

Armenisches Erbrecht

PART 11. INHERITANCE LAW

Chapter 70. General Provisions on Inheritance

Article 1184. Right of Inheritance

1. By inheritance the property of the decedent (the inheritance) passes to other persons in unaltered form as a unified whole (universal legal succession), unless the rules of the present Code provide otherwise.

2. Inheritance is regulated by the present Code and, in cases directly provided by it, also by other statutes.

Article 1185. Bases for Inheritance

1. Inheritance is implemented by will and by statute.

2. Inheritance shall be conducted by statute when a will does not exist or does not determine the fate of all the inheritance and also in other cases provided by the present Code.

Article 1186. The Composition of the Inheritance

1. The composition of the inheritance includes the property belonging to the donor by inheritance at the date of opening of the inheritance, including money, securities and commercial paper, property rights, and obligations.

2. The composition of the inheritance does not include rights and duties inseparably connected with the personality of the donor by inheritance, including:

- 1) rights to and duties for support payment obligations;
- 2) the right to compensation for harm caused to the life or health of a citizen;
- 3) personal nonproperty rights and other nonmaterial values;
- 4) rights and duties whose transfer by the procedure for inheritance is not allowed by the present Code or other statutes.

Article 1187. Opening of the Inheritance

An inheritance shall be opened as the result of the death of

a citizen. Declaration by a court that a citizen is dead shall entail the same legal consequences as the death of a citizen.

Article 1188. Time of Opening of the Inheritance

1. The time of opening the inheritance is the day of death of the citizen or, in the case he is declared dead--the day of entry into legal force of a decision of a court declaring the citizen dead, unless another day is established in the decision.

2. If, on one and the same day, persons have died who had the right to inherit one after the other, they shall be considered to have died simultaneously. The inheritance shall be opened after each of them and the heirs of each of them shall be called to the inheritance.

Article 1189. Place of Opening the Inheritance

1. The place of opening the inheritance is the last place of residence of the donor by inheritance.

2. If the last place of residence of the donor by inheritance is abroad or is unknown, the place of opening the inheritance is the place of location of the immovable property included in the inheritance or its most valuable part and, in the absence of immovable property, the place of location of the movable property or its most valuable part.

Article 1190. Heirs

1. Citizens alive on the day of opening the inheritance and also those conceived during the life of the donor by inheritance and born alive after the opening of the inheritance may be heirs by will or statute.

2. Legal persons existing on the day of the opening of the inheritance, the Republic of Armenia and communes, and also foreign states and international organizations may be heirs by will.

Article 1191. Exclusion of Unworthy Heirs from Inheritance

1. Persons shall be excluded from inheritance both by will and by statute who have intentionally hindered the realization by the donor by inheritance of his last wish, intentionally have

deprived the donor by inheritance or any of the possible heirs of life or who have committed an attempt on their life. An exception shall be persons with respect to whom a testator made a will after the commission of an attempt.

2. In case of inheritance by statute, parents shall be excluded from inheritance who were deprived of parental rights and were not reinstated in these rights by the time of opening the inheritance.

3. The bases for exclusion on from an inheritance of unworthy heirs are a sentence and/or decision of a court that have entered into legal force.

Persons for whom such an exclusion engenders property consequences connected with the inheritance have the right to apply to court with a demand for removal from an inheritance.

4. The rules of the present Article shall extend to heirs having a right to an obligatory share in the inheritance.

5. The rules of Paragraphs 1 and 3 of the present Article shall be applied also to a testamentary charge.

Chapter 71. Inheritance by Will

Article 1192 General Provisions

1. A will is the expression of the wish of a citizen for the disposition of property belonging to him in case of death.

2. Disposition of property in case of death is possible only by the making of a will.

3. A will may be made by a citizen who has full dispositive capacity.

4. A will must be made personally. Making of a will through a representative is not allowed.

5. A will may contain the disposition of only person. Making of a will by two or more persons is not allowed.

6. A will is a unilateral transaction whose validity is determined at the time of opening of the inheritance.

Article 1193. Freedom of Leaving by Will

1. A citizen has the right at his discretion to leave by will any property to any persons, to determine the share of heirs in the inheritance in any manner, to deprive heirs by statute of inheritance, to include in the will other dispositions provided

for by the rules of the present Code on inheritance, to revoke, amend, or supplement a will that has been made.

2. A citizen is not obligated to inform anyone of the making, changing, or revoking of a will.

3. Freedom of making a will is limited only by the rules on an obligatory share in an inheritance.

Article 1194. The Right to an Obligatory Share in the Inheritance

1. An obligatory share is the right of an heir to inherit, regardless of the content of the will, not less than half of the share which would have been allotted to him in case of inheritance by statute.

2. At the time of opening the inheritance minor children of the testator and also children, the spouse, and the parents of the testator who have been recognized by the procedure established by statute as disabled or lacking dispositive capacity or have attained the age of 60 have the right to an obligatory share.

3. The obligatory share shall include all that the heir having the right to such a share receives from the inheritance on any basis, including the value of a testamentary charge established for the benefit of such an heir.

Article 1195. Designation of Heirs

1. A citizen has the right to will all his property or part of it to one or several persons, both included and not included in the circle of heirs by statute.

2. A testator does not have the right to impose upon persons designated by him in his will as heirs an obligation in their turn to dispose by of the property willed to them in a specific way in case of their death.

Article 1196. Shares of Heirs in Willed Property

Property willed to two or several heirs without an indication of their shares in the inheritance and without an indication of which property or rights included in the composition of the inheritance are designated for which of the heirs shall be considered willed to the heirs in equal shares.

Article 1197. Will With a Condition

1. A testator has the right to condition receipt of an inheritance on a specific lawful condition with respect to the nature of the conduct of the heir.

2. Unlawful conditions included in a disposition on designation of an heir or deprivation of the right of inheritance shall be invalid.

3. A condition included in a will may be declared invalid on suit by the heir if the condition cannot be carried out by the heir due to the condition of his health or by virtue of other objective causes.

Article 1198. Subdesignation of Heirs

1. The testator may indicate in the will another heir (subdesignation of an heir) in case the heir designated by him in the will dies before the opening of the inheritance, refuses the inheritance, is excluded from the inheritance as an unworthy heir, or does not fulfill lawful conditions of the testator.

2. A subdesignated heir may be any person who, in accordance with Article 1190 of the present Code, may be an heir.

3. Refusal of an heir by will of an inheritance not for the benefit of the subdesignated heir is not allowed.

Article 1199. Right to Leave Any Property

1. The testator has the right to make a will containing a disposition of any property including that which he may acquire in the future.

2. An inheritance shall be opened with respect to only that property that belonged to the heir at the day of opening the inheritance.

3.. The testator may make a will on all his property, on part of it, or on individual property or rights.

Article 1200. Inheritance of the Part of Property Left Unwilled

A part of the property of the testator left unwilled shall be distributed among the heirs by statute law called to the inheritance by the procedure provided by Chapter 72 of the present

Code.

Among these heirs are also included those heirs by statute to whom another part of the property was left by will.

Article 1200. Inheritance of the Part of Property Left Unwilled

A part of the property of the testator left unwilled shall be distributed among the heirs by statute law called to the inheritance by the procedure provided by Chapter 72 of the present Code.

Among these heirs are also included those heirs by statute to whom another part of the property was left by will.

Article 1201. Deprivation of Inheritance

1. A testator has the right, without explanation of the causes to deprive of inheritance one, several, or all the heirs by statute.

