the French nationality as a matter of law under Article 21-7 are invited to this ceremony within six months from the date of delivery of the certificate of French nationality specified in Article 31.

During the welcome ceremony, the charter of the rights and duties of the French citizen specified under Article 21-24 is delivered to the persons who have acquired the French nationality mentioned in the first and third paragraphs above.

Article 21-29

The representative of the State in the department or, in Paris, the prefect of police communicates to the mayor, in his capacity as officer of civil status, the identity and address of the persons residing in the commune able to benefit from the ceremony of welcome into French citizenship.

When the mayor makes the demand, he may as officer in charge of civil status, authorize the ceremony of welcome into the French citizenship.

Section 2. Effects of acquisition of the French nationality

Article 22

A person who has acquired the French nationality enjoys all the rights and is bound to all the duties attached to the status of French, from the day of that acquisition.

Article 22-1

A minor child one of whose parents acquires the French nationality becomes French as of right if he has the same habitual residence as that parent, or resides alternatively with that parent in the event of separation or divorce.

The provisions of this Article shall not apply to the child of a person who acquires the French nationality by a decision of the public authority or by declaration of nationality unless his name is specified in the decree or the declaration.

Article 22-2

The provisions of the preceding Article do not apply to a married child.

Article 22-3

But a child who is French under Article 22-1 and who was not born in France has the right to repudiate that status within six months preceding and twelve months following his coming of age.

He must exercise this right by declaration executed as provided for in Articles 26 and following.

He can renounce this right from the age of sixteen in the same conditions.

CHAPTER IV. LOSS, FORFEITURE, AND REINSTATEMENT OF FRENCH NATIONALITY

Section 1. Loss of French nationality

Article 23

Any adult of French nationality habitually residing abroad, who acquires voluntarily a foreign nationality, loses his French nationality only if he so declares expressly, under the conditions stated in Articles 26 and following of this Title.

Article 23-1

The declaration made with the intent to lose the French nationality may be executed upon the filing of the request for acquiring the foreign nationality and, at the latest, within a period of one year after the date of that acquisition.

Article 23-2

French persons under the age of thirty-five years may not execute the declaration provided for in Articles 23 and 23-1 above unless they have complied with the duties under Book II of the Code of National Service.

Article 23-3

A French person loses his French nationality by exercising the right to repudiate that status in the circumstances referred to in Articles 18-1, 19-4 and 22-3.

Article 23-4

A French person loses the French nationality, even if a minor, who, having a foreign nationality, is, on his request, authorized by the French Government to lose the French nationality.

That authorization is granted by decree.

Article 23-5

In the event of a marriage with an alien, the French spouse may repudiate the French nationality in accordance with Articles 26 and following, if he has acquired the foreign nationality of his spouse and the habitual residence of the couple is established abroad.

However, French persons who are under the age of thirty-five may not exercise that right of repudiation unless they have complied with the duties under Book II of the Code of National Service.

Article 23-6

The loss of the French nationality may be established by judgment when the party concerned, originally French by filiation, has not the apparent status thereof and never had his habitual residence in France, if the ancestors from whom he held his French nationality themselves neither have the apparent status of being a French national nor have resided in France for half a century.

The judgment shall determine the date when the French nationality was lost. It may decide that that nationality was lost by the ancestors of the party concerned and that the latter never was French.

Article 23-7

A French person who behaves in fact as a national of a foreign country may, if he has the nationality of that country, be declared to have lost the French nationality by decree after conforming opinion of the Conseil d'État.

Article 23-8

A French person loses French nationality by taking on employment in a foreign army or public service or in an international organization of which France is not a member, or more generally providing his assistance to it, and by failing to resign his employment or to end his assistance, despite the order of the Government.

The party concerned shall be declared, by decree en Conseil d'État, to have lost his French nationality unless, within the period prescribed by the order period, which may not be lesser than fifteen days or more than two months, he ends his activity.

When the opinion of the Council of State is adverse, the measure provided for in the preceding paragraph may be adopted only by a decree in the Council of Ministers.

Article 23-9

Loss of the French nationality takes effect:

1° When Article 23 so provides from the date of acquisition of the foreign nationality;

2° When Articles 23-3 and 23-5 so provide from the date of the declaration;

3° When Articles 23-4, 23-7 and 23-8 so provide from the date of the decree;

4° When Article 23-6 so provides from the date stated in the judgment.

Section 2. Reinstatement of French nationality

Article 24

Reinstatement of the French nationality of persons who prove they had possessed the status of being a French national shall result from a decree or a declaration in accordance with the distinctions provided for in the Articles below.

Article 24-1

Reinstatement by decree may be obtained at any age and without any requirement as to a probationary period. As to other matters, it shall be subject to the requirements and rules of naturalization.

Article 24-2

Persons who have lost their French nationality because of a marriage with an alien or the acquisition of a foreign nationality by an individual decision may, subject to the provisions of Article 21-27, be reinstated by a declaration executed in France or abroad under Articles 26 and following.

They must have kept or acquired manifest connections with France, especially of a cultural, professional, economic, or family nature.

Article 24-3

Reinstatement by decree or declaration is effective with regard to children under the age of eighteen, under the conditions stated Articles 22-1 and 22-2 of this Title.

Section 3. Forfeiture of the French nationality

Article 25

An individual who acquired the French nationality may be declared by decree adopted after conforming assent of the Conseil d'État to have forfeited his French nationality, unless forfeiture would have the effect of making him stateless:

1° When he is sentenced for an act characterized as an ordinary or serious offence that constitutes a violation of the fundamental interests of the Nation, or for a crime or offense that constitutes an act of terrorism;

2° When he is sentenced for an act characterized as a crime or serious offence provided for and punished by Chapter II of Title III of Book IV of the Penal Code;

3° When he is sentenced for having evaded the duties imposed on him by the Code of National Service;

4° When he has committed, for the benefit of a foreign state, acts incompatible with the status of being French and detrimental to the interests of France.

Article 25-1

Forfeiture is incurred only if the actions of which the person concerned is accused and that are referred to in Article 25 have occurred before his becoming a French national or within ten years as from the date of that acquisition.

It can be pronounced only within ten years as from the perpetration of those actions.

If the actions of which the person concerned is accused are referred to in Article 25, 1°, the periods referred to in the two preceding paragraphs shall be extended to fifteen years.

CHAPTER V. ACTS CONCERNING THE ACQUISITION OR LOSS OF FRENCH NATIONALITY

Section 1. Declarations of nationality

Article 26

The declaration of nationality executed by reason of marriage with a French spouse is received by the administrative authority. The other declarations of nationality are be received by the chief clerk of the tribunal d'instance or by the consul. The forms in which these declarations are received are prescribed by decree en Conseil d'État.

An acknowledgment of receipt must be issued after the filing of the documents necessary for proving their admissibility.

Article 26-1

Any declaration of nationality must, on pain of nullity, be registered either by the chief clerk of the tribunal d'instance for declarations executed in France, or by the Minister of Justice as regards declarations executed outside France, except the declarations executed because of marriage with a French spouse, which are registered by the minister responsible for naturalizations.

Article 26-2

The seat and territorial jurisdiction of the tribunals d'instance competent to receive and register the declarations of French nationality are established by decree.

Article 26-3

The Minister or the chief clerk of the tribunal d’instance shall refuse to register declarations that do not comply with the statutory requirements.

His reasoned decision shall be notified to the declarant, who may challenge it before the tribunal de grande instance within six months. The claim may be brought personally by a minor from the age of sixteen.

The decision of refusal to register must be taken within six months at the latest after the date when the acknowledgment of receipt that establishes the filing of all the documents necessary for proving the admissibility of the declaration has been issued to the declarant.

The period shall be extended to one year for declarations executed under Article 21-2. If the Government begins a procedure of opposition under Article 21-4, the period is extended to two years.

Article 26-4

If there is no refusal to register within the statutory period, a copy of the declaration shall be given to the declarant bearing the specific mention of its registration.

Within two years following the date when it was made, the State Prosecutor’s office may challenge the registration if the statutory requirements are not met.

The registration may still be opposed by the State prosecutor in case of lies or fraud within two years after their discovery. Ending the community of life together between spouses within twelve months after registration of the declaration under Article 21-2 shall constitute a presumption of fraud.

Article 26-5

Subject to the provisions of Article 23-9, paragraph 2, 1°, declarations of nationality, from the moment that they have been registered, are effective from the date when they are executed.

Section 2. Administrative decisions

Article 27

Any decision declaring inadmissible, or deferring, or refusing a petition for acquisition, for naturalization, or for reinstatement by decree, as well as an authorization to lose for French nationality, must set out its reasons.

Article 27-1

The decrees providing for the acquisition, naturalization or reinstatement, or an authorization for the loss of the French nationality, or the loss or forfeiture of that nationality, shall be adopted and published in forms prescribed by decree. The decrees have no retroactive effect.

Article 27-2

The decrees providing for acquisition, naturalization or reinstatement may be withdrawn upon conformed opinion of the Conseil d'État within two years from their publication in the Journal Officiel if the person making the request does not comply with the statutory requirements; if the decision was obtained by lie or fraud, the decrees may be withdrawn within two years of the discovery of the fraud.

Article 27-3

The decrees providing for loss on one of the grounds provided for in Articles 23-7 and 23-8 or forfeiture of the French nationality shall be adopted after the person concerned has been heard or summoned to bring forward his observations.

Section 3. Mentions in the registry of civil status

Article 28

A mention will be made in the margin of the record of birth, of the administrative acts and declarations that have as their effects the acquisition or the loss of the French nationality or the reinstatement of that nationality.

Likewise, mention shall be made of any first issuance of a certificate of the french nationality as well as of the judicial decisions that concern it.

Article 28-1

The mentions relating to nationality contemplated in the preceding Article shall be made automatically on copies or abstracts with indication of the filiation of birth certificates or acts drawn up as substitutes for them.

Those mentions are also made on abstracts without indication of the filiation of birth certificates or family record books at the request of the parties concerned. However, the mention of the loss, disclaimer,

forfeiture, opposition to the acquisition of the French nationality, of the withdrawal of the decree of acquisition, naturalization or reinstatement or of the judicial decision that declared the status of alien, is automatically made on all the abstracts of the birth certificate and on the family record book when a person who previously acquired or was judicially adjudged that nationality, or obtained a certificate of French nationality, has requested that there be a specific mention on those documents.

CHAPTER VI. DISPUTES OVER NATIONALITY

Section 1. Jurisdiction of the courts and procedure before the courts

Article 29

The civil courts of general jurisdiction have exclusive jurisdiction over disputes relating to French or foreign nationality of natural persons.

Issues of nationality are of a preliminary nature before any other administrative or judicial court, except criminal courts with a criminal jury.

Article 29-1

The seat and territorial jurisdiction of the tribunals of grande instance empowered to try controversies over French or foreign nationality of natural persons are established by decree.

Article 29-2

The procedure to be followed in matters of nationality and in particular the communication to the Ministry of Justice of summons, pleadings, and methods of review, is established by the Code of Civil Procedure.

Article 29-3

Everyone has the right to bring an action for the determination of his having the French nationality or not.

The State prosecutor has the same right with respect to any person. He shall be a necessary defendant in all declaratory actions on nationality. He must be joined to the action whenever an issue of nationality is raised as an interlocutory matter before a court empowered to hear the case.

Article 29-4

The State prosecutor must act when he is requested to do so by a public administration or a third party who raised the plea of nationality before a court that suspended proceedings under Article 29. The third party plaintiff shall be joined to the action.

Article 29-5

Judgments and rulings handed down in matters of French nationality by a court of general jurisdiction have effect even against persons who were not parties or represented.

Any party concerned is entitled to challenge them by means of third party proceedings provided that he joins the State prosecutor in the action.

Section 2. Proof of nationality before the ordinary courts

Article 30

The burden of proof in matters of French nationality lies on the person whose nationality is in dispute.

Nevertheless, this burden lies on him who challenges the French nationality of a person who holds a certificate of French nationality issued as provided for in Article 31 and following.

Article 30-1

When the French nationality is granted or acquired other than by declaration, decree of acquisition or of naturalization, reinstatement, or annexation of territories, proof of it may be made only by establishing the existence of all the statutory requirements.

Article 30-2

Nevertheless, when the source of the French nationality can only be in the filiation, it shall be deemed established, saving proof to the contrary, if the person concerned and the father or mother who was likely to transmit it to him have constantly enjoyed possession of the status of being a French national.

The French nationality of persons born in Mayotte, of age on 1 January 1994, shall be alternatively deemed established if those persons have constantly enjoyed the possession of French national.

For a period of three years from the publication of the Law no 2006-911 of 24 July 2006 concerning immigration and assimilation, for the application of the second paragraph above, adults as of 1 January 1994 who prove they were born in Mayotte are deemed to have constantly enjoyed the possession of French nationality if they also show that they were registered on a list of voters in Mayotte at least ten years before the publication of the Law no 2006-911 of 24 July 2006 above and that they prove a habitual residence in Mayotte.

Article 30-3

When a person habitually resides or has resided in a foreign country, in which the ancestors from whom he holds the nationality by parentage have settled for more than half a century, that person may not prove that he has the French nationality by parentage if he himself or his father or mother who could have transmitted it to him has not enjoyed the possession of being a French national.

In that event, the court must record the loss of the French nationality under Article 23-6.

Article 30-4

Apart from the loss or forfeiture of the French nationality, proof of the alien status of a person can only be established by showing that the party concerned does not fulfill any of the statutory requirements for having the quality of being French.

Section 3. Certificates of French nationality

Article 31

The chief clerk of a tribunal d'instance shall alone have the capacity to issue a certificate of French nationality to a person who establishes that he has that nationality.

Article 31-1

The seats and territorial jurisdiction of the tribunals d'instance which are empowered to issue certificates of nationality shall be established by decree.

Article 31-2

A certificate of nationality shall point out, with references to Chapters II, III, IV and VII of this Title, the statutory provision under which the party concerned has the French nationality as well as the documents that permitted its being proven. It shall prevail until proof of the contrary.

For the drawing up of a certificate of nationality, the chief clerk of a tribunal d'instance may presume, if other elements are lacking, that the acts of civil status drawn up abroad and presented to him produce the effects that French law would have attributed to them.

Article 31-3

Where the chief clerk of a tribunal d'instance refuses to issue a certificate of nationality, the party concerned may bring the matter before the Minister of Justice, who shall decide whether there is a case for proceeding to its issuance.

CHAPTER VII. The Effects on French nationality of transfers of sovereignty of certain territories

Article 32

French persons natives of the territory of the French Republic, as it was constituted on the 28 July 1960, and who were domiciled on the day of its accession to independence on the territory of a State that previously had the status of an overseas territory of the French Republic, maintain their French nationality.

It shall be the same as to the spouses, widows and widowers, and descendants of the said persons.

Article 32-1

French persons of ordinary civil status domiciled in Algeria on the date of the official announcement of the results of the poll for self-determination maintain their French nationality whatever their situation with respect to the Algerian nationality may be.

Article 32-2

The French nationality of persons of ordinary civil status who were born in Algeria before the 22 July 1962 shall be deemed established, on the terms of Article 30-2, if those persons have constantly enjoyed the possession of being French.

Article 32-3

Every French person who, at the date of its independence, was domiciled on the territory of a State that had previously the status of overseas department or territory of the Republic keeps his nationality as of right where no other nationality was granted to him by the law of that State.

Likewise, the children of persons who benefit from the provisions of the preceding paragraph, minors under eighteen at the date of the accession to independence of the territory when their parents were domiciled, keep their French nationality as of right.

Article 32-4

Former members of the Parliament of the Republic, of the Assembly of the French Union, and of the Economic Council who have lost their French nationality and acquired a foreign nationality under a general provision may be reinstated in the French nationality by a mere declaration when they have established their domiciles in France.

The same right is granted to their spouse, widower or widow, and their children.

Article 32-5

The declaration of reinstatement provided for in the preceding Article may be executed by the parties concerned, in accordance with Article 26 and following, from the moment they have reached the age of eighteen; it may not be made by representation. It has effect with regard to minor children on the terms of Articles 22-1 and 22-2.

CHAPTER VIII. PARTICULAR DISPOSITIONS APPLICABLE TO OVERSEAS COLLECTIVITIES BY ARTICLE 74 OF THE CONSTITUTION AND TO NEW CALEDONIA

Article 33

For the implementation of this Title:

1o The words "tribunal de grande instance" shall each time be replaced by the words "tribunal de première instance;"

2o In Articles 21-28 and 21-29, the words "in the department" are replaced by the words "in the collectivity" or "in New Caledonia."

The pecuniary sanctions imposed under Article 68 in the islands of Wallis and Futuna, in French Polynesia, and in New Caledonia are imposed in local money, taking account of the exchange-value of the Euro in that money.

Article 33-1

Notwithstanding Article 26, the declaration that is to be received by the chief clerk of the tribunal d'instance is received by the president of the tribunal of première instance or by the judge of the assigned section.

Article 33-2

Notwithstanding Article 31, the president of the tribunal de première instance or the judge of the assigned section is alone competent to issue a certificate of French nationality to a person who establishes that he has that nationality.

TITLE II. ACTS OF CIVIL STATUS

Chapter i. GENERAL PROVISIONS

Article 34

Acts of civil status shall state the year, day and time when they were received, the first names and name of the officer of civil status, the first names, names, occupations and domiciles of all persons named therein.

The dates and places of birth:

a) Of the father and mother in the acts of birth and of acknowledgement;

b) Of the child in the acts of acknowledgement;

c) Of the spouses in the acts of marriage; and

d) Of the deceased in the acts of death

shall be mentioned when known. Otherwise the age of those persons shall be indicated by their number of years as must be, in all cases, the ages of the declarants. As to the witnesses, only their status of adult shall be mentioned.

Article 34-1

Acts of civil status are established by the officers of civil status. They exercise their functions under the supervision of the State prosecutor.

Article 35

Officers of civil status may insert nothing in the acts they receive, by way of a note or of whatever wording, beyond what must be declared by the appearing parties.

Article 36

When the parties concerned are not obligated to appear in person, they may be represented by one granted a special power for that purpose in authentic form.

Article 37

Witnesses appearing in connection with acts of civil status shall be at least of eighteen years of age, relatives or not, without distinction of sex; they shall be selected by the parties concerned.

Article 38

The officer of civil status shall read the acts to the appearing parties or their representatives, and to the witnesses; he shall invite them to take direct cognizance of the acts before signing them.

It shall be specified in the acts that these formalities have been complied with.

Article 39

These acts shall be signed by the officer of civil status, the appearing parties, and witnesses; or mention shall be made of the cause preventing the appearing parties or witnesses from signing.

Article 46

If no registers existed or if they have been lost, proof of them may be received by documents as well as by witnesses; and in that event, marriages, births, and deaths may be proved by books and papers emanating from deceased fathers and mothers as well as by witnesses.

Article 47

Full faith must be given to acts of civil status of French persons and of aliens made in a foreign country and drawn up in the forms in use in that country, unless other records or documents retained, external evidence, or elements drawn from the act itself establish, after all useful verifications if necessary, that the act is irregular, forged, or that the facts declared therein do not square with the truth.

Article 48

Every act of civil status of a French person in a foreign country is valid if it was received, in accordance with French law, by diplomatic or consular agents.

A duplicate of the registers of civil status held by these agents shall be sent at the end of each year to the Ministry of Foreign Affairs which shall keep them and may deliver abstracts or certificates from them.

Article 49

Whenever the mention of an act relating to civil status must be made in the margin of an act already drawn up or registered, it shall be made by the officer of his own motion.

The officer of civil status who has drawn up or registered the act that occasions the mention shall execute that mention within three days on the registers he keeps and, if the duplicate of the register on which the mention is to be effected is at the office of the clerk of court, he shall send a notice to the State prosecutor of his arrondissement.

If the act in whose margin the mention is to be effected was drawn up or registered in another commune, the notice shall be sent, within three days, to the officer of civil status of that commune, and the latter shall notify at once the State prosecutor of his arrondissement if the duplicate of the register is at the office of the clerk of court.

If the record in whose margin a mention is to be effected was drawn up or registered abroad, the officer of civil status who drew up or registered the act that occasions the mention shall give notice of it, within three days, to the Minister of Foreign Affairs.

Article 50

Any infringement of the preceding Articles on the part of the officials therein named shall be prosecuted before the tribunal de grande instance and punished with a fine of 3 to 30 Euros.

Article 51

Any custodian of registers shall be civilly liable for the alterations that might occur in them, subject to his remedy, as the case may be, against the authors of those alterations.

Article 52

Any alteration, any forgery in acts of civil status, any inscription of those acts made on a loose leaf and otherwise than on the registers designed for that purpose, shall give rise to damages to the parties, without prejudice to penalties provided for in the Penal Code.

Article 53

The State prosecutor at the tribunal de grande instance shall verify the state of the registers when they are deposited with the clerk of court; he shall draw up a formal memorandum of verification, shall specify the violations and ordinary offences committed by officers of civil status, and demand that they be fined.

Article 54

Whenever a tribunal de grande instance has jurisdiction over acts of civil status, the parties concerned may bring an action against the judgment.

CHAPTER II. ACTS OF BIRTH

Section 1. Declarations of birth

Article 55

Declarations of birth shall be made within three days of the delivery, to the local officer of civil status.

When a birth has not been declared within the legal delay, the officer of civil status may only record it in his registers under a judgment rendered by the court of the arrondissement where the child was born, and a summary mention shall be made in the margin at the date of the birth. If the place of birth is unknown, the court having jurisdiction shall be the one of the residence of the applicant. The name of the infant is determined by the rules stated in Articles 311-21 and 311-23.

In foreign countries, declarations to diplomatic or consular agents must be made within fifteen days of the delivery. That period may, however, be extended by decree in some consular districts.

Article 56

The birth of a child shall be declared by the father, or, in absence of the father, by the doctors of medicine or surgery, midwives, health officials, or other persons present at the delivery; and, when the mother has given birth outside her domicile, by the person at whose place she has given birth.

The act of birth shall be drawn up at once.

Article 57

The act of birth shall indicate the day, the time and the place of birth, the sex of the child, the first names given to him, the family name, followed if there is occasion by the mention of the joint declaration of the parents as regards the choice made as well as the first names, names, ages, occupations and domiciles of the father and mother and, if there is occasion, those of the declarant. If the father and mother of the child or one of them are not indicated to the officer of civil status, nothing about it shall be mentioned on the registers.

The first names of the child are chosen by his father and mother. A woman who asked to keep her identity secret at the time of the delivery may make known the first names she desires to be given to the child. Otherwise, or where his parents are unknown, the officer of civil status shall choose three first names the last of which takes the place of a family name for the child. The officer of civil status immediately writes the first names chosen on the act of birth. Any first name entered on the act of birth may be chosen as the usual first name.

When these first names or one of them, alone or combined with the other first names or the name, appear to him to be contrary to the welfare of the child or to the rights of third persons to the protection of their family names, the officer of civil status shall give notice thereof to the State prosecutor without delay. The latter may refer the matter to the family law judge.

If the judge considers that the first name is not consonant with the welfare of the child or disregards the rights of third persons to the protection of their family names, he shall order its removal from the act of civil status. Should it be the case, he shall give the child another first name which he himself chooses in the absence of a new choice by the parents that is consonant with the interests aforesaid. A mention of the decision is entered in the margin of the acts of civil status of the child.

Article 57-1

When the officer of civil status of the place of birth of a child makes mention of the acknowledgement of the aforesaid child in the margin of the record of birth of the latter, he shall inform the other parent thereof by registered letter with notice of delivery.

If this parent cannot be informed, the officer of civil status shall inform the State prosecutor of the fact, and the latter sees that the necessary steps are taken.

Article 58

A person who finds a new-born child is required to make declaration of it to the officer of civil status of the place of discovery. If that person does not consent to take charge of the child, he shall hand him, with the clothing and other effects found with him, to the officer of civil status.

A detailed formal memorandum shall be drawn up which, besides the indications provided for by Article 34 of this Code, shall state the date, time, place and circumstances of the discovery, the apparent age and the sex of the child, any peculiarities which may contribute to his identification as well as the authority or person to whom he is entrusted. That formal memorandum shall be entered as of its date on the registers of civil status.

Following and separately from this formal memorandum, the officer of civil status shall draw up an act that shall take the place of an act of birth. Besides the indications provided for by Article 34, that act shall state the sex of the child as well as the first names and name that are given to him; it shall fix a date of birth that may agree with his apparent age and designate as place of birth the commune where the child was discovered.

A similar act shall be drawn up, following a declaration of the Children's aid services, for children placed under their tutorship and deprived of a known act of birth or for whom the secret of their birth has been claimed.

Copies and abstracts or certificates of the formal memorandum of discovery or of the interim act of birth shall be issued on the terms and in accordance with the distinctions under Article 57 of this Code.

If the act of birth of the child happens to be found or if the birth is judicially declared, the formal memorandum of discovery and the interim act of birth shall be annulled at the request of the State prosecutor or of the parties concerned.

Article 59

In case of birth during a sea voyage, an act shall be drawn up within three days of the delivery, upon declaration of the father if he is on board.

When the birth takes place while in port, the act shall be drawn up under the same terms if there is an impossibility to communicate with the shore or, if in a foreign country, there is no French diplomatic or consular agent in the port vested with the functions of an officer of civil status.

That act shall be drawn up, to wit: on the vessels of the State, by the officer of the Navy commissariat or, in his absence, by the captain or one who fulfills his functions; and on other ships by the captain, master or skipper, or one who fulfills his functions.

Mention shall be made of the circumstances among the ones above provided in which the act was drawn up. The act shall be entered at the end of the crew list.

Section 2. Changing first names and names

Article 60

A person who can justify having a lawful interest may apply for a change of his first name. The application is brought before the family law judge at the request of the party concerned or, if he is a minor or a person of age under tutorship, at the request of his legal representative. An addition, suppression, or modification in the order of the first names may be likewise decided.

Where the child is over thirteen his personal consent is required.

Article 61

A person who justifies having a lawful interest may apply for a change of his name.

The application for a change of name may be made for the purpose of preventing the extinction of the name borne by an ancestor or a collateral of the applicant up to the fourth degree.

The change of name shall be authorized by decree.

Article 61-1

Any interested person may oppose before the Conseil d'État the decree establishing a change of name within two months from its publication in the Journal Officiel.

A decree establishing a change of name takes effect, where there is no challenge, at the end of the period within which the challenge is admissible or, where there is a challenge, after its dismissal.

Article 61-2

A change in the name extends as of right to the children of the beneficiary when they are under thirteen.

Article 61-3

A change of name of a child over thirteen requires his personal consent when this change does not result from establishing or modifying a bond of filiation.

However, the establishing or modifying, of a bond of filiation entails the change of an adult child's name only with his consent.

Article 61-4

Mention of the judgments of changes of first names and name shall be entered in the margin of the acts of civil status of the party concerned and, where appropriate, of those of his spouse and his children.

The provisions of Articles 100 and 101 shall apply to modifications of first names and name.

Section 3. Act of acknowledgment

Article 62

An act of acknowledgment [of an illegitimate child] shall indicate the first names, name, date of birth or, failing which, age, place of birth and domicile of the maker of the acknowledgement.

It shall indicate the date and place of birth, the sex and first names of the child or, failing which, all appropriate information concerning the birth, subject to the provisions of Article 326.

The act of acknowledgment is recorded by its date on the registers of civil status.

Only the mentions provided for in the first paragraph may be entered, should it be the case, in the margin of the act of birth.

In the circumstances referred to in Article 59, the declaration of acknowledgement may be received by the officers named in that Article and in the forms therein indicated.

When an act of acknowledgement is established, Articles 371-1 and 371-2 must be read to its maker.

Article 62-1

If the recording of a paternal acknowledgement proves impossible because of the secret as to her identity raised by the mother, the father may give notice of it to the State prosecutor. The latter shall undertake the search of the date and place of establishment of the child's act of birth.

CHAPTER III. ACTS OF MARRIAGE

Article 63

Before the celebration of a marriage, an officer of civil status shall publish it by way of a public notice posted on the door of the town hall. That notice shall state the first names, names, occupations, domiciles and residences of the future spouses, as well as the place where the marriage is to be celebrated.

The publication provided under the first paragraph or, if under Article 169 publication is waived, the celebration of the marriage is subjected to:

1o The delivery, for each of the future spouses, of the following information or documents:

- The documents required under Articles 70 or 71;
- Proof of identity through a document delivered by a public authority;
- Indication of the first names, name, date and place of birth, profession and domicile of the witnesses, unless the marriage is celebrated by a foreign authority;

2o A joint interview of the future spouses, unless this is impossible, or if it is apparent, based on documents furnished, that this interview is unnecessary considering Articles 146 et 180.

If he deems it necessary, the officer of civil status may also require to have a separate interview with one or the other of the future spouses.

The interview with a future spouse who is a minor occurs outside the presence of his father and mother or of his legal representative and of his future spouse.

The officer of civil status may delegate the execution of the joint interview or of the separate interviews to one or several appointed officials of the department of civil status of the commune. When one of the future spouses resides in a foreign country, the officer of civil status may request a French diplomatic or consular agent competent in that country to hear him.

The diplomatic or consular authority may delegate the conduct of the joint or separate interviews to one or more permanent officials responsible for civil status or, if need be, to officials directing a separate chancellery office, or to honorary consuls of French nationality with jurisdiction. When one of the future spouses resides in country that is not the one where the marriage is celebrated, the diplomatic or consular

authority may ask that the officer of civil status with jurisdiction for the territory conduct the interview of that future spouse.

The officer of civil status who does not comply with the prescriptions of the preceding paragraphs shall be prosecuted before the tribunal de grande instance and punished by a fine of 3 € to 30 €.

Article 64

The public notice provided for in the preceding Article shall remain posted on the door of the town hall for ten days.

The marriage may not be celebrated before the tenth day after and exclusive of that of notice.

If the posting is interrupted before the expiration of that period, a mention of it shall be made on the public notice that has ceased to be posted on the door of the town hall.

Article 65

If the marriage has not been celebrated within one year after the expiry of the period of notice, it can no longer be celebrated until a new public notice has been given in the form provided above.

Article 66

Acts of opposition to the marriage must be signed on the original and the copy by the opposing parties or by persons specially authorized by them in authentic form; they will be served, with a copy of the special authorization, to the person or at the domicile of the parties and to the officer of civil status who shall stamp the original, indicating that he has seen it.

Article 67

The officer of civil status shall make, without delay, a summary mention of the formal oppositions in the register of marriages; he shall also make, in the margin of the entry of those formal objections, a mention of the judgments or acts of release of which certified copies have been delivered to him.

Article 68

In the event of opposition, the officer of civil status cannot celebrate the marriage before a release has been delivered to him, under pain of a fine of 3,000 Euros and subject to all damages.

Article 69

If public notice has been given in several communes, the officer of civil status of each commune shall forward without delay to the one who is to celebrate the marriage a certificate stating that there is no opposition.

Article 70

The complete copy of the act of birth delivered by each one of the future spouses to the officer of civil status who is to celebrate their marriage must not be dated more than three months earlier if delivered in France and not more than six months earlier if delivered in a consulate.

Article 71

The future spouse who would be unable to obtain that act can replace it by producing a sworn affidavit delivered by a notary or, outside France, by the proper French diplomatic or consul authorities.

The sworn affidavit shall be executed on the faith of the declarations of at least three witnesses and any other document produced that attest the first names, name, profession, and domicile of the future spouse and of those of his father and mother, when known; the place and, as far as possible, the period of the birth and the causes that prevent the act of birth from being produced. The sworn affidavit is signed by the notary or the diplomatic or consular authority and by the witnesses.

Article 73

The authentic act of consent of the father and mother, or grandfathers and grandmothers or, failing them, of the family council shall contain the first names, names, professions, and domicile of the future spouses and of all those who concurred in the act, as well as their degree of relationship.

Except in the case provided for in Article 159 of the Civil Code, that act of consent shall be drawn up either by a notary or by the officer of civil status of the domicile or residence of the ascendant and, abroad, by the French diplomatic or consular agents. When it is drawn up by an officer of civil status, it must be legalized only when it is to be produced before foreign authorities, save as otherwise provided in international conventions.

Article 74

A marriage is celebrated, as the spouses will choose, in the commune where one of the spouses, or one of their parents, has his domicile or residence established by a continuous habitation of at least one month at the date of the public notice provided for by law.

Article 74-1

Before the celebration of the marriage, the future spouses confirm the identity of the witnesses declared under Article 63 or, if none, name new witnesses chosen by them.

Article 75

On the day specified by the parties, after the period of public notice, the officer of civil status, at the town hall, in the presence of two witnesses at least or four at the most, relatives or not of the parties, shall read to the future spouses Articles 212 and 213, paragraph 1 of Articles 214 and 215, and of Article 371-1 of this Code.

However, in case of serious impediment, the State prosecutor of the place of marriage may require the officer of civil status to travel to the domicile or residence of one of the parties to celebrate the marriage. In case of imminent danger of death of one of the future spouses, the officer of civil status may travel there before any demand or authorization of the State prosecutor , to whom he shall then communicate as soon as possible the necessity of that celebration outside the town hall.

Mention shall be made of this in the act of marriage.

The officer of civil status shall ask the future spouses and, if they are minors, their ascendants present at the celebration and authorizing the marriage, to declare whether a marriage contract has been made and, if so, the date of that contract and the name and place of residence of the notary who received it.

If the documents produced by one of the future spouses do not match with one another as to the first names or the spelling of the names, he shall ask the one whom they concern and, if the latter is a minor, his

closest ascendants present at the celebration, to declare that the variance results from an omission or a mistake.

He shall receive from each party, one after the other, the declaration that they wish to take each other as spouses; he shall pronounce, in the name of the law, that they are united by marriage, and he shall draw up the act of it at once.

Article 76

The act of marriage shall state:

1° The first names, names, occupations, ages, dates and places of birth, domiciles and residences of the spouses;

2° The first names, names, occupations and domiciles of the fathers and mothers;

3° The consent of the fathers and mothers, grandfathers and grandmothers and that of the family council, when they are required;

4° The first names and name of the previous spouse of each spouse;

5° [repealed]

6° The declaration of the contracting parties that they take each other for spouse, and the pronouncement of their being united by the officer of civil status;

7° The first names, names, occupations, domiciles of the witnesses and their capacity as adults;

8° The declaration, made upon the question prescribed by the preceding Article, that a marriage contract was made or not and, as far as possible, the date of the contract if it exists, as well as the name and place of residence of the notary who received it; the whole on pain against the officer of civil status of the fine specified in Article 50.

In the event the declaration was omitted or erroneous, the correction of the act, as to the omission or mistake, may be requested by the State prosecutor, without prejudice to the rights of the parties concerned, under Article 99.

9° If there is occasion, the declaration that an act of designation of the applicable law was made in accordance with The Hague Convention of 14 March 1978 on the law applicable to matrimonial regimes, as well as the date and place of signature of that instrument and, where appropriate, the name and capacity of the person who drew it.

In the margin of the act of birth of each spouse, mention shall be made of the celebration of the marriage and of the name of the spouse.

CHAPTER IV. ACTS OF DEATH

Article 78

The act of death must be drawn up by the officer of civil status of the commune where the death took place, upon the declaration of a relative of the deceased or of a person possessing the most reliable and complete information that is possible as regards the civil status of the deceased.

Article 79

The act of death shall state:

1° The day, hour, and place of the death;

2° The first names, name, date and place of birth, occupation and domicile of the deceased person;

3° The first names, names, professions and domiciles of his father and mother;

4° The first names and name of the other spouse, where the deceased person was married, widowed or divorced;

4° bis The first names and name of the other partner, where the deceased person was bound by a civil pact of solidarity.

5° The first names, name, age, occupation and domicile of the declarant and, if need be, his degree of consanguinity to the deceased person.

All of which in so far as may be known.

Mention of the death must be made in the margin of the act of birth of the deceased person.

Article 79-1

When a child dies before his birth is declared to the civil registry, the officer of civil status shall draw up an act of birth and an act of death upon exhibition of a medical certificate stating that the child was born alive and viable and specifying the days and hours of his birth and death.

In the absence of the medical certificate referred to in the preceding paragraph, the officer of civil status shall draw up an act of a stillborn child. That act shall be entered at its date in the registers of death and shall state the day, time, and place of the delivery, the first names and names, dates and places of birth, occupations and domiciles of the father and mother and, should it be the case, those of the declarant. The act drawn up shall not amount to prejudging whether the child has lived or not; any party concerned may refer the matter to the tribunal de grande instance, for a ruling on the issue.

Article 80

When the death occurred elsewhere than in the commune where the deceased was domiciled, the officer of civil status who has drawn up the act of death shall, within the shortest possible time, send to the officer of civil status of the deceased's last domicile, a certified copy of that act which shall be immediately entered in the registers. This provision shall not apply to cities divided into arrondissements, when the death occurred in an arrondissement other than the one where the deceased was domiciled

In case of death in health establishments and in social and medico-social establishments for the elderly, the directors shall give notice of it to the officer of civil status or to the person who fulfils his duties, by any means, within twenty-four hours. In such establishments, a register is kept of the declarations and information brought to the attention to the officer of civil status.

In case of difficulty, the officer of civil status must go in person to such an establishment to verify, there, the death and to draw up an act of death, in accordance with Article 79, based on the declarations and information communicated to him.

Article 81

Where there are signs or indications of violent death, or other circumstances which give rise to suspicion thereof, the burial shall not take place until a police officer has, with the assistance of a doctor in medicine or surgery, drawn up a formal report of the condition of the corpse and of the circumstances

relating to it, as well as of the information he could collect as to the first names, name, age, occupation, place of birth, and domicile of the deceased person.

Article 82

The police officer shall forward at once, to the officer of civil status of the place where the person died, all the information stated in his formal report, according to which the act of death shall be drawn up.

The officer of civil status shall send a certified copy of it to the officer of the domicile of the deceased person, if it is known: that certified copy shall be entered in the registers.

Article 84

In case of death in a prison or house of confinement or detention, a notice of it shall be given at once by the keepers or wardens to the officer of civil status who shall go there himself as provided for in Article 80 and shall draw up the act of death.

Article 85

In all cases of death or violent death in a penitentiary, those circumstances shall not be mentioned in the registers and the acts of death shall simply be drawn up in the form prescribed by Article 79.

Article 86

In case of death during a sea voyage and under the circumstances provided for in Article 59, an act must be drawn up within twenty-four hours by the appropriate officers named in that Article and in the forms therein indicated.

Article 87

Where the body of a deceased person is found and can be identified, an act of death shall be drawn up by the officer of civil status of the presumed place of death, whatever the time elapsed between the death and the discovery of the body may be.

Where the deceased cannot be identified, the act of death shall include the most complete description of the deceased; in the event of later identification, the act shall be rectified in the way provided for in Article 99 of this Code. The officer of civil status without delay, shall inform the State prosecutor of the death, so that he may take the necessary steps to establish the identity of the deceased.

Article 88

May be judicially declared, on application of the State prosecutor or the parties concerned, the death of a French person who has disappeared in or outside France, in circumstances likely to imperil his life, where his body could not be found.

In the same conditions, may be judicially declared the death of an alien or stateless person who disappeared either on a territory under the authority of France or aboard a French ship or aircraft, or even abroad where he had his domicile or usual residence in France.

The procedure of judicial declaration of death shall likewise apply where the death is certain but the body could not be found.

Article 89

The application must be lodged at the tribunal de grande instance of the place of death or disappearance where it occurred on a territory under the authority of France, otherwise at the court of the domicile or last residence of the deceased or disappeared person or, failing which, at the court of the port of registry of the aircraft or the ship that carried him. If no other court is competent, the tribunal de grande instance of Paris shall have jurisdiction.

Where several persons disappeared in the course of the same event, a joint application may be lodged at the court of the place of the disappearance, at that of the port of registry of the ship or the aircraft, at the tribunal de grande instance of Paris, or at any other tribunal de grande instance that the interest of the case justifies.

Article 90

Where it is not made by the State prosecutor, the application must be forwarded through the latter to the court. The case shall be investigated and adjudged in chambers. The assistance of a counsel is not required and all proceedings as well as the certified copies and certificates thereof, shall be exempt of stamp duty and registered free of charge.

If the court is of opinion that the death is not adequately proven, it may order any step in view to further information and request in particular an administrative inquiry on the circumstances of the disappearance.

If the death is declared, its date shall be fixed by taking into account the presumptions drawn from the circumstances of the case and, failing them, on the day of the disappearance. That date may never be undetermined.

Article 91

The operative part of a judgment declaring a death must be recorded on the registers of civil status of the actual or presumed place of death and, where appropriate, on those of the last domicile of the deceased.

Mention of the recording shall be made in the margin of the registers at the date of the death. In case of a joint judgment, individual certificates shall be forwarded to the officers of civil status of the last domiciles of the persons who have disappeared, for purpose of their being entered.

Judgments declaring death shall take the place of acts of death and are enforceable against third parties who may only have them rectified in accordance with Article 99 of this Code.

Article 92

If the person whose death was judicially declared reappears after the declaratory judgment, the State prosecutor or any party concerned may apply for the annulment of the judgment in the forms provided for in Article 89 and following.

The provisions of Articles 130, 131, and 132 shall apply where required.

Mention of the annulment of the declaratory judgment shall be made in the margin of the judgment as recorded.

CHAPTER V. ACTS OF CIVIL STATUS OF MILITARY PERSONNEL IN CERTAIN SPECIAL CASES

Article 93

Acts of civil status concerning soldiers and sailors of the State shall be drawn up as specified in the preceding Chapters.

Nevertheless, in case of war, of military operations conducted outside the national territory, or of stationing French armed forces on foreign soil, by occupation or under intergovernmental agreements, these acts may be likewise received by military officers of civil status designated by order of the Ministry of Defense. These officers of civil status are also competent with regard to non-military persons where the provisions of the preceding Chapters are inapplicable.

In metropolitan France, the officers of civil status referred to above may receive acts concerning military and non-military persons in those parts of the territory where, by reason of mobilization or siege, the local civil registry is no longer regularly ensured.

Declarations of birth in the armed forces shall be made within ten days following the delivery.

Acts of death may be drawn up in the armed forces, even if the officer of civil status could not be transported to the deceased person. Notwithstanding the provisions of Article 78, they may be drawn up upon the attestation of two declarants.

Article 95

Where Article 93 paragraphs 2 and 3 so provide, acts of civil status shall be drawn up on a special register, the keeping and preservation of which shall be regulated by order of the Minister of Defense.

Article 96

When a marriage is celebrated in one of the cases provided for in Article 93, paragraphs 2 and 3, public notices shall be given, to the extent that circumstances so permit, at the place of the last domicile of the future spouse; they shall also be made in the unit to which the party concerned belongs, in the way provided for by order of the Minister of Defense.

Article 96-1

In case of war or of military operations conducted outside the national territory, for serious causes and upon authorization, on the one hand, of the Garde des sceaux, Minister of Justice, and, on the other hand, by the Minister of Defense, it may be proceeded with the celebration of marriage of members of the army and navy, of persons employed to assist the armies or embarked aboard vessels of the State without the future spouse appearing in person and even if the future spouse is deceased, on the condition that consent to the marriage has been established in the forms provided below:

1o On the national territory, consent to the marriage by the future spouse is established in an act drawn before the officer of civil status of the place where the person happens to reside;

2o Outside the national territory or in all the cases where the service of civil status is no longer provided in the place where the person happens to reside, the act of consent is drawn by the officers of civil status designated in Article 93;

3o For military prisoners of war or detainees, this consent may be established by diplomatic or consular agents of a foreign State responsible for French interest in the countries where these military personnel are held in captivity or by the French diplomatic or consular authorities accredited in those countries where they are detained. It may also be established by two French officers or sub-officers, either by one French officer or one French sub-officer with two witnesses of the same nationality.

4o The act of consent is read by the officer of civil status at the moment of the celebration of the marriage.

The acts of procuration and the acts of consent to the marriage of their minor children passed by the persons mentioned above may be established in the same conditions as the act of consent provided in the preceding paragraphs.

The modalities of application of the present article are fixed by ways of regulations.

Article 96-2

The effects of the marriage provided for under Article 96-1 are retroactive to the date when the consent of the future spouses was received.

Article 97

Acts of death received by military authorities in all instances listed in Article 93 above, or by civilian authorities as regards members of the armed forces, civilians participating in their action, in duty covered by orders, or persons employed in assisting the armies, may be subject to administrative correction in the way provided for in a decree, within periods and in territories where the military authority is entitled, by said Article 93, to receive those acts should the occasion arise.

CHAPTER VI. – THE CIVIL STATUS OF PERSONS BORN ABROAD WHO ACQUIRE OR RECOVER FRENCH NATIONALITY

Article 98

An act taking the place of an act of birth shall be drawn up for any person born abroad who acquires or recovers the French nationality unless the act drawn up at his birth had already been entered on a register kept by a French authority.

That act shall state the name, first names and sex of the party concerned and indicate the place and date of his birth, his parentage, his residence at the date of his acquiring the French nationality.

Article 98-1

An act taking the place of an act of marriage shall likewise be drawn up when the person who acquires or recovers the French nationality was previously married abroad, unless the celebration of the marriage had already been recorded in an act entered on a register kept by a French authority.

The act shall state:

- the date and place of the celebration;
- indication of the performing authority;
- the names, first names, dates and places of birth of each one of the spouses;
- the filiation of the spouses;
- and if there is occasion, the name, capacity and residence of the authority who received the marriage contract.

Article 98-2

An identical act may be drawn up containing the statements as to the birth and the marriage, unless the birth and the marriage were already recorded in acts entered on a register kept by a French authority.

It shall be used as both an act of birth and an act of marriage.

Article 98-3

The acts referred to in Article 98 to 98-2 shall state, besides:

- the date on which they were drawn up;
- the name and signature of the officer of civil status;
- the mentions entered in the margin of the act of which they take the place;
- indication of the acts and judicial decisions relating to the nationality of the person.

Mention shall be made later in the margin:

- of the indications required for each category of act by the law in force.

Article 98-4

The persons for whom acts were drawn up under Articles 98 to 98-2 lose the right to require the entry of their act of birth or marriage received by a foreign authority.

In the case of inconsistency between the statements in a foreign act of civil status or an act of French consular civil status and those in an act drawn up under said Articles, the latter shall prevail until a judicial decision of correction.

CHAPTER VII. CORRECTION OF ACTS OF CIVIL STATUS

Article 99

The correction of acts of civil status shall be ordered by the president of the tribunal.

The correction of judgments which are declaratory or additional to acts of civil status shall be ordered by the president of the tribunal.

The application for correction may be lodged by any party concerned or by the State prosecutor; the latter shall act of his own motion where the error or omission bears on an essential indication of the act or of the decision which takes its place.

The State prosecutor who has territorial jurisdiction may undertake an administrative correction of merely clerical errors and omissions in acts of civil status: to that effect, he shall give all necessary instructions directly to the depositaries of registers.

Article 99-1

Persons entitled to perform the duties of an officer of civil status in order to draw up the acts referred to in Article 98 to 98-2 may undertake the administrative correction of exclusively material errors and omissions contained in those acts or in the mentions inserted in the margins, save those that are entered after the making of the acts.

Article 100

Any judicial or administrative correction of an act or judgment relating to civil status is effective against all.

Article 101

A certified copy of the act can be issued, from then on, only with the corrections that have been ordered, on pain of the fine prescribed by Article 50 of the Civil Code and subject to all damages against the depositary of registers.

TITLE III. DOMICILE

Article 102

The domicile of a French person, as regards the exercise of his civil rights, is at the place where he has his main establishment.

Boatmen and other persons living on board a boat of inland navigation registered in France, who do not have the domicile provided for by the preceding paragraph or a statutory domicile, must elect a domicile in one of the communes the names of which appear on a list established by an order of the Garde des Sceaux, Minister of Justice, the Minister of the Interior and the Minister of Public Works, Transport and Tourism. However, wage-earning boatmen and persons living on board with them may domicile themselves in another commune provided that the company that operates the boat has its headquarters or an establishment there; in this event, the domicile is fixed in the offices of the company; failing an election by them, those boatmen and persons have their domiciles at the headquarters of the company which operates the boat and, should these headquarters be abroad, at the chartering office in Paris.

Article 103

A change of domicile occurs in consequence of an actual residence in another place, in addition to the intention to fix one's main establishment there.

Article 104

Proof of that intention shall result from an express declaration made both to the commune of the place which one leaves and to that of the place where the domicile is transferred.

Article 105

Failing an express declaration, proof of intention shall depend on the circumstances.

Article 106

A citizen called to a temporary or revocable public office shall keep the domicile he had previously, unless he has manifested an intention to the contrary.

Article 107

Acceptance of an office conferred for life involves an immediate transfer of the domicile of the officer to the place where he is to fulfil his duties.

Article 108

A husband and a wife may have distinct domiciles without conflicting thereby with the rules concerning the community of life.

Any notice served upon one spouse, even judicially separated from bed and board, in matters of status and capacity of persons, must also be served upon his spouse, under pain of nullity.

Article 108-1

Separate residences of the spouses, during proceedings for divorce or judicial separation, involves as of right separate domiciles.

Article 108-2

A minor when not emancipated is domiciled at his father and mother's home.

When the father and mother have separate domiciles, he is domiciled at the home of the parent with whom he resides.

Article 108-3

The domicile of an adult in tutorship is that of his tutor.

Article 109

Adults who usually serve or work at someone else's place, have the same domicile as the person they serve or at whose place they work when they live in the same house.

Article 111

When an act contains, on the part of the parties or of one of them, an election of domicile for the implementation of that same act in a place other than that of the actual domicile, the services of notices, complaints and proceedings relating to that act may be done at the agreed upon domicile and, subject to the provisions of Article 48 of the Code of Civil Procedure, before the judge of that domicile.

TITLE IV. ABSENTEES

Chapter i. - THE PRESUMPTION OF ABSENCE

Article 112

Where a person has ceased to appear at the place of his domicile or residence and has not been heard from, the judge of tutorships can, on the application of the parties concerned or of the State prosecutor, establish that there is presumption of absence.

Article 113

The judge may appoint one or several relations by blood or marriage or, where appropriate, any other persons to represent the person presumed absent, the absentee, in the exercise of his rights or in any act which would be of concern to him, as well as to administer all or part of his assets ; the representation of the presumed absentee and the administration of his assets shall then be subject to the rules which apply to a legal administration under judicial supervision such as it is provided for minors and, in addition, under the following amendments.

Article 114

Without prejudice to any specific competence conferred upon other courts, for the same purposes, the judge shall fix, where appropriate, according to the significance of the assets, the sums that should be allocated yearly to the maintenance of the family or the household expenses.

He shall determine how to provide for the well-being of children.

He shall also specify how the expenses of administration as well as, as the case may be, the fees that may be granted to the person in charge of representing the presumed absentee and of administering his assets should be settled.

Article 115

The judge may, at any time and even of his own motion, put an end to the assignment of the person thus designated; he may also replace him.

Article 116

If the presumed absentee is called to a partition, the partition may be done by amicable agreement.

In this case, the judge of tutorships authorizes the partition, even partial, and, should it be the case, appoints a notary to undertake it, in the presence of the representative of the presumed absentee or of his substitute designated as provided for in Article 115, if the original representative is himself concerned in the partition. The final settlement of division is subject to the approval of the judge of tutorships. The partition may also take place in court under the provisions of Articles 840 to 842.

Any other partition is deemed provisional.

Article 117

The State Prosecutor’s office shall be especially responsible for watching over the interests of presumed absentees; it shall be heard on all claims that concern them; it may of its own motion request the implementation or amendment of the measures provided for in this Title.

Article 118

If a presumed absentee reappears or is heard from, on his application, the judge shall put an end to the measures taken for representing him and administering his property; he shall then recover the property managed or acquired on his behalf during the period of absence.

Article 119

Rights acquired without fraud on the basis of the presumption of absence, may not be called in question when the death of the absentee is established or judicially declared, whatever the date fixed for the death may be.

Article 120

The preceding provisions concerning the representation of presumed absentees and the administration of their property shall also apply to persons who, because of remoteness, are not, against their wish, in a position to express their intention.

Article 121

These same provisions shall not apply to presumed absentees or to persons named in Article 120 when they left an adequate procuration sufficient for the representation and administration of their assets.

It shall be the same if a spouse may provide sufficiently for the interests at stake through the implementation of the matrimonial regime and particularly as a result of an order obtained under Articles 217 and 219, 1426 and 1429.

CHAPTER II. DECLARATION OF ABSENCE

Article 122

When ten years have elapsed since the judgment that ascertained the presumption of absence, either in the manner prescribed in Article 112, or on the occasion of one of the judicial proceedings provided for in Article 217 and 219, 1426 and 1429, absence may be declared by the tribunal de grande instance, on the application of any person concerned or of the State Prosecutor's office.

It shall be the same when, for lack of such a judgment, the person will have ceased to appear at the place of his domicile or residence, without having been heard from for more than twenty years.

Article 123

Excerpts of the application seeking a declaration of absence, after being certified by the State Prosecutor's office, shall be published in two newspapers circulating in the department or, where appropriate, in the country of the domicile or last residence of the person who has remained unheard from.

The tribunal to which the application is referred can in addition, order any other publicity measure giving notice thereof in any place where it deems it proper.

Those publicity measures must be carried out by the party who lodges the application.

Article 124

As soon as the excerpts have been published, the application must be forwarded, via the State prosecutor, to the court which shall decide according to the exhibits and documents filed and in consideration of the conditions of the disappearance, as well as of the circumstances that can explain the lack of news.

The court may order any additional measure of investigation and prescribe, if there is occasion, that an investigation be conducted in the presence of the State prosecutor, if the latter is not an applicant, in any place which it will deem proper, and particularly in the arrondissement of the domicile, or those of the last residences, when they are different.

Article 125

The original statement of claim may be lodged as early as the year preceding the expiry of the period provided for in Article 122, paragraphs 1 and 2. The court decision declaring the absence shall be handed down at least one year after the publication of the excerpts of that claim. The decision shall establish that the person presumed absentee has not reappeared during the periods referred to in Article 122.

Article 126

The claim seeking a declaration of absence shall be deemed non-existent when the absentee reappears or the date of his death happens to be established, before the handing down of the court decision.

Article 127

Where the judgment declaring the absence is handed down, excerpts thereof shall be published in accordance with the detailed rules provided for in Article 123, within the delay fixed by the tribunal. The judgment shall be deemed non-existent if it has not been published within that delay.

When the judgment has become res judicata, its operative part shall be recorded at the request of the State prosecutor on the registers of death of the place of domicile of the absentee or of his last residence. Mention of that recordation shall be made in the margin of the registers at the date of the judgment declaring the absence; it shall also be made in the margin of the record of birth of the person declared absentee.

Following the recordation the judgment is effective vis-à-vis third parties who may only obtain its correction in accordance with Article 99.

Article 128

The judgment declaring an absence has, from the time of recordation, all the effects that an established death of the absentee would have had.

The measures taken for the administration of the property of the absentee in accordance with Chapter I of this Title come to an end, save as otherwise decided by the tribunal or, failing which, by the judge who ordered them.

The spouse of the absentee may marry again.

Article 129

If the absentee reappears or if his existence is proven subsequently to the judgment declaring the absence, annulment of that judgment may be sought, on application of the State prosecutor or of any party concerned.

However, if the party concerned wishes to be represented, he will be able do so only through a legal counsel who is a registered member of the bar.

The operative part of the judgment of annulment shall be published forthwith in accordance with the detailed rules provided for in Article 123. Mention of the judgment shall be made, from the time of its publication, in the margin of the judgment declaring the absence and on any register that refers to it.

Article 130

The absentee whose existence is judicially established recovers his assets and those he should have received during his absence in the condition in which they are, the proceeds of those which have been ceded or the assets acquired by means of investment of the capital or incomes fallen due to him.

Article 131

Any party concerned who has caused a declaration of absence by fraud shall be liable to restore to the absentee whose existence has been judicially established the incomes of the assets which he had been enjoying and to remit to him the legal interests from the day of receipt, without prejudice, where appropriate, to additional damages.

If fraud is imputable to the spouse of the person declared absent, the latter shall have the right to contest the liquidation of the matrimonial regime to which the judgment declaring the absence would have put an end.

Article 132

The marriage of an absentee remains dissolved, even if the judgment declaring the absence has been annulled.

TITLE V. MARRIAGE

Chapter i. Qualities and conditions required to be able to contract marriage

Article 143

Marriage is contracted by two persons of different sex or of the same sex.

Article 144

Marriage may not be contracted before completion of the eighteenth year.

Article 145

Nevertheless, the State prosecutor of the place where a marriage is to be celebrated may grant dispensations as to age for serious reasons.

Article 146

There is no marriage when there is no consent.

Article 146-1

The marriage of a French person, even when contracted in a foreign country, requires that he be present.

Article 147

No one may contract a second marriage before the dissolution of the first.

Article 148

Minors may not contract marriage without the consent of their father and mother; in case of disagreement between the father and mother, this division entails consent.

Article 149

If one of the two is dead or if one is unable to manifest his will, the consent of the other suffices.

It is not necessary to produce the records of death of the father or mother of one of the future spouses when the spouse or the father and mother of the deceased certify the death under oath.

If the present residence of the father or mother is unknown, and if he or she has not been heard from for one year, the marriage may be celebrated if the child and either one of his parents who will give his consent makes such declaration under oath.

All of which shall be mentioned in the act of marriage.

A false oath taken in the cases specified in this Article and the following Articles of this Chapter shall be punished by the penalties laid down in Article 434-13 of the Penal Code.

Article 150

If the father and mother are dead or are unable to manifest their will, the grandfathers and grandmothers take their place; if there is disagreement between a grandfather and a grandmother in the same lineage, or if there is disagreement between the two lineages, this division entails consent.

If the present residence of the father and mother is unknown and if they have not been heard from for one year, the marriage may be celebrated if the grandfathers and grandmothers, together with the child himself, make such declaration under oath. It shall be likewise if, one or several grandfathers or grandmothers having given their consent to the marriage, the present residence of the other grandfathers or grandmothers is unknown and if they have not been heard from for one year.

Article 151

The production of a certified copy, limited to the operative part, of the judgment that declared the absence or ordered an investigation as to the absence of the father and mother, grandfathers or grandmothers of one of the future spouses, is equivalent to the production of their records of death in the cases specified in Article 149, 150, 158 and 159 of this Code.

Article 154

The disagreement between the father and mother, between the grandfather and grandmother of the same lineage, or between ancestors of the two lineages may be recorded by a notary, requested by the future spouse and acting without the assistance of a second notary or of witnesses, who will give notice of the planned union to the one or to those of the father, mother or ancestors whose consent has not yet been obtained.

The act of notice shall state the first names, names, occupations, domiciles and residences of the future spouses, of their fathers and mothers or, where appropriate, of their grandparents, as well as the place where the marriage is to be celebrated.

It shall also include a declaration that this notice is given for the purpose of obtaining the consent not yet granted and that, if not granted, the celebration of the marriage shall occur without it.

Article 155

The disagreement of the ascendants may also be established, either by a letter bearing an authenticated signature and addressed to the officer of civil status who is to celebrate the marriage, or by an act drawn up in the form provided for by Article 73, paragraph 2.

The acts listed in this Article and the preceding Article shall be stamped and registered free of charge.

Article 156

An officer of civil status who would have celebrated marriages contracted by sons or daughters who have not reached the full age of eighteen years, without the consent of the fathers and mothers, that of the grandfathers or grandmothers and that of the family council, when it is required, being mentioned in the written act of marriage, shall be sentenced to the fine specified in Article 192 of the Civil Code, at the suit of the parties concerned or of the State prosecutor of the tribunal de grande instance of the arrondissement where the marriage was celebrated.

Article 157

An officer of civil status who has not required proof of the notice prescribed by Article 154 shall be sentenced to the fine provided for in the preceding Article.

Article 159

If there are no father, or mother, or grandfathers, or grandmothers, or where all are unable to manifest their will, minors of eighteen years may not contract marriage without the consent of the family council.

Article 160

If the present residence of those of the ascendants of a minor under eighteen of whom the death is not established is unknown and where the ascendants have not been heard from for one year, the minor shall make a declaration of it under oath before the judge of tutorships of his residence, with the assistance of his clerk, in his chambers, and the judge of tutorships shall place it on record.

The judge of tutorships shall give notice of that oath to the family council which shall rule on the application for authorization to marry. However, the minor may give the oath directly in the presence of the members of the family council.

Article 161

In direct lineage, marriage is prohibited between all ascendants and descendants and the relatives by marriage in the same lineage.

Article 162

In the collateral line, marriage is prohibited between brother and sister, between brothers, and between sisters.

Article 163

The marriage is prohibited between uncle and niece or nephew, and between aunt and nephew or niece.

Article 164

Nevertheless, the President of the Republic may for serious reasons remove the prohibitions entered:

1° in Article 161 as to marriages between relatives by marriage in direct lineage when the person who created the relationship is dead;

2° [repealed]

3° in Article 163.

CHAPTER II. FORMALITIES FOR THE CELEBRATION OF A MARRIAGE

Article 165

Marriage shall be celebrated publicly in the course of a republican ceremony before the officer of civil status of the commune where one of the spouses or one of their parents has his domicile or his residence at the date of the public notice provided for by Article 63 and, in the event of dispensation of public notice, at the date of the dispensation provided for by Article 169 below.

Article 166

The public notice required by Article 63 shall be made at the town hall of the place of celebration and at that of the place where each one of the future spouses has his domicile or, in the absence of domicile, his residence.

Article 169

The State prosecutor of the arrondissement in which the marriage is to be celebrated may, for serious reasons, dispense with public notice and with any delay or only with the posting of the notice.

Article 171

The President of the Republic may, for serious reasons, authorize the celebration of the marriage if one of the future spouses is dead providing a sufficient gathering of facts establishes unequivocally his consent.

In this case, the effects of the marriage date back to the day preceding that of the death of the spouse.

However, this marriage does not carry with it any right of intestate succession to the benefit of the surviving spouse and no matrimonial regime is considered to have existed between the spouses

CHAPTER II BIS. MARRIAGE OF FRENCH PERSONS IN FOREIGN COUNTRIES

Section 1: General provisions

Article 171-1

A marriage contracted in a foreign country between French persons and between a French person and a foreigner is valid if it is celebrated in the forms in use in that country, provided the French person or persons did not violate the provisions contained in Chapter I of the present title.

It shall be likewise as regards a marriage celebrated by French diplomatic or consular agents, in accordance with French legislation.

Nevertheless, those authorities may proceed to the celebration of the marriage between a French person and an alien only in the countries designated by decree.

Section 2. Preliminary formalities for a marriage celebrated in a foreign country by a foreign authority

Article 171-2

When it is celebrated by a foreign authority, the marriage of a French person must be preceded by the delivery of a certificate of capacity to marry established after fulfilling the requirements of Article 63 by the diplomatic or consular authority competent in that place for celebrations of marriage.

Reserving the dispensations mentioned in Article 169, the publication required by Article 63 is likewise made before the officer of civil status or the diplomatic or consular authority of the place where the future French spouse has his domicile or his residence.

Article 171-3

Upon demand of the diplomatic or consular authority competent as regards the place of celebration of the marriage, the interview of the future spouses under Article 63 is carried out by the officer of civil status of the place of domicile or residence in France of the future spouse or spouses, or by the diplomatic or consular authority competent in the territory in case of domicile or residence outside France.

Article 171-4

When serious evidence raises the presumption that the prospective marriage would be null under Articles 144, 146, 146-1, 147, 161, 162, 163, 180 or 191, the diplomatic or consular authority without delay calls upon the State prosecutor with jurisdiction and informs the interested parties.

The State prosecutor may, within two months from his being notified, convey by means of a reasoned decision to the diplomatic or consular authority of the place where the celebration of the marriage is planned and to the interested parties, that he is opposed to that celebration.

The withdrawal of the opposition may be demanded, at any time, before the tribunal de grande instance under the provisions of Articles 177 and 178 by the future spouses, even if minors.

Section 3. Registration of a marriage celebrated abroad by a foreign authority

Article 171-5

To be effective against third persons in France, the act of marriage of a French person celebrated by a foreign authority must be transcribed in the French civil status records: If not transcribed, the marriage of a French person, validly celebrated by a foreign authority, produces civil effects in France for the spouses and the children.

The future spouses are informed of the rules mentioned in the first paragraph upon delivery of the certificate of capacity to marry.

The demand for transcription is made before the consular or diplomatic authority competent in the place of celebration of marriage.

Article 171-6

When the marriage has been celebrated despite the opposition of the State prosecutor, the consular officer of civil status may not transcribe the act of foreign marriage on the records of civil status until a judicial decision cancelling the opposition is delivered by the spouses.

Article 171-7

When the marriage was celebrated in violation of the provisions of Article 171-2, the transcription is preceded by the interview of the spouses, together or separately, by the diplomatic or consular authority. Nevertheless, if that authority possesses information that establishes that the validity of the marriage is not at risk under Articles 146 and 180, the authority may, by a reasoned decision, proceed to the transcription without prior interview of the spouses.

Upon demand by the diplomatic or consular authority locally competent in the place of celebration of the marriage, the interview is carried out by the officer of civil status of the place of domicile or residence in France of the spouses, or by the diplomatic or consular authority locally competent if the spouses have their domicile or their residence in a foreign country. The interview may be delegated to one or more civil servants officially in charge of the civil status or, if necessary, to the civil servants directing a separate branch of the consular offices or to honorary consuls of French nationality who hold the proper authority.

When serious evidence raises a presumption that the marriage celebrated before a foreign authority would be null under Articles 144, 146, 146-1, 147, 161, 162, 163, 180 or 191, the diplomatic or consular authority responsible for the transcription without delay informs the State Prosecutor’s office and suspends the transcription.

The State prosecutor shall decide on the matter of the transcription within six months of having been informed.

If he has not decided after this delay or if he opposes the transcription, the spouses may bring the matter before the tribunal de grande instance to settle the matter. The tribunal de grande instance decides within the month. In case of appeal, the court decides within the same delay.

In the event the State prosecutor demands, within six months, the nullity of the marriage, he orders that the transcription be limited to the sole purpose of giving jurisdiction to the judge. Until a decision by the judge, a certified copy of the act transcribed may only be delivered to the judicial authorities or with the authorization of the State prosecutor.

Article 171-8

When the formalities provided in Article 171-2 have been respected and the marriage was celebrated in the forms used in the country, its transcription upon the records of civil status follows, unless new indications based on serious evidence lead to the presumption that the prospective marriage would be null under Articles 144, 146, 146-1, 147, 161, 162, 163, 180 or 191.

In that case, the diplomatic or consular authority, after having conducted the interview of the spouses, together or separately, informs the State Prosecutor’s office and suspends transcription.

Upon the request of the diplomatic or consular authority with jurisdiction in the place of the celebration of the marriage, the interview is conducted by the officer of civil status of the place of domicile or residence of the spouses in France, or by the diplomatic or consular authority competent for the territory if the spouses have their domicile or residence outside France. The interview may be delegated to one or more civil servants officially in charge of the civil status or, if necessary, to civil servants directing a separate branch of the consular offices or to honorary consuls of French nationality with jurisdiction who hold the proper authority.

The State prosecutor, within a delay of six months from the time he is notified, may demand the nullity of the marriage. In that case, the provisions of the last paragraph of Article 171-7 apply.

If the State prosecutor has not reached a decision within six months, the diplomatic or consular authority transcribes the act. The transcription is not an obstacle to a later possible legal action to seek the annulment of the marriage under Articles 180 and 184.

Section 4. The Impossibility for French persons established outside France to celebrate their marriage abroad

Article 171-9

Notwithstanding Articles 74 and 165, when the future spouses of the same sex, at least one of whom has French nationality, have their domicile or their residence in a country that does not authorize marriage between two persons of the same sex and in which the French diplomatic and consular authorities may not proceed to its celebration, the marriage is celebrated publicly by the officer of civil status of the commune of birth or of the last residence of one of the spouses or of the commune in which one of their parents has his domicile or residence established under the conditions outlined in Article 74. Otherwise, the marriage is celebrated by the office of civil status of the commune of their choice.

The territorial competence of the officer of civil status of the commune chosen by the future spouses results from the filing of a dossier established for the purpose at least one month before the publication referred to in Article 63. The officer of civil status may demand that the diplomatic or consular authority competent for the territory conduct the interview provided in that same Article 63.

CHAPTER III. OPPOSITIONS TO A MARRIAGE

Article 172

The right to raise an objection to the celebration of a marriage is given to the person united by marriage with one of the two contracting parties.

Article 173

The father, the mother and, in the absence of the father and the mother, the grandfathers and grandmothers may raise an objection to the marriage of their children and descendants, even of full age.

After a judicial cancellation of an objection to a marriage raised by an ascendant, no new objection raised by an ascendant is admissible and it cannot delay the celebration.

Article 174

In the absence of any ascendant, the brother or sister, the uncle or aunt, a first-cousin, of full age, may raise an objection only in the following two instances:

1° Where the consent of the family council, required by Article 159, was not obtained;

2° Where the objection is based upon the state of insanity of the future spouse; that objection, the withdrawal of which may be unconditionally decided by the court, may be accepted only on condition that the objecting party shall induce a tutorship of adults and shall have a decision thereupon within the period fixed by judgment.

Article 175

In the two cases provided for by the preceding Article, the tutor or curator may not, as long as the tutorship or curatorship lasts, raise an objection unless he is so authorized by the family council, which he may convene.

Article 175-1

The State Prosecutor’s office may raise an objection in the cases in which he could request the nullity of a marriage.

Article 175-2

Where there is serious circumstantial evidence giving rise, possibly after holding the interviews provided for in Article 63, to the presumption that the contemplated marriage may be annulled under Article 146 or Article 180, the officer of civil status may, without any delay, refer the matter to the State prosecutor. He shall so inform the persons concerned. *[Provisions declared contrary to the Constitution by decision of the Conseil constitutionnel no 2003-484 of 20 Nov.2003].*

The State prosecutor shall, within fifteen days after the matter has been brought before him, either let the marriage proceed, or raise an objection to it, or decide that the celebration must be stayed, pending the inquiry he initiates. He shall make his reasoned decision known to the officer of civil status and to the persons concerned. *[Provisions declared contrary to the Constitution by decision of the Conseil constitutionnel no 2003-484 of 20 Nov.2003].*

The duration of the stay decided by the State prosecutor may not exceed one month renewable once by a specially reasoned decision.

After expiry of the stay, the State prosecutor shall make known to the officer of civil status by a reasoned decision whether he allows the celebration of the marriage or whether he objects to it.

Either one of the future spouses, even minor, may challenge the decision to stay or its renewal before the president of the tribunal de grande instance who shall rule within ten days. The ruling of the president of the tribunal de grande instance may be referred to the court of appeal, which shall decide within the same delay.

Article 176

An act of objection shall state the quality which entitles the objecting party to raise the objection. It contains the reasons for the objection, reproduces the text of the law on which the objection is based, and contains an election of domicile at the place where the marriage is to be celebrated. Nevertheless, when the objection is based on Article 171-4, the State prosecutor elects as his domicile the seat of his tribunal.

The requirements specified in the first paragraph are followed under pain of nullity and of the disqualification of the ministerial officer who signed the act containing the objection.

After one full year, the act of objection ceases to be effective. It may be renewed, except in the case referred to in Article 173, paragraph 2, above.

Nevertheless, when the objection is raised by the State Prosecutor’s office, it ceases to be effective only upon a judicial decision.

Article 177

The tribunal de grande instance shall decide within ten days on the demand for withdrawal filed by the future spouses, even minors.

Article 178

If there is an appeal, it shall be disposed of within ten days and, if the judgment under appeal has granted the withdrawal of the objection, the court shall decide even of its own motion.

Article 179

If the objection is set aside, the parties objecting, other than the ascendants, may be ordered to pay damages.

An application for retrial does not lie against a default judgment that sets aside an objection to marriage.

CHAPTER IV. DEMANDS IN NULLITY OF A MARRIAGE.

Article 180

A marriage contracted without the free consent of the two spouses, or of one of them, may be attacked only by the spouses, or by the spouse whose consent was not free, or by the State prosecutor. The use of coercion

on the spouses or one of them, even resulting from reverential fear towards an ascendant, constitutes a ground of nullity of the marriage.

If there was error as to the person, or as to essential qualities of the person, the other spouse may demand the nullity of the marriage.

Article 181

In the case of the preceding Article, the demand in nullity may no longer be admissible after a period of five years from the marriage.

Article 182

A marriage contracted without the consent of the father and mother, of the ascendants or of the family council, in those instances where this consent was necessary, may be attacked only by those whose consent was required, or by the one of the spouses who needed that consent.

Article 183

An action for nullity may no longer be brought by the spouses or the parents whose consent was required, whenever the marriage was expressly or tacitly approved by those whose consent was necessary, or where five years have elapsed without claim on their part since they have had knowledge of the marriage. Nor may it be by the spouse where five years have elapsed without claim on his part, after he has reached the competent age to consent to the marriage by himself or herself.

Article 184

A marriage contracted in violation of the provisions contained in Article 144, 146, 146-1, 147, 161, 162 and 163 may be attacked, for thirty years from its celebration, either by the spouses themselves, or by all those who have an interest therein, or by the State Prosecutor’s office.

Article 187

In all instances in which an action in nullity can be brought, in accordance with Article 184, by all those who have an interest therein, it cannot be brought by collateral relatives, or by the children born of another marriage, in the lifetime of the spouses, unless they have a real and present interest.

Article 188

A spouse to whose detriment a second marriage was contracted, may seek its nullity even during the very lifetime of the spouse who was bound to him or her.

Article 189

If the new spouses raise an objection to the nullity of the first marriage, the validity or nullity of that marriage must be judged first.

Article 190

In all cases to which Article 184 applies, the State prosecutor may and shall seek the nullity of the marriage, during the lifetime of the spouses, and have them ordered to separate.

Article 191

A marriage that was not publicly contracted and that was not celebrated before the competent public officer, may be attacked, within thirty years from the date of its celebration, by the spouses themselves, by the father and mother, by the ascendants and by all those having a real and present interest, as well as by the State Prosecutor’s office.

Article 192

If a marriage was not preceded by the public notice required or if the dispensations allowed by law were not obtained, or if the intervals prescribed between the public notice and the celebration were not observed, the State prosecutor shall have the public officer fined an amount not exceeding 4, 5 Euros and shall have the contracting parties, or those under whose authority they acted, fined in proportion to their wealth.

Article 193

The penalties stated in the preceding Article are incurred by the persons therein named for any infringement of the rules prescribed by Article 165, even if those infringements would not be held to be sufficient for nullity of the marriage to be declared.

Article 194

No one may claim the quality of spouse and the civil effects of marriage unless he or she produces an act of celebration entered on the register of civil status; except in the cases provided for by Article 46, in the Title "Acts of Civil Status."

Article 195

Apparent status may not exempt the alleged spouses who respectively avail themselves of it from producing the act of celebration of the marriage before the officer of civil status.

Article 196

Where there is an apparent status and when the act of celebration of the marriage before the officer of civil status is produced, the spouses are respectively barred from seeking the nullity of that act.

Article 197

If, however, in the case of Articles 194 and 195, there are children born of two persons who have openly lived as husband and wife and who are both dead, the legitimacy of the children may not be contested on the sole pretext of failure to produce the act of celebration, whenever legitimacy is proved by an apparent status that is not contradicted by the act of birth.

Article 198

When the proof of the lawful celebration of a marriage is established by the outcome of a criminal procedure, the entry of the judgment on the registers of civil status secures for the marriage, from the day of its celebration, all civil effects, both for the spouses and the children born of that marriage.

Article 199

If the spouses or one of them has died without having discovered fraud, a criminal action may be brought by all those who have an interest in having the marriage declared valid, and by the State prosecutor.

Article 200

If the public officer has died when fraud is discovered, a civil action may be instituted against his heirs by the State prosecutor, in the presence of the interested parties, and upon their denunciation.

Article 201

A marriage which has been declared null produces, nevertheless, its effects with regard to the spouses, if it was contracted in good faith.

If good faith exists only on the part of one spouse, the marriage produces its effects in favor of that spouse only.

Article 202

It also produces its effects with regard to the children, even though none of the spouses was in good faith.

The judge shall rule on the exercise of parental authority as in matters of divorce.

CHAPTER IV. BIS. CONFLICT OF LAWS

Article 202-1

The qualities and conditions necessary to be able to contract marriage are governed, for each spouse, by his personal law.

Nevertheless, two persons of the same sex may contract marriage when, for at least one of them, either his personal law, or the law of the State within which he has his domicile or his residence, permits it.

Article 202-2

A marriage is validly celebrated if it has been celebrated according to the formalities contemplated by the law of the State within which the celebration has occurred.

CHAPTER V. OBLIGATIONS THAT ARISE FROM THE MARRIAGE

Article 203

The spouses contract together, by the sole fact of marriage, the obligation of supporting maintaining and educating their children.

Article 204

A child has no claim against his father and mother for setting him up by a marriage or otherwise.

Article 205

Children owe support to their father and mother or other ascendants who are in need.

Article 206

Sons- and daughters-in-law owe likewise and under the same circumstances, support to their father- and mother-in-law, but this obligation ceases where the spouse owing to whom the affinity existed and the children born of his union with the other spouse are dead.

Article 207

The obligations resulting from these provisions are reciprocal.

Nevertheless, where the creditor himself would have seriously failed to fulfil his obligations towards the debtor, the judge may relieve the latter from all or part of the obligation of support.

Article 208

Support shall be granted only in proportion to the needs of the one who claims it, and to the wealth of the one who owes it.

The judge may, even of his own motion and according to the circumstances of the case, couple the periodical payments with a variation clause permitted by the statutes in force.

Article 209

When the one who provides or the one who receives support is placed again in such a state that the one can no longer give it, or the other is no longer in need of it, a discharge or reduction of it may be applied for.

Article 210

If the person who must provide support establishes that he cannot make the alimony payments, the family court judge may, with full knowledge of the facts, order that he shall receive in his home, and support and maintain the one to whom he owes alimony.

Article 211

The family court judge may also decide whether the father or mother who will offer to receive, support and maintain in his home the child to which he or she owes support, shall in that case be exempted from making the alimony payments.

CHAPTER VI. RESPECTIVE DUTIES AND RIGHTS OF THE SPOUSES

Article 212

Spouses owe each other respect, fidelity, support and assistance.

Article 213

Spouses assume together the moral and the material direction of the family. They provide for the education of the children and prepare their future.

Article 214

If a marriage contracts do not regulate the contributions of the spouses to the expenses of the marriage, they shall contribute to them in proportion to their respective means.

If one of the spouses does not fulfil his obligations, he may be compelled by the other to do so in the manner provided for in the Code of Civil Procedure.

Article 215

Spouses mutually oblige themselves to a community of living.

The residence of the family is at the place which they choose by common consent.

The spouses may not, separately, dispose of the rights whereby the lodging of the family is ensured, or of the movable furnishings with which it is garnished. The one of the two who did not consent to the transaction may ask that it be annulled: the action in nullity is open to the spouse within the year from the day when he became aware of the transaction, without it being possible for this action to be instituted more than one year after the matrimonial regime was dissolved.

Article 216

Each spouse has full legal capacity; but his rights and powers may be restricted as a consequence of the matrimonial regime and of the provisions of this Chapter.

Article 217

A spouse may be authorized by a court to enter alone into an act for which the assistance or the consent of the other spouse would be necessary, if the latter is not able to manifest his will or if his refusal is not justified by the interest of the family.

The act entered into under the terms of a judicial authorization is effective against the spouse whose assistance or consent was lacking, without any personal obligation resulting from it being incumbent on him.

Article 218

A spouse may give the other a mandate to represent him or her in the exercise of the powers that the matrimonial regime confers to him.

He may, in all cases, freely revoke that mandate.

Article 219

If one of the spouses is unable to manifest his will, the other may be judicially entitled to represent him, in a general manner or for some particular acts, in the exercise of the powers resulting from the matrimonial regime, the terms and extent of that representation being fixed by the judge.

Failing a legal power, mandate, or judicial authorization, the acts entered into by a spouse in representation of the other are effective with regard to the latter according to the rules of management of another's affairs.

Article 220

Each one of the spouses has the power to make alone contracts which have for their object the support of the household or the education of children: any debt thus contracted by the one binds the other solidarily.

Nevertheless, solidarity does not occur as regards expenditures that are manifestly excessive with reference to the standard of living of the household, to the usefulness or uselessness of the act, to the good or bad faith of the contracting third party.

It does not occur either, if the acts were not concluded with the consent of the two spouses, as regards instalment purchases or loans unless those bear on modest sums needed for the wants of everyday life.

Article 220-1

If one of the spouses fails seriously in his duties and thus imperils the interests of the family, the family court judge may prescribe any urgent measure which those interests require.

He may in particular forbid that spouse, without the consent of the other, to enter into acts of disposition of his own property and of that of the community, movables or immovables. He may also forbid the displacing of movables, subject to the specifying those the personal use of which he attributes to one or the other of the spouses.

The duration of the measures taken under this Article must be determined by the judge and may not exceed three years, including a possible extension.

Article 220-2

If the judge's order prohibits the making of acts of disposition of things whose alienation is subject to publicity, it must be published at the behest of the applicant spouse. That publication ceases to be effective upon the expiry of the period determined by the order, subject for the party concerned to obtain in the interval a modifying order, which shall be published in the same manner.

Should the order prohibit the disposition of movables, or the displacing of them, it shall be served by the applicant on his spouse and has the effect of making the latter a responsible custodian of the movables in the same manner as a person whose property is seized. Where served on a third party, the latter shall be deemed in bad faith.

Article 220-3

May be annulled, at the request of the applicant spouse, all acts executed in violation of the order, if they were entered into with a third party in bad faith, or even with regard to an asset whose alienation is subject to publicity, if they came about subsequently to the publication provided for by the preceding Article.

The action in nullity may be brought by the applicant spouse within two years after the day he learned of the act, but never, if that act is subject to publicity, more than two years after its publication.

Article 221

Each one of the spouses may open, without the consent of the other, a deposit account and a securities account in his personal name.

With regard to the depositary, the depositor is always considered, even after dissolution of the marriage, to have the right to dispose freely of the funds and of the securities on deposit.

Article 222

If one of the spouses should appear alone to pass an act of administration, or enjoyment, or of disposition of a movable that he holds individually, he is considered, with regard to the third party in good faith, to have the power to do that act alone.

This provision shall not apply to movable furnishings mentioned in Article 215, paragraph 3, or to corporeal movables whose nature gives rise to a presumption of ownership of the other spouse in accordance with Article 1404.

Article 223

Each spouse may freely hold a trade, collect his earnings and salaries, and dispose of them after discharging marriage expenses.

Article 225

Each of the spouses alone shall administer, bind, and alienate his personal property.

Article 225-1

Each spouse may bear, on the basis of usage, the name of the other spouse, by substitution or addition to his own surname in the order he chooses.

Article 226

The provisions of this Chapter, on all issues where they do not reserve the application of the matrimonial regimes, apply by the sole effect of marriage, whatever the matrimonial regime of the spouses may be.

CHAPTER VII. THE DISSOLUTION OF MARRIAGE

Article 227

A marriage is dissolved:

1° By the death of one of the spouses;

2° By divorce lawfully pronounced.

TITLE VI. DIVORCE

ChaptEr i. – Grounds for divorce

Article 229

Divorce may be pronounced on the ground of:

- mutual consent; or
- acceptance of the principle of the breakdown of the marriage; or
- definitive alteration of the bond of marriage; or
- fault.

Section 1. Divorce by mutual consent

Article 230

A petition for divorce may be filed jointly by the spouses when they agree on the breakdown of the marriage and its effects by submitting for the approval of the judge an agreement regulating the consequences of the divorce.

Article 232

The judge confirms the agreement and declares the divorce if he has acquired the belief that the intention of each spouse is real and that their consent is free and well informed.

He may refuse to confirm and not declare the divorce if he finds that the agreement insufficiently protects the interests of the children or of one of the spouses.

Section 2. Divorce by acceptance

Article 233

A petition for divorce may be filed by either spouse or by both where they accept the principle of the breakdown of the marriage without consideration of the facts from which it originates.

This acceptance may not be withdrawn, even through an appeal.

Article 234

If he has acquired the firm belief that each spouse has given freely his consent, the judge shall declare the divorce and rule upon its consequences.

Section 3. Divorce for definitive alteration of the bond of marriage

Article 237

Divorce may be demanded by one of the spouses when the marriage bond has been definitively altered.

Article 238

A definitive alteration of the marriage bond results from the termination of the community of life between the spouses, when they have been living apart for two years at the time of the filing for divorce.

Notwithstanding the preceding provisions, divorce shall be declared on the ground of definitive alteration of the marriage bond in the circumstances referred to in Article 246, paragraph 2, when the petition filed on this ground has been formulated as a reconventional demand.

Section 4. Divorce for fault

Article 242

A petition for divorce may be filed by a spouse when the facts which constitute a serious or renewed violation of the duties and obligations of marriage are ascribable to the other spouse and render unbearable maintaining the community life.

Article 244

A reconciliation of the spouses which occurred after the alleged facts prevents their being invoked as a ground for divorce.

The judge shall then declare the petition inadmissible. A new petition may however be lodged on the basis of facts that occurred or were discovered since the reconciliation, the former facts being then recallable in support of that new petition.

The temporary preservation or renewal of community life is not to be considered as a reconciliation where they result only from necessity or from an attempt at conciliation or from the needs of the education of the children.

Article 245

The faults of the spouse who initiated the divorce do not prevent from considering his application; they may, however, deprive the facts which he holds against the other spouse of the seriousness that would make them a ground for divorce.

Those faults may be also invoked by the other spouse in support of a counter-petition in divorce. Where both applications are granted, divorce is pronounced for shared wrongs.

Even in the absence of a counter-petition, divorce may be pronounced on the ground of shared wrongs of both spouses if the hearings disclose wrongs ascribable to both spouses.

Article 245-1

At the request of the spouses, the judge may restrict himself to establishing in the grounds of the judgment that there are facts constituting a cause for divorce, without having to state the wrongs and complaints of the parties.

Article 246

If a petition on the ground of definitive alteration of the marriage and a petition on the ground of fault are presented concurrently, the judge shall rule first on the petition on the ground of fault.

If he rejects the latter, the judge shall rule on the petition for divorce on the ground of definitive alteration of the bond of marriage.

Section 5. Amendments of the grounds for a demand for divorce

Article 247

Spouses may, at any stage of the case, request the judge to uphold their agreement to have their divorce granted on the ground of mutual consent by submitting to him a contract that regulates the consequences of the divorce.

Article 247-1

The spouses may also, at any stage of the case, when the demand for divorce was based on definitive alteration of the marriage or for fault, request the judge to uphold their agreement that their divorce be granted on the ground of acceptance of the principle of the breakdown of the marriage.

Article 247-2

If, in the course of proceedings initiated on the ground of definitive alteration of the marriage, the respondent spouse presents as a reconvention a demand on the ground of fault, the petitioner spouse may invoke the faults of his spouse in order to amend the ground of his own petition.

CHAPTER II. DIVORCE PROCEDURE

Section 1: General provisions

Article 248

Hearings on the ground, on the consequences of divorce and on provisional measures are not public.

Article 249

Where a petition for divorce must be brought in the name of an adult under tutorship, it shall be lodged by the tutor with the authorization of the family council if it has been established or of the tutorship judge. It shall be brought after advice from the attending physician and, as far as possible, after the person concerned has been heard by the family council or the judge, according to the circumstances.

An adult under curatorship shall bring the action himself with the assistance of the curator.

Article 249-1

Where the spouse against whom a petition is filed is under tutorship, the action must be brought by the tutor; where he or she is in curatorship, he or she is the defendant, with the assistance of the curator.

Article 249-2

An ad hoc tutor or curator must be appointed where the tutorship or curatorship was entrusted to the spouse of the person under protection.

Article 249-3

Where one of the spouses is placed under judicial protection, a petition for divorce may be heard only after organization of a tutorship or curatorship. The judge, however, may prescribe the provisional measures provided for in Articles 254 and 255 and the emergency measures provided for in Article 257.

Article 249-4

Where one of the spouses is placed under one of the regimes of protection provided for in Chapter 2 of title XI of this book, no petition for divorce by mutual consent or on the ground of acceptance of the principle of the breakdown of the marriage may be lodged.

Section 2. Proceedings for divorce by mutual consent

Article 250

An application for divorce is filed either by the respective counsels of the parties or by a counsel chosen by common consent.

The judge shall consider the application with each one of the spouses, and then shall call them together. He shall then call the counsel or counsels.

Article 250-1

Where the conditions laid down in Article 232 are met, the judge shall confirm the agreement which regulates the consequences of the divorce and, in the same decision, shall grant the divorce.

Article 250-2

Should the judge refuse to confirm the agreement, he may nevertheless approve the provisional measures under articles 254 and 255, which the parties agree to take until the date when the judgment granting divorce becomes res judicata, provided that they are consonant with the welfare of the child or children.

A new agreement may then be submitted by the spouses within six months at the most.

Article 250-3

Failing submission of a new agreement within the period prescribed by Article 250-2 or should the judge refuses to confirm once again, the application for divorce lapses.

Section 3. Procedure for other cases of divorce

Sub-article 1: The originating petition

Article 251

A spouse who makes an application for divorce shall file, through a counsel, a petition with the judge, without stating the grounds for divorce.

Sub-article 2: Of conciliation

Article 252

An attempt at conciliation is compulsory before judicial proceedings. It may be renewed during the proceedings.

The judge shall seek to conciliate the spouses both as to the principle of the divorce and to its consequences.

Article 252-1

Where the judge seeks to conciliate the spouses, he must personally have an interview with each of them separately before bringing them together in his presence.

The counsels shall then be called to attend the interview and take part in it.

In the case where the spouse who did not file the petition does not appear at the hearing or is not able to express his intention, the judge shall have an interview with the other spouse and urge him or her to consider the matter.

Article 252-2

An attempt at conciliation may be suspended and resumed without any formality, by granting to the spouses times for consideration within a limit of eight days.

If a longer period is deemed advisable, the judge may decide to suspend the proceedings and resort to a new attempt at conciliation within six months at most. He may order the requisite provisional measures if there is occasion.

Article 252-3

Where the judge ascertains that the petitioner maintains his claim, he shall try to induce the spouses to regulate amicably the consequences of the divorce.

He shall require them to submit at the trial a draft settlement of the effects of divorce. For this purpose, he may take the provisional measures provided for in Article 255.

Article 252-4

Anything that was said or written on the occasion of an attempt at conciliation, whatever the form under which it occurred may be, may not be invoked in favor of or against a spouse or a third party in the further proceedings.

Article 253

The spouses may accept the principle of the breakdown of the marriage and the granting of the divorce on the ground of Article 233 only where each of them is assisted by a counsel.

Sub-article 3: Provisional measures

Article 254

At the time of the hearing provided for in Article 252, the judge shall prescribe, having regard to the possible agreements of the spouses, the measures which are required in order to ensure their living and that of the children until the date on which the judgment becomes res judicata.

Article 255

The judge may in particular:

1° Propose a measure of mediation to the spouses and, after gaining their consent, appoint a family mediator in order to go through with it;

2° Enjoin the spouses to meet a family mediator who will inform them of the purpose and progress of the mediation;

3° Rule on the details of the separate residence of the spouses;

4° Allocate to one of them the enjoyment of the lodging and furniture of the household, or divide that enjoyment between them, specifying whether it is gratuitous or not and, if necessary, ascertaining the agreement of the spouses on the amount of a compensation for dwelling;

5° Order the delivery of clothes and personal belongings;

6° Set the alimony payments and allowance for costs to be paid by one spouse to the other, designate the spouse or spouses who shall be responsible for the provisional payment of all or part of the debts;

7° Grant to one of the spouses advance payments on account of his rights in the liquidation of the matrimonial regime, where circumstances so dictate;

8° Rule on the granting of the enjoyment or management of the common or joint property, other than that referred to in 4°, subject to the rights of each spouse in the liquidation of the matrimonial regime;

9° Appoint any qualified professional for the purpose of drawing up an estimative inventory or make proposals as to the settlement of the pecuniary interests of the spouses;

10° Appoint a notary on purpose of preparing a draft of liquidation of the matrimonial regime and of composition of the lots to be distributed.

Article 256

Provisional measures concerning children must be settled in accordance with the provisions of Chapter I of Title IX of this Book.

Article 257

As soon as the originating petition has been lodged, the judge may take emergency measures.

He may, on this ground, authorize the petitioning spouse to reside apart, with his minor children if there is occasion.

He may also, as a safeguard of the rights of a spouse, order any conservatory measures such as the affixing of seals on community property. Nevertheless the provisions of Article 220-1 and title XIV of this book and the other safeguards provided for by the matrimonial regime remain applicable.

Sub-article 4: Instituting divorce proceedings

Article 257-1

After the order of non-conciliation, a spouse may institute proceedings or bring a reconventional demand for acceptance of the principle of the breakdown of the marriage, for irretrievable impairing of the conjugal relation or for fault.

Where, however, at the conciliation hearing, the spouses have declared that they accepted the principle of the breakdown of the marriage and the granting of the divorce on the ground of Article 233, proceedings may be instituted only on this same ground.

Article 257-2

Under pain of inadmissibility, the originating summons shall include a proposal for settlement of the pecuniary and patrimonial interests of the spouses.

Article 258

Where he definitively dismisses an application for divorce, the judge may rule on the contributions to the marriage expenses, the residence of the family and the terms and conditions of the exercise of parental authority

Sub-article 5: Evidence

Article 259

Facts invoked as grounds for divorce or as a defense against a petition may be established by any evidence, including admissions. However, descendants may never be heard on the grievances invoked by the spouses.

Article 259-1

A spouse may not produce at the hearing a means of proof which he or she obtained by violence, duress or fraud.

Article 259-2

The certified reports drawn up at the request of a party are set aside from the hearing where there was forcible entry into the domicile or unlawful invasion of privacy.

Article 259-3

The spouses must communicate to each other and communicate to the judge as well as to experts and other persons designated by him under Article 255, 9° and 10°, any appropriate information and documents to set the amount of the allowances and payments and to liquidate the matrimonial regime.

The judge may cause any useful inquiry to be instigated with debtors or all those who hold assets on behalf of the spouses without the possibility of raising of professional secrecy.

CHAPTER III. CONSEQUENCES OF DIVORCE

Section 1. Effects of divorce: effective date

Article 260

A judgment granting divorce dissolves the marriage at the date at which it acquires force of res judicata.

Article 262

A divorce judgment is effective against third parties, as regards the property of the spouses, from the day when the formalities regarding mentions in the margin, as prescribed by the rules that apply to civil status, have been performed.

Article 262-1

A divorce judgment takes effect in the relations between spouses, as regards their assets:

- when it is handed down on the ground of mutual consent, as from the date of the homologation of the agreement which settles all the consequences of the divorce, unless the agreement otherwise provides;
- when it is handed down on the ground of acceptance of the principle of the breakdown of the marriage, for irretrievable impairing of the bond of marriage or for fault, as from the date of the judicial order of non-conciliation.

At the request of a spouse, the judge may set the effects of the judgment to the date when the spouses ceased to live together and collaborate. That request may be brought only on the occasion of the application for divorce. The enjoyment of the conjugal dwelling by one spouse only keeps a gratuitous character until the judicial order of non-conciliation, unless there is judicial decision to the contrary.

Article 262-2

Any obligation contracted by one of the spouses against the community, any transfer of community assets made by one of them within the limit of his powers, subsequently to the original petition, shall be declared null where there is evidence that there was fraud on the rights of the other spouse.

Section 2. Consequences of divorce for the spouses

Sub-article 1. General provisions

Article 263

Where divorced spouses wish to contract another union between themselves, a new celebration of marriage is required.

Article 264

Following divorce, each of the spouses loses the use of his or her spouse's name.

However, a spouse may keep the use of the other's name, either with his or her consent, or with the authorization of the judge, where he or she proves that a particular interest lies therein for him or her or for the children.

Article 265

Divorce does not affect the matrimonial advantages which take effect during the marriage nor the donations of existing assets whatever their form may be.

A divorce entails by operation of law revocation of the matrimonial benefits which take effect only at the dissolution of the matrimonial regime or at the death of one spouse and of the transfers mortis causa, granted by one spouse to the other by a marriage contract or during the marriage, unless the spouse who granted them otherwise decides. This decision must be ascertained by the judge at the time when he declares the divorce and shall render irrevocable the upheld benefit or transfer.

Nevertheless, if the marriage contract so provides, the spouses may always recover the assets they had brought to the community.

Article 265-1

The divorce does not affect the rights which either spouse gets from the law or from contracts entered into with third persons.

Article 265-2

During divorce proceedings, spouses may enter into any agreements for the liquidation and partition of their matrimonial regime.

Where liquidation bears on assets subject to land registration, the agreement must be drawn up in an act before a notary.

Sub-article 2.Consequences of divorce other than by mutual consent

Article 266

Without prejudice to the application of Article 270, damages may be awarded to one spouse in compensation for consequences of a particular seriousness which he or she suffers because of the dissolution of the marriage either when he or she was defendant in a divorce granted for irretrievable impairing of the bond of marriage and he or she had not brought an application for divorce, or when divorce is granted against his or her spouse and the blame lies wholly with the latter.

This claim may be brought only on occasion of the action for divorce.

Article 267

In the absence of a settlement agreed upon by the spouses, the judge, when declaring the divorce, shall order the liquidation and partition of their patrimonial interests.

He shall rule on the claims for maintenance of the indivision or preferential allotment.

He may also grant to one spouse or both an advance on his share of community or undivided assets.

If the draft of the liquidation of the matrimonial regime drawn up by the notaire appointed under Article 255, 10°, contains sufficient information, the judge, upon request of either spouse, shall rule on the enduring disagreements between them.

Article 267-1

The actual process of liquidation and partition of the patrimonial interest of the spouses take place according to the rules set in the Code of Civil Procedure.

Article 268

During the proceedings, the spouses may submit to the approval of the judge agreements settling all or part of the consequences of the divorce.

After having checked that the interests of each spouse and the welfare of the children are preserved, the judge can approve the agreements when he declares the divorce.

