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Business Contracts in Russia – Part 2

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This article is the continuation of the previous article business contracts in Russia 1[1] *that is devoted to disturbances related to contracting and their consequences (including invalidity of contract) as well as interpretation and fulfilment of contract. Also, in this part the business contract regulation in Russia shows the growing significance of the judiciary and enlarged dispositivity of the regulative rules.*

Keywords: *contract, business contract, civil code, dispositivity, invalidity, interpretation, fulfilment, good faith, proper performance*

Disturbances related to contracting and their Consequences

In General

Disturbances related to contracting means that the contract relation is burdened with a mistake or deficiency that bears the risk of endangering the normal development of a contract towards the achievement of its aims: for instance, to transfer property, to perform a work, to render a service, or to pay money, etc. The mistake may concern the object of the contract—missing, for instance, necessary essential condition. The risk deficiency may mean mistakes related to the will and its expression. The disturbance may be referred to nonobservance of the form and registration requirements that may result in the application of invalidity rules or the situation that the contract is left unconcluded. Russian contract law is very familiar with such cases, and they are presented in this article.

General Rule on Realisation of Civil Law Rights[2]

Russian contract law that is based on the principle of freedom of contract also contains special norms that restrict freedom of contract in Russia. Restrictions to freedom of contract are imposed by the interests of other subjects of law and of society. In addition, the protection of security as well as natural and cultural objects also provides necessary reasons for such limitations. Freedom of contract is restricted in Russia in the provisions contained in the general rules of the Civil Code[3].

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[1]Orlov (2025).

[2]For more on the subject *see*, for instance, Sergeev (2020) at 22–29, 495-505, and Shabolova (2023) at 19–22.

[3] Articles 1, 10 and 422

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Russian contract law also favours the good faith principle. Article 307 of the Civil Code provides for the obligation of parties to a contract to (i) act honestly, considering mutual rights and interests, (ii) to collaborate in order to achieve the purpose of an obligation, and (iii) to provide each other with the required information during the establishment and performance and after the termination of an obligation. The obligation of a party to act in a good faith in course of exercising its rights is also provided in Article 10 of the Civil Code. In case a party goes beyond the bounds of a good faith, a court, state commercial court and arbitration may refuse to protect rights and interests of such dishonest party in full or in part, or to assume other protective measures. The dishonest party may also be bound to compensate for damages of a counterparty.

Invalidity of Contract[4]

In General

Invalidity of contract and consequences of it is regulated in the Civil Code mainly by the rules concerning transactions. Additionally applicable are the rules of the Civil Code on contracts which are contained in its general part and special part devoted to different types of contracts. In certain cases, the rules on invalidity of transactions are in these rules concretized and sometimes they contain exceptions from the general invalidity rules. In this connection, it is important to notice that the application of the invalidity rules concerning different types of contracts may cause in certain cases interpretation problems, in case the general rules on invalidity of transactions are ignored.[5]

The validity of any transaction depends on the validity of its elements. As valid is regarded in Russian civil law a transaction:

- the content of which corresponds to the law,
- which is made by a legally capable person,
- in which the expression of the will corresponds with the wills of the parties and
- the form requirements provided by the law are observed.

In turn, invalid transactions may be divided on the ground what element the transaction lacks. Accordingly, invalid transactions are divided in Russian civil law to those, in which

- there is an error in with respect to its parties (error *in persona*)
- there is an error concerning the will (error of intent)
- there is a defect in form (form error)[6] and

[4]For more on the subject see, for instance, Sergeev (2020) at 425–484; Shabolova (2023) at 117–130 as well as Stepanov (2016) at 237-251, and at Stepanov (2016b) at 221-235.

[5]The invalidity rules are not applicable in Russia to the cases when a contract is left unconcluded.

[6]The invalidity of transactions with the form error depends on what form for the transaction is imposed by the law or the agreement of the parties. Nonobservance of the form requirements is hardly in question in respect of oral transactions, wherefore the question of the invalidity of transaction concerns usually those which require written form. Nonobservence of written form requirements entails invalidity,

- there is an error in the content (contentual error)[7].
- there is a defect in form (form error)[8] and
- there is an error in the content (contentual error)[9].