2. If the testator has deprived a person of inheritance who, on the day of opening the inheritance, has the right to an obligatory share, the will in the respective part is invalid.

Article 1202. Revocation of, Amendment of, and Supplement to a Will

1. A testator has the right to revoke, amend, or supplement a will made by him at any time after making the will and is not obligated in such case to indicate the reasons for the revocation, amendment, or supplementation.

2. A testator has the right by a new will:

1) to revoke a prior will entirely;

2) to amend a prior will by the revocation, amendment, or supplementation of individual testamentary dispositions contained in it or by supplementing the will with new dispositions.

3. A will made later and not containing direct indications of the revocation of a previous will nor of individual dispositions in it, revokes the earlier made will in the part in which it contradicts the earlier will.

If the later will that revoked or amended the will is declared invalid, the will made earlier shall be considered valid.

4. A will made earlier, revoked in full or in part by a

later will is not reinstated if the later will is in its turn revoked in full or in the respective part by the testator.

5. A statement of the revocation, amendment, or supplementation of a will must be made in the form provided by the present Code for the making of a will.

Article 1203. Form of a Will

1. A will must be made in written form with an indication of the place and time of its making, personally signed by the testator by his own hand, and notarially authenticated.

2. Nonobservance of the rules of Paragraph 1 of the present Article shall entail the invalidity of the will.

Article 1204. Wills Equated to those Done in One's Own Hand

If the testator by virtue of physical handicaps, disease, or illiteracy cannot personally handwrite a signature to will, the will at his request may be signed in the presence of a notary or other person authenticating the will in accordance with statute, by another citizen with an indication of the reasons by virtue of which the testator cannot sign the will personally. The name and permanent place of residence of this citizen must be indicated in the will.

Article 1205. Notarial Authentication of a Will

1. A will shall be authenticated by a notary by the procedure provided by statute.

2. A notarially authenticated will must be written by the testator or written down from his spoken words by a notary. In the writing or recording of the will technical means (personal computer, typewriter, etc.) may be used.

3. A will written down by a notary from the spoken words of the testator must be read in full by the testator in the presence of the notary before the signing of the will.

If the testator by reason of physical defects, illness, or illiteracy is not in a condition to read the will personally, its text shall be communicated to him by the notary in the presence of a witness, and a corresponding note about this shall be made in the will with an indication of the reasons why the testator could not personally read the will.

4. At the wish of the testator a witness may be present the making and notarial authentication of a will. In the case when the testator is not in a condition to personally read the will, the presence of a witness is obligatory.

If a will is compiled and authenticated in the presence of a witness, the will must be signed by him and the name and place of residence of the witness must be indicated in the will.

5. The notary is obligated to warn the witness and the person signing the will instead of the testator of the necessity of observing secrecy of the will.

6. In the authentication of a will, the notary is obligated to explain to the testator about the right to an obligatory share in the inheritance.

7. In cases when the right to take notarial actions is granted by statute to officials of consular institutions of the Republic of Armenia, the will may be authenticated, by the appropriate official, instead of by a notary, with the observance of the rules of the present Code on the form of a will and the procedure for its notarial authentication.

Article 1206. Closed Will

1. At the wish of the testator a will shall be authenticated by a notary without acquaintance with its content (a closed will).

2. A closed will must be personally written in his own hand and signed by the testator.

3. The testator shall give the closed will in a envelope that has been glued shut to the notary in the presence of two witnesses, who shall place their signatures on the envelope. The envelope signed by the witnesses shall be put under seal in their presence by the notary in another envelope, upon which the notary shall make an authenticating inscription. The authenticating inscription must contain information on the testator from whom the closed will was received by the notary, on the place and date of its receipt and on the name and place of residence of each witness.

4. When accepting the envelope with the will from the testator, the notary must explain to the testator about the right to an obligatory share in the inheritance.

5. Nonobservance of these rules shall entail the invalidity of the will, about which the notary is obligated to warn the

testator.

Article 1207. Wills Equated to Those Notarially Authenticated

1. The following are equated to notarially authenticated wills:

1) wills of citizens located for treatment in hospitals, military hospitals, other inpatient treatment institutions or living in homes for the elderly and disabled, authenticated by chief physicians, their deputies for the medical section, or by the duty physicians of these hospitals, military hospitals, or other treatment institutions, and also by the heads of military hospitals, directors or chief physicians of homes for the elderly and disabled;

2) wills of military service personnel, and in places of stationing of military unit where there are no notaries also wills of civilians working in this units, of the members of their families and of members of families of military service personnel, authenticated by the commanders of military units;

3) wills of persons living in distant populated localities where there is no notary, authenticated by the head of the commune;

4) wills of citizens located in prospecting or other similar expeditions authenticated by the heads of these expeditions;

5) wills of citizens who are at the time sailing on ships sailing under the flag of the Republic of Armenia, authenticated by the captains of these ships;

6) wills of persons who are in places of deprivation of freedom authenticated by the heads of the places of deprivation of freedom.

2. The wills indicated in Paragraph 1 of the present Article must be signed by the testator in the presence of a witness who must also sign the will.

The rules of Article 1205 of the present Code shall be applied correspondingly to these wills.

3. A will authenticated in accordance with the present Article must be, as soon as this becomes possible, sent by the person who has authenticated the will to a notary at the place of residence of the testator.

Article 1208. Persons Who May Not be Witnesses Nor Sign a

Will In Place of the Testator

In cases when in accordance with the rules of the present Code witnesses must be present at the composing, signing, or authentication of a will, the following may not be such witnesses and also may not sign the will in place of the testator:

- 1) the notary or other person authenticating the will;
- 2) a person in whose benefit a will is made or a testamentary charge is made, the spouse of this person, his children, or parents;
- 3) a citizen not having full dispositive capacity;
- 4) illiterates and persons not able to read the will;
- 5) persons not sufficiently fluent in the language in which the will is made, with the exception of the case when a closed will is made.
- 6) persons having an active criminal record for perjury.

Article 1209. Secrecy of the Will

1. The notary or other person who has authenticated a will, the witnesses, and also a citizen who has signed a will in place of the testator does not have the right before the opening of the inheritance to disclose information concerning the content of the will, its making, revocation, amendment, or supplementation.

2. Secrecy of the will shall be protected by the means provided by the present Code and other statutes.

Article 1210. Interpretation of a Will

In the interpretation of a will, the notary, the executor of the will, or the court shall take into account the literal meaning of the words and expressions contained in it.

In case the literal meaning of any provision of the will is not clear, the meaning is established by comparing this provision with other provisions and the sense of the will as a whole.

Article 1211. Invalidity of a Will

1. A will may be declared invalid by a court on suit by a person whose rights or interests are violated by this will.

2. Contesting a will before the opening of the inheritance is not allowed.

3. A will shall be declared invalid as the result of violation of rules on the form of a will or other provisions of the present Code on the invalidity of transactions.

4. Slips of the pen and other insignificant violations of the procedure for making, signing, or authenticating a will shall not be bases for declaration of a will invalid if it is proved that they could not influence the understanding of the testator's expression of his wish.

5. Invalidity may be declared for the will as a whole or for individual testamentary dispositions contained in it. The invalidity of individual testamentary dispositions shall not affect the validity of the remaining part of the will.

6. The declaration that a will is invalid shall not deprive persons named in it as heirs or beneficiaries of the right to inherit by statute nor on the basis of another, valid will.