Sub-article 3. Compensatory allowances

Article 270

Divorce puts an end to the duty of support between spouses.

One of the spouses may be compelled to pay the other an allowance intended to compensate, as far as possible, for the disparity that the breakdown of the marriage creates in the respective ways of living. This allowance shall be in the nature of a lump sum. It shall take the form of a capital the amount of which must be fixed by the judge.

However, the judge may refuse to grant such an allowance where equity so demands, either taking into account the criteria set out in Article 271, or when the divorce is declared on account of the blame lying wholly upon the spouse who requests the advantage of this allowance, considering the particular circumstances of the breakdown.

Article 271

A compensatory allowance must be fixed according to the needs of the spouse to whom it is paid and to the means of the other, account being taken of the situation at the time of divorce and of its evolution in a foreseeable future.

For this purpose, the judge shall have regard in particular to:

- the duration of the marriage;
- the ages and states of health of the spouses;
- their professional qualifications and occupations;
- the consequences of the professional choices made by one spouse during their living together for educating the children and the time which must still be devoted to this education, or for favoring his or her spouse's career to the detriment of his or her own;
- the estimated or foreseeable assets of the spouses, both in capital and income, after liquidation of the matrimonial regime;
- their existing and foreseeable rights;
- their respective situations as to retirement pensions, having estimated, as much as possible, the reduction of the retirement rights that circumstances mentioned in the sixth paragraph above might cause for the spouse creditor of the compensatory allowance.

Article 272

In the context of setting the amount of the compensatory allowance, by the judge or by the parties, or on the occasion of an application for revision, the parties shall provide the judge with declarations stating on their honor the accuracy of their resources, incomes, patrimony and living conditions.

When determining the needs and resources, the judge shall not take into account to the sums paid as compensation for accidents in the workplace and the sums paid as an indemnity for a disability.

Article 274

The judge shall rule on the terms and conditions according to which a compensatory allowance in capital must be implemented according to the following forms:

1° Payment of a sum of money, the declaration of divorce being made subject to the establishing of the guarantees provided for in Article 277;

2° Allocation of assets in ownership or of a right of use, dwelling or usufruct, temporary or for life, the judgment operating a forced transfer in favor of the creditor. However, the consent of the debtor spouse is required to allocate the ownership of assets which he or she received by succession or donation.

Article 275

Where a debtor is not able to pay the capital under the terms of Article 274, the judge shall fix the modes of payment of the capital, within the time limit of eight years, in the form of payments made at fixed intervals index-linked in accordance with the rules applicable to alimony payments.

The debtor may request a revision of those modes of payment in case of an important change in his or her situation. By way of exception the judge may then, by a special judgment setting out the grounds on which it is based, authorize the payment of the capital over a total period of longer than eight years.

The debtor may at any time pay off the balance of the index-linked capital.

After liquidation of the matrimonial regime, the creditor of a compensatory prestation may refer to the judge a claim for payment of the balance of the index-linked capital.

Article 275-1

The modes of payment provided for in Article 275, paragraph 1, are not exclusive of the payment of part of the capital in the forms provided for in Article 274.

Article 276

By way of exception, when the age or state of health of the creditor does not allow him or her to supply to his or her needs, the judge may, by a judgment specifically outlining the grounds on which it is based, fix the compensatory allowance under the form of a life annuity. He shall have regard to the factors laid down in Article 271.

The amount of the annuity may be reduced, where circumstances so demand, by the allocation of a fraction in capital among the forms provided for in Article 274.

Article 276-1

An annuity must be linked to an index; the index must be determined as is done in the case of an alimony payment.

The amount of the annuity before it is index-linked, must be fixed in a uniform fashion for its entire duration or may vary by successive periods following the likely evolution of the resources and needs.

Article 276-3

A compensatory prestation set under the form of an annuity may be revised, suspended or suppressed in case of an important change in the resources or needs of either party.

Revision may not lead to increase the annuity up to an amount superior to the one initially fixed by the judge.

Article 276-4

The debtor of a compensatory allowance in the form of an annuity may at any time submit to the judge an application for replacing all or part of the annuity by a capital. The replacement must be effected according to terms established by decree en Conseil d'État.

The creditor of a compensatory allowance may submit the same application where he or she establishes that a modification in the situation of the debtor allows that replacement, in particular at the time of liquidation of the matrimonial regime.

The terms and conditions of implementation provided for in Articles 274, 275 and 275-1 shall apply. The judge's refusal to substitute a capital to all or part of the annuity must be specifically explained.

Article 277

Irrespective of the legal or judicial hypothec, the judge may order the debtor spouse to create a pledge, to provide a surety or to enter into a contract that guarantees the payment of the annuity or capital.

Article 278

In case of divorce by mutual consent, the spouses shall fix the amount and terms and conditions of the compensatory allowance in the agreement which they submit to the judge for approval. They may contemplate that the payment of the prestation will come to an end from the occurrence of a specific event. The prestation may be in the form of an annuity granted for a limited time.

The judge, however, shall refuse to approve the agreement if it fixes unfairly the rights and obligations of the spouses.

Article 279

The agreement which has been approved is as enforceable as a judicial decision.

It may be modified only by a new agreement between spouses, likewise submitted to approval.

Spouses have nevertheless the right to contemplate in their agreement that each of them may, in case of an important change in the resources or needs of either party, request the judge to revise the compensatory allowance. The provisions of Article 275, paragraphs 2 and 3, and of Articles 276-3 and 276-4 shall also apply, depending on whether the compensatory allowance takes the form of a capital or of a temporary or life annuity.

Save as otherwise provided in the agreement, Articles 280 to 280-2 shall apply.

Article 279-1

When, pursuant to Article 268, the spouses submit for approval by the judge an agreement relating to a compensatory prestation, the provisions of Articles 278 and 279 shall apply.

Article 280

On the death of a debtor spouse, payment of a compensatory prestation, whatever its form may be, is deducted from the succession. The payment is borne by all the heirs, who may not be liable for it personally, within the limit of the assets of the succession, and in case they are insufficient, by all the specific legatees, in proportion to the advantage they received, subject to the provisions of Article 927.

Where a compensatory prestation was fixed under the form of a capital to be paid on the terms set out in Article 275, the balance of this index-linked capital immediately becomes due.

Where it was fixed under the form of an annuity, a capital becoming immediately due must be substituted to it. The substitution must be effected under terms fixed by decree en Conseil d'État.

Article 280-1

Notwithstanding Article 280, the heirs may decide together to maintain the forms and arrangements for payment of the compensatory prestation which was incumbent on the debtor spouse, by obliging themselves personally to the payment of that prestation. Under pain of nullity, the agreement must be established by an act before a notary. It is enforceable against third persons from the time when notice of it is given to the creditor spouse where the latter did not take part in the act.

Where the modes of payment of a compensatory prestation have been maintained, the actions provided for in Article 275, paragraph 2, and in Articles 276-3 and 276-4, depending on whether the compensatory prestation takes the form of a capital or of a temporary or life annuity, are available to the debtor's heirs. The latter may also at any time discharge their debt of the balance of the index-linked capital, where the compensatory prestation takes the form referred to in Article 275, paragraph 1.

Article 280-2

Reversionary pensions possibly paid in the name of the deceased spouse must be deducted as of right from the amount of the compensatory allowance, where, at the time of the death, it was under the form of an annuity. Where the heirs avail themselves of the right referred to in Article 280-1, and unless otherwise decided by the judge, a deduction of the same amount continues to take place if the creditor loses his or her right or suffers a change in his or her right to revisionary pension.

Article 281

The transfers and surrenders provided for in this sub-article, whatever their terms of payment may be, are considered as pertaining to the matrimonial regime. They are not equivalent to donations.

Sub-article 4. Lodging

Article 285-1

If the premises serving as lodging for the family are the separate or personal property of one spouse, the judge may give it on lease to the other spouse who exercises alone or in common parental authority over one or several of their children where the latter have their usual residence in these lodgings and their welfare so requires.

The judge shall set the duration of the lease and may renew it until the coming of age of the youngest child.

The judge may terminate the lease where new circumstances so justify.

Section 3. Consequences of divorce for the children

Article 286

The consequences of divorce for the children shall be settled in accordance with the provisions of Chapter I of Title IX of this Book.

CHAPTER IV. SEPARATION FROM BED AND BOARD

Section 1: Cases and proceedings for judicial separation

Article 296

The separation from bed and board may be granted on application of one of the spouses in the same cases and subject to the same conditions as divorce.

Article 297

A spouse against whom a petition for divorce is filed may make a counterclaim for a separation from bed and board. However, where the principal claim for divorce is based on irretrievable impairment of the bond of marriage, the counterclaim may be only for divorce. A spouse against whom a petition for separation from bed and board is filed may make a counterclaim for divorce.

Article 297-1

Where a petition for divorce and a petition for separation from bed and board are filed concurrently, the judge shall consider first the petition for divorce. He shall declare the divorce where its conditions are met. Failing which, he shall rule on the petition for separation from bed and board.

However, where these petitions are based on fault, the judge shall consider them simultaneously and, if he entertains them, he shall declare the divorce with respect to the two spouses with the blame lying with both of them.

Article 298

Besides the rules contained in Article 228 and in Chapter II above shall apply to the proceedings for separation from bed and board.

Section 2. Consequences of judicial separation

Article 299

The separation from bed and board does not dissolve marriage but it puts an end to the duty of cohabitation.

Article 300

Each separated spouse keeps the use of the other's name. Nevertheless, they may be forbidden to do so by the judgment of separation or a further judgment, the respective interests of the spouses being taken into account.

Article 301

In case of death of one of the spouses separated from bed and board, the other spouse shall preserve the rights which the law grants to a surviving spouse. When the separation from bed and board is declared on the ground of mutual consent, the spouses may include in their agreement a renunciation of the rights of succession conferred upon them by Articles 756 to 757-3 and 764 to 766.

Article 302

The separation from bed and board always involves separation of property.

As regards the assets, the date at which separation from bed and board takes effect is determined as provided for in Articles 262 to 262-2.

Article 303

The separation from bed and board leaves subsisting the duty of support; the judgment which declares it or a further judgment shall fix the alimony payments owed to the spouse in need.

This alimony payments shall be allotted irrespective of wrongs. The debtor spouse may nevertheless invoke, if there is occasion, the provisions of Article 207, paragraph 2.

The alimony payment is subject to the rules of maintenance obligations.

However, when the consistency of the assets of the debtor spouse so permits, the alimony payment is replaced, in whole or part, by the establishment of a capital, in accordance with the rules of Articles 274 to 275-1, 277 and 281.

Where this capital becomes inadequate to cover the needs of the creditor, the latter may request a complement under the form of alimony payments.

Article 304

Subject to the provisions of this section, the consequences of separation from bed and board shall obey the same rules as the consequences of divorce stated in Chapter III above.

Section 3. End of separation from bed and board

Article 305

The voluntary resumption of living together puts an end to separation from bed and board.

In order to be effective against third parties, it must either be established by a notarial act, or be the subject of a declaration to an officer of civil status. Mention of it shall be made in the margin of the act of marriage of the spouses, as well as in the margins of their records of birth.

The separation of property subsists unless the spouses adopt a new matrimonial regime as provided for in Article 1397.

Article 306

On request of one of the spouses, a judgment of separation from bed and board shall be converted as of right into a judgment of divorce when the separation from bed and board has lasted two years.

Article 307

In all instances of separation, the latter may be converted into divorce by mutual consent.

When the separation was declared on the ground of mutual consent, it may be converted into divorce only by a new joint petition.

Article 308

As a result of the conversion, the ground for separation from bed and board becomes the ground for divorce; the allocation of wrongs is not changed.

The judge lays down the consequences of divorce. The prestations and alimony payments between the spouses shall be determined according to the rules specific to divorce.

Article 309

Divorce and separation from bed and board are governed by French law:

- where both spouses are of French nationality;
- where both spouses have their domicile on French territory;
- where no foreign law considers it should govern whereas French courts have jurisdiction to hear a case of divorce or separation from bed and board.

TITLE VII. FILIATION

Article 310

All children whose filiation is lawfully established have the same rights and the same duties in their relations with their father and mother. They enter into the family of each of them.

Chapter i. GENERAL PROVISIONS

Article 310-1

Subject to the conditions listed in Chapter II of this Title, filiation is lawfully established by operation of law, by voluntary acknowledgement or by possession of apparent status recorded in an affidavit attested by an act of notoriety.

It may also established by judgment subject to the conditions provided for in Chapter III of this Title.

Article 310-2

Where there exists between the father and mother of the child one of the prohibitions to marriage due to kinship laid down by Articles 161 and 162, if parentage is already established with respect to one of them, it is prohibited to establish parentage with respect to the other by any means whatever.

Section 1. Proof and presumptions

Article 310-3

Parentage is proved by the record of birth of the child, by the act of acknowledgement or by the act of notoriety recording the possession of apparent status.

Where a claim is instituted under Chapter III of this Title, parentage is proved and contested by any means, subject to the admissibility of the claim.

Article 311

Statutory law presumes that a child was conceived during the period that extends from the three-hundredth to the one-hundred and eightieth day, inclusive, before the date of birth.

Conception is presumed to have taken place at any time during that period, according to what is required for the best interest of the child.

Evidence to the contrary may be adduced to rebut those presumptions.

Article 311-1

Possession of apparent status shall result from a sufficient collection of facts disclosing a bond of filiation and kinship between a person and the family to which he is said to belong.

The main ones of those facts shall be:

1° That the person has been treated by the one or ones from whom he is said to descend as their child, and that he himself has treated them as his parent or parents;

2° That they have, in that capacity, provided for his education, support or settling;

3° That the person is recognized as their child in society and by the family;

4° That public authorities consider him as such;

5° That he bears the name of those from whom he is said to descend.

Article 311-2

Possession of apparent status must be continuous, peaceful, public and unequivocal.

Section 2. Conflict of laws and filiation

Article 311-14

Filiation is governed by the personal law of the mother on the day of the child's birth; where the mother is unknown, by the child's personal law.

Article 311-15

However, should the child and his father and mother or any one of them have their usual common or separate residence in France, the possession of apparent status has all the consequences it produces according to French law, even when the other elements of the filiation might have depend upon a foreign law.

Article 311-17

A voluntary acknowledgement of paternity or maternity is valid if it was done in accordance with either the personal law of his or her doer, or the child's personal law.

Section 3. Medical assistance to procreation

Article 311-19

In case of a medically assisted procreation with a third party donor, no parental bonds may be established between the donor and the child born of the procreation.

No claim in tort may lie against a donor.

Article 311-20

Spouses or concubines who, in order to procreate, resort to a medical assistance requiring the intervention of a third party donor, must, subject to conditions that ensure secrecy, give first their consents to a judge or a notary who shall inform them of the consequences of their act as regards parentage.

The consent given to a medically assisted procreation prohibits any action for claiming or challenging parentage unless it is argued that the child was not born of the medically assisted procreation or that the consent was deprived of effect.

The consent is deprived of effect in case of death, of the filing of a petition for divorce or separation from bed and board or of discontinuance of community life, that occurred before the carrying out of the medically assisted procreation. It is also deprived of effect where the male or the female revokes it in writing and before the carrying out of the medically assisted procreation, in the hands of the physician in charge of proceeding with that assistance.

He who, after having consented to medical assistance to procreation, does not acknowledge the child born of it renders himself liable vis-à-vis the mother and child

Furthermore, his paternity is judicially declared. The action falls under the provisions of Articles 328 and 331.

Section 4. Rules for devolution of the family name

Article 311-21

Where the filiation of a child has been established with respect to his two parents at the latest on the day of declaration of his birth or afterwards but simultaneously, the parents shall choose the family name which devolves upon the child: either the father's name, or the mother's name, or both names side by side in the order they choose within the limit of one family name for each of them. In the absence of a joint declaration to the officer of civil status mentioning the name chosen for the child, the latter shall take the name of the parent with respect to whom his filiation has first been established and the father's name where his filiation has been established simultaneously with respect to both. In case of disagreement between the parents, disclosed by one of them to the officer of civil status, at the latest on the day of the declaration of birth or after the birth, at the time of simultaneous establishment of filiation, the child takes their two names, within the limit of the first family name of each of them, side by side in alphabetical order.

When a child one parent of whom at least is French is born abroad, parents who have not availed themselves of the right to choose the name in the way provided for in the preceding paragraph may make such a

declaration at the time they request the recordation of the act, at the latest within three years of the child's birth.

If this Article, or Article 311-23, paragraph 2, or Article 357 has already been applied to a common child, the name previously assigned or chosen is the same for the other common children.

When the parents or one of them bear a double family name, they may, by a joint written declaration, transmit only one name to their children.

Article 311-22

The provisions of Article 311-21 shall apply to the child who becomes French in compliance with the provisions of Article 22-1, under the conditions set by a decree en Conseil d'État.

Article 311-23

Where filiation is established only with respect to one parent, the child shall take that parent's name.

When establishing the second bond of parentage and during the minority of the child, the parents may, by a joint declaration before the officer of civil status, choose either to give as a substitute to the child the family name of the parent with respect to whom parentage has been established in the second place, either to couple their two names side by side, in the order they choose, within the limit of one family name for each of them. The change of name shall be mentioned in the margin of the recorded act of birth.

However, when Article 311-21 or the second paragraph of this Article has already been applied with respect to another common child, the declaration of change of name may have no other effect than giving the name previously assigned or chosen.

If the child is over thirteen years of age, his personal consent is required.

Article 311-24

The right to choose provided for in Articles 311-21 and 311-23 may be exercised only once.

CHAPTER II. ESTABLISHMENT OF FILIATION

Section 1. Establishment of filiation by law

Sub-article 1. Designation of the mother in the act of birth

Article 311-25

Filiation is established, with respect to the mother, by the designation of the latter in the act of birth.

Sub-article 2. Presumption of paternity

Article 312

A child conceived or born in wedlock has the husband as his father.

Article 313

The presumption of birth is set aside when the act of birth of the child does not indicate the husband as the father. It is also set aside in case of petition for divorce or for separation from bed and board, when the child is born more than three hundred days after the date of either the approval of the agreement which governs all the consequences of the divorce or of the provisional measures taken under Article 250-2, or of the judicial order of non-conciliation, and less than one hundred and eighty days following the final dismissal of the petition or the reconciliation.

Article 314

If the presumption of paternity has been set aside under Article 313, it is reinstituted by operation of law if the child has the possession of apparent status vis-à-vis the father and if he has no established paternity with respect to a third person.

Article 315

When the presumption of paternity is set aside in the circumstances provided for in Article 313, its effects may be reinstated in court in the way provided for in Article 329. The husband may also acknowledge the child as provided in Articles 316 and 320.

Section 2. Filiation by acknowledgment

Article 316

Should a filiation not be established in the way provided for in Section 1 of this Chapter, it can be established by an acknowledgement of paternity or maternity, made before or after the birth.

An acknowledgement establishes parentage only with respect to his or her author.

It is made in the act of birth, by act received by the officer of civil status or by any other authentic act.

The act shall contain the statements listed in Article 62 and the mention that the author of the acknowledgement has been informed of the divisible character of the parental bond so established.

Section 3. Establishment of filiation by apparent status

Article 317

Each parent or the child may request the judge of the Tribunal d'Instance of the place of birth or of their domicile to issue an act of notoriety that serves as evidence of the possession of apparent status until proven to the contrary.

The act of notoriety is established on the strength of the declarations of at least three witnesses and, if the judge deems it necessary, of any other produced document that establish a sufficient gathering of facts under Article 311-1.

The issue of an act of notoriety may be requested only within a period of five years as from the ending of the alleged possession of apparent status or from the death of the person claimed as parent, including when the latter died before the declaration of birth.

The filiation established by the apparent status recorded in an act of notoriety shall be mentioned in the margin of the child's record of birth.

Neither the act of notoriety nor the refusal to issue one are subject to appeal.

CHAPTER III. ACTIONS RELATED TO FILIATION

Section 1: General provisions

Article 318

No action is admissible as to the parentage of a child who was not born viable.

Article 318-1

The tribunal de grande instance exercising civil jurisdiction shall have exclusive jurisdiction to have cognizance of actions regarding parentage.

Article 319

In case of a violation interfering with the parentage of a person, a criminal action may be ruled upon only after the judgment on the question of parentage has become res judicata.

Article 320

As long as it has not been contested in court, a lawfully established parentage is a bar to establishing another parentage which would contradict it.

Article 321

Except when they are confined by statute within another period of time, actions regarding parentage are time-barred after ten years as from the day when the person was deprived of the status that he claims, or began to enjoy the status that is contested against him. With respect to the child, that period is suspended during his minority.

Article 322

The action may be brought by the heirs of a person deceased before the expiry of the period of time allocated to the person to bring an action.

The heirs may also continue the action he has already initiated, unless there was a withdrawal or an extinction of the action.

Article 323

Actions regarding parentage may not be waived.

Article 324

Judgments handed down in matters of parentage are enforceable against persons who were not parties thereto. The latter are entitled to file third party applications for rehearing within the period of time specified in Article 321 if they were entitled to institute the action.

Judges may of their own motion require that all the parties concerned against whom they consider judgment should be given be joined in the action.

Section 2. Claims to establish filiation

Article 325

In the absence of a title or of the possession of apparent status, the search for the mother is allowed.

The action is reserved to the child who is bound to prove that he is the one to whom the alleged mother has given birth.

Article 326

At the time of delivery the mother may request that the secrecy as to her admittance and identity be preserved.

Article 327

Paternity out of wedlock may be judicially declared.

The action to establish paternity is reserved to the child.

Article 328

The parent, even under age, with respect to whom parentage is established, during the child's minority, is alone entitled to bring an action in maternity or paternity.

If no bond of filiation is established, or where that parent is dead or unable to express his or her will, the action is brought by the tutor under the provisions of the second paragraph of Article 408.

The action is brought against the alleged parent or his or her heirs. In the absence of heirs or where they have renounced succession, the action is brought against the State. The renouncing heirs shall be joined in the proceedings in order to assert their rights.

Article 329

Where the presumption of paternity has been set aside under Article 313, each one of the spouses may, during the minority of the child, request that its effects be reinstated by proving that the husband is the father. The action may be brought by the child within ten years after his coming of age.

Article 330

The possession of apparent status may be established, at the request of any person having an interest thereto, within ten years after it has ended or after the death of the claimed parent.

Article 331

Where an action is brought under this section, the court shall rule, if there is occasion, on the exercise of parental authority, the contribution to the support and education of the child and the attribution of the name.

Section 3. Actions to contest filiation

Article 332

Maternity may be contested by proving that the mother did not give birth to the child.

Paternity may be contested by proving that the husband or the author of the acknowledgement is not the father.

Article 333

When the possession of apparent status is consistent with the title, the action may be brought only by the child, one of his father and mother or the person who alleges to be the true parent. The action prescribes in five years as from the day when the possession of apparent status has ended or from the day of the death of the parent vis-à-vis whom the bond of filiation is contested.

No one, except the State prosecutor, may contest a filiation when the possession of apparent status consistent with the title has lasted at least five years as from the birth or the acknowledgement, if the possession was established later on.

Article 334

Failing a possession of apparent status consistent with the title, an action to contest the filiation may be brought by any person who has an interest thereto within the period of time specified in Article 321.

Article 335

The filiation established by a possession of apparent status acknowledged by an act of notoriety may be contested by any person who has an interest thereto by adducing proof within a period of time of ten years from the issuing of the act.

Article 336

A lawfully established parentage may be contested by the State prosecutor should inferences drawn from the acts themselves renders it unlikely or in case of fraud against the law.

Article 336-1

When the officer of civil status who has jurisdiction under Article 55 has in hand a prenatal paternal acknowledgement whose statements about its author are contradicted by elements of information about the father communicated by the declarant, the officer establishes the act of birth on the basis of the elements of information communicated by the declarant. He notifies, without delay, the State prosecutor who brings up the conflict of paternity on the ground of Article 336.

Article 337

Where it entertains an action contesting filiation, a court may, in the interest of the child, lay down the terms of the relations between the latter and the person who was bringing him up.

CHAPTER IV. CLAIMS FOR SUPPORT

Article 342

A child whose paternal filiation is not lawfully established may claim support from him who had intercourse with his mother during the statutory period of conception.

The claim may be instituted during the whole minority of the child; the latter may still institute it within ten years following his coming of age where it was not done during his minority.

The claim is admissible even where the father or mother were, at the time of the conception, in the bonds of a marriage with another person, or if there existed between them some impediment to marriage as laid down in Articles 161 to 164 of this Code.

Article 342-2

The allowances are paid in the form of periodical payments, according to the needs of the child, the means of the debtor and his family situation.

Periodical payments may be owed beyond the coming of age of the child, where he is still in need, unless this situation is imputable to his fault.

Article 342-4

A defendant may defeat a claim by proving by any means that he cannot be the father of the child.

Article 342-5

The responsibility for the allowances are transmitted to the succession of the debtor under the rules of Article 767.

Article 342-6

Articles 327, paragraph 2, and 328 above shall apply to a claim for purpose of allowances.

Article 342-7

A judgment which awards allowances creates between the debtor and the beneficiary, as well as, if it be the case, between each of them and the parents or the spouse of the other, the impediments to marriage as laid down in Articles 161 to 164 of this Code.

Article 342-8

Res judicata attached to a claim for purpose of allowances is not a bar to proceedings against a subsequent paternity suit.

The award of allowances ceases to have effect where the paternal parentage of the child is established subsequently with regard to someone else than the debtor.

TITLE VIII. FILIATION BY ADOPTION

Chapter I. Plenary adoption

Section 1. Conditions required for plenary adoption

Article 343

Adoption may be petitioned by two spouses not separated from bed and board, married for more than two years or who are both older than twenty-eight years.

Article 343-1

Adoption may be also petitioned by a person over twenty-eight years of age.

If the adoptive parent is married and not separated from bed and board, his or her spouse's consent is required unless this spouse is unable to express his or her intention.

Article 343-2

The requirement as to age provided for in the preceding Article is dispensed with in the case of adoption of the spouse's child.

Article 344

The adoptive parents must be fifteen years older than the children whom they propose to adopt. If the children are their spouse's children the required difference of age is only ten years.

The court may, however, if there are good reasons, declare the adoption order where the difference in ages is smaller than that provided for in the preceding paragraph.

Article 345

Adoption is allowed only in favor of children under fifteen, who have been received in the home of the adoptive parent or parents for at least six months.

Where however the child is older than fifteen and has been received in the home before having reached that age by persons who did not fulfil the statutory requirements for adopting or where he was the subject of a simple adoption before having reached that age, plenary adoption may be applied for if the conditions for it are fulfilled, during the minority of the child and within two years following his coming of age.

Where he is older than thirteen, an adopted person must personally consent to his plenary adoption. This consent is given in the forms provided in the first paragraph of Article 348-3. It may be revoked at any time before the adoption is pronounced.

Article 345-1

The plenary adoption of the spouse's child is allowed:

1° Where the child has a lawfully established parentage only with regard to that spouse;

1° bis. When the child has been the object of a plenary adoption by this spouse alone and the child only has a filiation established to that spouse.

2° Where the parent other than the spouse has been totally deprived of parental authority;

3° Where the parent other than the spouse is dead and has left no ascendant of the first degree or where the latter obviously took no further interest in the child.

Article 346

No one may be adopted by several persons except by two spouses.

However, a new adoption may be declared either after the death of the adoptive parent or the two adoptive parents or after the death of one of the two adopters if the request is made by the new spouse of the survivor.

Article 347

May be adopted:

1° Children to the adoption of whom the father and mother or the family council have validly consented;

2° Wards of the State;

3° Children declared abandoned in the conditions stated in Article 350.

Article 348

Where the filiation of a child is established with regard to his father and mother, the latter must both consent to the adoption.

Where one of them is dead or unable to express his or her consent or has lost his or her rights of parental authority, the consent of the other suffices.

Article 348-1

Where the filiation of a child is established only with regard to one of his parents, that one shall give the consent to adoption.

Article 348-2

When the father and mother of the child are dead, unable to express their will or if they have been deprived of their rights of parental authority, consent shall be given by the family council, after advice of the person who actually takes care of the child.

It shall be likewise where the parentage of the child is not established.

Article 348-3

Consent to the adoption shall be given before a French or foreign notary, or before French diplomatic or consular agents. It may also be received by the Children's aid service where the child was entrusted to them.

Consent to adoption may be withdrawn within two months. The withdrawal must be made by registered letter with acknowledgment of receipt addressed to the person or service that received the consent to adoption. The handing over of the child to his parents on even verbal request shall also be treated as proof of the withdrawal.

Where, on the expiry of the period of two months, consent was not withdrawn, the parents may still request restitution of the child, provided that he has not been placed for purpose of adoption. If the person who received him refuses to give him back, the parents may refer the matter to the court which, taking into account the interest of the child, shall determine whether there is occasion to order his restitution. By effect of restitution, a consent to adoption lapses.

Article 348-4

Where the father and mother or the family council consent to the adoption of a child by entrusting him to the Children's aid service or to an organization authorized for the purpose of adoption, the choice of the adopter is left to the tutor with the agreement of the family council of the wards of the State or of the family council of the tutorship organized on the initiative of the organization authorized for the purpose of adoption.

Article 348-5

Except where there exists a bond of relationship by blood or by marriage up to the sixth degree inclusive between the adoptive parent and the adopted person, the consent to adoption of children under two years old is valid only if the child was actually entrusted to the Children's aid service or to an organization authorized for adoption purposes.

Article 348-6

The court may issue an adoption order should it consider abusive the refusal of consent raised by the parents or by one of them only, when they took no further interest in the child at the risk of endangering his health or morality.

It shall be likewise in case of abusive refusal of consent by the family council.

Article 349

As regards the wards of State whose parents did not consent to an adoption, consent shall be given by the family council of those wards.

Article 350

A child received by a private person, an establishment or a children's aid service, whose parents obviously took no further interest to him during the year preceding the institution of a petition for declaration of abandonment, shall be declared abandoned by the tribunal de grande instance, and without prejudice to the provisions of paragraph 4. The petition for declaration of abandonment is required to be transmitted by the private person, the establishment body or the children's aid service who has received the child on the expiration of a period of one year when the parents obviously took no further interest in the child.

Parents who have not maintained with their child the relations necessary to preserve bonds of affection are deemed clearly to have no interest in their child.

The mere withdrawal of consent to adoption, a request for news or a wish expressed but not carried out to take the child back is not a sufficient sign of interest to constitute the ground of a dismissal as of right of a petition for declaration of abandonment. Those steps may not interrupt the period set out in paragraph 1.

Abandonment may not be declared where, during the period set out in paragraph 1 of this Article, a member of the family petitioned to assume care of the child and where that petition is declared to be consonant with the interest of the child.

When it declares that the child is abandoned, the court shall, by the same order, delegate the rights of parental authority over the child to the children's aid service, to the establishment or to the private person who received the child or to whom the latter was entrusted.

A third party opposition is admissible only in case of dol-deceit, fraud or error as to the identity of the child.

Section 2. Placement for the purpose of plenary adoption and judgment of plenary adoption

Article 351

Placing for the purpose of adoption must be made by actually entrusting to the prospective adoptive parents a child for whom a valid and final consent to adoption was given, a ward of State or a child declared abandoned by judicial decision.

When the filiation of the child is not established, there may be no placing for purpose of adoption during a period of two months after the child has been taken in.

Placing may not take place where the parents of the child have petitioned for the restitution of the child so long as there is no decision on the conclusiveness of that petition at the request of the most diligent party.

Article 352

Placing for the purpose of adoption is a bar to a restitution of the child to his family of origin. It defeats any declaration of filiation and any acknowledgement.

If a placing for the purpose of adoption comes to an end or if the court refuses to declare the adoption, the effects of placing are retroactively set aside.

Article 353

The adoption order is issued at the request of the adoptive parent by the tribunal de grande instance which shall verify within six months after reference to the court, whether the statutory requirements are fulfilled and whether the adoption is consonant with the interest of the child.

In the event the adoptive parent has descendants, the court shall ascertain in addition, that the adoption is not likely to imperil family life.

If the adoptive parent dies after having properly taken in the child for purpose of his adoption, the petition may be filed on his or her behalf by the surviving spouse or by one of the adoptive parent's heirs.

If the child dies after having been properly taken in for purpose of its adoption, the petition may nevertheless be filed. The judgment has effect on the day preceding the death and entails only modification of the civil status of the child.

The judgment declaring the adoption does not state its reasons.

Article 353-1

In case of an adoption of a ward of State, of a child entrusted to an organization authorized to handle adoptions, or of an alien child who is not the child of the adoptive parent's spouse, the court shall verify before granting an adoption order that the petitioner or petitioners have received the authorization to adopt or were dispensed with it.

If the authorization was refused or was not issued within the statutory period, the court may issue an adoption order if it considers that the petitioners have the ability to take in the child and that the adoption is consonant with his interest.

Article 353-2

A third party opposition to the order of adoption is admissible only in case of dol-deceit or fraud imputable to the adoptive parents.

Dol-deceit under the first paragraph includes concealing from the tribunal the preservation of bonds between the adopted child and a third person, decided by the judge for family matters under Article 371-4.

Article 354

Within fifteen days of the date on which it came into force of res judicata, the order pronouncing plenary adoption shall be registered on the registers of civil status of the place of birth of the adopted child, at the request of the State prosecutor.

When the adopted child was born in a foreign country, the order shall be registered on the registers of the central service of civil status of the Ministry of Foreign Affairs.

The registration shall state the day, hour and place of birth, the sex of the child as well as his family name and first names such as they result from the adoption order, the first names, names, date and place of birth, occupation and domicile of the adoptive parent or parents. It may not contain any indication as to the actual filiation of the child.

The registration takes the place of a record or act of birth for the adopted child.

The original act of birth kept by an officer of the French civil status and, where appropriate, the act of birth established under Article 58 shall, at the request of the State prosecutor, be stamped with the mention "adoption" and treated as void.

Section 3. Effects of plenary adoption

Article 355

Adoption produces its effects from the day of the filing of the petition for adoption.

Article 356

Adoption confers on the child a filiation which is substituted to his original filiation: the adopted child ceases to belong to his blood family, subject to the prohibitions of marriage referred to in Articles 161 to 164.

However, an adoption of the spouse's child still leaves extant his original filiation with regard to that spouse and his or her family. It produces, furthermore, the effects of an adoption by two spouses.

Article 357

Adoption confers on the child the family name of the adoptive parent.

In case of the adoption of the child of the other spouse, or of the adoption of a child by two spouses, the adoptive parent and his spouse or the adoptive spouses choose, by joint declaration, the family name given to the child: either the name of one of them, or their two names side by side in the order they choose, up to one family name from each of them.

This ability to choose may only be used once.

In the absence of a joint declaration specifying the choice of the name of the child, he shall take the name of the adoptive parent and his spouse or of each one of the two spouses adopting, within the limit of the first family name for each of them, in alphabetical order.

When Article 311-21, or paragraph two of Article 311-23, or the present article is applied with respect to a child in common, the name previously given or chosen applies to the adopted child.

When the adoptive parents or one of them has a double family name, they may, by a joint, written declaration, give only one name to the adopted child.

Upon the demand of the adoptive parent or parents, the tribunal may modify the first names of the child.

Article 357-1

Except for its final paragraph, Article 357 applies to a child who was the subject of an adoption lawfully ordered abroad and having in France the effects of a plenary adoption.

The adoptive parents shall exercise the option available under that Article at the time of the request for registration of an adoption order by declaration sent to the State prosecutor of the place where that registration is to be made.

When the adoptive parents request the exequatur or order for enforcement of a foreign judgment of adoption, they shall join the declaration of option to their request. Mention of that declaration shall be made in the decision.

Mention of the name chosen shall be made at the behest of the State prosecutor in the child's act of birth.

Article 358

The adopted child has, in the family of the adoptive parent, the same rights and obligations as a child whose filiation is established under Title VII of this Book.

Article 359

Adoption is irrevocable.

CHAPTER II. SIMPLE OR ORDINARY ADOPTION

Section 1. Necessary conditions and judgment

Article 360

Simple or ordinary adoption is allowed irrespective of the age of the adopted person.

Where there are serious reasons justifying it, the simple adoption of a child who was the subject of a plenary adoption is allowed.

The child previously adopted by one person only, either by means of a simple or a plenary adoption, may be adopted a second time, by means of a simple adoption by the spouse of the spouse who had previously adopted.

If the adopted child is over thirteen, he must personally consent to the adoption.

Article 361

The provisions of Articles 343 to 344, of the last paragraph of Article 345, of Articles 346 to 350, 353, 353-1, 353-2, 355, and of the last two paragraphs of Article 357, shall apply to simple adoption.

Article 362

Within fifteen days of the date on which it becomes res judicata, the judgment pronouncing the simple adoption must be mentioned or registered on the registers of civil status at the request of the State prosecutor.

Section 2. Effects of simple or ordinary adoption

Article 363

The simple adoption confers the name of the adoptive parent on the adopted child by adding it to the name of the latter. Nevertheless, if the adoptee is an adult, he must consent to this addition.

When the adoptee and the adoptive parent, or one of them, bears a double family name, the name conferred on the adoptee results from the addition of the adoptive parent's name to his own name, within the limit of one name for each of them. The choice of the name added as well as the order of the two names, belongs to the adoptive parent, who must obtain the consent of the adoptee when the latter is older than thirteen. In case

of disagreement or failing a choice, the name conferred on the adoptee results from the adjunction in second position of the first name of the adoptive parent to the first name of the adoptee.

In case of an adoption by two spouses, the name added to that of the adoptee shall be, at the request of the adoptive parents, that of one of them, limited to one name. If the adoptee bears a double family name, the choice of the name is preserved and the order of the names added belongs to the adoptive parents, who must obtain the consent of the adoptee where he is older than thirteen. In case of disagreement or failing a choice, the name conferred on the adoptee results from the adjunction in second position of the adoptive parents' first name in alphabetical order to the adoptee's first name.

The court, however, may at the request of the adoptive parent, decide that the adoptee will bear only the name of the adoptive parent, or in case of adoption of the child of the spouse, that the adoptee will keep his name of origin. In case of an adoption by two spouses, the family name substituted to that of the adoptee may, at the choice of the adoptive parents, be either the name of one of them, or the coupled names of the spouses in the order they choose and within the limit of one name for each of them. That request may also be filed after the adoption. If the adoptee is older than thirteen, his personal consent to that substitution of a family name is required.

Article 363-1

The provisions of Article 363 shall apply to a child who has been the subject of an adoption lawfully declared abroad and which has in France the effects of a simple or ordinary adoption, when the act of birth of the adoptee is kept by a French authority.

The adoptive parents exercise the option available under this Article by a declaration sent to the State prosecutor of the place where the act of birth is kept on the occasion of a request for updating it.

Mention of the name chosen is entered on the act of birth of the child, at the behest of the State prosecutor.

Article 364

The adoptee remains in his family of origin and preserves all his rights, in particular his rights of inheritance.

The prohibitions to marriage provided for in Articles 161 to 164 of this Code apply between the adoptee and his family of origin.

Article 365

The adoptive parent is, with regard to the adoptee, alone vested with all the rights of parental authority, including that of consenting to the marriage of the adoptee, unless she or he is the spouse of the father or of the mother of the adoptee; in that case, the adoptive parent has parental authority concurrently with his or her spouse, who retains alone the exercise of it, subject to a joint declaration with the adoptive parent to be forwarded to the chief clerk of the tribunal de grande instance for the purpose of an exercise in common of that authority

The rights of parental authority are exercised by the adoptive parent or parents on the terms provided for by Chapter I of Title IX of this Book

The rules of statutory administration and of guardianship of minors shall apply to an adoptee.

Article 366

The bond of kinship resulting from adoption extends to the children of the adoptee.

Marriage is prohibited:

1° Between the adoptive parent, the adoptee and his descendants;

2° Between the adoptee and the adoptive parent's spouse; reciprocally, between the adoptive parent and the adoptee's spouse;

3° Between the adopted children of the same individual;

4° Between the adopted and the adoptive parent's children.

Nevertheless, the prohibitions of marriage provided for in 3° and 4° above may be lifted by dispensation of the President of the Republic, when there are serious reasons.

The prohibition of marriage provided for in 2° above may be lifted in the same conditions where the person who created the kinship is deceased.

Article 367

An adoptee owes maintenance to the adoptive parent when he is in need and, reciprocally, an adoptive parent owes maintenance to the adoptee. The father and mother of the adoptee are bound to provide maintenance to him only where he cannot obtain it from the adoptive parent. The obligation to provide his father and mother with maintenance ceases for the adoptee when he becomes a ward of the State or is being taken care of within the delays provided in Article L. 132-6 of the Code of Social Action and of Families.

Article 368

The adoptee and his descendants have, in the family of the adoptive parent, the rights of succession provided for in Book III, Title I, Chapter III.

The adoptee and his descendants do not have, however, the status of forced heirs with regard to the ascendants of the adoptive parent.

Article 368-1

In the succession of the adoptee, in the absence of descendants and surviving spouse, the assets given by the adoptive parent or received in his succession return to the adoptive parent or his descendants, if these assets still exist in kind at the time of the death of the adoptee, subject to the charge to contribute to the debts and subject to the vested rights acquired by third parties. The assets received gratuitously by the adoptee from his father and mother shall return likewise to the latter or to their descendants.

The surplus of the assets of an adoptee shall be divided in halves between the family of origin and the adoptive parents' family.

Article 369

The effects of an adoption continue notwithstanding the subsequent establishment of a parental bond of kinship.

Article 370

When serious reasons so justify, adoption may be revoked, on request of the adoptive parent or the adoptee or, when the latter is a minor, of that of the State Prosecutor’s office.

The request for revocation made by the adoptive parent is admissible only where the adoptee is over fifteen.

Where the adoptee is a minor, the father and mother by blood or, failing them, a member of the family of origin up to the degree of first cousin included, may also request the revocation.

Article 370-1

The court judgment revoking the adoption must state its reasons.

Its operative part shall be mentioned in the margin of the act of birth or of the recordation of the judgment of adoption as provided in Article 362.

Article 370-2

Revocation causes all the effects of adoption to cease for the future, except for the modification of first names.

CHAPTER III. CONFLICT OF LAWS RELATING TO ADOPTION AND THE EFFECTS IN FRANCE OF ADOPTIONS PRONOUNCED ABROAD

Article 370-3

The requirements for an adoption are governed by the national law of the adoptive parent or, in case of adoption by two spouses, by the law which governs the effects of their union. An adoption however may not be declared when it is prohibited by the national laws of both spouses.

Adoption of a foreign minor may not be declared when his personal law prohibits such an institution, unless the minor was born and resides usually in France.

Whatever the applicable law may be, adoption requires the consent of the legal representative of the child. The consent must be free, obtained without any compensation, subsequent to the birth of the child and informed as to the consequences of adoption, especially when it is given for the purpose of a plenary adoption, as to the full and irrevocable character of the breaking off of the pre-existing kinship bond.

Article 370-4

The effects of an adoption declared in France are those of French law.

Article 370-5

An adoption lawfully declared in a foreign country produces in France the effects of a plenary adoption if it breaks off completely and irrevocably the pre-existing kinship bond. If it does not, it produces the effects of a simple adoption. It may be converted into a plenary adoption where the required consents were given expressly and in full awareness.

TITLE IX. PARENTAL AUTHORITY

Chapter I. Parental authority over the person of the child

Article 371

A child, at any age, owes honor and respect to his father and mother.

Article 371-1

Parental authority is a cluster of rights and duties whose finality is the interest of the child.

It is vested in the father and mother until the majority or emancipation of the child in order to protect him in his security, health and morality, to ensure his education and allow his development, with all due respect owed to his person.

The parents shall make a child a party to decisions that concern him, according to his age and degree of maturity.

Article 371-2

Each one of the parents shall contribute to the education and support of the children in proportion to his or her means, to those of the other parent and to the needs of the child.

That obligation does not come to an end as of right where the child is of age.

Article 371-3

The child may not, without the permission of the father and mother, leave the family home and he may be removed from it only in cases of necessity as determined by statute.

Article 371-4

The child has the right to have personal relations with his grandparents. Only the interest of the child may be an obstacle to the exercise of this right.

If the interest of the child so requires, the judge for family matters fixes the modes of the relations between the child and a third person, relative or not, in particular when this third person has resided in a stable manner with him and with one of his parents, has seen to his education, his support, or his establishment, and has built a durable emotional bond with him.

Article 371-5

A child may not be separated from its brothers and sisters, unless this is not possible or where his interest dictates a different solution. If there is occasion, the judge shall rule on the personal relations between the brothers and sisters.

Section 1. Exercise of parental authority

Sub-article 1: General principles

Article 372

The father and mother shall exercise parental authority in common.

Where, however, parentage is established with regard to one of them more than one year after the birth of a child whose parentage is already established with regard to the other, the latter alone remains vested with the exercise of parental authority. It shall be likewise when the filiation is judicially declared with regard to the second parent of the child.

The parental authority may however be exercised in common in case of joint declaration of the father and mother addressed to the chief clerk of the tribunal de grande instance or upon decision of the judge for family matters.

Article 372-2

Where one of the parents performs alone a usual act of parental authority concerning the person of the child, he or she shall be considered to be acting with the consent of the other with regard to third parties in good faith.

Article 373

Shall be deprived of the exercise of parental authority the father or mother who is unable to express his or her intention, by reason of a disability, absence or any other cause.

Article 373-1

Where one of the father and mother dies or is deprived of the exercise of parental authority, the other shall exercise that authority alone.

Sub-article 2. The Exercise of Parental Authority by Separated Parents

Article 373-2

Separation of the parents has no influence on the rules of devolution of the exercise of parental authority.

Each of the father and mother shall maintain personal relations with the child and respect the bonds of the latter with the other parent.

Any change of residence of one of the parents, when it modifies the terms and conditions of exercise of parental authority, shall be the subject of a preliminary notice to the other parent, in due time. In case of disagreement between them, the most diligent parent shall refer the matter to the family law judge who shall rule according to what is required by the child's interest. The judge shall apportion the transportation expenses and adapt accordingly the amount of the contribution to the support and education of the child.

Article 373-2-1

Should the interest of the child so require, the judge may entrust the exercise of parental authority to one of the two parents.

The exercise of the right to visit and of housing may be refused to the other parent only for serious reasons.

When, in accordance with the interest of the child, the continuity and the effectiveness of the bonds of the child with his parent who does not have the exercise of parental authority require it, the family law judge may provide for a right of visit in a meeting place designated for that purpose.

When the interest of the child requires it or when the direct handing over of the child to the other parent presents a danger for one of them, the judge shall lay down the conditions to provide all the necessary assurances. He may provide that it shall take place in a meeting place that he designates, or with the assistance of a trusted third party or of the representative of a qualified juridical person.

The parent who does not have the exercise of parental authority shall keep the right and the duty to supervise the support and education of the child. He or she must be given notice of the important choices relating to the life of the child. He or she shall comply with the obligation that devolves upon him or her under Article 371-2.

Article 373-2-2

In case of a separation between the parents, or between the latter and the child, the contribution to his support and education shall take the form of alimony payments to be paid, according to the circumstances, by one of the parents to the other, or to the person to whom the child is entrusted.

The terms and guarantees of these alimony payments shall be fixed by the approved agreement referred to in Article 373-2-7 or, failing which, by the judge.

Those payments may in whole or in part take the form of a direct assumption of responsibility of the costs incurred on behalf of a child.

They may in whole or in part be carried out under the form of a right of use and dwelling.

Article 373-2-3

Where the consistence of the debtor's assets so permits, the alimony payment may be replaced, in whole or in part, under the terms and guarantees provided for by the approved agreement or by the judge, by the payment of a sum of money in the hands of an accredited organization responsible for granting as counterpart to the child an index-linked annuity, a surrender of assets in usufruct or an allocation of assets yielding income.

Article 373-2-4

The granting of additional means, in particular under the form of an alimony payment, may, if there is occasion, be requested later on.

Article 373-2-5

The parent who has the primary responsibility of taking care of an adult child who cannot by himself meet his own needs may ask the other parent to pay a contribution to his support and education. The judge may decide or the parents agree that this contribution be paid in whole or in part into the hands of the child.

Sub-article 3. Intervention of the family law judge

Article 373-2-6

The family law judge of the tribunal de grande instance shall settle issues brought before him in the framework of this Chapter while watching in particular over the protection of the interest of minor children.

The judge may take measures enabling to guarantee the continuity and effectiveness of preservation of the bonds that the child has with each of his parents.

He may in particular prohibit the child's departure from the territory without the authorization of the two parents. This prohibition to leave the territory without the authorization of the two parents is recorded in the files of those persons whom the State prosecutor is looking for.

Article 373-2-7

Parents may seize the family law judge to have approved the agreement through which they organize the terms of exercise of parental authority and establish their contributions to the support and education of the child.

The judge shall approve the agreement unless he observes that it does not sufficiently protect the interest of the child or that the consent of the parents was not freely given.

Article 373-2-8

The judge may also be seized by one of the parents or the State prosecutor, who may himself be seized by a third person, relative or not, for the purpose of ruling upon the terms of exercise of the parental authority and upon the contribution to the support and education of the child.

Article 373-2-9

In compliance with the two preceding Articles, the residence of a child may be fixed alternately at the domicile of each of the parents or at the domicile of one of them.

At the request of one of the parents or in case of disagreement between them about the mode of residence of the child, the judge may order provisionally an alternate residence of which he shall determine the duration. At the expiry of it, the judge shall definitely rule on the residence of the child alternately at the domicile of each of the parents or at the domicile of one of them.

When the residence of the child is fixed at the domicile of one of the parents, the judge for family matters rules on the forms of the visitation right of the other parent. This visitation right, when the interest of the child requires it, may be exercised in a meeting place designated by the judge.

When the interest of the child requires it or when the direct handing over of the child to the other parent presents a danger for one of them, the judge shall lay down the conditions to provide all the necessary assurances. He may provide that it shall take place in a meeting place that he designates, or with the assistance of a trusted third party or of the representative of a qualified juridical person.

Article 373-2-10

In case of disagreement, the judge shall endeavor to conciliate the parties.

For the purpose of making easier the search by the parents of a consensual exercise of parental authority, the judge may offer them a measure of mediation and, after having received their agreement, designate a family mediator who will initiate it.

He may call upon them to meet with the family mediator who will acquaint them with the subject and progress of such a measure.

Article 373-2-11

Where he rules on the terms and conditions of exercise of parental authority, the judge shall take into consideration in particular:

1° The practice previously followed by the parents or the agreements they had entered into earlier;

2° The feelings expressed by the minor child as provided for in Article 388-1;

3° The capacity of each parent to assume his or her duties and to respect the rights of the other;

4° The result of court-ordered expert assessments possibly carried out, taking into account in particular the age of the child;

5° All information collected in possible social enquiries and counter-enquiries provided for in Article 373-2-12.

6° Duress or violence, physical or psychological, carried out by one of the parents upon the person of the other

Article 373-2-12

Before any decision fixing the terms and conditions of the exercise of parental authority and of the right of visitation, or entrusting the children to a third person, the judge may assign the task of undertaking a social enquiry to any qualified person. This is for the purpose of collecting information on the situation of the family and on the conditions in which the children live and are educated.

If one of the parents contests the conclusions of the social inquiry, a counter-inquiry may be ordered on his or her request.

A social inquiry may not be used in a trial on the cause of the divorce.

Article 373-2-13

The provisions included in an approved agreement as well as the decisions relating to the exercise of parental authority may be modified or completed at any time by the judge, at the request of the parents or of a parent or of the State Prosecutor’s office, who himself may be seized by a third person, a relative or not.

Sub-article 4. Intervention of Third Persons

Article 373-3

The separation of the parents is not a bar to the devolution provided for by Article 373-1, even when the parent who remains able to exercise the parental authority was deprived of the exercise of some attributes of that authority by the effects of a judgment delivered against him or her.

The judge may, by way of exception and when the interest of the child so requires, in particular when one of the parents is deprived of the exercise of the parental authority, decide to entrust the child to a third person, chosen preferably among his relatives. He shall be seized and shall rule as per Articles 373-2-8 and 373-2-11.

In exceptional circumstances, the judge for family matters who decides on the terms and conditions of the exercise of parental authority after a separation of the parents may decide, even in the lifetime of the parents, that in the case of death of the parent who exercises parental authority, the child may not be entrusted to the survivor. He may, in that case, designate the person to whom the child shall temporarily be entrusted.

Article 373-4

Where the child has been entrusted to a third party, the parental authority shall continue to be exercised by the father and mother; however, the person to whom the child was entrusted shall perform all the usual acts regarding his supervision and education.

The judge for family matters, when he temporarily entrusts the child to a third person, may decide that the latter shall require the establishment of a guardianship.

Article 373-5

If neither the father nor the mother is in a condition to exercise parental authority, a tutorship shall be opened as provided in Article 390 below.

Article 374-1

The court which rules on the establishing of a filiation may decide to entrust the child temporarily to a third person who will be in charge of demanding the organization of a tutorship.

Article 374-2

In all cases provided for in this Title, the tutorship may be established even when there is no property to be administered.

It shall be then organized in accordance with the provisions of Title X.

Section 2. Educational Assistance

Article 375

If the health, security or morality of an unemancipated minor are threatened, or if the conditions of his education or his physical, emotional, intellectual and social development are seriously endangered, measures of educational assistance may be judicially ordered on request of the father and mother jointly, or of one of them, of the person or body to whom the child was entrusted or of the guardian, of the minor himself or of the State Prosecutor's office. In the cases where the State Prosecutor's office has been advised by the president of the conseil genéral-general council, he assures himself that the situation of the minor is within the purview of Article L. 226-4 of the Code of Social Action and of Families. Exceptionally, the judge may be seized of his own motion.

They may be ordered at the same time with regard to several children dependent on a same parental authority.

The decision shall fix the duration of the measure without that measure exceeding two years, when it relates to an educational measure implemented by a service or an institution. The measure may be renewed by a decision setting out the grounds on which it is based.

Nevertheless, when the parents present serious relational and educational difficulties, both severe and chronic, judged to be so in the current state of our understanding, and durably affecting their ability to carry out their parental duties, a measure of custody by a service or an institution may be ordered for a longer period, in order to enable the child to benefit from a relational, emotional, and geographic continuity at the place where he lives when it is adapted to his immediate and future needs.

A report concerning the situation of the child must be communicated to the juvenile judge on a yearly basis.

Article 375-1

The juvenile judge shall have jurisdiction, subject to appeal, in all matters relating to educational assistance.

He shall always endeavor to secure the adhesion of the family to the measure contemplated and to rule in strict consideration of the interest of the child.

Article 375-2

Whenever possible, a minor must be kept in his present circle. In that case, the judge shall designate, either a qualified person, or a service of observation, education or rehabilitation in the open community, with the mission of bringing aid and counsel to the family in order to overcome the material or moral difficulties which it is encountering. That person or service shall be responsible for following the development of the child and making a periodical report about it to the judge.

When he entrusts a minor to a service mentioned in the first paragraph, he may authorize the latter to provide him with a special or periodic housing on the condition that this service be specifically qualified for this purpose. Each time that it houses the minor under this authorization, the service without delay informs his parents or his legal representatives as well as the juvenile judge and the president of the general council-conseil général. Any disagreement regarding this housing shall be referred to the judge.

The judge may also make the keeping of the child in his surroundings conditional on specific obligations, such as that of regularly attending a medical or educational institution, ordinary or specialized, if need be in a boarding school, or of exercising a professional activity.

Article 375-3

If the protection of the child requires it, the juvenile judge may decide to entrust him:

1° To the other parent;

2° To another member of the family or to a trustworthy third person;

3° To a children's aid service of the department;

4° To a service or an institution qualified to welcome minors by the day or following any other mode of taking charge of the child;

5° To a medical or educational, ordinary or specialized, service or institution.

Nevertheless, if a petition for divorce was filed or a divorce judgment handed down between the father and mother, or if a petition for a ruling on the residence and their rights to visit a child has been filed or a decision rendered between the father and the mother, those measures may be taken only if a new circumstance likely to endanger the minor is revealed after the decision ruling on the terms of exercise of parental authority or entrusting the child to a third person. They may not be a bar to the right of the judge for family matters to decide, under Article 373-3, to whom the child is to be entrusted. The same rules shall apply to judicial separation.

Article 375-4

In the circumstances specified in 1°, 2° 4° and 5° of the preceding Article, the judge may assign either to a qualified person, or to a service of observation, education or rehabilitation in the open community, the mission of bringing aid and counsel to the person or the service to whom the child was entrusted, as well as to the family, and of following the development of the child.

In all cases, the judge may match the handing over of the child with the same terms as under Article 375-2, paragraph 3. He may also decide that periodical reports shall be made to him as to the situation of the child.

Article 375-5

Provisionally, but subject to appeal, the judge may, pending the suit, either order the provisional handing over of the minor to a rest or observation center, or take one of the measures provided for in Articles 375-3 and 375-4.

In case of emergency, the State prosecutor of the place where the child was found shall have the same power, with the obligation of referring the matter within eight days to the competent judge who shall maintain, vary or revoke the measure. If the condition of the child allows it, the State prosecutor fixes the nature and frequency of the right to correspond, visit and house of the parents, subject to revision if the interest of the child requires it.

Article 375-6

The decisions taken in matters of educational assistance may, at any time, be modified or revoked by the judge who took them, either of his own motion, or at the request of the father and mother jointly or of one of them, or of the person or service to whom the child was entrusted or of the guardian, or the minor himself or the State Prosecutor's office.

Article 375-7

The father and mother whose child gave occasion for a measure of educational assistance keep their parental authority over him and exercise all the attributes of it that are not incompatible with the implementation of the measure. They may not emancipate the child without authorization of the juvenile judge, while the measure of educational assistance is being implemented.

Without prejudice to Article 373-4 and to the particular provisions authorizing a third party to accomplish an act not usually done without the consent of the holders of parental authority, the juvenile judge may exceptionally, in all cases in which the interest of the child justifies it, authorize the person, the service, or the institution to which the child is entrusted to exercise an act deriving from parental authority in case of an abusive or unjustified refusal or of neglect by the holders of parental authority, with the obligation that the claimant prove the necessity of this measure.

The place where the child will be received should be sought in his interest and in order to make easier the exercise of the right of visitation and of accommodations by the parent or parents and the maintenance of bonds with his siblings under Article 371-5.

If it was necessary to entrust the child with a person or an institution, his parents keep a right of correspondence as well as a right of visit and of accommodation. The judge shall fix the terms thereof and may if the interest of the child so requires, decide that the exercise of these rights or of one of them shall be temporarily suspended. He may also decide that the right to visit of the parent or parents may be exercised only in the presence of a third party designated by the institution or the service to which the child is entrusted.

If the situation of the child permits, the judge fixes the nature and frequency of the rights of visitation and accommodation and may decide that the conditions of their exercise are set jointly between the holders of parental authority and the person, the service, or the institution to whom the child is entrusted, in a document that is transmitted to him. He has jurisdiction in case of disagreement.

The judge may decide on the terms of the placement of the child in consideration of his interest. If the interest of the child requires it or in case of danger, the judge decides to divulge or not the name of the place where the child is.

When the judge applies Articles 375-2, 375-3, or 375-5, he may also order that the child not be taken out of the territory. The decision fixes the duration of this prohibition, which may not exceed two years. This prohibition to leave the territory is recorded on the list of persons sought by the State prosecutor.

Article 375-8

The expenses of support and education of the child who was the subject of a measure of educational assistance continue to devolve upon its father and mother as well as upon his ascendants from whom maintenance may be claimed, except for the power of the judge to discharge them of it in whole or in part.

Article 375-9

The judgment which, under Article 375-3, 5°, entrusts the minor to an institution which receives persons admitted by reason of mental diseases, shall be handed down after detailed medical advice from a physician not belonging to the institution, for a duration which may not exceed fifteen days.

The measure may be renewed, after medical assent given by a psychiatrist of the receiving institution, for a duration of one month, renewable.

Section 2-1. Judicial Measures to Aid in the Management of the Family Budget

Article 375-9-1

When the family prestations or the active solidarity income provided to persons in isolation referred to under Article L. 262-9 of the Code of Social Action and of Families are not used for needs linked to lodging, to support, to health, and to education of children, and when the accompaniment in social and family economy provided under Article L. 222-3 of the Code of Social Action and of Families does not appear sufficient, the judge of the children's court may order that these sums be paid, in whole or in part, to either a qualified physical or juridical person, called the "delegate for family prestations."

This delegate makes all decisions, while attempting to obtain the agreement of the beneficiaries of the family prestations or of the allocation specified in the first paragraph, and while attempting to respond to needs relating to the support, the health, and the education of the children; the delegate exercises with the family an educational function, aimed at establishing the conditions for an autonomous management of the prestations.

The list of the persons authorized to call on the judge for the purpose of ordering this measure is fixed by decree.

The decision sets the duration of this measure. The duration may not exceed two years. It may be renewed by a reasoned decision.

Article 375-9-2

The mayor or his representative on the council for the rights and duties of families may call on the juvenile judge, together with the institution that is the debtor of the family prestations, to alert him, pursuant to Article 375-9-1, to the difficulties a family is experiencing. When the mayor has appointed a coordinator under Article L. 121-6-2 of the Code of Social Action and of Families, with the consent of the authority to which this professional is attached, he notifies the juvenile judge of the identity of this professional. The judge may appoint the coordinator to exercise the function of the delegate for family prestations.

The exercise of the function of the delegate for family prestations by the coordinator is governed by the rules of Article L. 474-3 and the first and second paragraphs of Article L. 474-5 of the Code of Social Action and of Families, as well as by Article 375-9-1 of this Code.

Section 3. Delegation of Parental Authority

Article 376

No renunciation or assignment of parental authority is effective, unless by way of a judgment in the cases specified below.

Article 376-1

A judge for family matters, when called to rule on the terms of exercise of parental authority or upon the education of a minor child or where he decides to entrust a child to a third person, may take into consideration the agreements that the father and mother may have willingly and freely made between themselves on this subject, unless one of them adduces serious reasons which allow him or her to revoke his or her consent.

Article 377

The father and mother, jointly or separately, may, where circumstances so require, call on the judge for the purpose of having delegated all or part of the exercise of their parental authority to a third person, a member of the family, a trustworthy close relative, an institution approved for receiving children or a children's aid service of the department.

In case of manifest lack of interest or if it is impossible for the parents to exercise all or part of their parental authority, the individual, the institution, or the children's aid service of the department that received the child, or a member of the family may also call on the judge for the purpose of having the parental authority delegated to them, in whole or in part.

In all the cases referred to in this Article, both parents shall be called to the proceedings. Where the child concerned is the subject of a measure of educational assistance, the delegation may occur only after the juvenile judge has given his opinion.

Article 377-1

The delegation, total or partial, of parental authority will follow from the judgment handed down by the judge for family matters.

However, the judgment of delegation may provide, for the needs of education of a child, that the father and mother, or one of them, shall share all or part of the exercise of the parental authority with the third person delegatee. That sharing shall require consent of the parent or parents in so far as they exercise the parental authority. The presumption in Article 372-2 shall apply with regard to the acts performed by the delegator or delegators and the delegatee.

The judge may be informed of the difficulties that a shared exercise of parental authority may cause to the parents, one of them, the delegatee or the State Prosecutor’s office. He shall rule in accordance with the provisions of Article 373-2-11.

Article 377-2

In all cases, delegation may come to an end or be transferred by a new judgment, where new circumstances are adduced.

In the case where the father and mother are granted the return of the child, the judge for family matters shall impose on them, unless they are destitute, the reimbursement of all or part of the expenses of support.

Article 377-3

The right to consent to the adoption of a minor may never be delegated.

Section 4. Total or Partial Withdrawal of Parental Authority

Article 378

By express provision of a criminal judgment, parental authority may be totally withdrawn from the father and mother who are sentenced either as perpetrators, co-perpetrators or accomplices of a criminal or ordinary offence committed on the person of their child, or as co-perpetrators or accomplices of a criminal or ordinary offence committed by their child, or as perpetrators, co-perpetrators, or accomplices in a criminal offense on the person of the other parent.

That withdrawal may be applied to ascendants other than the father and mother as regards that part of the parental authority which they may have over their descendants.

Article 378-1

The father and mother who, apart from any criminal sentence, either by maltreatment, or by an usual and excessive consumption of alcoholic beverages or drug addiction, or by a notorious misconduct or criminal activities or by lack of care or want of guidance, obviously endanger the security, health or morality of the child, may have the parental authority taken away.

The father and mother who, for more than two years, have intentionally abstained from exercising the rights and fulfilling the duties they retained under Article 375-7, may likewise have the parental authority taken away.

The action for total withdrawal or taking away of parental authority shall be brought before the tribunal de grande instance, either by the State Prosecutor’s office, or by a member of the family or by the child's tutor.

Article 379

The total withdrawal of the parental authority ordered under one of the two preceding Articles bears by operation of law, on all the attributes, patrimonial as well as personal, connected to the parental authority; in the absence of other determination, it extends to all the minor children already born at the time of the judgment.

It entails, for the child, dispensation from the obligation of support, as a derogation from Articles 205 to 207, unless otherwise provided by the judgment of withdrawal.

Article 379-1

Instead of a total withdrawal, the judgment may be confined to ordering a partial withdrawal of the parental authority, limited to the attributes it specifies. It may also decide that the total or partial withdrawal of parental authority will be effective only with regard to certain children already born.

Article 380

When ordering a total or partial withdrawal of parental authority or of the right of custody, the court seized shall, should the other parent have died or have lost the exercise of parental authority, either designate a third person to whom the child will be temporarily entrusted with the responsibility of requesting the organization of a tutorship, or entrust the child to the departmental children's aid service.

It may take the same measures when the parental authority is transferred to one of the parents as a consequence of the total withdrawal of parental authority ordered against the other.

Article 381

The father and the mother who have been the subject of a total withdrawal of parental authority or of a withdrawal of rights for one of the grounds provided for in Articles 378 and 378-1, may, by way of a petition, obtain from the tribunal de grande instance, by proving new circumstances, the restitution to them, in whole or in part, of the rights of which they had been deprived.

The application in restitution can be filed only one year at the earliest after the judgment ordering the total or partial withdrawal of the parental authority became irrevocable; in case of dismissal, the application may be renewed only after a new period of one year. No application will be admissible, when before the filing of the petition, the child will have been placed for the purpose of adoption.

If the restitution is granted, the State Prosecutor’s office shall, if there is occasion, call for measures of educational assistance.

CHAPTER II. Parental Authority over the Property of a Child

Article 382

The father and mother have, subject to the distinctions that follow, the administration and enjoyment of the property of their child.

Article 383

The legal administration shall be exercised jointly by the father and mother when they exercise in common the parental authority and, in the other cases, under judicial supervision, either by the father or by the mother, according to the provisions of the preceding Chapter.

The legal enjoyment is attached to the legal administration: it belongs either to the two parents jointly, or to the one of the father and mother who is responsible for the administration.

Article 384

The right of enjoyment comes to an end:

1° As soon as the child has completed sixteen years, or even earlier when he contracts marriage;

2° On account of the causes which put an end to the parental authority, or even more particularly, on account of those which put an end to the legal administration;

3° On account of the causes which involve the extinction of any usufruct.

Article 385

The charges of such enjoyment are:

1° Those to which usufructuaries are liable in general;

2° The feeding, supporting and educating the child, according to his wealth;

3° The debts which burden a succession received by the child to the extent that they should have been discharged out of the income.

Article 386

This enjoyment shall not take place for the benefit of the surviving spouse who has omitted to make an inventory, authentic or under private signature, of the property falling to the minor.

Article 387

The statutory enjoyment does not extend to the assets that the child may acquire through his work, nor to the assets which are donated or bequeathed to him under the express condition that the father and mother may not have enjoyment of them.

TITLE X. MINORITY AND EMANCIPATION

Chapter I. Minority

Article 388

A minor is an individual of either sex who has not yet reached the full age of eighteen years.

Article 388-1

In all proceedings relating to him, a minor capable of discernment may, without prejudice to the provisions contemplating his intervention or consent, be heard by the judge or, when his interest acquires it, the person appointed by the judge for that purpose.

This hearing is of right when the minor demands it. When the minor refuses to be heard, the judge weighs the justification for this refusal. He may be heard alone, with a counsel or a person of his choice. Where that choice does not appear to be consonant with the interest of the child, the judge may appoint another person.

The hearing of the minor does not confer on him the status of a party to the proceedings.

The judge makes sure that the minor has been informed of his rights to be heard and to be assisted by a lawyer.

Article 388-2

When, in the proceedings, the interests of a minor appear to be in conflict with those of his legal representatives, the judge of tutorships as provided for in Article 389-3, or, failing which, the judge who is seized of the case shall appoint an ad hoc administrator who has the responsibility to represent him.

Article 388-3

The judge of tutorships and the State prosecutor exercise a general oversight of the legal administrations and of the tutorships in their jurisdiction.

The legal administrators, tutors, and other tutelary organs are bound to comply with their summons and to communicate to them any information they require.

The judge may issue against them injunctions and sentence those who do not comply to pay the civil fine, as provided in the Code of Civil Procedure.

Section 1: Legal Administration

Article 389

If the parental authority is exercised in common by the two parents, they are the legal administrators. In other cases, the legal administration belongs to the parent who exercises the parental authority.

Article 389-1

The legal administration is pure and simple when the two parents exercise parental authority in common.

Article 389-2

The legal administration is under the review of the judge of tutorships when one of the two parents is deceased or is deprived of the exercise of the parental authority, and when there is a unilateral exercise of the parental authority.

Article 389-3

The legal administrator shall represent the minor in all civil acts, except in those cases in which statutory law or usage authorizes minors to act alone.

When his interests are opposed to those of the minor, he must have the judge of tutorships appoint an ad hoc administrator. If the legal administrator fails to do this, the judge may make this appointment upon the demand of the State prosecutor, of the minor himself, or sua sponte.

Assets that have been donated or bequeathed to the minor on the condition that they be administered by a third party are not subject to the legal administration. The third-party administrator has the powers entrusted to him by the act of donation or by the testament; otherwise, he has the powers of a legal administrator under judicial supervision.

Article 389-4

In the legal administration pure and simple, each of the parents is deemed, with respect to third parties, to have received from the other the power to accomplish alone those acts for which a tutor would need no authorization.

Article 389-5

In the legal administration pure and simple, parents together accomplish acts that a tutor could only do with the authorization of the family council.

If the parents do not agree, the act must be authorized by the judge of tutorships.

Even if the parents agree, they cannot sell by private agreement, nor contribute to a partnership an immovable or a business concern that belongs to the minor, nor borrow in his name, nor renounce a right on his behalf, without the authorization of the judge of tutorships. The same authorization is required for the amicable partition and the statement of liquidation must be approved by the judge of tutorships.

If the act causes a prejudice to the minor, the parents are liable for it solidarily.

Article 389-6

In the legal administration under judicial supervision, the administrator must obtain the authorization of the judge of tutorships to accomplish acts that a tutor could do only with an authorization.

He may do other acts alone.

Article 389-7

The rules of tutorship, for the rest, apply to the legal administration, with the adjustments resulting from the fact that the legal administration involves neither a family council nor a subrogated tutor, and without prejudice to the rights that the father and mother have under the title "Parental Authority," in particular regarding the education of the child and the usufruct of his assets.

Article 389-8

A minor of sixteen years of age may be authorized, by his two parents who exercise the parental authority in common or by his legal administrator under judicial supervision with the authorization of the judge of tutorships, to accomplish alone acts of administration necessary for the needs to create and manage an individual private limited liability company or a one-person partnership. Acts of alienation may be carried out only by his two parents or, failing that, by his legal administrator under judicial supervision with the authorization of the judge of tutorships.

The authorization referred to in the first paragraph takes the form of an act under private signature or of a notarial act and includes the list of acts of administration that the minor may accomplish.

Section 2. Tutorship

Sub-Section 1. On Opening and Ending Tutorship

Article 390

The tutorship opens when both the father and mother die or are deprived of the parental authority.

It also opens for a child whose filiation is not legally established.

There are no derogations to the particular statutes that govern the service of social assistance to children.

Article 391

In the case of the legal administration under judicial supervision, the judge of tutorships may, at any time, either sua sponte, or upon the demand of the parents or affines or of the state prosecutor's office, decide to open the tutorship after having heard or summoned, except in case of emergency, the legal administrator. The legal administrator may not, after the demand and until the final judgment, except in a case of an emergency, make any act that would require the authorization of the family council if the tutorship were open.

The judge of tutorships may also decide, but only for serious cause, to open the tutorship in the case of the pure and simple legal administration.

In both cases, if the tutorship is opened, the judge of tutorships calls together the family council, which may either appoint as tutor the legal administrator or appoint another person tutor.

Article 392

If a child is acknowledged by one of his two parents after the opening of the tutorship, the judge of tutorships may, upon demand by that parent, decide to replace the tutorship with legal administration as per article 389-2.

Article 393

Without prejudice to the provisions of article 392, the tutorship ends upon the emancipation of the minor or at his majority. It also ends when a judgment of mainlevée-release has acquired the force of res judicata or in case of the death of the person concerned.

Sub-Section 2: Organization and Functioning of Tutorship

Sub-article 1: Tutorship Charges

Article 394

Tutorship, as a protection owed to the child, is a public responsibility. This protection is a duty of the families and of the public community.

Article 395

May not exercise the different duties of tutorship:

1° Unemancipated minors, unless they are the father or the mother of the minor under tutorship;

2° Adults who benefit from a measure of legal protection provided under the present Code;

3° Persons from whom the parental authority has been taken away;

4° Persons to whom the exercise of the duties of tutorship is forbidden by Article 131-26 of the Penal Code.

Article 396

Any tutorship responsibility may be withdrawn on the grounds of unfitness, negligence, misconduct, or fraud of the person to whom it has been entrusted. It may also be withdrawn if litigation or a conflict of interests prevents the holder of the responsibility from exercising it in the interest of the minor.

A person to whom a tutorship responsibility has been entrusted may be replaced if there is a significant change in his own situation.

Article 397

The family council rules on impediments, withdrawals and replacements that concern the tutor and the subrogated tutor.

The judge of tutorships rules on those that involve the other members of the family council.

A tutorship charge may be withdrawn, by one who has entrusted it, only after its holder has been heard or summoned.

The judge may, if he determines that there is an emergency, order provisional measures in the interest of the minor.

Sub-article 2: The Family Council

Article 398

Even if there is a testamentary tutor and the tutorship is not vacant, the tutorship is organized with a family council.

Article 399

The judge of tutorships appoints the members of the family council for the duration of the tutorship.

The family council consists of at least four members, including the tutor and the subrogated tutor, but excluding the judge.

The family council may include as members the parents and affines of the father and mother of the minor, as well as any person, residing in France or abroad, who manifests an interest for the minor.

The members of the family council are chosen on the basis of the interest of the minor and according to their fitness, the habitual relations they maintained with the father or mother of the minor, the emotional bonds they have with the minor, as well as their availability.

The judge must avoid, as much as possible, leaving either the maternal or paternal branch without representation.

Article 400

The judge of tutorships presides at the family council. Its resolutions are adopted by a vote of its members.

However, the tutor or the subrogated tutor, when he replaces the tutor, does not vote.

If the votes are equally divided, the judge has the casting vote.

Article 401

The family council decides on the general conditions of support and education of the minor, taking into account the wishes that the father and mother might have expressed.

It decides on the indemnities that may be paid to the tutor.

It makes decisions and gives the tutor the necessary authorizations for the management of the assets of the minor, in conformity with the provisions of Title XII.

The family council authorizes the minor who is sixteen years old to accomplish by himself acts of administration necessary for the needs to create and manage an individual private limited liability company or a one-person partnership.

The authorization provided in the preceding paragraph takes the form of an act under private signature or of a notarial act and includes the list of acts of administration that the minor may carry out.

Article 402

The deliberations of the family council are null when they are affected by dol, deceit or fraud or when substantive formalities have been omitted.

The nullity is cured by a new deliberation having the effect of a confirmation under Article 1338.

The action in nullity may be exercised by the tutor, the subrogated tutor, the other members of the family council, and the State prosecutor within two years from the resolution as well as by the minor who has become

an adult or who has been emancipated within two years of his majority or his emancipation. Prescription does not run in case of dol, deceit or fraud so long as the fait that is the source of it has not been discovered.

Acts accomplished based on a resolution that has been annulled are themselves annullable in the same way. The time period runs nevertheless from the date of the act and not from the date of the resolution.

Sub-article 3: The Tutor

Article 403

The individual right to choose a tutor, whether or not a parent of the minor, belongs only to the survivor of the father and mother if he or she has kept, as of the date of his or her death, the exercise of the parental authority.

This choice can be made only in testamentary form or in a special declaration before a notary.

The choice is binding on the family council unless the interest of the minor requires that it be set aside.

The tutor named by the father or mother is not bound to accept the tutorship.

Article 404

If there is no testamentary tutor or if the person named in this capacity comes to cease his functions, the family council names a tutor for the minor.

Article 405

The family council may, in consideration of the situation of the minor, of the fitness of the persons involved, and the qualities of the patrimony to be administered, appoint several tutors to exercise together the measure of protection. Each tutor is deemed, with respect to third parties, to have received from the others the power to accomplish alone those acts for which a tutor would require no authorization.

The family council may decide to divide the exercise of the tutorship between one tutor in charge of the person of the minor and another tutor in charge of the management of his assets, or to entrust the management of certain particular assets to an ancillary tutor.

Unless otherwise decided by the family council, the tutors appointed under the second paragraph are independent and not responsible to each other. Nevertheless they inform each other of the decisions that they make.

Article 406

The tutor is appointed for the duration of the tutorship.

Article 407

Tutorship is a personal duty.

It does not pass on to the heirs of the tutor.

Article 408

The tutor takes care of the person of the minor and represents him in all acts of civil life, except in those instances where a statute or usages allow the minor to act on his own.

He represents the minor in court. Nevertheless, he may assert, as plaintiff or defendant, the extra patrimonial rights of the minor only after authorization or upon direction of the family council. The family council may also order the tutor to withdraw his demand or abandon the action, or to compromise.

The tutor manages the assets of the minor and gives an account of his management in conformity with the provisions of Title XII.

The tutor, after authorization by the family council, carries out the acts of disposition necessary for the needs to create and manage an individual private limited liability company or a one-person partnership.

Article 408-1

The assets or rights of a minor may not be transferred into a fiduciary patrimony.

Sub-article 4: The Tutor by Subrogation

Article 409

The tutorship may entail a subrogated tutor named by the family council from among its members.

If the tutor is a relative or affine of the minor in one branch, the subrogated tutor is chosen, as far as possible, from the other branch.

The responsibility of the subrogated tutor ends on the same date as that of the tutor.

Article 410

The subrogated tutor oversees the exercise of the tasks of the tutorships and represents the minor when the minor's interests are in opposition to those of the tutor.

The subrogated tutor is informed and consulted before any substantial act is accomplished by the tutor.

On pain of being personally liable to the minor, he oversees the acts made by the tutor as tutor and without delay informs the judge of tutorships if he determines that faults have been committed in carrying out the tasks of the tutorship.

He does not replace as a matter of law the tutor when the latter's functions end; but he is bound, upon the same liability, to cause the appointment of a new tutor.

Sub-article 5: Vacancies of the Tutorship

Article 411

If the tutorship remains vacant, the judge of tutorships refers the matter to the public agency with jurisdiction over social aid to children.

In that case, the tutorship involves neither a family council nor a subrogated tutor.

The person appointed to exercise this tutorship has, over the assets of the minor, the powers of a legal administrator under judicial supervision.

Sub-article 6: Liability

Article 412

All the organs of the tutorship are liable for harm resulting from any fault whatever that they commit in the exercise of their function.

When the fault at the origin of the harm is committed in the organization and functioning of the tutorship by the judge of tutorships, by the chief clerk of the tribunal of grande instance, or by the clerk, the

action in liability is brought against the State, which has an action for indemnity against the judge of tutorships.

Article 413

This action in liability prescribes in five years from the majority of the interested person, even if the management continued beyond that date, or from the end of the measure [of protection] when that occurs earlier.

CHAPTER II. - émancipation

Article 413-1

The minor is emancipated as a matter of law by marriage.

Article 413-2

The minor, even unmarried, may be emancipated when he reaches the full age of sixteen years.

After a hearing of the minor, this emancipation is declared, if there are just reasons, by the judge of tutorships, upon the demand of the father and mother or of one of them.

When the demand is submitted by one parent only, the judge decides, after having heard the other parent, unless it is impossible for the latter to manifest his will.

Article 413-3

The minor without father and mother may likewise be emancipated upon demand by the family council.

Article 413-4

When, under the preceding article, no initiative having been taken by the tutor, a member of the family council should determine that the minor is capable of being emancipated, the member may demand that the judge of tutorships call the family council together to deliberate on the question. The minor himself may call for this meeting.

Article 413-5

The accounting of the administration or of the tutorship, as the case may be, is provided to the emancipated minor as stated in Article 514.

Article 413-6

The emancipated minor is capable, as an adult, to carry out all acts of civil life.

Nevertheless, in order to marry or in order to give himself in adoption, he must observe the same rules that would apply if he had not been emancipated.

Article 413-7

The emancipated minor ceases to be under the authority of his father and mother.

They are not responsible, as a matter of law, as father or mother, for harm that he may cause to another after his emancipation.

Article 413-8

The emancipated minor may become a merchant upon authorization from the judge of tutorships as of the moment of the decision of emancipation and from the president of the tribunal of grande instance if the minor expresses this demand after his emancipation.

TITLE XI. MAJORITY AND ADULTS PROTECTED BY THE LAW

Chapter i. GENERAL PROVISIONS

Article 414

Majority is fixed at the full age of eighteen years; at this age, everyone is capable of exercising the rights he enjoys.

Section 1: Provisions Independent from Measures of Protection

Article 414-1

To make a valid act, one must be of sound mind. Those who seek the nullity on this ground must prove the existence of a mental disturbance at the time of the act.

Article 414-2

During his lifetime, the action in nullity may be brought only by the person immediately concerned.

After his death, the acts he had made, other than donations inter vivos and the testament, may be attacked only by his heirs for unsoundness of mind in the following cases:

1° If the act itself demonstrates a mental disturbance;

2° If the act was made when the person concerned was under judicial protection;

3° If an action has been brought before his death to open a tutorship or curatorship or if effect had been given to a mandate for future protection.

The action in nullity is extinguished by the delay of five years provided by Article 1304.

Article 414-3

He who has caused harm to another while under the control of a mental disturbance is nevertheless obligated to provide reparation.

Section 2: Provisions Common to Protected Adults

Article 415

Adults receive the protection of their person and of their assets that their condition or situation renders necessary as laid down in the present title.

This protection is established and assured with full respect for individual liberties, for fundamental rights and for the dignity of the person.

This protection has as its goal the interest of the person protected. It favors, as much as possible, the autonomy of that person.

This protection is a duty of the families and of the public community.

Article 416

The judge of tutorships and the State prosecutor exercise general supervision of the measures of protection within their jurisdiction.

They may visit protected persons or have visits set up and those persons who are the object of a demand for protection, whatever the protective measure pronounced or sought.

The persons in charge of the protection are bound to appear when called and to communicate to them all the information they ask for.

Article 417

The judge of tutorships may issue orders to the persons in charge of the protection and condemn those who have not followed those orders to a civil penalty as stated in the Code of Civil Procedure.

He may remove them from their mission in the event of blatant failure to pursue it, after having heard or summoned them.

He may, on the same conditions, request that the State prosecutor seek the removal of a judicial mandatary assigned to the protection of adults from the list mentioned in Article L. 471-2 of the Code of Social Action and of Families.

Article 418

Without prejudice to the application of the rules of the management of the affairs of another, the death of the protected person ends the task of the person charged with his protection.

Article 419

Persons other than the judicial mandatary for the protection of adults carry out the judicial measures of protection gratuitously. Nevertheless, the judge of tutorships or the family council, if one has been constituted, may authorize, in accordance with the importance and value of the things managed or the difficulty of carrying out the measures, the payment of an indemnity to the person in charge of the protection. He sets the amount of the indemnity. This indemnity is at the expense of the person protected.

If the judicial measure of protection is carried out by a judicial mandatary for the protection of adults, his financial support is at the expense, in whole or in part, of the person protected, according to the resources of that person and according to the terms and conditions planned in the Code of Social Action and of Families.

When the financial support of the measure cannot be fully paid for by the person under protection, it is paid for by the public community, according to the modes of calculation common to all judicial mandataries for the protection of adults and taking into account the conditions of implementation of the measure, whatever the sources of payment. These modes are fixed by decree.

Exceptionally, the judge or the family council, if one has been constituted, may, after having obtained the opinion of the State prosecutor, allocate to the judicial mandatary for the protection of adults, for the accomplishment of an act or of a series of acts required by the measure of protection and entailing activities particularly long or complex, an indemnity in addition to the sums obtained under the two previous paragraphs when they appear to be manifestly insufficient. This indemnity is at the expense of the person protected.

The mandate for future protection is carried out gratuitously unless there are stipulations to the contrary.

Article 420

Apart from financial aids or subsidies provided by public communities to juridical persons for their general functioning, judicial mandataries for the protection of adults may not, under whatever title and in whatever form, receive any other sum of money or benefit from any other financial advantage either directly or indirectly in the course of the missions that they are charged with.

They can issue a search warrant of the heirs of the protected person only after authorization by the judge of tutorships.

Article 421

All institutions of the measure of judicial protection are responsible for harm resulting from any fault whatsoever that they commit in the exercise of their function. Nevertheless, except in the case of an enhanced curatorship, the curator and the subrogated curator are liable, as a result of acts accomplished with their assistance, only in case of fraud or gross fault.

Article 422

When the fault that caused the harm was committed in the organization and the functioning of the measure of protection by the judge of tutorships, by the chief clerk of the tribunal d'instance, or by the clerk, the action in responsibility brought by the person under protection or formerly under protection or by his heirs is brought against the State, which disposes of a counterclaim.

When the fault that caused the harm was committed by the judicial mandatary for the protection of adults, the action in responsibility may be brought against him or against the State, which disposes of a counterclaim.

Article 423

The action in responsibility prescribes in five years from the end of the measure of protection even when the management would have continued after that time. Nevertheless, when the curatorship ceased by the opening of a measure of tutorship, the delay begins to run only from the expiration of the tutorship.

Article 424

The mandatary for future protection is responsible for the exercise of his mandate in the conditions stated in Article 1992.

CHAPTER II. CHAPTER II: MEASURES FOR JURIDICAL PROTECTION OF ADULTS

Section 1: General Provisions

Article 425

Any person for whom it is impossible alone to pursue his interests because of an alteration, medically established, either of his mental abilities or of his bodily abilities of such a nature as to prevent the expression of his will, may benefit from a measure of legal protection referred to in the present chapter.

If not otherwise stated, the measure is aimed at the protection both of the person and of the patrimonial interests of the latter. The measure may nevertheless be limited to one of these two missions.

Article 426

The dwelling of the person protected and the movables that furnish it, whether it be the principal or the secondary residence, are maintained at the disposal of that person as long as possible.

The power to administer the things mentioned in the first paragraph allows only contracts for provisional enjoyment that end, despite any contrary provision or stipulation, upon the return of the person protected to his own residence.

If it should become necessary or if it is in the interest of the person protected that his rights in his residence or in its furnishings be disposed of by alienation, the cancellation, or the conclusion of a lease, the act is authorized by the judge or by the family council, if one has been constituted, without prejudice to the formalities that the nature of the things may require. The prior opinion of a physician named on the list provided under Article 431 is required if the purpose of the act is to admit the person to an institution. In any case, souvenirs, personal objects, objects necessary to handicapped persons, or objects intended for the care of ill persons are kept for the use by the person concerned, if need be by the institution in which the person concerned is living.

Article 427

The person in charge of the measure of protection may neither modify the deposit accounts or savings accounts opened in the name of the person protected, nor open another such account in an institution with the ability to receive public funds.

The judge of tutorships or the family council, if one has been set up, may nevertheless authorize him to do so, if the interest of the person protected requires it.

An account is opened in the name of the person protected with the Caisse des dépôts et consignations by the person charged with the protection if the judge or the family council, if one has been set up, decide it is necessary to do so.

When the person protected has no account or bank book, the person in charge of the measure of protection may open one for him.

The banking operations of deposit, payment, and patrimonial management carried out in the name of and for the account of the person protected are realized exclusively by means of accounts opened in the name of that person, subject to the dispositions applicable to measures of protection entrusted to attending persons or services of health institutions and social or medical-social institutions that must follow the accounting rules governing public entities.

The fruits, products, and profits generated by funds and securities belonging to the person protected belong to him exclusively.

If the person protected has been the subject of an interdiction to write checks, the person charged with a measure of protection may nevertheless, with the authorization of the judge or of the family council, if one has been set up, operate under his signature the accounts of the protected person and make use of all the habitual means of payment.

Section 2: Provisions Common to Judicial Measures

Article 428

The measure of protection may be ordered by the judge only in case of necessity and when the interests of the person cannot be sufficiently assured by application of the general rules of representation, of the rules governing the rights and duties of spouses, and of the rules governing matrimonial regimes, in particular Articles 217, 219, 1426 and 1429, nor by another less restrictive measure of judicial protection or by a mandate of future protection made by the person concerned.

The measure is proportionate and individualized according to the degree of alteration of the personal faculties of the person concerned.

Article 429

The measure of judicial protection may be opened for an emancipated minor as for an adult.

For an unemancipated minor, the demand may be made and judged during the last year of his minority. The measure of judicial protection takes effect only upon the date of his majority.

Article 430

The demand to open the measure may be presented to the judge by the person who needs protection or, depending on the case, by his spouse, by the partner with whom he concluded a civil pact of solidarity (pacs), or by his concubine, unless life in common between them has ended, or by a parent or an affine, by a person maintaining with the adult a close and stable relationship, or by the person who exercises over him a measure of legal protection.

The demand may also be presented by the State prosecutor either sua sponte or in response to the demand of a third party.

Article 431

The demand is accompanied, on pain of dismissal, by a detailed certificate written by a physician chosen from a list established by the State prosecutor.

The cost of this certificate is fixed by decree en Conseil d'État.

Article 431-1

For purposes of application of the last paragraph of Article 426 and Article 431, the physician named on the list referred to in Article 431 may ask for the opinion of the physician treating the person whose protection is at issue.

Article 432

The judge rules after the person has been heard or duly notified. The person concerned may be accompanied by a legal counsel or, if the judge approves, by any other person of his choice.

The judge may nevertheless, by a decision specially motivated and on the advice of the physician mentioned in Article 431, decide that a hearing of the person concerned is not necessary if such a hearing is of a nature as to risk harm to the person's health or if the person is not in a condition to express his will.

Section 3: Judicial Protective Supervision

Article 433

The judge may place under the protective supervision of the court a person who, for one of the causes listed under Article 425, has need of temporary legal protection or to be represented in order to accomplish certain specified acts.

This measure may also be declared by the judge, hearing a case of curatorship or tutorship, for the duration of the case.

As a derogation to Article 432, the judge may, in case of emergency, rule without having heard the person. In that case, he hears him as soon as possible, unless, upon the opinion of a physician, such a hearing is of such a nature as to cause harm to the person's health or if the person is not in a condition to express his will.

Article 434

Judicial protective supervision may also result from a declaration made to the State prosecutor in the conditions mentioned in Article L. 3211-6 of the Code of Public Health.

Article 435

The person placed under judicial protective supervision continues to exercise his rights. Nevertheless, he may not, on pain of nullity, execute an act for which a special mandatary has been named under Article 437.

The acts he has passed and the commitments he has contracted while the measure is in effect may be rescinded for simple lesion or reduced in case of excess even though they could be annulled under Article 414-1.The tribunals take into consideration notably the usefulness or uselessness of the operation, the importance and components of the patrimony of the person protected and the good or bad faith of those with whom he has contracted.

The action in nullity or rescission or in reduction belongs only to the person protected and, after his death, to his heirs. The action is extinguished by the delay of five years as stated in Article 1304.

Article 436

The mandate by means of which the person protected has charged another person with the administration of his property continues in effect during the judicial protective supervision, unless revoked or suspended by the judge of tutorships, the mandatary having been heard or summoned.

In the absence of a mandate, the rules of the management of the affairs of another are applicable.

Those who have standing to demand the opening of a curatorship or of a tutorship are bound to accomplish acts of conservation indispensable to the preservation of the patrimony of the person protected when they become aware of their urgency or of the opening of the measure of protection. The same provisions apply to the person or institution that houses a person placed under protection.

Article 437

If there is reason to act outside the instances defined under Article 436, any interested party may give his opinion to the judge.

The judge may appoint a special mandatary, in the conditions and following the modes mentioned in Articles 445 and 448 to 451, in order to accomplish one or more definite acts, even of disposition, made necessary by the management of the patrimony of the person protected. The mandatary may, in particular, be entrusted the task to exercise the actions mentioned in Article 435.

The special mandatary is bound to give an account of the execution of his mandate to the person protected and to the judge as provided under Articles 510 to 515.

Article 438

The special mandatary may also be entrusted with a mission of protection of the person in fulfillment of Articles 457-1 to 463.

Article 439

On pain of nullity, the measure of judicial protective supervision may not exceed one year, renewable once and in the conditions fixed by the fourth paragraph of Article 442.

When the judicial protection was declared under Article 433, the judge may, at any time, order its cancellation if the need for temporary protection ceases.

When the judicial supervision was opened under Article 434, it may end by declaration made to the State prosecutor if the need for temporary protection ceases or by deletion of the medical declaration upon decision of the State prosecutor.

In all cases, for lack of a cancellation, of a declaration of termination or of deletion of the medical declaration, the judicial protective supervision ends upon the expiration of the delay or after accomplishment of the acts for which it had been ordered. Judicial protective supervision also ends by the opening of a measure of curatorship or of tutorship, from the date when the new measure of legal protection is effective.

Section 4: Curatorship and Tutorship

Article 440

The person who, without being unable to act himself, is in need, for one of the causes mentioned in Article 425, to be assisted or supervised in a continual manner in the important acts of his civil life may be placed under curatorship.

Curatorship is ordered only if it is shown that judicial protection cannot assure sufficient protection.

The person who, for one of the causes mentioned in Article 425, must be represented in a continual manner in the acts of civil life, may be placed under tutorship.

Tutorship is declared only if it is shown that neither judicial protective supervision nor curatorship can guarantee a sufficient protection.

Sub-Section 1: Duration of the Measure

Article 441

The judge sets the duration of the measure, which may not exceed five years.

Article 442

The judge may renew the measure for the same duration.

Nevertheless, when the alteration of the personal faculties of the person concerned described under Article 425 appears manifestly not susceptible to show an improvement, given the current state of medical science, the judge may, by a decision specially motivated, and in accordance with the opinion of the physician referred to in Article 431, renew the measure for a longer duration that he determines.

The judge may, at any time, put an end to the measure, modify it, or substitute for it another measure mentioned in the present title, after having obtained the opinion of the person charged with the measure of protection.

He rules sua sponte or upon the demand of one of the persons listed in Article 430, on the basis of a medical certificate and in the conditions listed in Article 432. He may strengthen the regime of protection of the person concerned only if he receives a demand to that effect complying with Articles 430 and 431.

Article 443

The measure ends, unless renewed, upon expiration of the delay set, in case of judgment of cancellation that has acquired the force of res judicata or in case of the death of the person concerned.

Without prejudice to Articles 3 and 15, the judge may also put an end to it when the person protected resides outside the national territory, if that distance prevents to follow up and to control the measure.

Sub-Section 2: Publication of the Measure

Article 444

The judgment that opens, modifies, or cancels the curatorship or the tutorship is effective against third persons only two months after mention of it has been recorded in the margin of the act of birth of the person protected, under the modes provided by the Code of Civil Procedure.

Nevertheless, even in the absence of that mention, it is effective against third persons who have personal knowledge of it.

Sub-Section 3: Institutions-Organs of Protection

Article 445

The charges of curatorship and tutorship are subject to the conditions applicable to the tutorship of minors by Articles 395 to 397.

Nevertheless, the powers granted by Article 397 to the family council are exercised by the judge in the absence of the constitution of this organ.

The members of the professions of medicine and of pharmacy, as well as medical auxiliaries, cannot be curators or tutors of their patients.

The fiduciary appointed by a contract of fiducia cannot be a curator or a tutor with regard to the grantor.

Sub-article 1: Curator and Tutor

Article 446

A curator or a tutor is appointed for the person protected in the conditions stated in this sub-article subject to the powers of the family council, if one has been constituted.

Article 447

The curator or tutor is appointed by the judge.

The judge may, in light of the situation of the person protected, the abilities of the persons concerned, and of the composition of the patrimony to be administered, appoint several curators or several tutors to exercise together the measure of protection. Each curator or tutor is deemed, as far as third parties are concerned, to have received from the others the authority to execute alone the acts for which a tutor would need no authorization.

The judge may divide the measure of protection between a curator or a tutor to the person and a curator or tutor to the patrimony. He may entrust the management of certain [things] property to an adjunct curator or an adjunct tutor.

Unless the judge has decided otherwise, the persons designated in application of the preceding paragraph are independent and are not responsible to one another. They inform each other nonetheless of the decisions that they make.

Article 448

The appointment by a person of one or several persons charged with the exercise of the functions of a curator or of a tutor in the event, that person would be placed under curatorship or under tutorship is binding on the judge, unless the person so appointed refuses the task or is in a state of impossibility to exercise it or if the interest of the person protected requires that he be set aside. In case of difficulty, the judge rules.

It is the same when the parents or the survivor of the father and mother, not being the subject of a measure of curatorship or of tutorship, who exercise the parental authority over their minor child or assume the material and emotional responsibility of their adult child, name one or more persons charged to exercise the functions of curator or of tutor beginning on the day they will die or the day when they will no longer be able to continue to care for the person concerned.

Article 449

If no appointment under Article 448 is made, the judge names, as curator or tutor, the spouse of the person protected, the partner with whom he has concluded a civil pact of solidarity (pacs), or his concubine, unless the life together has ended or unless another cause prevents entrusting the measure to him.