All of these kinds of invalid transactions are mentioned in the rules of the Civil Code[10]. Additionally, the Civil Code contains the general rule, in accordance with which any transaction not corresponding to the requirements of the law or other legal acts is invalid[11]. This rule is regarded referring in fact to transactions with contentual erro Nullity and voidableness of transaction.[12]

A legally erroneous would not be valid, as stated above. It is thus invalid. Invalidity of transaction stands for in Russian civil law that an action made in the form of transaction lacks such a capacity of the legal fact on the grounds of which the civil law results pursued by the parties would be achieved or arisen.

A transaction may be, according to the Civil Code[13], invalid on the grounds defined in the Civil Code if the court recognizes it as Article 168 such. In this case the question is about a disputable transaction and respectively about the voidableness of transaction. A transaction can be, according to the same rules, invalid also without the decision of the court confirming its invalidity in which case the question is of the nullity of transaction or self-acting or absolute invalidity.

Voidableness or relative invalidity of transaction comprehends that the action made in the form of transaction may be recognized by the court as invalid if there are the grounds established by the law. Thus, a voidable transaction is presumed as valid, but this presumption may be rebutted by the court. In general, voidableness of transaction is referred to in the concrete legal norms by indicating the court proceeding for its stating. According to the Civil Code[14], a claim for the recognition of a voidable transaction to be invalid may be presented by the persons specified in

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however, only in the cases established by the law. Contrary to this are the requirements of notarial authentication and registration, since nonobservence of them entails always, as stated before, invalidity of transaction.

[7]It is characteristic for transactions with the contental error that the conditions included in them are in contradiction with the requirements of the law or other legal acts. They include a) transactions which are made with a purpose contrary to the grounds of the legal order or morality (article 169), and b) mock and sham transactions (article 170). See, for instance, Sergeev (2009) at 445.

[8]The invalidity of transactions with the form error depends on what form for the transaction is imposed by the law or the agreement of the parties. Nonobservence of the form requirements is hardly in question in respect of oral transactions, wherefore the question of the invalidity of transaction concerns usually those which require written form. Nonobservence of written form requirements entails invalidity, however, only in the cases established by the law. Contrary to this are the requirements of notarial authentication and registration, since nonobservence of them entails always, as stated before, invalidity of transaction.

[9]It is characteristic for transactions with the contental error that the conditions included in them are in contradiction with the requirements of the law or other legal acts. They include a) transactions which are made with a purpose contrary to the grounds of the legal order or morality (article 169), and b) mock and sham transactions (Article 170).

[10]Articles 166–179.

[11]Article 168.

[12]For the subject see, in particular, Tuzov (2006) at 164-190.

[13]Article 166.1

[14]Article 166.2.

each case respectively in the Civil Code; usually, it is an interested person. An invalidity claim must be filed within a year[15]. In failure of it, the voidable transaction is considered valid, and consequently such a transaction gives birth to all the legal consequences purposed by it and they are in force until the court recognizes the transaction invalid.

Nullity of transaction or its absolute invalidity comprehends that, on the ground of the action made in the form of transaction, no legal consequences pursued by the parties shall or could be achieved or arisen because the transaction does not correspond to the law, and it is invalid as such[16] from the moment of its execution. As an action against the law, a null and void transaction may cause only such consequences which are established by the law as counter measures against legal offences. It means mainly restitution obligations and confiscatory sanctions.

According to the Civil Code[17], a claim for the application of the consequences of the invalidity of a (null and) void transaction may be presented by any interested person. And also, the court shall have the right to apply such consequences at its own initiative alias regardless of if such a demand is presented or not. Thus, a void transaction is invalid irrespective of the decision of the court. However, this does not prevent that the invalidity of the void transaction would be considered in the court proceeding. This is clearly referred to in the rules of the Civil Code on the means of protection of civil law rights [18], according to which civil law rights may be protected not only by way of recognizing a disputable (voidable) transaction as invalid and applying the consequences of its invalidity, but also by applying the consequences of invalidity of a null transaction. This has been interpreted in Russia not only in the legal literature but also in the judicial practice that a claim for declaratory judgment in respect of the nullity of transaction is possible. It is expressly stated in Russian judicial practice that a claim on the invalidity of the null transaction may be presented by any interested person, and, moreover, that the court has the right to apply the consequences provided by the law for void transactions irrespective of if such a demand has been presented or not by the claimant.