Article 1212. Execution of a Will

1. The testator may entrust the execution of a will to a person indicated in the will--the executor of the will. The consent of this person to be the executor of the will must be expressed by him in a personally signed inscription on the will itself or in a statement attached to the will.

2. By agreement among themselves the heirs have the right to delegate execution of the will to one of the heirs or to another person. In the absence of such an agreement an executor of the will may be appointed by a court on request of one or several heirs.

3. The executor of a will has the right at any time to decline to perform the obligations placed upon him, after informing the heirs under the will of this in advance. The executor of a will may be removed from the performance of obligations by decision of a court on the basis of a petition by heirs.

4. The executor of the will must:

1) take the measures established by Chapter 76 of the present Code for the protection of the inheritance and the management of it;

2) inform all the heirs and beneficiaries of the opening of the inheritance and of testamentary charges for their benefit;

3) obtain amounts of money and other property due to the donor by inheritance;

4) cover the debts connected with the inheritance in the order established by Article 1242 of the present Code;

5) ensure the receipt by the heirs of the property due to them in accordance with the wish of the donor by inheritance and statute;

6) fulfill the testamentary charges or demand from the heirs by will the fulfillment of the testamentary charges.

5. The executor of the will has the right to conduct in his own name judicial and other matters connected with the protection of the inheritance, the management of it, and the execution of the will.

6. The executor of the will shall exercise his functions during the period of time necessary for the recovery of amounts due to the donor by inheritance, cleansing of the inheritance from debts and entry of all heirs into possession of the inheritance.

7. On request by the heirs, the executor of the will shall be obligated to provide them with a report on the execution of the will.

8. The executor of the will has the right to reimbursement at the expense of the inheritance for the necessary expenses for the protection of the inheritance, the administration of it, and the execution of the will, and also to the receipt of compensation. The will may provide for payment of compensation to the executor of the will at the expense of the inheritance.

Article 1213. Testamentary Charge

1. The testator has the right to impose on one or several heirs by will the fulfillment at the expense of the inheritance of any kind of obligation (a testamentary charge) for the benefit of one or several persons (the beneficiaries) who obtain the right to demand the performance of this obligation.

The same obligation may be imposed upon the executor of the will with the allocation by the testator of part of the property for his performance of a testamentary charge.

2. The general provisions on obligations shall be applied to relations between the beneficiary (creditor) and the heir whose right to an inheritance is burdened with a testamentary charge (the debtor), unless otherwise follows from the rules of the present Code and the nature of a testamentary charge.

3. A testamentary charge must be established in a will.

4. The beneficiaries may be both persons included and those

not included among heirs by statute. The right of a beneficiary is inalienable and does not pass to other persons. In a will a beneficiary may be subdesignated to another beneficiary.

5. The subject of a testamentary charge may be the transfer to the beneficiary, in ownership or in use, of property included in the composition of the inheritance, the transfer to him of a property right included in the composition of the inheritance, the acquisition and transfer to him of other property, the performance for him of specified work, or the rendering to him of a specified service. The subject of a testamentary charge may also be the maintenance of animals belonging to the testator and care for them.

6. The testator has the right to impose upon an heir to whom a dwelling house (or an apartment) passes, the obligation to provide another person with the use for life of the premises or of a specified part of it. In case of the transfer ["transfer" is in the wrong case in Russian – translator's note] of the right of ownership to the dwelling house (or apartment), the right of use for life shall remain in force.

The right of use for life of a dwelling premises is inalienable, non-transferable, and does not pass to the heirs of the beneficiary.

The right of use for life of housing premises provided to the beneficiary shall not be the basis for the living of members of his family in these premises, unless the will provides otherwise.

Article 1214. Performance of a Testamentary Charge

1. An heir upon whom the testator has imposed a testamentary charge must fulfill it only within the limits of the value of the inheritance that has come to him.

2. If the heir upon whom a testamentary charge is imposed has the right to an obligatory share in the inheritance, his obligation to fulfill the requirement is bounded by the limits of the value of the inheritance that has passed to him that exceeds the amount of his obligatory share.

3. If a testamentary charge is imposed on several heirs, it burdens each of them in proportion to his share in the inheritance unless the will has provided otherwise.

4. In case of the death of an heir upon whom a testamentary charge was imposed or his nonacceptance of the inheritance, the performance of the testamentary charge passes to the other heirs

who have received his share.

5. The executor of the will, the heirs, and also interested persons have the right to demand in court the performance of a testamentary charge.

Chapter 72. Inheritance by Statute

Article 1215. General Provisions

1. Heirs by statute are called to inheritance by the order established by Articles 1216-1219 of the present Code.

2. The heirs of each succeeding order obtain the right to inheritance in case of the absence of heirs of the preceding order, their exclusion from the inheritance, their nonacceptance of the inheritance or refusal of it.

3. The heirs of one order inherit in equal shares.

Article 1216. Heirs of the First Order

Heirs of the first order are children, the spouse, and the parents of the donor by inheritance. Grandchildren of the donor by inheritance inherit by right of representation.

Article 1217. Heirs of the Second Order

Heirs of the second order are the brothers and sisters of the donor by inheritance. Children of brothers and sisters (nephews and nieces) inherit by right of representation.

Article 1218. Heirs of the Third Order

Heirs of the third orders are the grandfather and grandmother of the donor by inheritance both on the father's side and on the mother's side.

Article 1219. Heirs of the Fourth Order

Heirs of the fourth order are the brothers and sisters of the parents of the donor by inheritance (uncles and aunts of the donor by inheritance). First cousins of the donor by inheritance inherit by right of representation.

Article 1220. Dependents of the Testator Who Are Not Capable of Work

Heirs by statute include persons who are not capable of work who for not less than one year before the death of the donor by inheritance were dependent upon him. If there are other heirs by statute, they inherit together with the heirs of the of the order that is called to inheritance.

Article 1221. Inheritance by Right of Representation

1. The share of an heir by statute who has died before the opening of the inheritance passes to his children (inheritance by right of representation) and shall be divided among them equally.

2. Children of an heir by statute who has been excluded from inheritance or deprived by the donor by inheritance of inheritance do not inherit by right of representation.

Article 1222. The Rights of a Spouse Upon Inheritance

A right of inheritance belonging to a surviving spouse by virtue of a will or statute does not affect his rights to part of the property jointly earned during marriage with the donor by inheritance and being in their joint ownership. The share of the deceased spouse in this property shall be determined in accordance with Article 201 of the present Code and goes into the composition of the inheritance.

Article 1223. Inheritance by Adopted Children and Adoptive Parents

1. In case of inheritance by statute, an adopted child and his children on the one hand and an adoptive parent and his relatives on the other are equated to relatives by the origin (blood relatives).

2. An adopted child and his children do not inherit by statute after the death of the parents of the adopted child, his other relatives by origin.

The parents of an adopted child and his other relatives by origin do not inherit by statute after the death of the adopted child and his children.

Article 1224. Escheated Inheritance

1. If there are no heirs by will nor by statute or they refuse the inheritance or are excluded from the inheritance, the inheritance shall be declared escheated.

2. Escheated property passes by way of inheritance by statute to the ownership of the commune at the place of opening of the inheritance.

Chapter 73. Acceptance of the Inheritance

Article 1225. Acceptance of the Inheritance

1. To acquire an inheritance, the heir must accept it.

2. It is not allowed to accept an inheritance under a condition or with exceptions.

3. The acceptance by an heir of part of an inheritance signifies acceptance of the whole inheritance due him whatever it consists of and wherever it is located.