If no person is named under the preceding paragraph and under the last reservation therein specified, the judge appoints a parent, an affine, or a person residing with the protected adult or maintaining with him a strong and stable relationship.

The judge takes into consideration the feelings expressed by the person protected, his habitual relations, the interest in him and the recommendations of his parents and affines, as well of his circle of friends and acquaintances.

Article 450

When no member of the family or no person close to the person concerned can take on the curatorship or the tutorship, the judge appoints a judicial mandatary for the protection of adults registered on the list mentioned in Article L. 471-2 of the Code of Social Action and of Families. This mandatary cannot refuse to

accomplish urgent acts that the interest of the person protected commands, particularly the acts of conservation necessary to the preservation of his patrimony.

Article 451

If the interest of the person dwelling with or care for in a health establishment or in a social or a medical-social institution justifies it, the judge may appoint, as a curator or tutor, a person or a service responsible in the institution appearing on the list of judicial mandataries for the protection of adults under 1° or 3° of Article L. 471-2 of the Code of Social Action and of Families, who exercises his duties under the conditions set by decree en Conseil d'État.

The mission entrusted to the mandatary extends to the protection of the person, unless the judge decides to the contrary.

Article 452

Curatorship and tutorship are personal charges.

Nevertheless, the curator and the tutor may, under their own responsibility, seek the assistance of third-party adults who are not the subject of a measure of legal protection for the accomplishment of certain acts listed by decree en Conseil d'État.

Article 453

No one is bound to continue the curatorship or tutorship of a person beyond five years, with the exception of the spouse, the partner of a civil pact of solidarity, and the children of the person concerned, as well as the judicial mandataries for the protection of adults.

Sub-article 2: Subrogated Curator and Subrogated Tutor

Article 454

The judge may, if he deems it necessary and subject to the powers of the Family Council , if one has been constituted, appoint a subrogated curator or a subrogated tutor.

If the curator or the tutor is a relative or affine of the protected person in one branch, the subrogated curator or the subrogated tutor is chosen, if possible, from the other branch.

When no member of the family or no close relative can take on the functions of a subrogated curator or a subrogated tutor, a judicial mandatary for the protection of adults registered on the list mentioned in Article L. 471-2 of the Code of Social Action and of Families may be appointed.

On penalty of engaging his liability towards the protected person, the subrogated curator or the subrogated tutor oversees the acts executed by the curator or by the tutor in their capacity and without delay informs the judge of the faults committed in the exercise of his mission.

The subrogated curator or the subrogated tutor assists or represents, as the case may be, the protected person when the interests of the protected person conflict with those of the curator or the tutor or when one or the other cannot assist him or act on his behalf because of the restrictions on his mission.

The curator or the tutor informs and consults with the subrogated curator or the subrogated tutor before undertaking any serious act.

The responsibility of the subrogated curator or the subrogated tutor ends at the same time the responsibility of the curator or the tutor ends. The subrogated curator or the subrogated tutor is nevertheless bound to cause the replacement of the curator or the tutor upon the termination of his functions, on pain of engaging his own liability towards the person protected.

Sub-article 3: Ad Hoc Curator and Ad Hoc Tutor

Article 455

In the absence of a subrogated curator or of a subrogated tutor, the curator or the tutor whose interests are, for an act or a series of acts, in conflict with those of the person protected, or who cannot give him his assistance or act on his behalf because of the restrictions on his mission, must have the judge or the family council, if one has been constituted, appointed an ad hoc curator or tutor.

This appointment may also be made upon the demand of the State prosecutor, or of any interested person, or sua sponte [by the judge].

Sub-article 4: Family Council and Adults under Tutorship

Article 456

The judge may organize a tutorship with a family council if the needs of the protection of the person or the make up of his patrimony justify it and if the composition of his family and of his circle of friends permit it.

The judge names the members of the family council taking into consideration the feelings expressed by the person protected, his habitual relations, the interest for him and the possible recommendations of his relatives, in-laws, and household.

The family council appoints the tutor, the subrogated tutor, and, if need be, the ad hoc tutor under Articles 446 through 455.

The rules of the family council for minors apply, except those mentioned under Article 398, under the fourth paragraph of Article 399, and in the first paragraph of Article 401.

In applying the third paragraph of Article 402, the delay runs, when the action is brought by the adult protected, from the date when the effect of the protective measure ends.

Article 457

The judge may authorize the family council to meet and to deliberate outside his presence when he has named a judicial mandatary for the protection of adults as tutor or as subrogated tutor. The family council, in that case, names a president and a secretary from among its members, excepting the tutor or the subrogated tutor.

The president of the family council conveys to the judge in advance the agenda for each meeting.

The decisions taken by the family council take effect only if the judge does not oppose them, under the conditions laid down by the Code of Civil Procedure.

The president fulfills the missions assigned to the judge in calling the meeting itself and the deliberation of the family council. The judge may, nevertheless, at any time call a meeting of the family council over which he will preside.

Sub-Section 4: Effects of Curatorship and Tutorship on the Protection of the Person

Article 457-1

The person protected receives from the person in charge of his protection, under terms and conditions adapted to his condition and without prejudice to the information that third parties are bound to provide him under the law, any and all information on his personal situation, on the acts concerned, their utility, their degree of urgency, their effects, and the consequences of a refusal on his part.

Article 458

Subject to particular exceptions provided by statutory law, the carrying out of acts whose nature entails consent that is strictly personal can never take place with assistance or representation of the protected person.

Acts that are deemed strictly personal are the declaration of the birth of a child, the acknowledgment of a child, acts under parental authority relating to the person of a child, the declaration of the choice or of the change of the name of a child, and the consent to his own adoption or to that of his child.

Article 459

Outside the cases mentioned in Article 458, the person protected makes, alone, his own decisions concerning his person to the extent that his condition permits.

When the condition of the person protected does not permit him, alone, to make an informed, personal decision, the judge or the family council, if one has been constituted, may provide that the person protected, as regards all acts concerning his person or those that the judge or the family council selects, will benefit from the assistance of the person charged with his protection. Should that assistance not suffice, the judge or the family council may, if need be, after the opening of a measure of tutorship, authorize the tutor to represent the interested person.

Nevertheless, except in an emergency, the person charged with the protection of an adult may not, without the authorization of the judge or of the family council, if one has been constituted, make a decision whose effect is to cause a serious infringement of the bodily integrity of the person protected or of the intimacy of his private life.

The person charged with the protection of an adult, may take with respect him, measures of protection strictly necessary to put an end to a danger that his own behavior might cause to the interested person. The person charged with the protection informs the judge or the family council, if one has been constituted, without delay of the measures taken.

Article 459-1

The application of the present sub-section may not have for its effect to derogate from the particular provisions of the Code of Public Health and the Code of Social Action and of Families that provide for the intervention of a legal representative.

Nevertheless, when the measure has been entrusted to a person or to a responsible of service a health establishment or a social or a medical-social institution under the conditions listed in Article 451, and that person or that service either must make a decision requiring the authorization of the judge or of the family council under the third paragraph of Article 459, or must carry out for the benefit of the person protected a reasonable action or an act for which the Code of Public Health requires the intervention of the judge, the latter may decide, if he determines that there exists a conflict of interests, to entrust the charge to the subrogated curator or to the subrogated tutor, if one has been appointed, and if one has not been appointed, then to an ad hoc curator or a tutor.

Article 459-2

The person protected chooses his place of residence.

He is freely involved in personal relations with any third person, relative or not. He has the right to be visited by and, if need be, housed by them.

In case of difficulty, the judge or the family council, if one has been constituted, decides.

Article 460

The marriage of a person under curatorship is permitted only with the authorization of the curator or, if need be, the authorization of the judge.

The marriage of a person under tutorship is permitted only with the authorization of the judge or of the family council, if one has been constituted, and after a hearing of the future spouses and, if need be, with the opinion of his relatives and of his circle of friends.

Article 461

The person under curatorship may not, without the assistance of the curator, sign the agreement by which he concludes a civil pact of solidarity. No assistance is required as regards the joint declaration made to the clerk of the tribunal d'instance or before the officiating notary as provided under the first paragraph of Article 515-3.

The provisions of the preceding paragraph apply if the agreement is modified.

The person under curatorship may break the civil pact of solidarity by a joint declaration or by a unilateral decision. The assistance of his curator is required only to proceed with the notice as provided under the fifth paragraph of Article 515-7.

The person under curatorship is assisted by his curator in the operations listed in the tenth and eleventh paragraphs of Article 515-7.

In the implementation of this article, the curator is deemed to have interests opposed to those of the person protected when the curatorship is entrusted to his partner.

Article 462

The conclusion of a civil pact of solidarity by a person under tutorship is submitted to the authorization of the judge or of the family council, if one has been constituted, after hearing the future spouses and receiving, if need be, the opinion of his relatives and his circle of friends.

The person is assisted by his tutor at the time of the signing of the agreement. Neither assistance nor representation is required for the joint declaration to the clerk of the tribunal d'instance or before the officiating notary as stated in the first paragraph of Article 515-3.

The provisions of the preceding paragraphs apply if the agreement is modified.

The person under tutorship may break up the civil pact of solidarity by joint declaration or unilateral decision. The formality of the notification mentioned in the fifth paragraph of Article 515-7 is carried out at the request of the tutor. When the initiative of the break up comes from the other partner, that notification is made to the tutor personally.

The unilateral break up of the civil pact of solidarity may also occur upon the initiative of the tutor, as authorized by the judge or by the family council, if one has been constituted, after hearing the interested person and receiving, if need be, the opinion of the relatives and of the circle of friends.

Neither assistance nor representation is required for the performance of the formalities relating to the break up by joint declaration.

The person under tutorship is represented by his tutor in the operations mentioned in the tenth and eleventh paragraphs of Article 515-7.

In the implementation of this article, the tutor is deemed to have interests opposed to those of the person protected when the tutorship is entrusted to his partner.

Article 463

Upon opening of the measure or, in the absence there of, subsequently, the judge or the family council, if one has been constituted, lays down the conditions under which the curator or the tutor charged with a mission of protection of the person gives an account of the appropriate actions he will carry out in this capacity.

Sub-Section 5: Validity of the Acts

Article 464

Obligations resulting from acts carried out by the person protected within two years of the publication of the judgment of the opening of the measure of protection may be decreased on the mere proof that his inability to protect his interests, because of the alteration of his personal faculties, was either notorious or was known to his co-contracting party when the acts were passed.

These acts may, on the same conditions, be annulled if justified by the prejudice suffered by the person protected.

As a derogation to Article 2252, the action must be brought within five years of the date of the judgment of the opening of the measure.

Article 465

From the time of the publication of the judgment opening a protective measure, the irregularity of the acts accomplished by the protected person or by the person charged with the protection is sanctioned under the following conditions:

1° If the protected person has accomplished alone an act that he could do without the assistance or the representation of the person charged with his protection, the act remains subject to actions in rescission or reduction under Article 435 as if it had been accomplished by a person placed under judicial protective supervision, unless the act was expressly authorized by the judge or by the family council, if one has been constituted;

2° If the protected person has accomplished alone an act for which he ought to have been assisted, the act may only be annulled if it is established that the protected person has suffered some prejudice;

3° If the protected person has accomplished alone an act for which he ought to have represented, the act is null as a matter of law without need to demonstrate some prejudice;

4° If the tutor or the curator has accomplished alone an act that ought to have been done by the person protected either alone or with his assistance or an act that could only be accomplished with the authorization of the judge or of the family council, if one has been constituted, the act is null as a matter of law without need to demonstrate some prejudice.

The curator or the tutor, with the authorization of the judge or of the family council, if one has been constituted, may alone bring an action in nullity or rescission of the acts as provided under 1°, 2° and 3° above.

In any case, the action is extinguished by the delay of five years as stated in Article 1304.

During this delay, and as long as the measure of protection is open, the act mentioned 4° may be confirmed with the authorization of the judge or of the family council, if one has been constituted.

Article 466

Articles 464 and 465 do not prevent the application of Articles 414-1 and 414-2.

Sub-Section 6: Acts Done During Curatorship

Article 467

A person under curatorship may, without the assistance of the curator, do no act that, under tutorship, would require the authorization of the judge or of the family council.

Upon the conclusion of a written act, the assistance of the curator is established by his signature next to that of the person protected.

On pain of nullity, any notification made to the person protected is also made to the curator.

Article 468

Sums falling to the person under curatorship are deposited directly in an account opened in his name alone and explicitly referring to the regime of his protection, in an institution authorized to receive public funds.

The person under curatorship may not, without the assistance of the curator, conclude a contract of fiducia or make use of his capital sums.

This assistance is likewise required to bring a legal action or to defend one.

Article 469

The curator may not substitute himself to the person under curatorship in order to act in his name.

Nevertheless, the curator may, if he establishes that the person under curatorship is gravely compromising his interests, demand of the judge that he be authorized to accomplish a certain act alone or to cause the opening of the tutorship.

If the curator refuses to assist in an act for which his consent is necessary, the person under curatorship may demand from the judge the authorization to accomplish the act alone.

Article 470

The person under curatorship may freely make a testament subject to the provisions of Article 901.

He may make a donation only with the assistance of the curator.

The curator is deemed to have a conflict of interest with the person protected when the curator is the beneficiary of the donation.

Article 471

At any time, the judge may, as an exception to Article 467, list certain acts that the person under curatorship has the capacity to do alone or, conversely, add other acts to those for which the assistance of the curator is necessary.

Article 472

The judge may also, at any time, order a strengthened curatorship. In this case, the curator alone receives the revenues of the person under curatorship in an account opened in the name of the latter. The curator himself takes care of the expenses to third parties and deposits any excess in an account that is at the disposal of the person under curatorship or pays them into his hands.

Without prejudice to the provisions of Article 459-2, the judge may authorize the curator alone to enter into a residential lease or in a housing agreement that assures a place where the person may dwell.

The strengthened curatorship is governed by the provisions of Articles 503 and 510 to 515.

Sub-Section 7: Acts Done under the Tutorship

Article 473

Except for cases in which statutory law or usage authorizes the person under tutorship to act himself, the tutor represents him in all acts of civil life.

Nevertheless, the judge may, in the judgment opening the tutorship or later, list certain acts that the person under tutorship will have the capacity to do alone or with the assistance of the tutor.

Article 474

The person under tutorship is represented in the acts necessary for the management of his patrimony in the conditions and according to the terms and conditions listed in Title XII.

Article 475

The tutor represents the person under tutorship in legal proceedings.

The tutor, as plaintiff or defendant, may act to assert the extra-patrimonial rights of the person protected only after the judge or the family council, if one has been constituted, either authorizes or orders the tutor to do so. The judge or the family council, if one has been constituted, may enjoin the tutor to withdraw from the case or to compromise.

Article 476

The person under tutorship may, with the authorization of the judge or the family council, if one has been constituted, be assisted or, if necessary, be represented by the tutor to make donations.

The person under tutorship may make his testament alone after the opening of the tutorship only with the authorization of the judge or the family council, if one has been constituted, on pain of nullity of the act. The tutor may neither assist nor represent him at that time.

Nevertheless, the person under tutorship may alone revoke the testament made before or after the opening of the tutorship.

The testament made before the opening of the tutorship remains valid unless it is proven that, after the opening of the tutorship, the cause that had been the motivation for the testator has disappeared.

Section 5: Mandate of Future Protection

Sub-Section 1: Provisions in Common

Article 477

Any adult person or emancipated minor who is not under any measure of tutorship may entrust one or more persons, by a single mandate, with the responsibility to represent him for one of the causes listed in Article 425, in the event he could no longer see to his own interests alone.

A person under curatorship may execute a mandate for future protection only with the assistance of his curator.

The parents or the survivor of the father and mother, when not a measure of curatorship or tutorship, who exercise their parental authority over their minor child or take on the material and emotional charge of their adult child may, in the event the child, for one of the causes listed in Article 425, could no longer see to his own interests alone, designate one or more mandataries to represent him. This designation takes effect from the date when the principal dies or can no longer care for the person concerned.

The mandate is concluded by notarial act or by act under private signature. However, the mandate referred to the third paragraph may be concluded only by notarial act.

Article 478

The mandate for future protection is governed by the provisions of Articles 1984 to 2010 that are not incompatible with those of this section.

Article 479

When the mandate extends to the protection of the person, the rights and obligations of the mandatary are defined by Articles 457-1 to 459-2.

Any stipulation to the contrary is deemed unwritten.

The mandate may provide that the mandatary will exercise the missions that the Code of Public Health and the Code of Social Action and of Families entrust to the representative of the person under tutorship or to a trustworthy person.

The mandate sets the modalities of control of its own performance.

Article 480

The mandatary may be any physical person chosen by the principal or a juridical person registered on the list of judicial mandataries for the protection of adults under Article L. 471-2 of the Code of Social Action and of Families.

The mandatary must, during the execution of the mandate, enjoy civil capacity and fulfill the conditions required for tutorship duties under Article 395 and the two last paragraphs of Article 445 of this Code.

He may during this execution, be discharged from his functions only by authorization of the judge of tutorships.

Article 481

The mandate comes into effect when it is established that the principal can no longer see to his own interests alone. The principal is notified thereof under the conditions provided in the Code of Civil Procedure.

To this end, the mandatary presents to the clerk of the tribunal d'instance the mandate and a medical certificate from a physician chosen from the list mentioned in Article 431 that establishes that the principal is in one of the situations referred to in Article 425. The clerk stamps his acknowledgment of receipt of the mandate and dates its coming into effect and then returns it to the mandatary.

Article 482

The mandatary carries out the mandate personally. However, he may substitute to himself a third person for acts of management of the patrimony but only under special authority.

The mandatary is responsible for the acts of the substituted person under the conditions of Article 1994.

Article 483

The mandate that has been executed ends:

1° Upon the recovery of its personal faculties by the person concerned declared upon the demand of the principal or the mandatary, in the forms provided in Article 481;

2° Upon the death of the person protected or his placement under curatorship or tutorship, unless there is a contrary decision by the judge who opens the measure of protection;

3° Upon the death of the mandatary, his placement under a measure of protection, or his insolvency;

4° With its revocation declared by the judge of tutorships upon the demand of any interested person, when it appears that the conditions provided in Article 425 are not met , when the general legal rules of representation or those concerning the mutual rights and duties of the spouses and of the matrimonial regimes appear adequate to have the interests of the person taken care of by his spouse with whom their life in common has not ended , or when the execution of the mandate is such as to jeopardize the interests of the principal.

The judge may also suspend the effects of the mandate during the time of existence of a measure in judicial protective supervision.

Article 484

Any interested person may, before the judge of tutorships, challenge the way the mandate is being carried out or to have a decision issued on the conditions and modes of its execution.

Article 485

The judge who ends the mandate may open a measure of legal protective supervision under the conditions and according to the terms provided in sections 1 through 4 of the present chapter.

When the implementation of the mandate does not allow, for reasons of its scope of its application, sufficient protection of the personal or patrimonial interests of the person, the judge may open a complementary measure of legal protective supervision entrusted, as the case may be, to the mandatary for future protection. He may also authorize the latter or an ad hoc mandatary to accomplish one or more specific acts not included in the mandate.

The mandatary for future protection and the persons appointed by the judge are independent and are not responsible to each other; nevertheless they inform each other of the decisions they take.

Article 486

The mandatary in charge of the administration of the assets of the person protected has an inventory made of them upon the opening of the measure. He ensures its updating during the mandate in order to keep the state of the estate up to date.

He establishes an annual account of his management that is verified according to the conditions defined by the mandate and that the judge may in any case have verified under the conditions provided in Article 511.

Article 487

Upon the expiration of the mandate and in the five years that follow, the mandatary keeps at the disposal of the person who takes over the management, of the person protected if he recovers his faculties, or of his heirs the inventory of the assets and its updates which took place as well as the five most recent accountings of the management and the documents and evidence necessary to continue it or to assure the liquidation of the succession of the person protected.

Article 488

The acts passed and the commitments contracted by a person who is under a mandate for future protection that is implemented , during the existence of the mandate, may be rescinded for simple lesion or reduced when excessive even if they could be annulled under Article 414-1. The tribunals are to consider the usefulness or the uselessness of the transaction, the importance or the make up of the patrimony of the person protected, and the good or bad faith of those with whom he contracted.

The action belongs only to the person protected and, after his death, to his heirs. The action is extinguished by the delay of five years as stated in Article 1304.

Sub-Section: The Notarial Mandate

Article 489

When the mandate is established by authentic act, it is received by a notary chosen by the principal. The mandatary accepts the mandate in the same form.

Until the mandate takes effect, the principal may modify it in the same form or revoke it by notice to the mandatary and to the notary and the mandatary may renounce it by notice to the principal and to the notary.

Article 490

As an exception to Article 1988, the mandate, even if in general terms, includes all the patrimonial acts that the tutor has the power to accomplish alone or with an authorization.

Nevertheless, the mandatary may accomplish an act of disposition under gratuitous title only with the authorization of the judge of tutorships.

Article 491

For the second paragraph of Article 486 to apply, the mandatary gives his accountings to the notary, who has established the mandate by sending him his accounts, to which are attached any useful supporting documents. The notary assures their preservation as well as that of the inventory of the assets and its updates.

The notary notifies the judge of tutorships of any movement of funds and of any act that is not justified or does not appear to be in accordance with the stipulations of the mandate.

Sub-Section 3: The Mandate by Act under Private Signature

Article 492

The mandate under private signature is dated and signed by the hand of the principal. It is either countersigned by an avocat-attorney or established according to a model defined by decree en Conseil d'État.

The mandatary accepts the mandate by applying his signature to it.

Until the mandate has been performed, the principal may modify or revoke it in the same forms and the mandatary may renounce it by notice of his renunciation to the mandatary.

Article 492-1

The mandate acquires a date certain only under the conditions of Article 1328.

Article 493

The mandate is limited, as regards the management of the patrimony, to the acts that a tutor could undertake without authorization.

If the accomplishment of an act that is subjected to authorization or that is not contemplated in the mandate proves necessary in the interest of the principal, the mandatary calls on the judge of tutorships to obtain an order for it.

Article 494

As regards the application of the last paragraph of Article 486, the mandatary preserves the inventory of the assets and its updates, the five most recent accountings of the management, as well as the supporting documents and those necessary for the continued management.

He is bound to present them to the judge of tutorships or to the State prosecutor under the conditions provided in Article 416.

CHAPTER III. The Measure of Judicial Assistance

Article 495

When the measures put into effect under Articles L. 271-1 to L. 271-5 of the Code of Social Action and of Families for an adult have not permitted a satisfactory management by that adult of his social prestations and when his health or security is compromised, the judge of tutorships may order a measure of judicial assistance whose purpose is to reestablish the autonomy of the person concerned in the management of his resources.

There is no ground to have this measure ordered for a married person when the application of the rules relating to the mutual rights and duties of spouses and to matrimonial regimes permit a satisfactory management of the social prestations of the person concerned by his spouse.

Article 495-1

The measure of judicial assistance may not be ordered if the person benefits from a measure of juridical protection provided in Chapter II of the present title.

The issuance of a measure of juridical protection puts an end as a matter of law to the measure of judicial assistance.

Article 495-2

The measure of judicial assistance may be issued only upon the demand of the State prosecutor who determines its appropriateness on the basis of the expert from social services provided under Article 271-6 of the Code of Social Action and of Families.

The judge rules after the person has been heard or duly notified.

Article 495-3

Subject to the provisions of Article 495-7, the measure of judicial assistance entails no incapacity.

Article 495-4

The measure of judicial assistance bears upon the management of the social prestations chosen by the judge, upon the issuance of that measure, from a list established by decree.

The judge rules upon the difficulties that may come up during the implementation of the measure. At any time, he may, sua sponte or upon the demand of the person protected, of the judicial mandatary for the protection of adults, or of the State prosecutor, modify the scope of the measure or end it, after having heard or duly notified the person.

Article 495-5

The familial prestations for which the juvenile court judge has ordered the measure provided under Article 375-9-1 are excluded as a matter of law from the measure of judicial assistance.

The persons entrusted respectively with carrying out a measure provided under Article 375-9-1 and with a measure of judicial assistance for the same household mutually inform each other of the decisions that they make.

Article 495-6

Only a judicial mandatary for the protection of adults registered on the list provided under Article L. 471-2 of the Code of Social Action and of Families may be appointed by the judge to carry out the measure of judicial assistance.

Article 495-7

The judicial mandatary for the protection of adults receives the prestations included in the measure of judicial assistance in an account opened in the name of the person in an establishment authorized to receive public funds, in the conditions provided in the first paragraph of Article 472, subject to the provisions

applicable to measures of protective supervision entrusted to persons or services belonging to health establishments and to social or medical-social establishments subject the rules of public accountability.

He manages these prestations in the interest of the person, taking account of his opinion and of his family situation.

He exercises for that person an educational function so as to reestablish the conditions for an autonomous management of the social prestations.

Article 495-8

The judge fixes the duration of the measure, which may not exceed two years. He may, upon demand of the person protected, of the mandatary, or of State prosecutor, renew the duration by a decision based on specific reasons, but the duration may not exceed four years in all.

Article 495-9

The provisions of Title XII concerning the establishment, the verification, and the approval of accountings and concerning the prescription that are not incompatible with the provisions of the present Chapter are applicable to the management of the social prestations provided in Article 495-7.

TITLE XII. MANAGEMENT OF THE PATRIMONY OF MINORS AND OF ADULTS UNDER TUTORSHIP

Chapter I: Modes of Management

Article 496

The tutor represents the person protected in the acts necessary for the management of his patrimony.

He is bound to bring in this management a care that is prudent, diligent, and informed, in the interest of the protected person alone.

A decree en Conseil d'État establishes the list of acts that are regarded, under the present Title, as acts of administration concerning the everyday management of the patrimony and as acts of disposition that bind the patrimony in a long-term and substantial manner.

Article 497

When a subrogated tutor has been appointed, he attests before the judge of the proper carrying out of the operations that the tutor has the obligation to accomplish.

He is in particular obligated to attest as to the investment and reinvestment of principal sums made in accordance with the institutions of the family council or, if none, of the judge.

Article 498

The principal sums due to the protected person are paid directly into an account opened in his name alone and specifying the measure of tutorship, in an establishment authorized to receive deposits of public funds.

When the measure of tutorship is entrusted to persons or services belonging to health establishments or to social or medical-social establishments subject to the rules of public accounting, this obligation of direct payment is performed under conditions fixed by a decree en Conseil d’État.

Article 499

Third persons may inform the judge of acts or omissions of the tutor that seem to them of a nature to cause prejudice to the interests of the protected person.

They do not guarantee the use of the principal sums. Nevertheless, if, on account of this use, they are aware of acts or omissions that manifestly compromise the interest of the protected person, they advise the judge accordingly.

Only creditors of the protected person may exercise third-party opposition to authorizations only by the family council or by the judge in case of fraud against their rights.

Section 1: Decisions of the Family Council or of the Judge

Article 500

Upon the proposal of the tutor, the family council or, if none, the judge prepares and sets the budget of the tutorship by determining, according to the importance of the assets of the protected person and the operations that their management entails, the annual sums necessary to the maintenance of the person and to the reimbursement of the costs of administration of his assets.

The family council or, if none, the judge may authorize the tutor to include as costs of management the compensation owed to particular administrators whose aid he engages under his own responsibility.

The family council or, if none, the judge may authorize the tutor to conclude a contract for the management of the securities and financial instruments of the protected person. He chooses the third-party contractor according to his professional experience and his solvency. The contract may, at any time and notwithstanding any contrary stipulation, be canceled in the name of the protected person.

Article 501

The family council or, if none, the judge determines the sum at which the obligation of the tutor to invest liquid capital and excess revenues begins.

The family council or, if none, the judge prescribes all the measures he considers useful for the investment or reinvestment of the funds, either in advance or for each operation. The investment or reinvestment is carried out by the tutor in the time period fixed by the decision that orders it and in the manner it prescribes. After that time, the tutor may be held debtor of interest on the sum.

The family council or, if none, the judge may order that certain funds be placed in an inalienable account.

Account for the management of the patrimony of the protected person may be opened only, if the family council or, if none, the judge decides it is necessary, taking into account the situation of the protected person, at the Caisse des Dépôts et consignations.

Article 502

The family council or, if none, the judge rules on the authorizations that the tutor seeks for those acts that he cannot accomplish alone.

Nevertheless, the authorizations of the family council may be substituted by those of the judge if the acts bear on things whose value does not exceed a sum fixed by decree.

Section 2: Acts of the Tutor

Sub-article 1: Acts that the tutor accomplishes without authorization

Article 503

Within the three months following the opening of the tutorship, the tutor, in the presence of the subrogated tutor if one has been appointed, has to an inventory made of the assets of the protected person and transmits it to the judge. He sees that the inventory is updated while the measure is in effect.

He may obtain the communication of all information and documents necessary to the taking of the inventory from any person, public or private, without meeting any objection based on professional or banking confidentiality.

If the inventory has not been established or appears to be incomplete or inaccurate, the protected person and, after his death, his heirs may prove the value and the make up of his assets by any means.

Article 504

The tutor may act alone to accomplish acts of conservation and, except as provided in the second paragraph of Article 473, acts of administration necessary for the management of the patrimony of the protected person.

He may bring suit alone to assert the patrimonial rights of the protected person.

Leases entered into by the tutor give to the lessee, as against the protected person who has become capable, no right of renewal and no right to remain in the premises upon the expiration of the lease, even if contrary legal provisions might exist. These provisions, however, do not apply to leases entered into before the opening of the tutorship and renewed by the tutor.

Sub-article 2: Acts that the Tutor Accomplishes with Authorization

Article 505

The tutor may not, unless authorized by the family council or, if none, by the judge, make acts of disposition in the name of the person protected.

The authorization determines the stipulations and, if need be, the price or the fixed opening price for which the act is passed. The authorization is not necessary for execution sales upon judicial decision or for an amicable sale authorized by the judge.

The authorization to sell or to contribute an immovable to a partnership, a commercial business, or financial instruments not traded on a regulated market, may be given only after the effectiveness of a measure for investigation carried out by a technician or after receipt of the opinions of at least two qualified professionals.

In case of an emergency, the judge may, in a specially motivated decision made upon request of the tutor, authorize, in the name and the place of the family council, the sale of financial instruments, provided that he give an account without delay to the council that decides its reinvestment.

Article 506

The tutor may settle or compromise in the name of the protected person only after approval by the family council or, if none, by the judge of the formulation of the settlement or compromise and, if need be, of an agreement to arbitrate.

Article 507

Partition regarding a protected person may occur amicably upon authorization of the family council or, if none, of the judge, who appoints, if need be, a notary to proceed with it. The partition may be only partial.

The final scheme of division of the partition is submitted to the approval of the family council or, if none, to the judge.

The partition may also be made judicially under Articles 840 and 842.

Any other partition is deemed provisional.

Article 507-1

As an exception to Article 768, the tutor may accept a succession falling to the protected person only to the extent of its net assets. Nevertheless, the family council or, if none, the judge may, by a deliberation or a particular decision, authorize the tutor to accept purely and simply if the assets clearly exceed the debts.

The tutor may not renounce a succession falling to the protected person without an authorization of the family council or, if none, of the judge.

Article 507-2

If the succession that was renounced in the name of the protected person has not been accepted by another heir and so long as the State has not been sent into possession, the renunciation may be revoked either by the tutor authorized for this purpose by a new deliberation of the family council or, if none, a new decision of the judge, or by the protected person who has become capable. The second paragraph of Article 807 applies.

Article 508

Exceptionally, and in the interest of the protected person, the tutor who is not a judicial mandatary for the protection of adults may, upon authorization of the family council or, if none, of the judge, buy the assets of the protected person or lease them.

For the execution of the act, the tutor is deemed to have interests opposed to those of the protected person.

Sub-article 3: Acts that the Tutor May Not Accomplish

Article 509

The tutor may not, even with authorization:

1° Accomplish acts that entail a gratuitous alienation of the assets or of the rights of the protected person, excepting what is said about donations, such as the remission of a debt, the gratuitous renunciation of a vested right, the renunciation in advance of the action in reduction under Articles 929 through 930-5, the release of a hypothec or a security without payment, or the gratuitous creation of a servitude or a security to guarantee the debt of a third party;

2° Acquire from a third party a right or a claim that the latter holds against the protected person;

3° Be involved in commerce or exercise a liberal profession in the name of the protected person;

4° Buy the assets of the protected person or rent or form lease them, except as provided in Article 508;

5° Transfer into a fiduciary patrimony the assets or rights of a protected adult.

CHAPTER II: ESTABLISHMENT, VERIFICATION AND APPROVAL OF ACCOUNT

Article 510

The tutor establishes every year an account of his management to which are attached all useful supporting documents.

For this purpose, he solicits from the establishments with which one or more accounts are open in the name of the protected person an annual statement of those accounts, without meeting any objection based on professional or banking confidentiality.

The tutor is bound to ensure the confidentiality of the accounting of his management. Nevertheless, a copy of the accounts and all useful supporting documents are given each year by the tutor to the protected persons entrusted he is at least sixteen years old, as well as to the subrogated tutor if one has been appointed and, if the tutor decides it is useful, to other persons charged with the protection of the person concerned.

Moreover, the judge may, after having heard the protected person and received his consent, if that person has attained the age mentioned above and if his condition permits it, authorize his spouse, his partner in a civil pact of solidarity, a parent, his in-law, or one of his relatives, if they show a legitimate interest, to have communicated to them at their expense by the tutor a copy of the accounts and the supporting documents or some of those documents.

Article 511

The tutor submits every year the account of his management to which are attached all useful supporting documents, so that the account can be verified, to the chief clerk:

1° Of the tribunal of grande instance, when measures of legal protection of minors are at issue;

2° Of the tribunal d'instance, when measure of legal protection of adults are at issue.

When a subrogated tutor has been named, he verifies the account before transmitting it with his observations to the chief clerk.

To verify the account, the chief clerk may use the right of communication provided in the second paragraph of Article 510. He may be aided in his task of examining accounts under the conditions fixed by the Code of Civil Procedure.

If he refuses to approve the account, the chief clerk writes a report on the difficulties encountered that he transmits to the judge. The judge rules on the conformity of the account.

The judge may decide that the task of verification and approval of accounts assigned to the chief clerk will be carried out by the subrogated tutor if one has been appointed.

Under Article 457, the judge may decide that the family council will verify and approve the accounts instead of and in the place of the chief clerk.

Article 512

When the tutorship has not been entrusted to a judicially appointed mandatary for the protection of adults, the judge may, as an exception to Articles 510 and 511 and considering the small amount of the revenue from the patrimony of the protected person, exempt the tutor from establishing the account of management and from submitting it to the approval of the chief clerk.

Article 513

If the resources of the protected person permit it and if the importance and make up of his patrimony justify it, the judge may decide, considering the patrimonial interest involved, that the task of verification and approval of the account of the management will be exercised, at the cost of the protected person and under the conditions that he fixes, by a technician.

Article 514

When his mission ends for whatever reason, the tutor establishes an account of his management of the operations that have occurred ever since the establishment of the last annual account and submits it to the verification and approval as provided in Articles 511 and 513.

Moreover, in the three months that follow the end of his task, the tutor or his heirs if he is deceased shall deliver a copy of the last five accounts of management and of the account specified in the first paragraph of this Article, as the case may be, to the person who has become capable if that person has not already received them, to the person newly entrusted with the measure of management, or to the heirs of the protected person.

The preceding paragraphs do not apply to the case mentioned in Article 512.

In all cases, the tutor delivers to the persons specified in the second paragraph of the present article the documents necessary to continue the management or to assure the liquidation of the succession, as well as the initial inventory and its updates that have been made.

CHAPTER III. Prescription

Article 515

The action for the rendering of accounts, for revendication, or for payment brought by the person protected or was under protection or by his heirs as concerns the facts of the tutorship prescribes in five years from the date of the end of the measure, even if the management would have continued beyond that date.

TITLE XIII. THE CIVIL PACT OF SOLIDARITY AND CONCUBINAGE

Chapter I. The Civil Pact of Solidarity

Article 515-1

A civil pact of solidarity (pacs) is a contract entered into by two natural persons of age, of different sexes or of the same sex, to organize their life in common.

Article 515-2

On pain of nullity, there may not be a civil pact of solidarity:

1° Between ascendants and descendants in direct line, between allied by marriage in direct line and between collaterals until the third degree inclusive;

2° Between two persons of whom one at least is bound by the bonds of marriage;

3° Between two persons when one at least is already bound by a civil pact of solidarity.

Article 515-3

Two persons who enter into a civil covenant of solidarity shall make a joint declaration to that effect before the clerk of the tribunal d'instance of the place where they make their common residence or, in case of serious impediment to the fixing of that common residence, in the place where one of the parties resides.

In case of serious impediment, the clerk of the Tribunal d'Instance goes to the domicile or residence of one of the parties to register the civil pact of solidarity.

On pain of inadmissibility, the persons who conclude a civil pact of solidarity produce for the clerk the agreement they have made.

The clerk registers the declaration and proceeds to the formalities of publication.

When the agreement of a civil pact of solidarity is under the form of a notarial act, the officiating notary receives the joint declaration, proceeds to the registration of the pact, and see to the formalities of publication provided in the preceding paragraph.

The agreement by which the parties modify the civil pact of solidarity is deposited with or addressed to the clerk of the tribunal or to the notary who received the initial act in order to register it.

Abroad, the registration of a joint declaration of a pact binding two partners one of whom at least is of French nationality, and the formalities provided for in paragraphs 3 and 5 and those required in case of an amendment of the pact shall be the responsibility of the French diplomatic and consular agents.

Article 515-3-1

The declaration of a civil pact of solidarity is noted in the margin of the act of birth of each partner, with the indication of the name of the other partner. For persons of foreign nationality born abroad, this information is written on a register kept by the clerk of the tribunal of grande instance of Paris. The existence of agreements that modify the pact is subject to the same publicity.

The civil pact of solidarity is effective between the parties only upon its registration, which gives the pact a date certain. The pact may be opposed against third parties only on the date that the formalities of publication have been completed. The same is true for agreements that modify the pact.

Article 515-4

Partners bound by a civil pact of solidarity commit to a life in common and to material aid and to reciprocal assistance. If the partners do not provide otherwise, material aid is proportionate to their respective means.

Partners are solidarily liable to third parties for debts incurred by one of them for the needs of daily live. Nevertheless, this solidarity does not occur for clearly excessive expenditures. Nor does it occur, unless made with the consent of both partners, for purchases on credit, nor for contracts to borrow unless the latter relate to modest sums necessary for daily life and the total amount of these sums, in case of multiple loans, is not clearly excessive considering the standard of living of the partners.

Article 515-5

Unless there are contrary provisions in the agreement as provided in the third paragraph of Article 515-3, each of the partners keeps the administration, enjoyment, and free disposal of his personal assets. Each partner alone remains bound for personal debts that arise before or during the pact, apart from the case described in the last paragraph of Article 515-4.

Each partner may prove by any means, against his partner and against third parties, that he has the exclusive ownership of an asset. Assets that neither partner can show exclusive ownership of are deemed to belong to them in indivision, each for half.

The partner who individually is in possession of a movable thing is deemed, with respect to a third party in good faith, to have the power alone to take any act of administration, enjoyment, or disposition.

Article 515-5-1

The partners may, in the initial agreement or in an amendment of it, choose to submit to a regime of undivided co-ownership of property that they acquire, together or separately, effective upon the registration of these agreements. These assets are deemed to be held indivisibly one-half to each, without any action by one partner against the other because of an unequal contribution.

Article 515-5-2

Nevertheless, each partner keeps the exclusive ownership of:

1° The sums received by each partner, whatever the title, after the conclusion of the pact and not used to acquire any property;

2° Assets created and their accessories;

3° Assets of a personal character;

4° Assets or portions of assets acquired with funds that belonged to a partner before the registration of the initial agreement or the amendment on the basis of which this regime was chosen;

5° Assets or portions of assets acquired using funds received by donation or succession;

6° Portions of assets acquired through licitation of all or part of an asset of which one of the partners was owner through undivided ownership in a succession or following a donation.

The use of funds as defined in 4° or 5° is the object of a mention in the act of acquisition. Failing that, the asset is deemed owned in indivision, half to each, and creates only a claim for money between the partners.

Article 515-5-3

Unless there are contrary provision in the agreement, each partner manages the indivision and may exercise the powers granted by Articles 1873-6 to 1873-8.

For the administration of the undivided assets, the partners may conclude an agreement on the exercise of their undivided rights on the conditions set out in the Articles 1873-1 to 1873-15. On pain of ineffectiveness, this agreement is, upon each act of acquisition of an asset subject to land recordation, published in the land registry.

In derogation to Article 1873-3, the agreement of indivision is deemed to have been concluded for the duration of the civil pact of solidarity. Nevertheless, upon the dissolution of the pact, the partners may decide that the agreement will continue to produce its effects. This decision is subject to the provisions of Articles 1873-1 to 1873-15.

Article 515-6

The provisions of Articles 831, 831-2, 832-3, and 832-4 apply between partners to a civil pact of solidarity in case of its dissolution.

The provisions of the first paragraph of Article 831-3 apply to the surviving partner when the deceased expressly so provided by testament.

When the civil pact of solidarity ends upon the death of one of the partners, the survivor may avail himself of the provisions of the first two paragraphs of Article 763.

Article 515-7

The civil pact of solidarity is dissolved by the death of one of the partners or by the marriage of the partners or by one of them. In that case, the dissolution takes effect on the date of that event.

The office of the clerk of the tribunal d'instance of the place of the registration of the civil pact of solidarity or the officiating notary who saw to the registration of the pact, when informed of the marriage or the death by the competent officer of civil status, registers the dissolution and sees to the formalities of publication.

The civil pact of solidarity is also dissolved by a joint declaration of the partners or the unilateral decision of one of them.

The partners who decide by mutual agreement to end a civil pact of solidarity deliver or send their joint declaration to that effect to the office of the clerk of the tribunal d'instance of the place of the registration of the civil pact of solidarity or the officiating notary who saw to the registration of the pact.

The partner who decides to end a civil pact of solidarity gives notice of that decision to the other. A copy of that notice is delivered or sent to the office of the clerk of the tribunal d'instance of the place where it has been registered or to the officiating notary who carried out the registration of the pact.

The clerk or the notary registers the dissolution and proceeds to the formalities of publication.

The dissolution of the civil pact of solidarity takes effect, in the relations between the partners, on the date of its registration.

The dissolution is effective against third parties from the date that the formalities of publication have been accomplished.

Abroad, the functions that the present article entrusts to the clerk of the tribunal d'instance are carried out by French diplomatic or consular personnel, who also undertake or have undertaken the formalities provided in the sixth paragraph.

The partners themselves see to the liquidation of the rights and obligations resulting on their behalf from the civil pact of solidarity. If they do not agree, the judge rules on the patrimonial consequences of the end of the pact, without prejudice to an action for compensation for damage possibly suffered.

Unless there is agreement to the contrary, the claims that the partners have against each other are evaluated under Article 1469. These claims may be reduced by compensation with the advantages that the claimant may have received from their life in common, in particular by not contributing to the payment of debts contracted for the needs of daily life as his resources would have permitted.

Article 515-7-1

The conditions of formation and the effects of a registered partnership as well as the causes and effects of its dissolution are subject to the material provisions of the State of the authority that proceeded to its registration.

CHAPTER II. CONCUBINAGE

Article 515-8

Concubinage is an union in fact, characterized by a life in common offering a character of stability and continuity, between two persons, of different sexes or of the same sex, who live as a couple.

TITLE XIV. - MEASURES OF PROTECTION OF VICTIMS OF VIOLENCE

Article 515-9

When violent acts are caused by one member of a couple or a former member of a couple, a former partner bound by a civil pact of solidarity or a former concubine that endangers the person who is the victim of those acts, or one or more children, the family court judge may deliver on an emergency basis to the victim a protective order.

Article 515-10

The protective order is issued by the judge, upon demand of the person in danger, if need be assisted, or with the agreement of that person, by the State Prosecutor’s office

Upon receipt of a demand for a protective order, the judge summons, by all proper means, for a hearing the plaintiff and the defendant, assisted by a legal counsel, if need be, and by the State Prosecutor’s office. These hearings may occur separately. They may occur in chambers.

Article 515-11

The protective order is issued by the judge for family matters, if he concludes, based on the evidence produced before him and debated adversarially, that there are serious reasons to consider as probable the commission of the acts of violence alleged and the danger to which the victim is exposed. In issuing the order, the judge for family matters has the authority to:

1° Forbid the defendant to receive or to meet certain persons particularly designated by the judge for family matters, or to enter into relations with them, in whatever manner;

2° Forbid the defendant to possess or to carry a weapon and, if need be to order him to hand over to the police or to the police station that he designates the weapons that the defendant possesses with a view toward their deposit with the clerk of court;

3° Rule on separate residences for the spouses, specifying which of the two will continue to reside in the conjugal dwelling and the conditions under which the costs of that dwelling will be borne. Unless particular circumstances exist, the enjoyment of this dwelling is assigned to the spouse who is not the author of the violent acts;

4° Assign the enjoyment of the dwelling or of the residence of the couple to the partner or to the concubine who is not the author of the violent acts and specify the manner in which costs of that dwelling shall be borne;

5° Decide how parental authority shall be exercised and, if need be, on the contribution to the costs of the marriage for married couples, on material aid under Article 515-4 for partners of a civil pact of solidarity, and on the contribution to the maintenance and to the education of the children;

6° Authorize the plaintiff to conceal the location of his domicile or his residence and to choose as his domicile that of the lawyer who assists or represents him or that of the State prosecutor of the tribunal of grande instance for all civil proceedings in which the plaintiff is also a party. If, in order to carry out a judicial decision, a bailiff charged with this carrying out must know the address of this person, the address is communicated to him but he is prohibited from disclosing it to his principal;

7° Rule on the provisional qualification for legal aid for the plaintiff under the first paragraph of Article 20 of Law n° 91-647 of 10 July 1991 on legal aid.

If need be, the judge provides the plaintiff with a list of qualified juridical persons able to accompany him while the protective order is in force. The judge may, with the consent of the plaintiff, convey the contact details of the plaintiff to the qualified juridical person, so that he can contact him.

Article 515-12

The measures set out in Article 515-11 are ordered for a maximum duration of four months. They may be extended beyond four months if, during that time, a demand for divorce or for legal separation has been filed. The judge for family matters may, at any time, upon demand of the State Prosecutor's office or of either party, or after having undertaken all useful measures of investigation on the case, and after having invited each party to express himself, suppress or modify all or part of the measures provided in the protective order, or issue new measures, or grant the defendant a temporary suspension of having to abide by some of the obligations imposed upon him by the protective order.

Article 515-13

A protective order may also be issued by the judge to an adult threatened with a forced marriage, under the conditions stated in Article 515-10.

The judge has jurisdiction to issue all measures specified under 1°, 2°, 6° and 7° of Article 515-11. He may also order, at the request of the person threatened that that person be temporarily prohibited from leaving the territory [of France]. This prohibition to leave the territory is recorded on the list of persons sought by the State prosecutor. Article 515-12 applies to the measures ordered on the basis of this article.

TITLE I: THE VARIOUS KINDS OF THINGS

Article 516

All things are either movable or immovable.

CHAPTER I: Immovables

Article 517

Things are immovable, either by their nature or by their destination, or by the object to which they are applied.

Article 518

Land and buildings are immovables by their nature.

Article 519

Windmills or watermills, fixed on pillars and forming part of a building, are also immovables by their nature.

Article 520

Harvests standing by their roots and the fruit of trees not yet gathered are also immovable.

As soon as grain is cut and the fruit separated, even though not removed, they are movable.

If only a part of a harvest is cut, this part alone is movable.

Article 521

The normal cutting of underwood or of timber periodically cut becomes movable only as the cutting down of trees proceeds.

Article 522

Animals that the owner of a tract of land delivers to a farmer or sharecropper for farming, appraised or not, are deemed immovable so long as they remain attached to the land under the terms of the agreement.

Animals leased to others than farmers or sharecroppers are movable.

Article 523

Pipes used to bring water into a house or into another immovable are immovables and form part of the thing to which they are attached.

Article 524

Animals and things that the owner of premises places thereon for the use and working of the it are immovable by destination.

Thus, the following are immovable by destination when they have been placed by the owner for the use and working of the premises:

Animals attached to farming;

Farming implements;

Seeds given to farmers or sharecroppers;

Pigeons in pigeon-houses;

Warren rabbits;

Beehives;

Fishes of waters not referred to in Article 402 of the Rural and Maritime Fisheries Code and of stretches of water referred to in Articles 432 and 433 of the same Code;

Pressers, boilers, stills, vats, and barrels;

Tools necessary for working ironworks, paper-mills and other factories;

Straw and manure.

In addition, all movables that the owner has attached to the premises to remain there indefinitely are also immovable by destination.

Article 525

An owner shall be deemed to have attached movables indefinitely to his premises, when they are fastened with plaster or mortar or cement, or where they cannot be removed without being broken or damaged, or without breaking or damaging the part of the thing to which they are affixed.

The mirrors of an apartment are deemed indefinitely placed when the flooring to which they have been fastened is part of the woodwork.

It shall be the same as to pictures and other ornaments.

As regards statues, they are immovable when placed in a recess designed expressly to receive them, even though they can be removed without breakage or damage.

Article 526

The following are immovable by the object to which they are applied:

The usufruct of immovable things;

Servitudes or land services;

Actions for the purpose of recovering the ownership of an immovable.

CHAPTER II: MOVABLES

Article 527

Property is movable by its nature or as provided by legislation.

Article 528

Animals and things that can move from one place to another, whether they move by themselves, or whether they can move only as the result of an extraneous power, are movables by their nature.

Article 529

Obligations and actions having as their object sums due or movable effects, shares, or interests in financial, commercial, or industrial concerns, even where immovables depending on these enterprises belong to the concerns, are movables by operation of law. Those shares or interests shall be deemed movables with regard to each shareholder only, as long as the concern lasts.

Perpetual or life annuities, either from the State or private individuals, are also movables by operation of law.

Article 530

Any annuity established in perpetuity for the price of sale of an immovable, or as condition to an assignment, for value or gratuitously, of an immovable asset, is essentially redeemable.

A creditor may nevertheless regulate the terms and conditions of the redemption.

He may also stipulate that the annuity may be redeemed only after a certain time, which may never exceed thirty years: any stipulation to the contrary is null.

Article 531

Boats, ferry-boats, ships, mills and baths on vessels, and generally all works that are not fastened to pillars and do not form part of a house, are movables: a seizure of some of these things may, however, owing to their importance, be subject to certain special proceedings, as explained in the Code of Civil Procedure.

Article 532

Materials derived from the demolition of a building, those gathered for erecting a new one, are movables until they are used by a worker in construction.

Article 533

The word "movable," used alone in provisions of legislation or of man, without any other addition or designation, does not include cash, precious stones, claims, books, medals, instruments of sciences, arts and professions, clothing, horses, carriages, weapons, grain, wine, hay and other commodities; neither does it include what forms an object of commerce.

Article 534

The words "movable furnishings" include only movables intended for use and ornamentation of apartments, such as tapestries, beds, seats, mirrors, clocks, tables, china and other things of that nature.

Pictures and statues that form part of the furniture of an apartment are also included therein, but not collections of pictures which may be in galleries or particular rooms.

It shall be likewise of china: only that which is part of the decoration of an apartment is included under the denomination of "movable furnishings".

Article 535

The expression "movable property," that of "furniture or movable effects" include generally every thing which is deemed to be a movable according to the rules above set forth.

The sale or gift of a furnished house only includes the movable furnishings.

Article 536

The sale or gift of a house, with all that is found therein, does not include cash, or claims and other rights whose instruments of title may be located in the house; all other movable effects are included.

CHAPTER III: Property in its Relations with Those Who Own it

Article 537

Private individuals have the free disposal of things that belong to them, subject to the modifications established by legislation.

Things that do not belong to private individuals are administered and may only be alienated in the forms and according to the rules peculiar to them.

Article 539

The property of persons who die without heirs or whose successions are abandoned belong to the State.

Article 542

Communal things are those whose ownership or revenue the inhabitants of one or several communes have a vested right.

Article 543

One may have in things a right of ownership, or a mere right of enjoyment, or only a claim to land services.

TITLE II. OWNERSHIP

Article 544

Ownership is the right to enjoy and dispose of things in the most absolute manner, provided they are not used in a way prohibited by statutes or regulations.

Article 545

No one may be compelled to yield his ownership, unless for public purposes and for a fair and previous indemnity.

Article 546

Ownership of a thing, either movable or immovable, gives a right to everything it produces and to what is accessorily united to it, either naturally or artificially.

That right is called right of accession.

Chapter I. The Right of Accession as to What the Thing Produces

Article 547

Natural or cultural fruit of the land;

Revenues;

Increase in stock,

belong to the owner by right of accession.

Article 548

Fruit produced by a thing belongs to the owner, on the sole condition that he repay the costs of ploughing, works, and planting incurred by third parties and whose value must be assessed at the date of repayment.

Article 549

A mere possessor makes fruits his own only where he possesses in good faith. If not in good faith, he is bound to restore the products as well as the thing to the owner who claims it; if the said products are not found in kind, their value must be appraised as of the date of repayment.

Article 550

A possessor is in good faith when he possesses as owner, under a title translative of ownership, whose defects he does not know.

He ceases to be in good faith from the time those defects are known to him.

CHAPTER II. THE RIGHT OF ACCESSION AS TO WHAT UNITES WITH AND INCORPORATES ITSELF INTO A THING

Article 551

Everything that unites with and incorporates itself into a thing belongs to the owner, according to the rules hereafter laid down.

Section 1. The Right of Accession and Immovables

Article 552

Ownership of the ground entails ownership of what is above and below it.

The owner may make upon the ground all the plantings and constructions that he deems proper, unless otherwise provided for in the Title "Servitudes or Land Services."

He may make below the surface all constructions and excavations he deems proper and draw from these excavations all the products they can give, subject to the limitations resulting from statutes and regulations relating to mines and from statutes and regulations of police.

Article 553

All constructions, plantings, and works upon or within a tract of land are presumed made by the owner, at his expense and as belonging to him, unless the contrary is proved; without prejudice to the ownership, either of an underground passage under the building of another, or of any other part of the building that a third party may have acquired or could acquire by prescription

Article 554

An owner of the ground who made constructions, plantings, and works with materials that did not belong to him, shall pay the value of them, appraised at the date of payment; he may also be ordered to pay damages, if there is occasion: but the owner of the materials may not remove them.

Article 555

When plantings, constructions, or works are made by a third person and with materials belonging to him, the owner of the premises has the right, subject to the provisions of paragraph 4 below, either to keep the ownership of them, or to compel the third person to remove them.

If the owner of the premises insists upon removal of the constructions, plantings, or works, it shall be done at the expense of the third person, and without any indemnity to him; the third person may furthermore be ordered to pay damages for loss which the owner of the premises may have suffered.

If the owner of the premises prefers to keep the ownership of the constructions, plantings, or works, he must, at his choice, reimburse the third person either for a sum equal to the increase in the value of the

premises, or the cost of the materials and the price of the labour appraised at the date of reimbursement, account being taken of the current condition of the said plantings, constructions, or works.

If the plantings, constructions, or works were made by an evicted third person who would not have been liable, because of his good faith, to restore the fruits, the owner may not insist on the removal of the said works, constructions and plantations, but he has the choice to reimburse the third person with either of the sums referred to in the preceding paragraph.

Article 556

Deposits and accretions that gather successively and imperceptibly on riparian lands are called alluvion.

Alluvion benefits to the riparian owner, whether it be a domanial or not; on condition, in the first case, that he leaves a footpath or tow-path, in accordance with regulations.

Article 557

The same rule shall apply to sandbanks formed by running water that withdraws imperceptibly from one bank and is carried onto the other: the owner of the discovered bank profits from the alluvion, without the riparian owner of the opposite side being allowed to claim the land which he has lost.

That right does not arise with regard to the seashore.

Article 558

Alluvion does not arise with regard to lakes and ponds, whose owner always keeps the land covered by the water when it reaches the level of the outlet of the pond, even where the volume of water decreases.

Reciprocally, the owner of a pond does not acquire any right to the riparian lands that its water happens to cover during extraordinary floods.

Article 559

Where a river or stream, domanial or not, removes by a sudden force a considerable and recognizable part of a riparian field and carries it towards a lower field or to the opposite bank, the owner of the part removed may claim his property; but he is compelled to file his claim within one year: after that period, it will no longer be admissible, unless the owner of the field to which the part removed has been joined has not yet taken possession of it.

Article 560

Islands, islets, deposits that gather in the beds of rivers of the State, belong to the public entity that is owner of the property concerned, unless there is an instrument of title or prescription to the contrary.

Article 561

Islands and deposits that gather in streams that are not domanial belong to the State belong to the riparian owners on the side where the island was formed: if the island has not gathered on one side only, it belongs to riparian owners of both sides, beginning from a line hypothetically drawn in the middle of the river.

Article 562

Where a stream or river, in forming a new arm, cuts off and surrounds a field of a riparian owner and makes an island of it, that owner keeps the ownership of his field, although the island gathered in a river or a stream belonging to the State.

Article 563

Where a river or a stream belonging to the State forms a new course by abandoning its former bed, the riparian owners may acquire ownership of that former bed, each one in his own right until a line hypothetically drawn in the middle of the stream. The price of the former bed must be fixed by experts appointed by the president of the court of the location of the land, on request of the competent authority.

If the riparian owners fail to declare, within three months of the notice served upon them by the prefect, their intention to purchase at the prices fixed by the experts, the conveyance of the former bed must be made under the rules that govern alienation of the domain of public persons.

The price of the sale shall be distributed as a compensation to the owners of the premises occupied by the new course in proportion to the value of the ground taken from each of them.

Article 564

Pigeons, rabbits, and fish that go to another pigeon-house, warren, or stretch of water referred to in Articles L. 431-6 and L. 431-7] of the Environmental Code, belong to the owner of these things, provided that they were not attracted by fraud or guile.

Section 2. The Right of Accession and Movable Things

Article 565

The right of accession depends entirely on the principles of natural equity, when its object is two movable things belonging to two different owners.

The following rules are examples to aid the judge in deciding cases not provided for, according to the circumstances.

Article 566

When two things belonging to different owners have been united so as to form one whole, but are nevertheless separable, so that each may exist without the other, the whole belongs to the owner of the thing that forms the principal part, subject to the obligation of paying to the other the value, appraised at the date of payment, of the thing that has been united with it.

Article 567

The part to which the other part has been united only for the use, ornamentation, or completion of the first is deemed the principal part.

Article 568

Nevertheless, when the value of the second thing joined to the principal thing is much greater, and when it was used without the knowledge of its owner, the latter may request that the thing joined be separated in order to be returned to him, even when some damage to the thing to which it was joined may result.

Article 569

When of two things united to form one whole thing, and neither can be considered as the accessory of the other, the thing of greater value is deemed the principal thing, or if the values are approximately equal, the thing of greater volume.

Article 570

Where a craftsman or any person whatever has used material that did not belong to him to make a thing of a new kind, whether the material can resume its original form or not, he who was the owner of it has the right to claim the thing made from it by repaying the price of the labour appraised at the date of repayment.

Article 571

If, however, the labour is so important that it greatly exceeds the value of the material used, the work will then be deemed the principal part and the worker has the right to retain the thing wrought, by repaying the owner the value of the material, appraised at the date of repayment.

Article 572

When a person has partly used material that belonged to him and partly material that did not belong to him to make a thing of a new kind, without either of the two materials being entirely destroyed, but in such a way that they cannot be separated without inconvenience, the thing is owned in common by the two owners, to one of them because of the material that belonged to him, and to the other because of both the material that belonged to him and of the price of his labour. The price of the labour must be appraised at the date of the auction provided for in Article 575.

Article 573

When a thing has been formed by mixing together several materials belonging to different owners, and none of them can be considered the principal material, if the materials can be separated, he without whose knowledge the materials have been combined may request that they be separated.

When the materials can no longer be separated without inconvenience, they acquire ownership of them in common, in proportion to the quantity, the quality, and the value of the materials belonging to each of them.

Article 574

When the material belonging to one of the owners was far superior to the other in quantity and price, then the owner of the material of greater value may request the thing resulting from the combination, by repaying the other the value of his material, appraised at the date of repayment.

Article 575

When a thing remains in common between the owners of the materials from which it has been made, it must be sold by auction for their common benefit.

Article 576

In all cases where the owner whose material was used without his knowledge to make a thing of a different kind may claim ownership of that thing, he may demand either restitution of his material in the same kind, quantity, weight, measure, and quality, or its value appraised at the date of restitution.

Article 577

Those who have made use of materials belonging to others, and without their knowledge, may also be ordered to pay damages, if there is occasion, without prejudice to criminal prosecution, if need be.

TITLE III. - USUFRUCT, RIGHT OF USE, AND HABITATION

Chapter I. Usufruct

Article 578

Usufruct is the right to enjoy things owned by another in the same manner as the owner himself, but on condition that their substance be preserved.

Article 579

Usufruct is established by legislation or by the will of a person.

Article 580

Usufruct may be established either outright, or as of a date certain, or upon a condition.

Article 581

Usufruct may be established on any kind of thing, movable or immovable.

Section 1. Rights of the Usufructuary

Article 582

A usufructuary has the right to enjoy all kinds of fruits, either natural, agricultural, or civil, that the object whose usufruct he has can produce.

Article 583

Natural fruits are those which are the spontaneous product of the earth. The produce and increase of animals are also natural fruits.

Agricultural fruits of a tract of land are those that are obtained by cultivation.

Article 584

Civil fruits are rents of houses, interest on sums due, and payments on annuities.

Rents under farming leases are also in the class of civil fruits.

Article 585

Natural and agricultural fruits, hanging from branches or roots when a usufruct begins, belong to the usufructuary.

Fruits that are in the same condition when the usufruct ends belong to the owner, without compensation on either side for work and plantings, but also without prejudice to the share of the fruits that could have been acquired by a sharecropper, if one had existed at the beginning or at the end of the usufruct.

Article 586

The acquisition of civil fruits is deemed to occur day by day, and belong to the usufructuary in proportion to the duration of his usufruct. This rule shall apply to rents under farming leases, as well as to rents of houses and other civil fruits.

Article 587

If a usufruct includes things that cannot be used without being consumed, such as money, grain, or liquors, the usufructuary has the right to use them, but with the obligation, at the end of the usufruct, either to give back things of the same quantity and quality or to pay their value appraised at the time of restitution.

Article 588

A usufruct of a life annuity also gives the usufructuary, during the duration of his usufruct, the right to collect payments under it, without being liable to any restitution.

Article 589

If a usufruct includes things that, without being consumed at once, deteriorate gradually through use, such as bed linen or movable furnishings, the usufructuary has the right to make use of them for the use for which they are intended and is only bound to return them at the end of the usufruct in the condition they are in then, unless deterioration occurred by his intentional wrong or fault.

Article 590

If a usufruct includes copses, a usufructuary is bound to respect the order and quota of cuttings, in accordance with the arrangement or constant usage of the owners; but without compensation to the usufructuary or his heirs, for ordinary cuttings, either of coppice, or of staddles, or of forest trees that he did do during his enjoyment.

Trees that can be removed from a tree nursery without damaging it form part of a usufruct only on condition that the usufructuary comply with the usages of the place for replacing them.

Article 591

A usufructuary also benefits, always observing the periods and usages of the former owners, from the parts of woods of timber trees in which periodical cuttings are made, whether those cuttings are made periodically over a certain area of land, or whether they are made of a certain quantity of trees taken indiscriminately over the whole surface of the property.

Article 592

In all other cases, a usufructuary may not interfere with woods of timber trees: he may only use the trees that have been uprooted or broken by accident to make the repairs that he is bound to make; he may even for that purpose have trees cut down, if necessary, provided the necessity of so doing is established together with the owner.

Article 593

He may take vine props in the woods; he may also take annual or periodical products from the trees; all of which being done according to the usage of the country or the custom of the owners.

Article 594

Fruit trees that die, even those uprooted or broken by accident, belong to the usufructuary, with the obligation to replace them with others.

Article 595

A usufructuary may enjoy the thing himself, lease the thing to another, and even sell or assign his right gratuitously.

Leases that a usufructuary alone made for more than nine years are, in case of termination of the usufruct, binding with regard to the naked owner only for the time remaining to run, either of the first period of nine years, if the parties are still in it, or of the second period, and so on in order that the lessee has only the right to conclude the enjoyment of the period of nine years in which he happens to be.

Leases of nine years or fewer that a usufructuary alone makes or renews more than three years before termination of a current lease if it relates to rural property, or more than two years before the same time if it relates to houses, are without effect, unless their performance began before termination of the usufruct.

A usufructuary may not, without the consent of the naked owner, lease a rural property or an immovable intended for commercial, industrial, or artisanal use. A usufructuary may obtain judicial authorization to make such an act alone, without consent of the naked owner.

Article 596

A usufructuary enjoys the increase resulting from alluvion to the object of which he has the usufruct.

Article 597

He enjoys the rights of servitude, of passage, and generally all rights that the owner may enjoy, and he enjoys them in the same way as the owner himself.

Article 598

He also enjoys, in the same way as the owner, mines and quarries that are being worked when the usufruct begins; but if a profitable works cannot occur without a concession, a usufructuary may enjoy them only after obtaining permission from the President of the Republic.

He has no right to mines and quarries not yet opened, nor to peat bogs whose working has not yet begun, nor to treasure that may be discovered during the duration of the usufruct.

Article 599

The owner may not, by his acts or in any manner whatsoever, injure the rights of a usufructuary.

For his part, a usufructuary may not, upon termination of the usufruct, claim any compensation for the improvements that he might claim to have made, even though the value of the thing has been increased thereby.

He or his heirs, however, may remove mirrors, paintings, and other decorations that he may have installed, provided he restores the premises to their former condition.

Section 2. Obligations of the Usufructuary

Article 600

A usufructuary takes things in their current condition; but he may enter into enjoyment only after having an inventory of the movables and a detailed statement as to the immovables subject to the usufruct drawn up, in the presence of the owner or after due notice to the owner.

Article 601

He shall provide a surety for his obligation to enjoy the thing as a prudent administrator, unless the act creating the usufruct relieves him of this obligation to provide a surety; however, the father and mother who have the legal usufruct of their children's property, and the seller or donor who reserved the usufruct, are not obligated to provide a surety.

Article 602

If the usufructuary does not find a surety, the immovables shall be given on lease or sequestered;

Sums included in the usufruct shall be invested;

Commodities shall be sold and the proceeds arising out of the sale shall likewise be invested;

The interest on those sums and the rents from leases shall belong in that case to the usufructuary.

Article 603

If the usufructuary provides no surety, the owner may demand that movables that fall into decay through use be sold, and the proceeds invested as with commodities; the usufructuary shall then enjoy the interest during his usufruct.

Nevertheless, a usufructuary may request, and the judges may order, according to the circumstances, that a part of the movables necessary for his use be left to him, on his own mere guaranty given on oath, and subject to the condition of returning them on termination of the usufruct.

Article 604

Delay in providing a surety does not deprive a usufructuary of the fruits to which he may be entitled: they are owed to him from the time when the usufruct began.

Article 605

A usufructuary is only bound to repairs of maintenance.

Major repairs remain the responsibility of the owner, unless they were caused by the lack of repairs of maintenance, from the beginning of the usufruct; in which case the usufructuary is also liable for them.

Article 606

Major repairs are those to main walls and vaults, the restoring of beams, and of the whole roofing;

That of dams, breast walls, and enclosures are also major repairs. All other repairs are of maintenance.

Article 607

Neither an owner nor a usufructuary is bound to rebuild what has fallen from decay or has been destroyed by a fortuitous event.

Article 608

A usufructuary is liable during his enjoyment for all the annual charges upon the property, such as taxes and others that, according to usage, are deemed to be charges on the fruits.

Article 609

As to charges that may be imposed upon the ownership during the usufruct, an owner and a usufructuary contribute to them as follows:

The owner is bound to pay them and the usufructuary must account to him for interest;

If they are advanced by the usufructuary, he may claim the principal at the end of the usufruct.

Article 610

A legacy made by a testator of a life annuity or of an alimentary pension must be paid completely by the universal legatee of the usufruct, and by a legatee by universal title of the usufruct in proportion to his enjoyment, without any right to repayment on their part.

Article 611

A usufructuary under particular title is not liable for debts for which the premises are hypothecated: if he is compelled to pay them, he has a remedy against the owner, subject to what is provided for in Article 1020 in the Title "Donations Inter Vivos and Testaments."

Article 612

A usufructuary, whether universal, or by universal title, shall contribute with the owner to the payment of debts as follows:

The value of the premises subject to usufruct shall be appraised; the contribution to the debts shall be then fixed, in accordance with that value.

If a usufructuary wishes to advance the sum for which the premises are liable, the principal shall be restored to him at the end of the usufruct, without interest.

If a usufructuary does not wish to make that advance, the owner has the choice either to pay that sum, in which case the usufructuary shall account to him for interest during the duration of the usufruct, or to have a portion of the property subject to the usufruct sold to the extent of the amount due.

Article 613

A usufructuary is bound to pay only the costs of litigation relating to his enjoyment and of the judgments to which those suits may give rise.

Article 614

If, during the duration of an usufruct a third party commits any intrusion upon the premises, or interferes in any other way with the rights of the owner, the usufructuary is bound to notify the latter thereof; failing which, he is liable for all the damage that may result from it to the owner, as he would be for dilapidations committed by himself.

Article 615

If the usufruct is established only over an animal that happens to die without the fault of the usufructuary, the latter is not bound to return another one, or to pay an appraised value of it.

Article 616

If a herd upon which a usufruct was established perishes entirely, by accident or by disease and without the fault of the usufructuary, the latter is bound to account to the owner only for the skins or for their value appraised at the date of restitution.

If the herd does not perish entirely, the usufructuary is bound to replace the heads of the animals that have perished, to the extent of the increase in stock.

Section 3. How Usufruct Ends

Article 617

A usufruct is extinguished:

By the death of the usufructuary;

By the expiration of the time for which it was granted;

By the consolidation or vesting in the same person of the two capacities of usufructuary and of owner;

By non-use of the right during thirty years;

By the total loss of the thing upon which the usufruct was established.

Article 618

Usufruct may also cease through abuse that a usufructuary makes of his enjoyment, either by committing dilapidations upon the premises, or by allowing it to decay for want of maintenance.

Creditors of a usufructuary may intervene in controversies, for the preservation of their rights; they may offer to repair the dilapidations committed and to give guarantees for the future.

Judges may, according to the seriousness of the circumstances, order either the absolute extinction of the usufruct, or the re-entry of the owner into the enjoyment of the thing subject thereto, provided that he pays annually to the usufructuary, or to his assigns, a fixed sum, up to the time when the usufruct should have ceased.

Article 619

A usufruct which is not granted to private individuals may last only thirty years.

Article 620

A usufruct granted until a third party reaches a fixed age lasts until that time, even though the third party dies before the fixed age.

Article 621

In case of simultaneous sale of the usufruct and of the naked ownership of a thing, the price is divided between the usufruct and the naked ownership according to the value of each of these rights, unless the parties agree that the usufruct shall apply to the price.

The sale of a thing subject to usufruct, without the consent of the usufructuary, does not modify the right of the usufructuary; he continues to enjoy his usufruct of the thing unless he formally renounces it.

Article 622

Creditors of a usufructuary may obtain annulment of a renunciation, if it was prejudicial to them.

Article 623

If only a part of a thing subject to usufruct is destroyed, usufruct is preserved on what remains.

Article 624

If a usufruct is established only on a building, and that building is destroyed by fire or other accident, or collapses from decay, the usufructuary does not have the right to enjoy the ground or the materials.

If the usufruct was established on premises of which the building was a part, the usufructuary does enjoy the ground and the materials.

CHAPTER II. RIGHT OF USE AND HABITATION

Article 625

Rights of use and habitation are established and lost in the same manner as usufruct.

Article 626

They may not be enjoyed unless a surety has been previously given, and detailed statements and inventories made, as in the case of usufruct.

Article 627

A user and a person having a right of habitation must enjoy the thing as prudent administrators.

Article 628

Rights of use and of habitation are regulated by the acts that have established them and are more or less extensive, depending upon their provisions.

Article 629

If an act does not make clear the extent of these rights, they shall be regulated as follows.

Article 630

A person who has the right of use of the fruits of a property may only demand what is necessary for his needs and those of his family.

He may demand them even for the needs of children born after the granting of the right of use.

Article 631

A person with a right of use may neither assign nor lease his right to another person.

Article 632

He who has a right of habitation in a house may live there with his family, even though he was not married when the right of habitation was granted to him.

Article 633

A right of habitation is restricted to what is necessary for the habitation of the person to whom that right is granted, and of his family.

Article 634

A right of habitation may be neither assigned nor leased.

Article 635

If a person with the right of use takes all the fruits of a property, or occupies the whole of a house, he is subjected to the expenses of cultivation, repairs of maintenance, and payment of taxes, like a usufructuary.

If he takes only a part of the fruits or occupies only a part of a house, he shall contribute in proportion to what he enjoys.

Article 636

The right of use of woods and forests is regulated by a specific legislation.

TITLE IV. SERVITUDES OR GROUND SERVICES

Article 637

A servitude is a charge imposed on an immovable for the use and utility of another immovable belonging to another owner.

Article 638

A servitude does not establish any pre-eminence of one immovable over the other.

Article 639

It results either from the natural location of the premises, or from obligations imposed by legislation, or from agreements made between the owners.

Chapter I. Servitudes that Derive from the Situation of Lands

Article 640

Lower estates are subjected to those which are higher, to receive waters which flow naturally from them without the hand of man having contributed thereto.

A lower owner may not raise dams which prevent that flow.

An upper owner may not do anything that increases the burden of the servitude of the lower premises.

Article 641

An owner has the right to use and dispose of the rainwater that falls on his estate.

If the use of those waters or the course given to them increases the burden of the natural servitude of drainage established by Article 640, compensation is owed to the owner of the lower estate.

The same provision shall apply to spring waters originating on an estate.

When, by borings or subterranean works, an owner causes waters to rise into his estate, the owners of lower estates must receive them; but they are entitled to compensation in case of damage resulting from their flow.

Houses, courts, gardens, parks, and enclosures adjoining dwellings may not be subjected to any increase in the burden of the servitude of drainage in the cases provided for in the preceding sub-articles.

Controversies which the establishment and exercise of the servitudes provided for by these sub-articles may give rise to, and the settlement, if any, of the compensations due to the owners of lower estates, must be brought, subject to review, before the judge of the tribunal d'instance of the canton who, in his judgment, must reconcile the interests of agriculture and industry with the respect due to the right of ownership.

If there is occasion for an appraisement, only one expert may be appointed

Article 642

A person who has a spring on his estate may always use the water as he wishes, within the limits and for the needs of his property.

An owner of a spring may no longer use it to the detriment of the owners of the lower estates who, for more than thirty years, have made and completed, on the estate where the water springs, apparent and permanent works intended to use the waters and facilitating their passage within their property.

Nor may he use them so as to deprive the inhabitants of a commune, village, or hamlet, of the water which is necessary to them; but where the inhabitants have not acquired the use by agreement or prescription, the owner may claim a compensation as fixed by experts.

Article 643

If, as soon as they leave the estate from which they emerge, spring waters form a watercourse presenting the nature of public, running waters, the owner may not divert them from their natural course, to the detriment of lower users.

Article 644

A person whose property borders running water other than that which is declared a dependency of the Public Domain by Article 538 [repealed] in the Title "Different Kinds of Things," may use it as it flows to irrigate his property.

A person through whose property that water flows may even use it over the interval it runs through it, provided he returns it to its ordinary course when it leaves his estate.

Article 645

If a controversy arises between owners to whom those waters may be useful, the courts, in their decisions, must reconcile the interests of agriculture with the respect due to ownership; and, in all cases, the special and local regulations on the course and use of waters must be complied with.

Article 646

Any owner may compel his neighbor to a setting of boundaries of their contiguous properties. Setting boundaries shall be done at common expense.

Article 647

An owner may enclose his property, subject to the exception laid down in Article 682.

Article 648

An owner who wishes to enclose his land loses his right to commonage and free pasture, in proportion to the land that he so withdraws.

CHAPTER II. SERVITUDES ESTABLISHED BY LEGISLATION

Article 649

The object of servitudes established by legislation is public or common utility, or utility for private individuals.

Article 650

Those established for public or common utility have as their object towing-paths along flowing waters belonging to the State, the construction or repair of roads, and other public or municipal works.

All that relates to this kind of servitude is prescribed by particular statutes or regulations.

Article 651

The law binds owners to several obligations, the one to the other, without the need of any agreement.

Article 652

Some of those obligations are regulated by legislation concerning on rural police;

Others relate to party walls and common ditches, to cases in which a retaining wall is necessary, to views over the property of a neighbor, to drainage from roofs, and to the right of passage.

Section 1. Common Walls and Ditches

Article 653

In cities and in the country, any wall serving as separation between buildings at the edge, or between courtyards and gardens, and even between enclosures in fields, is deemed to be a party wall, unless there is an instrument of title or some sign to the contrary.

Article 654

There is a sign of a non-party wall when the top of a wall is straight and perpendicular on one side and shows an inclined plane on the other.

It is likewise where on one side of the wall only there are copings or stone fillets and corbels built into it during its construction.

In such cases, a wall is deemed to belong exclusively to the owner on whose side the eaves or stone corbels and fillets are.

Article 655

Repair and reconstruction of a party wall must be borne by all those who have a right to it, and in proportion to the right of each.

Article 656

Nevertheless, any co-owner of a party wall may free himself from contributing to repair and reconstructing by abandoning the right in common, provided the party wall does not support a building that belongs to him.

Article 657

A co-owner may build against a party wall, and place there beams or joists through the whole thickness of the wall, with an accuracy of fifty-four millimeters, without prejudice to a neighbor's right to have the beam shortened with a chisel down to half of the wall, if he himself wishes to lay beams in the same place, or to back a chimney against it.

Article 658

A co-owner may have a party wall raised; but he must pay alone the expense of the raising and of the repairs of maintenance above the height of the common enclosure; he alone pays the cost of maintenance of the common part of the wall due to the raising and reimburse the neighboring owner all his expenses made necessary by the raising.

Article 659

If a party wall is not in a condition to support being raised, the person wishing to raise it must have it entirely rebuilt at his own expense, and any additional thickness must be built on his side.

Article 660

A neighbor who did not contribute to the cost of raising may acquire common rights in it by paying one-half of the expense and the value of one-half of the ground supplied for the additional thickness, if there is any. The expense that the raising has cost must be appraised at the date of acquisition, account being taken of the condition in which the raised part of the wall is.

Article 661

An owner adjoining a wall may make it a party wall in whole or in part by repaying to the owner of the wall one-half the expense it cost, or one-half the expense that the part of the wall which he wishes to make a party wall cost and one-half the value of the ground on which the wall was built. The expense the wall cost must be appraised at the date of acquisition of rights in common on it, account being taken of the condition in which it is.

Article 662

A neighbor may not make a recess in a party wall or apply or build up a work on it without the consent of the other, or, on his refusal, without having had experts determine the necessary steps in order that the new work be not detrimental to the other's rights.

Article 663

In cities and suburbs, everyone may compel his neighbor to contribute to the construction and repair of an enclosure separating their houses, court-yards, and gardens situated in those cities and suburbs: the height of the enclosure is fixed according to specific regulations or uniform and recognized usages and, if there are no such usages and regulations, a dividing wall between neighbors, to be constructed or restored in the future, shall be at least thirty-two decimeters high, including the coping, in cities of fifty thousand souls and more, and twenty-six decimeters in the others.

Article 665

When a party wall or a house is rebuilt, active and passive servitudes continue with regard to the new wall or the new house, but may not become more burdensome, and provided rebuilding occurs before prescription is acquired.

Article 666

Every enclosure separating estates is deemed to be held in common, unless there is only one estate actually enclosed, or there is an instrument of title, prescription, or boundary sign to the contrary.

As regards ditches, there is such a sign they are not held in common where the embankment or spoil of earth is found on only one side of the ditch.

A ditch is deemed to belong exclusively to the one on whose side the spoil is situated.

Article 667

A common enclosure must be maintained at common expense; but a neighbor may free himself of that obligation by abandoning ownership in common.

The ability to do so ceases if the ditch habitually carries flowing water.

Article 668

A neighbor whose property adjoins a ditch or a hedge not held in common may not compel the owner of that ditch or hedge to convey rights in common to him.

A co-owner of a common hedge may destroy it up to the limit of his property, provided he builds a wall upon that limit.

The same rule shall apply to the co-owner of a common ditch which is used only as an enclosure.

Article 669

So long as a hedge is held in common, its products belong to the owners, one-half to each.

Article 670

Trees situated in a common hedge are held in common just as the hedge is. Trees planted on the dividing line of two tracts of land are also deemed to be held in common. When they die or are cut or uprooted, trees are divided in halves. Fruits are gathered at joint expense and divided also in halves, either when they fall naturally, or when the fall was caused intentionally, or when they were picked.

Each owner has the right to require that such trees held in common be uprooted.

Article 671

It is permitted to have trees, shrubs, or bushes near the limit of a neighboring property only at the distance allowed by the specific regulations presently in force or by uniform and recognized usages, and if there are no such regulations and usages, at the distance of two meters from the dividing line of the two properties for plantings whose height exceeds two meters, and at the distance of half a meter as regards other plantings.

Trees, bushes and shrubs of all kinds may be planted in espaliers on each side of a dividing wall, without having to keep to any distance, but they may not pass the crest of the wall.

Where a wall is not a party wall, the owner alone has the right to lean espaliers against it.

Article 672

A neighbor may require that trees, shrubs and bushes planted at a distance less than the distance provided by legislation, be uprooted or reduced to the height fixed in the preceding article, unless there is an instrument of title, an adjustment made by the owner, or thirty-year prescription.

When the trees die, or where they are cut or uprooted, a neighbor may replace them only if he maintains the legal distances.

Article 673

One over whose property branches of a neighbor's trees, bushes, and shrubs jut out may compel the latter to cut them. Fruits that fall naturally from these branches belong to him.

If roots, brambles, and brushwood jut out on his property, he has the right to cut them himself up to the limit of the dividing line.

The right to cut roots, brambles, and brushwood or to have branches of trees, bushes, or shrubs cut may not be lost by prescription.

Section 2. Distance and Intermediary Works Required for Certain Constructions

Article 674

He who has a well or a cesspool dug near a wall, whether it is a party wall or not,

He who wishes to build a chimney or a fire-place, a forge, an oven or a furnace, to set a stable against it, or place against that wall a store of salt or a heap of corrosive materials;

is bound to leave the distance prescribed by regulations and specific usages relating to those things, or to do the works prescribed by the same regulations and usages in order to avoid injuring the neighbor.

Section 3. Right of View over the Property of One's Neighbor

Article 675

One of the neighbors may not, without the consent of the other, cut in a party wall any window or opening, in any manner whatever, even in fixed fanlights.

Article 676

The owner of a wall which is not a party wall, adjoining the property of another person, may cut openings or windows in it, in leaded iron and fixed fanlights.

Those windows must be provided with an iron lattice whose meshes shall have an aperture of one decimeter at the most, and with a frame of fixed fanlights.

Article 677

Those windows or openings may only be made at twenty six decimeters above the floor or ground of the room which one wishes to give light to, where it is on the ground floor, and at nineteen decimeters above the floor of the upper stories.

Article 678

One may not have straight views or bow windows, or balconies or similar projections over the neighbor's property, enclosed or not, unless there is a distance of nineteen decimeters between the wall where they are cut and the said property, unless the property or the part of the property over which the view bears is already burdened, for the benefit of the property that benefits from it, by a servitude of passage that prevents the building of constructions.

Article 679

One may not, subject to the same reservation, have side or oblique views on the same property, unless there is a distance of six decimeters.

Article 680

The distance mentioned in the two preceding articles counts from the outer surface of the wall in which the opening is cut, and, where there are balconies or other similar projections, from their exterior line up to the dividing line of the two properties.

Section 4. Roof Drainage

Article 681

The owner must place his roofs so that rainwater falls on his land or on the public highway; he may not have it pour on his neighbor's property.

Section 5. Right of Passage

Article 682

An owner whose property is enclosed and who has no way out to the public highway, or only one that is insufficient either for an agricultural, industrial, or commercial use of his property, or for carrying out operations of building or development, is entitled to claim over the properties of his neighbors a passage sufficient for the complete servicing of his own properties, provided he pays a compensation in proportion to the damage he may cause.

Article 683

The passage must be taken regularly from the side where the route from the enclosed property to the public highway is shortest.

It must, however, be fixed where the least damage is caused to the person over whose property it is allowed.

Article 684

If a property becomes enclosed because of a division following a sale, an exchange, a partition, or any other contract, a passage may be requested only on the lands that were the object of those acts.

Nevertheless, when a sufficient way cannot be made over the divided properties, Article 682 applies.

Article 685

The location and manner of a servitude of passage because of enclosure are established by a continuous use for thirty years.

An action for compensation under Article 682 may prescribe, and the right of passage may continue, although an action for compensation has prescribed.

Article 685-1

If the enclosure has ended and however the location and manner of the servitude were determined, the owner of the servient estate may, at any time, invoke the extinction of the servitude where the service of the dominant estate is ensured under the conditions of Article 682.

Unless there is amicable agreement, that disappearance must be ascertained by a judicial decision.

CHAPTER III. SERVITUDES ESTABLISHED BY HUMAN ACTION

Section 1. The Several Kinds of Servitude that May be Established over Things

Article 686

Owners are permitted to establish against their property, or in favor of their property, such servitudes as they deem proper, provided that the services established are neither against a person nor in favor of a person, but only against an estate and for an estate, and provided that those servitudes are not in any way contrary to public policy.

The use and extent of the servitudes thus established are regulated by the instrument of title that creates them; failing such an instrument of title, by the following rules.

Article 687

Servitudes are established either for the use of buildings or for the use of tracts of land.

Those of the first kind are called "urban," whether the buildings to which they are due are located in a city or in the country.

Those of the second kind are named "rural."

Article 688

Servitudes are either continuous or discontinuous.

Continuous servitudes are those whose use is or may be unceasing, without need of a human action at the time of use: such are water-pipes, sewers, views, and other servitudes of that kind.

Discontinuous servitudes are those that need a human action to be exercised: such are rights of way, drawing water, pasturing, and similar servitudes.

Article 689

Servitudes are apparent or non-apparent.

Apparent servitudes are those that show themselves by outer works, such as a door, a window, an aqueduct.

Non-apparent servitudes are those that do not have an outer sign of their existence, such as a prohibition to build on an estate, or to build only up to a fixed height.

Section 2. How Servitudes Are Established

Article 690

Continuous and apparent servitudes are acquired by an instrument of title or by possession of thirty years.

Article 691

Continuous non-apparent servitudes and discontinuous servitudes, whether apparent or not, may be established only by an instrument of title.

Possession, even immemorial, is not sufficient to establish them, without, however, one being allowed to challenge today servitudes of that kind already acquired by possession in localities where they were allowed to be acquired in that way.

Article 692

Destination for a purpose made by the owner is equivalent to an instrument of title for continuous and apparent servitudes.

Article 693

There is a destination for a purpose made by the owner only where it is proved that the two estates now divided once belonged to the same owner and that it was through him that things were put in the condition that gives rise to the servitude.

Article 694

Where an owner of two estates between which an apparent sign of servitude exists, disposes of one estate and the contract does not contain any agreement relating to the servitude, the servitude continues to exist actively or passively for or against the estate alienated.

Article 695

An instrument of title creating a servitude, with regard to servitudes that may not be acquired by prescription, may only be replaced by an instrument of title recognizing the servitude, and emanating from the owner of the estate burdened by the servitude.

Article 696

Where a person establishes a servitude, he is deemed to grant all that is necessary to use it.

Thus, a servitude to draw water from another's fountain necessarily involves a right of passage [to the fountain].

Section 3. Rights of the Owner of the Estate to Which a Servitude is Owed

Article 697

A person to whom a servitude is due, has the right to make all works necessary to use and maintain it.

Article 698

Those works are at his expense, and not at that of the owner of the estate burdened by the servitude, unless the instrument of title creating the servitude provides for the contrary.

Article 699

Even when the owner of an estate burdened by a servitude is compelled under the instrument of title to make the works necessary for the use or preservation of the servitude at his own expense, he may always free himself from the burden by abandoning the servient estate to the owner of the estate to which the servitude is due.

Article 700

If a property for which a servitude was established becomes divided, the servitude remains for each part, but the burden against the servient estate may not be increased.

Thus, in case of a right of passage, all the co-owners are obliged to use it at the same place.

Article 701

The owner of a servient estate may do nothing tending to diminish its use or to make its use more inconvenient.

Thus, he may not change the condition of the premises or move the exercise of the servitude to a place different from the one where it was originally placed.

But when the original placement has become more onerous to the owner of the servient estate, or when the placement prevents him from making advantageous repairs, he may offer to the owner of the other estate another place as convenient for the exercise of his rights, and the latter may not refuse it.

Article 702

For his part, he who has a right of servitude may only use it in accordance with his instrument of title, without being allowed to make, either on the estate that owes the servitude, or on the estate to which it is owed, any change that would render the condition of the servient estate more burdensome.

Section 4. How Servitudes Are Extinguished

Article 703

Servitudes cease when the things come to be in such a condition that they can no longer be used.

Article 704

Servitudes revive when things are restored in such a manner that they can be used; unless enough time has already passed, sufficient to give rise to the presumption that the servitude is extinguished, as stated in Article 707.

Article 705

A servitude is extinguished when the estate to which it is owed, and the estate that owes it, are united in the same hands.

Article 706

A servitude is extinguished by non-use during thirty years.

Article 707

The thirty years begin to run, according to the different kinds of servitudes, either from the day when one ceased to enjoy them, with respect to discontinuous servitudes, or from the day when an act contrary to the servitude has been performed, with respect to continuous servitudes.

Article 708

The manner of a servitude may prescribe just as the servitude itself and in the same way.

Article 709

If an estate for which a servitude is established belongs to several persons in undivided ownership, enjoyment by one of them prevents prescription for all of them.

Article 710

If, among co-owners, there is one against whom prescription could not run, such as a minor, he maintains the right of all the others.

TITLE V. PUBLIC REGISTRY OF INTERESTS IN LAND AND IMMOVABLES

UNIQUE CHAPTER. THE FORM OF AUTHENTIC ACTS

Article 710-1

Every act or right must, to permit the formalities of publicity regarding land, result from an act received in authentic form by a notary exercising his profession in France, from a judicial decision, or from an authentic act issued by an administrative authority.

The deposit with the original records of a notary of an act under private signature, countersigned or not, even with certification of the handwriting and signature, does not permit the formalities of publicity regarding land. Nevertheless, even when they are not drafted in authentic form, the records of formal proceedings of general assemblies before or after the receipt of immovable property or rights by a partnership, as well as the records of formal proceedings setting a boundary, may be published in the office of hypothecs, provided they are attached to act that recites their deposit with the original acts of a notary.

The first paragraph above does not apply to the formalities of publicity regarding land regarding the filing of claims in court, orders that constitute the seizure of property, the various acts of procedure and judgments relating to them, documents imposing an administrative limitation on the right of ownership or an administrative servitude, the formal records of proceedings of the cadastral land registry, surveys established by a licensed surveyor, and the modifications arising from administrative decisions or from natural events.

GENERAL PROVISIONS

Article 711

Ownership of assets is acquired and transmitted by succession, by donation inter vivos or testamentary, and by the effect of obligations.

Article 712

Ownership is also acquired by accession or incorporation, and by prescription.

Article 713

Assets that have no master belong to the commune on whose territory they are situated. Nevertheless, ownership is transferred by operation of law to the State if the commune renounces to exercise its rights.

Article 714

Some things belong to no one and their use is common to all. Legislation in the public interest governs how they are enjoyed.

Article 715

The faculty of hunting or fishing is also regulated by specific legislation.

Article 716

Ownership of treasure belongs to the one who discovers it on his own estate; if a treasure is discovered on another's estate, half of it belongs to the one who finds the treasure, and the other half to the owner of the estate.

A treasure is any hidden or buried thing the ownership of which cannot be proven by anyone and that is discovered by mere chance.

Article 717

Rights to jetsam, to objects cast up by the sea, of whatever nature they may be, to plants and grasses that grow on the seashore, are also regulated by specific legislation.

It shall be the same as to lost assets whose master does not present himself.

TITLE I: SUCCESSIONS

Chapter I: The Opening Of Successions, Universal Title, And Seizin

Article 720

Successions are opened by death, at the last domicile of the deceased.

Article 721

Successions devolve according to legislation when the deceased did not dispose of his assets by means of liberalities.

They may devolve by means of liberalities to the extent consistent with the reserved portion.

Article 722

Agreements having the purpose of creating rights or renouncing rights to all or part of a succession not yet opened or of an asset forming a part of it are effective only in the cases in which they are authorized by legislation.

Article 724

Heirs designated by legislation have seizin by operation of law of the assets, rights, and actions of the deceased.

Universal legatees and universal donees have seizin under the conditions provided for in Title II of this Book.

If none exists, the succession is acquired by the State, which must cause itself to be sent into possession.

Article 724-1

The provisions of this Title, in particular those which relate to option, indivision, and partition, apply as may be thought proper, to universal legatees or universal donees, or legatees or donees by universal title, unless otherwise provided by a specific rule.

CHAPTER II. Qualities necessary to succeed: proof of the quality of heir

Section 1: Qualities required to succeed

Article 725

In order to succeed, one must exist at the moment of the opening of the succession or, having been conceived, be born viable.

A person whose absence is presumed under Article 112 may succeed.

Article 725-1

When two persons each of whom was called to succeed to the other, die in the same event, the order of deaths may be proven by any means.

When that order cannot be determined, the succession of each of them devolves without the other being called to it.

Nevertheless, if one of the co-deceased leaves descendants, these may represent their author in title in the succession of the other deceased, when representation is allowed.

Article 726

The following are unworthy of succeeding and, as such, are excluded from the succession:

1° One who is sentenced, as perpetrator or accomplice, to a criminal penalty for having intentionally caused or attempted to cause death to the deceased;

2° One who is sentenced, as perpetrator or accomplice, to a criminal penalty for having intentionally struck or committed violence or assault that led to the death of the deceased without the intention of causing it.

Article 727

The following may be declared unworthy to succeed:

1° One who is sentenced, as perpetrator or accomplice, to a correctional penalty for having intentionally caused or attempted to cause death to the deceased;

2° One who is sentenced, as perpetrator or accomplice, to a correctional penalty for having intentionally committed violence that led to the death of the deceased without the intention of causing it;

3° One who is sentenced for false testimony against the deceased in a criminal proceeding;

4° One who is sentenced for intentionally failing to prevent either a crime or a delict against the physical integrity of the deceased, from which death resulted, although he could have done so without risk to himself or to third persons ;

5° One who is sentenced for a slanderous criminal charge against the deceased when, relating to the acts denounced, a criminal penalty was incurred;

A person may also be declared unworthy to succeed who has committed the acts referred to in 1° and 2° above but with regard to whom, by reason of his death, the public action could not be exercised or was extinguished

Article 727-1

A declaration of unworthiness as provided for in Article 727 shall be pronounced after the opening of the succession by the tribunal de grande instance on the demand of another heir. The demand must be brought within six months of the death if the sentence or conviction precedes the death, or within six months of the judgment if it follows the death.

In the absence of heirs the demand may be filed by the State Prosecutor’s office.

Article 728

A person called to the succession but subject to a cause of unworthiness as provided for in Articles 726 and 727 is not excluded from a succession, when the deceased, after occurrence of the facts and with knowledge of them, made an express declaration of will in testamentary form that he intends to maintain the person in his rights to the succession or made a universal liberality or a liberality by universal title in his favor.

Article 729

An heir excluded from a succession for unworthiness is obliged to return all fruits and revenues that he enjoyed after the opening of the succession.

Article 729-1

Children of an unworthy heir may not be excluded for the fault of their parent, whether they come to the succession in their own right or by the effect of representation; but an unworthy person may not, in any case, claim, on the assets in the succession, the enjoyment that legislation grants to fathers and mothers on the assets of their children.

Section 2: Proof of heirship

Article 730

Proof of heirship may be made by any means.

No derogation is made from the provisions or usages relating to the issuance of certificates of ownership or inheritance by judicial or administrative authorities.

Article 730-1

Proof of heirship may result from an act of notoriety drawn by a notary upon demand of one or several interested parties.

The act of notoriety must refer to the certificate of death of the person whose succession is opened and shall mention the supporting documents that may have been produced, such as acts of civil status and, if appropriate, documents relating to the existence of liberalities mortis causa that may affect the devolution of the succession.

It shall contain the assertion, signed by one or more of the interested parties making the demand, that they are called, alone or with others whom they specify, to receive all or part of the succession of the deceased.

Any person whose statements seem to be useful may be called to the act.

Mention of the existence of the act of notoriety shall be made in the margin of the certificate of death.

Article 730-2

An assertion contained in the act of notoriety does not entail by itself an acceptance of the succession.

Article 730-3

An act of notoriety drawn up in this way is adequate proof of its contents until contrary evidence appears.

A person who avails himself of it is presumed to have rights of succession in the proportion therein stated.

Article 730-4

The heirs designated in an act of notoriety or their common mandatary are reputed, with regard to third party detainers of assets of the succession, to have free disposition of these assets and, where liquid funds are concerned, free disposition of them in the proportion stated in the act.

Article 730-5

A person who, knowingly and in bad faith, avails himself of an inaccurate act of notoriety, incurs the penalties for concealment provided for in Article 792, without prejudice to claims for damages and interest.

CHAPTER III. heirs

Article 731

A succession devolves by legislation to the relatives and spouse who are called to the succession under the conditions hereafter defined.

Article 732

A spouse called to the succession is the surviving spouse, not divorced.

Section 1: Rights of relatives when there is no surviving spouse called to the succession

Article 733

In determining the relatives who are called to succeed, legislation does not distinguish depending on how filiation is established.

Rights resulting from adoptive filiation are governed by the Title on Adoption.