In certain cases, merely invalidity of transaction, as a consequence of no observance of the form requirements, is mentioned in the Civil Code. This concerns the formal requirements in respect of foreign trade transactions[19], pledge contract[20], contract of suretyship[21], sale contract of an immovable[22] and an enterprise[23] as well as lease of building and structures[24] and enterprise[25]. Also, certain contract conditions are prescribed as invalid, if they are not made in the proper form, as for instance, the

[15]Article 181.2.
[16]Without declaring as invalid.
[17]Article 166.1.
[18]Article 12.
[19]Article 162.3.
[20]Article 339.
[21]Article 362.
[22]Article 550.
[23]Article 560.2.
[24]Article 651.
[25]Article 658.3

condition on liquidated damages[26]. Thus, in certain cases the legislator has not specified the species of invalidity. It evidences that the distinction between void and voidable transactions is considered in Russian law formal and also partly unnecessary, wherefore the room is left for judicial discretion in this question. Furthermore, it must be notified that, in Russian law, also cases of unconcluded contract are known, and they are distinguished from invalid contracts by excluding the application of the rules on the consequences of invalidity of a transaction to them. It will occur not only in the case the essential condition is missing but also if the agreed form of the contract is not observed.[27]

Invalidity or nullity or voidableness may concern in Russian law the whole transaction or only its part. For instance, the court may recognize only a part of the conditions of transaction or merely some of them invalid. The invalidity of individual contract conditions may be grounded on their contradiction to the law's requirements or deficiencies concerning their content due to the error of intent. According to the Civil Code[28], the invalidity of part of a transaction shall not entail the invalidity of its other parts if it is possible to suppose that the transaction would have been made without the inclusion of its invalid part.

The Civil Code contains also concrete rules on the invalidity of certain contract conditions. So, the condition on liquidated damages is prescribed as invalid, if it is not made in the written form[29]. The same consequence is provided in the rules of the Civil Code on sale concerning the agreement of the parties to release the seller from liability in the event a third person demands the acquired goods from the buyer, or to limit such a liability[30]. In this context, noteworthy is the rule of the Civil Code concerning means of security for performance of obligations, according to which the invalidity of the principal obligation shall entail the invalidity of the obligation securing it, unless otherwise provided in the law[31].

The general rule on nullity of transaction is contained in the norm of the Civil Code regulating invalidity of transactions not conforming to the law or other legal acts.[32] According to it, a transaction not conforming to the law or other legal acts is to be null unless the law establishes that such a transaction is voidable or provides other consequences for the violation[33]. The general rule of the Civil Code is purported to be applied in the event the law does not provide the special grounds for considering an invalid transaction as null, or it may be referred to only in the event there is no directly applicable special rule to the case. The question is in that case of the violation of the requirements provided in the law or other legal act. This general rule is to be applied usually to the case when the concluded transaction does not correspond to the concrete requirements imposed in the law or other legal act or

[26]Article 331.
[27]*See*, for instance, Sergeev (2009) at 491–493.
[28]Article 180.
[29]Article 331.1.
[30]Article 461.2.
[31]Article 329.3.
[32]Article 168.
[33]In a concrete legal norm voidableness may be expressly indicated. On the other hand, a legal norm may provide some other consequence of the invalidity of a transaction. See Abova, T.E, Boguslavsky, M.M, Kabalkin, A.Y. & A.G. Lisicin-Svetlanov (2007) at 192.

merely concrete requirements established in a concrete administrative decision. It is to be applied also in the case the transaction does not correspond to the general civil law principles.[34]

Transactions made for a purpose contradicting the foundations of the law, of legal order and of morality which are also considered in Russian civil law as null and void[35], are directed against the laws or other legal acts containing the basics of the legal order. They are not merely of nonobservance of the law requirements that is general for transactions not conforming to the law or other legal acts[36] but are represented in the qualified form. Qualifying for them is their subjective part or the aim: they are made against the law order established in the country. Thus, characteristic for transactions made for a purpose contradicting the foundations of the law, of legal order and of morality is in Russian law their illegal aim. Such transactions are considered as null just because they are directed against the society and threaten the state and societal interests. The question is of intentional acts (at least of one of the parties) for which criminal liability is established. The intent must concern also the aim which is evidently contradictory to the basics of the legal order. In making such a transaction the participants understand the consequences of its illegality[37] and pursue or consciously regard as possible them.