4. The acceptance of an inheritance by one or several heirs does not signify acceptance of the inheritance by the remaining heirs.

5. The accepted inheritance shall be recognized as belonging to the heir from the time of opening the inheritance, regardless of state registration of the right of the heir to this property, when such a right is subject to registration.

6. Non-acceptance by an heir of an inheritance shall entail the same consequences as his refusal of the inheritance without the indication of the person for whose use he refused the inheritance, unless otherwise provided by the present Code.

Article 1226. Ways of Accepting an Inheritance

1. Acceptance of an inheritance is made by submission to a notary at the place of opening of the inheritance of a statement of the heir on the acceptance of the inheritance or his request for the issuance of a certificate of the right to inheritance.

2. In the case when the request is given to a notary not by the heir himself, the signature of the heir on the statement must be authenticated by a notary or by an official authorized to

conduct notarial acts.

Acceptance of an inheritance through a representative is possible if a power for its acceptance is specially provided in a power of attorney.

3. It shall be recognized, unless proved otherwise, that an heir has accepted an inheritance when he has in fact entered into possession or management of the inherited property, in particular when the heir:

1) has taken measures for the preservation of the property and for the protection of it from incursions or claims of third persons;

2) has made expenditures at his own expense for the maintenance of the property; has paid at his own expense the debts of the donor by inheritance or has received sums due to the donor by inheritance from third persons.

Article 1227. Time Limit for Accepting an Inheritance

1. An inheritance may be accepted during six months from the date of opening the inheritance.

2. If the right of inheritance arises for other persons in case of refusal by an heir of an inheritance, they may accept the inheritance in the course of the remaining part of the term indicated in Paragraph 1 of the present Article, or if this is less than three months, then during three months.

3. Persons for whom the right of inheritance arises only in case of nonacceptance of an inheritance by another heir may accept an inheritance until the passing of three months from the day of the ending of the term indicated in Paragraph 1 of the present Article.

Article 1228. Accepting an Inheritance After the Expiration of the Established Time Limit

1. An inheritance may be accepted by an heir after the expiration of the time limit established for accepting without applying to court, on the condition of the consent thereto of all the remaining heirs taking the inheritance. The signature of these heirs on documents containing such consent must be witnessed by the procedure indicated in Paragraph 2 of Article 1226 of the present Code. Such agreement of heirs shall be the basis for annulment by a notary of a previously issued certificate of the

right to inheritance and the issuance of a new certificate.

2. On request by an heir who has let pass the period for acceptance of an inheritance, a court may declare that he has accepted the inheritance, if the court finds the causes of letting pass the period to be compelling, in particular if it establishes that this period was passed because the heir did not know and should not have known of the opening of the inheritance and on the condition that the heir who had let pass the period for the acceptance of the inheritance applies to the court in the course of six months after the cause of letting this period pass has ceased to exist.

When it declares that an heir has accepted an inheritance, the court shall decide the questions deriving therefrom of the rights of other heirs to the inherited property and also shall declare invalid an earlier issued certificate of the right to an inheritance. In this case the issuance of a new certificate of the right to inheritance is not required.

Article 1229. Transfer of the Right to Accept an Inheritance (Inheritance Transmission)

1. If an heir who has been called to inheritance by will or by statute dies after the opening of the inheritance without having succeeded in accepting it, the right to accept the inheritance due him shall pass to his heirs.

2. The right to accept an inheritance belonging to a deceased heir may be realized by his heirs on general bases in accordance with Article 1225-1228 of the present Code.

3. The right of an heir to accept part of an inheritance as an obligatory share does not pass to his heirs.

Chapter 74. Refusal of an Inheritance

Article 1230. Right to Refuse an Inheritance

1. An heir has the right to refuse an inheritance during six months from the day of the opening of the inheritance, including in the case when he has already accepted the inheritance.

2. Refusal of an inheritance is done by the submission by the heir of a statement to the notarial office at the place of opening of the inheritance.

In the case when the statement is not given to the notary by

the heir himself, the signature of the heir on such a statement must be authenticated by the procedure established by Paragraph 2 of Article 1226 of the Present Code.

A refusal of an inheritance through a representative is possible if the power of attorney specially provides authorization for such a refusal.

3. A refusal of an inheritance may not be thereafter canceled or retracted.

4. A refusal of an inheritance with exceptions or on a condition is not allowed.

5. A refusal of part of an inheritance due to an heir is not allowed.

6. If an heir is called to an inheritance both by will and by statute, he has the right to refuse the inheritance due him on one of these bases or on both bases.

7. An heir has a right to refuse an inheritance due to him by the right of accrual, regardless of the inheritance of the remaining part of the inheritance.

Article 1231. Refusal of an Inheritance for the Benefit of Another Person

1. In case of refusal of an inheritance the heir has the right to indicate that he is refusing it for the benefit of other persons from among the heirs on the will or by statute of any order including those who inherit by right of representation.

2. A refusal for the benefit of another person is not allowed:

1) of property inherited by will if all the property of the donor by inheritance is willed to heirs named by him;

2) of a compulsory share in the inheritance;
if an heir is subdesignated

3) to the heir.

Article 1232. Accrual of Inheritance Shares

1. If an heir does not accept an inheritance, refuses an inheritance without indication of another heir for whose benefit he refuses, is excluded from the inheritance as an unworthy heir, or as the result of declaration of the will as invalid, the part of the inheritance that would have been due to such an heir shall go to the heirs by statute called to the inheritance and shall be

divided among them in equal shares.

If the donor by inheritance has willed all property to heirs named by him, the part of the inheritance due to the heir that refused the inheritance or failed by the other causes indicated above, shall go to the remaining heirs by will and shall be divided among them proportionally to their inheritance shares unless otherwise provided by the will.

2. The rules of Paragraph 1 of the present Article shall not be not applied:

- 1) if there is an heir subdesignated to the refusing or otherwise failed heir;
- 2) in case of refusal by an heir of an inheritance for the benefit of another heir.

Article 1233. Right to Refuse a Testamentary Charge

1. The beneficiary has the right to refuse a testamentary charge.

A partial refusal of a testamentary charge and also a refusal of it for the benefit of another person, with exceptions or on a condition is not allowed.

2. In the case when the beneficiary is simultaneously an heir, his right provided by the present Article to refuse a testamentary charge does not depend on his right to accept the inheritance or to refuse it.

3. If the beneficiary has refused a testamentary charge, the heir obligated to perform the testamentary charge is freed from the obligation to perform it.

Chapter 75. Division of an Inheritance

Article 1234. Common Ownership of Heirs to an Inheritance

1. In case of inheritance by will, if it is willed to two or several heirs without an indication of the concrete property and rights inherited by each of them, and in case of inheritance by statute, if the inherited property goes to two or several heirs, the property goes from the day of opening of the inheritance into common share ownership by the heirs.

2. The rules of Chapter 12 of the present Code on common share ownership shall be applied to common share ownership by the

heirs to an inheritance, unless otherwise provided by the rules of the present Code on inheritance.

Any of the heirs who has accepted an inheritance has the right to demand division of the inheritance.

Article 1235. Preferential Right of an Heir to Specific Property from the Composition of the Inheritance Upon Its Division

1. In the division of the inheritance, an heir who enjoyed together with the donor by inheritance the right of common ownership of property has a preferential right of receipt of this property toward his inheritance share.