Sub-article 1: The orders of heirs

Article 734

In the absence of a spouse who is called to the succession, relatives are called to succeed as follows:

1° Children and their descendants;

2° The father and mother; brothers and sisters and the descendants of the these;

3° Ascendants other than the father and mother;

4° Collaterals other than brothers and sisters and the descendants of these.

Each of these four categories constitutes an order of heirs that excludes the following.

Article 735

Children or their descendants succeed to their father and mother or other ascendants, without distinction of sex or primogeniture, even where born of different unions.

Article 736

Where a deceased leaves no posterity, and neither brother nor sister, nor descendant of these, his father and mother succeed to him, each one for one half.

Article 737

Where the father and mother have died before the deceased and the latter leaves no posterity, the brothers and sisters of the deceased or their descendants succeed to him, to the exclusion of the other relatives, ascendants or collaterals.

Article 738

Where the father and mother survive the deceased and the latter has no posterity, but has brothers and sisters or descendants of these, one-quarter of the succession devolves to each one of the father and mother, and the remaining half to the brothers and sisters or to their descendants.

Where only one of the father and mother survives, one-quarter of the succession devolves to this one, and three-quarters to the brothers and sisters or to their descendants.

Article 738-1

When only the father or mother survives the deceased, and the deceased has neither posterity nor brother nor sister nor descendant of these, but leaves one or more ascendants in the branch other that the branch of his surviving father or mother, half of the succession devolves to the father or to the mother and half to the ascendants of the other branch.

Article 738-2

When the father and mother or one of them survives the deceased and the deceased has no posterity, they may in all cases exercise a right of return, to the extent of the portions set in the first paragraph of Article 738, on the assets that the deceased received from them by donation.

The value of the portion of the assets subject to the right of return is imputed by priority to the succession rights of the father and mother.

When the right of return cannot be exercised in kind, it is exercised by value, up to the limit of the assets of the succession.

Article 739

In the absence of heirs of the first two orders, a succession devolves to ascendants other than the father and mother.

Article 740

In the absence of heirs of the first three orders, a succession devolves to collateral relatives of the deceased other than brothers and sisters and the descendants of these.

Sub-article 2: Degrees of kinship

Article 741

The proximity of kinship is established by the number of generations; each generation is called a degree.

Article 742

The sequence of degrees forms the line; the sequence of degrees between persons descending one from the other is called the direct line; the sequence of degrees between persons who do not descend one from the other, but who descend from a common ancestor, is called the collateral line.

The descending direct line is distinguished from ascending direct line.

Article 743

In the direct line, one counts as many degrees as there are generations between the persons: thus, a child is, with regard to its father and mother, in the first degree, a grandson or a granddaughter in the second; and reciprocally the father and mother with regard to the child and the grandparents with regard to the grandson or the granddaughter; and so on.

In the collateral line, degrees are counted by generation, from one relative up to and not including the common ancestor and then from the latter up to the other relative.

Thus, brothers and sisters are in the second degree; uncle or aunt and nephew or niece are in the third degree; first cousins and first cousins are in the fourth degree; and so on.

Article 744

In each order, the closest heir excludes heirs who are more remote in degree.

If the degrees are equal, heirs succeed in equal shares and by heads.

All these rules are subject to what will be said below on division by branches and on representation.

Article 745

Collateral relatives may not succeed beyond the sixth degree.

Sub-article 3: Division by paternal and maternal branches

Article 746

Kinship is divided into two branches, depending on whether it proceeds from the father or the mother.

Article 747

When a succession devolves to ascendants, it is divided in half between those of the paternal branch and those of the maternal branch.

Article 748

In each branch, the ascendant who is in the nearest degree succeeds to the exclusion of all others.

Ascendants in the same degree succeed by heads.

If there is no ascendant in one branch, the ascendants of the other branch receive the whole succession.

Article 749

When a succession devolves to collaterals other than brothers and sisters or their descendants, it is divided in half between those of the paternal branch and those of the maternal branch.

Article 750

In each branch, the collateral who is in the nearest degree succeeds to the exclusion of all others.

Collaterals in the same degree succeed by heads.

If there is no collateral in a branch, the collaterals of the other branch receive the whole succession.

Sub-article 4: Representation

Article 751

Representation is a legal fiction whose effect is to call to the succession the representatives of the rights of the person represented.

Article 752

Representation occurs ad infinitum in the descending direct line.

It occurs in all cases, whether the children of the deceased succeed together with the descendants of a predeceased child, or whether, all the children of the deceased having died before him, the descendants of those children are among themselves in equal or unequal degrees.

Article 752-1

Representation does not occur in favor of ascendants; in each of the two lines, the nearest always excludes the more remote.

Article 752-2

In the collateral line, representation occurs in favor of children and descendants of brothers or sisters of the deceased, whether they come to the succession concurrently with uncles or aunts, or whether all the brothers and sisters of the deceased having died before him, the succession devolves to their descendants in equal or unequal degrees.

Article 753

In all cases in which representation occurs, partition is made per stirpes, as if the represented person came to the succession; and if the occasion calls for it, it is made by subdivision per stirpes. Within a line or within a subdivision of a line, partition shall be made by heads.

Article 754

One represents predeceased persons; one does not represent renouncing parties except in successions that have devolved in the direct or collateral line.

The children of a renouncing party who were conceived before the opening of the succession from which the renouncing party is excluded collate to the succession of the latter the assets they have inherited in his stead and place, if they succeed him together with other children conceived after the opening of the succession. Collation occurs according to the dispositions set out in Section 2 of Chapter VIII of the present title.

Unless the desire of the deceased is to the contrary, in case of representation of a renouncing party, donations made to that person are imputed, in a proper case, to the part of the reserved portion that otherwise would have gone to him had he not renounced.

One may represent a person whose succession one has renounced.

Article 755

Representation occurs in favor of the children and descendants of an unworthy heir, if the latter is alive at the opening of the succession.

The dispositions of the second paragraph of Article 754 apply to children of a living unworthy heir.

Section 2: Rights of the surviving spouse called to the succession

Sub-article 1: Nature, amount, and exercise of rights

Article 756

A spouse who is called to the succession is called to it either alone or together with the relatives of the deceased.

Article 757

If a spouse dies leaving children or descendants, the surviving spouse receives, at his choice, either the usufruct of the whole of the existing assets or the ownership of one quarter of the assets when all the children are the issue of both spouses and the ownership of the quarter in the presence of one or more children who are not issue of both spouses.

Article 757-1

If, in the absence of children or descendants, a deceased leaves his father and mother, the surviving spouse receives one-half of the assets. Of the other half, one quarter devolves to the father and one quarter to the mother.

When the father or the mother is predeceased, the share that he would have taken comes to the surviving spouse.

Article 757-2

In the absence of children or descendants of the deceased and of his father and mother, the surviving spouse receives the whole succession.

Article 757-3

Notwithstanding Article 757-2, in case the father and mother are predeceased, if there are no descendants, one half of the assets that the deceased received from his ascendants by succession or donation and that are found in kind in the succession, devolve to the brothers and sisters of the deceased or to their descendants, themselves descending from the predeceased parent or parents from whom the assets were originally transmitted.

Article 758

When a surviving spouse receives the whole or three-quarters of the assets, the ascendants of the deceased, other than the father and mother, who are in need enjoy a claim for support against the succession of the deceased.

The period within which it may be claimed is one year starting from the death or from the moment starting from which the heirs cease to pay the performances they were previously making to the ascendants. In case of indivision, the period shall be extended until the completion of the partition.

The pension is taken from the succession. It shall be borne by all the heirs and, in case of insufficiency, by all the particular legatees, in proportion to their benefit.

Nevertheless, if the deceased expressly declared that this or that legacy should be paid in preference to others, Article 927 applies.

Article 758-1

When a surviving spouse has the choice of ownership or usufruct, his rights may not be assigned so long as he has not exercised his option.

Article 758-2

The choice of a spouse between usufruct and ownership may be proved by any means.

Article 758-3

Any heir may request in writing that the spouse exercise his option. If the spouse has not made a decision in writing within three months, the spouse is reputed to have chosen the usufruct.

Article 758-4

The spouse is reputed to have chosen the usufruct if he dies without having made a decision.

Article 758-5

The calculation of the right in full ownership of a surviving spouse provided for in Articles 757 and 757-1 is made on a mass formed of all the assets existing at the time of death of his spouse to which is united fictitiously those of which the deceased disposed, either by an inter vivos act or a testamentary act, in favor of persons called to the succession, without dispensing them from collation.

The spouse may exercise his right only on the assets of which the predeceased has not disposed by inter vivos act or testamentary act, and without prejudice to rights to the reserved portion or rights of return.

Article 758-6

Liberalities that the surviving spouse has received from the deceased are imputed to the rights of the surviving spouse in the succession. When the liberalities thus received are inferior to the rights defined in Articles 757 and 757-1, the surviving spouse may claim a supplement, but may never receive a portion of the assets that is superior to the portion defined in Article 1094-1.

Sub-article 2: Conversion of the usufruct

Article 759

Any usufruct belonging to a spouse upon the assets of the predeceased, whether it results from legislation, from a testament, or from a donation of future property, gives rise to a faculty of conversion into a lifetime annuity, on demand of one of the heir naked-owners or of the spouse who is called to the succession himself.

Article 759-1

This faculty of conversion is not susceptible of renunciation. Co-heirs may not be deprived of it by the will of the predeceased.

Article 760

If there is no agreement between the parties, a demand for conversion is submitted to the judge. It may be introduced up until the final partition.

If he approves the demand for conversion, the judge determines the amount of the annuity, the security that debtor co-heirs must furnish, as well as the kind of index suited to maintain the initial equivalence of the annuity to the usufruct.

Nevertheless, the judge may not order against the will of the spouse the conversion of a usufruct bearing on the lodging that he occupies as a principal residence, nor on the movables that furnish it.

Article 761

By agreement between the heirs and the spouse, the usufruct of the spouse may be converted into capital.

Article 762

The conversion of a usufruct is included in the operations of partition. It does not produce a retroactive effect, save for a stipulation of the parties to the contrary.

Sub-article 3: Right to a temporary lodging and lifetime annuity for lodging

Article 763

If, at the time of death, a spouse called to the succession actually occupies, as his principal habitation, a lodging belonging to the spouses or forming a part, in its entirety, of the succession, he has by operation of law, during one year, the gratuitous enjoyment of that lodging, as well as of the movables, included in the succession, that furnish it.

If his habitation was secured through a lease for rent or through a lodging belonging in an undivided part to the deceased, the rents or the indemnity of occupation are to be reimbursed to him by the succession during the year, from time to time as the payments are to be made.

The rights provided for in this Article are reputed to be direct effects of the marriage and not succession rights.

This Article is of public order.

Article 764

Unless the deceased expressed his will to the contrary under the conditions of Article 971, a spouse called to the succession who in fact occupied, at the time of the death, as his principal habitation, a lodging belonging to the spouses or forming a part, in its entirety, of the succession, has on this lodging, until his death, a right of habitation and a right of usage on the movables, included in the succession, that furnish it.

If the deceased expressly deprives the surviving spouse of these rights of habitation and usage under the conditions mentioned in the first paragraph, it does not affect the rights of usufruct the spouse receives by virtue of legislation or a liberality, and those rights continue to follow the rules that apply to them.

Those rights of habitation and of use are exercised subject to the conditions provided for in Articles 627, 631, 634 and 635.

The spouse, the other heirs, or one of them may demand the drawing up of an inventory of the movables and a formal description of the immovable that is subject to the rights of usage and of habitation.

Notwithstanding Articles 631 and 634, when it results from the situation of the spouse that the lodging burdened with the right of habitation is no longer adapted to his needs, the spouse or his representative may lease it for a use other than a commercial or farming use in order to free up the resources necessary for putting the spouse up under new conditions.

Article 765

The value of the rights of habitation and usage shall be imputed to the value of the succession rights of received by the spouse.

When the value of the rights of habitation and usage is less than that of his succession rights, the spouse may take a supplement from the existing assets.

When the value of the rights of habitation and usage is higher than that of his succession, the spouse is not bound to compensate the succession on account of the excess.

Article 765-1

A surviving spouse has one year starting from the death to manifest his will to benefit from these rights of habitation and usage.

Article 765-2

When the lodging was the object of a lease for rent, a spouse called to the succession who, at the time of the death, in fact occupied the premises as a principal habitation benefits from the right of usage upon the movables, included in the succession, that furnish it.

Article 766

A spouse who is called to the succession and the heirs may, by agreement, convert the rights of habitation and usage into a lifetime annuity or into capital.

If among those called to the succession who are parties to the agreement there is a minor or a protected adult, the agreement must be authorized by the judge of tutorships.

Sub-article 4: The right to a pension

Article 767

The succession of a deceased spouse owes a pension to a spouse called to the succession who is in need. It must be claimed within one year starting from the death or from the date on which the heirs cease paying the prestations that they were previously making to the spouse. In case of indivision, the period shall be extended until the completion of the partition.

The alimentary pension is levied on the succession. It shall be borne by all the heirs and, in case of insufficiency, by all the particular legatees, in proportion to their benefit.

Nevertheless, if the deceased expressly declared that this or that legacy should be paid in preference to the others, Article 927 applies.

CHAPTER IV: OPTION OF THE HEIR

Section 1: General dispositions

Article 768

An heir may accept the succession purely and simply or renounce it. He may also accept the succession to the extent of its net assets when he is called to the succession as either a universal successor or a successor under universal title.

An acceptance or renunciation subject to a condition or a term is null.

Article 769

The option is indivisible.

Nevertheless, he who cumulates more than one vocation to the same succession has a distinct right of option for each of them.

Article 770

The option cannot be exercised before the opening of the succession, even in a marriage contract.

Article 771

The heir cannot be forced to choose until four months counting from the opening of the succession.

Upon the expiration of this period, he may be compelled, by an extra-judicial act, to make a decision upon the initiative of a creditor of the succession, of a co-heir, of an heir of lower rank, or of the State.

Article 772

Within the two months that follow this formal demand, the heir must either make a decision or request an additional delay from the judge when he has not been capable of completing the inventory he has begun or when he justifies the additional delay for other serious and legitimate reasons. This delay is suspended counting from the date of the demand for an additional time until the decision by the judge having jurisdiction of the case.

Unless the heir has made a decision within the period of two months or within the additional period granted to him, he is reputed to have accepted purely and simply.

Article 773

Unless this formal demand is made, the heir retains the faculty of choosing, if he has not otherwise done an act as an heir and if he is not deemed an heir who accepts purely and simply under Articles 778, 790, or 800.

Article 774

The provisions of articles 771, 772, and 773 apply to an heir of lower rank called to succeed when the heir of the first rank renounces the succession or is unworthy to succeed. The delay of four months provided for in Article 771 runs counting from the date on which the heir of lower rank learns of the renunciation or of the unworthiness.

Article 775

The provisions of Article 774 also apply to heirs of an heir who dies without having chosen. The delay of four months runs counting from the opening of the succession of the deceased heir.

The heirs of the heir who dies without having chosen exercise the option separately, each for his own part.

Article 776

Exercise of the option has a retroactive effect to the date of the opening of the succession.

Article 777

Error, dol, deceit, or violence is a cause of nullity of the option exercised by the heir.

The action in nullity prescribes in five years counting from the date that the error or the fraud was discovered or that the violence ceased.

Article 778

Without prejudice to an action for damages and interest, the heir who conceals assets or rights of a succession or hides the existence of a co-heir is reputed to accept the succession purely and simply, despite any renunciation or acceptance to the extent of net assets, without any right to claim any part of the assets or rights diverted or concealed. The rights owed to a hidden heir that increased or could have increased those of the perpetrator of the dissimulation are deemed to have been concealed by the latter.

When the concealment affected a donation subject to collation or reduction, the heir owes collation or reduction without his being able to claim to any part of it.

The heir who concealed is bound to return all the fruits and revenues produced by the concealed assets the enjoyment of which he has had since the opening of the succession.

Article 779

Personal creditors of one who declines to accept a succession or who renounces a succession to the prejudice of their rights may be authorized by the court to accept the succession on behalf of their debtor, in his stead and place.

The acceptance is effective only for these creditors and up to the extent of their claims. It produces no other effect for the heir.

Article 780

The faculty of the option prescribes in ten years counting from the opening of the succession.

The heir who does not make a decision within this delay is reputed to renounce.

Prescription runs against an heir who permits the surviving spouse to continue enjoyment of assets of the succession only counting from the date of the opening of the succession of the surviving spouse.

Prescription runs against an heir who ranks behind an heir whose acceptance is annulled only counting from the date of the definitive decision establishing this nullity.

Prescription does not run when the person who is called to the succession has legitimate reasons not to know of the existence of his right, in particular ignorance of the opening of the succession.

Article 781

When prescription mentioned in Article 780 has accrued, he who asserts his status as heir must demonstrate that he himself or he or those from whom he derives this status accepted the succession before the expiration of this delay.

Section 2: Pure and simple acceptance of the succession

Article 782

Pure and simple acceptance may be express or tacit. It is express when the person who is called to the succession takes the title or status of heir, accepting in an authentic act or act under private signature. It is tacit when the person who is called to the succession and has seizin executes an act that necessarily implies his intention to accept and that he would not have the right to do except as an accepting heir.

Article 783

Any assignment, whether by gratuitous or onerous title, made by an heir of all or part of his rights in a succession implies pure and simple acceptance.

The same is true:

1° Of a renunciation, even gratuitous, that an heir makes for the benefit of one or more of his co-heirs or heirs of a lower rank;

2° Of a renunciation that he makes, even for the benefit of all his co-heirs or heirs of a lower rank without distinction and by onerous title.

Article 784

Acts that are purely conservatory or supervisory and acts of provisional administration may be accomplished without implying acceptance of the succession, if the person who is called to the succession has not assumed the title or status of heir.

Any other act that the interest of the succession demands and that the person who is called to the succession wishes to accomplish without assuming the title or status of heir must be authorized by the judge.

Acts deemed purely conservatory include the following:

1° The payment of expenses of the funeral and of the last illness, of taxes owed by the deceased, rents and other succession debts whose settlement is urgent;

2° The recovery of fruits and revenues of succession assets or the sale of perishable goods, subject to the obligation to demonstrate that the funds were used to extinguish debts under 1° or were deposited with a notary or with the court;

3° An act whose purpose is to prevent an increase of the succession debts.

Current transactions necessary to the short-term continuation of the activities of an enterprise that forms part of the succession are reputed to be provisional acts of administration.

Other acts that are not reputed to imply a tacit acceptance of the succession are the renewal, as lessor or lessee, of a lease that would, in the absence of renewal, give rise to the payment of an indemnity, as well as carrying out decisions of administration or of disposition made by the deceased and necessary to the proper functioning of the enterprise.

Article 785

The universal heir or the heir under universal title who accepts the succession purely and simply answers indefinitely for the debts and encumbrances that form part of the succession.

He is only liable for legacies of money to the extent of the assets of the succession net of the debts.

Article 786

An heir, who accepts purely and simply, may neither renounce the succession nor accept it to the extent of the net assets.

Nevertheless, he may demand to be discharged of all or part of his obligation for a succession debt that he had legitimate reasons not to know of at the time of acceptance, when the payment of that debt would gravely burden his personal patrimony.

The heir must begin this action within five months of the date he learned of the existence and significance of the debt.

Section 3: Acceptance of the succession to the extent of net assets

Sub-article 1: Modalities of acceptance of the succession to the extent of the net assets

Article 787

An heir may declare that he intends to assume the status of heir, only to the extent of the net assets.

Article 788

The declaration must be made to the clerk of the tribunal de grande instance in the jurisdiction in which the succession was opened. It involves the choice of a sole domicile, which may be the domicile of one of those who accept the succession to the extent of its net assets, or that of the person responsible for the settlement of the succession. The domicile must be situated in France.

The declaration is recorded and is the object of national publicity, which may occur by electronic means.

Article 789

The declaration is accompanied or followed by an inventory of the succession that includes an evaluation, item by item, of the elements of the assets and debts.

The inventory is established by a judicial auctioneer, a bailiff, or a notary, under the legislation and regulations applicable to those professions.

Article 790

The inventory is filed with the court within a period of two months counting from the declaration.

The heir may request a supplementary period from the judge if he demonstrates serious and legitimate reasons that delay the filing of the inventory. In that case, the running of the period of two months is suspended counting from the demand for additional time.

The filing of the inventory is submitted to the same publicity as the declaration.

If the inventory is not filed within the applicable delay, the heir is reputed to have accepted purely and simply.

Succession creditors and legatees of sums of money may, upon demonstrating their rights, examine the inventory and obtain a copy. They may demand to be notified of any new act of publicity.

Sub-article 2: Effects of acceptance of the succession to the extent of the net assets

Article 791

Acceptance to the extent of the net assets gives to the heir the following advantages:

1° To avoid the confusion of his own assets with those of the succession;

2° To preserve against the succession all the rights that he previously had on assets of the deceased;

3° To be bound to the payment of the debts of the succession only up to the extent of the value of the assets that he has received.

Article 792

The creditors of the succession declare their claims by giving notice of them at the domicile chosen for the succession. They are paid under the conditions provided for in Article 796. Claims whose amount is not yet definitively fixed are declared provisionally on the basis of an estimate.

If claims are not declared within fifteen months counting from the publicity provided for in Article 788, claims unaccompanied by security on assets of the succession are extinguished with respect to it. This disposition benefits sureties and co-obligors, as well as persons having agreed to an autonomous guaranty of the claim thus extinguished.

Article 792-1

Counting from the date of its publication and during the period provided for in Article 792, the declaration stays or forbids any execution and any new inscription of any security by creditors of the succession, bearing on either movables or immovables.

Nevertheless, to apply the dispositions of the present section and under the reservation of the signification provided for in Article 877, the seizing creditors are considered to be holders of security on the assets and rights previously seized.

Article 792-2

When a succession has been accepted by one or more heirs purely and simply and by one or more others to the extent of the net assets, the rules that apply to the latter choice apply to all the heirs until the date of partition.

The creditors of a succession accepted by one or more heirs purely and simply and by others to the extent of the net assets may provoke a partition as soon as they can demonstrate difficulty in recovering the part of their claim that falls on the heirs accepting to the extent of the net assets.

Article 793

Within the period provided for in Article 792, the heir may declare that he retains in kind one or more assets of the succession. In that case, he owes the value of the asset as established by the inventory.

He may sell the assets that he does not intend to retain. In that case, he owes the price received for their alienation.

Article 794

The declaration of the alienation or of the retention of one or more assets is made within fifteen days to the court, which assures publicity of the declaration.

Without prejudice to the rights reserved to creditors with security, any succession creditor may contest before the judge, within a period of three months after the publicity mentioned in the first paragraph, the value of the retained asset or, when the sale has been made amicably, the price of the alienation, by proving that the value of the asset is higher.

When the demand of the creditor is approved, the heir is bound to pay the supplement out of his personal assets, unless he returns the asset retained by him to the succession and without prejudice to the action provided for in Article 1167.

Article 795

The declaration of retention of an asset is not opposable to creditors if it has not been published.

Failure to declare the alienation of an asset within the delay provided for in Article 794 binds the heir from his personal assets up to the level of the price of the alienation.

Article 796

The heir settles the debts of the succession.

He pays the secured creditors according to the rank of the security that accompanies their claim.

Other creditors who have declared their claims are satisfied in the order of their declarations.

Legacies of sums of money are delivered after payment of the creditors.

Article 797

The heir must pay the creditors within two months after either the declaration of retention of the asset, or the date on which the proceeds of the alienation are available.

When he cannot turn over the payments for the benefit of the creditors within this period, in particular because of a dispute over the order or the nature of the claims, he deposits the liquid assets with the court for as long as the dispute continues.

Article 798

Without prejudice to the rights of the creditors with security, the creditors of the succession and the legatees of sums of money may pursue recovery only from assets of the succession that have been neither retained nor alienated under the conditions provided for in Article 793.

The personal creditors of the heir may pursue recovery of their claims from these assets only at the end of the period provided for in Article 792 and after the full satisfaction of the succession creditors and of the legatees.

Article 799

The succession creditors, who, within the delay provided for in Article 792, declare their claims after exhaustion of the net assets have recourse only against the legatees whose rights have been satisfied.

Article 800

The heir is bound to administer the assets that he collects in the succession. He keeps an account of his administration, of the claims that he pays, and of the acts that commit the assets collected or that affects their value.

He is liable for serious faults in his administration.

He must present the accounting to any succession creditor who demands it and must respond within a period of two months to a formal demand, made known by extrajudicial act, that he reveal to the creditor where the assets and rights collected in the succession that he has neither alienated nor retained under the conditions provided for in Article 794. If he does not do so, he may be compelled to pay from his personal assets.

The heir who has failed, consciously and in bad faith, to bring into the inventory assets or debts of the succession or who has not provided for payment to the succession creditors of the value of retained assets or the price of alienated assets loses the right to accept to the extent of net assets. Instead, he is reputed to have accepted purely and simply counting from the opening of the succession.

Article 801

As long as prescription of the right to accept has not accrued against him, the heir may revoke his acceptance to the extent of the net assets by accepting purely and simply. This acceptance is retroactive to the day of the opening of the succession.

An acceptance to the extent of net assets prevents any renunciation of the succession.

Article 802

Despite the loss or the revocation of the acceptance to the extent of the net assets, succession creditors and legatees of sums of money maintain the exclusive right to pursue the assets mentioned in the first paragraph of Article 798.

Article 803

The costs of sealing, of the inventory, and of the accounting are owed by the succession. They are paid as privileged costs in the partition.

Section 4: Renunciation of the succession

Article 804

The renunciation of a succession is not presumed.

To be effective against third parties, a renunciation by a universal heir or an heir under universal title must be addressed to or deposited with the court in whose jurisdiction the succession was opened.

Article 805

The heir who renounces is deemed never to have been an heir.

Except as provided by Article 845, the portion of the renouncing party falls to his representatives; if there are none, it accretes to his co-heirs; if he is the only one, it devolves to the next lower degree.

Article 806

The renouncing party is not bound to pay the debts or encumbrances of the succession. Nevertheless, he is bound in proportion to his means for the payment of the costs of the funeral of the ascendant or descendant whose succession he renounces.

Article 807

Until prescription of the right to renounce has not accrued against him, the heir may revoke his renunciation by accepting the succession purely and simply, if it has not already been accepted by another heir or if the State has not already been sent into possession.

Such an acceptance is retroactive to the date of the opening of the succession, yet without effect against the rights that might have been acquired by third parties in the assets of the succession by prescription or by acts validly executed by the curator of the vacant succession.

Article 808

Costs legitimately incurred by the heir before renunciation is borne by the succession.

CHAPTER V: VACANT SUCCESSIONS AND ESCHEAT

Section 1: Vacant successions

Sub-article 1: Opening a vacant succession

Article 809

A succession is vacant:

1° When no person appears in order to claim the succession and there is no known heir;

2° When all known heirs have renounced the succession;

3° When, after six months have passed since the opening of the succession, the known heirs have not exercised their option, either expressly or tacitly.

Article 809-1

The judge, having acquired jurisdiction of the matter upon the request of any creditor, of any person who assured, for the account of the deceased person, the administration of all or part of his patrimony, of any other interested person, or of the State Prosecutor's office, confides the curatorship of the vacant succession, the rules governing which are defined in this section, to the administrative authority with responsibility in the matter.

The judgment of curatorship is the object of publicity.

Article 809-2

As of his appointment, the curator causes an inventory to be drawn up that evaluates, item by item, the assets and debts of the succession by an auctioneer, a clerk of court, or a notary, under the legislation and regulations of those professions, or by a sworn government employee within the administration with responsibility for the matter.

The notice to the court, by the curator, of the establishment of the inventory is governed by the same publicity as the decision to set up the curatorship.

The creditors and legatees of sums of money may, upon demonstrating their right, examine the inventory or obtain a copy. They may demand to be notified of any new act of publicity.

Article 809-3

The declaration of claims is made to the curator.

Sub-article 2: Powers of the curator

Article 810

As of his appointment, the curator takes possession of the shares of stock and other assets held by third parties and pursue the payment of sums due to the succession.

He may continue the management of an individual enterprise that forms part of the succession, whether commercial, industrial, agricultural, or artisanal.

After subtracting the costs of administration, of management, and of sale, he deposits with the court the sums of money constituting the assets of the succession, as well as the revenues of the assets and proceeds of their liquidation. If the activity of an enterprise is continued, only the receipts that exceed the amount of revolving funds necessary for the functioning of the enterprise are deposited with the court.

The sums deriving in whatever fashion from a vacant succession may, in no case, be deposited with the court otherwise than by the curator as intermediary.

Article 810-1

For six months after the opening of the succession, the curator may undertake only acts that are purely conservatory or supervisory, acts of provisional administration, and the sale of perishable goods.

Article 810-2

At the end of the period stated in Article 810-1, the curator may undertake all acts of conservation and administration.

He proceeds to or oversees the sale of the assets until extinction of the debts.

He may transfer immovables only if the predictable proceeds of the sale of movables appears insufficient. He proceeds to or oversees the sale of the assets whose conservation is difficult or burdensome, even if their liquidation is not necessary to the payment of the debts.

Article 810-3

The sale takes place either by the judicial auctioneer, the bailiff, or the notary under the legislation and regulations that govern those professions, or by the court, or in the forms established by the general code of ownership by public persons for alienation, by onerous title, of immovables or movables belonging to the State.

It takes place with publicity.

When a sale by consent is proposed, any creditor may demand that a sale occur judicially. If the judicial sale takes place for a price lower than the one agreed to in the proposed sale by consent, the creditor who demanded the judicial sale is bound, in regard to the other creditors, for the loss they suffered.

Article 810-4

The curator alone has the authority to pay creditors of the succession. He is bound to pay succession debts only up to the extent of the net assets.

Until the plan for settlement of debts is in place, he may pay only the costs necessary for the preservation of the patrimony, the costs of the funeral and of the final illness, taxes owed by the deceased, and the rent and other succession debts whose settlement is urgent.

Article 810-5

The curator prepares a plan for the settlement of the debts.

The plan provides for payment of claims in the order provided for in Article 796.

The plan of payment is published. Creditors, who are not paid in full may, in the month following the publicity, invoke the jurisdiction of the judge to oppose the plan of payment.

Article 810-6

The powers of the curator are exercised subject to the dispositions applicable to the succession of person who was the object of a procedure of supervision, of reorganization, or of judicial liquidation.

Sub-article 3: Rendering of accounts and end of curatorship

Article 810-7

The curator gives an accounting to the judge of the operations he has carried out. The deposit of the account is the object of publicity.

The curator presents the accounting to any creditor and to any heir who demands it.

Article 810-8

After receipt of the accounting, the judge authorizes the curator to proceed with the disposition of the remaining assets.

The known heirs receive notice of the plan of disposition. If they are still within the period permitted for accepting, they may oppose the plan within three months by claiming the succession. Disposition may only occur after the expiration of that period, in the forms prescribed by the first paragraph of Article 810-3.

Article 810-9

The creditors who declare their claims after the submission of the accounting may lay claim only to the remaining assets. In case these assets are insufficient, they have recourse only against those legatees whose rights have been satisfied.

This recourse prescribes in two years counting from the date of the disposition of the totality of the remaining assets.

Article 810-10

The net proceeds of the disposition of the remaining assets is deposited with the court. The heirs, if any presents himself within the period for claiming the succession, are permitted to exercise their right on these proceeds.

Article 810-11

The costs of administration, of management, and of sale give rise to the privilege of part 1° of Articles 2331 and 2375.

Article 810-12

The curatorship ends :

1° By the complete dedication of the assets to the payment of the debts and the legacies;

2° By the disposition of the whole of the assets and the consignment of the net proceeds;

3° By the restoration of the succession to the heirs whose rights are recognized;

4° By the sending of the State into possession.

Section 2: Escheat of successions

Article 811

When the State claims the succession of a person who died without an heir or a succession that has been abandoned, the State must demand to be sent into possession.

Article 811-1

If the inventory provided for in Article 809-2 has not been established, the administrative authority named in Article 809-1 sees that it is established in the forms provided under Article 809-2.

Article 811-2

Escheat of the succession ends with the acceptance of the succession by an heir.

Article 811-3

When the State has not fulfilled the formalities that are incumbent on it, it may be liable in damages and interest to the heirs, if one presents himself.

CHAPTER VI. CHAPTER VI: ADMINISTRATION OF A SUCCESSION BY A MANDATARY

Section 1: Posthumously effective mandate

Sub-article 1: Conditions of a posthumously effective mandate

Article 812

Every person may give to one or more other persons, physical or juridical, a mandate to administrate or to manage, subject to the powers of the testamentary executor, all or part of his succession for the account and in the interest of one or more specified heirs.

The mandatary may be an heir.

He must enjoy full civil capacity and not be subject to an interdiction to manage when professional assets are part of the succession patrimony.

The mandatary may not be the notary who is in charge of the settlement of the succession.

Article 812-1

The mandatary exercises his powers even when there is a minor or a protected major among the heirs.

Article 812-1-1

The mandate is valid only if it is justified by a serious and legitimate interest with respect to the person of the heir or the succession patrimony, which is motivated precisely.

It is given for a duration that may not exceed two years, which may be prolonged one or more times by decision of the judge, whose jurisdiction have been invoked by an heir or the mandatary. Nevertheless, it may be given for a duration of five years, which the judge may prolong under the same conditions, because of the incapacity or the age of one or more of the heirs, or of the need to manage professional assets.

It is given and accepted in authentic form.

It must be accepted by the mandatary before the death of the principal.

Before it goes into effect, the principal and the mandatary may renounce the mandate after notifying the other party of their decision.

Article 812-1-2

Acts undertaken by the mandatary as part of his mission have no effect on the hereditary option.

Article 812-1-3

So long as no heir with whom the mandate is concerned has accepted the succession, the mandatary has only the powers accorded a person who is called to the succession under Article 784.

Article 812-1-4

The posthumously effective mandate is subject to the provisions of Articles 1984 and 2010 that are not incompatible with the provisions of this section.

Sub-article 2: Compensation of the mandatary

Article 812-2

A mandate is gratuitous, unless otherwise agreed.

If compensation is provided for, it must be expressly determined in the mandate. It corresponds to a part of the fruits and revenues realized by the succession and resulting from the management or administration of the mandatary. In case the fruits and revenues are insufficient or absent, compensation may be supplemented by capital or take the form of capital.

Article 812-3

The compensation of the mandatary is a charge on the succession that opens the right to reduction when its effect is to deprive heirs of all or part of their reserved portion. The heirs with whom the mandate is concerned or their representatives may make judicial demand to revise the compensation when they demonstrate that it is excessive in comparison to the duration or the burden resulting from the mandate.

Sub-article 3: End of a posthumously effective mandate

Article 812-4

The mandate ends by one of the following events:

1° Arrival of the term provided for;

2° Renunciation by the mandatary;

3° Judicial revocation, upon the demand of an interested heir or his representative, in case of the absence or disappearance of the serious and legitimate interest or the poor execution by the mandatary of his mission;

4° The conclusion of a conventional mandate by the heirs and the mandatary who holds the posthumously effective mandate;

5° The alienation by the heirs of the assets described in the mandate;

6° The death or placement under a measure of protection of the mandatary who is a physical person, or the dissolution of the mandatary who is a juridical person;

7° The death of the interested heir or, in case of a measure of protection, the decision of the tutorship judge to end the mandate.

A single mandate given for the account of several heirs does not end entirely for a cause of extinction that concerns only one of them. Likewise, if there are several mandataries, the end of the mandate with respect to one of them does not end the mission of the others.

Article 812-5

A revocation because of the disappearance of the serious and legitimate interest does not give rise to the restitution by the mandatary of all or part of the sums he derived as compensation, unless they were excessive in proportion to the duration or the burden in fact undertaken by the mandatary.

Without prejudice to damages and interest, when revocation occurs because of poor execution of his mission, the mandatary may be bound to restore all or part of the sums he derived as compensation.

Article 812-6

The mandatary may renounce pursuing the execution of the mandate only after giving notice of his decision to the interested heirs or their representatives.

Unless there is agreement otherwise between the mandatary and the interested heirs or their representatives, the renunciation takes effect at the end of a period of three months counting from the date of the notice.

Without prejudice to damages and interest, the mandatary compensated by capital may be bound to restore all or part of the sums derived.

Article 812-7

Each year and at the end of the mandate, the mandatary gives an accounting of his management to the interested heirs or to their representatives and informs them of all the acts accomplished. If the accounting is not given, any interested person may demand judicial revocation.

If the mandate ends by the death of the mandatary, this obligation falls to his heirs.

Section 2: Mandatary appointed by agreement

Article 813

The heirs may, by common agreement, confide the administration of the succession to one of them or to a third person. The mandate is governed by Articles 1984 to 2010.

When at least one heir has accepted the succession to the extent of net assets, the mandatary may, even with the agreement of all of the heirs, be named only by a judge. The mandate is then governed by Articles 813-1 to 814.

Section 3: Judicially appointed succession mandatary

Article 813-1

The judge may name any qualified person, physical or juridical, as a succession mandatary, for the purpose of administering the succession provisionally because of the inaction, of the deficiency, or of the fault of one or more heirs in this administration, because of their disagreement, because of conflicting interests among them, or because of the complexity of the situation of the succession.

The demand is made by an heir, a creditor, any person who assured, for the account of the deceased, the administration of all or part of his patrimony while he was alive, any other interested person, or by the State Prosecutor’s office.

Article 813-2

The succession mandatary may act only to the extent consistent with the powers of the person who has been appointed by application of the third paragraph of Article 815-6, of the mandatary appointed by application of Article 812, or of the testamentary executor, named by the testator by application of Article 1025.

Article 813-3

The decision of appointment is recorded and published.

Article 813-4

As long as no heir has accepted the succession, the succession mandatary may accomplish only those acts specified in Article 784, except for those provided for in its second paragraph. The judge may also authorize any other act that the interest of the succession demands. He may authorize the succession mandatary to draw up an inventory in the forms prescribed in Article 789, or demand it sua sponte.

Article 813-5

In the limit of the powers that are conferred on him, the succession mandatary represents all the heirs for civil acts and legal actions.

He exercises his power even if there is a minor or a protected major among the heirs.

A payment made to the succession mandatary is valid.

Article 813-6

The acts contemplated by Article 813-4 accomplished by the succession mandatary within the scope of his mission have no effect on the hereditary option.

Article 813-7

Upon the demand of any interested person or of the State Prosecutor’s office, the judge may remove the succession mandatary from his mission in case of marked failure in its exercise. He then appoints another succession mandatary, for a duration that he fixes.

Article 813-8

Any heir may demand of the succession mandatary the right to consult, at any time, documents that relate to the execution of his mission.

Each year and at the end of his mission, the succession mandatary delivers to the judge and to each heir, upon his demand, a report of the execution of his mission.

Article 813-9

The judgment appointing the succession mandatary fixes the duration of his mission and his compensation. Upon demand of one of the persons specified in the second paragraph of Article 813-1 or Article 814-1, the judgment may extend the mission for a duration determined in the judgment.

The mission ends as a matter of law by the effect of an agreement of indivision among the heirs or by the signing of the act of partition. It also ends when the judge recognizes the complete execution of the mission confided to the succession mandatary.

Article 814

When the succession has been accepted by at least one heir, either purely and simply or to the extent of the net assets, the judge who appoints the succession mandatary by application of Articles 813-1 and 814-1 may authorize him to carry out all of the acts of administration of the succession.

He may also authorize him, at any time, to carry out acts of alienation necessary to the good administration of the succession and to determine the prices and stipulations of those acts.

Article 814-1

In all circumstances, an heir accepting to the extent of net assets may demand that the judge appoint any qualified person as succession mandatary so as to place onto him the burden of administering and liquidating the succession.

CHAPTER VII: THE LEGAL REGIME OF INDIVISION

Article 815

No one may be forced to remain in indivision and partition may always be demanded, unless it has been suspended by judgment or agreement.

Article 815-1

Co-owners in indivision may make agreements concerning the exercise of their undivided rights, in conformity with Articles 1873-1 to 1873-18.

Section 1: Acts concerning undivided assets

Sub-article 1: Acts carried out by co-owners in indivision

Article 815-2

Every co-owner in indivision may take the measures necessary for the preservation of assets owned in indivision even if those measures are not urgent.

He may use for that purpose funds held in indivision retained by him and he is deemed reputed to have the right to dispose of them freely with respect to third persons.

If there are no funds held in indivision, he may oblige his co-owners in indivision to defray the necessary expenses along with him.

When the undivided assets are encumbered with a usufruct, these powers are opposable to the usufructuary to the extent that the latter is bound to make repairs.

Article 815-3

The co-owner or co-owners in indivision holding at least two-thirds of the undivided rights may, by this two-thirds majority:

1° Carry out acts of administration relating to the undivided assets.;

2° Give a general mandate of administration to one or more of the co-owners in indivision or to a third party.;

3° Sell the undivided movables in order to pay the debts and charges of the indivision;

4° Conclude or renew leases other than those concerning immovables with respect to uses that are agricultural, commercial, industrial, or craft-based.

They are bound to inform the other co-owners of such acts. If they do not, decisions made may not be opposed to the other co-owners.

Nevertheless, consent of all of the co-owners in indivision is required to carry out every act that does not arise out of the normal handling of the undivided assets and to carry out all acts of alienation other than those addressed in 3° above.

If a co-owner in indivision takes in hand the management of the undivided assets, and the others know of this and nevertheless do not oppose it, he is deemed to have received a tacit mandate, covering acts of administration but neither acts of alienation nor the conclusion or the renewal of leases.

Sub-article 2: Acts authorized by the court

Article 815-4

If one co-owner in indivision happens to be unable to manifest his will, another may obtain judicial authorization to represent him, generally or for certain particular acts and the judge will set the conditions and extent of this representation.

In the absence of legal power, a mandate, or a judicial authorization, acts made by a co-owner in indivision by way of representation of another are effective with respect to the latter, as provided for in the rules governing the management of affairs.

Article 815-5

A co-owner in indivision may be authorized by the court to execute an act for which the consent of another co-owner in indivision would be necessary, if the refusal of the latter would place the common interest in jeopardy.

The judge may not, upon the demand of a naked owner, order the sale of the full ownership of a thing burdened with a usufruct against the will of the usufructuary.

An act executed under conditions set by the authorization of the court is effective against the co-owner in indivision whose consent was not given.

Article 815-5-1

Except in the case of dismemberment of ownership of a thing or if one of the co-owners in indivision happens to be in one of the situations provided for in Article 836, the alienation of a thing held in indivision may be authorized by the Tribunal de Grande Instance, upon demand by one or more co-owners in indivision who hold at least two-thirds of the undivided rights, under the conditions and modes modalities defined in the following paragraphs.

The co-owner or co-owners in indivision holding at least two-thirds of the undivided rights express before a notary, and with this majority, their intent to proceed to the alienation of a thing owned in indivision.

Within a period of one month following his collection [of the statements of intentions], the notary causes that intention to be signified to the other co-owners.

If one or several co-owners in indivision oppose the alienation of the undivided thing or do not express themselves within a period of three months counting from the date of the signification, the notary notes this fact in a formal report.

In that case, the Tribunal de Grande Instance may authorize the alienation of the undivided thing if this alienation does not excessively prejudice the rights of the other co-owners in indivision.

This alienation occurs by licitation. The sum produced may not be the object of reuse except to pay the debts and charges of the undivided ownership.

The alienation carried out under the conditions set by authorization of the Tribunal de Grande Instance is opposable to the co-owner in indivision whose consent was not given, unless the intent to alienate the thing of the co-owner or co-owners in indivision holding at least two-thirds of the undivided rights had not been signified to him according to the modalities provided for in the third paragraph above.

Article 815-6

The president of the Tribunal de Grande Instance may prescribe or authorize all urgent measures that the common interest demands.

He may, in particular, authorize a co-owner in indivision to collect from debtors of the indivision or depositaries of undivided funds a sum whose purpose is to meet urgent needs, prescribing as necessary the conditions of its use. This authorization does not entail taking on the quality of a successor by a surviving spouse or by an heir.

He may also either appoint a co-owner in indivision as administrator, obligating him to provide security, or name a custodian for a sequestration. Articles 1873-5 through 1873-9 of this Code govern the powers and obligations of the administrator, if they are not otherwise defined by the judge.

Article 815-7

The president of the tribunal may also forbid moving corporeal movables, unless he specifies those whose personal use he assigns to one or another of the interested parties, provided they give security if he considers it necessary.

Article 815-7-1

In Guadeloupe, Guyana, Martinique, La Réunion, and Saint-Martin, when an immovable held in indivision, used either as a dwelling or as both a dwelling and a business, is unoccupied or has not been effectively occupied for more than two civil years, a co-owner in indivision may be authorized by the court, under the conditions provided for in Articles 813-1 through 813-9, to execute works of improvement, rehabilitation, or restoration of the immovable, and to carry out acts of administration and formalities of publicity, with the only goal being to give it under lease as a principal dwelling.

Section 2: Rights and obligations of the co-owners in indivision

Article 815-8

Whoever collects revenues or incurs costs for the account of the indivision must keep an account of it which will be available to the co-owners in indivision.

Article 815-9

Each co-owner in indivision may use and enjoy undivided assets in conformity with their destination, in a degree compatible with the right of the other co-owners in indivision, and with the effect of acts regularly executed during the indivision. If there is no agreement between the interested parties, the exercise of this right is governed provisionally by the president of the tribunal.

The co-owner in indivision who uses or enjoys an undivided thing individually owes an indemnity, unless there is agreement otherwise.

Article 815-10

Claims and indemnities that replace undivided assets are by the effect of real subrogation undivided as a matter of law, as are assets acquired with them through use or reuse of the undivided assets with the consent of all of the co-owners in indivision,.

The fruits and revenues of undivided assets become part of the indivision, unless there is a provisional partition or any other agreement establishing divided enjoyment.

No claim for fruits or revenues, however, may be allowed more than five years after the date when they were or could have been collected.

Each co-owner in indivision has the right to benefits generated by the undivided assets and bears the losses in proportion to his rights in the indivision.

Article 815-11

Each co-owner in indivision may demand his annual share of the benefits, after deduction of the expenses connected with arising from the acts to which he consented or that effective as are opposable to him.

Unless some other right exists, the extent of the rights in the indivision derives from the act of notoriety or from the title of the inventory established by the notary.

In case of dispute, the president of the Tribunal de Grande Instance may order a provisional allotment of the benefits subject to an accounting to be established at the time of the final liquidation.

To the extent of the available funds, he may likewise order an advance in capital on the rights of a co-owner in indivision in the future partition.

Article 815-12

The co-owner in indivision who manages one or more undivided assets owes the net products of his management. He has a right to remuneration for his activity on conditions fixed amicably or, if none, by judicial decision.

Article 815-13

When a co-owner in indivision at his own cost has improved the state of an undivided thing, one must take this improvement into account in his regard according to equity, having regard to the degree the value of the thing has increased at the time of the partition or alienation. Likewise, one must take into account in his regard the expenses he has incurred out of his own funds necessary for the preservation of the said assets, even if these expenditures have not improved the thing.

Conversely, the co-owner in indivision answers for losses and deteriorations that have reduced the value of the assets in indivision due to his act or to his fault.

Article 815-14

The co-owner in indivision who intends to assign, by onerous title, to a third person to the indivision all or part of his rights in the undivided assets or in one or more of these assets is bound to notify by extrajudicial act the other co-owners in indivision of the price and conditions of the contemplated assignment, as well as the name, domicile, and profession of the person who proposes to acquire them.

Any co-owner in indivision may, within a period of one month following this notice, inform the assignor, by extrajudicial act, that he exercises a right of preemption at the price and conditions of which he was notified.

In case of preemption, the person who exercises it has a period of two months counting from the sending of his response to the seller within which to accomplish the act of sale. After that time has passed, his declaration of preemption is null as a matter of law, fifteen days after the putting in default has remained without effect, and without prejudice to a claim for damages that the seller may make against him.

If several co-owners in indivision exercise their right of preemption, they are reputed, unless there is an agreement to the contrary, to acquire together the part sold in proportion to their respective parts in the indivision.

When the assignor has consented to delays in payment, Article 828 applies.

Article 815-15

If there is cause for a judicial sale of all or part of the rights of a co-owner in indivision in the undivided assets or in one or more of them, the lawyer or the notary must inform the co-owners in indivision of it one month before the date provided for sale. Each co-owner in indivision may take the place of the buyer within a period of one month of counting from the judicial sale, by declaration to the clerk of court or to the notary.

The document setting down the conditions of the sale established in view of the sale must make mention of the rights of substitution.

Article 815-16

Any assignment or partition by licitation whose effect is to derogate from the dispositions of Articles 815-14 and 815-15 is null. The action to declare this nullity prescribes in five years. It may be exercised only by those to whom notice ought to have been given or by their heirs.

Section 3: The rights of pursuit of creditors

Article 815-17

Creditors who could have taken legal action with respect to the undivided assets before there was an indivision, and creditors whose claim resulted from the preservation or management of the undivided assets, are paid by deduction from the assets in place before partition. They may moreover pursue both seizure and sale of the undivided assets.

The personal creditors of a co-owner in indivision may not seize his share in the co-owned undivided assets, movable or immovable.

Nevertheless, they have the faculty of instituting a partition in the name of their debtor or of intervening in the partition he has instituted. The co-owners in indivision may stay the action for partition by paying the obligation in the name and for the account of the debtor. Those who exercise this faculty are reimbursed by deduction from the undivided assets.

Section 4: Indivision in usufruct

Article 815-18

The dispositions of Article 815 to 815-17 apply to usufructs held in indivision to the extent compatible with the rules of usufruct.

Notices called for by Articles 815-14,815-15 and 815-16 must be addressed to each naked owner and to each usufructuary. But a usufructuary may acquire a share of the naked ownership only if no naked owner acts to acquire it; a naked owner may acquire a share in usufruct only if no usufructuary acts to acquire it.

CHAPTER VIII: PARTITION

Section 1: The operations of partition

Sub-Section 1: Common dispositions

Sub-article 1: Claims for partition

Article 816

A partition may be demanded, even when one of the co-owners in indivision has separately enjoyed all or part of the undivided assets, if there has been no act of partition or sufficient possession for acquisitive prescription.

Article 817

One whose right in indivision consists of enjoyment may demand partition of an undivided usufruct by way of limitation to a certain thing or, in case of impossibility, by way of partition by licitation of the usufruct.

When partition appears the only way to protect the interests of all holders of rights on the undivided assets, the licitation may apply to the full ownership.

Article 818

The same faculty belongs to a co-owner in indivision of naked ownership for the undivided naked ownership. In case of licitation of the full ownership, the second paragraph of Article 815-5 applies.

Article 819

One who has full ownership of his share of the thing and who is co-owner in indivision with both usufructuaries and naked owners may use the faculties provided for in Articles 817 and 818.

The second paragraph of Article 815-5 does not apply in case of licitation of the full ownership.

Article 820

Upon demand by a co-owner in indivision, the tribunal may suspend partition for two years at most if immediate partition risks injury to the value of the undivided assets or if one of the co-owners in indivision can take on the agricultural, commercial, industrial, artisanal, or liberal enterprise within a succession only after that time. This suspension may apply to the whole of the undivided assets or only to certain undivided assets.

If there is occasion, the demand for a suspension of partition may affect social rights.

Article 821

Unless there is an amicable agreement otherwise, the indivision of an agricultural, commercial, industrial, artisanal, or liberal enterprise, whose pursuit was carried out by the deceased or his spouse, may be continued on conditions established by the tribunal upon demand of the persons specified in Article 822.

If the occasion arises, the demand for continuation of the indivision may apply to social rights.

The tribunal decides according to the interests in fact and the means of support that the family may derive from the undivided assets.

The continuation of the indivision remains possible even if the enterprise includes elements that the heir or the spouse already owned or co-owned before the succession opened.

Article 821-1

The indivision may also be continued, upon demand of the same persons and on conditions set by the tribunal, in that which concerns the ownership of premises used as a dwelling or for professional purposes and that, at the time of the death, was effectively used as a dwelling or for this professional purpose by the deceased or his spouse. It is the same for movable objects that furnished the dwelling or served the exercise of the profession.

Article 822

If the deceased leaves one or more minor descendants, the continuation of the indivision may be demanded either by the surviving spouse, or by any heir, or by the legal representative of the minors.

If there are no minor descendants, the continuation of the indivision may be demanded only by the surviving spouse and on condition that the surviving spouse had been before the death, or became as a result of the death, co-owner of the enterprise or of the premises used as a dwelling or for professional purposes.

If it is a matter of premises used as a dwelling, the spouse must have lived in them at the time of the death.

Article 823

The continuation of indivision may not exceed five years. It may be renewed, in the case provided for in the first paragraph of Article 822, until the majority of the youngest of the descendants and, in the case provided for in the second paragraph of the same Article, until the death of the surviving spouse.

Article 824

If some co-owners in indivision intend to remain in indivision, the tribunal may, upon demand of one or more of them, according to their interests in fact and without prejudice to the application of Articles 831 to 832-3, allocate his share to the one who has demanded partition.

If the indivision does not possess a sufficient sum, the balance is paid by those co-owners in indivision who concurred in the demand, without prejudice to the possibility that the other co-owners may participate in it, if they express the will to do so. The share of each in the indivision is increased in proportion to his payment.

Sub-article 2: Shares and lots

Article 825

The mass subject to partition comprises the assets existing at the opening of the succession, or assets subrogated to them, that the deceased did not dispose of upon his death, as well as the fruits appertaining to them.

The mass is increased by items subject to collation or reduction as well as debts of the co-partitioners to the deceased or with respect to the indivision.

Article 826

Equality in partition is an equality of value.

Each co-partitioner receives assets of a value equal to that of his rights in the indivision.

If there is drawing by chance, it is done by creating as many lots as are necessary.

If the consistency of the mass does not permit creating lots of equal value, their inequality is compensated for by a balancing payment.

Article 827

The partition of the mass occurs by head. Nevertheless, it is done per stirpes when representation occurs. After partition per stirpes is done, a separate re-partition occurs, if need be, among the heirs of each branch.

Article 828

When the debtor of a balance has obtained a delay in payment and, because of economic circumstances, the value of the assets that came to him has increased or diminished by more than one-fourth after the partition, the sums remaining due increase or diminish in the same proportion, unless the parties have excluded this adjustment.

Article 829

In view of their distribution, the assets are evaluated as of the date of the divided enjoyment as fixed by the act of partition, taking account of, if need be, the charges encumbering them.

This date is as close as possible to the partition.

Nevertheless, the judge may set the division of the enjoyment as of an earlier date, if the choice of this date appears more favorable to the achievement of equality.

Article 830

In forming and composing lots, one attempts to avoid dividing economic unities and other groups of assets whose splitting would cause a loss in value.

Sub-article 3: Preferred Allocations

Article 831

The surviving spouse or any heir co-owner may demand a preferred allocation in the partition, under the obligation of paying a balance, if need be, of any enterprise, or part of an agricultural, industrial, artisanal, or liberal enterprise or undivided share of such an enterprise, even formed by a share of assets of which he was already owner or co-owner before the death, in whose exploitation he participates or effectively participated. In the case of an heir, the condition of participation may be or may have been met by his spouse or his descendants.

If need be, the demand for a preferred allocation may bear on social rights, without prejudice to the application of legal provisions or articles of partnership on the continuation of a partnership with the surviving spouse or one or more heirs.

Article 831-1

If neither the surviving spouse nor any heir co-owner demands application of the dispositions provided for in Article 831 or those of Articles 832 or 832-1, the preferred allocation provided for in case of agricultural property may be granted to any co-partitioner on the condition that he obligates himself to grant a lease on the property within six months, on the conditions fixed in Chapter VI of Title I of Book IV of the Rural and Maritime Fisheries Code, to one or more co-heirs who satisfy the personal conditions of Article 831 or to one or more descendants of these co-heirs who satisfy these same conditions.

Article 831-2

The surviving spouse or any heir co-owner may likewise demand preferred allocation:

1° Of the ownership or of the right to a lease of the premises that serve him as a dwelling in fact, if it was his residence at the time of death, as well as of the movables furnishing it;

2° Of the ownership or of the right to a lease of the premises that in fact serve a professional use for the exercise of his profession, as well as the movables with a professional use that furnish the premises;

3° Of the group of movable items necessary to the exploitation of rural property cultivated by the deceased as a farmer or sharecropper when the lease continues for the benefit of the person making the demand or when the latter obtains a new lease.

Article 831-3

The preferential allocation of the ownership of the premises and of the movables that furnish it addressed in 1° of Article 831-2 is as a matter of law for the surviving spouse.

The rights resulting from the preferred allocation do not prejudice the lifetime rights of habitation that the surviving spouse may exercise under Article 764.

Article 832

The preferred allocation addressed in Article 831 is available as a matter of law for any agricultural exploitation that does not exceeds the limits of superficial area set by decree en Conseil d'État , if the continuation of the indivision has not been ordered.

Article 832-1

If the continuation of the indivision has not been ordered and in the absence of a preferential allocation in ownership under the conditions provided for in Article 831 or Article 832, the surviving spouse or any heir co-owner may demand preferential allocation of all or part of the immovable assets and rights destined for agricultural use within the succession in order to constitute with one or more co-heirs and, if need be, one or more third parties, a group of agricultural lands.

This allocation is available as a matter of law if the surviving spouse or one or more co-heirs who satisfy the personal conditions provided for in Article 831, or their descendants who take part in fact in the exploitation, demand that a lease be granted them, on the conditions fixed in Chapter VI of Title I of Book IV of the Rural and Maritime Fisheries Code, on all or part of the assets in the group.

In case of several such demands, the assets of the group may, if their consistency permits, be the object of several leases that benefit different co-heirs.

If the clauses and conditions of this lease or these leases are not agreed to, the tribunal sets them.

The immovable assets and rights that those making the demand or demands do not contemplate making part of the group of agricultural lands, as well as the other assets in the succession, are allocated by priority, within the limits of their respective succession rights, to the co-owners in indivision who have not agreed to form this group. If these co-owners in indivision do not receive their rights in full by the allocation done in this fashion, a balance must be paid to them. Unless there is an amicable agreement between the co-partitioners, the balance that may be due is to be paid within the year following the partition. It may occur through a giving of assets in payment in the form of shares of the group of agricultural properties, unless the interested parties, in the month following the proposal made to them, have made known their opposition to this mode of settlement.

The partition is perfect only after the signing of the act that constitutes the group of agricultural lands and, if there is an occasion for it, of the long-term lease or leases.

Article 832-2

If an agricultural exploitation constituting an economic unity, not exploited in a social form, is not maintained in the indivision and is not the object of a preferred allocation in the conditions provided for in Article 831, 832, or 832-1, the surviving spouse or any heir co-owner who wishes to pursue an exploitation in which he is participating or has participated in fact may demand, despite any claim for licitation, that the partition be concluded on the condition that his co-partitioners grant him a long-term lease on the conditions fixed in Chapter VI of Title I of Book IV of the Rural and Maritime Fisheries Code, on the lands under exploitation that have come to them. In the case of an heir, the condition of participation may be met by his spouse or his descendants. Unless there is amicable agreement among the parties, one who claims the benefit of these provisions receives by priority in his share the buildings used for exploitation and habitation.

The preceding provisions apply to a part of an agricultural exploitation that may constitute an economic unity. This economic unity may be formed, in part, of assets of which the surviving spouse or the heir was already owner or co-owner before the death.

If need be, account is taken of depreciation due to the existence of a lease in the evaluation of the lands included in the different lots.

Articles L. 412-14 and L. 412-15 of the Rural and Maritime Fisheries Code determine the specific rules for a lease specified in the first paragraph of this article.

If, because of the manifest inability of the one or ones demanding to manage all or part of the exploitation, the interests of the co-heirs risk being compromised, the tribunal may decide not to apply the first three paragraphs of this Article.

Article 832-3

The preferred allocation may be demanded jointly by several of the persons who are called to the succession in order to preserve together the undivided thing.

Unless there is amicable agreement, the demand for preferred allocation is brought before the tribunal, which decides according to the interests present.

In case of competing demands, the tribunal takes account of the ability of the different claimants to manage the assets at issue and to continue to do so. For the enterprise, the tribunal takes into account in particular the length of personal participation in the activity.

Article 832-4

The assets forming the object of the allocation are evaluated as of the date fixed in conformity with Article 829.

Unless there is amicable agreement among the co-partitioners, the balance when due is payable in cash. Nevertheless, in the cases provided for in Articles 831-3 and 832, the party to whom the allocation is made may demand of his co-partitioners, with regard to the payment of a fraction of the balance, equal to at most half, delays not to exceed ten years. Unless there is agreement otherwise, the unpaid sums bear interest at the legal rate.

In case of sale of the totality of the assets allocated, the fraction of the relevant balance becomes eligible immediately; in case of partial sales, the proceeds of these sales is paid to the co-partitioners and imputed to the fraction of the balance that is still due.

Article 833

The provisions of Articles 831 to 832-4 benefit the spouse or any heir called to succeed by virtue of legislation whether a co-owner in full ownership or naked ownership.

These dispositions, with the exception of those in Article 832, also benefit the universal heir or heir under universal title in the succession because of a testament or of a contractual institution.

Article 834

The beneficiary of the preferred allocation becomes exclusive owner of the allocated asset only upon the date of the definitive partition.

Until that date, he may renounce the allocation only if the value of the thing, as determined on the date of the allocation, has increased by more than one-fourth by the date of the partition independently of any personal act of his.

Sub-Section 2: Amicable partition

Article 835

If all the undivided co-owners in indivision are present and enjoy contractual capacity, the partition may take place in the form and according to the modalities chosen by the parties.

When the indivision is of assets submitted to publicity of interests in land, the act of partition is passed before a notary.

Article 836

If a co-owner in indivision is presumed to be absent or, because of distance, is not able to manifest his will, an amicable partition may occur under the conditions of Article 116.

Likewise, if a co-owner in indivision is under a regime of protection, an amicable partition may occur under the conditions provided for in Titles X and XI of Book I.

Article 837

If a co-owner in indivision is defaulting, without being in one of the situations described in Article 836, he may, at the behest of a co-partitioner, be put in default, by extrajudicial act, of causing himself to be represented in the amicable partition.

Unless this co-owner in indivision appoints a mandatary in the three months after he is put in default, a co-partitioner may demand from the judge that he appoint any qualified person to represent the defaulting party until the completion of the partition. This person may consent to the partition only with the approval of the judge.

Article 838

An amicable partition may be complete or partial. It is partial when it leaves the indivision in place for certain assets or certain persons.

Article 839

When several indivisions exist exclusively among the same persons, whether they bear on the same assets or on different assets, a single amicable partition may occur.

Sub-Section 3: Judicial partition

Article 840

Partition occurs judicially when one of the co-owners in indivision refuses to consent to an amicable partition, or if disputes arise over how the partition is to occur or to end, or when the amicable partition is neither authorized nor approved in one of the cases provided for in Article 836 and 837.

Article 840-1

When several indivisions exist exclusively among the same persons, whether they bear on the same assets or on different assets, a single partition may occur.

Article 841

The tribunal of the place where the succession is opened has exclusive jurisdiction to hear the action for partition and the disputes that arise, either upon the occasion for continuing the indivision or during the operations of the partition. He orders licitations and rules on claims of warranty of the lots among the co-partitioners and on actions for nullity of the partition or to supplement a share.

Article 841-1

If the notary appointed to establish the final statement is blocked by the inertia of a co-owner, he may put him in default, by extrajudicial act, of causing himself to be represented.

Unless the co-owner in indivision appoints a mandatary within three months after being put in default, the notary may demand from the judge that he appoint any qualified person to represent the defaulting party until the complete realization of the operations.

Article 842

At any time the co-partitioners may abandon their judicial actions and pursue an amicable partition if the conditions provided for such a partition are met.

Section 2: Collation of liberalities

Article 843

Any heir coming to a succession, even one who has accepted the succession to the extent of net assets, must collate to his co-heirs everything that he received from the deceased, by donations inter vivos, directly or indirectly; he may not retain donations made to him by the deceased, unless they were expressly made to him beyond his share in the succession.

Legacies made to an heir are presumed to have been made beyond his share in the succession, unless the testator expressed a contrary will, in which case the legatee may claim his legacy only by taking less.

Article 844

Donations made beyond one's share in the succession may be retained and the legacies may be claimed by an heir coming to the partition only to the extent of the disposable portion; the excess is subject to reduction.

Article 845

An heir who renounces the succession may nevertheless retain the donation inter vivos or claim the legacy made to him up to the extent of the disposable portion, unless the transferor expressly demanded collation in case of renunciation.

In that case, collation occurs by value. When the value collated exceeds the rights that he should have had in the partition if he had participated in it, the renouncing heir indemnifies the accepting heirs to this extent.

Article 846

The donee who was not a presumptive heir at the time of the donation but who is called to the succession when the succession is opened, does not owe collation, unless the donor expressly demanded it.

Article 847

Donations and legacies made to the son of one who is called to the succession when the succession is opened are always reputed to have been made with a dispensation of collation.

A father coming to the succession of the donor is not bound to collate.

Article 848

Likewise, a son coming in his own right to the succession of the donor is not bound to collate a donation made to his own father, even if he has accepted his father's succession; but if the son comes to the succession only by representation, he must collate what was given to his father, even if he has repudiated his father's succession.

Article 849

Donations and legacies made to the spouse of a spouse who is called to the succession are deemed made with dispensation of collation.

If the donations and legacies are made jointly to two spouses, of whom only one is called to the succession, that spouse collates half; if the donations were made to the spouse who is called to the succession, he collates the whole of them.

Article 850

Collation is made only to the succession of the donor.

Article 851

Collation is due for what has been used to set up one of the co-heirs or for the payment of his debts.

It is also due in case of donation of fruits or revenues, unless the donation was made expressly as beyond the share in the succession.

Article 852

The costs of nourishment, support, education, apprenticeship, ordinary costs of equipment, costs of marriage, and customary gifts need not be collated, unless the will of the disposing party was otherwise to the contrary.

The character of the customary gift is evaluated as of the date it is made and with a consideration of the wealth of the disposing party.

Article 853

It is the same for profits that the heir has been able to earn from contracts made with the deceased, if these contracts provided no indirect advantage, when they were made.

Article 854

Likewise, no collation is due for associations made without fraud between the deceased and one of his heirs, when the conditions for it were settled by authentic act.

Article 855

A thing that has been lost due to a force majeure and without the fault of the donee is not subject to collation.

Nevertheless, if this thing is repaired by means of an indemnity collected because of its loss, the donee must collate it in the proportion that the indemnity contributed to the repair. If the indemnity was not used for that purpose, the indemnity itself is subject to collation.

Article 856

The fruits of assets subject to collation are due counting from the date of the opening of the succession. Interest is due only from the date the amount to be collated is determined.

Article 857

Collation is owed only by an heir to his co-heir; it is owed neither to legatees nor creditors of the succession.

Article 858

Collation is made by taking less, except in the case of the second paragraph of Article 845.

It may not be demanded in kind, unless there is a contrary stipulation in the act of donation.

In the case of such a stipulation, alienations and impositions of real rights by the donee are extinguished by the effect of collation, unless the donor consented to them.

Article 859

An heir also has the faculty of collating in kind a donated thing that still belongs to him, provided this thing is free of any encumbrance or occupation by which it was not already burdened at the time of the donation.

Article 860

Collation is owed of the value of the thing donated at the time of the partition, according to the state of the thing at the time of the donation.

If the thing has been alienated before partition, one takes account of the value it had at the time of alienation. If a new thing has been subrogated to the thing alienated, one takes account of the value of this new thing at the time of the partition, according to its state at the time of acquisition. Nevertheless, if the depreciation of the new thing was, because of its nature, unavoidable on the date of its acquisition, one does not take account of the subrogation.

All these rules apply unless there is a contrary stipulation in the act of donation.

If it results from such a stipulation that the value to be collated is less than the value of the thing determined by the rules of appraisal under Article 922 below, that difference forms an indirect advantage acquired by the donee outside his share in the succession.

Article 860-1

The collation of a sum of money is equal to its amount. Nevertheless, if it served for the acquisition of a thing, collation is owed of the value of this thing, under the conditions provided for in Article 860.

Article 861

When collation is made in kind and the state of the assets given has improved by the act of the donee, one must take account of this fact, with regard to how much their value has increased by the time of the partition or alienation.

Likewise one must take account as to the donee of the necessary expenses that he has made for the preservation of the thing, even if they have not improved it.

Article 862

A co-heir who makes collation in kind may retain possession of the thing given until the sums owed to him for expenses or improvements have been actually reimbursed.

Article 863

A donee, for his part, must, in case of collation in kind, account for degradations and deteriorations that, by his act or fault, have reduced the value of the thing given.

Section 3: Payment of debts

Sub-article 1: Debts of the co-partitioners

Article 864

When the mass subject to partition includes a claim against one of the co-partitioners, due or not yet due, it is allotted to him in the partition to the extent of his rights in the mass.

To the extent of the claim against the co-partitioner, the debt is extinguished by confusion. If the amount exceeds the debtor's rights in this mass, he must pay the balance subject to the conditions and delays that governed the obligation.

Article 865

Unless connected with undivided property, the claim is not exigible before the closing of the operations of the partition. Nevertheless, the heir debtor may decide at any time to pay it voluntarily.

Article 866

Sums subject to collation earn interest at the legal rate, unless there is a contrary stipulation.

Such interests accrues from the opening of the succession when the heir was debtor to the deceased and counting from the date on which the debt is eligible, when it arises during co-ownership.

Article 867

When the co-partitioner himself has a claim to make, his debt is allotted to him only if, after an accounting is made, there is an outstanding balance in favor of the undivided mass.

Sub-article 2: Other debts

Article 870

Co-heirs contribute among themselves to the payment of the debts and encumbrances of the succession, each one in proportion to what he takes from it.

Article 871

A legatee under universal title contributes with the heirs, ratably in proportion to his benefit; but a special legatee is not held for the debts and encumbrances, except for the hypothecary action against the bequeathed immovable.

Article 872

If the immovables of a succession are encumbered by annuities secured by a special hypothec, each coheir may require that the annuities be reimbursed and the immovables freed before proceeding to the formation of the lots. If the coheirs partition the succession in its current condition, the encumbered immovable must be appraised at the same rate as the other immovables; the principal of the annuity is deducted from the total price; the heir into whose lot that immovable falls has alone the charge of servicing the annuity and he must guarantee this to his coheirs.

Article 873

Heirs are bound for the debts and encumbrances of the succession, personally for their share of the succession, and by hypothec for the whole; subject to their remedy either against their coheirs, or against the universal legatees, for the part to which the latter must contribute.

Article 874

A special legatee who has paid a debt encumbering an immovable bequeathed to him is subrogated to the rights of the creditor against the heirs.

Article 875

A co-heir who, because of the hypothec, has paid more than his share of the common debt, has recourse against the other heirs only for the share of the debt each of them must bear personally, even in the case where the co-heir who paid the debt obtained subrogation to the rights of the creditor; without prejudice, however, to the rights of a coheir who, by acceptance to the extent of the net assets, has retained the faculty of demanding payment of his personal claim, like any other creditor.

Article 876

In case of insolvency of one of the coheirs, his share of the hypothecary debt is divided proportionally among all the others.

Article 877

The title enforceable against the deceased is also enforceable against an heir, eight days after notice has been made to him.

Article 878

Creditors of the deceased and legatees of sums of money may demand to be preferred with respect to the assets of the succession to any personal creditor of the heir.

Reciprocally, personal creditors of the heir may demand to be preferred to creditors of the deceased as to assets of the heir not received from the succession.

The right of preference gives rise to the privilege on immovables provided for in 6° of Article 2374 and it is subject to recordation in conformity with Article 2383.

Article 879

This right may be exercised by any act by which one creditor manifests to a competing creditor his intent to be preferred with respect to a particular thing.

Article 880

It may not be exercised when the creditor making the demand has renounced it.

Article 881

It prescribes, with respect to movables, in two years counting from the opening of the succession.

With respect to immovables, the action may be exercised so long as they remain in the hands of the heir.

Article 882

The creditors of a co-partitioner, to prevent a partition in fraud of their rights, may oppose its occurrence outside their presence: they have the right to intervene in it at their cost; but they may not attack a partition that has been completed, unless, nevertheless, it occurred without them and to the prejudice of an opposition that they would have brought.

Section 4: The effects of partition and the guarantee of lots

Article 883

Each co-heir shall be deemed to have succeeded alone and immediately to all the effects that are included in his lot, or that come to him after licitation, and never to have had ownership of the other effects of the succession.

It shall be the same as to the assets which came to him through any other act the effect of which was to cause the indivision to cease. No distinction is made depending on whether the act causes the indivision to cease in whole or in part, with respect to certain assets or certain heirs only.

However, acts lawfully performed either under a mandate given by the co-owners in indivision, or under a judicial authorization, retain their effects whatever the allotment of the assets that were the object of the acts may be at the time of the partition.

Article 884

Coheirs remain respectively guarantors, each toward the others, against only those disturbances and evictions that arose from some cause prior to the partition. They also guarantee against the insolvency of a debtor of a debt placed in the lot of a co-partitioner, revealed before the partition.

The guarantee does not arise if the kind of eviction suffered was accepted by a specific and express clause of the act of partition; the guarantee ceases if an heir suffers eviction by his own fault.

Article 885

Each co-heir is personally obligated, in proportion to his benefit, to indemnify the ousted co-heir for the loss he has suffered, evaluated as of the date of eviction.

If one of the co-heirs is insolvent, the portion for which he is bound must be equally divided between the beneficiary of the guarantee and all the solvent co-heirs.

Article 886

The action in guarantee prescribes in two years counting from the eviction or the discovery of the disturbance.

Section 5: Action to annul a partition or to supplement a part

Sub-article 1: Actions to annul a partition

Article 887

A partition may be annulled for violence or dol.

It may also be annulled for error, if the error bears on the existence or the portion of the rights of the co-partitioners or on the ownership of the assets making up the mass subject to partition.

If it appears that the consequences of the violence, dol, or error, or error may be rectified otherwise than by annulment of the partition, the tribunal may, upon demand by one of the parties, order a supplemental or corrective partition.

Article 887-1

A partition may also be annulled if one of the heirs was omitted from it.

The omitted heir may nevertheless demand to receive his share, whether in kind or in value, without annulment of the partition.

To determine this share, the assets and rights on which the already-realized partition has already applied are re-evaluated as if a new partition were to occur.

Article 888

The co-partitioner who has alienated his lot in whole or in part is no longer permitted to bring an action founded on dol, error, or violence, if the alienation was made after the discovery of the dol, or error or after the cessation of the violence.

Sub-article 2: Action to supplement a part

Article 889

When one of the co-partitioners establishes he has suffered lesion beyond one-fourth, a supplement of his part is provided to him, at the choice of the defendant, either in money or in kind. To determine whether lesion has occurred, the objects are evaluated at the time of the partition.

The action to supplement a part prescribes in two years counting from the partition.

Article 890

The action to supplement a part is admitted against any act, whatever its label, whose object is to cause the indivision among the co-partitioners to cease.

The action is no longer permitted when a transaction occurs after the partition or after an act that takes account of the difficulties presented by the partition or by this act itself.

In case of successive, partial partitions, lesion is determined without taking into account either the partial partition that has already occurred, if this has satisfied the parties with their rights in equal parts, or the assets not yet partitioned.

Article 891

The action to supplement a part is not heard against a sale of undivided rights made without fraud to a co-owner in indivision by his co-owners or by one of them, when the assignment includes a risk defined in the act and expressly accepted by the assignee.

Article 892

The mere omission of an undivided thing gives rise to a supplemental partition concerning that thing.

TITLE II: LIBERALITIES

Chapter i. GENERAL PROVISIONS

Article 893

A liberality is an act by which a person disposes by gratuitous title of all or part of his assets or his rights to the advantage of another person.

A liberality may be accomplished only by donation inter vivos or by testament.

Article 894

A donation inter vivos is an act by which the donor divests himself now and irrevocably of the thing donated in favor of the donee, who accepts it.

Article 895

A testament is an act by which the testator disposes, for the time when he will no longer exist, of all or part of his assets or his rights, and that he may revoke.

Article 896

The disposition by which a person is bound to preserve and render to a third person is effective only in cases authorized by legislation.

Article 898

A disposition by which a third party is called to receive a donation, a succession, or a legacy, is not be considered a substitution, and is valid, in the case where the donee, instituted heir, or legatee would not receive it.

Article 899

It is the same for an inter vivos or testamentary disposition by which a usufruct is donated to one person and naked ownership to another.

Article 900

In any inter vivos or testamentary disposition, the conditions that are impossible or are contrary to legislation or good morals, shall be deemed unwritten.

Article 900-1

Clauses of inalienability concerning an asset donated or bequeathed are valid only if they are temporary and justified by a serious and legitimate interest. Even in that case, a donee or legatee may be judicially authorized to dispose of the asset if the interest that justified the clause has disappeared or if it happens that a more important interest so requires.

The provisions of this Article do not prejudice liberalities made to juridical persons or even to natural persons responsible for forming juridical persons.

Article 900-2

Any beneficiary may demand judicial revision of the conditions and charges encumbering the donations or legacies he has received, when, in consequence of a change of circumstances, execution of them has become for him extremely difficult, or seriously detrimental.

Article 900-3

The demand for revision shall be brought as a principal action; it may also be brought as a reconventional demand, in reply to an action for execution or revocation brought by the heirs of the disposing party.

It is brought against the heirs; it is brought at the same time against the State Prosecutor’s office if there is doubt as to the existence or identity of some of them; if there is no known heir, it must be brought against the State Prosecutor’s office.

The latter shall, in any case, have the case communicated to him.

Article 900-4

A judge having jurisdiction of a demand for revision may, according to the circumstances and even sua sponte, either reduce the quantity or intervals of the performances encumbering the liberality, or modify their character taking into account the intention of the disposing party, or even merge them with analogous performances resulting from other gratuitous transfers.

He may authorize the alienation of all or part of the assets that were the object of the liberality, ordering that the price thereof be used for purposes in keeping with the will of the donor.

He shall prescribe measures adapted to maintain, as far as possible, the name that the disposing party had intended to give to his liberality.

Article 900-5

The demand is allowable only within ten years after the death of the disposing party or, in case of successive demands, ten years after the judgment which ordered the previous revision.

A beneficiary must justify the steps he took, during the interval, to execute his obligations.

Article 900-6

Third party opposition against a judgment approving an application for revision is allowable only in case of fraud imputable to the donee or legatee.

The retraction or reformation of the judgment attacked does not give rise to a right to any action against a third party purchaser in good faith.

Article 900-7

If, after revision, an execution of the conditions or charges, as originally provided for, becomes possible again, that execution may be demanded by the heirs.

Article 900-8

Any clause by which a disposing party deprives of a liberality a person who would question the validity of a clause of inalienability or would demand authorization to alienate is deemed unwritten.

Chapter II: Capacity to dispose or to receive by donation inter vivos or by testament

Article 901

To make a liberality, one must be of sound mind. The liberality is null when consent is vitiated by error, fraud, or violence.

Article 902

All persons may dispose and receive, either by donation inter vivos, or by testament, except those whom legislation declares to be incapable.

Article 903

A minor under sixteen years of age may not in any way dispose, except for what is regulated in Chapter IX of this Title.

Article 904

A minor who has reached the age of sixteen years and is not emancipated, may dispose only by testament, and only to the extent of half of the assets that legislation allows a major to dispose of.

Nevertheless, if he is called to serve in a campaign of war, he may, during the duration of the hostilities, dispose of the same portion as if he were of full age, in favor of any one of his relatives, or of several of them and up to the sixth degree inclusive, or even in favor of his surviving spouse.

If he has no relatives of the sixth degree inclusive, a minor may dispose as a person of full age would do.

Article 906

To be capable of receiving inter vivos, it suffices to have been conceived at the moment of the donation.

To be capable of receiving by testament, it suffices to have been conceived at the time of the death of the testator.

Nevertheless, the donation or testament will take effect only so long as the child is born viable.

Article 907

A minor, although he has reached the age of sixteen, may not, even by testament, dispose for the benefit of his tutor.

A minor, having become a major or emancipated, may not dispose, either by donation inter vivos or by testament, for the benefit of the person who used to be his tutor, if the final account of the tutorship has not been previously rendered and audited.

In the above two cases, the ascendants of minors who are or who were their tutors are excepted.

Article 909

Members of the professions of medicine and pharmacy, as well as members of auxiliary medical professions, who have provided care to a person during his final illness may not profit from inter vivos or testamentary dispositions made by that person in their favor during the course of that illness.

Judicial mandataries for the protection of majors and juridical persons in whose name they exercise their functions likewise may not profit from inter vivos or testamentary dispositions that the persons whose protection they assure have made in their favor, regardless of the date of the liberality.

The following are excepted:

1° Specific remunerative dispositions made by particular title, with due consideration of the means of the disposing party and of the services rendered;

2° Universal dispositions, in the case of kinship up to the fourth degree inclusive, but provided that the deceased has no heirs in the direct line; unless the person for whose benefit the disposition was made is himself one of those heirs.

The same rules shall apply to ministers of worship.

Article 910

Inter vivos or testamentary dispositions for the benefit of establishments of health, social and medico-social establishments, and establishments of public utility are effective only if authorized by decree of the representative of the State in the department.

Nevertheless, dispositions inter vivos or by testament for the benefit of foundations, congregations, and associations having the capacity to receive liberalities, and in the departments of the Lower Rhine, the Upper Rhine, and Moselle, public religious establishments and associations recorded according to local law, except associations or foundations whose activities and those of their managers are referred to in Article 1 of Law number 2001-504 of 12 June 2001, tending to reinforce the prevention and the repression of sectarian movements infringing on the rights of mankind and on fundamental freedoms, may be accepted freely by them.

If the representative of the State in the department is satisfied that the legatee or donee organization does not meet the necessary legal conditions regarding the legal capacity to receive liberalities or is not capable of using the liberality in conformity with the purpose of its by-laws, he may oppose the liberality, on conditions specified by decree, thereby depriving it of effect.

Liberalities made to foreign States or to foreign establishments capable under their national law to receive liberalities are freely accepted by such States or establishments, unless there is opposition made by a competent authority , in the conditions fixed by decree en Conseil d'État.

Article 911

Any liberality for the benefit of a natural person, stricken with an incapacity to receive under gratuitous title, is null, whether disguised under the form of an onerous contract, or made under the names of interposed persons, natural or juridical.

The father and mother, children and descendants, and the spouse of the incapable person, are presumed to be interposed persons, unless proof to the contrary is made.

CHAPTER III. THE RESERVED PORTION, THE DISPOSABLE PORTION, AND REDUCTION

Section 1: The reserved portion and the disposable portion

Article 912

The reserved portion is that part of the assets and rights of the succession whose devolution, free of charges, legislation assures to certain heirs, called forced heirs, if they are called to the succession and if they accept.

The disposable portion is that part of the assets and rights of the succession that is not reserved by legislation and of which the deceased can freely dispose by liberalities.

Article 913

Liberalities, either by inter vivos act or by testament, may not exceed one-half of the property of a disposing party, if he leaves only one child at his death; one-third, if he leaves two children; one-fourth, if he leaves three or more.

A child who renounces the succession is counted among the number of children left by the deceased only if he is represented or if he is bound to collate a liberality by application of the dispositions of Article 845.

Article 913-1

Included under the name of children, as used in Article 913, are descendants in whatever degree, although they must be counted only for the child whose place they take in the succession of the disposing party.

Article 914-1

Liberalities, by acts inter vivos or testamentary, may not exceed three-fourths of the assets if, in the absence of a descendant, the deceased leaves a surviving spouse, not divorced.

Article 916

If there is no descendant, or surviving spouse, not divorced, liberalities by act inter vivos or by testament may exhaust the totality of the assets.

Article 917

If a disposition by act inter vivos or by testament is of a usufruct or of a lifetime annuity whose value exceeds the disposable portion, the heirs for whose benefit legislation establishes a reserve have the option, either to execute that disposition or to abandon ownership of the disposable portion.

Section 2: Reduction of excessive liberalities

Sub-article 1: Operations preliminary to reduction

Article 918

The value in full ownership of assets alienated, either on condition of paying a life annuity, or non-returnable, or with reservation of a usufruct, to one of the presumptive heirs in the direct line, is imputed to the disposable portion. The excess, if any, is subject to reduction. This imputation and this reduction may only be demanded by those of the other presumptive heirs in the direct line who did not consent to those alienations.

Article 919

The disposable portion may be donated in whole or in part, either by act inter vivos or by testament, to the children or other presumptive heirs of the donor, without being subject to collation by the donee or legatee coming to the succession, provided that, as regards donations, the disposition was made expressly and beyond the donee's share in the succession.

A declaration that a donation is beyond the donee's share in the succession may be made, either in the act containing the disposition, or afterwards, in the form of inter vivos or testamentary dispositions.

Article 919-1

A donation made as an advance on a donee's share in the succession to a forced heir who accepts the succession is imputed to his part of the reserve and, secondarily, to the disposable portion, if not agreed to otherwise in the act of donation. The excess is subject to reduction.

A donation made as an advance on a donee's share in the succession to a forced heir who renounces the succession is treated as a donation made beyond his share in the succession. Nevertheless, when he is forced to collate by application of the dispositions of Article 845, the heir who renounces is treated as an heir who has accepted for the fictitious reunion of the imputation and, as the case may be, the reduction of the liberality granted to him.

Article 919-2

A liberality made beyond the donee's share in the succession is imputed to the disposable portion. The excess is subject to reduction.

Article 920

Liberalities, direct or indirect, that impinge upon the reserve of one or more heirs, are reducible to the disposable portion as of the opening of the succession.

Sub-article 2: The exercise of reduction

Article 921

Reduction of dispositions inter vivos may be requested only by those for whose benefit legislation establishes the reserve, by their heirs or their assigns: donees, legatees, and creditors of a deceased may not request that reduction or benefit from it.

An action for reduction prescribes in five years counting from the opening of the succession, or in two years counting from the date that the heirs became aware of the impingement on their reserve, but never in excess of ten years counting from the date of death.

Article 922

Reduction is determined by forming a mass of all the assets existing at the death of the donor or testator.

The assets that were disposed of by inter vivos are added to this mass fictitiously, according to their state at the time of the donation and their value at the opening of the succession, after deducting from them the debts or the charges that encumber them. If the assets have been alienated, one takes account of their value at the time of alienation. If there has been subrogation, one takes account of the value of the new things on the date the succession opened, according to their state at the time of acquisition. Nevertheless, if the depreciation of the new things was, because of their nature, unavoidable as of the day of their acquisition, one does not take account of subrogation.

One calculates on all this property, having regard to the kind of heirs whom he leaves, the portion of which the deceased may have disposed.

Article 923

There is never an occasion to reduce donations inter vivos except after exhaustion of the value of all things included in testamentary dispositions; and when there is an occasion for this reduction , it is done by beginning with the last donation and so on proceeding up from the last to the oldest.

Article 924

When a liberality exceeds the disposable portion, the beneficiary, whether or not a presumptive heir, must indemnify the forced heirs up to the amount of the excessive portion of the liberality, whatever that excess might be.

The payment of an indemnity by a forced heir is made by taking less and by priority through imputation onto his rights in the reserve.

Article 924-1

The beneficiary may execute the reduction in kind, in derogation of Article 924, when the thing given or bequeathed still belongs to him and is free of any charge that did not already encumber it on the date of the liberality, as well as of any occupation that did not exist at that same date.

This faculty is extinguished if he does not express his choice as to this modality of reduction within a period of three months, counting from the date on which a forced heir put him in default to decide one way or the other.

Article 924-2

The amount of the indemnity of reduction is calculated according to the value of the assets given or bequeathed at the time of the partition or of their alienation by the beneficiary, and according to their state on the date the liberality took effect. If subrogation occurred, calculation of the indemnity of reduction takes account of the value of the new assets at the time of the partition, according to their state at the time of acquisition. Nevertheless, if the depreciation of the new assets was, because of their nature, unavoidable as of the date of acquisition, one does not take account of subrogation.

Article 924-3

The indemnity of reduction is due at the moment of partition, unless the heirs agree otherwise. Nevertheless, when the liberality has for its object one of the assets that could be the object of a preferred allocation, the tribunal may grant delays, taking into consideration the interests present, if the disposing party has not done so. The granting of these delays may in no case have the effect of deferring the payment of the indemnity beyond ten years counting from the opening of the succession. The provisions of Article 828 are then applicable to the payment of the sums due.

Unless there is agreement or stipulation otherwise, these sums bear interest at the legal rate, counting from the date on which the amount of the indemnity of reduction is fixed. The advantages that result from the delays and the modalities of payment do not constitute a liberality.

In case of sale of the totality of the asset donated or bequeathed, payment of the sums remaining due become immediately exigible; in case of partial sales, the proceeds of these sales are paid over to the co-heirs or are imputed to the sums still due.

Article 924-4

After discussion of the property of the debtor of the indemnity in reduction and in case of his insolvency, the forced heirs may exercise the action in reduction or revendication against third detainers of immovables that were part of the liberalities and alienated by the donee. The action is exercised in the same manner as against the beneficiaries themselves and following the order of the dates of the alienations, beginning with the most recent. It may be exercised against third party detainers of movables when Article 2276 cannot be invoked.

When, on the date of the donation or later, the donor and all the presumptive forced heirs have consented to the alienation of the asset donated, no reserved heir, not even one born after the consents of all the interested heirs had been collected, may exercise this action against third party detainers. If it is a matter of things bequeathed, this action may no longer be exercised when the forced heirs have consented to the alienation.

Article 926

When the testamentary dispositions exceed, either the disposable portion, or that part of the disposable portion remaining after deduction of the value of the inter vivos gifts, reduction shall be made pro rata, without any distinction between universal legacies and particular legacies.

Article 927

Nevertheless, in all cases where the testator expressly declared his intent that this or that legacy be paid in preference to others, that preference takes place; and the legacy that is the object of the preference shall be reduced only to the extent that the value of the others does not satisfy the reserved portion.

Article 928

When reduction is executed in kind, the donee restores the fruits of that which exceeds the disposable portion, counting from the date of the death of the donor, if the demand for reduction is made within the year; if not, then from the date of the demand.

Sub-article 3: Renunciation in advance of the action for reduction

Article 929

Any presumptive forced heir may renounce his right to exercise an action in reduction in a succession not yet opened. This renunciation must be made for the benefit of one or more specified persons. The renunciation only binds the person who renounces from the day it is accepted by the person from whom he has the potential to inherit.

The renunciation may be aimed at an impingement bearing on the totality of the reserve or only on a fraction. It may also be aimed at only the reduction of one liberality concerning one specified thing.

The act of renunciation may not create obligations that burden the person from whom one has the vocation to inherit or be conditioned on an act made by the latter.

Article 930

Renunciation is established by a specific authentic act by two notaries. It is signed separately by each person who renounces before the notaries alone. It specifies precisely its future juridical consequences for each person who renounces.

A renunciation is null when it is not established under the conditions fixed in the preceding paragraph, or when the consent of the person renouncing has been vitiated by error, dol, or violence.

Renunciation may be made in the same act by several forced heirs.

Article 930-1

The capacity required of the renouncing party is that required in order to consent to a donation inter vivos. Nevertheless, an emancipated minor may not renounce in advance the action for reduction.

A renunciation, no matter what may be its modalities, is not a liberality.

Article 930-2

Renunciation produces no effect if there is no impingement on the reserved portion of the renouncing party. If the impingement on the reserved portion has occurred only in part, a renunciation produces its effect only to the extent of the impingement on the reserved portion of the renouncing party resulting from the consented-to liberality. If impingement on the reserved portion bears on a greater fraction than provided for in the renunciation, the excess is subject to reduction.

A renunciation relative to the reduction of a liberality bearing on a specific thing lapses if the liberality threatening the reserve does not bear upon that thing. The same is true if the liberality was not made for the advantage of the specified person or persons.

Article 930-3

The renouncing party may demand revocation of his renunciation only if:

1° The person from whom he has the vocation to inherit fails to perform his alimentary obligations towards him;

2° On the date of the opening of the succession, he is in a state of need that would disappear if he had not renounced his rights as a reserved heir;

3° The beneficiary of the renunciation is guilty of a crime or delict against his person.

Article 930-4

Revocation never takes place as a matter of law.

The demand in revocation is made within a year, counting from the date of the opening of the succession, if it is based on a state of need. It is made within a year, counting from the date of the act imputed by the renouncing party or the date when the act could have been known by his heirs, if it is based on the failure to fulfill alimentary obligations or on one of the facts addressed in 3° of Article 930-3.

Revocation by application of 2° of Article 930-3 is pronounced only up to the amount of the needs of the person who renounces.

Article 930-5

Renunciation is opposable to the representatives of the renouncing party.

CHAPTER IV: DONATIONS INTER VIVOS

Section 1: The form of donations inter vivos

Article 931

All acts containing a donation inter vivos shall be executed before notaries, in the ordinary form of contracts; and the notaries shall retain an original of them, on pain of nullity.

Article 932

A donation inter vivos is binding upon the donor and produces its effects only from the day it is accepted in express terms.

Acceptance may be made during the lifetime of the donor, by a subsequent and authentic act, an original of which will be retained by the notary; but then the donation is effective, in regard to the donor, only from the day he has been notified of the act that evidences that acceptance.

Article 933

If the donee is a major, acceptance must be made by him or, in his name, by a person endowed with a procuration from the donee, containing power to accept the donation so made, or a general power to accept all donations that have been or may be made.

That procuration must be executed before notaries; and an official copy of it must be annexed to the original of the donation, or to the original of the acceptance, if made by a separate instrument.

Article 935

A donation made to an unemancipated minor or to a major under tutorship must be accepted by his tutor, in conformity with Article 463, in the Title Minority and Emancipation.

Nevertheless, the father and mother of an unemancipated minor, or the other ascendants, even during the lifetime of the father and mother, although they are not tutors of the minor, may accept on his behalf.

Article 936

A deaf and mute person who knows how to write may accept by himself or through a person endowed with the power to do so.

If he does not know how to write, acceptance must be made by a curator appointed for that purpose, according to the rules established in the Title Minority and Emancipation.

Article 937

Subject to the dispositions of the second and third paragraphs of Article 910, donations made for the benefit of establishments of public utility must be accepted by the administrators of those establishments, after they have been duly authorized to do so.

Article 938

A donation duly accepted is complete by the sole consent of the parties; and ownership of the objects donated is transferred to the donee, without need of any other delivery.

Article 939

When there is a donation of assets susceptible of hypothec, publication of the acts containing the donation and the acceptance, as well as the notice of acceptance, if it took place by separate act, must be made at the office responsible for land publicity where the assets are situated.

Article 940

When a donation is made to minors, to majors under tutorship, or to public establishments, publication shall be made at the instigation of tutors, curators or administrators.

Article 941

Lack of publication may be set up by all interested persons, except, however, those who are responsible for making the publication, or their assigns, and the donor.

Article 942

Minors and majors under tutorship may not obtain restitution in case of failure to accept or publish the donations, save for their recourse against their tutors, if applicable, and even though restitution cannot take place, in such a case when the tutors are insolvent.

Article 943

A donation inter vivos may only include the present property of the donor; if it includes future property, it is null in this regard.

Article 944

Any donation inter vivos made subject to conditions whose performance depends on the sole will of the donor, is null.

Article 945

It is also null if made on condition of paying debts or charges other than those that existed at the time of the donation, or that are stated either in the act of donation, or in the detailed list that should be annexed thereto.

Article 946

In case the donor has reserved to himself the freedom to dispose of an effect included in the donation, or of a fixed sum out of the property donated, if he dies without having disposed of them, the said effect or sum shall belong to the donor's heirs, notwithstanding any clauses and stipulations to the contrary.

Article 947

The four preceding Articles shall not apply to the donations mentioned in Chapters VIII and IX of this Title.

Article 948

Any act of donation of movable effects is valid only as to the effects of which a statement of appraisal, signed by the donor and the donee, or by those who accept for the latter, is annexed to the original of the donation.

Article 949

A donor is allowed to reserve for his benefit or to dispose of, for the benefit of another, the enjoyment or the usufruct of the movable or immovable property donated.

Article 950

When a donation of movable effects is made with reservation of usufruct, the donee is obliged, at the expiration of the usufruct, to take the effects donated which still exist in their original nature, in the condition at that time; and he has an action against the donor or his heirs on account of the objects which do not exist, up to the amount of the value which was given to them in the statement of appraisal.

Article 951

A donor may stipulate a right of return of the objects donated, either for the case of the predecease of the donee alone, or for the case of the predecease of the donee and of his descendants;

That right may be stipulated only for the benefit of the donor.

Article 952

The effect of the right of return is to resolve all alienations of the assets and of the rights donated, and to cause these assets and rights to return to the donor, free of any charges and hypothecs, except for the legal hypothec of spouses if the other assets of the donee spouse are insufficient to accomplish this return and if the donation was made to him in the marriage contract from which these charges and hypothecs resulted .

Section 2: Exceptions to the rule of irrevocability of donations inter vivos

Article 953

A donation inter vivos may be revoked only on account of the non-performance of the conditions under which it was made, on account of ingratitude, and on account of the occurrence of the birth of children.

Article 954

In the case of revocation on account of non-performance of the conditions, the assets shall revert to the hands of the donor free of all charges and hypothecs created by the donee; and the donor shall have the same rights against third party detainers of the immovables donated as he would have against the donee himself.

Article 955

A donation inter vivos may be revoked on account of ingratitude only in the following cases:

1° If the donee has made an attempt against the life of the donor;

2° If the donee has been guilty of cruelty, serious offenses, or grievous insults toward the donor;

3° If the donee refuses support to the donor.

Article 956

Revocation on account of non-performance of conditions or of ingratitude may never take place by operation of law.

Article 957

A claim for revocation on account of ingratitude must be brought within one year, counting from the day of the offence with which the donee is charged by the donor, or from the day when the offence could have been known by the donor.

That revocation may not be demanded by the donor against the heirs of the donee, or by the heirs of the donor against the donee, unless, in this latter case, the action has been initiated by the donor, or he has died within a year of the offense.

Article 958

A revocation on account of ingratitude may not prejudice transfers made by a donee, or hypothecs and other real charges that he may have imposed on the object of the donation, provided they all are previous to the publication, in the land registry, of the claim for revocation.

In case of revocation, the donee shall be ordered to return the value of the objects alienated, with regard to the time of the claim, and the fruits, counting from the day of that claim.

Article 959

Donations in favor of marriage may not be revoked on account of ingratitude.

Article 960

All donations inter vivos made by persons who had no children or descendants presently living at the time of the gift, of whatever value they may have been, and for whatever reason they may have been made, and although they were reciprocal or remunerative, even those made in favor of marriage by persons other than the spouses to each other, may be revoked, if the act of donation so provides, by the occurrence of the birth of a child to the donor, even after his death, or of the adoption of a child by him as provided in Chapter I of Title VIII of Book I.

Article 961

Such a revocation shall take place, although the child of the donor had been conceived at the time of the donation.

Article 962

A donation may also be revoked, even if the donee has taken possession of the things donated and they have been left with him by the donor after the birth of the child. Nevertheless, the donee is only obliged to restore the fruits collected by him, of whatever nature they may be, as of the day when he was notified of the birth of the child or his adoption in plenary form, by means of a process or other instrument in proper form, even if the demand to recover the things donated was made after that notice.

Article 963

Things and rights included in a revoked donation return to the patrimony of the donor, free of all charges and hypothecs created by the donee, without remaining subject, even secondarily, to the legal hypothec of spouses; the same is true if the donation was made in consideration of the marriage of the donee and included in the marriage contract.

Article 964

The death of a child of the donor does not affect the revocation of donations provided for in Article 960.

Article 965

The donor may, at any time, renounce the exercise of revocation on account of unexpectedly having a child.

Article 966

The action in revocation prescribes in five years, counting from the date of birth or adoption of the latest child. It may only be brought by the donor.

CHAPTER V: TESTAMENTARY DISPOSITIONS

Section 1: General rules on the form of testaments

Article 967

Any person may dispose by testament, either by way of the institution of an heir, by way of a legacy, or by way of any other denomination suitable for manifesting his will.

Article 968

A testament may not be made in the same instrument by two or more persons, either for the benefit of a third person, or as a reciprocal or mutual disposition.

Article 969

A testament may be olographic, or made by a public instrument, or in mystic form.

Article 970

An olographic testament is not valid unless it is entirely written, dated and signed by the hand of the testator: it is subject to no other form.

Article 971

A testament by public act shall be received by two notaries or by one notary attended by two witnesses.

Article 972

If a testament is received by two notaries, it shall be dictated to them by the testator; one of those notaries shall write it himself or shall cause it to be written by hand or mechanically.

If there is only one notary, it must also be dictated by the testator; the notary shall write it himself or shall cause it to be written by hand or mechanically.

In either case, it must be read aloud to the testator. Express mention of all of this shall be made.

Article 973

This testament must be signed by the testator in the presence of the witnesses and of the notary; if the testator declares that he does not know how to sign or is unable to do so, his declaration shall be expressly mentioned in the act, as well as the cause that prevents him from signing.

Article 974

The testament must be signed by the witnesses and by the notary.

Article 975

The following may not serve as witnesses to a testament by public act: legatees, in whatever class they may be, their relatives by blood or marriage up to the fourth degree inclusive, or clerks of the notaries by whom the acts are received.

Article 976

When a testator wishes to make a mystic testament, the paper which contains the dispositions or the paper that serves as an envelope, if there is one, shall be closed, stamped, and sealed.

The testator shall present it thus closed, stamped, and sealed to the notary and to two witnesses, or he will cause it to be closed, stamped, and sealed in their presence and he shall declare that the contents of that paper is his testament, signed by him, and written by him or by another, while affirming in that latter case, that he has personally verified the wording of it; he shall indicate, in all cases, the mode of writing used (by hand or mechanical).

The notary shall draw up, in original not recorded, an act of subscription which he shall write or cause to be written by hand or mechanically on that paper, or on the sheet that serves as an envelope and bearing the date and indication of the place where it was done, a description of the cover and of the print of the seal, and mention of all the above-mentioned formalities; that act shall be signed by the testator as well as by the notary and the witnesses.

All that is mentioned above shall be done without interruption and without attending to other acts.

In case the testator cannot sign the act of superscription owing to an impediment arisen since he signed the testament, mention shall be made of the declaration he makes and of the reason he gives for it.

Article 977

If the testator does not know how to sign or was unable to do so when he caused his dispositions to be written, one shall proceed as laid down in the preceding Article; in addition, it shall be mentioned on the act of subscription that the testator declared that he did not know how to sign or was unable to do so when he had caused his dispositions to be written.

Article 978

Those who do not know how or are unable to read, may not make dispositions in the form of a mystic will.

Article 979

In case the testator is unable to speak, but is able to write, he may make a mystic testament, subject to the express condition that the testament be signed by him and written by him or another, that he present it to the notary and to the witnesses and that he write at the top of the act of superscription, in their presence, that the paper he presents is his testament and sign. Mention shall be made in the act of superscription that the testator has written and signed those words in the presence of the notary and of the witnesses and, furthermore, all that which is prescribed by Article 976 and is not inconsistent with this Article shall be complied with.

In all cases provided for in this article and in the preceding articles, a mystic testament in which the statutory formalities were not complied with and that is null as such, is nevertheless valid as an olographic, testament, if all the requisites for its validity as an olographic testament are fulfilled, even if it was qualified as a mystic testament.

Article 980

Witnesses called to be present at testaments must understand the French language and be majors, know how to sign and have the enjoyment of their civil rights. They may be of either sex but a husband and a wife may not be witnesses to the same instrument.

Section 2: Particular rules on the form of certain testaments

Article 981

Testaments of soldiers, of sailors in the State navy, and of persons employed with the armies may be received in the cases and on the conditions provided for in Article 93, either by a superior officer or military doctor of a corresponding rank, in the presence of two witnesses; or by two officials of the Quartermaster Department or two officers of the commissariat; or by one of those officials or officers in the presence of two witnesses; or finally, in an isolated detachment, by the officer commanding this detachment, with the assistance of two witnesses, if there does not exist in the detachment a superior officer or military doctor of a corresponding rank, an official of the Quartermaster Department or an officer of the commissariat.

The testament of the officer commanding an isolated detachment may be received by the officer who comes after him in the order of service.

The faculty of making a testament under the conditions provided for in this Article shall extend to prisoners in the hands of the enemy.

Article 982

Testaments mentioned in the preceding Article may also, if the testator is ill or wounded, be received in hospitals or military medical units such as they are defined by military regulations, by the chief doctor, whatever his rank may be, with the assistance of the managing administration officer.

Failing such an administration officer, the presence of two witnesses is necessary.

Article 983

In all cases, an original in duplicate of the testaments mentioned in Articles 981 and 982 shall be made.

If this formality could not be fulfilled because of the state of health of the testator, an official copy of the testament shall be drawn up to take the place of the second original; that office copy shall be signed by the witnesses and by the presiding officers. Mention shall be made therein of the reasons which prevented the second original from being drawn up.

As soon as communications are possible and within the shortest time, the two originals or the original and the certified copy of the testament shall be addressed by different couriers, under closed and stamped cover, to the ministry charged with national defense or the sea, to be filed with the notary indicated by the testator or, failing an indication, with the president of the chamber of notaries of the arrondissement of the last domicile of the testator.

Article 984

A testament made in the form established above is null six months after the testator comes to a place where he is free to use the ordinary forms, unless, before the expiration of that period, he is again placed in one of the special situations provided for in Article 93. The testament is then valid during this special situation and during a new period of six months after its expiration.

Article 985

Testaments made in a place with which all communication is impossible because of a contagious disease may be made by any person afflicted with this disease or present in places where the infection exists, before the judge of the tribunal d'instance or before one of the municipal officers of the commune, in the presence of two witnesses.

Article 986

Testaments made in an island within the metropolitan territory or within an overseas department, where there is no office of notary, when it is impossible to communicate with the department of which this island is a part, may be received in the forms provided for in Article 985. The impossibility of communicating must be certified in the instrument by the judge of the Tribunal d'Instance or the municipal official who received the testament.

Article 987

The testaments mentioned in the two preceding Articles become null six months after communications have been re-established in the place where the testator is, or six months after he has gone to a place where they will not be interrupted.

Article 988

In the course of a sea voyage, either on the way or during a stoppage in port, where it is impossible to communicate with land, or where , if one is in a foreign country, there is present no French diplomatic or consular agent vested with the functions of a notary, testaments of persons present on board shall be received, in the presence of two witnesses: on ships of the State, by the administration officer or, in his absence, by the commander or one who fulfils his functions; and on other ships by the captain, master or skipper, with the assistance of the chief officer, or, in their absence, by those who fulfil their functions.

The act shall indicate in which of circumstances provided for above it was received.

Article 989

On ships of the State, under the circumstances provided for in the preceding Article, the testament of the administration officer shall be received by the commander or by one who fulfils his functions and, where there is no administration officer, the testament of the commander shall be received by the one coming after him in the order of service.

On other ships, the testament of the captain, master, skipper or chief officer shall, under the same circumstances, be received by the persons who come after them in the order of service.

Article 990

In all cases, an original in duplicate of the testaments mentioned in the two preceding Articles shall be made.

If that formality could not be fulfilled because of the state of health of the testator, an official copy of the testament shall be drawn up to take the place of the second original; that official copy shall be signed by the witnesses and by the presiding officers. The reasons that prevented the second original from being drawn up shall be mentioned in the act.

Article 991

At the first stoppage in a foreign port where there is a French diplomatic or consular agent, one of the originals or the official copy of the testament shall be delivered, under closed and stamped cover, into the hands of that official. This agent shall forward the envelope to the minister responsible for the sea, in order that it may be deposited as is provided for in Article 983.

Article 992

Upon the arrival of the ship in a port of the national territory, the two originals of the testament, or the original and its official copy, or the original that remains, in case of transmission or delivery effectuated during the course of the voyage, shall be deposited, under closed and stamped cover, for the ships of the State, at the office of the minister responsible for the national defense, and for other ships, at the office of the minister responsible for the sea. Each of those documents shall be addressed separately and by different couriers, to the, minister responsible for the sea, who shall forward them in conformity with Article 983.

Article 993

On the list of the crew, in regard to the name of the testator, mention shall be made of the delivery of the originals or the official copy of the testament made, as the case may be, to the consulate, to the minister responsible for the national defense or to the minister responsible for the sea.

Article 994

A testament made during the course of a sea voyage, in the form prescribed in Articles 988 and following, is valid only when the testator dies on board or within six months after disembarking in a place where he could have redone it in the ordinary forms.

Nevertheless, if the testator undertakes a new sea voyage before expiration of that period, the testament is valid for the duration of that voyage and during a new period of six months after the testator has disembarked again.

Article 995

Dispositions inserted in a testament made, in the course of a sea voyage, for the benefit of the officers of the vessel other that those who are relatives by blood or marriage of the testator, are null and void.

It shall be the same, whether the will is made in the olographic form or received in conformity with Articles 988 and following.

Article 996

A reading shall be made to the testator, in the presence of the witnesses, of the provisions of Articles 984, 987, or 994, as the case may be, and a mention of that reading shall be made in the testament.

Article 997

The testaments covered by the above Articles of this Section shall be signed by the testator, by those who have received them, and by the witnesses.

Article 998

If the testator declares that he is unable or does not know how to sign, mention shall be made of his declaration, as well as of the cause that prevents him from signing.

In a case where the presence of two witnesses is required, the testament shall be signed by one of them at least, and mention shall be made of the reason why the other did not sign.

Article 999

A French person who is in a foreign country may make his testamentary dispositions by act under private signature, as is prescribed in Article 970, or by authentic instrument, in the forms used in the place where the act is made.

Article 1000

Testaments made in a foreign country may be enforced on assets situated in France only after they have been registered at the office of the domicile of the testator, if he has kept one, otherwise, at the office of his last known domicile in France; and in the case the testament contains dispositions of immovables there situated, it shall be also registered at the office of the location of those immovables, without a double fee or tax being charged.

Article 1001

The formalities to which the different types of testaments are subject under the provisions of this Section and the preceding one shall be complied with on pain of nullity.

Section 3: The institution of heirs and of legacies in general

Article 1002

Testamentary dispositions are either universal, or under universal title, or under particular title.

Each of these dispositions, whether made under the designation of the institution of an heir, or made under the designation of legacy, produces its effect according to the rules hereafter laid down for universal legacies, for legacies under universal title, or for particular legacies.

Article 1002-1

Unless the will of the disposing party is to the contrary, when the succession has been accepted by at least one heir designated by legislation, the legatee may limit his benefit to one part of the assets that have been disposed of in his favor. This limitation does not constitute a liberality made by the legatee to the other presumptive successors.

Section 4: Universal legacy

Article 1003

A universal legacy is a testamentary disposition by which a testator donates to one or more persons the universality of the assets which he leaves at his death.

Article 1004

When at the death of a testator there are heirs to whom a portion of his assets is reserved by legislation, those heirs are seized as a matter of law, by the death, of all the assets in the succession; and a universal legatee must demand from them the delivery of the assets included in the testament.

Article 1005

Nevertheless, in the same cases, a universal legatee has the enjoyment of the property covered by the testament from the day of the death, if a demand for delivery was made within one year after that time; otherwise, that enjoyment commences only from the day of judicial demand, or from the day when delivery was voluntarily consented to.

Article 1006

When at the death of a testator there are no heirs to whom a portion of his asset is reserved by law, a universal legatee is seized as a matter of law by the death of the testator, without being bound to demand delivery.

Article 1007

Every olographic or mystic testament, before it is put into execution, shall be deposited in the hands of a notary. The testament shall be opened if it is sealed. The notary shall draw up at once a formal memorandum of the opening and of the condition of the testament, while specifying the circumstances of the deposit. The testament and the formal memorandum shall take their place in order among the original acts of the notary.

Within the month following the date of the formal memorandum, the notary shall address an official copy of it and a facsimile of the testament to the clerk of the tribunal d'instance of the place where the succession was opened, who shall acknowledge receipt of those documents and shall place them in order among his original acts.

Article 1008

In the case governed by Article 1006, if the testament is olographic or mystic, a universal legatee is bound to cause himself to be sent into possession, by an order of the president, written at the foot of a petition, to which the act of deposit shall be joined.

Article 1009

A universal legatee, who competes with an heir to whom legislation reserves a portion of the assets, is liable for the debts and charges of the succession of the testator, personally to the extent of his share and portion, and as a hypothecary to the extent of the whole; and he is responsible for paying all the legacies, except in case of reduction, as explained in Articles 926 and 927.

Section 5: Legacy under universal title

Article 1010

A legacy under universal title is one by which the testator bequeaths a portion of the assets of which legislation permits him to dispose, such as one-half, one-third, or all his immovables, or all his movables, or a fixed portion of all his immovables or of all his movables.

Any other legacy constitutes only a disposition under particular title.

Article 1011

Legatees under universal title must demand delivery from the heirs to whom a portion of the assets is reserved by law; if there are none, from the universal legatees and, if there are none, from the heirs called to the succession in the order established by the Title Successions.

Article 1012

A legatee under universal title is bound, as is a universal legatee, for the debts and charges of the succession of the testator, personally to the extent of his share and portion, and as a hypothecary to the extent of the whole.

Article 1013

If a testator has disposed of only a part of the disposable portion, and has done so under universal title, that legatee is responsible for paying the particular legacies by contribution with the natural heirs.

Section 6: Particular legacies

Article 1014

Every legacy that is pure and simple gives to the legatee, from the day of the death of the testator, a right to the thing bequeathed, which is transmissible to his heirs or assigns.

Nevertheless, a particular legatee may not be put into possession of the thing bequeathed, nor claim the fruits or interest of it, except from the date of his demand for delivery, made following the order established by Article 1011, or from the date this delivery was voluntarily consented to.

Article 1015

Interest or fruits of a thing bequeathed accrue to the benefit of the legatee, from the day of death, and without a demand having been made by him in court:

1° When the testator has expressly declared his will in this regard in the testament;

2° When a lifetime annuity or a pension has been bequeathed as alimony.

Article 1016

The costs of a demand for delivery shall be charged to the succession, without, however, causing a reduction in the legal reserve.

Registry fees are owed by the legatee.

All of which, unless otherwise directed by the testament.

Each legacy may be registered separately, without producing any benefit for anyone other than that legatee or his assigns.

Article 1017

The heirs of the testator, or other debtors of a legacy, are personally liable for the payment, each one pro rata according to the share and portion by which he benefits in the succession.

They are responsible as hypothecaries for the whole, up to the concurrence of the value of the immovables of the succession that they may hold.

Article 1018

The thing bequeathed is delivered with the necessary accessories, and in the condition in which it is found on the day of the death of the donor.

Article 1019

When he who bequeathed ownership of an immovable, has increased it thereafter by acquisitions, those acquisitions, even if contiguous, shall not be deemed to form a part of the legacy, unless there is a new disposition.

It will be otherwise with embellishments or with new constructions made on the estate bequeathed, or of an enclosure whose boundary the testator has increased.

Article 1020

If, before the testament was made or afterwards, the thing bequeathed has been hypothecated for a debt of the succession, or even for the debt of a third person, or if it is burdened with a usufruct, to he who must pay the legacy is not bound to disencumber the thing, unless he has been charged to do so by an express disposition of the testator.

Article 1021

When a testator has bequeathed a thing belonging to another, the legacy is null, whether the testator did or did not know that the thing did not belong to him.

Article 1022

When a legacy is of an undetermined thing, the heir is not obliged to give one of the best quality, nor may he offer one of the worst quality.

Article 1023

A legacy made to a creditor is not deemed to be in compensation of his claim, nor a legacy made to a domestic servant in compensation of his wages.

Article 1024

A legatee under particular title is not liable for the debts of the succession, save for the reduction of the legacy as stated above, and save for the hypothecary action of the creditors.

Section 7: Testamentary executors

Article 1025

A testator may appoint one or more testamentary executors, enjoying full civil capacity to supervise or to proceed to the execution of his wishes.

The testamentary executor who accepts his mission is bound to accomplish it.

The powers of the testamentary executor are not transmissible mortis causa.

Article 1026

The tribunal may relieve the testamentary executor of his mission for serious reasons.

Article 1027

If there are several testamentary executors who accept appointment, one of them may act without the others, unless the testator provided otherwise or divided their functions.

Article 1028

The testamentary executor is implicated in any judicial proceedings if the validity or the execution of the testament or of a legacy is contested.

In all cases, he intervenes to maintain the validity or to require the execution of the provisions contested in the litigation.

Article 1029

The testamentary executor takes conservatory measures useful to the proper execution of the testament.

He may proceed, in the forms provided for in Article 789, to an inventory of the succession in the presence or absence of the heirs, after giving them due notice.

He may cause the sale of movables if there are not enough liquid assets to pay the urgent debts of the succession.

Article 1030

The testator may enable the testamentary executor to take possession of all or part of the movables of the succession and sell them if it is necessary to pay particular legacies within the limits of the disposable portion.

Article 1030-1

If there is no reserved heir who accepts, the testator may enable the testamentary executor to dispose of all or part of the immovables of the succession, to receive and to place the capital to pay the debts and charges, and to proceed to the allocation or partition of the remaining assets among the heirs and legatees.

On pain of its being unopposable to them, the sale of an immovable of the succession may take place only after the heirs have been informed of it.

Article 1030-2

When the testament has been put in authentic form, sending into possession as provided for in Article 1008 is unnecessary for the execution of the powers mentioned in Article 1030 and 1030-1.

Article 1031

The powers mentioned in Articles 1030 and 1030-1 are given by the testator for a duration that cannot exceed two years, counting from the opening of the testament. An extension for an additional year at most may be granted by the judge.

Article 1032

The mission of the testamentary executor ends at the latest two years after the opening of the testament, unless extended by the judge.

Article 1033

The testamentary executor renders an account within six months following the end of his mission.

If the execution of the testament ends by the death of the executor, the obligation to render an account binds his heirs.

He assumes the responsibility of a mandatary under gratuitous title.

Article 1033-1

The mission of the testamentary executor is gratuitous, except for a liberality made under particular title, with regard to the means of the disposing party and the services rendered.

Article 1034

Expenses incurred by a testamentary executor in the exercise of his mission are charged to the succession.

Section 8: Revocation of testaments and their lapse

Article 1035

Testaments may be revoked, in whole or in part, only by a subsequent testament, or by an act before notaries, containing the declaration of a change of will.

Article 1036

Later testaments that do not revoke earlier ones expressly annul, in these earlier testaments, only those dispositions contained therein that are inconsistent with the new ones, or that are contrary to them.

Article 1037

A revocation made in a later testament produces its full effect, even if the new act is not executed because of the incapacity of the instituted heir or of the legatee, or because of their refusal to receive.

Article 1038

Any alienation made by the testator of all or part of the thing bequeathed, even by a sale with right of redemption or by exchange, entails the revocation of the legacy as to everything that was alienated, even if the later alienation is null, and even if the object returns to the hands of the testator.

Article 1039

Any testamentary disposition lapses if the one in whose favor it was made does not survive the testator.

Article 1040

If a testamentary disposition is made under a condition depending upon an uncertain event, and such that, in the intention of the testator, that disposition is to be carried out only if the event happens or does not happen, the testamentary disposition lapses if the instituted heir or the legatee dies before the condition is fulfilled.

Article 1041

A condition that, in the intention of the testator, merely suspends the execution of the disposition, does not prevent the instituted heir or the legatee from having a right that is vested and transmissible to his heirs.

Article 1042

A legacy lapses if the thing bequeathed has totally perished during the life of the testator.

The result is the same if the thing perishes after his death, without the act or fault of the heir, even if the latter may have been put in default for failure to deliver it when it would likewise have perished in the hands of the legatee.

Article 1043

A testamentary disposition lapses when the instituted heir or the legatee repudiates it or is incapable of receiving it.

Article 1044

Accretion occurs for the benefit of the legatees when a legacy is made to several of them jointly.

A legacy is reputed jointly made when made by one and the same disposition and when the testator did not assign the share of each of the co-legatees in the thing bequeathed.

Article 1045

It is also reputed jointly made when a thing which is not susceptible of being divided without deterioration is donated by the same instrument to several persons, even separately.

Article 1046

The same causes that, according Article 954 and the first two dispositions of Article 955, authorize a demand for revocation of a donation inter vivos, will be allowed for a demand for revocation of testamentary dispositions.

Article 1047

If that demand is based upon a grievous injury to the memory of the testator, it must be made within one year, counting from the day of the delict.

CHAPTER VI: GRADUAL AND RESIDUAL LIBERALITIES

Section 1: Gradual liberalities

Article 1048

A liberality may be burdened with a charge creating an obligation for the donee or the legatee to preserve the things or rights that are the object of the liberality and to transmit them, upon the beneficiary's death, to a second beneficiary, designated in the instrument.

Article 1049

A liberality consented to in this way is effective only for things or rights identifiable on the date of the transmission and remaining in kind at the death of the burdened beneficiary.

When such a liberality bears on movable securities, the liberality is effective also, in case of alienation, on movable securities that are subrogated to them.

When the liberality concerns an immovable, the charge encumbering the liberality is subject to publicity.

Article 1050

The rights of the second beneficiary open upon the death of the burdened beneficiary.

Nevertheless, the burdened beneficiary may abandon, for the advantage of the second beneficiary, the enjoyment of the asset or right that was the object of the liberality.

This abandonment in anticipation may not prejudice the creditors of the burdened beneficiary whose rights predate the abandonment, nor third parties who have acquired, from the latter, a right on the thing or the abandoned right.

Article 1051

The second beneficiary is reputed to take his rights from the author of the liberality. The same is true for his heirs when they receive the liberality on the conditions provided for in Article 1056.

Article 1052

It is up to the disposing party to prescribe guaranties and security for the proper execution of the charge.

Article 1053

The second beneficiary may not be submitted to the obligation to preserve and to transmit.

If the charge has been stipulated beyond the first degree, it remains valid but for the first degree only.

Article 1054

If the burdened beneficiary is a forced heir of the disposing party, the charge may be imposed only on the disposable portion.

The donee may nevertheless accept, in the instrument of donation or later in an instrument established under the conditions provided for in Article 930, that the charge burden all or part of his reserve.

The legatee may, within a delay of one year counting from the date he became aware of the testament, demand that his part of the reserve be, in whole or in part, freed from the charge. If he does not do so, he must assume its execution.

The charge that bears on a part of the reserve of the burdened beneficiary, with his consent, benefits as a matter of law, in this measure, all his children, born and to be born.

Article 1055

The author of a gradual donation may revoke it as to the second beneficiary so long as the latter has not notified the donor, in the forms required for donations, of his acceptance.

By way of exception to Article 932, the gradual donation may be accepted by the second beneficiary after the death of the donor.

Article 1056

When the second beneficiary predeceases the burdened beneficiary or renounces the benefit of the gradual liberality, the assets or rights that were its object become part of the succession of the burdened beneficiary, unless the act expressly provides that his heirs may receive it or names another second beneficiary.

Section 2: Residual liberalities

Article 1057

It may be provided for in a liberality that a person may be called to receive what may yet remain of a donation or a legacy made to a first beneficiary as of the time of his death.

Article 1058

A residual liberality does not bind the first beneficiary to preserve the assets received. It does bind him to transmit the assets that remain.

When the assets, which were the object of the residual liberality, have been alienated by the first beneficiary, the rights of the second beneficiary apply neither to the proceeds of such alienations nor to the new assets that may have been acquired.

Article 1059

The first beneficiary may not dispose by testament of assets donated or bequeathed by residual title.

The residual liberality may forbid the first beneficiary to dispose of the assets by donation inter vivos.

Nevertheless, when he is a forced heir, the first beneficiary preserves the possibility of disposing inter vivos or mortis causa of the assets that were donated as an advance on his part of the succession.

Article 1060

The first beneficiary is not bound to render an account of his management, either to the disposing party or to his heirs.

Article 1061

The provisions of Articles 1049, 1051, 1052, 1055, and 1056 apply to residual liberalities.

CHAPTER VII: LIBERALITIES-PARTITIONS

Section 1: General provisions

Article 1075

Any person may make, among his presumptive heirs, a distribution and a partition of his assets and of his rights.

This act may be accomplished in the form of a donation-partition or of a testament-partition. It is subjected to the formalities, conditions, and rules for donations inter vivos in the first case and for testaments in the second.

Article 1075-1

Any person likewise may make a distribution and a partition of his assets and of his rights among his descendants of different degrees, whether they are his presumptive heirs or not.

Article 1075-2

If his assets include an individual enterprise whose character is industrial, commercial, artisanal, agricultural, or liberal, or social rights of a company engaging in an activity whose character is industrial, commercial, artisanal, agricultural, or liberal, and in which he exercises a managerial function, the disposing party may, in the form of a donation-partition and under the conditions provided in Articles 1075 and 1075-1, make the distribution and partition among the donee or donees mentioned in those articles and one or more other persons, under the conditions proper for each form of company or as stipulated in their founding documents.

This liberality is made subject to the requirement that the, corporeal and incorporeal things that are dedicated to the exploitation of the enterprise or the social rights enter into this distribution and this partition, and that this distribution and this partition have the effect of attributing to those other persons only the ownership or the enjoyment of all or part of these things or rights.

Article 1075-3

The action to supplement a share for cause of lesion may not be brought against a donation-partition or a testament-partition.

Article 1075-4

The provisions of Article 828 are applicable to balancing payments owed by donees, notwithstanding any agreement to the contrary.

Article 1075-5

If all the assets or rights that the disposing party leaves on the day of his death have not been included in the partition, those of his assets or rights that have not been included are allocated or partitioned in conformity with legislation.

Section 2: Donations-partitions

Sub-article 1: Donations-partitions made to presumptive heirs

Article 1076

A donation-partition may have as its object only present property.

The donation and the partition may be made in separate acts, provided that the disposing party is a party to both acts.

Article 1076-1

If a donation-partition is made jointly by two spouses, a child not common may be allocated personal separate property or community property coming from his progenitor, without the other spouse acting as co-donor of the community property.

Article 1077

Assets received by way of an anticipated partition by a presumptive forced heir are imputed to his share of the reserve, unless they have been donated expressly as beyond his share.

Article 1077-1

The forced heir, who has not participated in the donation-partition, or who has received an allocation inferior to his share of the reserve, may exercise the action in reduction, if upon the opening of the succession no assets exist that were not included in the partition and that would be sufficient to make up or to complete his reserved portion, taking into account all the liberalities from which he may have benefited.

Article 1077-2

Donations-partitions are governed by the rules for donations inter vivos in all that which concerns imputation, the calculation of the reserve, and reduction.

The action in reduction may be brought only after the death of the disposing party who made the partition. In a case in which a donation-partition is made jointly by the two spouses, the action in reduction may be brought only after the death of the survivor except for a child not common to both of them who may act upon the death of its progenitor. The action prescribes in five years counting from this death.

A presumptive heir not yet conceived at the moment of the donation-partition has a similar action to compose or to complete his hereditary share.

Article 1078

Notwithstanding the rules applicable to donations inter vivos, the things given will, unless otherwise agreed, be appraised at the day of the donation-partition for imputation and calculation of the reserve, provided all the forced heirs living or represented at the death of the ascendant have received a lot in the anticipated partition and have expressly accepted it, and no reservation of a usufruct bearing on a sum of money has been provided for.

Article 1078-1

The lots of certain beneficiaries may be formed, in whole or in part, from donations whether they be collatable or made beyond their shares, that they have already received from the disposing party , with regard eventually had for the use and re-use that they may have made of them in the interval.

The date of appraisal applicable to an anticipated partition shall also apply to the previous donations that will have been thus incorporated into it. Any stipulation to the contrary shall be deemed unwritten.

Article 1078-2

The parties may also agree that a previous donation made beyond a donee's share will be incorporated into a partition and imputed to the donee's share of the reserve as an advance on his part of the succession.

Article 1078-3

The agreements mentioned in the two preceding Articles may take place even in the absence of new donations by the disposing party. They are not regarded as liberalities between the presumptive heirs but as a partition made by the disposing party.

Sub-article 2: Donations-partitions made to descendants of different degrees

Article 1078-4

When an ascendant proceeds to a donation-partition, his children may consent that their own descendants be allotted shares in their stead and place, in whole or in part.

The descendants of a subsequent degree may, in the anticipated partition, be allotted shares separately or jointly among them.

Article 1078-5

This liberality is a donation-partition even when the ascendant donor has only one child, and whether the partition is made between him and his descendants, or among his descendants only.

This liberality requires the consent, in the act, of the child who renounces all or part of his rights, as well as of his descendants who benefit from it. The liberality is null when the consent of the renouncing party is vitiated by error, dol, or violence.

Article 1078-6

When descendants of different degrees come to the same donation-partition, the partition occurs by stirpes.

Allocations may be made to descendants of different degrees in some stirpes but not in others.

Article 1078-7

Donations-partitions made to descendants of different degrees may include the agreements provided for in Articles 1078-1 through 1078-3.

Article 1078-8

In the succession of the ascendant donor, assets received by children or their descendants by anticipated partition are imputed to the share of the reserve applicable to their stirp and secondarily to the disposable portion.

All donations made to the members of a single stirp are imputed together, whatever the degree of kinship with the deceased.

When all the children of the ascendant donor have given their consent to the anticipated partition and no reservation of a usufruct bearing on a sum of money has been provided for, the assets allocated to the beneficiaries are appraised in accordance with the rule provided for in Article 1078.

If the descendants in one stirp have received no lot in the donation-partition or have only received a lot inferior to their share of the reserve, their rights are to be satisfied according to the rules provided for in Articles 1077-1 and 1077-2.

Article 1078-9

In the succession of the child who has consented that his own descendants receive allocations in his stead and place, the assets received by them from the ascendant are treated as if they acquired them from their immediate parent.

These assets are subjected to the rules applicable to donations inter vivos for fictitious reunion, imputation, collation and, if applicable, reduction.

Nevertheless, when all the descendants have received and accepted lots in the anticipated partition and no usufruct bearing on a sum of money has been provided for, the assets allocated to the beneficiaries are treated as if they had been received from their progenitor by donation-partition.

Article 1078-10

The rules established in Article 1078-9 do not apply when the child who has consented that his own descendants be allocated in his stead and place himself proceeds, with these others, to a donation-partition in which are incorporated the assets previously received under the conditions provided for in Article 1078-4.

This new donation-partition may include the agreements provided for in Articles 1078-1 and 1078-2.

Section 3: Testaments-partitions

Article 1079

A testament-partition produces the effects of a partition. Its beneficiaries may not renounce it in order to claim a new partition of the succession.

Article 1080

A beneficiary who does not receive a lot equal to his portion of the reserve may bring an action for reduction in conformity with Article 1077-2.

CHAPTER VIII. CHAPTER VIII: DONATIONS MADE BY MARRIAGE CONTRACT TO SPOUSES AND TO THEIR FUTURE CHILDREN

Article 1081

Any donation inter vivos of present property, although made by marriage contract to the spouses or to one of them, is subject to the general rules prescribed for donations so titled.

It may not take place for the benefit of children to be born, except in the cases stated in Chapter VI of this Title.

Article 1082

The father and mother, other ascendants, collateral relatives of the spouses, and even outsiders may, by marriage contract, dispose of all or part of the assets they will leave on the day of their death, as much for the benefit of the spouses, as for the benefit of children to be born of their marriage, in case the donor should survive the donee spouse.

Such a donation, although made only for the benefit of the spouses or of one of them, shall always, in the said case of survival of the donor, be presumed to have been made for the benefit of the children and descendants to be born of the marriage.

Article 1083

A donation in the form specified in the preceding article, is irrevocable, only in the sense that the donor may no longer dispose gratuitously of the property contained in the donation, with the exception of small sums, by way of compensation or otherwise.

Article 1084

A donation by marriage contract may be done cumulatively of present and future property, in whole or in part, provided a detailed statement of the debts and charges of the donor existing at the time of the donation is annexed to the act; in which case, the donee shall be at liberty, at the time of the death of the donor, to retain the present property, by renouncing the surplus of the donor's assets.

Article 1085

If the detailed statement mentioned in the preceding Article is not annexed to the instrument containing a donation of present and future property, a donee will be obliged to accept or repudiate the donation for the whole. In case of acceptance, he may claim only the assets existing on the day of the death of the donor, and he will be liable to pay all the debts and charges of the succession.

Article 1086

A donation may also be made by a marriage contract in favor of the spouses and of the children to be born of their marriage, subject to the condition of paying without distinction all the debts and charges of the succession of the donor, or subject to other conditions whose fulfilment depends upon his will, by whatever person the donation is made: the donee will be bound to fulfil these conditions unless he prefers to renounce the gift; and in case a donor by marriage contract has reserved to himself the power to dispose of an asset included in the donation of his present property, or of a fixed sum to be taken out of these same assets, if he dies without having disposed of them, the thing or the sum shall be deemed included in the donation and shall belong to the donee or his heirs.

Article 1087

Donations made by marriage contract may not be attacked or declared null on the pretext of lack of acceptance.

Article 1088

Any donation made in favor of a marriage lapses if the marriage does not occur.

Article 1089

Donations made to one spouse, under the terms of Articles 1082, 1084 and 1086 above, lapse if the donor survives the donee spouse and his descendants.

Article 1090

All donations made to spouses by their marriage contract, when the succession of the donor opens, may be reduced up to the portion of which legislation allows the donor to dispose.

CHAPTER IX: DISPOSITIONS BETWEEN SPOUSES, EITHER BY MARRIAGE CONTRACT OR DURING THE MARRIAGE

Article 1091

Spouses may, by contract of marriage, make to each other reciprocally, or one of the two to the other, whatever donation they consider proper, under the modifications hereafter expressed.

Article 1092

Any donation inter vivos of present property, made between spouses by marriage contract, shall not be deemed made under condition of survival of the donee if that condition is not formally expressed; and it shall be subject to all the rules and forms above prescribed for such donations.

Article 1093

A donation of future property, or of present and future property, made between spouses by marriage contract whether unilateral or reciprocal, shall be subject to the rules established by the preceding Chapter, as regards similar donations made by a third person, except that it will not be transmissible to the children born of the marriage, in case of death of the donee spouse before the donor spouse.

Article 1094

Whether by marriage contract or during the marriage, a spouse may, for the case in which he should leave neither child nor descendant, dispose in favor of the other spouse, in ownership, of everything he may dispose of in favor of an outsider.

Article 1094-1

If a spouse leaves children or descendants, born of the marriage or otherwise, he may dispose in favor of the surviving spouse, either in ownership what he may leave to an outsider, or one-fourth of his assets in ownership and the other three-fourths in usufruct, or else the totality of his assets in usufruct only.

Unless the disposing party stipulates to the contrary, the surviving spouse may limit his benefit to one part of the assets that have been disposed of in his favor. This limitation may not be considered a liberality made to the other presumptive successors.

Article 1094-3

Children or descendants may, notwithstanding any stipulation by the disposing party to the contrary, require, as to the assets subject to the usufruct, that an inventory of movables as well as a detailed statement of immovables be drawn up, that funds be invested and that bearer securities be, at the choice of the usufructuary, converted into registered securities or deposited with an accredited depositary.

Article 1095

A minor may, by marriage contract, donate to the other spouse, by either unilateral or reciprocal donation, only with the consent and assistance of those whose consent is required for the validity of his marriage; and with that consent, he may donate everything legislation allows a major spouse to donate to the other spouse.

Article 1096

A donation of future property made between spouses during marriage is always revocable.

A donation of present property made between spouses which takes effect in the course of the marriage is revocable only under the conditions provided for in Articles 953 to 958.

Donations for present or future property made between spouses are not revoked by the occurrence of the birth of children.

Article 1098

If one spouse makes, to his spouse, within the limits of Article 1094-1, a liberality in ownership, each child who is not the child of these two spouses, in the absence of the unequivocal will of the disposing party to the contrary, has the faculty, in his own interest, to substitute for the execution of that liberality the abandonment of the usufruct of that share of the succession which he would have received in the absence of a surviving spouse.

Those who have exercised that faculty may require the application of the provisions of Article 1094-3.

Article 1099

Spouses may not indirectly donate to each other more than they are allowed to donate under the provisions above.

Article 1099-1

When a spouse acquires an asset with funds donated to him by the other for that purpose, the donation is only of the funds and not of the asset in which they were invested.

In that case, the rights of the donor or of his heirs have as their object only a sum of money based on the present value of the asset. If the asset has been alienated, one considers the value it had on the day of the alienation, and if a new asset has been subrogated to the alienated asset, the value of that new asset.

TITLE III. CONTRACTS OR CONVENTIONAL OBLIGATIONS IN GENERAL

Chapter I - Preliminary Dispositions

Article 1101

A contract is an agreement by which one or several persons obligate themselves to one or several others to give, to do, or not to do something.

Article 1102

A contract is synallagmatic or bilateral when the parties obligate themselves to each other reciprocally.

Article 1103

A contract is unilateral when one or more persons are obligated to one or several others who are not obligated to the former in return.

Article 1104

It is commutative when each party obligates himself to transfer or do a thing that is considered as the equivalent of what is transferred to him or of what is done for him.

Where the equivalent consists of a chance of gain or of loss for each party that depends upon an uncertain event, a contract is aleatory.

Article 1105

A charitable contract is one in which one of the parties procures a purely gratuitous advantage for the other.

Article 1106

An onerous contract is one that obligates each party to give or to do something.

Article 1107

Contracts, whether they have a name of their own or lack a specific denomination, are subject to the general rules that are the subject matter of this Title.

Special rules for certain contracts are established under the Titles that relate to each of them; and the particular rules for commercial transactions are set out by the laws that relate to commerce.

CHAPTER II. Elements for the validity of an agreement

Article 1108

Four requirements are essential for the validity of an agreement:

The consent of the party who obligates himself;

That party's capacity to contract;

A definite object that forms the subject matter of the engagement;

A licit cause for the obligation.

Article 1108-1

When a writing is required for the validity of a juridical act, it may be established and stored in electronic form as provided in Articles 1316-1 and 1316-4 and, where an authentic act is required, in Article 1317, paragraph 2.

When a notation written by the very hand of the person who binds himself is required, the latter may provide in electronic form if the nature of the circumstances under which it is provided are likely to guarantee that it can be done only by that person himself.

Article 1108-2

The following are exceptions to the provisions of Article 1108-1:

1° Acts under private signature relating to family law and the law of successions;

2° Acts under private signature relating to personal or real security devices of either civil or commercial nature, except where they are made by a person for the needs of his profession.

Section 1. Consent

Article 1109

There is no valid consent, if the consent was given only by error, or if it was obtained by violence or induced by dol (dolus).

Article 1110

Error is a cause of nullity of an agreement only when it bears on the very substance of the thing that is the object of the agreement.

It is not a cause of nullity when it only bears on the person with whom one intends to contract, unless the consideration of that person was the principal cause of the agreement.

Article 1111

Violence against the person who has contracted the obligation is a cause of nullity even if it was exerted by a third party other than the one for whose benefit the agreement was entered into.

Article 1112

There is violence when it is of such a nature as to make an impression upon a reasonable person and when it can inspire in him a fear of exposing his person or his wealth to considerable and present harm.

In such an instance, the age, the sex, and the condition of the persons shall be taken into consideration.

Article 1113

Violence is a ground of nullity of a contract not only when it is exerted against one of the contracting parties, but also when it is exerted against his spouse, his descendants, or his ascendants.

Article 1114

Reverential fear alone towards a father, mother, or other ascendant, without the exertion of any violence, does not suffice to annul a contract.

Article 1115

A contract may no longer be attacked on the ground of violence if, since the violence has ceased, the contract has been approved either expressly or tacitly or by allowing the term set by law for restitution to pass.

Article 1116

Dol (dolus) is a cause of nullity of an agreement when the schemes and devices used by one of the parties are such that it is clear that without them the other party would not have contracted.

Dol (dolus) is not presumed and must be proven.

Article 1117

An agreement entered into by error, violence, or dol is not null as a matter of right; it only gives rise to an action for nullity or rescission, in the cases and in the manner explained in Section VII of Chapter V of this Title.

Article 1118

Lesion vitiates agreements only in certain contracts or in regard to certain persons, as will be explained in Section VII.

Article 1119

As a general rule, one may bind oneself and stipulate in one's own name only for oneself.

Article 1120

Nevertheless one may promise that the third party will perform an act; the promisee or beneficiary of the promise may seek indemnity against the promisor or porte-fort who had made such a promise or who had promised that he would cause the third party to ratify the promise, if that third party refuses to honor the engagement.

Article 1121

One may likewise stipulate for the benefit of a third party when such is the condition for a stipulation that one makes for oneself or for a donation which one makes to another. He who made that stipulation may no longer revoke it if the third party has declared that he wishes to take advantage of it.

Article 1122

One is considered to have stipulated for himself and for his heirs and assigns, unless the contrary is expressed or results from the nature of the agreement.

Section 2. Capacity of the contracting parties

Article 1123

All persons have the capacity to contract, except if declared incapable of doing so by law.

Article 1124

Are incapable of contracting, to the extent provided by law:

Unemancipated minors;

Adults protected under Article 488 of this Code.

Article 1125

Persons capable of binding themselves may not invoke the incapacity of those with whom they have contracted.

Article 1125-1

Unless authorized by a court of law, it is prohibited, on pain of nullity, for whoever exercises a function or is employed in an institution housing elderly persons or dispensing psychiatric care to act as buyer of an asset or as assignee of a right belonging to a person admitted to the institution, or as lessee of the dwelling occupied by that person before the latter was admitted to the institution.

For the purpose of applying this Article, the spouse, ascendants, and descendants of the person to whom the above-enacted restrictions apply, are deemed intermediaries.

Section 3. Object and matter of contracts

Article 1126

A contract has for its object a thing that a party obligates himself either to give, to do, or not to do.

Article 1127

The mere use or the mere possession of a thing, as much as the thing itself, may be the object of a contract.

Article 1128

Only things in commerce may be the object of conventional obligations.

Article 1129

An obligation must have for its object a thing determined at least as to its kind. The quantity of the thing may be uncertain, provided it is determinable.

Article 1130

Future things may be the object of an obligation.

However one may not renounce a succession not yet open, nor make any stipulation with respect to such a succession, even with the consent of the person whose succession is involved, except under the circumstances provided by law.

Section 4. Cause

Article 1131

An obligation without a cause or with a false cause or with an unlawful cause cannot have any effect.

Article 1132

An agreement is nevertheless valid, although the cause is not expressed.

Article 1133

A cause is unlawful when it is prohibited by law, and when it is contrary to good morals or to public order.

CHAPTER III. THE EFFECT OF OBLIGATIONS

Section 1: General provisions

Article 1134

Agreements lawfully entered into have the force of law for those who have made them.

They may be revoked only by their mutual consent, or for causes allowed by law.

They must be performed in good faith.

Article 1135

Agreements bind not only as to what is therein expressed, but also as to all the consequences that equity, usage, or law impose upon the obligation according to its nature.

Section 2. Obligation to give

Article 1136

The obligation to give carries with it the obligation to deliver the thing and to preserve it until delivery, under penalty of damages to the creditor.

Article 1137

The obligation to look after a thing, whether the agreement is for the benefit of one party only or for their common benefit, compels the one in charge to bring to it all the care of a prudent administrator.

This obligation is more or less extensive in certain contracts whose effects in this regard are explained under the Titles which relate to them.

Article 1138

The obligation to deliver a thing is perfect by the mere consent of the contracting parties.

It makes the obligee-creditor the owner and places the thing at his risks as from the time when it should have been delivered, although the delivery has not taken place, unless the obligor-debtor has been put in default to deliver it; in this case, the thing remains at the risk of the latter.

Article 1139

A debtor is put in default either through a formal demand or any other equivalent act such as a personal letter when its wording clearly amounts to enough an interpellation, or by the effect of the agreement when it provides that, without any act of the creditor and through the mere expiration of the term, the debtor will be put in default.

Article 1140

The effects of an obligation to give or to deliver an immovable are governed by the Title on Sale and the Title on Privileges and Hypothecs.

Article 1141

When a thing that one obligated bound oneself to give or to deliver to two persons successively is exclusively movable, the one of the two who has been placed in actual possession is preferred and remains the owner of it, although his title is later in date, provided however that the possession be in good faith.

Section 3. The Obligation to do or not to do

Article 1142

Any obligation to do or not to do resolves itself in damages in case of non-performance on the part of the obligor-debtor.

Article 1143

Nevertheless, the obligee-creditor has the right to demand that what has been done in violation of the agreement be destroyed; and he may be authorized to destroy it at the expense of the obligor-debtor, without prejudice to an action for damages if there is any ground therefor.

Article 1144

An obligee-creditor may also, in case of non-performance, be authorized to perform the obligation himself at the debtor's expense. The latter may be ordered to advance the sums necessary for that performance.

Article 1145

If the obligation is one not to do, he who violates it owes damages by the mere fact of the violation.

Section 4. Damages resulting from non-performance of an obligation

Article 1146

Damages are owed only when the debtor has been put in default to perform his obligation, except when the thing the debtor was obligated to give or do could be given or done only within a certain time that he has allowed to elapse. A putting in default may result from a personal letter clearly amounting to sufficient an interpellation.

Article 1147

A debtor shall be ordered to pay damages, in the proper circumstance, either on account of the non-performance of the obligation, or on account of the delay in performing, whenever he cannot establish that the non-performance was due to an external cause that cannot be imputed to him provided, moreover, there is no bad faith on his part.

Article 1148

Damages are not due when, because of a force majeure or a fortuitous event, the obligor-debtor either was prevented from giving or doing what he was obligated to give or did what he was forbidden to do.

Article 1149

Damages owed a creditor are, in general, for the loss he sustained and for the profit of which he was deprived, subject to the exceptions and modifications below.

Article 1150

A debtor is liable only for damages that were foreseen or that could have been foreseen at the time of the contract, when it is not owing to his dol (dolus) that the obligation is not fulfilled.

Article 1151

Even when the non-performance of the agreement is due to the debtor's dol (dolus), the damages shall include only, with regard to the loss suffered by the creditor and the profit of which he has been deprived, those damages which are the immediate and direct consequence of the non-performance of the agreement.

Article 1152

When an agreement provides that the party who fails to perform it will pay a certain sum as damages, the other party may not be awarded a greater or lesser amount.

Nevertheless, the judge may, even on his own motion, moderate or increase the penalty agreed upon when it is manifestly excessive or ridiculously low. Any stipulation to the contrary shall be deemed unwritten.

Article 1153

In obligations consisting only in the payment of a certain sum of money, damages resulting from delay in the performance shall consist only in a judgment for the payment of interest at the statutory rate, except for the special rules concerning commerce and suretyship.

Such damages are due without the creditor having to prove any loss.

They are due only from the day of the formal demand to pay or of another equivalent act such as a personal letter clearly stating a demand, except in those instances where the law causes them to accrue as a matter of right.

A creditor, to whom his debtor in delay has caused by his bad faith a loss independent of the loss due to the delay, may obtain damages distinct from the moratory damages owed on the debt.

Article 1153-1

In all instances, a judgment of damages carries with it interest at the statutory rate even in the absence of a claim for it or of a specific provision in the judgment. Unless otherwise provided by law, such interest accrues from the pronouncing of the judgment unless the judge rules otherwise.

When a judgment of damages for compensation of a loss is unreservedly upheld by an appellate judge, such compensation will as a matter of law carry with it interest as from the judgment of first instance. In other instances, the compensation awarded on appeal carries with it interest from the date of the appellate judgment. The appellate judge may always derogate from the provisions of this paragraph.

Article 1154

Interest due on assets may produce interest either as a result of a judicial claim or on the ground of a special agreement, provided that either in the claim or in the agreement the interest concerned is owed at least for one whole year.

Article 1155

Nevertheless, the revenue due, such as farm rents, rents, or instalments on perpetual or life annuities, produce interest from the day of the demand or of the agreement.

The same rule shall apply to the restitution of fruits and to interest paid by a third party to a creditor for the account of the debtor.

Section 5. Interpretation of agreements

Article 1156

One must in agreements seek the common intention of the contracting parties, rather than stop at the literal meaning of the words.

Article 1157

When a clause is susceptible of two meanings, it shall be understood to mean that which may produce some effect, rather than according to the meaning which would produce none.

Article 1158

Words susceptible of two meanings must be taken in the meaning that best suits the subject matter of the contract.

Article 1159

What is ambiguous shall be interpreted according to what is the usage in the region where the contract was made.

Article 1160

Clauses which are commonly used in a contract shall be filled in, even though they have not been inserted.

Article 1161

All the clauses of an agreement are interpreted with reference to one another by giving to each one the meaning that results from the whole act.

Article 1162

In case of doubt, an agreement is interpreted against the party who has stipulated and in favor of the party who has contracted the obligation.

Article 1163

However general the terms in which an agreement is worded, it includes only the things on which the parties appear to have intended to contract.

Article 1164

When in a contract a case was mentioned to give an explanation of the obligation, it shall not be deemed that the parties thereby intended to restrict the scope of their contract which, as a matter of right, shall apply to the cases not expressed.

Section 6. The Effect of agreements for third parties

Article 1165

Agreements produce effects between the contracting parties only; they do not harm a third party, and they benefit him only in the case provided for in Article 1121.

Article 1166

Nevertheless, creditors may exercise all the rights and actions of their debtor, with the exception of those that are exclusively attached to the person himself.

Article 1167

They may also, in their own name, attack the acts made by their debtor in fraud of their rights.

They shall nevertheless, as regards their rights set out in the Title on Successions and in the Title on the contract of marriage and matrimonial regimes, comply with the rules therein prescribed.

CHAPTER IV. THE DIFFERENT KINDS OF OBLIGATIONS

Section 1. Conditional obligations

Sub-article 1. The condition in general, and its different kinds

Article 1168

An obligation is conditional when it depends upon a future and uncertain event, either by suspending its existence until the event occurs or by rescinding it if the event occurs or will not occur.

Article 1169

A casual condition is one which depends upon chance and is in no way in the power of the creditor or of the debtor.

Article 1170

A potestative condition is one which makes the execution of the agreement depend upon an event that one or the other of the contracting parties has the power to bring about or to prevent.

Article 1171

A mixed condition is one which depends at the same time upon the will of one of the contracting parties and upon the will of a third party.

Article 1172

Any condition providing for an impossible thing, or contrary to public morals, or prohibited by law, is null and renders the agreement itself that depends upon it null.

Article 1173

A condition not to do an impossible thing does not render null the obligation contracted upon that condition.

Article 1174

Any obligation is null when it has been contracted subject to a potestative condition on the part of the party who binds himself.

Article 1175

Any condition must be fulfilled in the manner in which the parties have, in all likelihood, meant and intended that it should be.

Article 1176

When an obligation is contracted on the condition that an event will happen within a fixed time, such condition is considered to have failed when the time has elapsed without the event having occurred. Where no time is fixed, the condition may always be fulfilled; and it is deemed to fail only when it has become certain that the event will not happen.

Article 1177

When an obligation is contracted on the condition that an event will not happen within a fixed time, such condition is fulfilled when the time has expired without the event having taken place; it is also fulfilled if, before the term arrives, it has become certain that the event will not happen; and if no time has been fixed, it is fulfilled only when it has become certain that the event will not happen.

Article 1178

A condition is considered fulfilled when the debtor who is bound by such condition prevents it from being fulfilled.

Article 1179

A condition which is fulfilled has a retroactive effect to the day when the obligation has been contracted. If the creditor has died before the condition is fulfilled, his rights transfer to his heir.

Article 1180

The creditor may, before the condition is fulfilled, take all acts of conservation to preserve his right.

Sub-article 2. Of the suspensive condition

Article 1181

An obligation contracted under a suspensive condition is one which depends either upon a future and uncertain event or upon an event that has happened but is still unknown to the parties.

In the first case, the obligation can be enforced only after the event.

In the second case, the obligation has its effect as of the day when it was contracted.

Article 1182

When an obligation has been contracted under a suspensive condition, the thing which is the subject matter of the agreement remains at the risk of the debtor who has bound himself to deliver it only upon the occurrence of the condition.

If the thing perishes entirely without the fault of the debtor, the obligation is extinguished.

If the thing has been deteriorated without the fault of the debtor, the creditor has the choice between rescinding the obligation or demanding the thing in the condition in which it is, without any reduction in the price.

If the thing has been deteriorated owing to the obligor's fault, the creditor has the right either to rescind the obligation or to claim the thing in the condition in which it is, with damages.

Sub-article 3. Of the resolutory condition

Article 1183

A resolutory condition is one which, when it is fulfilled, brings about the revocation of the obligation and puts things back in the same state as if the obligation had not existed.

It does not suspend the performance of the obligation; it only obliges the creditor to return what he has received, if the event contemplated by the condition has taken place.

Article 1184

A resolutory condition is always implied in synallagmatic contracts, in case one of the two parties does not carry out his obligation.

In such a case, the contract is not rescinded as a matter of law. The party complaining of the non-performance of the obligation may either compel the other party to carry out the agreement when it is possible or demand its rescission with damages.

Rescission must be judicially demanded, and the defendant may be granted additional time to perform according to the circumstances.

Section 2. Obligations with a term

Article 1185

A term differs from a condition in that it does not suspend the existence of the obligation, but only delays its performance.

Article 1186

What is due only upon the arrival of a term cannot be claimed before the expiration of the term; but what has been paid in advance may not be recovered.

Article 1187

A term is always presumed to be stipulated in favor of the obligor-debtor, unless it appears from the stipulation or from the circumstances that it was also agreed upon in favor of the obligee-creditor.

Article 1188

A debtor can no longer claim the benefit of a term when by his own act he has impaired the security he gave to his creditor by the contract.

Section 3. Alternative obligations

Article 1189

The obligor-debtor of an alternative obligation is released by the delivery of one of the two things that were included in the obligation.

Article 1190

The choice belongs to the obligor unless it has been expressly granted to the obligee-creditor.

Article 1191

The obligor-debtor can release himself by delivering one of the things promised; but he cannot compel the creditor to receive a part of one and a part of the other.

Article 1192

The obligation is pure and simple, although contracted in an alternative manner, where one of the two things promised could not form the subject matter of the obligation.

Article 1193

The alternative obligation becomes single if one of the things promised is destroyed and can no longer be delivered, even owing to the fault of the obligor-debtor. The price of that thing may not be offered in its stead.

If both things have been destroyed, and the debtor is at fault as to one of them, he shall pay the price of the one that was destroyed last.

Article 1194

When, in the cases specified in the foregoing Article, the choice had been left to the creditor under the agreement,

Either only one of the things is destroyed; and then, if it is without the fault of the debtor, the obligee-creditor shall have the one that remains; if the debtor is at fault, the obligee-creditor may demand the thing that remains or the price of the one that has been destroyed;

Or both things have been destroyed; and then, if the debtor is at fault as to both, or even only as to one of them, the obligee-creditor may demand the price of one or the other, at his choice.

Article 1195

If both things are destroyed without the fault of the debtor, and before he was put in default, the obligation is extinguished, in accordance with Article 1302.

Article 1196

The same principles shall apply in case there should be more than two things included in the alternative obligation.

Section 4. Solidary obligations

Sub-article 1. Solidarity between creditors

Article 1197

An obligation is solidary among several creditors when the juridical instrument expressly gives to each one of them the right to demand payment of the whole claim, and payment made to one of them releases the debtor, even if the benefit derived from the obligation is to be partitioned and divided between the multiple creditors.

Article 1198

The debtor may opt to pay one or another of the solidary creditors, so long as he has not received notice of legal proceedings brought by one of them.

Nevertheless, the remission which is granted to the obligor-debtor by only one of the solidary creditors extinguishes the debt of the obligor-debtor only up to the portion of that creditor.

Article 1199

An act which interrupts the prescription with respect to one of the solidary creditors benefits the other creditors.

Sub-article 2. Solidarity between debtors

Article 1200

There is solidarity between debtors when they are obligated for the same thing, in such a way that each one may be compelled for the whole and when performance made by one releases the others towards the creditor.

Article 1201

An obligation may be solidary even though one of the debtors is obliged differently from another for the performance of the same thing; for instance, one could be bound only conditionally whereas the other's obligation is pure and simple, or whereas one benefits from a term that has not been granted to the other.

Article 1202

Solidarity is not presumed: it must be expressly stipulated.

This rule only ceases in the cases where solidarity exists as a matter of right in instances provided by legislation.

Article 1203

The creditor of an obligation contracted solidarily may seek performance from the debtor he chooses, and the latter may not plead the benefit of division as a defense.

Article 1204

Proceedings instituted against one of the solidary debtors do not deprive the creditor from the same right of action against the others.

Article 1205

Should the thing due have perished through the fault or after the putting in default of one or more of the solidary debtors, the other co-debtors are not released from the obligation to pay the price of the thing; however, they are not liable for damages.

The creditor may only claim damages from the debtors through whose fault the thing has perished or from those who had been put in default.

Article 1206

Proceedings instituted against one of the solidary debtors interrupts prescription against all.

Article 1207

A demand for interest against one of the solidary debtors causes interest to run against all.

Article 1208

A solidary co-debtor sued by his creditor may set up against him all the defenses that result from the nature of the obligation and all those personal to him, as well as those that are common to all the co-debtors.

He may not set up against the creditor the defenses which are strictly personal to some of the other co-debtors.

Article 1209

When one of the debtors becomes the sole heir of the creditor, or when the creditor becomes the sole heir of one of the debtors, confusion extinguishes the solidary claim only for the share and portion of the debtor or of the creditor.

Article 1210

A creditor who consents to the division of the debt in favour of one of the solidary debtors retains his solidary remedy against the others, after subtracting the share of the debtor whom he released from solidarity.

Article 1211

A creditor who receives separately the divisible share of one of his debtors, without reserving in the acquitance either solidarity or his rights in general, renounces solidarity only in favour of that debtor alone.

A creditor is not deemed to renounce solidarity vis-à-vis the debtor from whom he receives an amount equal to the portion for which that debtor is obliged if the acquitance does not specify that it is for his share.

The same rule applies to a mere demand made against one of the debtors for his share, if the latter has not acquiesced in the demand, or when no judgment ordering payment has been handed down.

Article 1212

A creditor who receives separately and without reserve the divisible share of one co-debtor in the periodic payment or interest on the debt, loses his solidary remedy only for the periodic payments or interest due, but not for those that may be due in the future nor for the capital, unless the divisible and separate payment continued for ten consecutive years.

Article 1213

The obligation contracted solidarily vis-à-vis the creditor is divided by operation of law between the debtors, who are bound between themselves each only for his share and portion.

Article 1214

The co-debtor of a solidary obligation who paid it in full may recover from the others only the share and portion of each one of them.

If one of them is insolvent, the loss occasioned by his insolvency shall be divided pro rata between all the other solvent co-debtors and the one who made the payment.

Article 1215

If the creditor renounces the solidary action in favour of one of the debtors, and if one or more of the other co-debtors become insolvent, the share of those who are insolvent shall be divided pro rata between all the debtors, even including those debtors previously released from solidarity by the creditor.

Article 1216

If the matter for which the debt was contracted solidarily was of concern only to one of the solidary co-obligors, the latter is liable for the whole debt to the other co-debtors, who then are considered with regard to him only as his sureties.

Section 5. Divisible and indivisible obligations

Article 1217

An obligation is divisible or indivisible according to whether its object is a thing which in its delivery or a fact which, in its performance, is or is not susceptible of division, either material or intellectual.

Article 1218

An obligation is indivisible although the thing or the fact which forms its object is divisible by its nature, if the intent under which it is considered in the obligation does not permit a partial performance.

Article 1219

A stipulation of solidarity does not make an obligation indivisible.

Sub-article 1. Effects of a divisible obligation

Article 1220

An obligation which is susceptible of division must be performed in the relationship between the creditor and the debtor as if it were indivisible. Divisibility operates only as to their heirs, who may claim the debt or are bound to pay it only to the extent of the shares that they receive or for which they are liable as representatives of the creditor or the debtor.

Article 1221

The principle stated in the preceding Article is subject to exceptions as regards the heirs of a debtor:

1° When the debt is secured by a hypothec;

2° When it is of a thing certain;

3° When it is an alternative debt regarding things at the choice of the creditor, one of which is indivisible;

4° When, by the title, one of the heirs is alone responsible for the performance of the obligation;

5° When it results from either the nature of the commitment, or from the thing that is its object, or from the purpose of the contract that the contracting parties intended that the debt could not be partially discharged.

In the first three cases, the heir who possesses the thing owed or the estate hypothecated for the debt may be sued for the whole on the thing owed or on the estate hypothecated, subject to his remedy against his co-heirs. In the fourth case, the heir who is alone responsible for the debt, and in the fifth case, each heir, can also be sued for the whole, subject to his remedy against his co-heirs.

Sub-article 2. Effects of indivisible obligations

Article 1222

Each one of those who have jointly contracted an indivisible debt is liable for the whole, although the obligation had not been contracted solidarily.

Article 1223

The same rule applies to the heirs of a person who has contracted such an obligation.

Article 1224

Each heir of the creditor can demand the whole performance of an indivisible obligation.

He cannot, alone, remit the whole debt; he cannot, alone, receive the price instead of the thing. If one of the heirs did alone remit the debt or received the price of the thing, his co-heir can claim the indivisible thing only by taking into account the portion of the co-heir who has granted the remission or received the price.

Article 1225

The heir of the debtor who is sued for the whole obligation can ask for a delay so as to join his co-heirs in the action, unless the debt is of such a nature that it can be discharged only by the heir who has been sued, against whom judgment may then be given, subject to his remedy for an indemnity against his co-heirs.

Section 6. Obligations with penalty clauses

Article 1226

A penalty clause is a clause by means of which a person in order to assure the performance of an agreement, binds himself to something in case of non-performance.

Article 1227

Nullity of the principal obligation carries with it the nullity of the penalty clause.

Nullity of the penalty clause does not carry with it the nullity of the principal obligation.

Article 1228

A creditor, instead of claiming the penalty stipulated against a debtor who is in default, can proceed with the performance of the principal obligation.

Article 1229

A penalty clause stands as the compensation for the damages which the creditor suffers from the non-performance of the principal obligation.

He cannot, at the same time, claim the principal and the penalty, unless the penalty was stipulated in case of mere delay.

Article 1230

Whether the original obligation does or does not provide for a term for the performance, the penalty is incurred only if the party who is bound either to deliver, or to take, or to do has been put in default.

Article 1231

When an obligation has been performed in part, the judge may, even of his own motion, reduce the penalty agreed upon in proportion to the interest that the partial performance has provided the creditor, without prejudice to the application of Article 1152.

Any stipulation to the contrary shall be deemed unwritten.

Article 1232

When the original obligation contracted with a penalty clause bears on an indivisible thing, the penalty is incurred in case of breach of the obligation by only one of the heirs of the debtor, and the penalty can be claimed either in its totality from the one who was in breach of the obligation, or from each of the co-heirs for his share and portion, and for the whole against the hypothec, subject to their remedy against the one who caused the penalty to be incurred.

Article 1233

When the original obligation contracted under a penalty is divisible, only the co-heir who fails to perform the obligation is liable for it and only for the share of the principal obligation for which he was bound, and without any action existing against those who perform the principal obligation.

An exception is made to this rule when, the penalty clause having been added with the intent that payment should not be made partially, a co-heir has prevented the performance of the obligation as a whole. In this case, the entire penalty may be claimed against that co-heir, and only for their part from the other co-heirs, subject to their remedy.

CHAPTER V. THE EXTINCTION OF OBLIGATIONS

Article 1234

Obligations are extinguished:

By payment;

By novation;

By voluntary remission;

By compensation;

By confusion;

By the loss of the thing;

By nullity or rescission;

By the effect of a resolutory condition, as explained in the preceding Chapter; and

By prescription, which will be the subject matter of a special Title.

Section 1. Payment

Sub-article 1. Payment in general

Article 1235

Any payment presupposes a debt: what has been paid without being due is subject to restitution.

Restitution is not possible in case of natural obligations that have been voluntarily performed.

Article 1236

Performance of an obligation can be rendered by any person having an interest therein, such as a co-obligor or a surety.

The obligation can even be performed by a third party who has no interest in it, provided that this third person acts in the name and for the discharge of the debtor or, if he acts in his own name, that he be not subrogated to the rights of the creditor.

Article 1237

The obligation to do cannot be performed by a third party against the will of the obligee-creditor, when the latter has an interest in having it performed by the obligor-debtor himself.

Article 1238

In order to make a valid payment, one must be the owner of the thing given in payment, and be capable of transferring it.

Nevertheless, the payment of a sum of money or of some other thing which is consumed by use, cannot be recovered from the obligee-creditor who has consumed it in good faith, although the payment had been made by a person who was not the owner or who was not capable of transferring it.

Article 1239

A payment must be made to the obligee-creditor or to someone having authority from him, or to someone who has been authorized by a court of law or by statute to receive it on his behalf.

A payment made to a person who has no authority to receive it for the creditor is valid if the obligee-creditor either ratifies it or has benefitted from it.

Article 1240

A payment made in good faith to one who is the holder of the claim is valid, even if the holder is afterwards dispossessed of it.

Article 1241

A payment made to an obligee-creditor is not valid if he was incapable of receiving it, unless the obligor-debtor proves that the thing paid has turned to the benefit of the creditor.

Article 1242

A payment made by an obligor-debtor to his obligee-creditor notwithstanding a seizure or a stop order by other creditors is not valid against those creditors; such creditors may according to their rights compel the debtor to pay a second time subject, in such a case only, to his remedy against the creditor.

Article 1243

A creditor may not be compelled to receive a thing other than the one owed him, even though the thing offered is of equal or even greater value.

Article 1244

An obligor-debtor cannot compel his obligee-creditor to receive partial payment of his debt even of a divisible debt.

Article 1244-1

Nevertheless, account being taken of the situation of the debtor and considering the needs of the creditor, a judge may defer or spread out the payment of sums due over a time limit of no more than two years.

By a special and properly grounded judgment, the judge may rule that the sums corresponding to the deferred payments shall carry interest at a reduced rate no less than the statutory rate or that the payments shall be imputed first to the principal.

Furthermore, the judge may subordinate these measures to the performance by the debtor of acts apt to facilitate or guarantee the payment of the debt.

The provisions of this Article shall not apply to debts of alimony.

Article 1244-2

The judgment handed down under Article 1244-1 stays whatever enforcement proceedings the creditor may have instituted. Increases in interest or the penalties incurred because of the delay cease to be due during the period of time fixed by the judge.

Article 1244-3

Any stipulation contrary to the provisions of Articles 1244-1 and 1244-2 shall be deemed unwritten.

Article 1245

The debtor of a certain and determined thing is released by the handing over of the thing in its condition in which it is at the time of delivery, provided that any deterioration the thing has suffered was not occasioned by his act or his fault or of any person for whom he is responsible, or provided the deterioration did not occur after he had been put in default.

Article 1246

If a debt is of a thing determined only as to its kind, the debtor, in order to be released, is not obliged to give the best thing of the kind, but he cannot offer the worst thing of the kind.

Article 1247

The payment must be made at the place designated in the agreement. If no place for payment of a certain and determined thing was designated, payment must be made where the thing was at the time the obligation was contracted.

Judicially ordered alimony payments must be made, subject to a contrary order of the judge, at the domicile or at the residence of the person who is to receive them.

Apart from those cases, payment must be made at the domicile of the debtor.

Article 1248

The costs connected to the payment are borne by the debtor.

Sub-article 2. Payment with subrogation

Article 1249

Subrogation to the rights of a creditor for the benefit of a third person who pays him is either conventional or legal.

Article 1250

Such subrogation is conventional:

1° When the obligee-creditor receiving his payment from a third person subrogates him to his rights, actions, privileges or hypothecs against the debtor: such subrogation must be express and made at the same time as the payment;

2° When the debtor borrows a sum in order to pay his debt and to subrogate the lender to the rights of the obligee-creditor. In order for such a subrogation to be valid, the loan instrument and the receipt thereof must be drawn up before notaries; in the same loan instrument it must be declared that the sum was borrowed in order to make the payment and in the receipt it must be declared that the payment has been made from the funds furnished for this purpose by the new creditor. Such subrogation takes place without the concurrence of the will of the creditor.

Article 1251

Subrogation takes place by operation of law:

1° For the benefit of the person who, being himself an obligee-creditor, pays another obligee-creditor who is preferred to him by reason of his privileges or hypothecs;

2° For the benefit of the buyer of an immovable who applies the price of his purchase to pay the creditors to whom that property was hypothecated;

3° For the benefit of the person who, being bound with others or for others to the payment of the debt, had an interest in discharging it;

4° For the benefit of the heir with benefit of inventory who has paid with his own funds the debts of the succession.

5° For the benefit of one who uses his own funds to pay for the funeral expenses for the account of the succession.

Article 1252

The subrogation established by the preceding Articles takes place both against the sureties and against the debtors: it cannot be detrimental to the creditor when he has only been paid in part; in such a case, he may enforce his rights for what remains due to him in preference to the person from whom he received only partial payment.

Sub-article 3. Imputation of payments

Article 1253

An obligor-debtor who owes several debts has the right, when he pays, to declare which debt he intends to discharge.

Article 1254

An obligor-debtor of a debt that bears interest or produces revenues cannot, without the obligee-creditor's consent, impute the payment that he makes to the principal in preference to the instalments or interest: a partial payment made on account of the principal and interest is imputed first to the interest.

Article 1255

Where the obligor-debtor of several debts has accepted a receipt in which the creditor has imputed what he has received to one of those debts in particular, the debtor can no longer request that it be imputed to a different debt, unless there has been a dol (dolus) or a surprise on the part of the obligee-creditor.

Article 1256

When the receipt does not bear any imputation, the payment shall be imputed to the debt that the debtor then had the greatest interest in discharging among those which are equally due; otherwise, to the debt that has become due even if less burdensome than those that are not yet due.

If the debts are of the same nature, imputation is made to the oldest; all other things being equal, imputation is made proportionately.

Sub-article 4. Offers of payment and deposit

Article 1257

When a creditor refuses to receive his payment, the debtor may make him an actual tender, and upon the creditor's refusal to accept it, he may deposit the sum or the thing tendered.

Actual tenders followed by a deposit release the debtor; they take the place of payment by him when they are validly made, and the thing thus deposited remains at the risk of the obligee-creditor.

Article 1258

For actual tenders to be valid, it is necessary:

1° That they be made to a creditor who has the capacity to receive, or to one who has the power to receive for him;

2° That they be made by a person capable of paying;

3° That they be for the entire amount of the sum due, with the instalments or interest due, with the liquidated costs, and with a sum for unliquidated costs, subject to its being completed;

4° That the term has lapsed, if it had been stipulated in favor of the creditor;

5° That the condition under which the debt was contracted has occurred;

6° That the tenders be made at the place agreed upon for payment and, if there is no special agreement as to the place of payment, that they be made either to the person of the obligee-creditor, or at his domicile, or at the domicile selected for the performance of the agreement;

7° That the tenders be made by a member of a regulated legal profession who has the capacity for such sorts of acts.

Article 1260

The costs related to actual tenders and to a deposit are borne by the obligee-creditor, if the tenders are valid.

Article 1261

So long as the deposit has not been accepted by the creditor, the debtor may withdraw it; and if he withdraws it his co-debtors or his sureties are not released.

Article 1262

When a debtor has himself obtained a judgment that has become final, and which has declared that his tender and deposit are good and valid, he cannot any longer, even with the consent of the creditor, withdraw his deposit to the detriment of his co-debtors or of his sureties.

Article 1263

A creditor who has consented to a withdrawal by the debtor of his deposit after it has been declared valid by a judgment that is res judicata can no longer enforce the privileges and hypothecs that secured the payment of his claim. There is a hypothec only from the day when the juridical act by which he consented to the withdrawal of the deposit has been clothed with the necessary requirements to establish a hypothec.

Article 1264

If the thing owed is a thing certain that must be delivered at the place where it is, the debtor must issue a formal demand to the creditor to remove it, by notice served upon him personally or to his domicile or to the domicile selected for the performance of the agreement. After this formal demand is issued, if the creditor does not remove the thing and if the debtor has need for the place where it is, the debtor can obtain from the court the permission to deposit it some other place.

Section 2. Novation

Article 1271

Novation takes place in three ways:

1° When a debtor contracts towards his creditor a new debt which is substituted for the old one, which is extinguished;

2° When a new debtor is substituted for the previous one whom the creditor discharges;

3° When, by the effect of a new contract, a new creditor is substituted for the former creditor, towards whom the debtor is discharged.

Article 1272

Novation can take place only between persons capable of contracting.

Article 1273

Novation is not presumed; the intention to cause it to occur must clearly result from the act.

Article 1274

Novation by substitution of a new debtor can take place without the co-operation of the first debtor.

Article 1275

The delegation by which a debtor gives his creditor another debtor who binds himself to the creditor does not carry with it a novation, unless the creditor expressly declares that he intends to discharge the debtor who made the delegation.

Article 1276

A creditor who has discharged a debtor who has made a delegation has no remedy against that debtor if the delegate becomes insolvent, unless the instrument contains an express reservation to this effect or unless the delegate was already bankrupt or insolvent at the time of the delegation.

Article 1277

A mere indication by a debtor of a person who is to pay in his stead does not make a novation.

The same rule applies in case of a mere indication made by a creditor of a person who is to receive payment in his place.

Article 1278

Privileges and hypothecs securing the original claim do not secure the new, substitute claim, unless the creditor has expressly reserved them.

Article 1279

When novation takes place by the substitution of a new debtor, the privileges and hypothecs securing the original claim do not encumber the property of the new debtor. The privileges and hypothecs securing the original claim may be reserved with the consent of the owners of the encumbered property to guaranty the performance of the obligation of the new debtor.

Article 1280

When novation takes place between a creditor and one of the solidary debtors, the privileges and hypothecs securing the former claim can be reserved only on the property of the person who contracts the new debt.

Article 1281

Novation made between a creditor and one of the solidary debtors releases the co-debtors.

A novation effected with the principal debtor releases his sureties.

Nevertheless, if the creditor, in the first case, has required the accession of the co-debtors or, in the second case, that of the sureties, the former claim subsists if the co-debtors or the sureties refuse to consent to the new contract.

Section 3. Remission of debt

Article 1282

A voluntary surrender of the original instrument under private signature by the creditor to the debtor is proof of remission.

Article 1283

A voluntary surrender of the execution copy of the instrument of title creates the presumption of remission of the debt or of payment, without prejudice to proof of the contrary.

Article 1284

A voluntary surrender of the original instrument under private signature or of the execution copy of the instrument of title to one of the solidary debtors has the same effect for the benefit of his co-debtors.

Article 1285

A remission or conventional discharge for the benefit of one of the solidary co-debtors releases all the others, unless the creditor has expressly reserved his rights against the latter.

In this last case, he may recover the debt only after deducting the share of the debtor to whom he granted the remission.

Article 1286

The surrender of a thing given as pawn or pledge does not suffice to establish a presumption of remission of debt.

Article 1287

A remission or conventional discharge granted to the principal debtor releases the sureties;

That granted to a surety does not release the principal obligor-debtor;

That granted to one of the sureties does not release the others.

Article 1288

That which a creditor has received from a surety to release his suretyship shall be imputed to the debt so as to release the principal debtor and the other sureties.

Section 4. Compensation

Article 1289

When two persons are indebted to each other, compensation takes place between them extinguishing both debts, in the manner and in the cases hereafter set out.

Article 1290

Compensation occurs as a matter of right by sole operation of law, even without the knowledge of the debtors; the two debts extinguish each other reciprocally from the moment they happen to exist at the same time to the extent of their respective amounts.

Article 1291

Compensation takes place only between two debts that both have as their object a sum of money or a certain quantity of fungibles of the same kind and that are equally liquid and due.

Prestation in grains or commodities which are not in dispute and the price of which is fixed by official market lists may be compensated with sums which are liquidated and due.

Article 1292

A period or term of grace is not an obstacle to compensation.

Article 1293

Compensation takes place whatever the causes of either debt except in case:

1° Of a claim for restitution of a thing of which the owner has been unjustly deprived;

2° Of a claim for restitution of a deposit or of a loan for use;

3° Of a debt whose cause is alimony declared not liable to seizure.

Article 1294

A surety may oppose compensation of what the creditor owes the principal debtor.

But a principal debtor may not raise compensation of what the creditor owes to the surety.

Similarly, a solidary debtor may not oppose compensation of what the creditor owes to his co-debtor.

Article 1295

A debtor who has accepted unconditionally the assignment by a creditor of his rights to a third party assignee may no longer raise against the assignee the compensation that he could have raised against the assignor before he accepted.

As regards an assignment which has not been accepted by the debtor but notice of which has been served on him, it prevents compensation only as to claims that arose after service of that notice.

Article 1296

Where the two debts are not payable at the same place, compensation may be raised only by making good the costs of delivery.

Article 1297

When several debts which can be compensated are due by the same person, the same rules are followed for compensation as those laid down for imputation in Article 1256.

Article 1298

Compensation does not take place to the detriment of the vested rights acquired by third parties. Thus, a debtor who has become a creditor since a seizure has been made in his hands by a third party may not raise compensation to the prejudice of the seizing party.

Article 1299

He who has paid a debt that was extinguished as of right by compensation cannot any longer enforce the claim for which he did not assert compensation by taking advantage of the privileges or hypothecs securing it to the prejudice of third parties, unless he had good reason for not having been aware of the claim that would have compensated his debt.

Section 5. Confusion

Article 1300

When the qualities of creditor and debtor are united in the same person, confusion takes place as a matter of right and extinguishes both claims.

Article 1301

Confusion that takes place in the person of the principal debtor benefits his sureties;

Confusion that takes place in the person of the surety does not extinguish the principal obligation;

Confusion that takes place in the person of the creditor benefits his solidary co-debtors only to the extent of the share of the debt he owed.

Section 6. Loss of the thing owed

Article 1302

When a certain and determined thing that was the object of an obligation is destroyed, or ceases to be a thing in commerce, or is lost in such a way that its existence is absolutely unknown, the obligation is extinguished if the thing has been destroyed or lost without the fault of the debtor, and before he has been put in default.

Even when the debtor is in default, if he has not taken upon himself the risk of fortuitous events, the obligation is extinguished provided the thing would also have been destroyed in the hands of the creditor if it had been delivered to him.

The debtor must prove the fortuitous event he alleges.

No matter how a stolen thing has been destroyed or lost, its loss does not exonerate the person who has taken it from restituting its price.

Article 1303

When a thing has been destroyed, or ceases to be a thing in commerce, or is lost without the fault of the debtor, he is bound to assign to his creditor any rights or actions for indemnity he may be entitled to with respect to that thing.

Section 7. The Action in nullity or rescission of contracts

Article 1304

In all cases in which an action in nullity or rescission of a contract is not limited to a shorter time by a special statute, such action lasts five years.

In case of violence, that time runs only from the day when it has ceased; in case of error or dol (dolus), from the day when they were discovered.

As regards acts entered into by a minor, the time runs only from the day of majority or of emancipation; and for acts entered into by a protected adult, the time runs from the day when he became aware of them while he was in a position to re-enter into them validly. The time runs against the heirs of a person under tutorship or curatorship only from the date of the death, unless it had begun to run before that date.

Article 1305

Simple lesion gives rise to rescission in favor of an unemancipated minor for all kinds of contracts.

Article 1306

A minor is not entitled to restitution for lesion when it results only from a fortuitous and unforeseen event.

Article 1307

A mere declaration of majority made by a minor is not an obstacle to his right to restitution.

Article 1308

A minor who practices a profession or a trade is not entitled to restitution against commitments that he has made in the practice of his profession or trade.

Article 1309

A minor is not entitled to restitution against the conventional provisions which are part of his marriage contract when they have been made with the consent and assistance of those whose consent is required for the validity of his marriage.

Article 1310

He is not entitled to restitution against the obligations resulting from his delicts or quasi-delicts.

Article 1311

He may no longer repudiate an agreement he entered into during his minority when he has ratified it as an adult, whether that agreement was null for want of form or only subject to restitution.

Article 1312

When minors or adults in tutorship are allowed, in such capacities, to seek restitution against their agreements, the reimbursement of what would have been paid out in consequence of those agreements during the minority or adult tutorship cannot be claimed, unless it is proven that what has been paid on account of their agreements has turned to their benefit.

Article 1313

Persons of full age are entitled to restitution for lesion only in the cases and subject to the conditions specially laid down in this Code.

Article 1314

When the formalities required of minors or adults in tutorship either for the conveyance of immovables or for the partition of a succession have been fulfilled, they are considered as if they had made these acts during their majority or prior to the tutorship of adults.

CHAPTER VI. PROOF OF OBLIGATIONS AND OF PAYMENT

Article 1315

A person who demands the performance of an obligation must prove it.

Reciprocally, a person who claims to be released from an obligation must prove the payment or the fact that caused the extinction of his obligation.

Article 1315-1

The rules governing literal proof, testimonial proof, presumptions, admissions of parties and oaths are explained in the following sections.

Section 1. Literal proof

Sub-article 1. General provisions

Article 1316

Literal proof, or written evidence, results from a series of letters, characters, figures, or of any other signs or symbols having an intelligible meaning, whatever their medium and however transmitted.

Article 1316-1

A writing in electronic form is admissible as evidence to the same extent as a paper-based writing, provided that the person from whom it proceeds can be duly identified and that it be established and stored in conditions of a nature to guaranty its integrity.

Article 1316-2

In the absence of other principles established by law, and for want of a valid agreement between the parties, the judge rules on conflicts of literal proof by deciding by every means available which is the most credible, whatever its medium.

Article 1316-3

A writing on an electronic medium has the same probative value as a writing on paper.

Article 1316-4

The signature necessary for the perfection of a juridical act identifies the person who opposes it. The signature expresses the consent of the parties to the obligations that flow from the act. When it is opposed by a public legal officer, it confers authenticity to the act.

When the signature is electronic, it consists in using a reliable means of identification that guarantees its link with the act it is attached to. The reliability of this means shall be presumed, until proof to the contrary, when an electronic signature is created, when the identity of the signatory is assured and when the integrity of the act is guaranteed, under the conditions laid down by decree en Conseil d'État.

Sub-article 2: Authentic act

Article 1317

An authentic act is one that has been received by public legal officers who have the authority to draw up such acts at the place where the act was written and with the requisite formalities.

It may be drawn on an electronic medium if it is established and stored as provided by decree en Conseil d'État.

Article 1317-1

An act passed in authentic form before a notary is, unless an express provision derogates from this article, dispensed from any handwritten annotation required by statutory law.

Article 1318

An act that is not authentic because the officer lacked the authority or was incapable, or because of a defect in form, is valid as a private writing if signed by the parties.

Article 1319

An authentic act is absolute proof of the agreement it contains between the contracting parties and their heirs or assignees.

Nevertheless in case of principal complaints of forgery, the execution of the act allegedly forged will be suspended by the indictment; and in case of allegation of incidental forgery, the courts will have the authority, according to the circumstances, to suspend temporarily the execution of the act.

Article 1320

An act, whether authentic or under private signature is proof between the parties, even of what is expressed only in enunciative terms, provided the statement has a direct connection with the stipulation. Statements which do not relate to the stipulation can only be used as a commencement of proof.

Article 1321

Counter-letters can have effect only between the contracting parties; they cannot have effect against third parties.

Article 1321-1

Is null and without any effect any counter-letter that has for its object an increase of the price stipulated in an agreement to transfer a ministerial office and any contract that has for its purpose to conceal part of the price of the sale of an immovable or of a transfer of a business or goodwill, or of an assignment of a right to a lease or of the benefit of a promise of a lease for whole or part of an immovable, or to conceal the whole or part of the balance due on an exchange or a partition that includes immovables, business assets or goodwill.

Sub-article 3. Act under private signature

Article 1322

An act under private signature, duly acknowledged by the person against whom it is raised, or legally considered as acknowledged, has between those who have signed it and between their heirs and assignee the same proof values as an authentic act.

Article 1323

A person against whom an act under private signature is raised must formally admit or repudiate his handwriting or his signature.

His heirs or assignees may confine themselves to declare that they do not know the handwriting or the signature of their predecessor in title.

Article 1324

In the event the party repudiates his handwriting or his signature, and in case his heirs or assignees declare that they do not know of them, the verification is ordered by the court.

Article 1325

Acts under private signature that contain synallagmatic agreements are valid only insofar as they have been made in as many originals as there are parties having a distinct interest.

One original suffices for all the persons who have the same interest.

Each original must indicate the number of originals which have been made.

Nevertheless, the failure to mention that the originals have been made in duplicate, triplicate, etc., cannot be raised by the party who has performed his part of the agreement contained in the act.

The requirement of a plurality of originals is deemed met for contracts in electronic form when the act is established and stored as provided in Articles 1316-1 and 1316-4 and provided the process enables each party to have a copy or to have access to one.

Article 1326

The juridical act by which only one party binds himself to another to pay him a sum of money or to deliver fungible goods to him must be established in an instrument that carries the signature of the person making that commitment as well as the statement written by that party himself of the sum or of the quantity in full in both letters and numerals. In case of difference, the act under private signature is to be taken into account as regards the sum written in full letters.

Article 1328

Acts under private signature are effective against third parties only from the day they are registered, from the day of the death of the one or one of those who signed them, or from the day when their substantial contents is embodied in acts drawn up by public legal officers, such as official reports of affixed seals or of inventory.

Article 1329

The commercial registers of merchants are not taken as evidence of the supplies therein mentioned against persons who are not merchants, which the exceptions of what will be said about oaths.

Article 1330

The books of merchants shall be held as proof against them; but he who wishes to avail himself of such books cannot subdivide them as to what is inconsistent with his claim.

Article 1331

Private family registers and papers do not establish a right in favor of the one who wrote them. They are evidence against him:

1° whenever they formally state that a payment has been received;

2° when they contain the express statement that the entry has been made to take the place of the instrument of title in favor of the person to whose benefit the registers show an existing obligation.

Article 1332

A writing added by a creditor at the end, in the margin, or on the back of an instrument that has always remained in his possession constitutes proof, although not signed or dated by him, when such writing tends to establish that the debtor is released.

The same rule applies to a writing made by a creditor on the back, or in the margin, or at the end of the duplicate of an instrument or of a receipt, provided that duplicate is in the hands of the debtor.

Sub-article 4. Tallies

Article 1333

Tallies correlative to their samples constitute proof between the persons who are in the habit of thus keeping an account of the supplies they furnish or receive in retail.

Sub-article 5. Copies of titles or acts

Article 1334

When the original instrument exists, copies constitute proof only of what is contained in the instrument whose production can always be required.

Article 1335

When the original instrument no longer exists, copies constitute proof according to the following distinctions:

1° Execution copies or first duplicate execution copies constitute proof as much as the original does: the same applies to the copies which have been made by order of a judge, in the presence of the parties or parties duly summoned, or to the copies that have been made in the presence of the parties and with their mutual consent.

2° Copies which, without the authority of the judge or without the consent of the parties and since the delivery of the execution copies or first duplicate execution copies, have been made from the original of the act by the notary who received it, or by one of his successors, or by public officers who in their official capacity are depositaries of the originals, such copies can, when the original is lost, be proof if they are old.

They are deemed old when they are more than thirty years old.

When they are less than thirty years old, they can only be used as the commencement of written proof.

3° When the copies made from the original of an act were not made by the notary who received it, or by one of his successors, or by public officers who in their official capacity are depositaries of the originals, they may be used, however old they may be, only as the commencement of proof in writing.

4° Copies of copies may, according to the circumstances, be considered as mere information.

Article 1336

The recording of an act in the public records can only be used as the commencement of written proof; and even for that purpose it shall be necessary:

1° That it be certain that all the originals of the notary, of the year in which the act appears to have been made, are lost, or that one proves that the loss of the original occurred through a particular accident;

2° That there exists an index or directory in proper form of the notary, which establishes that the instrument was made upon the same date.

When, owing to the combination of these two circumstances, proof by witnesses will be allowed, it will be necessary that those who were witnesses to the instrument shall be heard if they are still alive.

Sub-article 6. Acts of recognition and Acts of confirmation

Article 1337

Recognitive acts do not dispense with the production of the original instrument, unless its content is specifically recited therein.

What they contain beyond the original instrument, or what differs from it, has no effect.

Nevertheless, if there are several identical recognitions, supported by possession, and of which one dates back thirty years, the creditor may be relieved from producing the original instrument.

Article 1338

An act of confirmation or ratification of an obligation against which the law allows an action in nullity or rescission is valid only when it contains the substance of that obligation, an indication of the ground for an action in rescission, and the intention to cure the defect on which the action is based.

In the absence of an act of confirmation or ratification, it is sufficient that the obligation be performed voluntarily after the time when the obligation could be validly performed or ratified.

Confirmation, ratification, or voluntary performance in the forms and at the time prescribed by law amount to the renunciation of the grounds and exceptions that could have been raised against that act, without prejudice, however, to the rights of third parties.

Article 1339

A donor may not cure by any act of confirmation the defects of a donation inter vivos null in its form: it must be done again in the form prescribed by law.

Article 1340

Confirmation or ratification, or voluntary performance of a donation by the heirs or assignees of a donor after his death, amount to their renouncing their right to raise either the defects of form or any other exception or defense.

Section 2. Testimonial proof

Article 1341

It is required to execute an act or instrument drawn up in the presence of notaries or made under private signatures for all matters exceeding an amount or a value set by decree, even for voluntary deposits, and no proof by witnesses is allowed against or beyond the contents of such acts, or as to what could be alleged to have been said before, at the time of, or after the acts, even if the amount or value in dispute is lower.

All of which is without prejudice to what is prescribed in the statutes relating to commerce.

Article 1342

The above rule applies when an action contains, besides a claim for the principal, a claim for interest which, added to the principal amount, exceed the amount provided for in the preceding Article.

Article 1343

A person who brings a claim exceeding the amount provided for in Article 1341 can no longer be allowed to resort to testimonial proof, even by reducing his original claim.

Article 1344

Testimonial proof is inadmissible on a claim for an amount even if less than that stated in Article 1341 when the amount claimed is declared to be the balance due or to form part of a larger claim that is not proven by a writing.

Article 1345

If in the same suit a party makes several claims for which he has no written instrument, and that, when combined, they exceed the amount stated in Article 1341, proof by witnesses is not permitted, even if the party alleges that the claims have different sources and that they arose at different times, unless these rights derived from succession, donation, or otherwise from different persons.

Article 1346

All claims, whatever their ground may be, which are not fully justified in writing, shall be joined in the same legal process, after which the other claims about which there will be no written evidence will not be received.

Article 1347

The rules above do not apply when there is a commencement of proof in writing.

Is thus called any written act which emanates from the person against whom the claim is brought, or from the one whom he represents, and which makes likely the alleged fact.

The judge may consider as equivalent to a commencement of proof in writing the declarations made by a party at the time of his personal appearance in court, the refusal of a party to respond, or his absence from the court hearing.

Article 1348

The rules above do not apply when the obligation arises from a quasi-contract, a delict or quasi-delict, or when one of the parties either did not have the material opportunity or moral possibility to obtain written proof of the juridical act, or has lost the instrument that he intended to use as written proof in consequence of a fortuitous event or of force majeure.

The rules above also do not apply when a party or the depositary has not preserved the original title and presents a copy of it that is a reproduction both faithful and long lasting. An indelible reproduction of the original is deemed long lasting that entails an irreversible modification of the medium.

Section 3. Presumptions

Article 1349

Presumptions are consequences that the law or the court draws from a known fact to an unknown fact.

Sub-article 1. Presumptions established by legislation

Article 1350

A legal presumption is one that a special statute attaches to certain acts or to certain facts; such as:

1° Acts that a statute declares null as presumed to have taken place in fraud of its provisions, from their very own nature;

2° Cases in which a statute declares ownership or release to result from certain definite circumstances;

3° The authority that law ascribes to res judicata;

4° The force that law attaches to an admission of a party or to his oath.

Article 1351

The authority of res judicata applies only to what was the object of a judgment. It is necessary that the thing claimed be the same; that the claim be based on the same cause; that the claim be between the same parties and brought by them and against them acting in the same qualities.

Article 1352

A legal presumption dispenses him in whose favor it exists from any proof.

No proof is allowed against a legal presumption when, upon the basis of this presumption, the law annuls certain acts or denies a right of action, unless the law permits evidence to the contrary and save what will be said about judicial oath and judicial admission.

Sub-article 2: Presumptions not established by statute

Article 1353

Presumptions not established by statute are left to the learning and wisdom of the judge, who shall only admit serious, precise, and consistent presumptions, and only in the cases where a statute admits oral proof, unless the act is attacked on account of fraud or dol (deceit).

Section 4. Admission by a party

Article 1354

An admission which is set up against a party is either extra-judicial or judicial.

Article 1355

An allegation of an extra-judicial admission that is purely oral is useless whenever the claim is one in which testimonial proof in not admissible.

Article 1356

A judicial admission is a declaration made in court by a party or his duly appointed representative.

Full faith is due to it against the person who made it;

It cannot be divided against him;

It cannot be revoked, unless it is proven that it was the result of an error of fact. It could not be revoked under the ground of an error of law.

Section 5. Oath

Article 1357

A judicial oath is of two kinds:

1° The one which a party defers to the other in order to make the judgment in the case depend upon it; it is called a decisive oath;

2° The one that is administered by the judge of his own motion to either one of the parties.

Sub-article 1. The decisive oath

Article 1358

A decisive oath may be deferred in any kind of controversies whatsoever.

Article 1359

It can only be deferred with reference to a fact which is personal to the party to whom it is deferred.

Article 1360

It can be deferred at all stages of the case and even if there exists no commencement of proof of the claim or of the exception in connection with which it is instigated.

Article 1361

A person to whom an oath is deferred and who refuses to take it or does not consent to defer it to his opponent, or an opponent to whom it has been left to take the oath and who refuses to take it, shall be defeated in his claim or in his exception.

Article 1362

An oath cannot be deferred when the fact to which it relates does not concern both parties, but is purely personal to the one to whom the oath had been deferred.

Article 1363

Where an oath deferred or deferred back has been taken, the opponent is not admitted to prove that it is false.

Article 1364

The party to whom the oath is deferred or who referred it back, can no longer retract it when his opponent declares that he is ready to take the oath.

Article 1365

The oath constitutes proof only for the benefit of the person who has deferred it or against him, and for the benefit of his heirs and assignees or against them.

Nevertheless the oath deferred by one of multiple solidary creditors to an obligor releases the latter only for the share of that creditor;

The oath deferred to the principal obligor releases also the sureties;

The oath deferred to one of multiple solidary obligors benefits the co-obligors;

And one deferred to the surety benefits the principal obligor.

In the last two cases, the oath of the solidary co-obligor or of the surety benefits the other co-obligors or the principal obligor only when it has been deferred in connection with the debt, and not with reference to the fact of the solidarity or of the suretyship.

Sub-article 2. Oath administered by the Court of its own motion

Article 1366

A judge may administer the oath to one of the parties, either to make the decision of the case depend upon it or merely to fix the amount of the judgment.

Article 1367

A judge may administer an oath of his own motion either as to the claim or as to the defense set up against the claim, only if the following two conditions are met. It is necessary:

1° That the claim or the defense be not fully substantiated;

2° That it be not wholly unsupported by proof.

Outside those two cases, the judge must either admit or dismiss the claim outright.

Article 1368

An oath administered by the judge of his own motion to one of the parties cannot be referred by that party to the other.

Article 1369

An oath as to the value of a thing claimed can be administered by the judge to the plaintiff only when it is impossible to establish its value in any other way.

Even in that case, the judge must fix the maximum amount as to which the plaintiff shall be believed on his oath.

CHAPTER VII. CONTRACTS IN ELECTRONIC FORM

Section 1. Exchange of information or data by a contract in electronic form

Article 1369-1

Electronic means can be used to in order to communicate contractual conditions or information about assets or services.

Article 1369-2

Information requested to conclude a contract or communicated during its performance can be transmitted by electronic mail if the intended addressee has accepted the use of this means.

Article 1369-3

Information intended for a professional can be addressed to him by electronic mail from the moment he has communicated his electronic address.