2. In the division of the inheritance, an heir having the right of use of housing premises with respect to a dwelling house (or apartment) belonging to the donor by inheritance shall have a preferential right to receive, toward his inheritance share, this dwelling house (or apartment) and also household wares and items of home use.

3. Difference in value of the property and of the inheritance share of the heir having the preferential right to receive it shall be eliminated by the transfer to the remaining heirs of other property from the composition of the inheritance or other compensation including payment of the appropriate monetary amount.

4. The exercise by an heir of a preferential right is possible only after the granting of the corresponding compensation to other heirs, unless an agreement among the heirs has provided otherwise.

Article 1236. Division of an Inheritance by Agreement Among Heirs

1. Property that is included in the composition of the inheritance and that is in common share ownership by two or several heirs, may be divided by agreement among them.

2. An agreement on the division of an inheritance, including on the separation from it of the share of one of the heirs, if it is concluded before the issuance of a certificate of the right to an inheritance and is notarially authenticated, shall be the basis for the issuance to the heirs of a certificate of the right to an inheritance with an indication in it of the concrete property and rights inherited in accordance with the agreement by each of the

heirs.

3. Difference in value of the division of the inheritance made in the agreement from the shares due to the heirs in the inheritance shall not be a basis for refusal of issuance of a certificate to the right to an inheritance.

Article 1237. Division of an Inheritance by a Court

In case the heirs do not reach agreement on the division of the inheritance, including on separation from it of the share of one of the heirs, division shall be made by a court in accordance with Article 197 of the present Code.

Article 1238. Defense of the Interest of the Heir Upon the Division of an Inheritance

1. In case there is an heir who has been conceived but not yet born, division of the inheritance may be made only after the birth of this heir.

2. For the defense of interests of minors a representative of the agency of guardianship and curatorship must be invited to participate in the making of an agreement on the division of the inheritance or to the consideration in court of a case on the division of inheritance.

Chapter 76. Protection and Management of an Inheritance

Article 1239. Procedure for Protection of an Inheritance and Management of It

1. For the protection of the rights of heirs, beneficiaries, and other interested persons, the notary at the place of opening of the inheritance shall take the measures established by Articles 1240 and 1241 of the present Code and other necessary measures for the protection of the inheritance and its management.

2. Measures for the protection or management of the inheritance shall also be taken by the notary on the basis of a statement submitted by an heir, the executor of the will, a creditor, a body of local self-government or other persons acting in the interest of protection of the inheritance property.

The notary has the right on his own initiative to take measures for the protection or management of an inheritance if he considers this necessary.

3. For the purpose of discovering the composition of the inheritance and its protection, the notary has the right to ask banks and other credit institutions about money (and foreign currency) in deposits, in accounts, or transferred to them for storage, and currency equivalents and other items of value belonging to the donor by inheritance.

4. For the purpose of notifying creditors, the notary shall publish an announcement in the press on the opening of the inheritance with a proposal to creditors to present claims they have against the donor by inheritance within a six month period from the date of publication.

5. Measures for protection and management of the inheritance shall be made by him during the course of the period determined by the notary taking into account the nature and value of the inheritance and the time necessary for the heirs for entry into possession of the inheritance, but not for more than six months, or, in the cases provided by Paragraphs 2 and 3 of Article 1227 and Paragraph 2 of Article 1229 of the present Code--not for more than nine months from the day of opening the inheritance.

6. The protection of the inheritance and management of it shall be conducted for compensation.

7. In cases when the inheritance property is in various places, the notary at the place of opening of the inheritance shall send through the justice agencies to the notary or official empowered to conduct notarial actions at the place of location of the respective part of the inherited property a task obligatory for performance for the protection or management of this property.

Article 1240. Measures for the Protection of an Inheritance

1. For the protection of an inheritance the notary shall make an inventory of the inheritance property.

2. Cash money (or foreign currency) included in the composition of the inheritance shall be put into the deposit of the notary and currency equivalents, manufactures of precious stones and metals, commercial paper shall be transferred to a bank for storage under contract by the procedure provided by Chapter 43 of the present Code.

3. Measures for the protection of property included in the

composition of inheritance whose circulation in commerce is allowed by special permission shall be taken by the notary by the procedure provided by statute for the respective property.

4. Property included in the composition of the inheritance that is not indicated in Paragraphs 2 and 3 of the present Article, if it does not require management, shall be transferred by the notary under a contract of storage to one of the heirs and case of impossibility of transferring it to the heirs, shall be transferred to a specialized organization.

5. The notary shall make an inventory of inherited property and shall take measures for the protection of this property by the procedure provided by the statute of the Republic of Armenia "On the Notary System."

Article 1241. Measures for Management of an Inheritance

1. If there is property in the composition of the inheritance that requires not only protection but also management (a share in the charter (or founding) capital of a business partnership or company, commercial paper or securities, exclusive rights, etc.), the notary as the founder of entrusted management shall conclude a contract of entrusted management of this property.

2. Obligatory and other conditions of the contract of entrusted management of the inherited property, the procedure for concluding it, and the determination of the measure of compensation to the entrusted administrator shall be established in accordance with the rules of Chapter 52 of the present Code, unless otherwise follows from the nature of the relations for the entrusted management of the inheritance.

Chapter 77. Reimbursement for Expenditures Connected with an Inheritance.

Article 1242. Expenditures Subject to Reimbursement at the Expense of the Inheritance

1. Expenditures connected with an inheritance shall be compensated in the following order:

in the first order necessary expenditures caused by the pre-death illness of the donor by inheritance and for a suitable

funeral for him shall be reimbursed;

in the second order expenditures connected with the protection or management of the inheritance property and also with the execution of the will shall be reimbursed;

in the third order claims of creditors for debts of the donor by inheritance shall be satisfied;

in the fourth order claims of heirs having the right to an obligatory share shall be satisfied;

in the fifth order expenses connected with the performance of a testamentary charge shall be reimbursed;

Claims of each order shall be satisfied after the full satisfaction of claims of the previous order. In case of insufficiency of property, it shall be divided among creditors of the respective order in proportion to the amounts of claims subject to satisfaction.

Article 1243. Procedure for Presentation of Claims by Creditors

1. Creditors shall have the right to present their claims during six months from the day of opening of the inheritance.

2. Until the receipt by the heirs of a certificate of the right to inheritance, claims may be made to an heir who has accepted an inheritance or to the executor of the will, and in the absence of these persons, to the notary at the place of opening of the inheritance.

Article 1244. Liability of the Heirs

1. After receipt by the heirs of a certificate on the right to inheritance, the expenditures indicated in Article 1242 of the present Code, shall be reimbursed by the heirs within the limits of the value of the inheritance property that has passed to them,.

2. An heir who has accepted inherited property either directly as the result of the opening of an inheritance or as the result of inheritance transmission, shall be liable within the limits of the value of the inheritance property obtained on both bases.

Heirs shall be liable jointly and severally within the limits of the value of the inheritance property that has passed to each of them.

Chapter 78. Formalization of the Inheritance

Article 1245. Certificate of the Right to an Inheritance

1. A certificate of the right to an inheritance shall be issued at the place of opening the inheritance by the notary or by the official to whom a statute has granted the right of taking such a notarial action.