When this information must be entered in a form, the form must be made available by electronic means to the person who has to fill it out.

Section 2. Concluding a contract in electronic form

Article 1369-4

Any person who, acting in a professional capacity, proposes by electronic means to deliver goods or to provide services shall make available the applicable contractual stipulation in a way that allows their preservation and reproduction. Without prejudice to the conditions of validity specified in the offer, the offeror remains bound by his offer so long as it is available by the electronic means he himself uses.

The offer shall also mention:

1° The different steps to be followed to conclude the contract by electronic means;

2° The technical tools allowing the user to identify and to correct input errors before the conclusion of the contract;

3° The languages suggested for the conclusion of the contract;

4° In case of archiving of the contract, the details of this archiving by the author of the offer and the conditions of access to the archived contract;

5° The means of consulting by electronic means the professional and commercial rules the offeror intends to be bound by, should the occasion arise.

Article 1369-5

For the contract to be validly perfected, it must have been possible for the offeree to check the particulars of his order and its total price and to correct potential errors before confirming his order as an expression of his acceptance.

The offeror must acknowledge without undue delay and by electronic means the receipt of the order that has been addressed to him in this way.

The order, the confirmation of the acceptance of the offer and the acknowledgement of receipt are deemed received when the parties to whom they are addressed are able to access them.

Article 1369-6

Exception is made to the obligations referred to in Article 1369-4, 1° to 5°, and in Article 1369-5, paragraphs 1 and 2, in regard to the contracts for the delivery of goods or the provision of services which are concluded exclusively by exchange of electronic mail.

Furthermore, is can be derogated from the provisions of Article 1369-5 and of Article 1369-4, 1° to 5°, in contracts concluded between professionals.

Section 3. Sending or delivery of a writing by electronic means

Article 1369-7

An ordinary letter relating to the conclusion or performance of a contract may be sent by electronic mail.

The affixing of the date of sending is the outcome of an electronic process whose reliability is presumed until proof to the contrary is provided, when this process meets the requirements set by decree en Conseil d'État.

Article 1369-8

A registered letter relating to the conclusion or performance of a contract may be sent by electronic mail provided that this letter is dispatched by a third person according to a method that allows the identification of that third person, the designation of the sender, the guaranty of the identity of the addressee, and the verification that the letter was delivered to the addressee or not.

At the option of the sender, the contents of that letter can be printed by the third person on paper in order to be delivered to the addressee or can be addressed to the latter by electronic means. In this latter case, if the addressee is not a professional, he must have requested that the sending be by that means or have accepted the use of that means on the occasion of prior exchanges.

When the affixing of the date of sending or of receipt is the outcome of an electronic process, the reliability of that process is presumed until proof to the contrary is provided, if this process meets the requirements set by decree en Conseil d'État.

A notice of receipt can be addressed to the sender by electronic means or by any other method that enables him to store it.

The modalities of implementation of this Article shall be set by decree en Conseil d'État.

Article 1369-9

Apart from the cases referred to in Articles 1369-1 and 1369-2, the delivery of a writing in electronic form is effective when the addressee, after having been able to be acquainted with it, has acknowledged its receipt.

If a provision contemplates that the writing must be read aloud to the addressee, the delivery of an electronic writing to the party concerned in the conditions referred to in paragraph 1 is deemed to be reading.

Section 4. Certain formal requirements

Article 1369-10

When the writing on paper is subject to certain requirements of legibility and presentation, the writing in electronic form must meet equivalent requirements.

The requirement of a detachable form is met by an electronic method that permits accessing the form and returning it by the same means.

Article 1369-11

The requirement of sending in several copies is deemed met in an electronic form if the writing can be printed by the addressee.

TITLE IV. OBLIGATIONS ARISING WITHOUT AGREEMENT

Article 1370

Some obligations are created without the occurrence of any agreement, either on the part of the person obligated or on the part of the person to whom he is obligated.

Some arise from the sole authority of statutory law; others arise from an act personal to the person obligated.

The first ones are obligations created involuntarily, such as those between owners who are neighbors or those of tutors and other administrators who cannot refuse the duties assigned to them.

Obligations which arise from an act personal to the one who is bound result either from quasi-contracts or from delicts or quasi-delicts; they are the subject-matter of this Title.

Chapter I. Quasi-contracts

Article 1371

Quasi-contracts are purely voluntary acts of man from which there results some obligation towards a third party, and sometimes a reciprocal obligation on both parties.

Article 1372

When one voluntarily manages the affair of another, whether the owner be aware of the management or unaware of it, he who manages contracts the tacit obligation to continue the management that he has begun, and to carry through until the owner is in a position to take over; the manager must also take charge of all subordinate activities related to this same affair.

The manager is subject to all the obligations that would result from an express mandate which the owner could have given to him.

Article 1373

The manager is bound to continue his management, although the owner happens to die before the affair is complete, until the heir is able to take over the management.

Article 1374

He is bound to bring to his management of the affair all the care of a prudent administrator.

Nevertheless, the circumstances that led him to take the responsibility of the affair may allow the judge to reduce the damages that would result from the faults or negligence of the manager.

Article 1375

The owner whose affair has been well managed is bound to fulfil the obligations that the manager has contracted in his name, indemnify him for all the personal obligations he has taken on, and reimburse him for all the useful or necessary expenses that he has incurred.

Article 1376

A person who receives by error or knowingly what is not owed to him is bound to restore it to the person from whom he has unduly received it.

Article 1377

When a person who, because of mistakenly believing that he is a debtor, pays a debt, that person has the right to recover from the creditor.

Nevertheless, that right ceases to exist when the creditor has destroyed his title after receiving payment, saving the remedy of the person who made the payment against the true debtor.

Article 1378

If there has been bad faith on the part of the person who received, he is bound to make restitution of the principal plus interest or the fruits from the day of payment.

Article 1379

If the thing unduly received is an immovable or a corporeal movable, the person who received it is bound to make restitution in kind if the thing still exists or of its value if it has perished or has been deteriorated through his fault; he is even a guarantor of its loss by fortuitous event if he received it in bad faith.

Article 1380

If the person who received it in good faith has sold the thing, he shall make restitution only of the proceeds of the sale.

Article 1381

The person to whom a thing is restored must account, even to a possessor in bad faith, for all the necessary and useful expenses that have been incurred for the preservation of the thing.

CHAPTER II. DELICTS AND QUASI-DELICTS

Article 1382

Every act whatever of man that causes damage to another, obliges him by whose fault it occurred to repair it.

Article 1383

We are responsible not only for the damage occasioned by our own act, but also by our own negligence or imprudence.

Article 1384

We are responsible not only for the damage caused by our own act, but also for that which is caused by the acts of persons for whom we are responsible, or by things that are in our custody.

Nevertheless, a person who possesses, regardless of the basis thereof, all or part of an immovable or movable things in which a fire has originated is not liable towards third parties for the damages caused by that fire unless it is proven that the fire must be attributed to his fault or to the fault of persons for whom he is responsible.

This provision does not apply to the relationships between owners and lessees which are governed by Articles 1733 and 1734 of the Civil Code.

The father and the mother, in so far as they exercise parental authority, are solidarily liable for the damage caused by their minor children who reside with them.

Masters and employers, for the damage occasioned by their servants and employees in the exercise of the functions in which they are employed;

Teachers and artisans, for the damage caused by their pupils and apprentices during the time when they are under their supervision.

The liability outlined above occurs, unless the father and mother or the artisans prove that they could not have prevented the act that gives rise to that liability.

As to teachers, the fault, imprudence, or negligence invoked against them as having caused the damaging act will have to be proven by the plaintiff at the trial in accordance with the general law.

Article 1385

The owner of an animal, or the person using it, while he uses it, is liable for the damage the animal has caused either because the animal was in his custody or because the animal strayed or escaped.

Article 1386

The owner of a building is answerable for the damage occasioned by its ruin, when this is caused by a failure to maintain it or by a defect in its construction.

TITLE IV *BIS*. LIABILITY FOR DEFECTIVE PRODUCTS

Article 1386-1

A producer is liable for the damage caused by a defect in his product, whether he was bound to the victim by a contract or not.

Article 1386-2

The provisions of this Title are applicable to the compensation for the damage caused to the person.

They apply also to the compensation for the damage which is greater than an amount fixed by decree, when caused to an item of property other than the defective product itself.

Article 1386-3

A product is any movable thing, even though incorporated into an immovable, including the products of the soil, of stock-farming, and of hunting and fishing. Electricity is deemed a product.

Article 1386-4

A product is defective within the meaning of this Title if it does not provide the safety that one is entitled to expect.

To determine the safety that one is entitled to expect, one must take into consideration all the circumstances and in particular the presentation of the product, the use that one can reasonably expect to make of it, and the time when the product was put into circulation.

A product should not be considered defective solely because another improved product has been put into circulation later on.

Article 1386-5

A product is put into circulation when the producer has voluntarily released it.

A product is put into circulation only once.

Article 1386-6

Is a producer, when he acts in a professional capacity, the manufacturer of a finished product, the producer of a raw material and the manufacturer of a component part.

Under this Title, any person acting in a professional capacity is considered a producer when:

1° He presents himself as the producer by affixing his name, trade mark or other distinguishing sign on the product;

2° He imports a product into the European Community to sell it, lease it, with or without a promise of sale, or to carry out any other form of distribution.

Under this Title, the persons whose liability may be at stake on the basis of articles 1792 to 1792-6 and 1646-1 are not to be considered producers.

Article 1386-7

If the producer cannot be identified, the seller, the lessor, with the exception of a lending- lessor or a lessor similar to a lending lessor, or any other professional supplier is liable for the defect in the safety of the product in the same conditions as a producer, unless he names his own supplier or the producer within three months from the date he received notice of the demand from the victim.

The remedy of the supplier against the producer is subject to the same rules as those applicable to the claim brought by the immediate victim of the defect. In any case, he must take action within the year following the date of his being summoned.

Article 1386-8

In the case of a damage caused by the defect in a product incorporated into another, the producer of the component part and the one who has affected the incorporation are solidarily liable.

Article 1386-9

The plaintiff must prove the damage, the defect, and the causal link between the defect and the damage.

Article 1386-10

A producer may be liable for a defect although the product was manufactured in accordance with the rules of the trade or the existing standards or although it had been the object of an administrative authorization.

Article 1386-11

A producer is liable as a matter of law unless he proves:

1° That he had not put the product into circulation;

2° That, under the circumstances, it is likely to consider that the defect which caused the damage was not in existence when the product was put into circulation by him or that this defect came about afterwards;

3° That the product was not for the purpose of being sold or for any other form of distribution;

4° That the state of scientific and technical knowledge, at the time he put the product into circulation was not such as to enable one to detect the existence of the defect;

5° Or that the defect is due to compliance with mandatory legislation or regulation.

The producer of the component part is not liable either if he can prove that the defect is attributable to the design of the product in which the component was incorporated or to the instructions given by the producer of that product.

Article 1386-12

A producer may not invoke the exonerating circumstance provided for in Article 1386-11, 4°, when the damage was caused by an element of the human body or by products derived therefrom.

Article 1386-13

The liability of the producer may be reduced or suppressed if, taking into account all the circumstances, the damage was caused both by a defect in the product and by the fault of the victim or of a person for whom the victim is responsible.

Article 1386-14

The liability of the producer towards the victim shall not be reduced on the ground of the act of a third party having contributed to the occurrence of the damage.

Article 1386-15

Clauses that seek to eliminate or to limit the liability for defective products are forbidden and are deemed unwritten.

Nevertheless, as to damages caused to things not used by the victim mainly for his own private use or consumption, such clauses stipulated between professionals are valid.

Article 1386-16

Except in the case of fault of the producer, his liability under the provisions of this Title is extinguished after ten years following the putting into circulation of the actual product that caused the damage, unless the victim has in the meantime instituted proceedings.

Article 1386-17

The action in reparation based on the provisions of this Title prescribes three years from the date the plaintiff knew or ought to have known of the damage, the defect, and the identity of the producer.

Article 1386-18

The provisions of this Title cannot affect any right which a victim may claim on the basis of the rules of contractual or extra-contractual liability or on the basis of a special liability regime.

The producer remains liable for the consequences of his fault or for the fault of persons for whom he is answerable.

TITLE V. MARRIAGE CONTRACTS AND MATRIMONIAL REGIMES

Chapter i. GENERAL PROVISIONS

Article 1387

Legislation regulates conjugal relations, with respect to property, only in the absence of special agreements that the spouses may enter into as they deem proper, provided they are not contrary to good morals and to the following provisions.

Article 1387-1

Where divorce is granted, if debts or securities have been created by the spouses, solidarily or separately, in the context of the management of an enterprise, the tribunal de grande instance may rule that the exclusive burden thereof shall be borne by the spouse who retains the professional patrimony or, failing which, the professional qualifications that served as a basis for the enterprise.

Article 1388

Spouses cannot derogate from the duties and rights that result for them from marriage, nor to the rules of parental authority, legal administration, and tutorship.

Article 1389

Without prejudice to liberalities that may be made according to the forms and in the cases provided for by this Code, the spouses cannot enter into any agreement or renunciation whose object would be to change the legal order of successions.

Article 1390

They can, however, stipulate that, at the dissolution of the marriage by the death of one of them, the survivor will have the option to acquire or, should the occasion arise, to have allotted to him upon partition certain personal property of the predeceased spouse, on condition that he account for it to the succession, according to its value when that option is exercised.

The stipulation can provide that the surviving spouse who exercises that option can demand that the heirs grant him a lease on the immovable in which that enterprise allotted to him or acquired by him is carried on.

Article 1391

The marriage contract shall determine the assets on which the option stipulated in favor of the survivor will bear. It can fix the methods of appraisal and the modalities of payment, except the reduction in favor of the forced heirs if there is an indirect advantage.

Taking into account such clauses and in the absence of an agreement between the parties, the value of the assets shall be fixed by the tribunal de grande instance.

Article 1392

The option granted to the survivor lapses if he does not exercise it, by notice served upon the heirs of the predeceased, within a period of one month after the day when the latter put him in default to come to a decision. Such putting in default cannot take place before the expiration of the delay provided in Article 792.

When served within that period, the notice constitutes a sale on the day when the option is exercised or, where appropriate, constitutes a process of partition.

Article 1393

Spouses may declare, in a general way, that they intend to marry under one of the regimes provided for in this Code.

In the absence of special stipulations derogating from the community regime or modifying it, the rules established in the first Part of Chapter II shall constitute the ordinary law of France.

Article 1394

All matrimonial agreements shall be drawn by act before a notary, in the presence and with the simultaneous consent of all the persons who are parties thereto or of their mandataries.

At the time of the signature of the agreement, the notary shall deliver to the parties a certificate on unstamped paper and without costs, stating his name and place of residence, the names, first names, occupations, and residences of the future spouses, as well as the date of the contract. Such certificate shall state that it must be lodged with the officer of civil status before the celebration of the marriage.

If the certificate of marriage specifies that no contract has been entered into, the spouses shall be, with regard to third parties, deemed married under the regime of ordinary law, unless, in the acts entered into with those third parties, they declare that they entered into a marriage contract.

Article 1395

Matrimonial agreements must be drawn up before the celebration of the marriage and can take effect only on the day of that celebration.

Article 1396

Amendments that could be made in matrimonial agreements before the celebration of the marriage must be established by an act drawn up in the same forms. Furthermore, no change or counter-letter is valid without the presence and the simultaneous consent of all the persons who were parties to the marriage contract, or of their mandataries.

All changes and counter-letters, even drawn in the forms prescribed by the preceding Article, shall be without effect with respect to third parties, unless they were drawn up at the end of the original of the marriage contract; and the notary shall deliver neither execution copies nor certified copies of the marriage contract without transcribing the change or counter-letter at the end.

After the celebration of the marriage, there can be no change to the matrimonial regime except by the effect of a judgment, on the petition of one of the spouses in the case of separation of property or of other judicial protective measures, or by the effect of a notarial act, properly confirmed if need be, in the situation governed by the article that follows.

Article 1397

After two years of application of a matrimonial regime, the spouses may agree, in the interest of the family, to amend it or even to change it entirely, by a notarial act. On pain of nullity, the act shall contain the liquidation of the matrimonial regime modified if it is necessary.

The persons who were parties to the modified agreement and the adult children of each spouse are informed personally of the proposed change. Each of them may oppose the change within a delay of three months.

The creditors are informed of the proposed change by publication of a notice in a journal suitable for legal notices in the arrondissement or department of the domicile of the spouses. Each creditor may oppose the change within three months following the publication.

In case of an opposition, the notarial act is presented to the court of the domicile of the spouses for confirmation. The petition for and the decision of confirmation are published according to the requirements and subject to the penalties laid down in the Code of Civil Procedure.

When one spouse or the other has children under age, the notarial act must absolutely be presented for confirmation to the Court of the domicile of the spouses.

The change has effect between the parties from the date of the act or the judgment that contemplates the change, and, with regard to third parties, three months after mention of it has been entered in the margin of both copies of the act of marriage. However, even in the absence of this mention, a change is still effective against third parties if, in the acts entered into with them, the spouses have declared that they have modified their matrimonial regime;

If one spouse or the other becomes the object of a measure of legal protection in the conditions provided in Title XI of Book I, the change or the modification of the matrimonial regime is submitted for prior approval to the judge of tutorships or the family council, if one has been constituted.

Mention of the modification is made on the original minute of the marriage contract as modified.

When there has been a fraud on their rights, creditors who did not oppose it, may attack the change of the matrimonial regime as provided by Article 1167.

The modalities of application of this article are defined by decree en Conseil d'État.

Article 1397-1

The provisions of the preceding Article shall not apply to the agreements entered into by spouses in the course of divorce proceedings with the view of liquidating their matrimonial regime.

Articles 265-2 and 1451 shall apply to those agreements.

Article 1397-2

When spouses choose the law applicable to their matrimonial regime under the Convention on the law applicable to matrimonial regimes, made in The Hague on 14 March 1978, Articles 1397-3 and 1397-4 shall apply.

Article 1397-3

When the selection of the applicable law is made before the marriage, the future spouses shall present to the officer of civil status either the act in which they have made that selection, or a certificate delivered by the competent person to establish that act. The certificate shall state the names and first names of the future spouses, the place where they reside, the date of the act of selection, as well as the name, qualification and residence of the person who drew up the act.

When the selection of the applicable law is made during the course of the marriage, the spouses shall have the measures of public notice that relate to the selection of the applicable law carried out under the conditions and forms provided for in the Code of Civil Procedure. If the spouses have entered into a marriage contract, mention of the applicable law thus selected shall be reported on the original of the contract.

On the occasion of the selection of the applicable law, before the marriage or in its course, the spouses may specify the nature of the matrimonial regime they chose.

Article 1397-4

Where the selection of the applicable law is made in the course of the marriage, that designation takes effect between the parties from the time of the establishment of the act of selection and, with respect to third parties, three months after the formalities of public notice provided for in Article 1397-3 have been fulfilled.

However, in the absence of the fulfilment of those formalities, the selection of the applicable law is effective against third parties when, in the acts entered into with them, the spouses have declared which law is applicable to their matrimonial regime.

Article 1397-5

When a change in the matrimonial regime takes place because of the application of a foreign law which governs the effects of the marriage, the spouses shall have the formalities of public notice carried out as provided for in the Code of Civil Procedure.

Article 1397-6

The change of matrimonial regime takes effect between the parties from the date of the judgment or of the act that provides for it and, with respect to third parties, three months after the formalities of public notice provided for in Article 1397-5 have been fulfilled.

However, in the absence of the fulfilment of those formalities, the change of matrimonial regime is effective against third parties when, in the acts entered into with them, the spouses have declared to have modified their matrimonial regime.

Article 1398

A minor who is capable of contracting a marriage has the capacity to consent to all the agreements of which such a contract is susceptible and the agreements and donation made therein by him are valid, provided he has had, in making the contract, the assistance of all the persons whose consent is necessary for the validity of the marriage.

Should matrimonial agreements have been entered into without that assistance, their annulment may be sued for by the minor or by the persons whose consent was required, but only up to the end of the year that followed his becoming of full age.

Article 1399

An adult in tutorship or curatorship cannot enter into a matrimonial agreement unless assisted, in the contract, by his tutor or curator.

Failing that assistance, annulment of the agreements may be sought within the year of the marriage, either by the very person under a disability, or by those whose consent was required, or by the tutor or the curator.

CHAPTER II. THE COMMUNITY REGIME

Part I. The legal community

Article 1400

The community which is established in the absence of an agreement or by the simple declaration of being married under the community regime, is subject to the rules explained in the following three sections.

Section 1. Assets and liabilities [active and passive sides] of the community

Sub-article 1. Assets [active side] of the community

Article 1401

The active side of community is composed of acquets made by the spouses together or separately during the marriage, and coming both from their personal activity and from savings made on the fruits and incomes of their personal property.

Article 1402

Any thing, movable or immovable, shall be deemed an acquet of the community if it is not proven that it is a separate property of one of the spouses in application of a provision of law.

If the thing is one of those that do not display in themselves a proof or mark of their origin, the personal ownership of a spouse, if disputed, shall have to be established in writing. Without an inventory or other contemporaneously constituted proof, the judge may take into consideration all writings, in particular family instruments of title, registers, and family papers, as well as bank documents and invoices. The judge may even admit testimonial or presumptive evidence, should he observe that it was materially or morally impossible for one spouse to secure a writing.

Article 1403

Each spouse retains full ownership of his personal separate property.

The community is entitled only to fruits collected and not consumed. But compensation may be due to the community, at the time of its dissolution, for the fruits that a spouse failed to collect or has fraudulently consumed, without, however, any inquiry being admissible beyond the last five years.

Article 1404

Constitute separate property by their nature, even where they have been acquired during the marriage: clothes and belongings for the personal use of one of the spouses, actions in reparation for corporal or moral harm, inalienable claims and pensions, and, more generally, all property which has a personal character and all rights exclusively attached to the person.

Constitute also separate property by their nature, but subject to a compensation if there is occasion, implements necessary to the occupation or trade of one of the spouses, unless they are an accessory to a business or to an exploitation forming part of the community.

Article 1405

Remain separate property the items of property the spouses owned or possessed on the day of the celebration of the marriage, or which they acquire, during the marriage, through succession, donation, or legacy.

A liberality may stipulate that things that are its object will belong to the community. Things fall into the community, unless otherwise stipulated, if a liberality is made jointly to both spouses.

Things abandoned or transferred by a father, a mother, or other ascendant to one of the spouses, either in order to repay what he owes him, or with the charge of paying debts of the donor to strangers, remain separate property, subject to compensation.

Article 1406

Constitute separate property, subject to compensation if there is occasion, assets acquired as accessories to a separate asset as well as new stocks and securities and other increases connected with stocks and movable securities which are separate property.

Constitute also separate property, by means of real subrogation, claims and indemnities that take the place of separate property, as well as assets acquired in investment or reinvestment, in accordance with Articles 1434 and 1435.

Article 1407

A thing acquired in exchange for a thing that belonged separately to one of the spouses is itself separate property, subject to compensation to the community or by it, if there is a balance.

However, if the balance charged to the community is greater than the value of the property transferred, the property acquired in exchange falls into the common corpus, subject to compensation for the benefit of the transferor.

Article 1408

An acquisition, made by auction or otherwise, of a part of an asset of which one of the spouses was an undivided owner, does not constitute an acquet, subject to the compensation due to the community for the sum it may have supplied.

Sub-article 2. Liabilities [passive side] of the community

Article 1409

The liabilities of the community comprise:

- permanently, alimony owed by the spouses and debts incurred by them for the upkeep of the household and the education of the children, as under Article 220;
- permanently or subject to compensation, according to the circumstances, other debts arising during the community.

Article 1410

The debts the spouses owed on the day of the celebration of the marriage, or the debts with which the successions and liberalities falling to them during the marriage are burdened, remain personal to them, both as to principal and to arrears or interest.

Article 1411

In the case of the preceding Article, the creditors of either spouse can enforce their payment only against the separate property and the revenues of their debtor.

They can also, however, seize the assets of the community if the movables that belong to their debtor on the day of the marriage or that fell to him by succession or liberality have been merged into the common patrimony and can no longer be identified under the rules of Article 1402.

Article 1412

Compensation is due the community that has paid a personal debt of a spouse.

Article 1413

Payment of debts which either spouse owes, for whatever reason, during the community, can always be enforced on community property, unless there was fraud of the debtor spouse and bad faith of the creditor, and subject to compensation to the community, if any is due.

Article 1414

The earnings and wages of a spouse can be attached by the creditors of his spouse only if the obligation was contracted for the upkeep of the household or the education of the children, as under Article 220.

When the earnings and wages are paid into a current or deposit account, the latter may be seized only under the conditions determined by decree.

Article 1415

Each spouse can obligate only his separate property and his income, by surety or loan, unless such contracts have been entered into with the express consent of the other spouse, who, in such a case, does not obligate his separate property.

Article 1416

The community that has discharged a debt for which it could have been sued under the preceding Articles is nevertheless entitled to compensation, whenever such engagement had been contracted in the personal interest of one of the spouses, such as for the acquisition, preservation, or improvement of a separate property.

Article 1417

The community is entitled to compensation, deduction being made, if there is occasion, of the benefit it derived, when it paid the fines incurred by one spouse by reasons of criminal offences, or the damages and expenses for which he had been held liable because of his delicts or quasi-delicts.

It is likewise entitled to compensation if the debt which it discharged was contracted by one of the spouses in contempt of the duties which the marriage imposed on him.

Article 1418

When a debt falls in the community on the initiative of only one spouse, it cannot be enforced on the separate property of the other spouse.

If there is solidarity, a debt is deemed to become a community debt in the name of both spouses.

Section 2. Management of the community and of the separate property

Article 1421

Each spouse has the power to administer alone the common property and to dispose of it, subject to being accountable for faults committed in his management. Acts entered into without fraud by a spouse may be opposed against the other.

A spouse, who holds a separate profession, has alone the power to perform acts of administration and of disposition necessary in that profession.

The whole subject to Articles 1422 to 1425.

Article 1422

The spouses cannot, one without the other, dispose inter vivos, by gratuitous title, of assets in the community.

They cannot either, one without the other, burden an asset of the community to guarantee a third person's debt.

Article 1423

A legacy made by one spouse may not exceed his share in the community.

If a spouse has bequeathed an asset of the community, the legatee may claim it in kind only if, as a result of a partition, the asset falls into the share of the testator's heirs; if the asset does not fall into the share of those heirs, the legatee is entitled to a compensation for the total value of the asset bequeathed on the share, in the community, of the heirs of the spouse-testator and on the separate property of the latter.

Article 1424

The spouses may not, one without the other, alienate or encumber with real rights the immovables, business assets, and exploitations depending from the community, or non-negotiable rights in a corporation and corporeal movables whose alienation is subject to public notice. The spouses may not, one without the other, collect the principal coming from such operations.

Likewise, they may not, one without the other, transfer an asset from the community into a fiduciary patrimony.

Article 1425

The spouses may not, one without the other, lease a rural property or an immovable for commercial, industrial, or artisanal use that is in the community. Other leases on common assets may be entered into by one spouse alone and are subject to the rules provided for leases made by a usufructuary.

Article 1426

If one of the spouses is, in an enduring way, not in a condition to express his will, or if his management of the community reveals unfitness or fraud, the other spouse may request in court to be substituted for him in the exercise of those powers. The provisions of Articles 1445 to 1447 shall apply to that request.

The spouse thus empowered by the court has the same powers that the spouse whom he replaces would have had; he may, with the authorization of the court, enter into acts for which his consent would have been required if a substitution had not taken place.

The spouse deprived of his powers can, later on, request the court that they be restituted to him, by establishing that their transfer to the other spouse is no longer justified.

Article 1427

If one of the spouses has exceeded his powers on the community property, the other may apply for annulment of the act, unless he has ratified it.

The action in nullity can be brought by the other spouse for two years after the day when he has acquired knowledge of the act, but is not admissible in any case more than two years after the dissolution of the community.

Article 1428

Each spouse has the administration and enjoyment of his separate property and may dispose of it freely.

Article 1429

If one of the spouses is, in a lasting way, not in a condition to express his will, or if he imperils the interests of the family, either by allowing his separate property to waste away or by dissipating or diverting the income he draws from it, such spouse may, on petition by the other spouse, be divested of the rights of administration and enjoyment attributed to him under the preceding Article. The provisions of Articles 1445 to 1447 shall apply to that petition.

Unless the appointment of a judicial administrator appears necessary, the judgment confers on the plaintiff spouse the power to administer the separate property of the dispossessed spouse, as well as to collect the fruits thereof, which shall be appropriated to the marriage expenses and the excess used for the benefit of the community.

From the time of the petition, the dispossessed spouse can dispose alone only of the naked ownership of his property.

He may, later on, petition the court to have his rights restituted, if he establishes that the causes that had justified the dispossession no longer exist.

Article 1431

If, during the marriage, one of the spouses entrusts to the other the administration of his separate property, the rules of mandate shall apply. The mandatary spouse is, however, dispensed from accounting for the fruits, if the mandate does not expressly so require.

Article 1432

When one of the spouses takes in hand the management of the separate property of the other, with the knowledge of the latter, and at least without opposition on his part, he is deemed to have received a tacit mandate, with authority to undertake acts of administration and enjoyment, but not acts of disposition. This spouse answers to the other for his management as would a mandatary.

However, he is accountable only for existing fruits; as regards those he failed to collect or fraudulently consumed, he can be investigated only within the limitation of the last five years.

If it is in disregard of a confirmed objection that one of the spouses has intermeddled in the management of the separate property of the other, he is liable for all the consequences of his intermeddling and accountable without limitation for all the fruits that he has collected, failed to collect, or fraudulently consumed.

Article 1433

The community owes reimbursement to the owner spouse whenever it has drawn benefit from separate property.

It is so notably, when it has collected funds which were separate property or that came from the sale of a separate property, without an investment or a re-investment, having been made therewith.

If a controversy arises, proof that the community drew benefit from separate property may be adduced by any means, including testimony and presumptions.

Article 1434

An investment or a re-investment is deemed made with regard to a spouse, whenever, at the time of the acquisition, it is declared that it was made from separate funds, or from funds coming from the disposal of a separate property, to stand for it as investment or re-investment. Failing such declaration in the act, the investment or re-investment takes place only through agreement of the spouses and produces effect only in their reciprocal relationships.

Article 1435

If the investment or re-investment is made in anticipation, the property acquired is separate, on the condition that the sums expected from the separate patrimony be paid to the community within five years after the date of the act.

Article 1436

When the price and expenses of the acquisition exceed the sum which was turned into an investment or re-investment, the community is entitled to compensation for the excess. If, however, the share of the community is greater than that of the acquiring spouse, the asset acquired falls into the community, subject to compensation due the spouse.

Article 1437

Whenever a sum is taken from the community, either to discharge the personal debts or charges of one of the spouses, such as the price or part of the price of a separate property of his own, or the redemption of land services, or for the recovery, preservation, or enhancement of his personal property, and generally whenever one of the two spouses has drawn a personal benefit from the community property, he owes compensation therefor.

Article 1438

If the father and mother jointly provide a dowry to a common child without specifying the portion for which they intended to contribute thereto, they are deemed to have contributed each for one-half, whether the dowry was provided or promised from community property, or whether from personal property of one of the spouses.

In the second instance, the spouse from whose personal property the dowry was granted has, on the property of the other, an action for compensation for one-half of the said dowry, having regard to the value of the property donated at the time of the dowry.

Article 1439

A dowry provided to a common child from community property is charged to the community.

It is borne by each spouse for one half upon the dissolution of the community, unless one of them, in making it, expressly declared that he would take charge of it for the whole or for a share exceeding one half.

Article 1440

Guarantee of the dowry is owed by any person who granted it; and interest on the dowry runs as from the day of the marriage, although there is a term for the payment, unless otherwise stipulated.

Section 3. Dissolution of the community

Sub-article 1. Causes of dissolution and separation of property

Article 1441

A community is dissolved:

1° By the death of one of the spouses;

2° By declared absence;

3° By divorce;

4° By separation from bed and board;

5° By separation of property;

6° By changing the matrimonial regime.

Article 1442

There can be no continuation of the community despite all agreements to the contrary.

Either spouse may request, if there is occasion that, in their mutual relations, the effect of the dissolution revert back to the date when they ceased to live together and collaborate.

Article 1443

If, through the disorder of the affairs, misadministration or misconduct of one spouse, it appears that the upholding of the community imperils the interest of the other spouse, the latter may bring an action for separation of property.

Any voluntary separation is null.

Article 1444

Separation of property, although decreed in court, is null if the proceedings to liquidate the rights of the parties have not been initiated within three months after the judgment has become res judicata or if the final settlement has not occurred within the year of the opening of the process of liquidation. The period of one year may be extended by the president of the court in the form of summary proceedings.

Article 1445

The petition and judgment of separation of property are published under the terms and subject to the sanctions provided by the Code of Civil Procedure.

The judgment decreeing the separation of property is retroactive as regards its effects to the day of the petition.

Mention of the judgment shall be made in the margin of the act of marriage as well as on the original of the marriage contract.

Article 1446

Creditors of a spouse may not apply for a separation of property in his name.

Article 1447

When an action for separation of property has been brought, the creditors may summon the spouses, by means of an attorney, to communicate to them the petition and the supporting documents. They may even intervene in the case for the preservation of their rights.

If the separation has been decreed in fraud of their rights, they may appeal against it by way of third party opposition, under the conditions provided in the Code of Civil Procedure.

Article 1448

The spouse who has obtained the separation of property shall contribute, in proportion to his means and to those of the other spouse, both to the expenses of the household and to those relating to the education of children.

Such spouse shall bear entirely those expenses, if the other has nothing.

Article 1449

A separation of property judicially decreed has the effect of placing the spouses under the regime of Articles 1536 and following.

The court, in decreeing the separation, may order that one of the spouses shall pay his contribution into the hands of the other spouse, who shall assume alone thenceforth with regard to third parties the payment of all the charges of the marriage.

Article 1451

The agreements entered into under Article 265-2 are suspended, with regard to their effects, until the pronouncement of the divorce; they may be enforced, even in the relations between spouses, only when the judgment has entered into force as res judicata.

One of the spouses may request that the judgment of divorce modify the agreement if the consequences of the divorce fixed by such judgment call into question the bases of the liquidation and the partition.

Sub-article 2. Liquidation and partition of the community

Article 1467

The community once dissolved, each spouse shall retake those assets which had not fallen into the community, if they exist in kind, or the assets which were subrogated thereto.

There shall take place, next, the liquidation of the common property, as to assets and liabilities.

Article 1468

In the name of each spouse, there is established an accounting of the compensations or recompenses that the community owes to him or her and of the compensations or recompenses that he or she owes to the community, in accordance with the rules prescribed in the preceding sections.

Article 1469

The compensation shall be, in general, equal to the smaller of the two amounts represented by the expenditures made and the profits remaining.

It may not, however, be less than the expenditure made where the latter was necessary.

It may not be less than the profit remaining when the value borrowed was used to acquire, preserve or improve an asset which is found, on the day of the liquidation of the community, in the borrower's patrimony. If the asset acquired, preserved or improved has been alienated before the liquidation, the profit shall be appraised on the day of the alienation; if a new asset has been subrogated to the alienated asset, the profit shall be appraised with regard to that new asset.

Article 1470

If, after the balance is made, the account presents a credit in favor of the community, the spouse shall return it to the common property.

If it presents a credit in favor of a spouse, the latter has the option either to require that it be paid or to levy upon the common property up to the amount due.

Article 1471

The levies are enforced first on cash, next on the movables and subsidiarily on the immovables of the community. The spouse who makes the levy is entitled to choose the movables and immovables which he or she will take. He or she may not, however, prejudice by such option the rights which the other spouse may have to request the continuation of the indivision or the preferential allotment of certain assets.

If the spouses want to levy the same asset, there shall be a drawing of lots.

Article 1472

In case the community is not sufficient, the levies made by each spouse shall be in proportion to the amount of the compensation which are due to him or her.

However, should the deficiency of the community be imputable to the fault of one of the spouses, the other spouse may carry out his levies before the spouse at fault on the whole of common property; he or she may carry out such levies subsidiarily on the separate property of the spouse at fault.

Article 1473

The compensations due by the community or to the community bear interest by operation of law from the day of the dissolution.

However, when a compensation is equal to the profit still remaining, interest runs from the day of liquidation.

Article 1474

The levies made on the common property constitute an operation of partition. They do not confer on the spouse who enforces them any right to be preferred to the creditors of the community, except the priority resulting from a legal hypothec, should it be the case.

Article 1475

After all the levies have been carried out on the common property, the excess shall be divided by halves between the spouses.

If an immovable of the community is an annex of another immovable belonging as a separate property of one of the spouses, or if it is contiguous to that immovable, the spouse who is the owner has the right to have it allotted to him or her by imputation on his or her share or subject to a balance, according to the value of the asset on the day when the allocation is requested.

Article 1476

The partition of a community, as to everything concerning its forms, the continuation of the indivision and preferential allocation, the auction of assets, the effects of partition, the guarantee and balances, is subject to all the rules established in the Title Of Successions with respect to partitions between coheirs.

However, as to communities dissolved by divorce, separation from bed and board or separation of property, the preferential allocation is never as of right, and it may always be decided that the whole of the balance which may be due shall be payable in cash.

Article 1477

The spouse who has diverted or concealed some assets of the community is deprived of his share of such assets.

Likewise, the spouse who has knowingly concealed the existence of a common debt must assume it definitively.

Article 1478

After the partition is closed, if one of the spouses is the personal creditor of the other, as when the price of his asset has been used to pay a personal debt of the other spouse, or for any other reason, he or she may enforce the claim against the share of the community coming to the other or against the other's separate property.

Article 1479

The personal claims which the spouses have to enforce against each other do not give rise to a levy and bear interest only from the day of the demand.

Unless otherwise agreed by the parties, the claims shall be appraised according to the rules of Article 1469, paragraph 3, in the cases therein provided; interest then runs from the day of the liquidation.

Article 1480

The donations which one of the spouses may have made to the other are executed only on the share of the donor in the community and on his or her separate property.

Sub-article 3. Obligation and contribution to liabilities after dissolution

Article 1482

Each spouse may be sued for the whole of the debts existing on the day of the dissolution, when they had entered into the community in his or her name.

Article 1483

Each one of the spouses may be sued only for half of the debts which had entered into the community in the other spouse's name.

After the partition, and save the case of concealment, he or she is liable for those debts only up to the portion of the assets which he or she receives, provided there was an inventory, and subject to the obligation to account both for the contents of that inventory and for what he or she has received through the partition, as well as for the common liabilities already discharged.

Article 1484

The inventory provided for in the preceding Article shall be made in the forms regulated by the Code of Civil Procedure, with the other spouse as adverse party or having been duly summoned. It must be closed within nine months from the day when the community was dissolved, except for an extension of time granted by the court for summary proceedings. It shall be affirmed as genuine and true before the public officer who received it.

Article 1485

Each spouse shall contribute by halves to the community debts for which a compensation was not due, as well as to the expenses of sealing, inventory, sale of movables, liquidation, auction and partition.

He or she bears alone the debts which had become common only subject to compensation for which he or she is responsible.

Article 1486

The spouse who may take advantage of the benefit of Article 1483, paragraph 2, does not contribute for more than the share of the assets which he or she receives to the debts which had entered into the community in the other spouse's name, unless it is a question of debts for which he or she owed compensation.

Article 1487

The spouse who paid beyond the portion for which he or she was liable under the preceding Articles has a remedy for the excess against the other.

Article 1488

He or she has not, for such excess, any recovery against the creditor, unless the receipt states that he or she intends to pay only within the limit of his or her obligation.

Article 1489

The spouse who, by the effect of a hypothec enforced on an immovable which he received in partition, is sued for the whole of a community debt has, as a matter of right, a remedy against the other for half of that debt.

Article 1490

The provisions of the preceding Articles are not a bar to a clause of the partition which, without prejudicing the rights of third parties, obliges either spouse to pay a portion of the debts other than that which is fixed above, or even to discharge the liabilities in full.

Article 1491

The heirs of the spouses exercise, in case of dissolution of the community, the same rights as the spouse whom they represent and are subject to the same obligations.

Part II. Community by agreement

Article 1497

Spouses may, in their contract of marriage, modify the legal community by any kind of agreement not contrary to Articles 1387, 1388 and 1389.

They may, especially, agree:

1° That the community shall include movables and acquets;

2° That it will depart from the rules relating to the administration;

3° That one of the spouse will have the option to take certain assets out of the community on condition of an indemnity;

4° That one of the spouses will have a preferential additional portion;

5° That the spouses will have unequal shares;

6° That there will be a universal community between them.

The rules on legal community shall remain applicable on all the points which have not been the subject of the agreement of the parties.

Section 1. Community of movables and acquets

Article 1498

When the spouses agree that there will be between them a community of movables and acquets, the common assets comprise, besides the assets which would form part of the regime of legal community, the movable assets the spouses owned or possessed on the day of the marriage or that has fallen to them afterwards through succession or donations, unless the donor or testator has stipulated the contrary.

Nevertheless, remain separate personal assets, the movable assets that would have been separate property by their nature by virtue of Article 1404, under the legal regime, if acquired during the community.

If one of the spouses had acquired an immovable after the marriage contract, which contained a stipulation of community of movables and acquets, and before the celebration of the marriage, the immovable acquired during that interval enters the community, unless the acquisition had been made in execution of some clause of the marriage contract, in which case it is regulated according to the agreement.

Article 1499

Form part of the liabilities of the community, under this regime, other than the debts which would form part of it under the legal regime, a fraction of the debts that already burdened the spouses when they married, or that burdened successions and donations that fall to them during the marriage.

The fraction of the liabilities which the community must bear is proportional to the fraction of assets which it receives, according to the rules of the preceding Article, either from the patrimony of the spouse on the day of the marriage, or from all the assets which are the subject of the succession or donation.

In order to establish that proportion, the consistency and value of the assets shall be proven in accordance with Article 1402.

Article 1500

The debts to which the community is held, as a counterpart of the assets it receives, are its permanent responsibility.

Article 1501

The distribution of the debts predating the marriage or burdening successions and liberalities may not prejudice creditors. They keep, in all cases, the right to seize assets which previously constituted their security. They may even enforce their payment against the whole of the community, when the movable assets of their debtor has been merged into the common patrimony and may no longer be identified under the rules of Article 1402.

Section 2. Clause relative to joint administration

Article 1503

The spouses may agree that they will administer jointly the community.

In such a case, the acts of administration and of disposition of the community assets are made under the joint signature of both spouses, and they carry as a matter of law the solidarity of the spouses.

Acts of conservation may be done separately by each spouse.

Section 3. Clause of levy or setting apart on condition of indemnity

Article 1511

The spouses may stipulate that the surviving spouse or one of them if he survives, or even one of them in all cases of dissolution of the community, will have the option to set apart certain common assets, with the responsibility of accounting for it to the community according to the value they will have on the day of the partition, unless otherwise agreed.

Article 1512

The contract of marriage may fix the bases of the appraisal and the modalities of payment of a possible net balance. Having regard to such clauses and unless there is an agreement between the parties, the value of the assets shall be fixed by the tribunal de grande instance.

Article 1513

The option of setting apart or levying lapses if the benefiting spouse does not exercise it by notice served upon the other spouse or his or her heirs within a period of one month from the day when the latter have put him in default to take side. This putting in default may not occur before the expiration of the period provided in the Title "Successions" for making an inventory and deliberating.

Article 1514

The setting apart or levying is an operation of partition: the assets set apart are imputed on the share of the spouse benefiting; if their value exceeds such share, a payment of the balance will take place.

Spouses may agree that the indemnity owed by the maker of the levy will be imputed subsidiarily against his or her rights in the succession of the predeceased spouse.

Section 4. Preferential additional portion

Article 1515

It may be agreed in a marriage contract that the survivor of the spouses, or one of them, if he survives, will be authorized to levy or set apart from the community, before any partition, either a specified sum, or certain assets in kind, or a certain quantity of a determined kind of assets.

Article 1516

The preferential portion is not considered as a donation, either as to substance or as to form, but as a marriage agreement and between partners.

Article 1518

When the community is dissolved in the lifetime of the spouses, there is no ground for the preferential portion to occur; but the spouse, for whose benefit it was stipulated, keeps such rights for the case of survival, subject to Article 265.

The spouse may demand a surety from the other spouse to guaranty these rights.

Article 1519

Creditors of the community always have the right to have those things included in the preferential portion sold, subject to the remedy of the spouse against the remainder of the community.

Section 5. Stipulation of unequal shares

Article 1520

Spouses may derogate from the partition established by law.

Article 1521

Where it has been stipulated that a spouse and his or her heirs will have only a certain share in the community, such as a third or a fourth, the spouse thus cut down or his heirs are liable for the debts of the community only in proportion to the share which they take in the assets.

The agreement is null if it obliges the spouse thus cut down or his heirs to bear a larger share, or if it exempts them from bearing a share in the debts equal to that which they take in the assets.

Article 1524

The allocation of the entire community may be stipulated only for the case of survival, either for the benefit of a designated spouse, or for the benefit of whichever one survives. The spouse who thus retains the whole of the community is obliged to pay all its debts.

It may also be agreed, for the case of survival, that one of the spouses will have, in addition to his or her half, the usufruct of the share of the predeceased. In that case, he shall contribute to the debts, as to the usufruct, according to the rules of Article 612.

The provisions of Article 1518 are applicable to such clauses when the community is dissolved in the lifetime of both spouses.

Article 1525

The stipulation of unequal shares and the clause of total allocation are not deemed to be donations, neither as to substance nor as to form, but simply agreements of marriage and between partners.

Unless stipulated to the contrary, they do not prevent the heirs of the predeceased spouse from taking back the contributions and capital having fallen into the community in the name of their predeceased father or mother.

Section 6. Universal community

Article 1526

Spouses may by their marriage contract establish a universal community of their assets, movables and immovables, present and future. However, unless otherwise stipulated, assets which Article 1404 declares separate by their nature do not fall into that community.

A universal community bears definitively all the debts of the spouses, present and future.

Provisions common to the two parts of chapter II.

Article 1527

The advantages which either spouse may draw from the clauses of a conventional community, as well as those which may result from a mingling of movables or of debts, are not deemed donations.

However, if there are children not born of both spouses, any agreement which has as a consequence of donating to one of the spouses beyond the portion regulated by Article 1094-1, in the Title "Donations Inter Vivos and of Testaments" is ineffective as to the whole excess; but mere profits resulting from common work and from savings made from the respective although unequal incomes, of both spouses, are not considered as an advantage made to the prejudice of the children of another bed.

Nevertheless, the latter may, in the forms provided in Articles 929 to 930-1, renounce their right to demand the reduction of an excessive matrimonial advantage before the death of the surviving spouse. In that case, they benefit as a matter of right from a privilege on the movables under 3o of Article 2374 and may demand, despite any contrary stipulation, that an inventory of the movables be drawn up, as well as a description of the condition of the immovables.

CHAPTER III. SEPARATION OF PROPERTY REGIME

Article 1536

When the spouses have stipulated in their marriage contract that their property will be separate, each one of them keeps the administration, enjoyment and free disposition of his or her personal assets.

Each one of them remains alone liable for his own debts, before or during marriage, except in the case of Article 220.

Article 1537

The spouses shall contribute to the expenses of the marriage in accordance with the stipulations of their agreement; and where none exists in this regard, in the proportion determined by Article 214.

Article 1538

With regard both to the other spouse and to third parties, a spouse may prove by any means that he has the exclusive ownership of an asset.

The presumptions of ownership established in the marriage contract are effective with respect to third parties, as well as in the relations between spouses, unless otherwise agreed. Contrary proof is as of right, and may be made by any means appropriate to establish that the assets do not belong to the spouse designated by the presumption, or even, if they belong to him, that they were acquired through a liberality from the other spouse.

Assets on which neither spouse may establish an exclusive ownership are deemed to belong to them in undivided ownership, one half to each one.

Article 1539

If, during the marriage, one of the spouses entrusts to the other the administration of his personal assets, the rules of mandate shall apply. The mandatary spouse is, however, exempted from accounting for the fruits, if the mandate does not expressly oblige him to do so.

Article 1540

When one of the spouses takes in hand the management of the other's assets, with the knowledge of the latter, and nevertheless without objection on the latter's part, she or he is deemed to have been given a tacit mandate, including acts of administration and management, but not acts of disposition.

Such spouse is answerable for his or her management to the other as a mandatary. Nevertheless, he or she is answerable for the existing fruits; as regards those which he has failed to collect or fraudulently consumed, he may be investigated only within the limit of the last five years.

If one of the spouses has interfered in the management of the other's assets in disregard of a confirmed opposition, he or she is answerable for all the consequences of that interference, and accountable without limitation for all the fruits which he or she has collected, failed to collect or fraudulently consumed.

Article 1541

One of the spouses is not the guarantor of the failure of the assets of the other spouse being invested or re-invested, unless he or she has interfered in operations of alienation or collection or unless it is proven that the funds were received by him or her, or have turned to his or her benefit.

Article 1542

After the dissolution of a marriage by the death of one of the spouses, the partition of the undivided assets between spouses under a separation of property regime, as to all that relates to its forms, the maintenance of indivision and preferential allocation, the auction of assets, the effects of partition, the guarantee and net balances, is subject to all the rules which are established in the Title "Successions" for partitions among co-heirs.

The same rules shall apply after divorce or separation from bed and board. But the preferential allocation is never as a matter of law. It may always be decided that the whole of the net balance that may be due will be payable in cash.

Article 1543

The rules of Article 1479 are applicable to the claims that one spouse may have the right to enforce against the other.

CHAPTER IV. THE REGIME OF PARTICIPATION IN ACQUETS

Article 1569

Where the spouses have declared to be married under the regime of participation in acquets, each of them keeps the administration, enjoyment and free disposal of his or her personal assets, without distinguishing between those owned on the day of the marriage or those received subsequently by succession or liberality and those acquired onerously during the marriage. During the marriage, this regime functions as if the spouses were married under the regime of separation of property. At the dissolution of the regime, each spouse is entitled to participate by halves in value in the net acquets found in the patrimony of the other, and estimated owing to the double appraisal of the original patrimony and of the final patrimony. The right to participate in the acquets is inalienable as long as the matrimonial regime is not dissolved. If dissolution occurs because of the death of one spouse, his or her heirs have, on the net acquets made by the other, the same rights as their progenitor.

Article 1570

The original patrimony includes the assets that belonged to the spouse on the day of the marriage and those which he or she has acquired afterwards by succession or liberality, as well as all assets which, in the regime of community, constitute separate property by their nature without giving rise to compensation. Account shall not be taken of the fruits of such assets nor of such assets that would have been in the nature of fruit or of which the spouse has disposed by donation inter vivos during the marriage.

The contents of the original patrimony shall be proven by a descriptive listing, even under private signature, established in the presence of the other spouse and signed by him or her.

In the absence of a descriptive listing or when it is incomplete, proof of the contents of the original patrimony may be adduced only as laid down in Article 1402.

Article 1571

The original assets shall be appraised according to their condition on the day of the marriage or of their acquisition and according to their value on the day when the matrimonial regime is liquidated. If they have been alienated, one shall retain their value on the day of their alienation. If new assets have been subrogated to the assets alienated, one shall take into consideration the value of these new assets.

From the original assets shall be deducted the debts with which they were burdened, as re-evaluated, should it be the case, according to the rules of Article 1469, paragraph 3. If the liabilities exceed the credit, that excess shall be fictitiously united to the final patrimony.

Article 1572

Are parts of the final patrimony all the assets that belong to the spouse on the day when the matrimonial regime is dissolved, including, where appropriate, those which he or she may have disposed of mortis causa and without excluding the sums of which he or she may be creditor against the other spouse. If there is a divorce, separation from bed and board or an anticipated liquidation of the acquets, the matrimonial regime is deemed dissolved on the day of the petition.

The contents of the final patrimony shall be proven by a descriptive listing, even under private signature, which a spouse or his or her heirs must establish in the presence of the other spouse or of his or her heirs, or the latter having been duly summoned. That listing shall be drawn up within nine months after the dissolution of the matrimonial regime, except when an extension of time is granted by the president of the court ruling by way of summary proceedings.

Proof that the final patrimony would have included other assets may be adduced by any means, even by testimony and presumptions.

Each spouse may, as to the assets of the other, require the fixing of seals and an inventory in accordance with the rules provided for in the Code of Civil Procedure.

Article 1573

To the existing assets are fictitiously joined the assets which are not included in the original patrimony and of which a spouse has disposed by donation inter vivos without the consent of the other spouse, as well as those which he or she has fraudulently alienated. An alienation on condition of a life annuity or non-repayable shall be presumed to have been made in fraud of the spouse's rights, unless the latter agreed.

Article 1574

Existing assets shall be appraised according to their condition at the time of the dissolution of the matrimonial regime and to their value on the day of the liquidation of the latter. Assets alienated by donations inter vivos, or in fraud of the rights of the other spouse shall be appraised according to their condition on the day of the alienation and to the value they would have had, if it had been kept, on the day of the liquidation.

From the credits thus reconstituted shall be deducted all the debts which are not yet discharged, including the sums which may be owed to the other spouse.

The value, on the day of the alienation, of the improvements brought about during the marriage on original assets donated by one spouse without the consent of the other before the dissolution of the matrimonial regime shall be added to the final patrimony.

Article 1575

If the final patrimony of a spouse is less than his or her original patrimony, the deficit is borne entirely by that spouse. If it is greater, the increase represents the net acquets and gives rise to participation.

If there are net acquets on both sides, they must first be compensated. Only the excess is partitioned: the spouse whose gain is smaller is creditor with regard to the other spouse for one-half of that excess.

To a claim for participation, in order to put them under the same regulation, are added the sums of which a spouse may in other respects be creditor towards the other, for values provided during the marriage and other indemnities, deduction being made, where necessary, of what that spouse may be debtor towards the other.

Article 1576

The claim in participation gives rise to payment in money. If the debtor spouse meets serious difficulties in paying it entirely as soon as the liquidation is closed, the judges may grant him or her a delay to do so, which may not exceed five years, on the condition of furnishing securities and paying interest.

The claim in participation may, however, give rise to a settlement in kind, either by consent of both spouses, or by virtue of a decision of a judge if the debtor spouse proves serious difficulties which prevent him or her from discharging it in money.

The settlement in kind provided for in the preceding paragraph is considered as an operation of partition when the property allotted had not been included in the original patrimony or when the allottee spouse partakes in the succession of the other.

The liquidation is not effective against creditors of the spouses: they retain the right to seize property allotted to the spouse of their debtor.

Article 1577

The creditor spouse enforces his/her claim in participation first on existing assets and subsidiarily, beginning with the most recent alienations, on the assets mentioned in Article 1573 which had been alienated by donation inter vivos or in fraud of the rights of the other spouse.

Article 1578

Upon the dissolution of the matrimonial regime, if the parties do not agree to proceed to the liquidation through agreement, one of them may petition the court that it be proceeded through the court.

The rules prescribed for reaching a judicial partition of successions and communities shall apply to that demand, as may be thought proper.

The parties shall communicate reciprocally to each other and shall communicate to the experts designated by the judge, all information and documents appropriate to the liquidation.

The action in liquidation prescribes after three years from the dissolution of the matrimonial regime. Claims against third parties under Article 1167 prescribe after two years from the closing of the liquidation.

Article 1579

If the application of the rules of appraisal provided for by Articles 1571 and 1574 above would lead to a result obviously contrary to equity, the court may depart from them on the request of one of the spouses.

Article 1580

If the disorder of the affairs, misadministration or misconduct of one spouse, give rise to a fear that the continuance of the matrimonial regime imperils the interest of the other, the latter may demand the anticipated liquidation of his or her claim in participation.

The rules of separation of property shall apply to that demand.

When the demand is entertained, the spouses shall be placed under the regime of Articles 1536 to 1541.

Article 1581

When stipulating the participation in acquets, the spouses may adopt any stipulation not contrary to Articles 1387, 1388 and 1389.

They may in particular agree on a stipulation of unequal partition, or stipulate that the survivor of them or one of them if he or she survives, will be entitled to the whole of the net acquets made by the other.

It may also be agreed between the spouses that the one who, at the time of the liquidation of the regime, has against the other a claim in participation, may require the giving in payment of certain assets of the other spouse, if he or she establishes an essential interest in having it attributed to him or her.

TITLE VI. SALE

Chapter i. – THE NATURE AND FORM OF SALE

Article 1582

Sale is a contract whereby a person obligates himself to deliver a thing and the other to pay its price. It may be made by authentic act or by act under private signature.

Article 1583

It is perfect between the parties and the ownership is acquired as of right by the buyer with regard to the seller as soon as they have agreed on the thing and on the price, although the thing has not yet been delivered nor the price paid.

Article 1584

A sale may be made unconditionally, purely and simply, or under a condition either suspensive or resolutory.

A sale may also have as its object two or several alternative things.

In all these cases, its effect is governed by the general principles that govern contractual agreements.

Article 1585

Where goods are not sold in bulk but by weight, count, or measure, a sale is not perfect, in the sense that the things sold are at the risk of the seller until they have been weighed, counted or measured; but the buyer may demand either the delivery or damages, if any, in case of failure to perform the commitment.

Article 1586

If, on the contrary, the goods have been sold in bulk, the sale is perfect, although the goods have not yet been weighed, counted, or measured.

Article 1587

With regard to wine, oil, and other things which it is customary to taste before buying, there is no sale so long as the buyer has not tasted and approved them.

Article 1588

A sale made on trial is always presumed made under a suspensive condition.

Article 1589

A promise of sale is the equivalent of a sale when there is reciprocal consent of both parties as to the thing and the price.

If that promise relates to land already divided or to be divided into lots, its acceptance and the resulting agreement shall be established by the payment of an instalment on the price, whatever the name given to that instalment, and by the taking of possession of the land.

The effective date of the contract is that of the payment of the first instalment on the price, even if the contract is put in proper form later on.

Article 1589-1

Any unilateral commitment is null if undertaken for the purpose of acquiring an immovable thing or right for which the acquirer must either pay or that it be received from him a sum of money, whatever the cause or the form of the commitment.

Article 1589-2

Any unilateral promise is null and without effect if it concerns an immovable, an immovable real right, a going business, a right to a lease of part or all of an immovable, or shares in companies referred to in Articles 728 and 1655 of the General Tax Code, unless it is established by authentic act or by an act under private signature registered within ten days from the date of its acceptance by the beneficiary. The same rule applies to any transfer of rights in such promises not made in an authentic act or an act under private signature recorded within ten days of its date.

Article 1590

If the promise of sale has been made with the payment of earnest money, each party may recede from the contract.

The party who gave the earnest money by forfeiting it.

The party who received the earnest money by returning double the amount.

Article 1591

The price of a sale must be determined and specified by the parties.

Article 1592

Price may be left to the arbitration of a third person. if the third person will not or cannot set the price, there is no sale.

Article 1593

The expenses of the acts and of other accessories of the sale are to be paid by the buyer.

CHAPTER II. WHO MAY BUY OR SELL

Article 1594

All those whom the law does not forbid to do so may buy or sell.

Article 1596

The following persons, themselves or through intermediaries, may not buy, on pain of nullity:

-tutors, the assets of those under their tutorship;

-mandataries, the assets that they are mandated to sell;

-administrators, the assets of the communes or public institutions entrusted to their care;

- public legal officers, national property the sale of which is made through their assistance;

-fiduciaries, the assets or rights that make up the fiduciary patrimony.

Article 1597

Judges, the deputy judges, the members of the judiciary acting as State prosecutors, the registrars, the bailiffs, the defense lawyers and the notaries may not become assignees of lawsuits, litigious rights and actions which are of the competence of the Court within the jurisdiction of which they exercise their duties, on pain of nullity, plus costs and damages.

CHAPTER III. THINGS WHICH MAY BE SOLD

Article 1598

All things in commerce may be sold unless particular statutes forbid that they be sold.

Article 1599

The sale of a thing belonging to another is null; it may give rise to damages where the buyer did not know that the thing belonged to someone other than the seller.

Article 1601

If at the moment of the sale the thing sold had been totally destroyed, the sale is null.

If only a part of the thing was destroyed, the buyer may choose either to abandon the sale or claim the part preserved, by having the price of that part estimated proportionately.

CHAPTER III-1. SALE OF BUILDINGS TO BE BUILT

Article 1601-1

The sale of a building to be built is one in which the seller binds himself to erect a building within a time period determined by the contract.

The sale can be concluded upon the term of completion or in a future state of completion.

Article 1601-2

The sale at the term of completion is the contract by which the seller undertakes to deliver the building upon its completion, and the buyer undertakes to take delivery of it and to pay the price of it at the date of delivery. The transfer of ownership occurs by operation of law by the acknowledgement of the completion of the building in an authentic act; the act is effective retroactively to the date of the sale.

Article 1601-3

The sale in a future state of completion is the contract by which a seller transfers immediately to the buyer his rights in the ground as well as the ownership of the existing constructions. The future constructions are owned by the buyer as they are carried out; the buyer is bound to pay their price as the work proceeds.

The seller retains control of the project until approval of the construction works.

Article 1601-4

The assignment by the buyer of the rights he holds in a sale of a building to be erected carries with it by operation of law the substitution of the assignee to the obligations of the buyer towards the seller.

Should the sale have been combined with a mandate, the latter continues between the seller and the assignee.

These provisions shall apply to any transfer inter vivos, voluntary or compulsory, or because of death.

CHAPTER IV. OBLIGATIONS OF THE SELLER

Section 1: General provisions

Article 1602

The seller must clearly express the extent of his obligations. Any obscure or ambiguous clause is interpreted against the seller.

Article 1603

The seller is bound to two principal obligations, that of delivering the thing and that of warranting the thing he sells.

Section 2. Delivery

Article 1604

Delivery is the transfer of the thing sold into the power and possession of the buyer.

Article 1605

The obligation to deliver immovables takes place on the part of the seller when he has handed over the keys, in case of a building, or when he has handed over the documents of title.

Article 1606

Delivery of movables takes place through:

Either the handing over of the thing itself;

Or the handing over of the keys of the buildings in which they are stored;

Or even the mere consent of the parties, if transporting the thing cannot take place at the time of the sale, or if the buyer already had them in his possession for another reason.

Article 1607

Delivery of incorporeal rights occurs either by handing over the documents of title, or by the use the buyer makes of them with the consent of the seller.

Article 1608

The seller bears the expenses of delivery and the buyer bears the expenses of removing the thing following delivery, unless otherwise agreed.

Article 1609

Delivery shall be made at the place where the thing sold was at the time of the sale, unless otherwise agreed.

Article 1610

If the seller fails to make delivery within the time agreed upon between the parties, the purchaser may, at his choice, demand the rescission of the sale, or that he is put in possession, if the delay results from an act of the seller alone.

Article 1611

In all cases, the seller shall be ordered to pay damages, when the buyer has suffered a loss because of the failure to deliver at the agreed time.

Article 1612

The seller is not bound to deliver the thing if the buyer does not pay its price, and if the seller did not grant him a term for payment.

Article 1613

Nor is he bound to deliver, even if he has granted a term for the payment, if, after the sale, the buyer is bankrupt or insolvent, so that the seller is in imminent danger of losing the price, unless the buyer gives him security that he will pay on time.

Article 1614

The thing must be delivered in the condition in which it is at the time of the sale.

From that day on, all the fruits of the thing belong to the buyer.

Article 1615

The obligation to deliver the thing includes its accessories and all that was designed for its perpetual use.

Article 1616

The seller is bound to deliver the full extent or content as it is specified in the contract, with the qualifications given below.

Article 1617

If the sale of an immovable was made with indication of the extent of the premises at a rate of so much per measure, the seller is bound to deliver to the buyer, if the buyer so requires, the quantity as stated in the contract.

And if he cannot do it, or if the buyer does not require it, the seller must suffer a proportionate diminution of the price.

Article 1618

If, on the contrary, in the case of the preceding Article, the surface area in fact exceeds the surface area expressed in the contract, the buyer has the choice either to pay the additional price or to recede from the contract, provided the excess is more than one-twentieth of the surface area declared in the contract.

Article 1619

In all other cases,

-- whether the sale be of a certain and limited body;

-- whether the sale has as its object distinct and separate tracts of land;

-- whether the sale begins with the measurement or with the designation of the thing sold followed by its measurement,

The statement of the measurement does not justify any supplement of the price in favor of the seller for the additional amount in measurement or a diminution of the price in favor of the buyer for a shortfall, unless the difference between the measurement in fact and the measurement stated in the contract is one-twentieth more or one-twentieth less, taking into account the value as a whole of all the things sold, provided there is no stipulation to the contrary.

Article 1620

When, under the preceding Article, there is justification for an increase in the price because of the additional extent, the buyer has the choice either to receive from the contract or to pay a supplement in the price, with interest if he has kept the immovable.

Article 1621

In all cases in which the buyer has the right to recede from the contract, the seller is bound to return to him, besides the price, if he has received it, the expenses of the contract.

Article 1622

The action in supplement of the price on the part of the seller and the action by the buyer for a diminution in the price or for the rescission of the contract must be brought within the year from the date of the contract, otherwise it will be barred.

Article 1623

If two tracts of land have been sold by the same contract for one and the same price, with the designation of the measurements for each of them, and if there is a shortfall in one and an excess in the other, the differences compensate each other; and the action for increase or diminution of the price may take place only in accordance with the rules set out above.

Article 1624

The question of ascertaining whether the loss or the deterioration of the thing before delivery falls on the seller or the buyer is decided according to the rules laid down in the Title "Of Contracts or of Conventional Obligations in General."

Section 3. Warranty

Article 1625

The warranty the seller owes the buyer has two objects: the first is the peaceful possession of the thing sold; the second, the hidden defects of such thing or redhibitory vices.

Sub-article 1. Of the warranty against eviction

Article 1626

Although no stipulation as to warranty has been made at the time of the sale, the seller is obligated as a matter of law to warrant the buyer against eviction from the thing sold in whole or in part, or against alleged encumbrances on that thing which have not been declared at the time of the sale.

Article 1627

The parties may, by special agreements, increase this legal obligation or diminish its effect; they may even agree that the seller will not be bound by any warranty.

Article 1628

Although it be stated that the seller will not be bound by any warranty, he nevertheless remains bound to warrant against his personal acts or facts; any agreement to the contrary is null.

Article 1629

In the same instance of a stipulation of no warranty, in case of eviction, the seller is bound to return the price, unless the buyer knew at the time of the sale of the danger of eviction or unless he bought at his own peril and risk.

Article 1630

When a warranty has been promised, or when nothing has been stipulated about it, if the buyer is evicted, he is entitled to claim against the seller:

1° The return of the price;

2° The return of the fruits when he must return them to the owner who evicts him;

3° The expenses the buyer incurs due to the call in warranty, and those incurred by the original plaintiff;

4° Finally, damages, as well as the expenses and reasonable expenses of the contract.

Article 1631

When at the time of eviction the thing sold has decreased in value or has considerably deteriorated, either through the neglect of the buyer or by force majeure, the seller is nonetheless bound to return the full price.

Article 1632

But if the buyer has benefited from any deterioration he has caused, the seller may retain against the price a sum equal to that benefit.

Article 1633

If at the time of the eviction the thing sold has increased in price even independently of any act of the buyer, the seller is bound to pay the buyer what it is worth above the sale price.

Article 1634

The seller must reimburse or have the evicting party reimburse the buyer for all the repairs and useful improvements that the buyer made to the property.

Article 1635

If the seller had sold in bad faith the property of another, he will be bound to reimburse the buyer for all his expenditures, even for embellishment or personal pleasure, made on that property.

Article 1636

If a buyer is evicted from only a part of the thing but a part of such importance, in proportion to the whole, that the buyer would not have bought the thing without that part, he may have the sale rescinded.

Article 1637

If, in the case of a partial eviction the sale is not rescinded, the value of the part from which the buyer is evicted is reimbursed to him according to the value the thing had at the time of eviction and not proportionately to the total sale price, whether the thing sold has increased or decreased in value since the sale.

Article 1638

If the immovable property sold is encumbered by non-apparent servitudes that had not been declared and that are sufficiently important to presume that the buyer would not have bought the thing had he been made aware of them, the buyer may demand the rescission of the contract, unless he prefers to be satisfied with an indemnity.

Article 1639

Other questions concerning damages that may be owed to the buyer resulting from the failure to execute the sale must be decided according the general rules laid down in the Title "Contracts and Conventional Obligations in General."

Article 1640

The warranty against eviction ceases when the buyer has allowed a final judgment to be declared against him or a judgment from which an appeal no longer lies without having called his seller in warranty, if the latter proves that there existed sufficient means of defense to have the action in eviction dismissed.

Sub-article 2. Warranty against defects in the thing sold

Article 1641

The seller is bound to a warranty against hidden defects in the thing sold that render it unfit for its intended use, or that so impair its use that the buyer would not have bought it, or would only have given a lesser price for it if he had known of the defects.

Article 1642

The seller owes no warranty for apparent defects which the buyer could have discovered on his own.

Article 1642-1

The seller of an immovable to be built may not be discharged, either before approval of the work or before the expiration of a period of one month after the buyer has taken possession, for defects in the construction or failures in the fitness then apparent.

The contract may not be dissolved nor its price diminished if the seller obligates himself to repair the thing.

Article 1643

The seller is liable for hidden vices even though he did not know of them, unless he has stipulated that he would not be bound to any warranty.

Article 1644

Under Articles 1641 and 1643, the buyer has the choice either to return the thing and to have the price returned to him or to keep the thing and have a part of the price returned to him, as decided by experts.

Article 1645

If the seller was aware of the vices in the thing, he is bound not only to return the price he received but also all damages the buyer has suffered.

Article 1646

If the seller did not know of the vices in the thing, he is bound only to return the price and to reimburse to the buyer the expenses occasioned by the sale.

Article 1646-1

The seller of a building to be constructed is responsible, from the date of acceptance of the work, for the obligations for which the architects, contractors and other persons bound towards the owner or general contractor by a contract of hiring of industry and services are themselves liable under Articles 1792, 1792-1, 1792-2 and 1792-3 of this Code.

These warranties benefit the successive owners of the building.

The buyer may not seek the dissolution of the sale or a diminution of the price if the seller binds himself to repair the damages specified in Articles 1792, 1792-1, and 1792-2 of this Code and to assume the warranty provided for in Article 1792-3.

Article 1647

If the thing that had vices has been destroyed because of its bad quality, the loss is for the seller who is liable to the buyer for the restitution of the price and other damages as explained in the two preceding Articles.

But the loss that occurred because of a fortuitous event is for the buyer.

Article 1648

An action resulting from redhibitory defects must be brought by the buyer within two years from the discovery of the vice.

In the case provided for in Article 1642-1, the buyer must bring the action, under pain of being barred, within the year which follows the date on which the seller can be discharged from apparent vices or wants of conformity.

Article 1649

The action in warranty for redhibitory vices is not available in judicial sales.

CHAPTER V. OBLIGATIONS OF THE BUYER

Article 1650

The principal obligation of the buyer is to pay the price on the date and at the place fixed by the sale.

Article 1651

If the sale is silent on the matter, the buyer must pay the price where and when delivery is to take place.

Article 1652

The buyer owes interest on the price until payment of the principal in the three following cases:

If the parties so agreed at the time of the sale;

If the thing sold and delivered produces fruits or other revenues;

If the buyer has been put in default or summoned to pay.

In this latter case, interest runs only from the putting in default or summons.

Article 1653

If the buyer is threatened or has a just cause of fearing to be threatened by an action, either a hypothecary action or a revendicatory action, the buyer may suspend the payment of the price until the seller has caused the threat of disturbance to end, unless the seller prefers to provide security to the buyer, or unless it was stipulated that the buyer will pay the price despite the disturbance or threat of disturbance.

Article 1654

If the buyer does not pay the price, the seller may seek the dissolution of the sale.

Article 1655

The dissolution of the sale of immovable property is decreed at once if the seller is in danger of losing both the thing and the price.

If such danger does not exist, the judge may grant the buyer an additional time, the length of which will depend on the circumstances.

When this additional time has expired without payment by the buyer, the dissolution of the sale shall be decreed.

Article 1656

If in the sale of immovable property it has been stipulated that failure to pay the price by the agreed upon time will dissolve the sale by operation of law, the buyer may still pay the price after the time limit has passed, and provided the seller has not put him in default by a summons; but after such putting in default the judge may not grant any additional time.

Article 1657

In sales of commodities and other movable things, the dissolution of the sale for the benefit of the seller shall occur by operation of law and without formal demand after the expiration of the term agreed for removal of the things by the buyer.

CHAPTER VI. NULLITY AND DISSOLUTION OF THE SALE

Article 1658

Independently of the grounds for nullity or resolution already explained in this Title, and of the grounds common to all contracts, the contract of sale may be dissolved by the exercise of the right of redemption and because of the extremely low price.

Section 1. The Right of redemption

Article 1659

The right of redemption is an agreement in which the seller reserves the power to take back the thing sold upon returning the price plus the reimbursement referred to in Article 1673.

Article 1660

The right of redemption may not be stipulated for a term exceeding five years. If stipulated for a longer term, it is reduced to that term.

Article 1661

The term fixed is imperative and cannot be extended by the judge.

Article 1662

Unless the seller exercises his right to redeem within the term fixed, the buyer remains the irrevocable owner.

Article 1663

The term limit runs against all persons, even against a minor, subject to the recourse against whomsoever is concerned, should it be the case.

Article 1664

The seller with a right of redemption may exercise that right against a second party buyer even if that right of redemption had not been stipulated in the second sale.

Article 1665

The buyer under a right of redemption exercises all rights of his seller. He can prescribe both against the true owner and against those who might claim rights or hypothecs on the thing sold.

Article 1666

The same buyer can raise the benefit of discussion against the creditors of his seller.

Article 1667

If a buyer under a right of redemption of an undivided share of an estate successfully bids for the whole in an auction instigated against him, he may compel the seller to redeem the whole should that seller exercise his right to redeem.

Article 1668

If several persons have sold jointly and by a single contract an estate they own in common, each may only exercise the right to redeem as to his part.

Article 1669

The same rule applies if a seller of an estate has left several heirs.

Each co-heir may only exercise the right of redemption for his share in the succession.

Article 1670

But, in the case of the two preceding articles, the buyer may require that all the co-sellers or all the co-heirs be joined in the action so that they may agree among themselves to take back the entire estate; and if they do not agree, their demand to exercise the right of redemption shall be dismissed.

Article 1671

If the sale of an estate belonging to several persons was not made jointly and of the whole estate, and if each person only sold his part, they each may separately exercise the right of redemption on the part that belonged to him.

And the buyer may not compel the one who exercises his right to redeem in this way to redeem the whole.

Article 1672

If the buyer has left several heirs, the right of redemption can be exercised against each one only for his share, if it is still undivided, as well as in the case when the estate sold had been partitioned among them.

But if there has been a partition of the succession and if the thing sold has been allocated to one of the heirs alone, the action to redeem may be brought against that heir for the whole.

Article 1673

The seller who exercises his right of redemption must reimburse not only the price but also the costs and reasonable expenses of the sale, the necessary repairs and those that have increased the value of the estate, up to the amount of that increase. He may enter into possession only after having satisfied all these obligations.

Where the seller regains his estate by the effect of a right of redemption, he takes it free of all encumbrances and hypothecs with which the buyer may have burdened it, provided that the right of redemption had been duly recorded in the registry of immovables before the recordation of the said encumbrances and hypothecs. The seller is bound to execute the leases made without fraud by the buyer.

Section 2. Rescission of a sale for lesion

Article 1674

If a sale of an immovable causes the seller to suffer a loss of more than seven-twelfths of the price, he has the right to demand rescission of the sale, even though he may have expressly waived in the contract the right to seek rescission of the sale, and may have stated that he was giving away the additional value.

Article 1675

To ascertain whether there is lesion of more than seven-twelfths, the immovable must be appraised in its condition and its value at the time of the sale.

In case of a unilateral promise of sale, lesion is ascertained as of the date the promise was made.

Article 1676

No action can be brought after the expiration of two years from the day of the sale.

This time runs against married women, absentees, adults in tutorship, and minors asserting their right in the name of an adult seller.

This time runs also and is not suspended during the time stipulated for the right of redemption.

Article 1677

Proof of lesion must be established by judgment and only when the facts asserted are sufficiently probable and sufficiently serious to raise a presumption of lesion.

Article 1678

This proof can only be established by a report of three experts who are bound to establish a single, joint formal report expressing only one opinion based on a plurality of votes.

Article 1679

If there are differences of opinions, the formal report shall state the reasons given, but it shall not disclose the opinion of the individual experts.

Article 1680

The three experts shall be appointed by the court unless the parties agree to appoint all three jointly.

Article 1681

In the case where the action for rescission is allowed, the buyer may either return the thing and take back the price that he paid for it or keep the estate and pay the balance of the fair price, after deducting one-tenth of the total price.

A third party possessor has the same right, subject to his claim in warranty against his seller.

Article 1682

If the buyer prefers to keep the thing by paying the balance of the price under the preceding Article, he owes the interest on that balance from the date of the claim for rescission.

If he prefers to return the thing and take back the price, he shall return the fruits from the date of the claim.

Interest on the price the buyer paid is also computed from the date of the same claim, or from the date of the payment if he has not collected any fruit.

Article 1683

The buyer has no right to claim rescission for lesion.

Article 1684

Rescission for lesion is not an available remedy in all sales that by law must be made by order of the court.

Article 1685

The rules given in the preceding section for those cases in which several persons have jointly or separately sold, and for the case in which the seller or the buyer has left several heirs apply likewise to an action in rescission.

CHAPTER VII. - LICITATION

Article 1686

If a thing common to several persons cannot be partitioned conveniently and without loss;

Or if in a partition of things owned in common made by mutual agreement there is any thing that none of the coparceners can or wishes to take,

A sale thereof shall be made by auction and the proceeds shall be distributed between the co-owners.

Article 1687

Each co-owner may demand that outsiders be given notice of the licitation: they shall necessarily be given notice where one of the co-owners is a minor.

Article 1688

The method and formalities governing a licitation are explained in the Title on Successions and in the Code of Civil Procedure.

CHAPTER VIII. Assignment of claims and other incorporeal rights

Article 1689

In the case of an assignment of a money claim, or of a right, or of an action against a third party, the delivery takes place between the assignor and the assignee by the actual delivery of the instrument of title.

Article 1690

The right of the assignee is effective against third parties only upon notification of the assignment to the debtor.

However, the assignee may also be put in possession through the acceptance of the assignment given by the debtor in an authentic act.

Article 1691

If before the assignor or the assignee has notified the assignment to the debtor, the latter had paid the assignor, the debtor will be lawfully discharged.

Article 1692

The sale or assignment of a money claim includes its accessories such as security, privileges, and hypothecs.

Article 1693

One who sells a money claim or other incorporeal right must warrant its existence at the time of the transfer even if the sale is made without warranty.

Article 1694

The seller is answerable for the solvency of the debtor only when he so stipulated and then his liability is limited to the price that he received from the sale of the money claim.

Article 1695

When the seller promises to warrant the solvency of the debtor, such promise extends only to the current solvency, and not to future solvency unless the seller expressly so stipulates.

Article 1696

One who sells a succession without specifying in detail the objects only warrants his status as heir.

Article 1697

If the seller of a succession has already benefited from the fruits of some property, or received the payment of a money claim belonging to the succession, or sold some assets of the succession, he is bound to reimburse these items to the buyer, if he did not expressly reserve them at the time of the sale.

Article 1698

The buyer for his part must reimburse the seller for the debts and charges of the succession which he paid and make good to him everything that was owed to him, unless otherwise stipulated.

Article 1699

One against whom a litigious right has been assigned may obtain a release from the assignee by reimbursing him the actual price paid for the assignment, plus costs and reasonable expenses, plus interest calculated from the date on which the assignee paid the price of the assignment made to him.

Article 1700

A right is deemed litigious as soon as there is suit and a dispute over the merits of the right.

Article 1701

The rule of Article 1699 does not apply:

1° In the case where the assignment was made to a co-heir or co-owner of the right assigned;

2° When it was made to a creditor in payment of what is due to him;

3° When it was made to the possessor of the estate to which the litigious right relates.

TITLE VII. EXCHANGE

Article 1702

An exchange is a contract in which the parties give each other one thing for another.

Article 1703

An exchange takes place through the bare consent of the parties, as in a sale.

Article 1704

If one of the parties to an exchange has already received the thing given to him in exchange and subsequently proves that the other party was not the owner of that thing, he cannot be compelled to deliver the thing he himself promised to give, but only to return the thing he has received.

Article 1705

A party to an exchange who is evicted from the thing he has received may either claim damages or recover the thing he has transferred.

Article 1706

There is no rescission for lesion of the contract of exchange.

Article 1707

All the other rules pertaining to the contract of sale apply as well to the contract of exchange.

TITLE VIII. - THE CONTRACT OF LEASE

Chapter i. GENERAL PROVISIONS

Article 1708

There are two kinds of contract of lease:

The lease of things; and

The lease of work.

Article 1709

The lease of things is a contract by which one party binds himself to provide the enjoyment of a thing to the other for a certain time, in return for a certain price that this other party obliges himself to pay the former.

Article 1710

The lease of work is a contract whereby one of the parties binds himself to do a certain thing for the other for a price they agreed upon.

Article 1711

These two kinds of lease are further subdivided into several particular types:

The lease of houses and of movables is called a lease for rent;

That of rural property, an agricultural lease;

That of work or of service, a hire;

That of animals whose profits are divided between the owner and the one to whom he entrusts them, a livestock lease;

Estimates, an agreement, or a fixed price for the undertaking of a work for a determined price, are also leases, when the material is furnished by the one for whom the work is done.

These last three types are governed by special rules.

Article 1712

Leases of national property, of the property of municipalities, and of public institutions are subject to special rules.

CHAPTER II. LEASE OF THINGS

Article 1713

One may lease all kinds of things, both movables and immovables.

Section 1. Rules common to the lease of houses and of rural property

Article 1714

One may lease either in writing or verbally, except, as regards rural property, for the application of the rules particular to agricultural leases and sharecropping.

Article 1715

If a lease made without writing has not yet been carried out even in part, and one of the parties denies its existence, proof may not be adduced through witnesses, however low the price may be, and even if it is alleged that a deposit was paid.

The oath can only be deferred to the party who denies the lease.

Article 1716

When there is a dispute as to the price of a verbal lease whose performance has begun, and no receipt has been given, the owner shall be believed upon his oath, unless the lessee chooses to request an appraisal by experts; in which case, the costs of the appraisal are charged to him, if the appraisal exceeds the price that he has declared.

Article 1717

A lessee has the right to sublease or even to assign his lease to another person, unless that right has been forbidden to him.

It may be forbidden in whole or in part.

Such a clause is always strictly construed.

Article 1718

The provisions of Article 595, paragraphs 2 and 3, relating to leases made by usufructuaries, apply to leases made by a tutor without authorization of the family council.

Article 1719

The lessor is bound, by the nature of the contract, and without need of any particular stipulation:

1° To deliver the thing leased to the lessee, and when the thing is the principal residence of the latter, a decent dwelling. When the premises leased as a dwelling are not fit for that use, the lessor may not assert the nullity of the lease nor its cancellation to demand eviction of the occupant;

2° To maintain the thing in a state that permits the use for which it was leased;

3° To secure to the lessee a peaceful enjoyment for the duration of the lease;

4° To secure also the permanence and quality of plantings.

Article 1720

The lessor is bound to deliver the thing in good repair of all kinds.

He must, during the term of the lease, make all the repairs which may become necessary, other than those the lessee is required to make.

Article 1721

A warranty is owed the tenant against all vices or defects of the thing leased that prevent its use, even if the lessor did not know of them at the time of the lease.

Should the lessee suffer any loss because of such vices or defects, the lessor is required to indemnify him.

Article 1722

If, during the term of the lease, the thing leased is wholly destroyed by a fortuitous event, the lease is terminated by operation of law; if it is destroyed only in part, the lessee may, depending on the circumstances, demand either a reduction in the price, or the very cancellation of the lease. In either case, no indemnification is owed.

Article 1723

A lessor may not, during the term of the lease, change the condition of the thing leased.

Article 1724

If, during the lease, the thing leased needs urgent repairs that cannot be postponed until the end of the lease, the lessee must allow the repairs, whatever inconvenience they cause him and although he is deprived of a part of the thing leased while they are being made.

But if these repairs last more than forty days, the rent shall be reduced in proportion to the time and to the part of the thing leased of which he has been deprived.

If the repairs are of such a nature that they render uninhabitable what is required for the lodging of the lessee and his family, he may have the lease terminated.

Article 1725

A lessor is not bound to warrant the lessee against violent disturbance that third persons cause to his enjoyment, when such third persons do not claim any right to the thing leased; but the lessee may file any appropriate action against them in his own name.

Article 1726

If, on the contrary, the lessee or the farmer has been disturbed in his enjoyment in consequence of an action relating to the ownership of the thing, he is entitled to a proportionate reduction of the rent of the lease or agricultural lease, provided that a notice of the disturbance and of the impediment have been given to the owner.

Article 1727

If those who have committed the acts of violence claim to have some right on the thing leased, or if the lessee himself is summoned in court to be ordered to relinquish all or part of the thing leased, or to allow the exercise of some servitude, he must call the lessor in warranty and shall be dismissed from the suit, if he so demands, by naming the lessor on whose behalf he possesses.

Article 1728

A lessee is bound to two principal obligations:

1° To make use of the thing leased as a prudent administrator and according to the purpose intended by the lease, or according to the purpose presumed under the circumstances, if there is no agreement to that effect;

2° To pay the price of the lease at the times agreed upon.

Article 1729

If the lessee does not make use of the thing leased as a prudent administrator or if he uses the thing leased for any purpose other than the one for which it was intended, or if some damage may result to the lessor, the latter may, according to the circumstances, have the lease terminated.

Article 1730

If an inventory of the condition of the premises leased has been made between the lessor and the lessee, the latter must return the thing in the same state, according to that inventory, except for what has been destroyed or has been deteriorated by old age or by an unforeseeable and irresistible event.

Article 1731

If no detailed inventory of the premises was made, the lessee is presumed to have received the premises in a good state of repairs that a lessee is bound to make, and must return the premises in the same state, unless there is proof to the contrary.

Article 1732

He is answerable for the deteriorations or losses occurring during his enjoyment, unless he proves that they did not occur through any fault of his.

Article 1733

He is answerable in case of fire, unless he proves:

That the fire happened by a fortuitous event or force majeure, or by a defect of construction.

Or, that the fire originated in a neighboring house.

Article 1734

If there are several lessees, they are all liable for a fire in proportion to the rental value of the part of the building they occupy;

Unless they prove that the fire started in the dwelling of one of them, in which case that lessee alone is liable; or

Unless some of them prove that the fire could not have started in their dwellings, in which case they are not liable.

Article 1735

A lessee is responsible for the deteriorations and losses that occur on account of the act of persons of his household or of his sub-lessees.

Article 1736

If a lease had been entered into without a writing, one of the parties may give the other a notice of termination only by observing the periods of time fixed by the usage of the place.

Article 1737

A lease ceases as a matter of law at the expiration of the term fixed, when the lease has been made in writing, without it being necessary to give a notice of termination.

Article 1738

If, at the expiration of a written lease, the lessee remains on the premises and is allowed to continue in possession, a new lease is thereby created and its effect is regulated by the Code article governing leases made without a writing.

Article 1739

Where a notice of termination has been issued, the lessee, although he has continued his enjoyment, may not claim the benefit of a tacit reconduction.

Article 1740

In the instances mentioned in the two preceding Articles, the security given for the lease does not extend to the obligations resulting from the extension of the lease.

Article 1741

The contract of lease is terminated by the destruction of the thing leased and by the failure either of the lessor or of the lessee to perform their obligations.

Article 1742

The contract of lease is not terminated by the death of the lessor nor by the death of the lessee.

Article 1743

If the lessor sells the thing leased, the buyer may not evict the agricultural lessee, the sharecropper, or the lessee who has a lease in authentic form or whose date is certain.

He may, however, evict a lessee of non-rural property if he has reserved that right in the contract of lease.

Article 1744

If it had been agreed at the time of the lease that in the event of a sale the buyer could evict the lessee and if no stipulation had been agreed as to damages, the lessor is bound to indemnify the lessee in the following manner.

Article 1745

In the case of a lease of a house, an apartment, or a shop, the lessor shall pay damages to the evicted tenant in an amount equal to the price of the lease, during that period of time which, according to the usage in the locality, is granted between the notice of termination and the departure.

Article 1746

In case of a lease of rural property, the indemnity which the lessor must pay the farmer shall be one-third of the price of the lease for the whole time that still remains to run on the lease.

Article 1747

When manufactures, factories, or other establishments that require large advances of funds are concerned, the indemnity shall be fixed by experts.

Article 1748

The buyer who wishes to make use of the option reserved by the contract of lease to evict the lessee in case of a sale is also bound to inform him within the period of time which is customary in the place for notices of termination.

Article 1749

Lessees may not be evicted unless the damages referred to above have been paid to them by the lessor or, if he does not pay them, by the new buyer.

Article 1750

If the lease has not been made by authentic act or if it lacks a date certain, the buyer is not liable to pay any damages.

Article 1751

The right to a lease of some premises, without professional or commercial character, which are actually used as their dwelling by two spouses, whatever their matrimonial regime and notwithstanding any agreement to the contrary and even if the lease had been entered into before the marriage, or by two partners bound by a civil pact of solidarity, when the partners join in the demand, is considered to belong to both spouses or partners bound by a civil pact of solidarity.

In case of divorce or separation from bed and board, this right may be allotted, on account of the social and familial interests concerned, by the court having jurisdiction of the action for divorce or separation from bed and board, to one of the spouses, subject to the rights of compensation or indemnity to the benefit of the other spouse.

In the event of death of one of the spouses or of one of the partners in a civil pact of solidarity, the surviving spouse or the partner in a civil pact of solidarity has, as co-lessee, an exclusive right to the lease, except if he expressly renounces it.

Section 2. Special provisions for residential leases

Article 1752

The lessee who does not furnish the house with sufficient furniture may be evicted, unless he gives sufficient security to answer for the rent.

Article 1753

The sub-lessee is liable to the owner only up to the amount of the price of his sub-lease that he may owe at the time of the seizure, without that sub-lessee being able to set off payments he has made in advance.

The payments made by a sub-lessee either under a stipulation contained in his lease, or as a consequence of the usage of the place, are not deemed to have been made in advance.

Article 1754

The repairs which are incumbent upon the lessee or those of minor maintenance for which a lessee is also responsible, unless otherwise stipulated, are those which are considered as such by the usage of the place and, among others, the repairs to be made:

to fireplaces, back-plates, mantelpieces and mantelshelves;

to the roughcasting of the lower parts of walls of apartments and other places of dwelling, up to one meter in height;

to the stones and tiles of the bedrooms, when only a few are broken;

to window panes, unless they have been broken by hail or other extraordinary accidents and by force majeure, for which a lessee may not be held responsible;

to doors, casements, boards for partitioning or closing shops, hinges, bolts, and locks.

Article 1755

None of the repairs considered as incumbent upon a lessee may be charged to lessees if they are occasioned by old age or force majeure.

Article 1756

The cleaning of wells and cesspools shall be the responsibility of the lessor, unless there is a clause to the contrary.

Article 1757

The lease of the furniture provided to furnish a whole house, a whole main part of a building, a shop, or all other apartments is supposed to be made for the ordinary duration of leases of houses, main parts of buildings, shops, or other apartments, according to the usage of the locality.

Article 1758

The lease of a furnished apartment is considered made by the year where it has been made for so much a year;

By the month, when it has been made for so much a month;

By the day, when it has been made for so much a day.

If there is nothing to show that the lease was made for so much a year, a month or a day, the lease is considered made according to the usage of the locality.

Article 1759

If the lessee of a house or an apartment continues his enjoyment after the expiration of the written lease, without objection on the part of the lessor, he shall be considered as occupying them under the same conditions, for the term fixed by the usage of the locality, and he may not leave nor be evicted except after a notice of termination issued within the time required by the usage of the locality.

Article 1760

In case of termination owing to the fault of the lessee, the latter is bound to pay the price of the rent during the time necessary to lease again, to another, without prejudice to the damages that may have resulted from an abusive use.

Article 1761

The lessor cannot cancel the lease, even if he declares that he wishes to occupy the house leased himself, unless there was a stipulation to the contrary.

Article 1762

If it was agreed in the contract of lease, that the lessor might come and occupy the house, he is bound to give a notice of termination in advance, at the times fixed by the usage of the place.

Section 3. Special provisions relating to agricultural leases (leases of farms)

Article 1764

In case of breach, the owner has the right to recover the enjoyment and the lessee shall be ordered to pay the damages resulting from the non-performance of the lease.

Article 1765

If in an agricultural lease it is stated that the lands have an area more or less than they have in fact, there will be ground for an increase or a decrease in the price for the farmer only in the cases and under the rules expressed in the Title Of Sale.

Article 1766

If the lessee of a rural property does not furnish it with cattle and implements necessary for its farming, if he stops cultivating, if he does not cultivate as a prudent administrator, if he does make a use of the thing leased other than that for which it was intended, or, in general, if he does not comply with the stipulations of the lease and, as a consequence, the lessor suffers a loss, the lessor may, according to the circumstances, have the lease terminated.

In case of termination owing to an act of the lessee, he is liable for damages, as is stated in Article 1764.

Article 1767

Any lessee of rural property is bound to store the crops in the place provided for that purpose according to the lease.

Article 1768

The lessee of rural property is bound to give notice to the owner of all encroachments or trespasses that may be committed against the premises, on pain of having to pay all costs and damages.

This notice must be given within the same period as that fixed for the case of a service of a summons according to the distance between places.

Article 1769

If the lease is made for several years, and, during the term of the lease, the whole or half of a crop at least is lost due to fortuitous events, the farmer may ask for a reduction of the price of the lease, unless his loss is made up by the previous crops.

If he is not thus indemnified, the appraisal of the amount of the reduction may take place only at the end of the lease, at which time compensation shall be made of all the years of enjoyment;

And nevertheless the judge may provisionally relieve the lessee of the obligation to pay a part of the price because of the loss he has sustained.

Article 1770

If the lease is only for one year, and the loss is of the whole or at least of half the fruits, the lessee is discharged of a proportionate part of the price of the lease.

He cannot claim any reduction if the loss is of less than one-half.

Article 1771

The farmer cannot claim any reduction if the loss of the fruits occurs after they have been separated from the ground, unless the lease gives the owner a part of the crop in kind; in which case, the owner must bear his share of the loss, provided the lessee had not been put in default to deliver his part of the crop to him.

Neither can the farmer ask for a reduction, if the cause of the loss already existed and was known at the time when the lease was made.

Article 1772

The lessee may be made responsible for fortuitous events by an express stipulation.

Article 1773

Such a stipulation only applies to ordinary fortuitous events, such as hail, lightning, frost, or failure of the crop because of the pollen having been washed away by rains.

It does not extend to extraordinary fortuitous events, such as the ravages of war, or a flood to which the country is not ordinarily subject, unless the lessee has assumed all the fortuitous events, foreseen or unforeseen.

Article 1774

An unwritten lease of rural property is considered to be made for the time necessary for the lessee to collect all the fruits of the property farmed.

Thus an agricultural lease of a meadow, of a vineyard, and of any other property of which the fruits are all gathered during the course of a year is considered made for one year.

A lease of arable lands, when divided by crop rotations or seasons, is considered made for as many years as there are rotations.

Article 1775

A lease of rural properties, although unwritten, only ceases upon expiration of the time specified in the preceding Article by the effect of a written notice of termination given by one of the parties to the other, six months at least before that time.

Failing a notice of termination given in the time above specified, a new lease takes place whose effect is regulated by Article 1774.

It shall be the same if, at the expiration of a written lease, the lessee remains and is allowed to continue in possession.

Article 1777

The departing farmer must leave to the one who succeeds him in the cultivation of the land suitable lodging and other facilities for the work of the following year; and reciprocally the entering farmer must provide the one who is departing with suitable buildings and other facilities for the consumption of fodder and for harvests which remain to be made.

In either case, the usage of the place must be complied with.

Article 1778

The departing farmer must also leave the straw and the manure of the year, if he has received them when he took possession; and even if he did not receive them, the owner may retain them after having them appraised.

CHAPTER III. THE LETTING/HIRING OUT OF LABOUR AND INDUSTRY

Article 1779

There are three principal kinds of letting out of labour and industry:

1° The letting/hiring out of services;

2° That of carriers, as well by land as by water, for the conveyance either of persons or of goods;

3° That of architects, contractors for work, and technicians following studies, plans and estimates, or negotiated contracts.

Section 1. Hiring of services

Article 1780

A person can hire out his services only for a limited time, or for a certain enterprise.

The hiring of services made without determination of duration may always cease by the will of one of the contracting parties.

Nevertheless, the resolution of the contract through the will of only one of the contracting parties may give rise to damages.

To fix the indemnity to be granted, should it be the case, account shall be taken of the local usages, of the nature of the services hired, of the time elapsed, of the amounts withheld, and of the payments toward a retirement pension, and, in general, of all the circumstances which may justify the existence and determine the extent of the prejudice caused.

The parties cannot renounce in advance the contingent right to claim damages under the provisions above.

The controversies that might arise on account of the application of the preceding paragraphs, when such controversies will be brought before the civil courts and before the courts of appeal, shall be filed and prepared for trial as summary proceedings and tried preferentially.

Section 2. Carriers by land and by water

Article 1782

Carriers by land and by water are subject, as regards the custody and the preservation of the things which are entrusted to them, to the same obligations as innkeepers as is stated in the Title on Deposits and Sequestration.

Article 1783

They are answerable not only for what they have already received on board their ship or carriage, but also for what has been delivered to them at the port or in the warehouse, so as to be placed aboard their boat or in their carriage.

Article 1784

They are liable for the loss and damages to the things which are entrusted to them, unless they prove that they have been lost or damaged by fortuitous event or force majeure.

Article 1785

Common carriers of public means of conveyance by land or by water, and public hauliers, must keep account books for the money, the things, articles, and the packages they take charge of.

Article 1786

Carriers and directors of public carriages and haulage, masters of boats and ships, are also subject to special regulations, which constitute the law between them and other citizens.

Section 3. Estimates and works by the job

Article 1787

When one gives a person a certain work to do, it may be agreed that he will furnish only his work or his industry, or that he will also furnish the materials.

Article 1788

If, in the case where the workman furnishes the materials, the thing happens to be destroyed, in whatever manner, before it is delivered, the loss falls upon the workman, unless the owner was put in default for failure to receive the thing.

Article 1789

If, in the case the workman furnishes his work or industry only, the thing happens to be destroyed, the workman is liable only for his fault.

Article 1790

If in the case of the preceding Article the thing happens to be destroyed, although without any fault of the workman, before the work has been received, and without the owner having been put in default to examine it, the workman may not claim any wages, unless the thing has been destroyed because of a defect in the materials.

Article 1791

In case of a work in detached pieces or at the rate of so much per measure, it may be examined by parts: the examination shall be presumed to have been made for all the parts paid, if the owner has paid the workman in proportion to the work done.

Article 1792

Any builder of a work is liable as a matter of law to the owner or to the buyer of the work for the damages, even those resulting from a defect of the ground that compromises the stability of the building or that, by affecting it in one of its essential component parts or one of its complementary elements, that render it unsuitable for its purposes.

Such liability is not incurred if the builder proves that the damages were occasioned by an extraneous cause.

Article 1792-1

Are deemed builders of a work:

1° Any architect, contractor, technician, or other person bound to the owner of the work by a contract of hiring of work;

2° Any person who sells, after completion, a work that he built or had built;

3° Any person who, although acting in the capacity of mandatary for the owner of the work, performs duties similar to those of a hirer of work.

Article 1792-2

The presumption of liability established by Article 1792 also extends to damages affecting the strength of the element of equipment of a work, but only when these elements form an integral part of the works of practicability, foundation, frame, finishing, or roofing.

An element of equipment is considered to be an integral part of one of the works of practicability, foundation, frame, finishing or roofing if its dismantling, disassembly, or replacement cannot be done without deterioration or removal of material from that work.

Article 1792-3

The other elements of equipment of a work are the object of a warranty of good functioning for a minimum time of two years from its receipt.

Article 1792-4

The builder of a work, of a part of a work, or of an element of equipment designed and built to meet precise and predetermined requirements when in working order, is solidarily liable for the obligations imposed by Articles 1792, 1792-2 and 1792-3 on the hirer of the work who brought into operation, without modification and in compliance with the directions of the builder of the work, part of the work, or an element of equipment under consideration.

For the purpose of this Article, shall be treated as builders:

A person who imported a work, a part of a work, or an element of equipment manufactured abroad;

A person who presented it as his own work by having his name, his trade mark, or any other distinctive sign appear on it.

Article 1792-4-1

Any physical or juridical person potentially liable under Articles 1792 to 1792-4 of this Code is relieved of liability or of warranty under Articles 1792 to 1792-2 after ten years from the date of acceptance of the works, and if Article 1792-3 applies upon expiration of the time period stated in the article.

Article 1792-4-2

Actions in liability against a sub-contractor for damages to a work or to elements of equipment of a work mentioned in Articles 1792 and 1792-2 prescribe in ten years from the date of the acceptance of the work, and actions for damages to those elements of equipment of a work mentioned in Article 1792-3, in two years from the date of that same acceptance.

Article 1792-4-3

Outside the actions governed by Article 1792-3, 1792-4-1, and 1792-4-2, actions in liability against builders referred to in Articles 1792 and 1792-1 and their sub-contractors prescribe in ten years from the date of the acceptance of the work.

Article 1792-5

Any clause of a contract that has for its purpose either to exclude or to limit liability contemplated in Articles 1792, 1792-1 and 1792-2, or to exclude warranties contemplated in Articles 1792-3 and 1792-6 or to limit their extent, or to set aside or limit the solidary liability under Article 1792-4, shall be deemed unwritten.

Article 1792-6

Receipt is the act by which the owner of the work declares that he accepts the work with or without reservation. It occurs at the demand of the more diligent party, if not amicably, then judicially. In any case, it shall be pronounced adversarily.

The warranty of perfect completion, to which a contractor is held during a period of one year, after the receipt, extends to the repairs of all the shortcomings indicated by the owner of the work, either through reservations mentioned in the document recording the receipt, or by way of written notice for those shortcomings after the receipt.

The time periods necessary to perform the works of repair are fixed by common agreement of the owner of the work and the contractor concerned.

In the absence of such an agreement or in case of non-performance within the time period agreed, the works can, after a putting in default proved ineffective, be carried out at the expenses and risks of the defaulting contractor.

The performance of the works required under the warranty of perfect completion is established if not by common agreement, then judicially.

The warranty does not extend to the works required to remedy the effects of normal wear or of use.

Article 1792-7

Things that could be elements of equipment, including their accessories, whose sole function is to enable the exercise of a professional activity within the work, are not considered elements of equipment of the work under Articles 1792, 1792-2 1792-3 and 1792-4.

Article 1793

When an architect or a contractor has undertaken to erect a building at a fixed price, according to plans settled and agreed upon with the owner of the land, he cannot ask for any increase in the price, either under the pretext of an increase in the cost of labour or materials, or under that of changes or additions made in the plans, unless those changes or additions have been authorized in writing and the price agreed with the owner.

Article 1794

The owner may, of his own will, terminate a contract at a fixed price, although the work has already begun, by compensating the contractor for all his expenses, for all his works, and for all that he could have earned in that undertaking.

Article 1795

A contract of hiring of work is dissolved by the death of the workman, of the architect or of the contractor.

Article 1796

But the owner is bound to pay to their succession, in proportion to the price listed in the agreement, the value of the works done and that of the materials prepared, but only if the works or the materials can be of use to him.

Article 1797

The contractor is answerable for the acts of the persons whom he employs.

Article 1798

Masons, carpenters and other workmen who have been employed in the construction of a building, or of other works made as part of the construction, have an action against the person for whom the works have been done only up to the amount for which such person owes the contractor, as of the time when their action is instituted.

Article 1799

Masons, carpenters, locksmiths and other workers who enter directly into contracts by the job, are subject to the rules prescribed in this Section: they are contractors as to the part of the work they undertake.

Article 1799-1

The owner of the work who enters into a private contract for construction of works as referred to in Article 1779, 3°, must warrant to the contractor the payment of the sums owed when they exceed a threshold fixed by a decree en Conseil d'État.

When the owner of the work has recourse to a specific credit to finance the works, the lending institution may not pay the amount of the loan to a person other than the ones mentioned in Article 1779, 3°, so long as the latter have not received payment of the whole of the claim arising from the contract corresponding to the loan. Payments shall be made by a written instruction and under the exclusive responsibility of the owner of the work, and into the hands of the person himself or of a mandatary appointed for that purpose.

When the owner of the work does not have recourse to a specific credit or when he has recourse to it only in part, and failing a guarantee resulting from a particular stipulation, the payment shall be guaranteed by a solidary suretyship agreed to by a credit institution, a financing company, an insurance company, or an institution of collective guarantee, according to modalities fixed by decree en Conseil d'État. So long as no guarantee has been provided and that the contractor is unpaid for the works he completed, the latter may suspend performance of the contract if a putting in default he has issued has remained without effect for a period of fifteen days.

The provisions of the preceding paragraph shall not apply where the owner of the work enters into a contract for construction of works on his own behalf and to meet needs that do not arise out of a professional occupation connected to that contract.

The provisions of this Article shall not apply to contracts concluded by a body referred to in Article L. 411-2 of the Construction and Housing Code or concluded by a semi-public corporation for dwellings for lease that have been subsidized by the State and built by that body or corporation.

CHAPTER IV. LEASE OF LIVESTOCK

Section 1: General provisions

Article 1800

A lease of livestock is a contract by which one of the parties gives the other a stock of cattle to be kept, fed, and cared for, under the condition agreed between them.

Article 1801

There are several kinds of leases of livestock:

Simple or ordinary lease of livestock,

Lease of livestock by halves,

Lease of livestock granted to a farmer or sharecropper.

There is also a fourth kind of contract, improperly called livestock.

Article 1802

A lease of livestock may be made for all kinds of animals which can increase or be of profit for agriculture or trade.

Article 1803

Failing special agreement, those contracts are governed by the following principles.

Section 2. Simple lease of livestock

Article 1804

A simple lease of livestock is a contract by which one person gives to another animals to be kept, fed, and cared for, on condition that the lessee will profit from one half of the increase in stock and will also bear one-half of the loss.

Article 1805

The statement of the number, description and evaluation of the animals delivered, as indicated in the lease, does not transfer their ownership to the lessee. It has no other purpose than to be used as basis for the settlement to occur on the day when the contract comes to an end.

Article 1806

A lessee is bound to give the care of a prudent administrator to the preservation of the livestock.

Article 1807

He is liable for a fortuitous event only when the event was preceded by some fault on his part, without which the loss would not have occurred.

Article 1808

In case of dispute, the lessee is bound to prove the fortuitous event, and the lessor is bound to prove the fault that he imputes to the lessee.

Article 1809

A lessee who is exonerated by a fortuitous event is always bound to account for the hides of the animals.

Article 1810

Should all the livestock perish in its entirety without the fault of the lessee, the loss falls on the lessor.

Should only some of the livestock perish, the loss is borne jointly, according to the price of the original evaluation and that of the evaluation at the expiration of the lease.

Article 1811

It cannot be stipulated:

That the lessee shall bear the total loss of the livestock, even if caused by a fortuitous event and without his fault;

Or that he shall bear a greater share of the losses than of the profits;

Or that the lessor shall, at the end of the lease, take back something more than the livestock that he delivered.

Any agreement of this kind is null.

The lessee shall alone benefit from the dairy products, the manure and the work of the animals leased.

The wool and the increase in stock are shared.

Article 1812

A lessee may not dispose of any animal of a herd or flock, either from the stock or from the increase, without the consent of the lessor who himself may not dispose of it without the consent of the lessee.

Article 1813

When livestock is given to the lessee of another, notice of it must be given to the lessor from whom that lessee holds; otherwise, the lessor may seize it and have it sold for what his lessee owes him.

Article 1814

The lessee may not shear without the consent of the lessor.

Article 1815

Where no time has been fixed by the agreement for the duration of a lease, it is considered made for three years.

Article 1816

The lessor may claim its termination sooner if the lessee does not fulfil his obligations.

Article 1817

At the end of the lease or at the time of its resolution, the lessor shall take animals of each kind in order to obtain a stock of cattle similar to the one he delivered, in particular as to the number, breed, age, weight, and quality of the animals; the excess shall be divided.

If there are not enough animals to restore the stock of cattle as defined above, the parties account for the loss between themselves on the basis of the value of the animals as of the day when the contract ends.

Any agreement under which, at the end of the lease or at the time of its termination, the lessee must leave behind a stock of cattle of a value equal to the price of the evaluation of the one which he had received, is null.

Section 3. Lease of livestock by halves

Article 1818

A lease of livestock by halves is a partnership in which each contracting party furnishes one half of the cattle, which remain in common for profit or for loss.

Article 1819

The lessee alone profits from the dairy products, manure and work of the animals, as in a simple lease of livestock.

The lessor shall be entitled only to one-half of the wool and one-half of the increase.

Any agreement to the contrary is null, unless the lessor is the owner of the farm of which the lessee is farmer or sharecropper.

Article 1820

All the other rules of a simple lease of livestock apply to a lease of livestock by halves.

Section 4. Lease of livestock given by owner to his farmer or sharecropper

Sub-article 1. Lease of livestock given to the farmer

Article 1821

In such a lease (also called an iron lease of livestock) the owner of an agricultural farm gives it in lease on the condition that upon expiration of the lease the farmer shall leave the same stock of animals as he received.

Article 1822

The statement of the number, description, and evaluation of the animals delivered that appears in the contract of lease does not transfer ownership of the animals to the lessee; its sole purpose is to serve as a basis for the accounting that will take place at the moment the contract ends.

Article 1823

All profits belong to the farmer during the period of his lease, unless otherwise agreed.

Article 1824

In leases of livestock given to a farmer, the manure is not among the personal profits of the lessee but belongs to the farm, for whose cultivation it must be exclusively used.

Article 1825

The loss, even if total and by fortuitous event, falls wholly upon the farmer, unless otherwise agreed.

Article 1826

At the end of the lease or at the time of its resolution, the lessee must leave animals of each kind composing a stock similar to the stock he received, in particular as to number, breed, age, weight, and quality of the animals.

If there is an excess, it belongs to him.

If there is a deficiency, settlement between the parties shall be made on the basis of the value of the animals as of the date the contract comes to an end.

Any agreement under which, at the end of the lease or at the time of its resolution, the lessee shall leave a stock of animals of a value equal to the price of the original valuation of the stock of animals he received, is null.

Sub-article 2. Lease of livestock given to a sharecropper

Article 1827

If all the livestock perishes or is lost completely without fault of the sharecropper, the loss falls on the lessor.

Article 1828

It may be stipulated that the sharecropper will surrender to the lessor his part of the fleece at a price below the ordinary value;

That the lessor shall have a larger share of the profit;

That he shall have half of the dairy products;

But it cannot be stipulated that the sharecropper will bear the whole loss.

Article 1829

This livestock lease ends when the lease of the farm ends.

Article 1830

In other matters, this livestock lease is governed by all the rules of a simple lease of livestock.

Section 5. The contract improperly called "cheptel", livestock

Article 1831

Where one or several cows are given to be sheltered and fed, the lessor retains their ownership; he is entitled only to the profit of the calves which are born of them.

TITRE VIII BIS. CONTRACTS OF IMMOVABLE PROPERTY DEVELOPMENT.

Article 1831-1

A contract of immovable property development is a mandate for the common interest by which one person, called a promoter, binds himself to the owner of the work, for an agreed price, to assure the execution of a program of construction of one or more buildings through contracts of hiring of labour and work, as well as to undertake himself or have undertaken, for an agreed remuneration, all or part of the legal, administrative, and financial operations aiming at the same goal. This promoter warrants the performance of the obligations undertaken by the persons with whom he has dealt on behalf of the owner of the work. In particular, he is responsible for the obligations resulting from Articles 1792, 1792-1, 1792-2 and 1792-3 of this Code.

If the promoter binds himself to perform personally some of the operations of the program of construction, he is bound as to those operations to the obligations of a lessor of work.

Article 1831-2

The contract vests in the promoter the authority to conclude contracts, to accept works done, to pay sums due on contracts, and generally to do in the name of the owner, all the transactions required by the carrying out of the program, up to the amount of the lump-sum agreed upon.

However, the promoter only binds the owner, by the loans he contracts or the acts of disposition he undertakes, on the basis of the special mandate contained in the contract to develop the immovable or in a subsequent act.

The owner is bound to carry out the commitments contracted on his behalf by the promoter within the authority the latter holds under the law or under the contract.

Article 1831-3

If, before completion of the program, the building owner assigns the rights he has to the program, the assignee is substituted to him by operation of law, actively and passively [with respect to rights and

liabilities], for the whole of the contract. The assignor warrants performance of the obligations placed on the owner by the contract assigned.

Special mandates given to the promoter continue between the latter and the assignee.

The promoter may not substitute a third party for himself in the performance of the obligations that he has contracted toward the owner without the consent of the latter.

A contract of immovable property development is effective against third parties only from the date of its recordation in the land register.

Article 1831-4

The task of the promoter ends upon delivery of the work only if the accounts for the construction have been definitively settled between the owner and the promoter, the whole without prejudice to any action for damages the owner may have against the promoter.

Article 1831-5

Judicial receivership or liquidation of assets does not entail of right the termination of the contract of immovable property development. Any stipulation to the contrary is deemed unwritten.

TITLE IX. PARTNERSHIP

Chapter i. GENERAL PROVISIONS

Article 1832

A partnership is created by two or several persons who agree by a contract to appropriate property or their industry for a common venture with a view to sharing the benefit or profiting from the saving which may result therefrom.

It may be created, in the cases provided for by statute, through the act of the will of one person only.

The partners bind themselves to contribute to the losses.

Article 1832-1

Even where they use only community property as their contributions to a partnership or for the acquisition of shares of a partnership, two spouses alone or with other persons may be partners of a same partnership and participate together or not in the management of the partnership.

The advantages and liberalities resulting from a partnership agreement between spouses cannot be annulled because they would constitute disguised donations, where their conditions have been governed by an authentic act.

Article 1832-2

One spouse may not, under the penalty provided for in Article 1427, make use of community property in order to make a contribution to a partnership or acquire non-negotiable partnership shares without the other spouse being informed thereof and proof of it being provided in the act.

The status of partner is given to the spouse who makes the contribution or the acquisition.

The status of member is also given, for half of the shares subscribed or acquired, to the spouse who gave notice to the partnership of his or her intention to be personally a partner. When he or she gives notice of his or her intention at the time of the contribution or acquisition, the acceptance or approval of the partners benefits both spouses. If this notice is issued after the contribution or the acquisition, the clauses requiring approval provided for this purpose in the Articles of partnership are effective against the spouse; at the time of the deliberation on the approval, the partner-spouse does not participate in the vote and his or her shares are not taken into account in calculating the quorum and the majority.

The provisions of this Article shall apply only to partnerships whose shares are not negotiable and only until dissolution of the community.

Article 1833

All partnerships must have a lawful object and be created for the common interest of the partners.

Article 1834

The provisions of this Chapter shall apply to all partnerships, unless otherwise provided for by statute by reason of their form or of their objects.

Article 1835

The Articles of partnership must be drawn up in writing. They shall determine, in addition to the contributions of each partner, the form, the object, the name, the registered place of business, the capital of the partnership, the duration of the partnership and the rules and mechanisms of its functioning.

Article 1836

Unless otherwise stipulated, the Articles may be modified only by unanimous agreement of the partners.

Under no circumstances can the commitments of a partner be increased without his consent.

Article 1837

Any partnership whose registered place of business is located on the French territory is subject to French law.

Third parties may avail themselves of the registered place of business of the partnership but that place of business cannot be raised against them by the partnership if its actual place of business is located elsewhere.

Article 1838

The length of time of existence of the partnership may not exceed ninety-nine years.

Article 1839

If the Articles do not include all the statements required by legislation or if a formality prescribed by it for the formation of the partnership was omitted or irregularly completed, any interested person may apply to the court to have the partnership's formation regularized by order of the court, under the imposition of "astreinte" - a periodic penalty payment. The State prosecutor is entitled to bring an action for the same purposes.

The same rules shall apply in case of modification to the Article.

The action for purposes of regularization provided for in paragraph 1 prescribes in three years from the registration of the partnership or from the publication of the act that modifies the Articles.

Article 1840

The founders, as well as the first members of the management, direction and administrative organs, are solidarily liable for the loss caused either by the want of a compulsory statement in the Articles, or by the omission or irregular fulfillment of a formality prescribed for the formation of the partnership.

In case of modification of the Articles, the provisions of the preceding paragraph shall apply to the members of the management, direction and administrative organs then in office.

The action prescribes in ten years from the day when one or the other, according to the circumstances, of the formalities provided for in Article 1839, paragraph 3, has been completed.

Article 1841

Partnerships which have not been authorized by statute to make public offerings or to issue negotiable securities, are prohibited to do so on pain of invalidity of the contracts concluded or of the securities issued.

Article 1842

Partnership other than undeclared partnerships referred to in Chapter III enjoy legal personality from their registration.

Until registration the relations between the partners are governed by the agreement of partnership and by the general principles of law governing contracts and obligations.

Article 1843

Persons who have acted on behalf of a partnership in the making before registration are liable for the obligations arising from the acts so performed, solidarily if the partnership is a commercial partnership and without solidarity in the other cases. The partnership regularly registered may take upon itself the engagements entered into, which are then deemed to have been retroactively contracted by it from the beginning.

Article 1843-1

A contribution of an asset or of a right subject to publicity in order to be effective as against third parties may be publicized before the registration of the partnership and on the condition that the latter takes place. From the time of the registration, the effects of the formality retroact to the date of its fulfilment.

Article 1843-2

The rights of each partner in the capital of the partnership are in proportion to his contribution at the time of the formation of the partnership or during the course of its existence.

Contributions in industry are not considered in the formation of the capital of the partnership but give rise to an allocation of shares which entitles the holder to the partition of the profits and net assets, on condition that he contributes to the losses.

Article 1843-3

Every partner is a debtor towards the partnership for all that he has promised to contribute to it whether in kind, in money or in industry.

Contributions in kind shall be carried out by the transfer of the corresponding rights and by the actual placing of the assets at the disposal of the partnership.

When a contribution is in full ownership, the contributor is warrantor therefor towards the partnership in the same manner as a seller towards his buyer.

When a contribution is of enjoyment, the contributor is warrantor therefor towards the partnership in the same manner as a lessor towards his lessee. However, where a contribution is one of enjoyment of things of gender or of things that are normally renewable during the existence of the partnership, the contract transfers to the partnership the ownership of the assets contributed, on condition that the same quantity, quality and value thereof be returned; in that case, the contributor is warrantor in the manner as provided for in the preceding paragraph.

The partners who was to contribute a sum to the partnership and has not done so, becomes by operation of law and without notice, debtor of the interests on that sum from the day when it should have been paid and this without prejudice to greater damages, should it be the case. Furthermore, where calls for funds in order to pay up the full amount of the capital have not been made within a statutory period, any person concerned may apply to the president of the court who shall decide by way of summary proceedings either to order the administrators, directors and managers to carry out those calls for funds under threat of a periodic penalty payment, or to appoint a mandatary charged with carrying out that formality.

The partner who has bound himself to contribute his industry to the partnership shall account to it for all the profits which he has gained on account of the industry which is the subject matter of his contribution.

Article 1843-4

In all cases in which the assignment of a partner's rights is contemplated, or the redemption of those rights by the partnership, the value of those rights shall be determined, in case of dispute, by an expert appointed, either by the parties, or failing an agreement between them, by order of the president of the court who shall decide by way of summary proceedings and without possibility of an appeal.

Article 1843-5

In addition to an action for compensation for the loss personally suffered, one or several partners may bring the partnership action in liability against the managers. The claimants are entitled to seek compensation for the loss suffered by the partnership; in case of an award, the damages shall be allocated to the partnership.

Shall be deemed unwritten any clause of the Articles which has for its effect to subordinate the bringing of an action on behalf of a partnership to a preliminary opinion or to the authorization of the assembly of the members or which would amount to an anticipated waiver of the exercise of that action.

No decision of the assembly of the partners may lead to extinguish an action in liability against the managers for fault committed in the fulfilment of their mandate.

Article 1844

Every partner has the right to participate in collective decisions.

The co-owners of an undivided share of the capital shall be represented by a single proxy, chosen among the undivided owners or outside. In case of disagreement, the proxy shall be designated in court at the request of the diligent party.

If a share is burdened with a usufruct, the right to vote belongs to the naked-owner, except as concerns the decisions that relate to the allocation of profits, in which case it is reserved for the usufructuary.

The Articles may derogate from the provisions of the two preceding paragraphs.

Article 1844-1

The share of each partner in the profits and his contribution to the losses are determined in proportion to his share in the capital of the partnership and the share of the partner who has contributed only his industry is equal to that of the partner who has contributed the least, all the above unless otherwise agreed.

However, the stipulation allocating to one partner the totality of the profit made by the partnership or the stipulation exonerating him from all the losses, the clause by which a partner is excluded in whole from the profit or which makes him liable for all the losses, are deemed unwritten.

Article 1844-2

Neither a hypothec nor any other security in rem on the assets of the partnership may be given on the basis of powers resulting from deliberation or delegations established under private signatures, whenever the creation of the hypothec or of the security must be done by an authentic act.

Article 1844-3

The proper transformation of a partnership into a partnership of another type does not lead to the creation of a new juridical person. The same holds as regards the extension of the existence of the partnership or any other modification of the Articles.

Article 1844-4

A partnership, even in liquidation, may be absorbed by another partnership or participate in the formation of a new partnership, by way of merger.

It may also transfer its patrimony by way of split-off to existing or new partnerships.

Those transactions may occur between partnerships of different types.

They shall be decided, by each partnership concerned, according to the requirements stipulated for the modification of its Articles.

If the overall transaction involves the creation of new partnerships, each one of them shall be formed in accordance with the rules appropriate to the type of partnership adopted.

Article 1844-5

The reuniting of all the partnership shares into a single hand does not carry with it the dissolution of right of the partnership. Any person concerned may seek the dissolution if the situation has not been regularized within the period of one year. The court may grant the partnership a maximum period of six months to regularize the situation. The court may not order the dissolution if, on the day when it rules on the issue, that regularization has occurred.

The fact that the usufruct of all the shares of the partnership belongs to the same person has no consequence as to the existence of the partnership.

In case of dissolution, it leads to the universal transfer of the patrimony of the partnership to the single partner, without there being occasion for liquidation. The creditors may object to the dissolution within a period of thirty days after the publication of the dissolution. A judicial decision shall dismiss the objection or order either the reimbursement of the claims, or the constitution of guarantees if the partnership offers any and if they are considered sufficient. The transfer of the patrimony is carried out and the legal person vanishes only at the end of the period for objection or, should it be the case, when the objection has been dismissed in first instance or when the reimbursement of the claims has been made or the guarantees constituted.

The provisions of paragraph 3 shall not apply to partnerships whose single member is a natural person.

Article 1844-6

The extension of the lifetime of the partnership must be decided by a unanimous vote of the partners or, if the Articles so provide, by the majority required for their modification.

One year at least before the date of the end of the partnership, the opinion of the partners must be taken for the purpose of deciding whether the lifetime of the partnership must be extended.

Failing which, any partner may apply to the president of the court, ruling by interim ex parte order, for the appointment of a judicial administrator in charge of instituting the consultation provided for above.

Article 1844-7

A partnership comes to an end:

1° Upon expiration of the time for which it had been formed, except for an extension of its duration decided in accordance with Article 1844-6;

2° By the achievement or the extinction of its object;

3° By annulment of the partnership agreement;

4° By anticipated dissolution decided by the partners;

5° By anticipated dissolution ordered by the court on application of a partner for good reasons, notably in case of non-performance of his obligations by a partner, or of disagreement between partner which paralyses the running of the partnership;

6° By anticipated dissolution ordered by the court in the case provided for in Article 1844-5;

7° By the effect of a judgment ordering the judicial liquidation;

8° For any other reason specified in the Articles.

Article 1844-8

The dissolution of the partnership carries with it its liquidation, except for the cases provided for by Article 1844-4 and by Article 1844-5, paragraph 3. It is effective against third persons only after it has been recorded.

The liquidator shall be appointed in accordance with the provisions of the Articles. When they are silent, he shall be appointed by the partners or, if the partners were unable to make that appointment, by order of the court. The liquidator may be dismissed in the same manner. The appointment and the dismissal are

effective against third persons only after they have been published. Neither the partnership nor third parties may, in order to elude their commitments, avail themselves of an irregularity in the appointment or dismissal of the liquidator, should the latter has been duly published.

The legal personality of the partnership still exists for the needs of liquidation until the publication of its closing.

If the closing of a liquidation has not happened within three years after the dissolution, the State Prosecutor's office or any person concerned may refer the matter to the court which shall have the liquidation carried out, or if it has begun, have it completed.

Article 1844-9

After the debts have been paid and the authorized capital reimbursed, the partition of the assets shall be made among the partners in the same proportion as their participation in the profits, except in the case of an agreement to the contrary.

The rules relating to the partition of successions, including the preferential allotment, shall apply to partitions between partners.

However, the partners may lawfully decide, either in the Articles, or by a separate resolution or act, that certain assets shall be allotted to certain partners. Failing that, any asset contributed which shows up in kind in the assets to be partitioned shall be allotted, on his request and on condition of adjustment, should it be the case, to the partner who had contributed it. Their right shall be exercised before any other right to a preferential allotment.

All the partners, or some of them only, may also remain in the indivision of all or part of the partnership assets. Their relations vis-à-vis these assets shall be then regulated, at the close of the liquidation, by the provisions relating to indivision.

Article 1844-10

The nullity of the partnership may result only from the violation of the provisions of Articles 1832, 1832-1, paragraph 1, and 1833 or from one of the grounds of nullity of contracts in general.

Any clause of the Articles contrary to an imperative provision of this Title, the violation of which is not sanctioned by the nullity of the partnership, shall be deemed unwritten.

The nullity of acts or deliberations of the organs of the partnership may result only from the violation of an imperative provision of this Title or from one of the grounds of nullity of contracts in general.

Article 1844-11

The action in nullity is extinguished where the ground of nullity has ceased to exist on the day when the court rules on the merits in first instance, unless that nullity is based on the unlawfulness of the object of the partnership.

Article 1844-12

In the event of the nullity of a partnership or of acts or deliberations subsequent to its formation, based on a vice of consent or on the incapacity of a partner, and where a regularization may take place, any person having an interest therein may put in default the person who is able to carry it out, either to regularize, or to bring an action in nullity within a period of six months on pain of being time-barred. The partnership shall be informed of that putting in default.

The partnership or a partner may submit to the court seized within the period provided for in the preceding paragraph, any measure appropriate to clear away the interest of the plaintiff, particularly through the redemption of his rights in the partnership. In that case the court may, either declare the nullity or declare compulsory the proposed measures if they have been previously adopted by the partnership under the conditions provided for modification to the Articles. The vote of the partner whose redemption of the rights is applied for is of no effect on the decision of the partnership.

In case of challenge, the value of the partnership rights to reimburse to the partner shall be determined in accordance with the provisions of Article 1843-4.

Article 1844-13

The court before which an action for nullity has been referred, may, even of its own motion, fix a period of time to allow for the nullities to be remedied. The Court may not declare the nullity less than two months after the date of institution of the proceedings.

If, to take care of a nullity a meeting must be convened, or a consultation of the partners to take place, and if proof is given of a proper notice convening that meeting or of the sending to the partners the texts of the proposed drafts of resolutions together with the documents which must be communicated to them, the court shall grant by judgment the period of time necessary for the partners to come to a decision.

Article 1844-14

Actions in nullity of the partnership or of acts or deliberations subsequent to its formation are time-barred after three years from the day when the nullity is incurred.

Article 1844-15

When the nullity of the partnership is declared, it puts an end, without retroactivity, to the performance of the contract.

As regards the legal person which may have come into being, it produces the effects of a judicially ordered dissolution.

Article 1844-16

Neither the partnership nor the partners may avail themselves of a nullity against third parties in good faith. However, the nullity resulting from the incapacity or from one of the vices of consent can be opposed to third parties by the incapable person and his legal representatives, or by the partner whose consent was abused by error, dolus [deceit] or violence.

Article 1844-17

An action in liability on account of the annulment of the partnership or of acts and deliberations subsequent to the formation is time-barred after three years from the day when the judgment of annulment has become res judicata.

The extinction of the ground of nullity is not a bar to the bringing of an action for damages for the purpose of compensating the loss caused by the defect by which the partnership, the act or the deliberation was vitiated. This action is time-barred after three years from the day when the invalidity was remedied.

CHAPTER II. ORDINARY CIVIL PARTNERSHIPS

Section 1: General provisions

Article 1845

The provisions of this Chapter shall apply to all civil (non-commercial) partnership, unless there exists a derogation on account of the particular legal status to which some of them are subject.

Have civil (non-commercial) character all partnerships to which statutory law does not attribute another character by reason of their form, nature or object.

Article 1845-1

The capital of a partnership is divided into equal shares.

The provisions of Chapter I of Title III of Book II of the Commercial Code relating to the variable capital of companies and partnerships shall apply to civil partnerships.

Section 2. Management

Article 1846

The partnership is managed by one or several persons, partners or not, appointed either by the Articles of partnership, or by a separate act, or by a decision of the partners.

The Articles shall fix the rules for the designation of the manager or managers and the method of organization of the management.

Unless otherwise provided in the Articles, a manager shall be appointed by a decision of the partners representing more than half of the shares of the partnership.

In the event the Articles are silent, and if the partners have not decided otherwise at the time of the appointment, the managers shall be deemed appointed for the duration of the partnership.

If, for whatever reason, a partnership is deprived of a manager, any partner may apply to the president of the court who shall rule on the petition for the designation of a mandatary charged with convening the partners for the purpose of appointing one or several managers.

Article 1846-1

Apart from the cases referred to in Article 1844-7, the partnership comes to an end as a result of an anticipated dissolution which a court may order on application of any person concerned, when the partnership has remained without a manager for more than one year.

Article 1846-2

The appointment and the cessation of the duties of the managers must be published.

Neither a partnership nor third parties may avail themselves of an irregularity in the appointment of managers or in the cessation of their duties in order to elude their commitments, when those decisions have been duly published.

Article 1847

If a legal entity carries on the management, its managers are subject to the same conditions and obligations and incur the same civil and penal liabilities as though they were managers on their own behalf, without prejudice to the solidary liability of the legal entity which they manage.

Article 1848

In the relations between partners, the manager may carry out all the acts of management which the interest of the partnership requires.

If there are several managers, they exercise those powers separately, except for the right which belongs to each of them to object to a transaction before it is concluded.

All the above failing a special provision in the Articles on the method of administration.

Article 1849

In the relations with third parties, the manager binds the partnership through transactions which fall under the object of the partnership.

In case of plurality of managers, they each possess separately the powers provided for in the preceding paragraph. The objection raised by one manager to the transactions of another manager is of no effect with regard to third parties, unless it is established that they have had knowledge of it.

Clauses of the Articles limiting the powers of the managers may not be invoked against third parties.

Article 1850

Each manager is liable individually towards the partnership and towards third parties, either for violations of statutes and regulations, or for an infringement of the Articles, or for faults committed in his management.

Where several managers have participated in the same acts, their liability is solidary towards third parties and partners. However, in their relations among themselves, the court shall determine the contributory share of each in the reparation of the damage.

Article 1851

Unless the Articles provide otherwise, a manager may be dismissed by a decision of the partners representing more than half of the shares of the partnership. If the dismissal is decided without just reason, it may give rise to monetary damages.

A manager may also be dismissed by the courts for a legitimate cause, on the application of any partner.

Unless otherwise provided, the dismissal of a manager, whether he is a partner or not, does not carry with it the dissolution of the partnership. If the dismissed manager is a partner, he may, unless the Articles provide otherwise, or the other partners decide the anticipated dissolution of the partnership, withdraw from it under the conditions listed in Article 1869, paragraph 2.

Section 3. Collective decisions

Article 1852

Decisions that exceed the powers conferred upon the managers shall be passed according to the provisions of the Articles or, failing such provisions, by the partners unanimously.

Article 1853

Decisions shall be taken by the partners convened in a meeting. The Articles may also provide that the decisions will result from a written consultation.

Article 1854

Decisions may also result from the consent of all the partners expressed in an act.

Section 4. Information to the partners

Article 1855

The partners are entitled to obtain, at least once a year, communication of the books and documents of the partnership, and to ask questions in writing on the management of the partnership, to which a reply must be given in writing within one month.

Article 1856

The managers must, at least once in the year, account for their management to the partners. This statement of accounts must include a comprehensive written report on the activity of the partnership during the year or the accounting period elapsed including a statement of the profits realized or foreseeable and of the losses incurred or foreseen.

Section 5. Responsibility of the partners toward third parties

Article 1857

Vis-à-vis third parties, the partners are liable indefinitely for the debts of the partnership in proportion to their share in the capital of the partnership on the date when they fall due or on the day of cessation of payments.

The partner who has contributed only his industry is liable like the one whose contribution in the capital is the smallest.

Article 1858

The creditors may sue a partner for payment of the debts of the partnership only after having first sued and vainly the legal entity.

Article 1859

All legal actions against the partners who are not liquidators or their heirs and assigns prescribe after five years from the time when the dissolution of the partnership has been published.

Article 1860

Where there is insolvency, personal bankruptcy, judicial liquidation or judicial administration befalling one of the partners, unless the others unanimously decide to dissolve the partnership by anticipation or unless that dissolution is provided for by the Articles, reimbursement shall be made, subject to the conditions set out in Article 1843-4, of the rights in the partnership of the party concerned, who will then lose the status of partner.

Section 6. Transfer of partnership shares

Article 1861

Shares in the capital may be transferred only with the approval of all the partners.

The Articles may however provide that the approval will be obtained by a majority which they fix, or that it may be granted by the managers. They may also dispense from approval the transfers made to partners or to the spouse of one of them. Unless otherwise provided by the Articles, transfers granted to ascendants or descendants of the transferor are not subject to approval.

Notice shall be given of the planned transfer, with request for approval, to the partnership and to each one of the partners. When two spouses are simultaneously members of one partnership, the transfers made by one of them to the other must, in order to be valid, result from a notarial act or from an act under private signature having acquired an undisputable date otherwise than by the death of the transferor.

Notice shall be given only to the partnership when the Articles provide that the approval may be granted by the managers.

Article 1862

When several partners express their intent to acquire, they are, unless there is a clause or an agreement to the contrary, deemed acquirers in proportion to the number of shares which they previously held.

If no partner stands as an acquirer, the partnership may have the shares acquired by a third person designated by the other partners acting unanimously or according to the modalities provided for by the Articles. The partnership may also proceed with the acquisition of the shares for the purpose of cancelling them.

The transferor shall be given notice of the names of the proposed purchaser or purchasers, partners or third persons, or of the offer of acquisition by the partnership, as well as of the price offered. In case of dispute on the price, the latter shall be fixed in accordance with the provisions of Article 1843-4, the whole without prejudice to the right of the transferor to keep his shares.

Article 1863

If no offer of acquisition is made to the transferor within a period of six months after the last of the notifications provided for in Article 1861, paragraph 3, approval of the transfer shall be deemed obtained, unless the other partners decide, within the same period, the anticipated dissolution of the partnership.

In the latter case, the transferor may cause that decision to be null and void by making it known within a period of one month after the said decision, that he is renouncing the transfer.

Article 1864

The provisions of the two preceding Articles may be derogated from only in order to modify the period of six months laid down in Article 1863, paragraph 1, and provided the period stated in the Articles be not over one year or less than one month.

Article 1865

The transfer of shares in the partnership must be recorded in a writing. It shall be opposable to the partnership under the forms provided for in Article 1690 or, if the Articles so stipulate, by transfer on the registers of the partnership.

It can be opposed to third persons only after completion of those formalities and after publication.

Article 1866

The shares in the partnership may be the subject of a pledge certified, either by an authentic act, or by an act under private signature served upon the partnership or accepted by it in an authentic act and giving rise to a publication whose date determines the rank of the secured creditors. Those whose titles are published on the same day rank equally.

The privilege of a pledgee creditor remains on the partnership rights which have been pleged by the mere fact of the publication of the pledge.

Article 1867

Any partner may obtain from the other partners their approval on a plan of a pledge in the same conditions as their approval on a transfer of shares.

The consent given to a plan of a pledge carries with it the approval of the transferee in case of a compulsory sale of the shares of the partnership on the condition that notification of the sale be given to the partners and the partnership at least one month before the sale.

Each partner may substitute himself to the purchaser within a period of five clear days from the sale. Should several partners exercise this right, they shall be, unless there is a clause or an agreement to the contrary, deemed acquirers in proportion to the number of shares which they held previously. If no partner exercises this right, the partnership itself may redeem the shares for the purpose of cancelling them.

Article 1868

Likewise, notification must be given, one month before the sale to the partners or to the partnership, of a forced sale which does not result from a pledge and to which the other partners have given their approval.

The partners may, within this period of time, decide to dissolve the partnership or to acquire the shares as is provided in Articles 1862 and 1863.

If the sale has taken place, the partners or the partnership may exercise the right of substitution which is theirs under Article 1867. Failure to exercise that right carries with it approval of the acquirer.

Section 7. Withdrawal or death of a partner

Article 1869

Without prejudice to the rights of third persons, a partner may withdraw totally or partially from the partnership, subject to the conditions laid down in the Articles or, failing that, after authorization given by a unanimous decision of the other partners. Such a withdrawal may also be authorized by a judicial decision for just reasons.

Unless Article 1844-9, paragraph 3, applies, the partner who withdraws is entitled to be reimbursed the value of his rights in the partnership, fixed in accordance with Article 1843-4, failing an amicable agreement.

Article 1870

The partnership is not dissolved by the death of a partner, but continues with his heirs or legatees, under the reservation that the Articles may provide that they must be approved by the partners.

It may however be agreed that the death will lead to the dissolution of the partnership or that the partnership will continue with the surviving partners only.

It may also be agreed that the partnership will continue either with the surviving spouse, or with one or several of the heirs, or with any other person designated by the Articles or, if the latter so authorize, by a testamentary disposition.

Unless the Articles provide otherwise, when the succession devolves upon a legal entity, the latter may become a partner only with the approval of the other partners, granted under the conditions provided for by the Articles or, failing that, by unanimous agreement of the partners.

Article 1870-1

Heirs or legatees who do not become partners are entitled only to the value of the shares that their predecessor in title held in the partnership. This value must be paid to them by the new holders of the shares or by the partnership itself when it has redeemed them for the purpose of cancelling them.

The value of these shares shall be determined on the day of the death in the conditions provided for in Article 1843-4.

CHAPTER III. UNDECLARED PARTNERSHIP [JOINT VENTURE]

Article 1871

Partners may agree that the partnership will not be registered. The partnership is then called "undeclared partnership" [joint venture]. It is not a legal entity and is not subject to publication requirements. Proof of its existence may be made by any means.

The partners freely agree upon the object, the operation and conditions of the undeclared partnership [joint venture], provided that the mandatory provisions of Articles 1832, 1832-1, 1833, 1836, paragraph 2, 1841, 1844, paragraph 1 and 1844-1, paragraph 2, be not departed from.

Article 1871-1

Unless a different organization has been contemplated, the relations between the partners [joint venturers] are governed, as may be thought proper, either by the provisions which apply to ordinary civil partnerships, when the firm is of a non-commercial character or, if it is of a commercial character, by those which apply to general commercial partnerships.

Article 1872

With regard to third parties, each partner remains owner of the assets which he has placed at the disposal of the partnership.

Shall be deemed undivided between the partners the assets acquired by investment or re-investment of undivided funds during the life of the partnership and the assets which were undivided before being placed at the disposal of the partnership.

It shall be likewise for the assets which the partners have agreed to place in indivision.

It may furthermore be agreed that one of the partners is, with regard to third persons, the owner of all or part of the assets which he acquires with a view to the carrying out of the object of the partnership.

Article 1872-1

Each partner contracts in his own name and is alone bound towards third parties.

However, if the participants act as partners quite openly with third parties, each participant is then bound with regard to the third parties for the obligations arising from acts performed in that capacity by one of them, solidarily, if the partnership is a commercial partnership, without solidarity in the other cases.

It shall be the same as concerns a partner who, because of his interference, has led the contracting party to believe that he intended to bind himself towards him or of whom it is proven that the commitment has turned to his benefit.

In all cases, as to assets deemed undivided under Article 1872, paragraph 2 and 3, shall apply in the relations with third parties, either the provisions of Chapter VI of Title I of Book III of this Code or, if the formalities provided for in Article 1873-2 have been completed, those of Title IX bis of this Book, all the partners being then, unless otherwise agreed, deemed managers of the indivision.

Article 1872-2

When the undeclared partnership is of indefinite duration, its dissolution may result at any time from a notification sent by one partner to the others, provided that such notification be in good faith and not made at an inopportune moment.

Unless otherwise agreed, no partner may request the partition of the indivisible assets under Article 1872 so long as the partnership is not dissolved.

Article 1873

The provisions of this Chapter shall apply to de facto partnerships.

TITLE IX BIS. AGREEMENTS CONCERNING THE EXERCISE OF INDIVISIBLE RIGHTS

Article 1873-1

Persons who have rights to be exercised on indivisible assets, as owners, naked owners or usufructuaries may enter into agreements concerning the exercise of those rights.

CHAPTeR I. – AGREEMENTS CONCERNING THE EXERCISE OF INDIVISIBLE RIGHTS IN THE PRESENCE OF A USUFRUCTUARY

Article 1873-2

Co-owners in indivision, if they all consent, may agree to remain in the indivision.

On pain of nullity, the agreement must be drawn up in an act that includes the specific reference to the indivisible assets and a mention of the pro-rata shares belonging to each indivisible co-owner. If the indivisible assets include claims, the formalities of Article 1690 be fulfilled; if they include immovables, the formalities of land registration are required.

Article 1873-3

The agreement may be entered into for a fixed period of time which may not exceed five years. It may be renewed by an express decision of the parties. The partition may be instigated before the agreed term only when there are legitimate reasons to do so.

The agreement may also be entered into for an indeterminate duration. In that case, the partition may be instigated at any time, provided it is not in bad faith or at an inopportune moment.

It may be decided that the agreement for a fixed duration will be renewed by tacit reconduction for a determined or indeterminate duration. Failing such an agreement, the indivision shall be governed by Articles 815 and following upon the expiration of the agreement for a determined duration.

Article 1873-4

The agreement aiming to maintain the indivision requires the capacity or the power to dispose of the indivisible assets.

The agreement may, however, be concluded on behalf of a minor by his legal representative alone; but in that case, the minor who has become of age, may put an end to it, whatever its duration may be, within the year following his majority.

Article 1873-5

The co-owners in indivision may appoint one or several managers, chosen from among themselves or not. The modalities of appointment or dismissal of the manager may be determined by a unanimous decision of the co-owners in indivision.

Failing such an agreement, the manager selected from among the co-owners in indivision may be dismissed from his duties only by a unanimous decision of the other co-owners in indivision.

The manager who is not a co-owner in indivision may be dismissed in the way agreed upon among his principals or, failing that, by a decision taken by the majority of the co-owners in indivision in terms of number and shares. In all instances, the dismissal may be ordered by the court at the request of one co-owner when the manager, because of his mismanagement, imperils the interests of the indivision.

If the dismissed manager is himself a co-owner in indivision, the agreement will be deemed concluded for an indeterminate duration from the time of his dismissal.

Article 1873-6

The manager represents the co-owners in indivision within the scope of his authority, either for acts of civil life, or in court as plaintiff or defendant. He is required to give, in a purely declaratory way, the names of all the co-owners in indivision in the first procedural document.

The manager shall administer the indivision and exercise for this purpose the powers conferred on each spouse on the community property. He may, however, dispose of corporeal movables only for the needs of a normal management of the indivisible assets, or also when things difficult to preserve or subject to decay are concerned. Any clause extending the powers of the manager shall be deemed unwritten.

Article 1873-7

The manager shall exercise the powers he is given by the preceding Article even when there is an incapable person among the co-owners in indivision.

Nevertheless, Article 456, paragraph 3, shall apply to leases granted in the course of an indivision.

Article 1873-8

The decisions which exceed the scope of the authority of the manager shall be passed unanimously, except for the right of the manager, when he is himself a co-owner in indivision, to avail himself of the remedies provided for by Articles 815-4, 815-5 and 815-6.

If among the co-owners in indivision, there are minors or adults who are incapable, the decisions which are referred to in the preceding paragraph give rise to the application of the rules of protection provided for in their favor.

It may be agreed among the co-owners in indivision that in the absence of incapable persons certain categories of decisions will be adopted otherwise than unanimously. However, no immovable in indivision may be transferred without the agreement of all the co-owners in indivision, unless under the scope of application of Articles 815-4 and 815-5 above.

Article 1873-9

The agreement of indivision may regulate the mode of management in case of multiple managers. Failing special stipulations, the multiple managers hold separately the powers provided for by Article 1873-6, except for the right of each one of them to object to any transaction before it is concluded.

Article 1873-10

Unless otherwise agreed, the manager is entitled to be remunerated for his work. The terms shall be fixed by the co-owners in indivision, to the exclusion of the party concerned, or, failing that, by the president of the tribunal de grande instance who shall give a provisional ruling.

The manager is liable, as a mandatary is, for the faults he commits in his management.

Article 1873-11

Each co-owner in indivision may require that all the documents relating to the management be communicated to him. The manager must, once a year, account for his management to the co-owners in indivision. On that occasion, he points out in writing the profits made and the losses incurred or foreseeable.

Each co-owner in indivision is obliged to participate in the expenses for preservation of the indivisible assets. Failing a special agreement, Articles 815-9, 815-10 and 815-11 of this Code shall apply to the exercise of the right of use and enjoyment, as well as to the distribution of the profits and losses.

Article 1873-12

In the case of a transfer of all or part of the rights of a co-owner in indivision in the indivisible assets, or in one or several of these assets, the co-owners in indivision benefit from the rights of pre-emption and substitution provided for in Articles 815-14 to 815-16 and 815-18 of this Code.

The agreement shall be deemed concluded for an indeterminate duration when, for whatever reason, an indivisible share devolves upon a person who is outside of the indivision.

Article 1873-13

The co-owners in indivision may agree that upon the death of one of them, each survivor will have the right to acquire the share of the deceased or that the surviving spouse, or any other designated heir may have that share allotted to him under the condition that he accounts for it to the succession according to its value at the time of the acquisition or of the allotment.

If several co-owners in indivision or several heirs simultaneously exercise their right of acquisition or allotment, they shall be deemed, unless otherwise agreed, to acquire together the share of the deceased in proportion to their respective rights in the indivision or the succession.

The provisions of this Article may not prejudice the application of the provisions of Articles 831 to 832-2.

Article 1873-14

The right of acquisition or allotment lapses when its beneficiary has not exercised it through a notification made to the surviving co-owners in indivision or to the heirs of the predeceased co-owner within the period of one month after the day when he has been put in default to come to a decision. This putting in default may not itself take place before the expiry of the period provided for in the Title of Successions for making an inventory and deliberating.

When no right of acquisition or allotment has been provided for, or where it has lapsed, the share of the deceased falls to his heirs or legatees. In such case, the agreement of indivision shall be deemed concluded for an indeterminate duration from the day of the opening of the succession.

Article 1873-15

Article 815-17 shall apply to the creditors of the indivision, as well as to the personal creditors of the co-owners in indivision.

However, the latter may instigate partition only in the cases where their debtor could himself instigate it. In the other cases, they may proceed with the seizure and sale of the share of their debtor in the indivision by complying with the formalities provided for by the Code of Civil Procedure. The provisions of Article 1873-12 shall then apply.

CHAPTER II. - AGREEMENTS CONCERNING THE EXERCISE OF INDIVISIBLE RIGHTS IN THE PRESENCE OF A USUFRUCTUARY

Article 1873-16

When indivisible assets are burdened with a usufruct, agreements, subject as a matter of principle to the provisions of the preceding Chapter, may be concluded, either between the naked owners, or between the usufructuaries, or between the ones and the others. There may also be an agreement between those who are in indivision as to the enjoyment and the one who is naked owner of all the assets, as well as between the universal usufructuary and the naked owners.

Article 1873-17

When the usufructuaries were not parties to the agreement, third parties who have dealt with the manager of the indivision cannot take advantage, at the expense of the rights of usufruct, of the powers vested in him by the naked owners.

Article 1873-18

When the agreement concluded between usufructuaries and naked owners provides that decisions will be passed by a majority in number and in shares, the right to vote attached to the shares is divided by halves between the usufruct and the naked ownership, unless the parties agreed otherwise.

Any expense exceeding the obligations of the usufructuary, such as they are defined in Articles 582 and following, binds him only with his consent given in the agreement itself or in a later act.

The conveyance of the full ownership of the indivisible assets may not be made without the consent of the usufructuary, except for the case when it is caused by the creditors entitled to pursue the sale.

TITLE X. LOAN

Article 1874

There are two kinds of loans:

The loan of things which can be used without being destroyed,

And the loan of things which are consumed by the use that is made of them.

The first kind is called "loan for use";

The second is called "loan for consumption," or, simply, loan.

Chapter I. Loan for use or commodatum

Section 1. The nature of a loan for use

Article 1875

A loan for use or commodatum is a contract by which one of the parties delivers to the other a thing to be used, on the condition that the borrower returns it after having made use of it.

Article 1876

Such loan is essentially gratuitous.

Article 1877

The lender remains the owner of the thing loaned.

Article 1878

Everything which is in commerce, and which is not consumed by use may be the object of such an agreement.

Article 1879

The commitments which are created by the loan for use pass to the heirs of the person who lends, and to the heirs of the person who borrows.

But if one loaned only in consideration (intuitu personae) of the borrower, and to him personally, then his heirs may not continue to enjoy the thing loaned.

Section 2. Obligations of the borrower

Article 1880

The borrower is bound to take care of the keeping and preservation of the thing loaned like a prudent administrator. He can use it only for the purpose determined by its nature or by the agreement; all of which on penalty of damages if there is occasion, therefore.

Article 1881

If the borrower employs the thing for another purpose, or for a longer time than he ought, he shall be liable for the loss which may have occurred, even through a fortuitous event.

Article 1882

If the thing loaned is destroyed through a fortuitous event from which the borrower could have protected the thing by making use of his own or, when being able to save only one of the two, he chose to prefer his own, he is liable for the loss of the other.

Article 1883

If the thing has been appraised when it was loaned, the loss which happens, even by fortuitous event, falls on the borrower, unless otherwise agreed.

Article 1884

If the thing deteriorates through the sole effect of the use for which it was borrowed, and without any fault on the part of the borrower, he is not liable for the deterioration.

Article 1885

The borrower may not retain the thing as compensation for what the lender owes him.

Article 1886

If, for the purpose of making use of the thing, the borrower has incurred some expenses he may not reclaim them.

Article 1887

If several persons have jointly borrowed the same thing, they are solidarily liable toward the lender.

Section 3. Obligations of one who lends for use

Article 1888

The lender may demand the return of the thing lent only after expiration of the term agreed upon or, in the absence of an agreement, only after conclusion of the use for which it was borrowed.

Article 1889

Nevertheless, if, during that time, or before the borrower has ceased to need the thing, the lender happens to be in an urgent and unforeseen need of the thing, the judge may, according to the circumstances, compel the borrower to return it to him.

Article 1890

If, during the term of the loan, the borrower has been compelled, for the preservation of the thing, to some extraordinary expense, necessary and so urgent that he was not able to notify the lender, the latter shall be bound to reimburse him.

Article 1891

When the thing loaned has such defects that it may cause harm to the person who uses it, the lender is liable, if he knew of the defects and failed to inform the borrower.

CHAPTER II. LOAN FOR CONSUMPTION OR SIMPLE LOAN (MUTUUM)

Section 1. Nature of the loan for consumption

Article 1892

A loan for consumption is a contract by which one of the parties delivers to the other a certain quantity of things which are consumed by use, on condition that the latter shall return to him as much of the same kind and quality.

Article 1893

As a consequence of such a loan, the borrower becomes the owner of the thing loaned; and the loss falls upon him, in whatever manner it occurs.

Article 1894

One cannot give, by way of a loan for consumption, things which although of the same kind, are different, such as animals; it is then a loan for use.

Article 1895

The obligation which results from a loan of money is always for the numerical sum stated in the contract.

If there has been a rise or a fall in currency before the time of payment, the debtor must return the numerical sum loaned, and must do so only in the currency having legal tender at the time of the payment.

Article 1896

The rule laid down in the preceding Article shall not apply, where the loan was made in bullions.

Article 1897

If bullions or commodities have been loaned, whatever the rise or fall in their price may be, the debtor shall always return the same quantity and quality, and must return only that.

Section 2. Obligations of the lender

Article 1898

In a loan for consumption, the lender is held to the liability established by Article 1891 for a loan for use.

Article 1899

The lender may not claim back the things loaned before the agreed time.

Article 1900

If no term has been fixed for restitution, the judge may grant the borrower a certain delay according to the circumstances.

Article 1901

If it has only been agreed that the borrower would pay when he could, or when he would have the means, the judge shall fix a time for the payment according to the circumstances.

Section 3. Obligations of the borrower

Article 1902

The borrower is bound to return the things loaned in the same quantity and quality and at the time agreed.

Article 1903

If it is impossible for him to do so, he is bound to pay their value taking into account the time and the place where the thing was to be returned according to the agreement.

If the time and place have not been agreed upon, payment shall be made at the price at the time and the place where the loan was made.

Article 1904

If the borrower does not return the things loaned or their value at the agreed time, he owes interest thereon from the day of the notice or of the judicial claim.

CHAPTER III. LOAN AT INTEREST

Article 1905

It is lawful to stipulate interest for a simple loan, either of money, or of commodities, or of other movable things.

Article 1906

The borrower who has paid interest which had not been stipulated may neither reclaim it, nor impute it to the capital.

Article 1907

Interest is legal or conventional. Legal interest is fixed by statute. Conventional interest can exceed legal interest whenever the law does not prohibit it.

The rate of conventional interest must be fixed in writing.

Article 1908

A receipt for the capital when given without any reservation as to the interest creates the presumption that it has been paid and operates as a release therefrom.

Article 1909

Interest can be stipulated upon a capital which the lender undertakes not to reclaim.

In that case, the loan takes the name of annuity agreement.

Article 1910

Such an annuity may be established in two ways, perpetually or for life.

Article 1911

A perpetual annuity is essentially redeemable.

The parties may agree only that the redemption will not take place before a time which cannot exceed ten years, or without having notified the creditor in advance at a time agreed upon.

Article 1912

The debtor of an annuity established as perpetual may be compelled to redeem it:

1° Should he ceases to fulfill his obligations during two years;

2° Should he fail to furnish to the lender the security promised by the contract.

Article 1913

The capital of a perpetual annuity likewise becomes due in case of bankruptcy or insolvency of the debtor.

Article 1914

The rules concerning life annuities are laid down in the Title of Aleatory Contracts.

TITLE XI. DEPOSIT AND SEQUESTRATION

Chapter I. Deposit in general and its different kinds

Article 1915

In general, a deposit is an act by which a person receives a thing that belongs to another, on the condition of keeping it and returning it in kind.

Article 1916

There are two kinds of deposits: deposit properly so-called and sequestration.

CHAPTER II. DEPOSIT PROPERLY SO-CALLED

Section 1. Nature and essence of the contract of deposit

Article 1917

A deposit purely so-called is a contract essentially gratuitous.

Article 1918

It can have as its object only movable things.

Article 1919

It is perfected only by the actual or symbolic delivery of the thing deposited.

A ficticious delivery is sufficient when the depositary is already in possession, in some other capacity, of the thing which one agrees to leave with him as a deposit.

Article 1920

Deposit is voluntary or necessary.

Section 2. Voluntary deposit

Article 1921

A voluntary deposit results from the reciprocal consent of the person who makes the deposit and of the one who receives it.

Article 1922

A voluntary deposit can only be lawfully made by the owner of the thing deposited or with his express or tacit consent.

Article 1924

When a deposit that exceeds the figure given in Article 1341 is not proven in writing, the one who is challenged as depositary is believed on his declaration, either as to the fact itself of the deposit, or as to the thing which was its object, or as to the fact of its restitution.

Article 1925

A voluntary deposit may take place only between persons capable of contracting.

Nevertheless, if a person capable of contracting accepts a deposit made by a person who is incapable, the former is liable for all the obligations of a real depositary; he may be sued by the guardian or administrator of the person who made the deposit.

Article 1926

If a deposit has been made by a person who is capable to a person who is not, the person who made the deposit has only a claim for the recovery of the thing deposited, so long as it exists in the hands of the depositary, or a claim in restitution up to the amount of the benefit derived by the latter.

Section 3. Obligations of a depositary

Article 1927

A depositary must bring the same care in the custody of the thing deposited as he does in the custody of the things which belong to him.

Article 1928

The provision of the preceding Article shall be applied more strictly:

1° If the depositary has volunteered for receiving the deposit;

2° If he has stipulated a salary for looking after the deposit;

3° If the deposit has been made solely in the interest of the depositary;

4° If it has been expressly agreed that the depositary would be liable for any kind of fault.

Article 1929

A depositary is not, in any case, liable for the accidents resulting from force majeure, unless he had been in default to return the thing deposited.

Article 1930

He cannot make use of the thing deposited, without the express or implied permission of the depositor.

Article 1931

He shall not attempt to find out what are the things which have been deposited with him, if they have been entrusted to him in a closed chest or under a sealed cover.

Article 1932

The depositary must return the exact same thing which he has received.

Thus, a deposit of sums of money must be returned in the same currency in which it was made, either in the case of an increase or in the case of a decrease of their value.

Article 1933

A depositary is only bound to return the thing deposited in the condition in which it is at the time of restitution. Deteriorations which did not result from any act of his shall be borne by the depositor.

Article 1934

A depositary from whom the thing has been taken away by an event of force majeure, and who has received a price or something in its place, must return what he has received in exchange for it.

Article 1935

The heir of the depositary, who in good faith has sold the thing which he did not know to be a deposit, is only bound to return the price which he has received, or to assign his cause of action against the purchaser, if he has not received the price.

Article 1936

If the thing deposited has produced fruits which have been collected by the depositary, he is obliged to return them. He owes no interest on the money deposited, except from the day on which he had been put in default to make the restitution.

Article 1937

The depositary must return the thing deposited only to the one who has entrusted it to him, or to the person in whose name the deposit had been made, or to the person who has been designated to receive it.

Article 1938

He cannot compel the person who has made the deposit to prove that he was the owner of the thing deposited.

Nevertheless, if he discovers that the thing has been stolen and who the true owner is, he must give the latter notice of the deposit which was made to him and demand that he shall claim it within a determined and sufficient time. If the person to whom the notice has been given fails to claim the deposit, the depositary is lawfully discharged by making delivery to the one from whom he has received it.

Article 1939

In case of death of the person who made the deposit, the thing deposited can be returned only to his heir.

If there are several heirs, it must be returned to each of them according to their share and portion.

If the thing deposited is indivisible, the heirs must agree between them to receive it.

Article 1940

If the person who has made the deposit has been released of his powers of administration, the deposit can be returned only to the person who has the administration of the property of the depositor.

Article 1941

If a deposit has been made by a tutor or an administrator, in one of such capacities, it can be returned only to the person whom such tutor or such administrator represented, if their management or administration has come to an end.

Article 1942

If the contract of deposit specifies the place where the restitution must be made, the depositary is bound to bring the thing deposited to such place. If there are transport costs, they shall be charged to the depositor.

Article 1943

If the contract does not specify the place of restitution, it shall be made at the very place of the deposit.

Article 1944

The deposit must be returned to the depositor as soon as he claims it, even where the contract has fixed a determined period for the restitution; unless there is in the hands of the depositary an attachment or opposition proceedings to a return and removal of the thing deposited.

Article 1945

The unfaithful depositary is not admitted to the benefit of a surrender.

Article 1946

All the obligations of the depositary cease if he happens to discover and prove that he is himself the owner of the thing deposited.

Section 4. Obligations of the person by whom a deposit has been made

Article 1947

The person who has made the deposit is bound to reimburse the depositary for the expenses incurred for the preservation of the thing deposited, and to indemnify him for all the losses which the deposit may have occasioned him.

Article 1948

The depositary may retain the deposit until full payment of what is due to him on account of the deposit.

Section 5. Necessary deposit

Article 1949

A necessary deposit is one which was forced by some accident, such as a fire, ruin, pillage, shipwreck or other unforeseen event.

Article 1950

Proof by witnesses may be admitted in case of a necessary deposit, even if the amount involved exceeds the figure provided for in Article 1341.

Article 1951

The necessary deposit is, moreover, governed by all the rules previously mentioned.

Article 1952

Innkeepers or hotel-keepers are liable, as depositaries, for clothes, luggage and various effects brought into their business premises by a traveler lodging with them; the deposit of effects of this kind shall be considered as a necessary deposit.

Article 1953

They are liable for theft or for damage to those effects, whether the theft was committed or the damage caused by their servants or employees, or by third persons going to and fro in the hotel.

This liability is unlimited, notwithstanding any clause to the contrary, in case of theft or deterioration of all kinds of effects deposited within their hands or which they refused to receive without rightful reason.

In all other cases, damages due to a traveler are, to the exclusion of any agreed lower limitation, limited to the equivalent of one-hundred times the price of rental of lodging per day, except when the traveler proves that the damage he has suffered results from a fault of the person who shelters him or of the persons for whom the latter is responsible.

Article 1954

Innkeepers or hotel-keepers are not liable for thefts or damage which happen through force majeure, nor for the loss which results from the nature or from a defect of the thing, on condition that they prove the fact which they allege.

As a derogation to the provisions of Article 1953, innkeepers or hotel-keepers are responsible for the objects left in vehicles parked in areas over which they have private enjoyment up to the amount of fifty times the price of rental of lodging per day.

Articles 1952 and 1953 shall not apply to living animals.

CHAPTER III. SEQUESTRATION

Section I. Kinds of sequestration

Article 1955

Sequestration is either conventional or judicial.

Section 2. Conventional sequestration

Article 1956

Conventional sequestration is a deposit made by one or several persons of a thing in dispute, into the hands of a third party who binds himself to return it, after the controversy is over, to the person who will be held by a Court to be entitled to it.

Article 1957

Sequestration need not be gratuitous.

Article 1958

When it is gratuitous, it is governed by the rules of a deposit properly so called, subject to the differences hereinafter mentioned.

Article 1959

Sequestration may have as its object not only movable effects, but also immovables.

Article 1960

The depositary of a thing sequestrated cannot be discharged before the end of the controversy, except by consent of all the interested parties, or for a cause declared to be legitimate.

Section 3. Judicial sequestration or judicial deposit

Article 1961

A court may order sequestration:

1° Of movables seized on a debtor;

2° Of an immovable or of a movable thing whose ownership or possession is contested between two or more persons;

3° Of things which a debtor tenders in order to be released.

Article 1962

The appointment of a judicial custodian produces reciprocal obligations between the seizing party and the custodian. The custodian must give the care of a prudent administrator to the preservation of the things seized.

He must present them, either to be sold if released by the seizing creditor, or to the party against whom executions have been issued, in case of cancellation of the seizure.

The obligation of the party who seizes consists in paying the custodian the salary fixed by law.

Article 1963

Judicial sequestration shall be granted, either to a person agreed upon by the parties concerned, or to a person appointed by the judge of his own motion.

In either case, the one to whom a thing is entrusted is subject to all the obligations which a conventional sequestration involves.

TITLE XII. ALEATORY CONTRACTS

Article 1964

An aleatory contract is a reciprocal agreement whose effects, as to its advantages and losses, either for all the parties, or for one or several of them, depend on an uncertain event.

Such are:

Insurance contracts;

Gaming and betting;

Contracts for life annuity.

Chapter I. Gaming and betting

Article 1965

The law does not grant any action for a gaming debt or for the payment of a bet.

Article 1966

Games tending to promote skill in the use of arms, foot or horse races, chariot races, tennis and other games of the same kind which involve skill and bodily exercise, are excepted from the precedent provision.

Nevertheless, the court may dismiss the complaint when the sum appears excessive.

Article 1967

In no case can the loser recover what he has voluntarily paid, unless there was, on the part of the winner, deception, dolus [deceit] or swindling.

CHAPTER II. CONTRACT OF LIFETIME ANNUITY

Section 1. Requisites for the validity of the contract

Article 1968

A lifetime annuity may be created for value, for a sum of money or for a valuable movable thing, or for an immovable.

Article 1969

It may also be created purely gratuitously, by gift inter vivos or by testament. It must then be made in the forms required by legislation.

Article 1970

In the case of the preceding Article, a life annuity may be reduced, if it exceeds that which a person is allowed to dispose of; it is null, if it is made in favor of a person incapable of receiving it.

Article 1971

A lifetime annuity may be created either for the lifetime of the person who pays the price of it, or for the lifetime of a third person, who has no right to its enjoyment.

Article 1972

It may be created for one or several living persons.

Article 1973

It can be created for the benefit of a third person, although the price is paid by another person.

In such a case, although it has the character of a gratuitous transfer, it is not subject to the forms required for donations; except for the cases of reduction and nullity mentioned in Article 1970.

When created by spouses or one of them, an annuity is stipulated to be revertible in favor of the surviving spouse; the clause of revertibility may have the character of a liberality or that of an onerous act. In such a case, the compensation or the indemnity owed by the beneficiary of the reversion to the community or to the succession of the predeceased party is equal to the value of the reversion of the annuity. Except when the spouses have provided to the contrary, the reversion is deemed to have been granted gratuitously.

Article 1974

Any annuity contract created for the lifetime of a person who was dead at the time the contract was made does not have any effect.

Article 1975

The same rule applies to a contract by which an annuity was created for the lifetime of a person suffering from an illness of which he died within twenty days from the date of the contract.

Article 1976

A lifetime annuity may be created at the rate the contracting parties choose to fix.

Section 2. The effects of the contract between the contracting parties

Article 1977

The person in whose favor a lifetime annuity has been created for a price may apply for the termination of the contract if the grantor does not furnish the securities stipulated for its performance.

Article 1978

The mere failure to pay the periodic payments of the annuity does not entitle the person in whose favor it is created to apply for the reimbursement of the capital or to regain possession of the property conveyed by him: he only has the right to seize and have the property of his debtor sold and to have ordered or agreed that, out of the proceeds of the sale, a sufficient sum be invested for the payment of the instalments.

Article 1979

The grantor may not exonerate himself from paying the annuity, by offering to reimburse the capital, and waiving recovery of the instalments paid; he is bound to pay the annuity during the whole life of the person or persons to whom the annuity has been granted, whatever may be the duration of the life of such persons and however onerous the payment of the annuity may have become.

Article 1980

A lifetime annuity is only due to the annuitant in proportion to the number of days he has lived.

Nevertheless, if it was agreed that it would be paid in advance, the term which should have been paid is due from the day set when that payment ought to have been made.

Article 1981

A lifetime annuity may be stipulated to be exempt from seizure only when it was created gratuitously.

Article 1983

The annuitant of an annuity can only claim the periodic payments by proving his existence, or the existence of the person for whose life it has been created.

TITLE XIII. MANDATE

Chapter I. Nature and form of mandate

Article 1984

A mandate or procuration is an act by which a person confers on another the authority to do something for the principal, or grantor of the mandate, and in his name.

The contract is formed only through acceptance of the mandatary.

Article 1985

A mandate may be conferred by an authentic act or by an act under private signature, even by letter. It may also be conferred verbally, but proof of it by witness is received only in accordance with the Title of Contracts or of Conventional Obligations in General.

Acceptance of a mandate may only be tacit and result from its performance by the mandatary.

Article 1986

A mandate is gratuitous, unless there is an agreement to the contrary.

Article 1987

It is either special and for one or certain matters only, or general and for all the affairs of the principal.

Article 1988

A mandate worded in general terms applies only to acts of administration.

If it is intended to alienate or mortgage, or carry out some other transaction relating to ownership, the mandate must be express.

Article 1989

The mandatary cannot do anything beyond what is expressed in his mandate: the authority to settle does not include that to enter into an arbitration agreement.

Article 1990

An unemancipated minor may be selected as a mandatary; but the principal has an action against him only in accordance with the general rules relating to the obligations of minors.

CHAPTER II. OBLIGATIONS OF THE MANDATARY

Article 1991

The mandatary is bound to fulfill the mandate as long as his authority lasts, and he is responsible for the damages which may result from his failure to perform.

He is likewise bound to complete the matter started at the death of the principal, if a delay would be prejudicial.

Article 1992

The mandatary is liable not only for his dol [deceit], but also for the faults committed in his management.

Nevertheless, the liability for faults is enforced less rigorously against a person whose mandate is gratuitous than against one who receives a salary.

Article 1993

Every mandatary is bound to render an account of his management, and to return to the principal all that he received by virtue of his power of attorney, even if what he has received was not owed to the principal.

Article 1994

The mandatary is answerable for the person he has substituted for himself in his management:

1° when he did not receive the authority to substitute someone;

2° when that authority was conferred on him without naming the person and when the one whom he has chosen was notoriously incompetent or insolvent.

In all cases, a principal can act directly against the person whom the mandatary has substituted for himself.

Article 1995

When there are several representatives or mandataries appointed by the same act, there is no solidarity between them unless it is expressed.

Article 1996

A mandatary owes interest on sums employed for his own use, from the time of that use; and on those of which he is debtor for the balance, from the day he was put in default.

Article 1997

A mandatary who has given the party with whom he contracts in such capacity, a sufficient knowledge of his authority is not held to any warranty for what has been made beyond the scope of that authority, unless he has personally bound himself.

CHAPTER III. OBLIGATIONS OF THE PRINCIPAL

Article 1998

The principal is bound to perform the obligations contracted by the mandatary, in accordance with the authority granted to him.

He is bound for what his mandatary may have done beyond his authority, only when he has expressly or tacitly ratified it.

Article 1999

The principal must reimburse the mandatary for the advances and expenses which the latter has incurred for the performance of the mandate, and pay him his remuneration when it has been promised.

When no fault may be ascribed to the mandatary, the principal may not dispense with making those reimbursements and payments, even if the matter was not successful, and he may not have the amount of the expenses and advances reduced on the pretext that they could have cost less.

Article 2000

The principal must also compensate the mandatary for the losses which the latter has sustained on the occasion of his management, in the absence of an imprudent act being ascribable to him.

Article 2001

Interest on the advances made by the mandatary is owed to him by the principal, from the day of the advances which are proven.

Article 2002

When the mandatary has been appointed by several persons for a common affair, each of them is solidarily liable towards him for all the effects resulting from the mandate.

CHAPTER IV. HOW MANDATES TERMINATE

Article 2003

A mandate terminates:

By the revocation of the mandatary;

By the renunciation of the mandate by the latter;

By the death, tutorship of adults or the insolvency either of the principal or of the mandatary.

Article 2004

The principal may revoke his procuration whenever he pleases and compel, if necessary, the mandatary to return to him, either the act under private signature which contains it, or the original of the procuration, when it has been delivered without being recorded, or the certified copy, when the original has been kept.

Article 2005

A revocation of which only the mandatary has been given notice is not effective against third parties who have dealt without knowledge of that revocation, except for the remedy the principal has against the mandatary.

Article 2006

The appointment of a new mandatary for the same affair entails revocation of the first one, from the day when notice of it has been given to the latter.

Article 2007

The mandatary may renounce the mandate by giving notice of his renunciation to the principal.

Nevertheless, if that renunciation prejudices the principal, he must be compensated by the mandatary, unless the latter is unable to continue the mandate without himself suffering a considerable loss.

Article 2008

If a mandatary has no knowledge of the death of the principal or of one of the other causes which make a mandate come to an end, what he has done in ignorance thereof is valid.

Article 2009

In the foregoing cases, the commitments of the mandatary are performed with regard to those third parties who are in good faith.

Article 2010

In case of death of the mandatary, his heirs must give notice of it to the principal and, in the meantime, attend to what the circumstances may require in the interest of the latter.

TITLE XIV. FIDUCIA

Article 2011

A fiducia is the operation by which one or more grantors transfer assets, rights, or security rights, or a set of assets, rights, or security rights, present or future, to one or more fiduciaries who, keeping them separate from their own patrimonies, act to achieve a specified goal for the benefit of one or more beneficiaries.

Article 2012

A fiducia is established by legislation or by contract. It must be express.

If the assets, rights, or security rights transferred into the fiduciary patrimony belong to the community existing between spouses or belong to owners in indivision, the contract of fiducia is null unless it is established by notarial act.

Article 2013

The contract of fiducia is null if it is prompted by a gratuitous intent for the benefit of the beneficiary. This nullity is of public order.

Article 2015

Can be fiduciaries only the credit institutions mentioned "under I of Article L. 511-1" of the Monetary and Financial Code, the institutions or services listed in Article L. 518-1 of the same Code, investment entreprises mentioned in Article L. 531-4 of the same Code, as well as the insurance enterprises governed by Article L. 310-1 of the Insurance Code.

Members of the legal profession of "avocat" can also act as fiduciaries.

Article 2016

The grantor or the fiduciary may be the beneficiary or one of the beneficiaries of a contract of fiducia.

Article 2017

Unless the contract of fiducia states otherwise, the grantor has the right, at any time, to name a third person assigned to ensure the preservation of his interests in the performance of the contract and who may be vested with the powers that legislation gives the grantor.

When the grantor is a natural person, he cannot renounce this right.

Article 2018

The contract of fiducia determines, on pain of nullity:

1o The assets, rights, or security rights transferred. If they are future assets, rights, or security rights they must be determinable;

2o The duration of the transfer, which may not exceed ninety-nine years from the date the contract is signed;

3o The identity of the grantor or grantors;

4o The identity of the fiduciary or fiduciaries;

5o The identity of the beneficiary or beneficiaries or, failing that, the rules that allow for their designation;

6o The task of the fiduciary or fiduciaries and the extent of their powers of administration and alienation.

Article 2018-1

When the contract of fiducia contemplates that the grantor retains the use or enjoyment of a business establishment or of an immovable used for professional purposes when transferred to the fiduciary patrimony, the agreement entered into for the purpose is not subject to Chapters IV and V of Title IV of Book I of the Commercial Code, unless otherwise agreed.

Article 2018-2

An assignment of rights made within the scope of a fiducia is effective against third parties as of the date of the contract of fiducia or of the supplementary agreement that declares it. The assignment is effective against the debtor of the claim assigned only upon notice to him by the assignor or by the fiduciary.

Article 2019

On pain of nullity, the contract of fiducia and its supplementary agreements are recorded within a month of their date with the tax service located at the seat of the fiduciary or with the tax service for non-residents if the fiduciary is not domiciled in France.

When the contract of fiducia and its supplementary agreements involve immovables or immovable real rights, they are, under pain of the same sanction, published as provided for in Articles 647 and 657 of the Tax Code.

The transfer of the rights created by the contract of fiducia and, if the beneficiary is not designated in that contract, its later designation must, under pain of nullity, be couched in a writing recorded under the same conditions.

Article 2020

A national registry of fiduciaries is established as provided by decree en Conseil d'État.

Article 2021

When the fiduciary acts for the account of the fiducia, he must so state expressly.

Likewise, when the fiduciary patrimony includes assets or rights whose transfer is subject to publicity, the transfer must make an express reference to the name of the fiduciary in that capacity.

Article 2022

The contract of fiducia defines the conditions in which the fiduciary gives an account of the result of his actions to the grantor.

However, when during the execution of the contract the grantor is placed under tutorship, the fiduciary gives an account of the results of his actions to the tutor at the request of the latter at least once a year, without prejudice to the frequency of accounts set by the contract. When during the execution of the contract the grantor is placed under curatorship, the fiduciary gives an account of the results of his actions, under the same conditions, to the grantor and to the curator.

The fiduciary gives an account of the results of his actions to the beneficiary and to the third person designated by application of Article 2017, at their request, according to the frequency provided for in the contract.

Article 2023

In his relations with third parties, the fiduciary is deemed to enjoy the broadest powers over the fiduciary patrimony, unless it is shown that the third parties knew of the limitations to his powers.

Article 2024

The initiation of a protective measure, of judicial receivership, or of judicial liquidation for the benefit of the fiduciary does not affect the fiduciary patrimony.

Article 2025

Without prejudice to the rights of the creditors of the grantor holders of a right to follow property that derives from a security right published before the contract of fiducia was executed and outside cases of acts in fraud of the rights of the creditors of the grantor, the fiduciary patrimony may only be seized by the holders of claims arising from the preservation or the management of that patrimony.

If the fiduciary patrimony is insufficient, the patrimony of the grantor is the common pledge of these creditors, unless the contract of fiducia makes all or part of the liabilities the obligation of the fiduciary.

The contract of fiducia may also limit the obligation of the fiduciary liabilities to the fiduciary patrimony exclusively. Such a clause is ineffective against creditors unless they have expressly accepted it.

Article 2026

The fiduciary answers, on his own patrimony, for the faults he commits in the fulfillment of his task.

Article 2027

In the absence of contractual stipulations providing for the conditions of his replacement, if the fiduciary fails in his duties or puts the interests entrusted to him in danger or if he becomes the object of a protective procedure or of a judicial receivership, the grantor, the beneficiary, or the third person designated by application of Article 2017 may make a judicial demand for the appointment of a provisional fiduciary or seek the replacement of the fiduciary. The judicial decision granting such a demand removes the original fiduciary as a matter of law and transfers the fiduciary patrimony to his replacement.

Article 2028

The contract of fiducia may be revoked by the grantor so long as it has not been accepted by the beneficiary.

After acceptance by the beneficiary, the contract can only be modified or revoked with the consent of the grantor or by judicial decision.

Article 2029

The contract of fiducia ends upon the death of the grantor when he is a natural person, by the arrival of the term, or by the achievement of the goal sought when this occurs before the arrival of the term.

When all the beneficiaries renounce the fiducia, the contract of fiducia also terminates as of right, except when contractual provisions anticipate the conditions under which it continues. Under the same reservation, the contract terminates when the fiduciary is subject to a judicial liquidation or a dissolution or disappears following a transfer or takeover and, if he is a legal counsel, in case of temporary interdiction, disbarment or being left out from the roll.

Article 2030

When the contract of fiducia terminates in the absence of a beneficiary, the rights, assets, or securities which are in the fiducary patrimony return to the grantor as a matter of law.

When it ends by the death of the grantor, the fiduciary patrimony returns to his succession as a matter of law.

TITLE XV. TRANSACTIONS

Article 2044

A transaction is a contract by which the parties put an end to an existing controversy, or prevent a future contestation.

This contract must be made in writing.

Article 2045

To transact, one must have the capacity to dispose of the things included in the transaction.

The tutor can transact on behalf of a minor or of an adult under tutorship only in accordance with Article 467, under the Title Minority and Emancipation; and he can transact with a minor who has become of age with respect to the account of tutorship only in accordance with Article 472 of the same Title.

Public establishments can transact only with the express authorization of the Prime Minister.

Article 2046

A transaction may be made with reference to civil interests resulting from an offence.

The transaction does not prevent prosecution by the State Prosecutor’s office.

Article 2047

One may add to a transaction the stipulation of a penalty against the party who fails to perform it.

Article 2048

Transactions are confined to their object: a renunciation made therein to all rights, actions and claims extend only to what relates to the controversy about which the transaction has arisen.

Article 2049

Transactions regulate only the controversies which are comprised therein, whether the parties have expressed their intention in special or general terms, or whether such intention appears as a necessary consequence of what is expressed.

Article 2050

If a person who has made a transaction as to a right which belonged to him individually acquires afterwards a similar right in the name of another person, he is not bound by the transaction previously made with respect to the right since acquired.

Article 2051

The transactions made by one of the interested parties does not bind the others and cannot be invoked by them.

Article 2052

Transactions have, between the parties, the authority of res judicata of a final judgment. They cannot be attacked on account of an error of law, nor on account of lesion.

Article 2053

Nevertheless, a transaction may be rescinded, when there is an error as to the person or as to the object of the dispute.

It may also be rescinded where there is dol [deceit] or violence.

Article 2054

An action for rescission of a transaction also lies when it has been made in execution of an instrument of title which is null, unless the parties have expressly take into account the ground of nullity.

Article 2055

A transaction based on documents which have since then been found to be forgeries is wholly null.

Article 2056

A transaction made about a suit which has come to an end owing to a judgment that is res judicata, of which the parties or one of them were not aware, is null.

If the judgment unknown to the parties was subject to appeal, the transaction shall be valid.

Article 2057

When the parties have entered into general transactions on all outstanding matters which they might have with one another, the instruments of title which were then unknown to them and which may have been subsequently discovered, are not a ground for rescission, unless they have been withheld through the act of one of the parties.

But the transaction would be null if it only referred to a matter about which it would be established by the newly discovered instruments that one of the parties had no right.

Article 2058

An error of calculation in a transaction must be corrected.

TITLE XVI. COMPROMISE

Article 2059

All persons may enter into a compromise agreement on rights of which they have the free disposal.

Article 2060

One cannot enter into a compromise agreement about matters of status and capacity of the persons, matters relating to divorce and judicial separation or matters of disputes involving public bodies and institutions and more generally in all matters concerning public order.

However, some categories of public institutions of an industrial or commercial character may be authorized by decree to enter into compromise agreements.

Article 2061

Except when there are particular legislative provisions, a compromissory clause is valid in contracts entered into on account of a professional activity.

TITLE XVII.AGREEMENTS TO ENGAGE IN PARTICIPATORY PROCEDURES

Article 2062

An agreement of participatory procedure is an agreement by which the parties to a dispute, not yet before a judge or an arbitrator, commit to work together and in good faith to resolve their dispute amicably.

This agreement is entered into for a specified period of time.

Article 2063

The agreement of participatory procedure is, under penalty of nullity, included in a writing that specifies:

1o Its term;

2o The object of the dispute;

3o The documents and information necessary for the resolution of the dispute and the modalities of their exchange.

Article 2064

Any person, assisted by his legal counsel, may conclude an agreement of participatory procedure concerning rights that he may freely dispose of, subject to Article 2067.

However, no agreement may be concluded whose effect is to resolve disputes arising from any labour contract governed by the Labour Code between employers or their representatives and their salaried employees.

Article 2065

As long as it is in effect, an agreement of participatory procedure makes inadmissible any demand to a judge to rule on the dispute. However, if one party to the agreement does not execute it, another party is then authorized to call on a judge to rule in the dispute.

Article 2066

The parties who, upon arrival of the term of the agreement of participatory procedure, reach an agreement that settles all or part of their dispute, may submit that agreement to the judge for formal confirmation.

When, upon arrival of term of the agreement of participatory procedure, the parties have failed to reach an agreement on their dispute, they submit their dispute to the judge, and they are freed from the obligation to enter a mediation or a conciliation, if that had been provided for.

Article 2067

An agreement of participatory procedure may be entered into by spouses intending to find a consensual solution concerning their divorce or separation from bed and board.

Article 2066 does not apply in such a case. A petition for divorce or for separation from bed and board following an agreement of participatory procedure is filed and judged under the rules provided in Title VI of Book I governing divorce.

Article 2068

This participatory procedure is governed by the Code of Civil Procedure.

TITLE XX. EXTINCTIVE PRESCRIPTION

Chapter i. GENERAL PROVISIONS

Article 2219

Extinctive prescription is a mode of extinction of a right that results from the inaction of its holder during a certain period of time.

Article 2220

Delays of foreclosure are not governed by this title, unless legislation provides otherwise.

Article 2221

Extinctive prescription is subjected to the statute governing the right that it affects.

Article 2222

A statute that lengthens the duration of a prescription or the delay of a foreclosure is without effect on a prescription or foreclosure that has accrued. It applies when the period of prescription or the period of foreclosure had not run out at the time of its implementation. One must then take into account the time that has already lapsed.

In the case of a reduction of the duration of the period of prescription or of the period of foreclosure, this new period runs from the day of implementation of the new statute, without the total period being allowed to exceed the period of time laid down in the prior statute.

Article 2223

The provisions of the present title are not an obstacle to the application of special rules laid down in other statutes.

CHAPTER II. DELAYS AND STARTING POINT OF THE EXTINCTIVE PRESCRIPTION

Section 1. Period of time under the general law and its starting point

Article 2224

Personal actions or movable rights of action prescribe in five years from the day the holder of a right knew or should have known the facts enabling him to exercise his right.

Section 2. Some periods of time and some specific starting points

Article 2225

An action in civil liability against persons who have represented or assisted parties before the courts, including for the loss or destruction of documents entrusted to them, prescribes in five years from the end of their assignment.

Article 2226

An action in civil liability arising from an event that resulted in bodily injury, brought by the direct or indirect victim of the harm, prescribes in ten years from the date of the consolidation of the initial or of the aggravated injury.

Nevertheless, the action in civil liability for harm caused by torture or acts of barbarism, or by violence or sexual aggression committed against a minor, prescribes in twenty years.

Article 2227

The right of ownership is imprescriptible. Subject to that reservation, real actions concerning immovables prescribe in thirty years from the day when the holder of a right knew or should have known the facts enabling him to exercise his right.

CHAPTER III. THE RUNNING OF THE EXTINCTIVE PRESCRIPTION

Section 1: General provisions

Article 2228

Prescription is counted by days, not by hours.

Article 2229

It is acquired when the last day of the period has elapsed.

Article 2230

Suspension of the prescription temporarily stops its course without erasing the delay that has already run.

Article 2231

Interruption erases the delay that has elapsed. It causes a new period of the same duration as the former period to run.

Article 2232

The deferral of the starting point, the suspension or the interruption of the prescription cannot have the effect of extending the period of the extinctive prescription beyond twenty years from the day of the birth of the right.

The first paragraph does not apply to the cases specified in Articles 2226, 2227, 2233, and 2236, to the first paragraph of Article 2241, or to Article 2244. Nor does it apply to actions concerning the status of persons.

Section 2. Causes of deferral of the starting point of the prescription or of its suspension

Article 2233

Prescription does not run:

1o Against a claim that depends upon a condition, until the condition occurs;

2o Against an action in warranty, until eviction takes place;

3o Against a claim subject to a term, until the term has run.

Article 2234

Prescription does not run or is suspended against one for whom it is impossible to act following an obstacle resulting from the law, from an agreement, or from force majeure.

Article 2235

It does not run or is suspended against unemancipated minors or adults in tutorship, except for actions for payment or recovery of salaries, annuity installments, alimony payments, rents, sharecropping payments, rental expenses, interest on loans, and generally any action for payment of sums payable by the year or on shorter periodic terms.

Article 2236

It does not run or is suspended between spouses as well as between partners bound by a civil pact of solidarity (pacs).

Article 2237

It does not run or is suspended against the heir who accepts a succession to the limit of the net assets, with respect to claims that he has against the succession.

Article 2238

Prescription is suspended from the day when, after a dispute arises, the parties agree to proceed to mediation or conciliation, or, if there is no written agreement, from the day of the first meeting of the mediation or conciliation. Prescription is also suspended from the moment of the conclusion of an agreement to engage in a participatory procedure.

The prescriptive period begins to run again, for a duration that cannot be inferior to six months, from the date on which either one of the parties or both, or the mediator or the conciliator, declares that the mediation or conciliation has ended. In case of a participatory procedure agreement, the prescriptive period begins to run again from the term provided in that agreement, for a duration that cannot be inferior to six months.

Article 2239

Prescription is also suspended when the judge grants a measure of inquiry before any proceedings begin.

The prescriptive period begins to run again, for a duration that cannot be inferior to six months, beginning from the day this measure has been carried out.

Section 3. Causes of interruption of prescription

Article 2240

The acknowledgement by the debtor of the right of the person against whom he was prescribing interrupts the period of prescription.

Article 2241

Judicial demand, even by way of summary proceedings, interrupts the delay of prescription and the delay of foreclosure.

The same occurs when the demand is brought before a court without jurisdiction when the act of referral to the court is annulled on account of a procedural defect.

Article 2242

The interruption resulting from the judicial demand has continuous effect until the proceedings terminate.

Article 2243

Interruption fails to occur if the plaintiff abandons his judicial demand or allows the proceedings to lapse, or if the demand is definitively rejected.

Article 2244

The period of prescription or the period of foreclosure is also interrupted by a conservatory measure taken in application of the Code of the Civil Procedures of Enforcement or of an act of forced execution.

Article 2245

The calling in of one solidary debtor by judicial demand, or by an act of forced execution, or by the acknowledgement by the debtor of the right of the person against whom he was prescribing, interrupts the period of prescription against all the others, even against their heirs.

But the calling in of one of the heirs of a solidary debtor, or the acknowledgement by that heir does not interrupt the prescription against co-heirs, even in case of a hypothecary claim, if the obligation is divisible. This calling in or this acknowledgement only interrupts the period of prescription against the other co-debtors for the share for which this heir is bound.

To interrupt the period of prescription for the whole, for all the other co-debtors, the calling in must be addressed to all the heirs of the deceased debtor or the acknolwledgement must be addressed to all these heirs.

Article 2246

A calling in addressed to the principal debtor or his acknowledgement interrupts the period of prescription against the surety.

CHAPTER IV. CONDITIONS OF AN EXTINCTIVE PRESCRIPTION

Section 1. Assertion of prescription

Article 2247

Judges cannot on their own motion, set up a plea of prescription.

Article 2248

Unless there is renunciation, prescription may be asserted at any stage of the proceeding, even before the court of appeal.

Article 2249

A payment that has been made to extinguish a debt cannot be claimed back on the sole groud that the prescriptive period had run out.

Section 2. Renunciation of prescription

Article 2250

Only a prescription that has been acquired may be renounced.

Article 2251

Renunciation of prescription is express or tacit.

Tacit renunciation results from circumstances which unequivocally demonstrate the intent not to claim prescription.

Article 2252

He who may not exercise his rights alone may not renounce alone a prescription that has been acquired.

Article 2253

Creditors and any other person with an interest in that the prescription be acquired may raise it or invoke it even if the debtor renounces it.

Section 3. Conventional modification of prescription

Article 2254

The duration of the prescription may be made shorter or longer by agreement of the parties. Nevertheless, it may not be reduced to less than one year nor extended to more than ten years.

The parties may also, by common agreement, add other causes of suspension or interruption of prescription to those provided by legislation.

The provisions of the two preceding paragraphs do not apply to actions for payment or recovery of salaries, annuity installments, alimony payments, rents, sharecropping payments, rental expenses, interest on sums of money loaned, and generally on all actions for payment of sums payable by the year or on shorter periodic terms.

TITLE XXI. POSSESSION AND ACQUISITIVE PRESCRIPTION

Chapter I. GENERAL PROVISIONS

Article 2255

Possession is the detention or enjoyment of a thing or of a right that we hold or that we exercise by ourselves, or by another who holds it or who exercises it in our name.

Article 2256

One is always presumed to possess for oneself, and as owner, if it is not proved that one began by possessing for another.

Article 2257

When one has begun possessing for another, one is always presumed to possess in that capacity, unless there is proof to the contrary.

CHAPTER II. ACQUISITIVE PRESCRIPTION

Article 2258

Acquisitive prescription is a means of acquiring a thing or a right as the effect of possession without there being a need by the one alleging it to show some title in support, or without it being possible to oppose to him an exception inferred from bad faith.

Article 2259

Articles 2221 and 2222 apply to acquisitive prescription, as well as Chapters III and IV of Title XX of the present book, unless the provisions of the present chapter are inconsistent with them.

Section 1. Conditions of acquisitive prescription

Article 2260

One cannot acquire by prescription things or rights that are not in commerce.

Article 2261

Acquisitive prescription requires a possession that is continuous, uninterrupted, peaceable, public, unequivocal, and as an owner.

Article 2262

Mere permissive acts or acts simply tolerated cannot support either possession or prescription.

Article 2263

Acts of violence cannot either support a possession leading to prescription. Effective possession does not begin until the violence ends.

Article 2264

A present possessor, who proves that he possessed at some time in the past, is presumed to have possessed during the intervening time, unless there is proof to the contrary.

Article 2265

To complete the acquisitive prescriptive period, one may tack to one's possession that of one's author in title, in whatever manner one may have succeeded to him, whether it be by virtue of a universal or particular title, or by onerous or gratuitous title.

Article 2266

Those who possess for another cannot ever acquire ownership by prescription, whatever the time elapsed may be.

Thus, a lessee, a depositary, a usufructuary, and all those who precariously hold the thing or the right of an owner, may not prescribe as to it.

Article 2267

The heirs of those who held the thing or the right on any of the bases designated in the preceding Article, may not prescribe either.

Article 2268

Nevertheless, the persons mentioned in Articles 2266 and 2267 may prescribe if the legal title of their possession is reversed, either owing to a cause arising from a third party, or by an adverse claim they have raised against the right of the owner.

Article 2269

Those to whom lessees, depositaries, usufructuraries and other precarious holders have transferred the thing or the right by a title translative of ownership may acquire it by prescription.

Article 2270

One may not prescribe against one's own title, in the sense that one cannot change as to oneself the cause and the principle of one's possession.

Article 2271

Acquisitive prescription is interrupted when the possessor of a thing is deprived of its enjoyment for more than one year, either by the owner or even by a third person.

Section 2. Acquisitive prescription of immovables

Article 2272

The period of prescription required to acquire the ownership of an immovable is thirty years.

Nevertheless, one who acquires an immovable in good faith and by just title prescribes in ten years.

Article 2273

A title null because of a defect in its form cannot serve as a basis for the prescription of ten years.

Article 2274

Good faith is always presumed, and he who alleges bad faith must prove it.

Article 2275

Good faith at the time of acquisition is sufficient.

Section 3. Acquisitive prescription of movables

Article 2276

As far as movables are concerned, possession equals title.

Nevertheless, one who has lost a thing or from whom a thing has been stolen may claim back its ownership for three years following the day of its loss or theft, against the person in whose hands he finds it; that person can exercise his recourse against the person from whom he obtained it.

Article 2277

If the present possessor of a lost or stolen thing bought it at a fair or at a market, or in a public sale, or from a merchant who sells the same things, the original owner cannot get the thing back without reimbursing the possessor the price he paid to buy it.

The lessor who claims, under Article 2332, the movables which have been moved without his consent and which have been bought in their same conditions, must likewise reimburse the buyer the price he paid for them.

CHAPTER III. PROTECTION OF POSSESSION

Article 2278

Possession is protected, regardless of its legal basis, against disturbances that affect or threaten it.

Protection of possession is also granted to the holder of a thing against anyone, other than the person from whom he holds his rights.

Article 2279

Possessory actions may be brought by those who possess or hold peacefully, as provided by the Code of Civil Procedure.

Article 2284

Whoever has bound himself personally must fulfil his commitment from all his movable or immovable property, present and future.

Article 2285

The property of a debtor is the common pledge of his creditors; and the proceeds of its sale shall be distributed among them pro rata, unless there are lawful causes of preference among the creditors.

Article 2286

Can avail himself of a right of retention on a thing:

1° One to whom the thing was handed over until payment of his claim;

2° One whose unpaid claim results from the contract that obliges him to deliver it;

3° One whose unpaid claim arose as a result of his physically holding the thing.

4° One who is the beneficiary of a pledge without dispossession

A right of retention is lost through voluntary relinquishment of possession.

Article 2287

The provisions of this Book do not prevent the application of the rules provided for in case of the initiation of a safeguard procedure, of a judicial settlement or of a judicial liquidation or, still, in the case of the initiation of proceedings to deal with excessive indebtedness on the part of private individuals.

TITLE I - PERSONAL SECURITIES

Article 2287-1

Personal securities regulated by this Title are suretyship, independent guarantee and letter of intent.