2. A certificate of the right to an inheritance shall be issued on the basis of a statement by the heir.

3. A certificate of the right to an inheritance shall be issued to all the heirs separately. 4. In case of discovery, after the issuance of a certificate of the right to an inheritance, of inheritance property for which the certificate was not issued, a supplementary certificate of the right to inheritance shall be issued.

5. In case of an escheated inheritance, a certificate of the right to escheated inheritance shall be sent to the appropriate body of local self-government.

Article 1246. Time for Issuance of a Certificate of the Right to an Inheritance

1. A certificate of the right to an inheritance shall be issued to the heirs upon the expiration of six months from the day of opening the inheritance, with the exception of cases provided by the present Code.

2. For inheritance by will and also by statute, the certificate of the right to an inheritance may be issued before the expiration of six months from the day of the opening of the inheritance if there are reliable data to the effect that, except for the persons applying for the issuance of the certificate, there are no other heirs with respect to the property or the respective part of it.

3. In case of a dispute on the right of ownership to inheritance property, the issuance of the certificate of the right to an inheritance shall be suspended until the entry into legal force of a decision of a court.

Chapter 7. Peculiarities of the Inheritance of Individual Types of Property

Article 1247. Inheritance of Property That is in Common Joint Ownership

The death of a participant in common joint ownership is a basis for the determination of his share in the right to the common property and the division of the common property or the separation from it of the share of the deceased participant by the procedure provided by Article 199 of the present Code. In this case the inheritance shall be opened with respect to the common property allotted to the share of the deceased participant and if the separation of the property in kind is impossible—with respect to the value of such a share.

Article 1248. Inheritance of the Right to the Value of a Share in a Commercial Partnership or Company and the Value of a Share in a Cooperative

1. The composition of the inheritance of a deceased participant in a business partnership or business company includes the right to the value of the share of this participant in the founding capital of the partnership or in the charter capital of the company unless otherwise provided by the charter of the partnership or company.

2. The composition of the inheritance of a deceased member of a cooperative includes the right to the value of his share in the cooperative unless otherwise provided by the charter of the cooperative.

3. A decision of the question of who of the heirs may be accepted into a business partnership or company or into a cooperative in the case when the right of the donor by inheritance to the respective legal person passes to several heirs, and also the procedure, methods, and times for payment to the heirs who have not become participants (or members) of the respective legal persons, and the amounts due him shall be determined by the present Code, statutes on business companies, statutes on cooperatives, and also the charter of the respective legal person.

Article 1249. Inheritance of Unpaid Amounts of Wages, Pensions, Benefits, and Payments in Compensation for Harm

1. The right to receipt of amounts of wages, pensions,

benefits, and payments in compensation of harm to life or health that were subject to payment to a citizen but were not received by him during his life for any reason whatsoever shall belong to the members of the family of the decedent and also to his dependents who are not able to work.

2. Claims for the payment of amounts on the basis of Paragraph 1 of the present Article must be presented within six months from the day of opening of the inheritance.

3. If there are no persons who would have had the right to the receipt, on the basis of Paragraph 1 of the present Article, of the amounts not paid to the decedent or if they have not made demands for payment of these amounts in the established period, the respective amounts shall be included in the composition of the inheritance and shall be inherited on the general bases provided by the present Code.

Article 1250. Inheritance of Property Limited in Circulation

1. Property belonging to the donor by inheritance whose presence in circulation is allowed by special permission (arms, etc.) shall be included in the composition of the inheritance and inherited on the general bases provided by the present Code. Special permission is not required for the acceptance of an inheritance whose composition includes such property.

2. An heir who has accepted such an inheritance is obligated within one month to apply to the authorized state agency for receipt of special permission.

3. In case of refusal to issue special permission to the heir, his right of ownership to the property requiring such permission shall be subject to termination in accordance with Article 282 of the present Code.

Article 1251. Inheritance of State Awards and Medals

State awards and medals that the citizen was awarded do not go into the composition of the inheritance. The transfer of these awards and medals after death to other persons shall be conducted by the procedure provided by the statute of the Republic of Armenia "On State Awards of the Republic of Armenia."

Article 1252. Inheritance of Collections of Commemorative and Other Medals in the Composition of Collections

Collections of commemorative and other medals belonging to the donor by inheritance shall enter the composition of the inheritance and shall be inherited on the general bases provided by the present Code.

DIVISION 12. PRIVATE INTERNATIONAL LAW

Chapter 80. General Provisions

Article 1253. Determination of the Law Applicable to Civil Law Relations with the Participation of Foreign Persons

1. The law subject to application by the court to civil law relationships with the participation of foreign citizens, including individual entrepreneurs, foreign legal persons and organizations that are not a legal person under foreign law, and persons without citizenship (hereinafter, "foreign persons"), and also in cases when the object of civil law rights is located abroad shall be determined on the basis of the present Code, other statutes of the Republic of Armenia, international treaties of the Republic of Armenia, and international customs recognized by the Republic of Armenia.

2. If it is impossible to determine the law subject to application in accordance with Paragraph 1 of the present Article, the law most closely connected with the civil law relations with the participation of foreign persons shall be applied.

3. The rules of the present Division on the determination of the law subject to application by a court shall be applied correspondingly for other bodies granted the authority to decide the question of the law subject to application.

Article 1254. Characterization of Legal Concepts

1. In determining the law subject to application, the court shall act on the basis of the interpretation of legal concepts in accordance with the law of the Republic of Armenia, unless otherwise provided by statute.

2. If legal concepts requiring legal explication are not known to the law of the Republic of Armenia or are known under another name or with other content and cannot be determined by

interpretation under the law of the Republic of Armenia, then the law of the foreign state may be applied in their legal explication.

Article 1255. Establishment of the Content of Norms of Foreign Law

1. In the application of foreign law the court shall establish the content of its norms in accordance with their official interpretation and practice of application in the respective foreign state.

2. For the purpose of establishing the content of rules of foreign law the court may apply by the established procedure for assistance and explanation to the competent agencies in the Republic of Armenia and abroad or may involve experts.

3. Persons participating in a case have the right to present documents confirming the content of the rules of foreign law on which they rely in justification of their claims or defenses and otherwise assist the court in the establishment of the content of these rules.

2. If the content of the rules of foreign law, despite measures taken in accordance with the present Article, is not established within reasonable times, the law of the Republic of Armenia shall be applied.

Article 1256. Application of the Law of a State With a Multiplicity of Legal Systems

In cases when the law of a state in which several legal systems are in effect, and it is impossible to determine which of the legal systems is subject to application, the legal system shall be applied with which the given relation is most closely connected.

Article 1289. The Principle Mutuality

1. The court shall apply foreign law regardless of whether or not the law of the Republic of Armenia would be applied in the respective foreign state to analogous relations, with the exception of cases when the application of foreign law on the principle of mutuality is provided by a statute of the Republic of Armenia.

2. If the application of foreign law depends upon mutuality,

it shall be presumed that mutuality exists, unless that it is proved otherwise.

Article 1258. Exception for Public Order

1. A norm of foreign law subject to application in accordance with Paragraph 1 of Article 1253 of the present Code shall not be applied when its application would contradict the bases legal order (public order) of the Republic of Armenia. In such a case if necessary the respective norm of the law of the Republic of Armenia shall be applied.

2. A refusal to apply a norm foreign law may not be based merely on the difference of the legal, political, or economic system of the respective foreign state from the legal, political, or economic system of the Republic of Armenia.