Chapter I - Suretyship

Section 1. - The nature and extent of suretyship

Article 2288

A person who makes himself surety for an obligation binds himself towards the creditor to perform that obligation, if the debtor does not perform it himself.

Article 2289

A suretyship can exist only on a valid obligation.

One may nevertheless stand surety for an obligation, although it may have been annulled on the ground of an exception purely personal to the obligor; for instance, in case of minority.

Article 2290

A suretyship cannot exceed what is owed by the debtor, nor be contracted under more onerous conditions.

It may be contracted for a part of the debt only, and under less onerous conditions.

A suretyship that exceeds the debt, or that is contracted under more onerous conditions, is not null: it is only to be reduced to the extent of the principal obligation.

Article 2291

One may become a surety without an instruction on the part of the person for whom one becomes bound, and even without his knowledge.

One may also become a surety, not only of the principal debtor, but also of the person who has given security for him.

Article 2292

Suretyship is not presumed; it must be express, and it cannot be extended beyond the limits within which it was contracted.

Article 2293

An indefinite suretyship of a principal obligation extends to the accessories of the debt, even to the costs of the first claim, and to all those subsequent to the notice of termination given of it to the surety.

When such suretyship is contracted by a natural person, the latter shall be informed by the creditor of the evolution of the amount of the debt secured and of its accessories at least once a year at the date agreed between the parties or, if there is no agreement, at the anniversary date of the contract, on pain of forfeiture of all the accessories of the debt, costs, and penalties

Article 2294

The commitments made by the sureties pass to their heirs, if the commitment was such that the surety was bound by it.

Article 2295

A debtor compelled to provide a surety must present one who has the capacity to contract, and who has an asset sufficient to answer for the subject matter of the obligation.

The creditor cannot turn down the surety presented by a debtor on the ground that the surety does not reside in the territorial jurisdiction of the court of appeal within which it is requested.

Article 2296

The solvency of a surety shall be determined only with regard to his land holdings, except in matters of commerce, or where the debt is moderate.

One does not take into account the immovables in litigation, or whose attachment and sale would be too difficult because of the remoteness of their location.

Article 2297

When the surety that was received by the creditor, voluntarily or by court decision, becomes afterwards insolvent, a new surety shall be given.

This rule suffers only the exception where the surety was given only on the basis of an agreement by which the creditor required a particular person as surety.

Section 2. The effects of suretyship

Sub-section 1. The effects of suretyship between creditor and surety

Article 2298

The surety is bound to the creditor to pay him only upon the debtor's default, whose assets must be previously discussed, unless the surety has renounced the benefit of discussion, or unless he is bound solidarily with the debtor, in which case the effect of his commitment is governed by the principles established for solidary debts.

Article 2299

A creditor is obliged to discuss the principal debtor only when the surety requires him to do so, upon the first proceedings initiated against the latter.

Article 2300

The surety who requires the discussion must point out to the creditor the assets of the principal debtor and advance the funds sufficient to proceed with the discussion.

He may not point out to assets of the principal debtor situated outside the territorial jurisdiction of the Court of Appeal of the place where payment must be made, nor litigious assets, nor that which are hypothecated for the debt and no longer in the possession of the debtor.

Article 2301

Whenever the surety has pointed out the assets authorized under the preceding Article and has advanced a sufficient sum to proceed with the discussion, the creditor is, to the extent of the assets pointed out, liable towards the surety for the insolvency of the principal debtor that occurred in consequence of his failure to institute proceedings. In any case, the amount of the debts resulting from a suretyship may not have the effect of depriving a natural person who stood as surety of a minimum income fixed by Article L. 331-2 of the Consumer Code.

Article 2302

When several persons are surety of the same debtor for a same debt, each one is liable for the whole debt.

Article 2303

Nevertheless, each one, unless he has renounced the benefit of division of the debt, may demand that the creditor first divide his action and reduce it to the part and portion owed by each surety.

When, during the time one of the sureties had the division declared, some of them were insolvent, that surety is proportionately liable for those insolvencies; but he may no longer be sued for insolvencies happening after the division.

Article 2304

If a creditor himself voluntarily divided his action, he may not retract that division, although there were insolvent sureties even before the time when he consented thereto.

Sub-Section 2. Effect of suretyship between debtor and surety

Article 2305

A surety who has paid has his remedy against the principal debtor, whether the suretyship had been given with or without the knowledge of the debtor.

This remedy shall take place both for the principal and for the interest and costs; nevertheless, the surety has a remedy only for the costs he has incurred since he has given notice to the principal debtor of the proceedings instituted against him.

He also has a remedy for damages, should it be the case.

Article 2306

The surety who has paid the debt is subrogated to all the rights that the creditor had against the debtor.

Article 2307

When there were several principal debtors solidarily bound for the same debt, the surety who stood as such for all of them has, against each of them, a remedy for the recovery of all that he paid.

Article 2308

The surety who paid a first time has no remedy against the principal debtor who paid a second time, if the surety did not informed the debtor of the payment he had made; the surety has his remedy for recovery against the creditor.

When the surety has paid without being sued and without informing the principal debtor, he has no remedy against him if, at the time of the payment, the debtor would have had the means to have the debt declared extinguished; the surety has his remedy for recovery against the creditor.

Article 2309

Even before paying, a surety may bring suit against the debtor to be indemnified by him:

1° When he is sued in court for payment;

2° When the debtor is bankrupt or insolvent;

3° When the debtor was bound to give him a receipt and release within a certain time;

4° When the debt has become due by expiration of the term for which it was contracted;

5° At the end of ten years, when the principal obligation has no fixed term of maturity, unless the principal obligation, such as a tutorship, be of such a nature that it cannot be extinguished before a determinate time.

Sub-Section 3. The effect of suretyship among co-sureties

Article 2310

When several persons are sureties for the same debtor for the same debt, the surety who has paid the debt has a remedy against the other sureties, for the share and portion of each of them;

But this remedy is available only if the surety pays in one of the cases listed in the preceding Article.

Section 3. Extinction of suretyship

Article 2311

The obligation that results from suretyship is extinguished by the same causes as other obligations.

Article 2312

The confusion that occurs in the person of a principal debtor and his surety, when they become heirs one of the other, does not extinguish the action of the creditor against the person who has stood as surety for the surety.

Article 2313

A surety may set up against the creditor all the exceptions that belong to the principal debtor, and that are inherent to the debt;

But he cannot set up exceptions that are purely personal to the debtor.

Article 2314

A surety is discharged when the subrogation to the rights, hypothecs and privileges of the creditor can no longer take place in favor of the surety owing to an act of the creditor. Any clause to the contrary is deemed unwritten.

Article 2315

The voluntary acceptance made by the creditor of an immovable or of any thing in payment of the principal debt, discharges the surety, even if the creditor is later evicted from it.

Article 2316

The mere extension of the term granted by the creditor to the principal debtor does not discharge the surety, who can in such a case proceed against the debtor to compel him to pay.

Section 4. Legal and judicial suretyship

Article 2317

Whenever a person is bound, by law or by a judgment, to furnish a surety, the surety offered must fulfil the conditions prescribed in Articles 2295 and 2296.

Article 2318

A person who cannot find a surety is permitted to give instead a pawn as sufficient pledge.

Article 2319

A judicial surety may not demand the discussion of the principal debtor.

Article 2320

A person who has merely become the surety of a judicial surety may not demand the discussion of the principal debtor or of the surety.

CHAPTER II. INDEPENDENT GUARANTEE

Article 2321

In an independent guaranty the guarantor obliges himself on account of an obligation undertaken by a third person, to pay a sum of money either upon first demand or upon the terms and conditions agreed upon.

The independent guarantor is not bound in case of abuse or of manifest fraud by the beneficiary of the guaranty or in the case of collusion of the beneficiary with the principal.

The independent guarantor may not raise any exception pertaining to the obligation guaranteed.

Unless there is an agreement to the contrary, this security does not follow the guaranteed obligation.

CHAPTER III. LETTER OF INTENT

Article 2322

A letter of intent is the commitment to do or not to do, the purpose of which is to support a debtor in the performance of his obligation towards his creditor.

TITLE II. REAL SECURITIES

SUB-TITLE I. GENERAL PROVISIONS

Article 2323

The legitimate causes of priority are privileges and hypothecs.

Article 2324

A privilege is a right that the nature of a claim gives to a creditor to be preferred to the other creditors, even those who have a hypothec.

Article 2325

Among privileged creditors, the preference is settled by the different nature of their privileges.

Article 2326

The privileged creditors who are on the same rank are paid proportionately.

Article 2327

The privilege of the Public Treasury and the order in which it is exercised are regulated by the laws that concern them.

The Public Treasury may not, however, obtain a privilege to the prejudice of rights previously vested in third parties.

Article 2328

Privileges may exist on movables or on immovables.

Article 2328-1

Every real surety may be constituted, registered, managed, and realized for the account of the creditors of the obligation guaranteed by a person whom they name for that purpose in the act that establishes this obligation.

SUBTITLE II. SECURITIES OVER MOVABLES

Article 2329

Securities on movables are:

1° Privileges on movables;

2° Pawn of corporeal movables;

3° Pledge of incorporeal movables;

4° Retention or assignment of ownership as a security.

Chapter i. - PRIVILEGES ON MOVABLES

Article 2330

Privileges are either general or special on certain movables.

Section 1. General privileges

Article 2331

Privileged claims on all movables are those enumerated below, and they are enforced in the following order:

1° Law charges, court costs;

2° Funeral charges;

3° Charges of whatever nature occasioned by the last sickness, whatever its outcome may have been, concurrently among those to whom they are due;

4° Without prejudice to the possible application of the provisions of Articles L. 143-10, L. 143-11, L. 742-6 and L. 751-15 of the Labour Code:

Wages of domestic servants for the current year and for the year past;

The deferred salary resulting from the contract of employment established by Article 63 of the Decree of 29 July 1939 relating to French family and birth rate, for the past year and the current year;

The claim of the surviving spouse established by Article 14 of Act no 89-1008 of 31 December 1989 relating to the development of commercial and artisanal undertakings and to the improvement of their economic, legal and social environment, and the claim of the surviving spouse established by Article L. 321-21-1 of the Rural and Maritime Fisheries Code;

The salaries for the last six months of employees and apprentices, and the indemnity owed by the employer to young trainees about to begin their professional lives, as provided for in Article L. 980-11-1 of the Labour Code;

The indemnity owed upon termination of the contract under Article L. 122-3-4 of the Labour Code and the indemnity for lack of job security provided for in Article L. 124-4-4 of the same Code;

The indemnity owed for failure to comply with the term of notice provided for in Article L. 122-8 of the Labour Code and the compensatory indemnity under Article L. 122-32-6 of the same Code;

Indemnities owed for paid holidays;

Indemnities for dismissal owed in compliance with collective labour agreements, with collective agreements of a particular firm, labour regulations, usages, and the provisions of Articles L. 122-9, L. 122-32-6, L. 761-5 and L. 761-7 of the Labour Code for the whole of the portion at or below the ceiling provided for in Article L. 143-10 of the Labour Code and for one-fourth of the portion higher than the said ceiling;

Indemnities owed, as the case may be, to employees under Articles L. 122-3-8, paragraph 2, L. 122-14-4, L. 122-14-5, paragraph 2, L. 122-32-7 and L. 122-32-9 of the Labour Code;

5° Supplies of provisions made to a debtor and his family during the last year and, within the same period, the products delivered by an agricultural producer in the context of an approved long-term inter-professional agreement, as well as the sums owed by any contracting party of a farmer in compliance with an approved standard contract;

6° The claim of the victim of an accident or of his successors and assigns relating to medical, pharmaceutical, and funeral expenses, and to the indemnities allocated following a temporary incapacity to work;

7° The allowances owed to workmen and employees by the caisses de compensation and other institutions approved to provide family allowances or by the employers dispensed from joining such an institution under Article 74 f of Book I of the Labour Code.

8° The claims of the caisses de compensation and other institutions approved to provide family allowances to their members for the contributions the latter owe them in connection with payment of family allowances and for the equalization of the costs incurred to pay the said allowances.

Section 2. Special privileges

Article 2332

Claims that are privileged on particular movables are:

1° Rents and farm-rents of immovables on the revenues of the year's crop, and on the price of everything that furnishes the house rented or the farm, and of everything used to work the farm: namely, for everything which is due, and for everything which shall become due, if the lease is in authentic form, or if under private signature, it has a date certain; and in either case the other creditors have the right to re-let the house or the farm for the remainder of the term of the lease, and to profit by the rent or farm-rent, on condition, however, that they pay the owner everything still owed to him.

And if the lease is not in authentic form, or if under private signature it lacks a date certain, for one year after the expiry of the current year.

The same privilege exists for the repairs owed by the lessee and for everything relating to the lessee's obligations under the lease. It also exists for any claim that arises for the benefit of the owner or of the lessor, from the occupation of the premises without regard to the basis for the occupation.

Nevertheless, the sums due for seeds, for fertilizers and soil enrichment, for fungicides and insecticides, for products made to destroy animal or plant parasites harmful to farming, or for the expenses of the harvest of the year's crop, shall be paid from the price the harvest brings, and sums due for implements from the price of those implements, with preference to the owner in both cases.

The owner may also seize the movables which furnish his house or his farm if they have been removed without his consent, and he retains his privilege over them if he has made his claim on them timely; namely, where the movables outfitted a farm, within forty days; where the movables furnished a house, within fifteen days;

2° The claim on the thing pawned that is in the possession of the creditor;

3° The expenses incurred for the preservation of the thing;

4° The unpaid price of movables if still in the possession of the debtor, whether he has bought on credit or not;

If the sale was not on credit, the seller may even claim back the things sold as long as they are in the possession of the buyer, and prevent a re-sale, provided the claim in recovery is made within a week after the delivery, and the things are in the same condition as they were when the delivery took place;

But the seller's privilege may only be enforced after the privilege of the owner of the house or farm, unless it is proven that the owner knew that the movables and other things furnishing his house or farm did not belong to the lessee;

No change is made to commercial laws and commercial usages governing claims for recovery of things sold;

5° The supplies furnished by an innkeeper on the personal belongings of a traveler that have been carried into his inn;

6° [repealed];

7° The claims arising from the abuse and dishonesty of public officials in the fulfilment of their duties, on the funds pledged by them, and on the interest which may be owed thereon;

8° The claims arising from an accident for the benefit of third persons injured or of their assigns, on the indemnity of which the insurer, under a contract of liability insurance, admits that he is or has been judicially held debtor by reason of the contract of insurance.

No payment to the insured releases the insurer as long as the privileged creditors have not been paid;

9° Claims arising from a contract of employment of the auxiliary employee of a home worker fitting within the definition of Article L. 721-1 of the Labour Code, on the sums owed to that worker by the hirers of services.

Section 3. Ranking the privileges

Article 2332-1

Unless otherwise provided, special privileges outrank general privileges.

Article 2332-2

General privileges are enforced in the order stated in Article 2331, except the privilege of the Public Treasury, whose rank is set by the laws which concern it, and the privilege of the Social Security Offices, which ranks with the privilege of employees.

Article 2332-3

The special privileges of the lessor of an immovable, of the custodian and of the seller of a movable are enforced in the following order:

1° The privilege of a custodian, when the expenses of preservation arise after other privileged claims do;

2° The privilege of a lessor of an immovable who was unaware of the existence of other privileged claims;

3° The privilege of a custodian, when the expenses for preservation arise before other privileged claims do;

4° The privilege of the seller of a movable;

5° The privilege of a lessor of an immovable who was aware of the existence of other privileged claims.

Among the custodians of the same movable, preference is given to the most recent one. Among the sellers of the same movable, preference is given to the earliest one.

As regards the enforcement of the rules above, the privilege of the innkeeper is on the same footing as that of the lessor of an immovable; the privilege of the auxiliary employee of a home worker is on the same footing as that of the seller of a movable.

CHAPTER II. - PLEDGE OF CORPOREAL MOVABLES

Section 1. - The common law of pledge

Article 2333

A pledge is an agreement by which the pledgor gives to a creditor the right to be paid in preference to his other creditors out of a corporeal movable or a set of corporeal movables, present or future.

The claims which are secured may be present or future; in the latter case, they must be determinable.

Article 2334

A pledge may be given by the debtor or by a third party; in the latter case, the creditor has an action only against the asset given as a security.

Article 2335

The pledge of the thing of another is null. It may give rise to damages when the creditor did not know that the thing belonged to another.

Article 2336

A pledge is perfected by the making of a writing that contains the description of the debt secured, the quantity of assets pledged, as well as their kind or nature.

Article 2337

A pledge is effective against third parties when it has been published.

It is also effective against third parties by the transfer of possession into the hands of the creditor or of a third person agreed upon of the asset which has been pledged.

When a pledge has been duly published, the particular assignees of the pledgor may not avail themselves of Article 2276.

Article 2338

A pledge is published by inscription in a special registry whose details are regulated by a decree en Conseil d'État.

Article 2339

The maker of the pledge, or pledgor, can require the cancellation of an inscription or the restoration of the goods pledged only after paying in full the capital, interest and costs of the secured debt.

Article 2340

When a single thing has been the object of several successive pledges without dispossession of the debtor, the creditors are ranked in the order of their inscriptions.

When a thing given in pledge without dispossession is, later on, the object of a pledge with dispossession, the right of preference of the first pledgee is effective against the second pledgee if it is duly published, notwithstanding the right of retention of the second pledgee.

Article 2341

When a pledge with dispossession has for its object fungible things, the creditor must keep them separate from the things of the same nature that belong to him. If the creditor does not do so, the pledgor may avail himself of the provisions of Article 2344, paragraph 1.

If the agreement exempts the creditor from that obligation, he acquires the ownership of the pledged things with the obligation to give back the same quantity of equivalent things.

Article 2342

When a pledge without dispossession bears on fungible things, the pledgor may alienate them if the agreement so provides with the obligation to replace them by the same quantity of equivalent things.

Article 2343

The pledgor must refund to the creditor or to the third party agreed upon the useful or necessary expenses that the latter incurred for the preservation of the thing pledged.

Article 2344

When the pledge is made with dispossession, the pledgor may claim the restitution of the thing pledged, without prejudice to damages, if the creditor or the third party agreed upon does not carry out his obligation of preservation of the thing pledged.

When the pledge is made without dispossession, the creditor may avail himself of the forfeiture of the term of the secured debt or request an additional pledge if the pledgor does not carry out his obligation of preservation of the pledge.

Article 2345

Unless otherwise agreed, when the person in possession of the thing pledged is also the creditor of the debt secured, he is entitled to the fruits of the thing and imputes them to the interest or, if there is no interest, to the principal amount of the debt.

Article 2346

If the debt secured is not paid, the creditor may seek a judicial order for the sale of the thing pledged. This sale takes place according to the rules of civil procedure on measures of enforcement from which a contract of pledge cannot derogate.

Article 2347

The creditor may also obtain a judicial order to the effect that the thing will remain with him as payment.

When the value of the thing exceeds the amount of the secured debt, the difference is paid to the debtor or, if there are other pledgee creditors, is held in consignment.

Article 2348

At the time of the creation of the pledge or afterwards, it may be agreed that in case of failure to perform the secured obligation, the creditor will become owner of the thing given in pledge.

The value of the thing shall be determined on the day of the transfer by an expert designated by amicable agreement or judicially, in the absence of an official quotation of the thing on a market organized within the meaning of the Monetary and Financial Code. Any clause to the contrary is deemed unwritten.

When this value exceeds the amount of the secured debt, the difference is paid to the debtor or, if there are other pledgee creditors, is held in consignment.

Article 2349

The pledge is indivisible notwithstanding the divisibility of the debt among the heirs of the debtor or the heirs of the creditor.

The heir of the debtor who has paid his share of the debt may not claim the restitution of his part of the pledge, so long as the debt is not wholly discharged.

Reciprocally, the heir of the creditor who has received his share of the debt, may not release the pledge to the detriment of those of his co-heirs who remain unpaid.

Article 2350

The deposit or consignment of sums, effects, or securities, judicially ordered as guarantee or as a provisional measure, carries a special appropriation of the goods pledged and a right of preference under Article 2333.

Section 2. Pledge of a motor vehicle

Article 2351

When it attaches to a registered land motor vehicle or a trailer, a pledge is effective against third parties through the declaration thereof made to the administrative authority under conditions stated by decree en Conseil d'État.

Article 2352

By the delivery of the receipt of the declaration, the pledgee creditor will be deemed to have retained possession of the thing pledged.

Article 2353

Whatever may be the quality of the debtor, the realization or selling of a pledge is subject to the rules of Articles 2346 to 2348.

Section 3. Common provisions

Article 2354

The provisions of this Chapter do not bar the application of the special rules provided for in commercial matters or in favor of establishments authorized to lend against pledged assets.

CHAPTER III. PLEDGE OF INCORPOREAL MOVABLES

Article 2355

A pledge of an incorporeal movable is the allocation of an incorporeal movable or of a set of incorporeal movables, present or future, as security for an obligation.

It is conventional or judicial.

The judicial pledge of an incorporeal movable is governed by the rules of civil procedure on enforcement.

Failing special provisions, a conventional pledge of claims is regulated by this Chapter.

Failing special provisions, a conventional pledge that attaches to other incorporeal movables is regulated by the rules laid down for the pledge of corporeal movables.

Article 2356

Under penalty of nullity, the pledge of a claim shall be concluded in writing.

Claims secured and claims pledged are specified in the act.

If they are future claims, the instrument must allow for their individualization or contain the elements that provide for it, such as the identification of the debtor, the place of payment, the amount of the claims or their evaluation, and if appropriate the date their payment is due.

Article 2357

When a pledge of an incorporeal movable has a future claim as its object, the pledgee creditor is vested with a right on the claim as soon as it comes into existence.

Article 2358

The pledge of a claim may be established for a definite term.

It may encumber a portion of a claim, unless the latter is indivisible.

Article 2359

The pledge of a claim extends to its accessories unless otherwise agreed.

Article 2360

Where a pledge bears on an account, the claim pledged is of the credit balance in the account, whether provisional or final, on the day of the realization of the security with the reservation of the regularization of the transactions in process, in accordance with the rules of civil procedure on enforcement.

Under the same reservation, in case of the opening against the debtor pledgor of a safeguard procedure, or of a judicial liquidation, or of proceedings to resolve the excessive indebtedness of individuals, the rights of the pledgee creditor bear on the balance in the account on the date of the judgment of the opening of the procedure."

Article 2361

The pledge of a claim, present or future, takes effect as between the parties and is enforceable against third parties as from the date of the act.

Article 2362

In order to be effective against the debtor of the claim pledged, either that debtor must receive notice of the pledge of the claim or he must intervene in the act of pledge.

Failing that, the pledgor alone receives valid payment of the claim.

Article 2363

After notice to the debtor on the claim, the creditor pledgee alone receives valid payment of the pledged claim, as to both principal and interest.

Each creditor, the others having been duly summoned, may seek performance of the claim.

Article 2364

The sums paid on account of the pledged claim are imputed to the claim secured when it is due.

Otherwise, the pledgee creditor keeps them as security on an account open in an institution entitled to receive them, under the obligation to pay them back if the secured claim is performed. In case of default of the debtor of the claim pledged and eight days after a putting in default remained without effect, the creditor shall allocate the funds to the reimbursement of his debt to the extent of the sums unpaid.

Article 2365

In case of default of his debtor, the creditor pledgee may have assigned to him, by the judge or as provided for in the agreement, the pledged claim as well as all the rights that are attached to it.

He may also wait till the pledged claim becomes due.

Article 2366

If a sum greater than the claim secured has been paid to the pledgee creditor, the latter owes the difference to the pledgor.

CHAPTER IV. OWNERSHIP retained or assigned AS guarantee

Section 1. Ownership retained as guarantee

Article 2367

The ownership of a thing can be retained as a guarantee as a result of a clause of reservation of ownership that suspends the transferring effect of a contract until payment in full of the obligation that is its counterpart.

The ownership thus reserved is the accessory of the claim whose payment it guarantees.

Article 2368

The reservation of ownership is agreed in writing.

Article 2369

The reservation of the ownership of a fungible thing may be carried out, to the extent that a claim remains unpaid, on things of the same nature and quality as those held by the debtor or on his behalf.

Article 2370

The incorporation in another thing of a thing whose ownership is reserved does not defeat the rights of the creditor when those things may be separated without either suffering deterioration.

Article 2371

Failing payment in full when due, the creditor can claim the restitution of the thing in order to recover the right to dispose of it.

The value of the thing retaken is imputed as a payment reducing the balance of the claim guaranteed.

When the value of the thing retaken exceeds the amount of the guaranteed claim still due, the creditor owes to the debtor a sum equal to the difference.

Article 2372

The right of ownership is carried over on the debtor's claim against a subpurchaser or the insurance claim as subrogated to the thing.

Section 2. Ownership assigned as guarantee

Article 2372-1

The ownership of a movable thing or of a right may be assigned as a guarantee of an obligation on the ground of a contract of fiducia made in application of Articles 2011 through 2030.

As an exception to Article 2029, the death of a pledgor who is a natural person does not put an end to the contract of fiducia under this section.

Article 2372-2

In case of a contract of fiducia entered into as a guarantee, in addition to the provisions mentioned in Article 2018, the contract must state, under the penalty of nullity, the debt guaranteed and the estimated value of the thing or the right transferred into the fiduciary patrimony.

Article 2372-3

If the debt guaranteed is not paid and unless there is a contrary stipulation in the contract of fiducia, the fiduciary, when he is the creditor, acquires the right to alienate the thing or the right assigned as guarantee.

When the fiduciary is not the creditor, the latter may demand from the former either the delivery of the thing, which the creditor may then dispose of , or, if the contract of fiducia provides, the sale of the thing or of the right assigned and the handing over of all or of part of the price.

The value of the thing or of the right assigned is determined by an expert named amicably or judicially, unless the value comes from an official quote on a market organised as provided in the Monetary and Financial Code, or if the thing is a sum of money. Any contrary clause is deemed unwritten.

Article 2372-4

If the beneficiary of the fiducia has acquired the right to freely dispose of the thing or of the right assigned under Article 2372-3, he pays over to the grantor of the guarantee, when the value mentioned in the last paragraph of this article exceeds the amount of the debt guaranteed, a sum equal to the difference between this value and the amount of the debt, subject to the prior payment of the debts incurred to preserve or to manage the fiduciary patrimony.

Subject to the same reservation, if the fiduciary sells the thing or the right assigned as provided by the contract of fiducia, he to the grantor the portion of the proceeds in excess, should it be the case, of the value of the debt guaranteed.

Article 2372-5

The ownership assigned in application of Article 2372-1 may, later on, be assigned to the guarantee of the debts other than those mentioned in the contract provided such contract so provides expressly.

The grantor may offer the ownership in guarantee not only to the original creditor, but also to a new creditor, even if the original creditor has not been paid. When the grantor is a natural person, the fiduciary patrimony may only serve as a guarantee for a new debt up to the limit of its estimated value on the day it is recharged. Under the penalty of nullity, the agreement to recharge established under Article 2372-2 is recorded in the form provided in Article 2019. The date of recordation determines the rank of the creditors among themselves.

The provisions of this article are of public order and any clause to the contrary is deemed unwritten.

SUB-TITLE III. - SECURITY RIGHTS ON IMMOVABLES

Article 2373

Security rights on immovables are privileges, antichresis, and hypothecs.

The ownership of an immovable may also be retained or transferred as a guarantee.

Chapter I. Privileges on immovables

Section 1. Special privileges

Article 2374

Creditors who have a privilege on immovables are:

1° The seller, on the immovable sold, for payment of the price;

If there are several successive sales whose price is owed in whole or in part, the first seller has priority over the second, the second over the third, and so on;

1° bis. Jointly with a seller and, if there is occasion, with a lender of funds mentioned in 2°, a syndicate of co-owners, on the lot sold, for the payment of the expenses and works mentioned in Articles 10 and 30 of Law no 65-557 of 10 July 1965 regulating the status of co-ownership of built immovables, which relate to the current year and to the last past four years, as well as for the damages granted by the courts and for the court costs.

Nevertheless, the syndicate has priority over the seller and the lender of funds as to debts relating to the expenses and works of the current year and of the last past two years.

2° Even in the absence of subrogation, those who have provided the funds for the purchase of an immovable, provided it has been established by authentic act, in the act of loan, that the sum was intended for that use and, by the receipt of the seller, that the payment was made out of the funds borrowed;

3° The co-heirs, on the immovables of the succession, for the guarantee of the partitions made between them, and on the balances or returns of lots; for the guarantee of the indemnities owed under Article 924, the immovables donated or bequeathed are considered as immovables of the succession;

4° The architects, contractors, masons, and other workers employed to erect, rebuild, or repair buildings, canals, and other works whatsoever, provided nevertheless that, by means of an expert appointed ex officio by the tribunal de grande instance in whose territorial jurisdiction the buildings are situated, an official record has been preliminarily drawn up for the purpose of establishing an inventory of the premises with respect to the works that the owner claims he intends to carry out, and that the works, within six months at the most after their completion, have been accepted by an expert also appointed ex officio;

But the amount of the privilege may not exceed the values recorded in the second formal official record, and it shall be reduced to the increase in value existing at the time of the transfer of the immovable and resulting from the works that have been done thereon;

5° Those who have loaned the funds to pay or reimburse the workers, enjoy the same privilege, provided that this use is recorded in an authentic act of loan, and by the receipt of the workers, as was laid down above for those who have loaned funds for the acquisition of an immovable;

6° The creditors of a deceased and the legatees of sums of money on the immovables of the succession, as well as the personal creditors of the heir on his immovables, for the guarantee of the rights which they hold under Article 878;

7° The new home-owners by virtue of a contract of lease-purchase regulated by Law no 84-595 of 12 July 1984 defining a lease-purchase of the ownership of immovables on the immovable which is the subject matter of the contract, for the guarantee of the rights that they hold under this contract.

8° The State or the local municipality, for the guarantee of claims arising from the application of Article L. 1331-30 of the Code of Public Health, Article L. 123-3 of the Code of Construction and Housing when the claims relate to measures taken under penalty of the prohibition to live in or to use the premises or of definitive closing of the establishment, or of Articles L. 129-4, L. 511-4 and L. 521-3-2 of this last Code.

Section 2. General privileges

Article 2375

Claims that are privileged over all the immovables are:

1° Law charges, court costs;

2° Without prejudice to the possible application of the provisions of Articles L. 143-10, L. 143-11, L. 742-6 and L. 751-15 of the Labour Code:

The wages of domestic staff for the year elapsed and the current year;

The deferred salary resulting from the contract of employment established by Article 63 of the Decree of 29 July 1939 relating to the French family and birth rate, for the year elapsed and the current year.

The claim of the surviving spouse established by Article 14 of Act no 89-1008 of 31 December 1989 relating to the development of commercial and artisanal enterprises and to the improvement of their economic, legal, and social environment, and the claim of the surviving spouse established by Article L. 321-21-1 of the Rural and Maritime Fisheries Code;

The pay for the last six months of salaried employees, apprentices, and the indemnity owed by the employer to young people in training as initiation to professional life, such as provided for in Article L. 980-11-1 of the Labour Code;

The indemnity for the termination of the contract provided for by Article L. 122-3-4 of the Labour Code and the indemnity for lack of job security provided for in Article L. 124-4-4 of the same Code;

The indemnity owed by reason of failure to comply with the term of notice provided for in Article L. 122-8 of the Labour Code and the compensatory indemnity provided for in Article L. 122-32-6 of the same Code;

The indemnities owed for paid holidays;

The indemnities for dismissal owed in compliance with collective labour agreements, or collective agreements for business and firms, labour regulations, usages, and the provisions of Articles L. 122-9, L. 122-32-6, L. 761-5 and L. 761-7 of the Labour Code for the whole of the portion below or equal to the ceiling provided for in Article L. 143-10 of the Labour Code and for the one-fourth of the portion above the aforesaid ceiling.

The indeminities owed, in appropriate cases, to salaried employees under Articles L. 122-3-8, paragraph 2, L. 122-14-4, L. 122-14-5, paragraph 2, L. 122-32-7 and L. 122-32-9 of the Labour Code.

Article 2376

When because of the lack of movables, the privileged creditors listed under the preceding Article seek to be paid from the proceeds of an immovable in competition with other creditors who have privileges over the immovable, the former have priority over the latter and enforce their rights in the order indicated in the aforesaid Article.

Section 3. Instances when privileges must be recorded

Article 2377

Among creditors, privileges are effective on immovables only when they are given public notice by being registered at the land registry, in the manner indicated by the following Articles and by Articles 2426 and 2428.

Article 2378

The claims listed in Article 2375 and the claims of the syndicate of co-owners enumerated in Article 2374 are exempt from the formality of registration.

Article 2379

The seller who is privileged or the lender who has provided funds for the acquisition of an immovable, preserves his privilege by a registration made, at his behest, in the form provided for in Articles 2426 and 2428, and within the period of two months from the act of sale; the privilege ranks as from the time of the said act.

The action in dissolution under Article 1654 cannot be brought after the extinction of the seller's privilege, or for lack of registration within a period given above, to the detriment of third parties who have acquired rights on the immovable on account of the buyer and have registered them.

Article 2380

In the case of a sale of an immovable to be constructed within a set term, under Article 1601-2, the privilege of the seller or that of the lender of funds ranks from the time of the act of sale if the registration occurs within two months from the statement in an authentic act of the completion of the immovable.

Article 2381

The co-heir or co-partitioner preserves his privilege over the things in each lot or over the thing auctioned for the balances and reversions or for the proceeds of the auction, by a registration made at his behest on each one of the immovables, in the form provided for in Articles 2426 and 2428, and within a period of two months after the act of partition or the auction or the act fixing the indemnity provided for in Article 924 of this Code; the privilege ranks from the time of the aforesaid act or auction.

Article 2382

Architects, contractors, masons, and other workers employed to erect, rebuild or repair buildings, canals, or other works, and those who, in order to pay and reimburse them, have loaned the funds whose use has been recorded, preserve their privilege by the double registration made:

1° Of the formal record that establishes the condition of the premises;

2° Of the formal record of acceptance, from the time of registration of the first record.

Article 2383

The creditors of the deceased person and the legatees of sums of money, as well as the personal creditors of the heir, preserve their privilege by a registration made for each immovable under 6o of Article 2374, in the form provided for in Articles 2426 and 2428, and within four months of the opening of the succession. The privilege ranks from the time of the aforesaid opening.

Article 2384

New home-owners preserve their privilege by a registration made at their behest on the immovable that is the object of the contract of a lease-purchase, in the form provided for in Articles 2426 and 2428, and within two months after the signing of that contract; the privilege ranks from the date of the said contract.

Article 2384-1

The holder of the claim preserves his privilege by the double registration made:

1o By their author, either of the police ordinance, made under Article L. 1331-28 of the Code of Public Health, Article L. 123-3 of the Code of Construction and Housing, for measures required under pain of prohibition to inhabit or use the premises or of definitive closure of the establishment, or Articles L. 129-2, L. 129-3, L. 511-2 or L. 511-3 of this last Code, providing for a summary estimate of the cost of the measures or works to be carried out; or a putting in default under Article L. 1331-26-1 or of II of Article L. 1331-29 of the Code of Public Health, of Article L. 123-3 of the Code of Construction and Housing for measures required under pain of prohibition to inhabit or use the premises or of definitive closure of the establishment, or Articles L. 129-2, or of IV of Article L. 511-2 of this last Code, providing for a summary estimate of the cost of measures or works to be carried out;

2o By its author of the title or instrument for collection of the claim.

For claims arising under Article L. 521-3-2 of the Code of Construction and Housing, of I of Article L. 511-2 of the same Code, or of I of Article L. 1331-28 of the Code of Public Health when the demolition of the building declared unhealthy or threatening ruin has been ordered, the privilege ranks to the extent of the amount appraised or of the amount of the title of collection, if it is lower, effective from the date of the first registration and effective from the date of the second registration for the fraction of the amount of the title of collection that may exceed the amount resulting from the first registration.

For other claims, the privilege is preserved to the extent of the estimated amount or of that of the title of collection, if it is less.

Article 2384-2

As an exception to Article 2384-1, the privilege can also be preserved by the mere registration of the title of collection, to the extent of its value.

In this case, as regards the claims arising Article L. 521-3-2 of the Code of Construction and Housing, of I of Article L. 511-2 of the same Code or of I of Article L. 1331-28 of the Code of Public Health when the demolition of a building declared unhealthy or threatening ruin has been ordered, the privilege ranks from the date of the issue of the title if it is presented for registration within two months from the issue.

Article 2384-3

The costs of registration are borne by the debtors.

Article 2384-4

When the measures prescribed by the ordinance or the putting in default specified in 1o of Article 2384-1 have been carried out by the owner or the operator, the publication at their cost of a decree of cancellation, before the registration of the title of collection provided in 2o of the same article entails the lapse of the first registration. Reference is made of this striking out resulting from this lapse the margin of the registration, at the cost of the owner or the operator.

The striking out of the second registration may only occur in conformity with the provisions of Articles 2440 and following.

Article 2385

The assignees of these various privileged claims all exercise the same rights as the assignors, in their stead and place.

Article 2386

Hypothecs registered on immovables assigned to the guarantee of claims that are privileged, within the period allowed by Articles 2379, 2381, and 2383 for requiring the registration of a privilege, may not prejudice the privileged creditors.

All privileged claims subject to the formality of registration, with respect to which the requisites above laid down in order to preserve the privilege have not been fulfilled, nevertheless remain hypothecary, but the hypothec ranks, with regard to third parties, only from the date of the registration.

CHAPTER II. PLEDGE OF AN IMMOVABLE

Article 2387

The pledge of an immovable is the allocation of an immovable as guarantee for an obligation; it entails dispossession of the person who establishes it.

Article 2388

The provisions relating to the conventional hypothec laid down in Article 2397, last paragraph, and in Articles 2413, 2414, 2416, 2417 and 2421 shall apply to the pledge of an immovable.

The provisions relating to the effect of hypothecs under Articles 2458 to 2460 also apply.

Article 2389

The creditor shall collect the fruits of the immovable allocated as a guarantee, on the condition that they be imputed to the interest, if any is due, and subsidiarily to the principal of the debt.

He is bound, on pain of forfeiture, to provide for the preservation and maintenance of the immovable and may use the fruit collected for that purpose before imputing them to the debt. He may, at any time, free himself from that obligation by returning the thing to its owner.

Article 2390

The creditor can, without losing its possession, lease the immovable either to a third party or to the debtor himself.

Article 2391

The debtor cannot demand return of the immovable before having fully paid off the debt.

Article 2392

The rights of a creditor under a pledge of an immovable are extinguished in particular:

1° Through the extinction of the principal obligation;

2° Through the return as anticipated of the immovable to its owner.

CHAPTER III. HYPOTHECS

Section 1: General provisions

Article 2393

A hypothec is a real right in an immovable allocated to the discharge of an obligation.

It is, by its nature, indivisible and subsists in its entirety on all the immovables burdened, on each one and on each portion of those immovables.

It follows them into whatever hands they may pass.

Article 2394

A hypothec exists only in the instances and according to the forms authorized by statutory law.

Article 2395

It is either legal, or judicial, or conventional.

Article 2396

A legal hypothec is created by statutory law.

A judicial hypothec results from a judgment.

A conventional hypothec results from an agreement.

Article 2397

Only the following things may be hypothecated:

1° Immovables that are in commerce, and their accessories that are deemed immovables;

2° The usufruct of the same things and accessories for the time of its duration.

A hypothec extends to the improvements that take place on the immovable.

Article 2398

Movables may not be followed [into the hands of another] in consequence of a hypothec.

Article 2399

No innovation is made by this Code to the provisions of maritime laws concerning ships and vessels.

Section 2. Legal hypothecs

Sub-section 1. General provisions

Article 2400

Independently of legal hypothecs resulting from other Codes or from particular statutes, the rights and claims which are attached to a legal hypothec are:

1° Those of one spouse, on the assets of the other;

2° Those of minors or adults under tutorship, on the assets of the tutor or legal administrator;

3° Those of the State, of the departments, of the local municipalities and those of public institutions, on the assets of the tax collectors and administrative accountants;

4° Those of a legatee, on the assets of the succession, under Article 1017;

5° Those stated in Article 2331, 2°, 3°, 5°, 6°, 7° and 8°.

Article 2401

Subject to the exceptions under this Code, under other Codes, or under particular statutes, and subject to the right of the debtor to avail himself of the provisions of Articles 2444 and following, the creditor benefiting from a legal hypothec may register his right on all the immovables that currently belong to his debtor, subject to his complying with the provisions of Article 2426.

Under the same reservations, he may have additional registrations made on the immovables which subsequently become part of the patrimony of his debtor.

Sub-section 2. Particular rules on the legal hypothec of spouses

Article 2402

Where spouses have stipulated a participation in the acquests, the clause, except in case of an agreement to the contrary, vests both spouses by operation of law with the right to register a legal hypothec as the security for the claim arising from the participation.

The registration may take place before the dissolution of the matrimonial regime; but it will have effect only from that dissolution and provided that the immovables burdened still exist at this date in the patrimony of the debtor spouse.

In case of early liquidation, the registration made prior to the request has effect as from the day of the latter, a subsequent registration having effect only as from its date as stated in Article 2425.

The registration may also be made within the year which follows the dissolution of the matrimonial regime; it then takes effect as from its date.

Article 2403

Outside the case of the participation in the acquests, the legal hypothec may be registered only following the intervention of the court, as explained in this Article and the following one.

If one of the spouses files a claim for the purpose of having acknowledged his/her claim against his/her spouse or the heirs of the latter, he/she may, from the very filing of the claim, require a provisional registration of his legal hypothec, by showing the original of the summons served, as well as a certificate from the clerk which attests that the matter has been referred to the court. The same right exists in case of a counter-claim, upon showing of a copy of the pleadings.

The registration is valid for three years and renewable. It is subject to the rules of Chapters IV and following of this Title.

If the claim is entertained, the decision shall be referred to, at the behest of the plaintiff spouse, in the margin of the provisional registration, under the penalty of nullity of that registration, within the month after the day when it became final. It constitutes the instrument of title for a final registration which takes the place of the provisional registration and which ranks from the date of the latter. Where the amount of the principal of the claim allocated and of its accessories exceeds the sum which the provisional

registration secures, the excess may be maintained only by a registration made in accordance with the provisions of Article 2428 and taking effect from its date, as stated in Article 2425.

If the claim is dismissed in full, the court, at the request of the defendant spouse, shall order the deletion of the provisional registration.

Article 2404

Likewise, when, during the marriage, there is occasion to transfer from one spouse to the other the administration of certain assets, in accordance with Article 1426 or Article 1429, the court, either in the very judgment that orders the transfer, or in a subsequent judgment, may decide that a registration of the legal hypothec shall be taken on the immovables of the spouse who will have the responsibility to administer. In the affirmative, the court shall fix the sum for which the registration will be made and identify the immovables which will be burdened with it. In the negative, the court may nevertheless decide that the registration of the hypothec will be replaced by establishing a pledge, of which the court itself will determine the terms.

If, later on, new circumstances seem to require it, the court can always decide, by judgment, that either a first registration or additional registrations shall be made or that a pledge shall be established.

The registrations provided for by this Article shall be made and renewed at the request of the State Prosecutor’s office.

Article 2405

When a legal hypothec has been registered under Articles 2402 or 2403, and unless an express clause of the contract of marriage prohibits it, the spouse who benefits from the registration may agree, to the benefit of the other spouse's creditors or of his own creditors, to an assignment of his rank or to a subrogation to the rights resulting from his registration.

It shall be the same as to a legal hypothec or, possibly, a judicial hypothec securing alimony payments granted, or liable to be granted to a spouse, for himself or for his children.

If the spouse who benefits from the registration, when refusing to agree to an assignment of rank or to a subrogation, prevents the other spouse from creating a hypothec that the interest of the family would require or where he is unable to express his will, the judges may authorize that assignment or that subrogation subject to the conditions they will deem necessary for the protection of the rights of the spouse concerned. They have the same powers when the contract of marriage contains the clause referred to in the first paragraph.

Article 2406

When a hypothec has been registered under Article 2404, the assignment of rank or the subrogation may result, for the duration of the transfer of administration, only from a judgment of the court which has ordered that transfer.

As soon as the transfer of administration comes to an end, the assignment of rank or the subrogation may be made under the conditions laid down in Article 2405.

Article 2407

The judgments issued in application of the two preceding Articles shall be handed down in the forms regulated by the Code of Civil Procedure.

Subject to the provisions of Article 2403, the legal hypothec of spouses is subject, as to the renewal of the registrations, to the rules of Article 2434.

Article 2408

The provisions of Articles 2402 to 2407 shall be made known to the spouses or the future spouses as per the conditions set by a decree.

Sub-Section 3. Particular rules for the legal hypothec of persons under tutorship

Article 2409

Upon the opening of any tutorship, the family council or, failing that, the judge, after having heard the tutor, shall decide whether a registration must be required on the immovables of the tutor. In the affirmative, it shall fix the sum for which the registration will be made and identify the immovables which will be burdened with it. In the negative, it may however decide that the registration of the hypothec will be replaced by the creation of a pledge, of which it itself shall determine the terms and conditions.

In the course of the tutorship, the family council may always order, where the interests of the minor or of the adult under tutorship seem to require it, that either a first registration or additional registrations will be made or that a pledge will be created.

The registrations provided for by this Article are made at the request of the clerk of the judge of tutorships, and the costs shall be imputed to the account of the tutorship.

Article 2410

The ward, after his coming of age or emancipation, or an adult under tutorship, after the removal of the tutorship of adults, may demand within one year the registration of his legal hypothec or an additional registration.

This right may, furthermore, be exercised by the heirs of the ward or of the adult under tutorship within the same period, and in case of death of the person protected before the termination of the tutorship or the removal of the tutorship of adults, within the year of the death.

Article 2411

During the minority and the tutorship of adults, the registration made by virtue of Article 2409 must be renewed by the clerk of the tribunal d'instance, in accordance with Article 2434 of the Civil Code.

Section 3. Judicial hypothecs

Article 2412

A judicial hypothec results from judgments after trials, or default judgments, final or provisional, in favor of the one who has obtained them.

The hypothec results also from arbitral awards bearing a judicial order of enforcement, as well as from judicial decisions handed down in a foreign country and whose execution has been authorized by a French court.

Subject to the reservation of the right of the debtor to avail himself, either pending suit, or at any other time, of the provisions of Articles 2444 and following, a creditor who benefits from a judicial hypothec may register his right on all the immovables currently belonging to his debtor, subject to his complying with the provisions of Article 2426. He may, under the same reservations, have additional registrations made on the immovables that later on enter the patrimony of his debtor.

Section 4. Conventional hypothecs

Article 2413

Conventional hypothecs may be granted only by those who have the capacity to alienate the immovables they burden with them.

Article 2414

Those who only hold on an immovable a right suspended by a condition, or a right that may be dissolved in certain cases, or subject to rescission, may only grant a hypothec subject to the same conditions or to the same rescission.

The hypothec of an immovable co-owned in indivision retains its effect whatever the result of the partition may be when it has been granted by all co-owners in indivision. Otherwise, it retains its effect only in so far as the co-owner in indivision who has granted it is, at the time of the partition, allotted with that or those indivisible immovables or, when the immovable is sold by auction to a third party, if that co-owner is allotted the proceeds of the sale.

The hypothec of a share in one or several indivisible immovables retains its effect only in so far as the co-owner who has granted it is, at the time of the partition, allotted that or those indivisible immovables; this hypothec then retains it to the full extent of that allotment without being limited to the share that belonged to the co-owner who has granted it; when the immovable is sold at an auction to a third party, it retains its effect also if that co-owner is allotted the proceeds of the sale.

Article 2415

The assets of minors, of adults under tutorship and of absentees, so long as their possession is transferred only temporarily, may be hypothecated only for the causes and in the forms established by law or by virtue of a judgment.

Article 2416

A conventional hypothec may only be granted by a notarial act.

Article 2417

Contracts entered into in foreign countries may not establish a hypothec on immovables in France, unless there are provisions contrary to this principle in political statutes or in treaties.

Article 2418

The granting of a conventional hypothec is valid only if the authentic constitutive title of the claim or a subsequent authentic act declares in specific terms the nature and the location of each one of the immovables on which the hypothec is granted, as stated in Article 2426 below.

Article 2419

In principle, a hypothec may be granted only on existing immovables.

Article 2420

By exception to the preceding Article, a hypothec may be granted on future immovables in the following circumstances and subject to the following conditions:

1° He who does not possess existing and unencumbered immovables or who does not possess sufficient quantity of them to secure the claim may agree that each immovable he will acquire in the future will be assigned to the payment of the claim, as each acquisition occurs;

2° He whose existing immovable is burdened with a hypothec has perished or suffered deteriorations so that it has become insufficient for the security of the debt may do so likewise, without prejudice to the right of the creditor to enforce at once his reimbursement;

3° He who possesses an existing right that entitles him to build for his benefit on another's property may grant a hypothec on the buildings whose construction has begun or is merely planned; in case of destruction of the these buildings, the hypothec is transferred as of right onto the new buildings constructed on the same place.

Article 2421

A hypothec may be granted to secure one or several claims, existing or to come. If they are future debts, they must be determinable.

Their cause is determined in the act.

Article 2422

A hypothec may, later on, be assigned to the guarantee of the debts other than those mentioned in the contract, provided that such contract so provides expressly.

The grantor of the hypothec may then offer it in guarantee, up to the sum provided for in the contract and specified in article 2423, not only to the original creditor, but also to a new creditor, even if the original creditor has not been paid.

The agreement to recharge which he concludes, either with the original creditor or with the new creditor, shall be drawn up in notarial form.

It is published in the form provided in article 2430 on pain of ineffectiveness against third persons.

The date of publication determines, among them, the rank of the creditors registered on a hypothec that provides for the coverage of future debts.

The provisions of this article are of public order and any clause contrary to them is deemed unwritten.

Article 2423

A hypothec is always granted, for the principal, up to a determined amount which the notarial act specifies, on pain of nullity. If appropriate, the parties shall estimate for that purpose the annuities, the prestations, and undetermined, contingent or conditional rights. If the claim includes a revaluation clause, the guarantee extends to the revalued claim, provided the act so specifies.

A hypothec extends by operation of law to interest and other accessories.

When it is granted for the security of one or several claims to come and for an undetermined duration, the grantor may at any time terminate it subject to his giving a three months' notice. Once cancelled, it is still extant but only for the security of the pre-existing claims.

Article 2424

A hypothec is transferred by operation of law with the secured claim. The hypothecary creditor may subrogate another creditor to the hypothec and retain his claim.

He may also by an assignment of priority transfer his registered rank to a creditor with an inferior rank, with whom he changes places.

Section 5. Ranking of hypothecs

Article 2425

As between creditors, a hypothec, either legal, or judicial, or conventional, ranks only from the day of the registration made by the creditor at the land registry, in the form and manner prescribed by law.

When several registrations are required on the same day as to the same immovable, that which is required by virtue of the instrument of title bearing the oldest date shall be deemed of prior rank, whatever the order resulting from the register provided for in Article 2453 may be.

However, the registrations of separations of patrimony provided for by Article 2383, in the case referred to in Article 2386, paragraph 2, as well as those of the legal hypothecs provided for in Article 2400, 1°, 2° and 3°, shall be deemed of a rank prior to the one of any registration of judicial or conventional hypothecs made on the same day.

If several recordations are made on the same day as to the same immovable, either by virtue of instruments of title provided for in the second paragraph but bearing the same date, or for the benefit of claimants vested with the privilege and the hypothecs referred to in the third paragraph, the registrations rank equally, whatever the order in the above mentioned register may be.

The registration of the legal hypothec of the Treasury or a conservatory judicial hypothec is deemed to have a rank prior to that assigned to the hypothec-recharging agreement when the publicity of that agreement is subsequent to the registration of this hypothec.

The provisions of the fifth paragraph apply to the registration of the legal hypothec of the managing institutions of an obligatory regime of social protection.

The order of preference between privileged or hypothecary creditors and holders of warrants, to the extent that the latter have pledges on assets deemed immovables, is determined according to the dates when these respective titles were published, the publication of warrants being subject to the special rules that govern them.

CHAPTER IV. REGISTRATION OF PRIVILEGES AND HYPOTHECS

Section 1. Mode of registration of privileges and hypothecs

Article 2426

The following are registered at the land registry service of the location of the assets:

1° Privileges over immovables, subject to the sole exceptions referred to in Article 2378;

2° Legal, judicial or conventional hypothecs.

The registration which is never made as a matter of course by "this service" can take place only for a sum and on immovables which are determined, subject to the conditions laid down in Article 2428.

In any case, the immovables on which a registration is required must be individually designated, with indication of the municipality where they are situated, to the exlusion of any general designation, even limited to a given territorial area.

Article 2427

Creditors who have privileges or hypothecs cannot effectively proceed with registration against the prior owner, from the time of the publication of the transfer made to the benefit of a third party. Notwithstanding such publication, the seller, the lender of funds for the acquisition and the co-partitioner may effectively register, within the periods provided for in Articles 2379 and 2381, the privileges that Article 2374 confers upon them.

The registration produces no effect among the creditors of a succession when that registration has been made by one of them only after the death, in the event the succession is only accepted to the extent of the net assets or it is declared vacant. Nevertheless, the privileges acknowledged as those of a seller, a lender of funds for the acquisition, of a coparcener, as well as those of the creditors and legatees of the deceased, can be registered within the periods provided for in Articles 2379, 2381 and 2383, notwithstanding an acceptance to the extent of the net assets or the vacancy of the succession.

In case of seizure of immovables, or of safeguard procedure or of judicial reorganization or of judicial liquidation, or still of a procedure of administration of excessive indebtness of individuals, the registration of privileges and hypothecs produces the effects regulated by Title XIX of Book III of the present Code and by Titles II, III or IV of Book VI of the Commercial Code.

In the departments of Bas-Rhin, Haut-Rhin and Moselle, in case of forced execution against an immovable, the registration of privileges and hypothecs produces the effects regulated by the provisions of the Act of 1 June 1924.

Article 2428

The registration of privileges and hypothecs shall be made by the service charged with the land registry following the filing of two certificates of entry dated, signed and certified to be in conformity with each other by the signatory of the certificate of identity provided for in Articles 5 and 6 of decree of January 4, 1955; a decree en Conseil d'État shall determine the requirements of form with which the certificate of entry to be kept by this service must comply. In the event the registrant did not use a prescribed form, the service in charge of the land registry would nevertheless accept the filing, subject to the provisions of the penultimate paragraph of this Article.

However, for the registration of judicial hypothecs or judicial securities, the creditor shall present, either himself or through a third party, to the "said service":

1° The original, a certified copy, or a literal extract from the judicial decision giving rise to the hypothec, when the latter results from the provisions of Article 2412;

2° The authorization of the judge, the judicial decision or the instrument of title for conservatory judicial securities.

Each of the certificates of entry shall contain exclusively the indications and specifications fixed by decree en Conseil d'État.

The filing is denied:

1° In case of failure to present the title generating the security for hypothecs and judicial securities.

2° In case of failure of the specific note certifying the identity of the parties as prescribed under Articles 5 and 6 of the Decree of 4 January 1955, or if the immovables are not individually designated, with an indication of the municipality where they are located.

If the service charged with the land registry, after having accepted the filing, notices the omission of one of the specifications prescribed, or a discrepancy between, on the one hand, the statements relating to the identity of the parties or to the designation of the immovables as contained in the certificate, and, on the other hand, those same statements contained in the certificates or titles already recorded since 1 January 1956, the formality shall be rejected, unless the applicant puts the certificate in proper form or produces the justifications that establishes its accuracy, in which cases, the formality ranks as of the date of the filing of the certificate as noted in the register of filings.

The formality is also denied when the certificates include an amount of secured debt greater than that which appears in the title as regards hypothecs and judicial securities, as well as in the case of the hypothec referred to in the first paragraph of this Article, if the applicant does not substitute a new certificate on a prescribed form for the certificate irregular in its form.

The decree above referred to for shall determine the terms and conditions of a denial of a filing or of a rejection of the formality.

Article 2429

For the proper needs of their registration, privileges and hypothecs bearing on shares depending on an immovable that is co-owned are deemed not to burden the portion of the common areas included in those shares. Nevertheless, the registered creditors shall enforce their rights on the said portion taken in its substance at the time of the transfer the price of which is the object of the distribution; that portion shall be deemed burdened by the same security rights as the individual shares and by those security rights only.

Article 2430

Shall be recorded in the "registry of immovables", under the form of mentions in the margin of the existing registrations, the subrogations to privileges and hypothecs, releases, reductions, assignments of priority ranking and transfers which have been granted, extensions of time, changes of domicile and, as a general rule, all modifications, in particular as to the person of the creditor who benefits by the registration, which do not have the effect of worsening the condition of the debtor.

It shall be the same as to transfers by inter vivos acts or testamentary dispositions, on the condition of restitution, bearing on claims secured by privileges or hypothecs.

Also recorded under the same form are the agreements which must be so under Article 2422.

The acts and judicial decisions evidencing these different agreements or transfers and the copies, extracts, or certified copies filed with "the service in charge of the land registry" for the purpose of execution of the mentions shall contain the designation of the parties in accordance with the first paragraph of Articles 5 and 6 of the Decree of 4 January 1955. This designation need not be certified.

Furthermore, in case the modification mentioned bears only on part of the immovables encumbered, the said immovables shall be individually designated, under penalty of refusal of the filing.

Article 2431

The service in charge of the land registry shall mention, on the register, prescribed by Article 2453 below, the filing of the certificates and shall hand back overto the applicant both the instrument of title or the certified copy of the same, and one of the certificates at the bottom of which it shall mention the date of the filing, the volume, and the number under which the certificate intended for the archives has been filed.

The date of the registration is determined by the notice entered into the register of filings.

Article 2432

The privileged creditor whose title has been registered, or the hypothecary creditor registered for a capital sum producing interest and instalments, has the right to be collocated, for three years only, on the same rank as the capital, without prejudice to the special registrations to be made, bearing a hypothec from their date, for the interest and instalments other than those preserved by the original registration.

However, the creditor has the right to be so collocated for all the interest owed, on the same rank as the capital, when the hypothec has been granted as a guarantee for the lifetime loan defined by Article L. 314-1 of the Consumer Code.

Article 2433

A person who has demanded a registration as well as his representatives or assigns by authentic act are entitled to change at the land registry service the domicile elected by him in that registration, provided they choose and designate a new one situated in metropolitan France, in the overseas departments, or in the territorial authority of Saint-Pierre-et-Miquelon.

Article 2434

The registration preserves the privilege or the hypothec up to the date fixed by the creditor in compliance with the following provisions:

If the capital of the secured obligation must be paid at one or several due dates, the extreme effective date of the registration made before the due date or the last due date provided for is, at most, one year past that due date, without the duration of the registration exceeding fifty years.

If the due date or the last due date is undetermined, in particular in the case provided for by Article L. 314-1 of the Consumer Code, or if the hypothec is coupled with a clause allowing recharging as provided for in Article 2422, the duration of the registration is at most fifty years after the day of the formality.

If the due date or the last due date is prior to or concomitant with the registration, the duration of the registration is at most ten years after the day of the formality.

When the security secures several claims and the latter are such that several of the three preceding paragraphs apply, the creditor may require either, for each of them, distinct registrations, or a single registration for the whole up to the remotest date. It shall be the same when, the first of those paragraphs alone being applicable, the different claims do not carry the same due dates or last due dates.

Article 2435

The registration ceases to have effect if it has not been renewed at the latest at the date referred to in the first paragraph of Article 2434.

Each renewal is required up to a determined date. That date shall be fixed as stated in Article 2434 by distinguishing according to whether the due date or the last due date, even when it results from an extension of time, is determined or not and whether it is subsequent or not to the day of the renewal.

The renewal is compulsory, in case the registration has produced its legal effect, in particular in case of the realization of the pledge, until payment or consignment of the price.

Article 2436

If one of the delays referred to in Articles 2434 and 2435 has not been met, the registration does not have any effect beyond the date of the expiration of that delay.

Article 2437

When a provisional registration of the legal hypothec of spouses or of a judicial hypothec has been made, the provisions of Articles 2434 to 2436 apply to the final registration and to its renewal. The date selected from which the delays begin to run is that of the final registration or of its renewal.

Article 2438

Unless otherwise stipulated, the expenses of the registrations, which are advanced by the registrant, are charged to the debtor, and the expenses of the recording of the act of sale that a seller may require with a view to the timely, effective registration of his privilege, are charged to the buyer.

Article 2439

The actions to which registrations may give rise against creditors shall be brought before the court having jurisdiction, by summons served upon their persons, or at the last of the domiciles elected by them on the certificates of registration, even in case of death either of the creditors or of those at whose residence they have elected domicile.

Section 2. Cancellation and reduction of inscriptions

Sub-Section 1. General provisions

Article 2440

Registrations are cancelled by the consent of the parties concerned and having capacity therefor, or by virtue of a judgment not subject to appeal or having become res judicata.

Cancellation is incumbent on a creditor who did not proceed with the recordation under the form of a mention in the margin, provided for in Article 2422, paragraph 4.

Article 2441

In both instances, those who demand the cancellation shall file with the service responsible for land registry the certified copy of the authentic act evidencing consent, or that of the judgment.

No document in proof is required to support the certified copy of the authentic act as regards the statements establishing the status, capacity and qualifications of the parties, when those statements are certified as accurate in the act by the notary or the administrative authority.

The cancellation of the registration may be demanded by depositing with the land registry service an authentic copy of the notarial act certifying that the creditor has, at the request of the debtor, given his consent to the cancellation; the review undertaken by this service is limited to the formal correctness of the act and not to its substantial validity.

Article 2442

The cancellation not agreed to shall be asked from the court in whose territory the registration was made, unless that registration was made to secure a contingent or undetermined judgment, on the enforcement or liquidation of which the debtor and the alleged creditor are in litigation or are to be judged in another court; in which case the request for cancellation must be entered or rejected.

Nevertheless, the agreement made by the creditor and the debtor to bring the request, in case of controversy, before a court which they would have designated, shall be enforced between them.

Article 2443

Cancellation shall be ordered by the courts, when the registration was made without being based on statutory law or on a title, or when it was made by virtue of a title either irregular or extinguished or paid off, or where the rights of privilege or hypothec have been erased by legal remedies.

Article 2444

When the registrations made under Articles 2401 and 2412 are excessive, the debtor may seek their reduction by complying with the rules of jurisdiction established by Article 2442.

Registrations are deemed excessive if they burden several immovables if the value of a single one or several of them exceeds a sum equal to double of the amount of the claims in capital and legal accessories, increased by one-third of that amount.

Article 2445

Registrations may also be reduced as excessive when they have been made according to an appraisal made by the creditor of conditional, contingent, or undetermined claims whose amount has not been fixed by the agreement.

In that case, the excess shall be decided by the court according to the circumstances, probabilities, and presumptions of fact, in such a manner as to conciliate the rights of the creditor with the interest of preserving credit to the debtor, without prejudice to the new registrations to be made with a hypothec from the day of their date, when the event will have raised the undetermined claims to a larger sum.

Sub-Section 2. Particular provisions relating to hypothecs of spouses and persons under tutorship

Article 2446

When a legal hypothec has been registered under Articles 2402 or 2403, and unless there is an express clause in the contract of marriage that forbids it, the spouse who benefits by the registration may grant a total or partial release of it.

The same is true for a legal hypothec, or possibly a judicial hypothec securing alimony payments allocated or susceptible of being allocated to a spouse, for himself or for the children.

If the spouse who benefits by the registration, by refusing to reduce his hypothec or to grant a release of it, prevents the other spouse from creating a hypothec or from making a transfer that the interest of the family would require, or if he is unable to express his will, the judges can authorize that reduction or release under the conditions they will deem necessary for the protection of the rights of the spouse concerned. They have the same powers if the contract of marriage contains the clause referred to in the first paragraph.

When a hypothec has been registered under Article 2404, the registration may, for the duration of the transfer of the administration, be cancelled or reduced only by virtue of a judgment of the court that ordered that transfer.

As soon as the transfer of administration comes to an end, the cancellation or reduction may be made in the way provided for in paragraphs 1 and 3 above.

Article 2447

If the value of the immovables on which the hypothec of a minor or of an adult in tutorship has been registered notably exceeds what is necessary to secure the management by the tutor, the latter may request the family council to reduce the registration to the immovables that are sufficient.

He may likewise request the family council to reduce the appraisal that had been made of his obligations towards the ward.

In the same cases, when a registration has been made on his immovables under Article 2409, the legal administrator may request the judge of tutorships to reduce it, either as to the immovables encumbered, or as to the sums secured.

Furthermore, if there is occasion, the tutor and the legal administrator may, subject to the same conditions, request a total release of the hypothec.

The total or partial cancellation of the hypothec shall be made upon presentation of an act of release signed by a member of the family council having received delegation to that effect, as to the immovables of the tutor, and upon presentation of a decision of the judge of tutorships, as to the immovables of the legal administrator.

Article 2448

Judgments given at the request of a spouse, a tutor, or a legal administrator in the cases provided for in the preceding articles are handed down in the forms provided for in the Code of Civil Procedure.

If the court orders the reduction of a hypothec to certain immovables, the registrations made on all the others shall be cancelled.

Section 3. Publicity of the registers and responsibility in matters of land registration

Article 2449

The services in charge of land registration are bound to deliver, to all those who so request, a copy or extract of the documents, other than the certificates of registration, filed with the registry within the limit of fifty years preceding the year of the request, and a copy or extract of the subsisting registrations, or a certificate to the effect that there exists no document or registration coming within the scope of the request.

They are also bound to deliver on demand, within a period of ten days, copies of or extracts from the register, or a certificate to the effect that there exists no card coming within the scope of the request.

Article 2450

I. The State is liable for the prejudice resulting from the faults made by each service responsible for land registration in the performance of its duties, to wit:

1° From failure to register acts and judicial decisions filed in the services in charge of land registration and for the required registrations, whenever this failure to register does not result from a decision to refuse or to reject;

2° From the omission, in the certificates that the services deliver, of one or several of the existing registrations, unless, in this latter case, the error comes from insufficient or inaccurate designations that cannot be ascribed to them.

II. The action in liability against the State for the faults of each service in charge of land registration is brought before the civil law judge, under penalty of foreclosure, within ten years from the day the fault occurred.

Article 2451

When the service in charge of land registration, delivering a certificate to the new holder of a right referred to in Article 2476, omits a registration of a privilege or hypothec, the right remains in the hands of the new holder free from the undisclosed privilege or hypothec, provided the delivery of the certificate has been requested by the party concerned as a consequence of the recording of his title. Without prejudice to his possible remedy against the State, the creditor who is the beneficiary of the omitted registration does not lose the right to avail himself of the rank which that registration confers on him so long as the price has not been paid by the purchaser, or that intervening in the ranking open between the other creditors is authorized.

Article 2452

Besides the cases where they are entitled to refuse a filing or to reject a formality, in accordance with the legislative or regulatory provisions relating to land registration, the services in charge of land registration cannot refuse nor delay the fulfilment of a formality or the delivery of documents properly requested, under penalty of damages to the parties; for that purpose, official records of refusals or delays shall, at the behest of the requiring party, be forthwith drawn up, either by a judge of the Tribunal d'Instance, or by a court usher of the court, or by another court bailiff or by a notary with the assistance of two witnesses.

Article 2453

The services in charge of land registration are required to have a register in which they shall enter, day by day and in numerical order, the filings made with them of acts, judicial decisions, certificates and, generally, of documents filed for the purpose of the execution of a formality of registration.

They can execute the formalities only on the date and in the order of the filings made with them.

Each year a copy of the registers closed during the preceding year shall be deposited without cost at the clerk's office of a tribunal de grande instance or of a tribunal d'instance situated in an arrondissement other than the one where the service in charge of land registration resides.

The clerk's office of the tribunal where the copy will be deposited is designated by an order of the Minister of Justice.

A decree shall determine the details of application of this Article and, in particular, the technical processes which may be used for making a copy or duplicate to be deposited at the clerk's office.

Article 2454

A register kept in compliance with the preceding Article shall be numbered and initialled upon each page, by first and last, by the juge d'instance in whose territory the service of land registration is established. It shall be closed every day.

As a derogation to the preceding paragraph, a written electronic document may take the place of a register; in that case, it shall be identified, numbered, and dated as soon as it is established by means ensuring all guarantee as proof.

Article 2457

In the services in charge of land registration in which the register is kept in accordance with the provisions of Article 2454, paragraph 2, there shall be delivered a certificate of the formalities accepted for filing and in the process of being registered in the land register on the immovables individually designated in the request for information. A decree en Conseil d'État specifies the contents of that certificate.

CHAPTER V. THE EFFECT OF PRIVILEGES AND HYPOTHECS

Article 2458

Unless he pursues the sale of the hypothecated thing, under the terms provided for by the statutes on the civil procedure rules of execution, from which a contract of hypothec cannot derogate, the hypothecary creditor who is not paid can request the court that the immovable remain his by way of payment. However, this right is not open to him if the immovable is the principal residence of the debtor.

Article 2459

It can be agreed in a contract of hypothec that the creditor shall become owner of the hypothecated immovable. However, such a clause is ineffective in regard to the immovable which is the principal residence of the debtor.

Article 2460

In the circumstances referred to in the two preceding Articles, the immovable shall be appraised by an expert designated by amicable agreement or judicially.

If its value exceeds the amount of the guaranteed debt, the creditor owes the debtor a sum equal to the difference; if there exists other creditors who hold hypothecs, he shall consign it.

Article 2461

Creditors who have a privilege or hypothec registered on an immovable follow it into whatever hands it may pass, in order to be paid following the order of their claims or registrations.

Article 2462

If the third party possessor does not comply with the formalities hereinafter established to clear the assets he owns, he remains, by the sole effect of the registrations, liable as a possessor for all the hypothecary debts, and benefits from the time limits and periods granted to the original debtor.

Article 2463

The third party possessor is bound, in the same case, either to pay all the interest and principal due, to whatever sum they may amount, or to relinquish unreservedly the hypothecated immovable.

Article 2464

If a third party possessor fails to satisfy one of these obligations, every creditor with a right to follow the immovable may seek the seizure and sale of the immovable as provided in Title XIX of Book III.

Article 2465

Nevertheless, the third party possessor who is not personally liable for the debt, may oppose the sale of the hypothecated landed property that has been transferred to him, if other immovables hypothecated for the same debt remain in the possession of the principal debtor or debtors, and may require their prior discussion as provided in the Title "Suretyship"; during this discussion process, the sale of the hypothecated landed property shall be postponed.

Article 2466

The exception of discussion cannot be raised against a creditor who has a privilege or a special hypothec on the immovable.

Article 2467

As to abandonment on account of a hypothec, it may be done by any third possessor not personally bound for the debt and having the capacity to alienate.

Article 2468

It may be done even after the third party possessor has acknowledged the obligation debt or suffered a judgment in that capacity only: until a judicial sale by auction, abandonment does not prevent a third party possessor from retaking the immovable by paying the whole debt and the costs.

Article 2469

Abandonment on account of a hypothec is made at the clerk's office of the court of the situation of the assets; and that court shall record it.

On the petition of the most diligent of the parties concerned, a curator shall be assigned to the immovable relinquished, against whom the sale of the immovable shall be conducted in the forms prescribed for forced sales of immovables.

Article 2470

Deteriorations resulting from the act or carelessness of the third possessor, to the detriment of hypothecary or privileged creditors or a privilege, give rise against him to a claim for compensation; but he can recover his expenses and improvements only up to the additional value resulting from the improvement.

Article 2471

The fruits of the hypothecated immovable are owed by the third party possessor only from the day of the demand to pay the debt or to abandon the thing, and, if the proceedings instituted have been discontinued for three years, from the new demand that will be made.

Article 2472

Servitudes and real rights that the third party possessor had on the immovable before his possession, are revived after the abandonment or after the sale by auction made against him.

His personal creditors, after all the creditors who are registered on the previous owners, enforce their hypothec on the property relinquished or auctioned, according to their rank.

Article 2473

The third party possessor who has paid the debt secured by the hypothec, or relinquished the hypothecated immovable, or suffered the forced sale of that immovable, has a remedy in warranty, as allowed by law, against the principal debtor.

Article 2474

The third party possessor who wishes to redeem his property by paying the price shall comply with the formalities established in Chapter VI of this Title.

CHAPTER VI. REDEMPTION - DISCHARGE OF PRIVILEGES AND HYPOTHECS

Article 2475

If, on the occasion of the sale of an hypothecated immovable, all the registered creditors agree with the debtor that the proceeds shall be allocated to the full or partial payment of their claims or of some of the claims, they shall exercise their right of preference on the price and may assert it against any assignee as well as any creditor attaching the claim on the proceeds.

Through that payment, the immovable is cleared from the right to follow attached to the hypothec.

Without an agreement such as provided for in the first paragraph, the formalities of redemption are proceeded to in accordance with the following Articles.

Article 2476

Contracts which have the effect of transferring the ownership of immovables or of immovable real rights that third parties in possession will want to clear from privileges and hypothecs shall be registered with the service of land registry where the immovable assets are located, in accordance with the statutes and regulations relating to land registration.

Article 2477

The mere registration with the service of land registration of the titles translative of ownership does not clear an immovable from the hypothecs and privileges that burden it.

The seller transfers to the buyer only the ownership and rights that he himself had in the thing sold: he transfers them subject to the same privileges and hypothecs with which the thing sold was burdened.

Article 2478

If a new owner wishes to protect himself against the effect of the proceedings authorized in Chapter VI of this Title, he is bound, either before the proceedings, or within the month, at the latest, after the first demand is made to him, to serve on the creditors, at the domiciles they have elected in their registrations, notice of:

1° An extract of his title, containing only the date and character of the act, the name and precise designation of the seller or of the donor, the nature and situation of the thing sold or donated; and where a set of things is concerned, only the general designation of the domain and of the arrondissements in which it is situated, the price and the costs forming part of the sale price, or the appraisal of the thing when it has been donated;

2° An extract of the publication of the act of sale;

3° A summary hypothecary status on formalities showing the real charges that burden the immovable.

Article 2479

The purchaser or the donee shall declare, in the same act, that he is ready to pay, forthwith, the hypothecated debts and charges, up to the amount of the price, or, if he received the immovable by donation, to the value he has declared, without distinction between debts due or not due.

Article 2480

When the new owner has served this notice within the time period fixed, any creditor whose title has been registered may require the sale of the immovable at public auctions and tenders, provided that:

1° The request is served on the new owner within forty days, at the latest, of the notice served at his request;

2° It contains a tender from the petitioner to raise the price, or to have it raised, to one-tenth above the price stipulated in the contract, or declared by the new owner;

3° The same notice will be served within the same period of time on the previous owner, the principal debtor;

4° The original and the copies of these notices are signed by the petitioner-creditor, or by one holding his express authority, who, in that case, is obliged to give a copy of his authority;

5° He offers to provide a surety up to the amount of the price and charges.

All of which, on pain of nullity.

Article 2481

If the creditors fail to require a sale by auction within the period of time and in the forms prescribed, the value of the immovable remains definitely fixed at the price stipulated in the contract, or declared by the new owner, who is in consequence freed from all privilege and hypothec, by paying the said price to the creditors as allowed according to their rank, or by consigning it.

Article 2482

In case of a resale at auction, it shall take place in compliance with the forms established for forced sales upon seizure of immovables, at the behest either of the creditor who has required it, or of the new owner.

The party seeking execution shall state in the public notices the price stipulated in the contract, or declared, and the additional sum to which the creditor was compelled to raise it or to have it raised.

Article 2483

The highest bidder is bound, beyond his auction price, to return to the dispossessed purchaser or donee the expenses and the fair costs of his contract, those of the registration at the land registry, those of the notices and those incurred by him to have the resale take place.

Article 2484

The purchaser or donee who retains the immovable put up for auction, by becoming the highest bidder, is not bound to have the judgment concerning the auction registered.

Article 2485

The withdrawal of the creditor who has requested the sale by auction may not prevent the public auction, even if the creditor should pay the amount of the tender, unless all the other creditors holding hypothecs expressly consent thereto.

Article 2486

The purchaser who has become the final bidder has his remedy such as allowed by law against the seller, for the reimbursement of what exceeds the price stipulated by his title, and on the interest of that excess, from the day of each payment.

Article 2487

In the event the title of the new owner would include immovables and movables, or multiple immovables, some hypothecated and others not, situated in the same or "within the territorial jurisdiction of multiple services in charge of land registration", alienated for one and the same price or for distinct and separate prices, subject or not to the same use, the price of each immovable subject to particular and separate registrations, shall be stated in the notice of the new owner, by itemizing the total price expressed in the title, if there is occasion.

The creditor with the highest bid cannot, in any circumstances, be compelled to extend his bid either over the movables, or over immovables other than those hypothecated for his claim and situated in the same arrondissement; but the new owner has a remedy against his predecessors in title for compensation for the loss he may suffer, either from the division of the objects of his purchase or from the uses made.

CHAPTER VII. EXTINCTION OF PRIVILEGES AND HYPOTHECS

Article 2488

Privileges and hypothecs are extinguished:

1° By extinction of the principal obligation, except for the case provided for in Article 2422;

2° By the creditor's renunciation of the hypothec under the same exception;

3° By the fulfilment of the formalities and conditions prescribed to third party possessors to clear the things they have acquired;

4° By prescription.

Prescription is acquired to a debtor, as to the things that are in his hands, by the time period governing the prescription of the actions that give rise to a hypothec or a privilege.

For things which are in the hands of a third party possessor, prescription is acquired by the time period governing the prescription of ownership for his benefit: in the case where prescription depends upon a title, it begins to run only from the day when that title has been published in the land registry.

Registrations made by a creditor do not interrupt the running of the prescription established by the law in favor of the debtor or of the third party possessor.

5° By the cancellation allowed under the last paragraph of Article 2423, and as far as provided for by that provision.

CHAPTER VIII. - OWNERSHIP assigned AS A GUARANTEE

Article 2488-1

The ownership of an immovable may be assigned as a guaranty of an obligation by a contract of fiducia concluded under Articles 2011 through 2030.

As a derogation to Article 2029, the death of the grantor who is a physical person does not end the contract of fiducia created under the present chapter.

Article 2488-2

In case of a fiducia concluded as a guarantee, the contract specifies, under penalty of nullity, beyond the provisions of Article 2018, the debt guaranteed and the estimated value of the immovable transferred into the fiduciary patrimony.

Article 2488-3

In case of failure of payment of the debt guaranteed and unless there is a contrary stipulation in the contract of fiducia, the fiduciary, when he is the creditor, acquires the free disposition of the asset transferred by way of guarantee. When the fiduciary is not the creditor, the latter may demand from the fiduciary the delivery of the asset, which he may then freely dispose of or, if the agreement so provides, the sale of the asset and the delivery of all or part of the price.

The value of the asset is determined by an expert named amicably or judicially. Any clause to the contrary is deemed unwritten.

Article 2488-4

If the beneficiary of the fiducia has acquired the free disposition of the asset under Article 2488-3, he pays to the grantor, when the value specified in the last paragraph of this article exceeds the amount of the debt guaranteed, a sum equal to the difference between that value and the amount of the debt, provided, however, that prior payment be made of the debts that arose from the preservation or the management of the fiduciary patrimony.

Under the same reservation, if the fiduciary undertakes to sell the asset as per the contract of fiducia, he restores to the grantor the part of the proceeds of this sale that exceeds, as the case may be, the value of the debt guaranteed.

Article 2488-5

The ownership transferred under Article 2488-1 may later be burdened by debts other than those specified in the constitutive act, if this act expressly so provides.

The grantor may offer the ownership in guarantee, not only to the original creditor but also to a new creditor, even if the first has not been paid. When the grantor is a physical person, the fiduciary patrimony may only be burdened to guarantee a new debt within the limit of its estimated value as of the date of the recharging.

Under penalty of nullity, the agreement of recharging established under Article 2488-2 is published in the form for provided in Article 2019. The date of publication determines the rank of creditors among themselves.

The provisions of this article are of public order and any clause contrary to them is deemed unwritten.

Article 2489

The present code applies to Mayotte in the conditions defined in the present book.

Article 2490

For the implementation of this Code to Mayotte, the terms listed below are replaced as follows:

1o "Tribunal de grande instance" or "tribunal d'instance" by "tribunal de première instance";

2o "Cour" or "cour d'appel" by "chambre d'appel de Mamoudzou";

3o "Juge d'instance" by "president du tribunal of première instance ou son délégué";

4o "Département" or "arrondissement" by "collectivité départementale";

5o (Paragraph deleted).

6o "Décret du 4 janvier 1955" by "dispositions du titre IV du Livre IV";

7o "Service chargé de la publicité foncière" by "service de la conservation de la propriété immobilière";

8o (Deleted)

9o "Inscription au service chargé de publicité foncière" by "inscription au livre foncier";

10o "Fichier immobilier" by "livre foncier".

PRELIMINARY TITLE: PROVISIONS RELATIVE TO THE PRELIMINARY TITLE

Article 2491

Articles 1 through 6 apply in Mayotte.

TITLE I. PROVISIONS RELATING TO BOOK I

Article 2492

Book I applies in Mayotte, except as provided below.

Article 2499

For the implementation in Mayotte of Articles 515-3 and 515-7, the words: "greffe du tribunal d'instance" are replaced by the words: "greffe du tribunal de première instance," and the words "greffiers du tribunal d'instance" are replaced by the words: "greffiers du tribunal de première instance".

Article 2499-1

Articles 57, 62, and 316 apply in Mayotte, except as provided in Articles 2499-2 through 2499-5.

Article 2499-2

When serious evidence exists that the acknowledgment of a child is fraudulent, the officer of civil status refers the case to the State prosecutor and informs the author of the acknowledgment.

The State prosecutor is bound to decide, within fifteen days from the date of the referral, either to permit the officer of civil status to record the acknowledgment or to mention the acknowledgment in the margin of the act of birth, whether there is an extension while awaiting the results of the inquiry which he has had begun, or whether to oppose it.

The duration of this extension may not exceed one month, renewable once by a decision with specific reasons. Nevertheless, when the inquiry is carried out, in whole or in part, abroad by the diplomatic or consular authority, the duration of the extension is increased to two months, renewable once by a decision with specific reasons. In all instances, the decision to extend and its renewal are notified to the officer of civil status and to the author of acknowledgment.

Upon expiration of the extension, the State prosecutor informs the officer of civil status and the interested parties, in a reasoned decision, if he permits the recordation of the acknowledgment or its mention in the margin of the act of birth of the child.

The author of the acknowledgment may contest the decision of extension or its renewal before the tribunal de première instance, which rules within six days from the date of the referral. In case of appeal, the chambre d'appel de Mamoudzou rules within the same delay.

Article 2499-3

Every act of opposition mentions the first names and surname of the author of the acknowledgment, as well as the first names and surname and the date and place of birth of the child concerned.

In case of acknowledgment before the birth, the act of opposition mentions the first names and surname of the author of the acknowledgment, as well as all information communicated to the officer of civil status concerning with the identification of the child to be born.

On pain of nullity, every act of opposition to the recordation of an acknowledgement or to its mention in the margin of the act of birth of the child states the position of the author of the opposition as well as the grounds of the opposition.

The act of opposition is signed, on the original and on the copy, by the opponent and notified to the officer of civil status, who stamps his receipt upon the original.

The officer of civil status makes, without delay, a summary reference to the opposition in the registry of civil status. He specifies also, in the margin of the registration opposition, any decision of withdrawal of which a conformed copy has been delivered to him.

In case of opposition, he may not, upon pain of the fine provided for in Article 68, record the acknowledgment or mention it upon the act of birth of the child, unless a certified copy of the withdrawal of the opposition has been delivered to him.

Article 2499-4

The tribunal de première instance rules, within a delay of ten days from the date of the filing of the case, on the demand for a withdrawal of the opposition made by the author of the acknowledgment, even if a minor.

In case of appeal, the chambre d'appel de Mamoudzou rules within the same delay.

The judgment rendered by default, rejecting the opposition to the recordation of the acknowledgment, or to its mention in the margin of the act of birth of the child, cannot be contested.

Article 2499-5

When the referral to the State prosecutor concerns an acknowledgment before the birth or simultaneous with the declaration of birth, the act of birth is written without an indication of this acknowledgment.

TITLE II. PROVISIONS RELATING TO BOOK II

Article 2500

Articles 516 to 710, excepting Articles 642 and 643, apply in Mayotte, subject to the adaptations provided for in Articles 2501 and 2502.

Provisions affecting immovables only apply subject to the provisions of Title IV of this Book.

Article 2501

In applying the ninth paragraph of Article 524, immovables by destination include, when placed by the owner for the use and exploitation of the tract, fish in bodies of water without any connection to any flowing water, canal, or stream and fish in fish farms and enclosed fishponds.

Article 2502

In the implementation of Article 564, the words "stretch of water" referred to in Articles L. 432 and L. 433 of the Rural and Maritime Fisheries Code" are replaced by the words: "fish farms or enclosed fishponds."

TITLE III. PROVISIONS RELATING TO BOOK III

Article 2503

Articles 711 to 832-2, 832-4 to 2279 apply in Mayotte, subject to the adaptations that appear in Articles 2504 to 2508.

Provisions affecting immovables only apply subject to the provisions of Title IV of the present Book.

Article 2505

In applying the first paragraph of Article 833 in Mayotte, the reference to "831 to 832-4" is replaced by "831 to 832-1, 832-3 and 832-4."

In applying the second paragraph of Article 833 in Mayotte, the words "of Article 832" are replaced by the words "of Articles 832 and 832-2."

Article 2507

In applying Article 1873-13 in Mayotte, the words "831 to 832-1, 832-3 and 832-4" are replaced by the words "832 to 832-2."

Article 2508

The provisions of Title XIX of Book III and of Title II of Book IV apply in Mayotte, subject to the provisions of Title IV of the present Book and to the following provisions:

1o The 4o of Article 2331 applies in Mayotte on the following conditions:

a) In the first paragraph, the words "Articles L. 143-10, L. 143-11, L. 742-6 and L. 751-15 of the Labour Code" are replaced by the words "Articles L. 143-17 and L. 143-18 of the Labour Code applicable in the departmental collectivity of Mayotte;"

b) The third paragraph does not apply;

"The claim of the surviving spouse of the head of an artisanal or commercial enterprise who justifies by any proof having participated directly and effectively in the activity of the enterprise during at least ten years, without receiving any salary and without participating in the profits or losses of the enterprise.

"The claims mentioned above are for a sum equal to three times the interprofessional annual guaranteed minimum wage at the time of the death up to 25% of the succession assets and, if applicable, the amount of the rights of the surviving spouse in the partition of the succession and the liquidation of the matrimonial regime is reduced by the amount of this claim. For the liquidation of succession rights, this claim is added to the share of the surviving spouse."

d) The fifth paragraph is replaced by the following provision:

"The remuneration for the last six months of the employees and apprentices."

e) The sixth paragraph does not apply;

f) The seventh paragraph is replaced by the following provisions:

"The payment owed for failure to observe the leave provided for in Article L. 122-21 of the Labour Code applicable in the departmental collectivity of Mayotte";

g) In the ninth paragraph, the words: "of Articles L. 122-9, L. 122-32-6, L. 761-5, and L. 761-7, as well as the indemnity provided for in Article L. 321-6 of the Labour Code for the entire portion less than or equal to the ceiling referred to in Article L. 143-10 of the Labour Code and for one-fourth of the part greater than the said ceiling" are replaced by the words: "of Article L. 122-22 of the Labour Code applicable in the departmental collectivity of Mayotte or of Articles 80 c and 80 d of the Law of March 29, 1935, on the status of journalist";

h) In the tenth paragraph, the words "of Articles L. 122-3-8, second paragraph, L. 122-14-4, L. 122-14-5, second paragraph, L. 122-32-7 and L. 122-32-9 of the Labour Code" are replaced by the words: "of Articles L. 122-10 and L. 122-29 of the Labour Code applicable in the departmental collectivity of Mayotte";

2o In Article 2332, the 9o does not apply;

3o In Article 2377, the words "by being registered in the land registry, as provided for by the following articles and by Articles 2426 and 2428" are replaced by the words: "by registration in the land registry maintained by the commissioner of land registration, as determined by legislation, and effective as of the date of that registration, subject to the exceptions provided for in the following articles";

4o In Articles 2425 and 2431, the reference to the registry provided for in Article 2453 is replaced by a reference to the registry for the deposit of acts and documents to be registered.

TITLE IV.PROVISIONS RELATING TO THE RECORDATION OF IMMOVABLES AND OF RIGHTS ON IMMOVABLES

Article 2509

In Mayotte, rights on immovables, privileges, hypothecs, as well as rules concerning the organization, creation, transfer and extinction of real rights on immovables and other rights and acts subject to public recordation are those of civil legislation of the common law, except for the provisions of the present title.

Chapter I. The Regime of recordation of immovables

Section 1: General provisions

Article 2510

The recordation of an immovable guarantees the right of ownership as well as all other rights recognized under the title of ownership established at the end of a procedure permitting the disclosure of the group of rights already effective against that immovable. The details of this procedure are fixed by decree en Conseil d'État.

Article 2511

Except for the provisions of the third and fourth paragraphs of the present article, in the land registry of Mayotte specified in Article 2513 are recorded immovables of every nature, built or not, excepting those that are in the public domain. Changes in ownership of and the creation of rights in immovables are recorded in the same book.

Every immovable not recorded that is the object of sale before the courts is recorded before its adjudication in conditions fixed by a decree en Conseil d'État.

Tracts of immovables on which are built private tombs may be recorded.

Collective rights on immovables recognized by custom are not subject to the regime of recordation. Their conversion to individual rights of ownership permits recordation of the immovable.

Article 2512

Recordation of immovables and the registration of the rights specified in Article 2521 in the land registry are obligatory whatever the juridical status of the owner or the holder of the rights.

Without prejudice to the reciprocal rights and actions of the parties regarding the execution of their agreements, the rights specified in Article 2521 are not effective against third parties unless they have been published, as the case may be, through recordation or registration in the land registry in conformity with the provisions of the present chapter.

Article 2513

The land registry comprises the registries dedicated to the publication of rights on immovables

The land registry is maintained by the service for the preservation of immovable property. It may be maintained, by this service, in electronic form under the conditions defined by Article 1316-1.

Article 2514

Recordation of immovables and the registration of rights on immovables specified in Article 2521 occurs upon demand presented under conditions fixed by decree en Conseil d'État.

An advance notation may be inscribed upon judicial decision in order to assure to one of the rights specified in Article 2521 its rank of inscription or to guarantee the effectiveness of a subsequent correction.

A provisional, protective inscription occurs, upon demand of the claimant, by the commissioner during the delay required in order to remove an obstacle to the required inscription, in conditions fixed by decree en Conseil d'État.

Article 2515

The action for the revendication of a right on an immovable not revealed during the process of recordation is inadmissible.

Section 2. Recordation of immovables and its effects

Article 2516

Before an immovable may be recorded boundaries need to be established.

Nevertheless, every owner, in agreement with the adjacent owners, may renounce the setting of boundaries.

Boundary markers belong to the owner whose immovable is marked out.

Article 2517

Recordation gives rise to the establishment, by the commissioner of land registration, of a title of ownership.

The title of ownership attests, as needed, to the quality of owner.

It constitutes before the courts the starting point of rights on the immovable as of the moment of recordation.

Special titles may be established, upon demand by interested parties, after recordation of the immovable.

Article 2518

Every modification of the title of ownership after the recordation is proof of the rights there specified only until contrary proof is made.

Article 2519

The title of ownership and its registrations preserve the right that they record so long as they have not been annulled or modified and provide proof against third parties that the person there named holds the rights there specified.

Article 2520

If he rejects the demand for recordation or considers that he cannot follow up on it, the commissioner transmits it to the tribunal.

It is the same if there are oppositions or demands for registration whose withdrawal in authentic form has not been made or as to which the claimant refuses to consent.

The tribunal may order recordation, in whole or in part, of immovables as well as the registration of real rights and charges whose existence it has recognized. It corrects, if need be, the boundaries and the ground plan of the immovable.

The commissioner establishes the title of ownership in conformity with the decision of the tribunal ordering recordation, when it has become final, after correction if needed of the boundary markers and the ground plan of the immovable or execution of prescribed formalities.

Section 3. Registration of rights on the immovable

Article 2521

Without prejudice to other rights whose registration is provided for in the present Code, other codes, or in civil legislation applicable to Mayotte, are registered in the land registry, so that they are effective against third parties:

1o The following immovable real rights:

a) The ownership of immovables;

b) The usufruct of the same right of ownership established by the will of man;

c) The right of use and of habitation;

d) The emphyteosis, governed by the disposition of Articles L. 451-1 to L. 451-12 of Rural and Maritime Fisheries Code;

e) The surface area; the acreage;

f) The servitudes;

g) The pledge of an immovable;

h) The real right resulting from a title of occupation of the public domain of the State or of one of its public institutions delivered under the Code of Property of the State and Public Collectivities applicable to Mayotte;

i) The privileges and hypothecs;

2o The leases of a duration greater than twelve years and, even for a lease of a shorter duration, receipts or assignments for a duration equivalent to three years of rent or of farm rents not yet due;

3o Rights subject to publicity under 1o and 2o, resulting from acts or decisions stating or declaring the resolution, revocation, cancellation, or rescission of an agreement or a testamentary disposition;

However, servitudes that derive from the natural situation of places or that are established by legislation are dispensed from publicity.

Article 2522

Are registered on the land registry, on pain of being inadmissible, when they bear on rights specified in 1o and 2o of Article 2521, demands in justice leading to resolution, revocation, cancellation, or rescission of an agreement or of a testamentary disposition.

Article 2523

The holder of one of the rights specified in Article 2521 may not be registered before the right of his immediate author has itself been registered.

The holder of a right other than ownership may only be registered after the registration of the owner of the immovable, unless the latter was acquired through prescription or accession.

Article 2524

Any act bearing on a right susceptible of being registered must, for the needs of registration, be written in authentic form by a notary, a court of ordinary jurisdiction or a public authority.

Any act inter vivos, translative or declaratory of the ownership of an immovable, and any act inter vivos importing the creation or transmission of a predial servitude made in another form must be followed, on pain of caducity, by an authentic act or, in case of refusal by one of the parties, by a judicial demand, in the six months that follow the passage of the act.

The justifications necessary for writings passed in authentic form to establish rights transferred or established on a recorded immovable are fixed by decree en Conseil d'État. This decree determines as well the list of documents to submit to obtain the registration of rights upon the opening of a succession.

Article 2525

The ministerial officers and public authorities are bound to register, without delay and independently of the will of the parties, the rights specified in Article 2521 resulting from acts written before them and mentioned in Article 2524.

Article 2526

Any person who has an interest may ask the commissioner, in producing the writings passed in authentic form that create rights subject to registration, and other documents whose deposit is prescribed under the present title, the registration, the cancellation, or the correction of the registration of a right.

Article 2527

The commissioner of land registration of immovable property or the tribunal before which the case has been brought ascertains whether, the right at issue in the demand is susceptible of being registered, whether the

acts produced in support of the demand are in the prescribed form, and whether the author of the right is himself registered in conformity with the provisions of Article 2523.

Article 2528

The rights subject to registration under Article 2521 are, if they have not been registered, ineffective against third persons who, on the same immovable, have acquired, from the same author, competing rights subject to registration.

These rights are also ineffective, if they have been registered, when the rights invoked by third parties have been registered earlier.

Nevertheless, third parties may not rely upon this provision if they themselves were bound to have the competing rights registered nor can their successors under universal title.

Article 2529

When several formalities such as to be effective against third parties under Article 2528, are required on the same day as to the same immovable, the formality required under the title whose date is the oldest is deemed of a superior rank, regardless of the order of the recorded filings.

When a formality that is obligatory under 1o, except for i, and 2o of Article 2521 and such as to produce effects against third parties under Article 2528, and a registration of a hypothec are both required the same day as to the same immovable, and the act to be recorded and the title of the registration bear the same date, the registration is deemed of superior rank, regardless of the order of the recorded filings.

If competing formalities, obligatory under 1o, except for i, and 2o of Article 2521 and of such nature as to produce effects against third parties under Article 2528, are required the same day and if the acts bear the same date, the formalities are deemed to have the same rank.

When a formality is such as to produce effects against third parties under Article 2528 and the publication of an order amounting to a seizure are required the same day as to the same immovable, the rank of the formalities is controlled, regardless of the order of the filings made, by the dates, on the one hand of the title to be executed specified in the order and, on the other hand, by that of the title of the competing formality; when the titles have the same date, the publication of the order amounting to seizure is deemed to be of superior rank.

In any case, the registrations of separations of patrimony under Article 2383, in the case provided for in the second paragraph of Article 2386 of the same Code as well as those of legal hypothecs provided for in Article 2400 (1o, 2o and 3o) are deemed of a prior rank to any other formality required the same day.

CHAPTER II. MISCELLANEOUS PROVISIONS

Section 1. Privileges and hypothecs

Article 2530

As a derogation to the provisions of Article 2375, the only general privileges on immovables applicable in Mayotte are court costs and the fees, duties, taxes, of the public treasury. These two privileges are exempt from registration in the land registry.

Article 2531

Only the following can be subject to hypothecs:

1o Immovable assets that are in commerce and their accessories that are deemed immovables;

2o The usufruct of the same assets and accessories, while it is in effect;

3o Emphyteosis, while it is in effect;

4o The right to the surface area, acreage.

Article 2532

A conventional hypothec may only be granted by an act in authentic form. The transfer and the cancellation of the hypothec are to take place under the same form.

Contracts entered into outside of Mayotte can only validly create a hypothec on immovables located in Mayotte if they conform to the provisions of this title.

Section 2. Forced expropriation

Article 2534

For the needs of their being published, orders of forced execution bearing on lots which depend on an immovable subject to the status of co-ownership, are deemed not to bear on the share of the common areas which exist in these lots.

Nevertheless, the seizing creditors exercise their right as to the said share, considered in its make-up at the moment of the transfer whose price is to be distributed.