Article 1259. Application of Imperative Norms

The rules of the present Part do not affect the effectiveness of those imperative norms of the law of the Republic of Armenia that, in view of an indication in a norm itself or in view of their special significance for ensuring the rights and interests of participants in civil commerce, regulate the respective relations regardless of the law subject to application.

Article 1260. Reference to Foreign Law

Any reference to foreign law in accordance with the rules of the present Part, must be considered as a reference to the material and not the conflicts law of the respective state. with the present Part shall be applied.

Article 12. Retorsion

The Government of the Republic of Armenia may establish retaliatory limitations (retorsion) with respect to the property and personal non-property rights of citizens and legal persons of those states in which there are special limitations of the property and personal non-property rights of citizens and legal persons of the Republic of Armenia.

Chapter 81. Conflicts Norms

§ 1. Citizens

Article 1262. Personal Law of a Citizen

1. The personal law of a citizen shall be considered to be the law of the state whose citizenship this person has. If a person has two or more citizenships, his personal law shall be considered to be the law of the state with which the person is most closely connected.

2. The personal law of a person without citizenship shall be considered to be the law of the state in which this person lives permanently.

3. The personal law of a refugee shall be considered to be the law of the state that has granted asylum.

Article 1263. Legal Capacity of Foreign Citizens and Persons Without Citizenship

Foreign citizens and persons without citizenship shall enjoy in the Republic of Armenia civil legal capacity on an equal basis with citizens of the Republic of Armenia except for instances provided by the Constitution of the Republic of Armenia, the laws of the Republic of Armenia or international treaties of the Republic of Armenia.

Article 1264. The Name of a Foreign Citizen or of a Person Without Citizenship

The right of a foreign citizen or a person without citizenship to his name, its use and defense shall be determined by his personal law unless otherwise follows from the rules provided by the second subparagraph of Paragraph 2 and by Paragraph 4 of Article 22, and by Articles 1280 and 1291 of the present Code.

Article 1265. Dispositive Capacity of Foreign Citizens and Persons Without Citizenship

1. The civil dispositive capacity of a foreign citizen or a person without citizenship shall be determined by his personal law.

2. A party not enjoying dispositive capacity under his personal law does not have the right to rely on its lack of dispositive capacity if it is of dispositive capacity by the law of the place of making the transaction with the exception of those

cases when the other party knew or should have known of the lack of personal capacity.

3. The civil dispositive capacity of a foreign citizen or a person without citizenship in respect of transactions conducted in the Republic of Armenia and obligations arising as the result of the causing of harm in the Republic of Armenia shall be determined by the law of the Republic of Armenia.

Article 1266. Entrepreneurial Activity of a Foreign Citizen or a Person Without Citizenship

The ability of a foreign citizen or a person without citizenship to engage in entrepreneurial activity without the formation of a legal person as an individual entrepreneur shall be determined by the law of the state where the foreign citizen or person without citizenship is registered as an individual entrepreneur.

Article 1267. Recognition of a Foreign Citizen or a Person Without Citizenship as Lacking Capacity or of Limited Capacity

A foreign citizen or a person without citizenship shall be recognized as lacking dispositive capacity or of limited dispositive capacity according to the law of the Republic of Armenia.

Article 1268. Guardianship and Curatorship

1. Guardianship or curatorship of a minor or an adult who is without dispositive capacity or of limited dispositive capacity shall be established and terminated according to the personal law of the person with respect to whom guardianship or curatorship is established or terminated.

2. The obligation of the guardian (or curator) to accept the guardianship (or curatorship) shall be determined according to the personal law of the person named as guardian (or curator).

3. The legal relations between the guardian (or curator) and the person under guardianship (or curatorship) shall be determined according to the law of the state whose organization has appointed the guardian (or curator). However, if a person who is under guardianship (or curatorship) lives in the Republic of Armenia, the law of the Republic of Armenia shall be applied if it is more

beneficial for this person.

4. Guardianship (or curatorship) established over citizens of the Republic of Armenia living outside the boundaries of the Republic of Armenia shall be recognized as valid in the Republic of Armenia if there are no objections based on law by the respective consular institution of the Republic of Armenia against the establishment of guardianship (or curatorship) or against its recognition.

Article 1269. Declaration of a Foreign Citizen or of a Person Without Citizenship Missing and or Deceased

A foreign citizen or a person without citizenship shall be declared missing or deceased according to the law of the Republic of Armenia.

Article 1270. Registration of Acts of Civil Status of Citizens of the Republic of Armenia Outside the Boundaries of the Republic of Armenia

The consular institutions of the Republic of Armenia shall conduct registration of acts of civil status of citizens of the Republic of Armenia living outside the boundaries of the Republic of Armenia, applying the laws and other legal acts of the Republic of Armenia shall be applied.

Article 1271. Recognition of Documents Issued by Agencies of a Foreign State in the Proof of Acts of Civil Status

Documents issued by competent agencies of foreign states as proof of acts of civil status done outside the boundaries of the Republic of Armenia under the laws of the respective states with respect to citizens of the Republic of Armenia shall be recognized as valid in the Republic of Armenia on the condition of consular legalization, unless otherwise provided by the international agreements of the Republic of Armenia.

§ 2. Legal Persons

Article 1305. Personal Law of Foreign Legal Persons

1. The personal law of a foreign legal person is the law of

the state where the legal person was founded.

2. On the basis of the personal law of a legal person, there shall be determined, in particular:

- 1) if this organization is a legal person;
- 2) the organizational-legal form of the legal person;
- 3) the requirements for the name of the legal person;
- 4) questions of creation and termination of the legal person;
- 5) questions of reorganization of the legal person, including questions of legal succession;
- 6) the content of the legal capacity of the legal person;
- 7) the procedure for the acquisition by the legal person of civil law rights and the undertaking upon itself of civil law duties;
- 8) relations within the legal person, including relations of the legal person with its participants;
- 9) liability of the legal person.

3. A foreign legal person may not rely upon a limitation of the authority of its agency or representative for the conclusion of a transaction if the limitation unknown to the law of the state in which the agency or representative of the foreign legal person concluded the transaction, with the exception of cases when it is shown that the other party to the relation knew or obviously should have known of this limitation.

Article 1273. National Regime of Activity of Foreign Legal Persons in the Republic of Armenia

Foreign legal persons shall conduct in the Republic of Armenia entrepreneurial and other activity regulated by civil legislation in accordance with the rules provided by this legislation for such activity by legal persons of the Republic of Armenia, unless a statute of the Republic of Armenia provides otherwise for foreign legal persons.

Article 1274. Personal Law of Organizations that are Not a Legal Person Under Foreign Law

The personal law of a foreign organization that is not a legal person under foreign law is the law of the state where the organization was founded.

The rules of the present Code that regulate the activity of legal persons shall be applied to the activity of such organizations, unless otherwise follows from statute, other legal

acts, or the nature of the legal relation.

Article 1275. Participation of the State in Civil Law Relations With Foreign Persons

The rules of the present Part shall be applied to the participation of the state in civil legal relations with foreign legal persons on general grounds, unless otherwise provided by statute.

§ 3. Property Rights

Article 1276. General Provisions on the Law Subject to Application to Property Rights

1. The content of the right of ownership and other property to immovable and movable property, their realization and protection shall determined according to the law of the state where this property is located.

2. The classification of property as immovable or movable, and also other legal characterization of property shall be determined according to the law of the state where this property is located.

Article 1277. Origin and Termination of Property Rights

1. The origin and termination of the right of ownership of and other property rights to property shall determined according to the law of the state where this property was located at the time when the activity or other circumstance happened that served as the basis for the origin or termination of the right of ownership and other property rights, unless otherwise provided by the statutes of the Republic of Armenia.

2. The origin and termination of the right of ownership and other property rights to property that is the object of a transaction shall be determined by the law of the state applicable to the given transaction unless otherwise established by agreement of the parties.

3. The origin of the right of ownership of property as the result of acquisitive prescription shall be determined by the law of the state where the property was at the time of ending of the period of acquisitive prescription.

Article 1278. Property Rights to Means of Transport and Other Property Subject to State Registration

The right of ownership of and other property rights to means of transport and other property subject state registration shall be determined by the law of the state where the rights to means of transport or other property has been entered in the state registry.

Article 1279. Property Rights to Movable Property in Transit

The origin and termination of the right of ownership and of other property rights to movable property under a transaction with respect to movable property that is in transit shall be determined by the law of the state from which this property was sent, unless otherwise provided by agreement of the parties.

§ 4. Personal Non-property Rights

Article 1280. Protection of Personal Non-Property Rights

The law of the state where the activity or other circumstance serving as the basis for the demand for the protection of such rights took place shall be applied to personal non-property rights.

§ 5. Transactions, Representation, Limitation of Actions

Article 1281. Form of a Transaction

1. The form of a transaction shall be determined by the law of the state where it is made. However a transaction made abroad may not be recognized as invalid as a result of nonobservance of form if the requirements of the law of the Republic of Armenia were observed.

2. A foreign economic transaction in which even one of the participants is a citizen or legal person of the Republic of Armenia shall be made, regardless of the place of conclusion of the transaction, in written form.

3. The form of a transaction with respect to immovable property is subject to the law of the state where this property is located.

Article 1282. Power of Attorney

The form and period of effectiveness of a power of attorney shall be determined by the law of the state where the power of attorney was issued. However, a power of attorney cannot be recognized as invalid as the result of the nonobservance of form if the requirements of the law of the Republic of Armenia were observed.

Article 1283. Limitation of Actions

Limitation of actions shall be determined by the law of the state applicable for the regulation of the respective relationship.

§ 6. Contract Obligations

Article 1284. Choice of Law by Agreement of Parties to a Contract

1. A contract shall be regulated by the law of the state chosen by agreement of the parties.
2. The parties to a contract may choose the law subject to application both for the contract as a whole and for individual parts of it.
3. A choice of the law to be applied may be made by the parties to the contract at any time, both at the conclusion of the contract and later. The parties may also at any time agree on changing the law applicable to the contract.
4. A choice of applicable law made after the conclusion of the contract shall have retroactive force and is considered effective from the time of its conclusion.
5. An agreement of the parties on the choice of the applicable law must be clearly expressed or directly follow from the conditions of the contract.
6. If trade terms accepted in international commerce are used in a contract, then, in the absence of other indications in the contract, it shall be considered that the parties have agreed to the application to their relations of the customs of commerce existing with respect to the respective trade terms.

Article 1285. The Law Applicable to a Contract in the
Absence of Agreement of the Parties

1. In the absence of agreement of the parties to a contract on the applicable law, the law of the state shall be applied of where the party was founded, has its residence or basic place of activity who is:

- 1) the pledgor--in a contract of pledge
- 2) the surety--in a contract of suretyship;
- 3) the seller--in a contract of purchase and sale;
- 4) the donor--in a contract of gift;
- 5) the lessor--in a contract of lease;
- 6) the lender--in a contract of uncompensated use of property;
- 7) the contractor--in a service contract;
- 8) the agent--in an agency contract;
- 9) the commission agent--in a contract of commission;
- 10) the delegate in a contract of delegation;
- 11) the storing party--in a contract of storage;
- 12) the carrier--in a contract of carriage;
- 13) the freight forwarder--in a contract for transport freight forwarding;
- 14) the creditor--in a contract of loan or other credit contract;
- 15) the finance agent in a contract of financing with the assignment of a monetary claim;
- 16) the bank in a contract of bank deposit or a contract of bank account;
- 17) the right-holder in a contract of system license;
- 18) the insurer - in a contract of insurance;
- 19) the licensor -- in a license contract for the use of exclusive rights.

2. In the absence of agreement of the parties on the applicable law, regardless of the provisions of Paragraph 1 of the present Article:

1) the law of the state where the property is located shall be applied to a contract whose subject is immovable property and also to a contract of entrusted management of property.

2) the law of the state where the results envisioned by the contract are achieved shall apply to a contract for construction services and to a contract of services for the conduct of design and exploratory work.

3) the law of the state where the activity is to be conducted shall be applied to a contract for joint activity;

4) the law of the state where the auction or competition was conducted shall be applied to a contract concluded at an auction or a competition.

3. To contracts not listed in Paragraphs 1 and 2 of the present Article, in the absence of agreement of the parties on the applicable law, the law of the state shall be applied where the party was founded, has his residence or basic place of activity who conducts the performance having decisive significance for the content of the contract. If it is impossible to determine the performance having decisive significance for the content of the contract, the law of the state shall be applied with which the contract is most closely connected.

Article 1286. The Law Applicable to a Contract for the Creation of a Legal Person With Foreign Participation

The law of the state where the legal person is to be founded shall be applied to a contract for the creation of a legal person with foreign participation.

Article 1287. Area of Effect of Law Applied

The law applied to a contract by virtue of the provisions of the present section shall include in particular:

- 1) the interpretation of the contract;
- 2) the rights and duties of the parties;
- 3) the performance of the contract;
- 4) the consequences of nonperformance or improper performance of the contract;
- 5) the termination of the contract;
- 6) the consequences of the voidness or invalidity of the contract;
- 7) the assignment of claims and the transfer of a debt in connection with the contract.

§ 7. Obligations Arising from Unilateral Actions

Article 1288. Obligations from Unilateral Transactions

The law of the state where the transaction was made shall be

applied to obligations from unilateral transactions.

§ 8. Obligations Arising as the Result of Causing of Harm and Unjust Enrichment.

Article 1289. Obligations as the Result of Causing Harm
Rights and duties under obligations arising as the result of causing harm shall be determined according to the law of the state where the activity or other circumstance took place that serves as the basis for the claim for compensation for harm.

Article 1290. Obligations Arising as the Result of Unjust Enrichment

The law of the state where the enrichment took place shall be applied to obligations arising as the result of unjust enrichment, unless otherwise provided by agreement of the parties.

§ 9. Intellectual Property

Article 1291. Intellectual Property Rights

1. The law of the territory on which protection is sought shall be applied to intellectual property rights.

2. The law determined according to the provisions of the present Part on contractual obligations shall be applied to contracts on the transfer or use of intellectual property rights.

§ 10. Inheritance Law

Article 1292. Relations for Inheritance

1. Relations for inheritance shall be determined by the law of the state where the donor of the inheritance had the last place of residence unless the testator has selected in the will the law of the state of which he is a citizen.

2. The ability of a person to make and revoke a will and also the form of a will and the act of its revocation shall be determined according to the law of the state where the testator had his place of residence at the time of creating the legal document. However a will or its revocation may not be recognized as invalid as the result of failure to observe a form if the form



satisfies the requirement of the place of creating the legal document or the requirements of the law of the Republic of Armenia

3. Inheritance of immovable property shall be determined by the law of the state where this property is located.