Additionally, as null are regarded in the rules of the Civil Code on transactions mock and sham transactions[38], transactions made by a physical person who has been declared lacking dispositive capacity[39], transactions of concluded by minors under 14 years old[40], transactions in conclusion of which form requirements are not observed, if the law provides nullity in such a case as well as in certain cases transactions in conclusion of which registration requirements are not observed[41].

The special grounds for nullity transactions established in legal norms other than in the rules of the Civil Code concerns in the first-place transactions, the purpose of which is to limit the legal capacity and dispositive capacity of a physical person[42]. The rules on nullity of transaction are found also in the corporation law norms. As null are regarded, for instance, transactions violating the rights of a participant in a general partnership. It includes limitations to[43] or to withdraw from the partnership[44], or an agreement of the partners limiting or eliminating their liability for the obligations of the partnership[45].

The rules on nullity are contained also in certain norms of the Civil Code regulating different types of contracts. In some cases, the contract law norms of the

[34]See, for instance, Sergeev (2009) at 483–486.
[35]Article 169.
[36]Article 168.
[37]This nullity is applicable also to the cases in which the law is not directly violated but evaded. See Sergeev (2009) at 487–488.
[38]Article 170.
[39]Article 171.
[40]Article 172.
[41]Article 165.1.
[42]Article 22.3.
[43]Article 71.3.
[44]Article 77.2.
[45]Article 75.3.

Civil Code prescribe certain contract conditions as null and void which cause the partial invalidity of the contract. Nullity is provided in the Civil Code to concern an agreement, according to which

- the delegant and delegate waives the right to withdraw from the delegation contract[46]
- the right of the debtor and a pledgor who is a third person to terminate the levy of execution towards him and sale of the pledged property by performing the overdue obligation secured by this, is to be limited in the pledge contract[47] and
- the right to withdraw from the contract without time limit is to be limited in the simple partnership contract[48].

Also, an advance concluded agreement on limiting the amount of liability of a debtor under a contract adhesion or other contract in which the creditor is an ordinary consumer[49]. As well an agreement concluded in advance for eliminating or limiting liability for the intentional violation of an obligation is void under the Civil Code[50]. Furthermore, conditions of a public contract which do not correspond to the requirements established for them are void[51]. In certain cases, also the nonobservance of the form requirements concerning a contract may cause its nullity. This consequence is established in the Civil Code to concern preliminary[52], credit[53], bank deposit contracts[54] and commercial concession contract[55].

Relatively invalid or disputable or voidable transactions include in Russia according to the rules of the Civil Code on transactions:

- transactions of juristic persons exceeding the limits of the special legal capacity[56]
- transactions exceeding the restrictions of powers[57]
- transactions made by a minor from fourteen to eighteen years of age[58]
- transactions of physical persons whose dispositive capacity is limited by a court[59]
- transactions of physical persons who are incapable to understand the purport of his actions and directing them [60]

[46]Article 977.2.
[47]Article 350.7.
[48]Article 1051.
[49]Article 100.2.
[50]Article 401.4.
[51]Article 426.5.
[52]Article 429.
[53]Article 820.
[54]Article 836.
[55]Article 1028.
[56]Article 173.
[57]Article 174.
[58]Article 175.
[59]Article 176.
[60] Article 177.

- transactions concluded under the influence of a mistake[61] and
- transactions concluded under influence of fraud, coercion, threat, or bad-faith agreement of representative of one party with other party or coincidence of grave circumstances[62].

Transactions of juristic persons, including contracts which juristic persons conclude with other juristic person and physical persons, exceeding the limits of the special legal capacity comprehend actions made against the objects of the activities imposed expressly in the charter as well as transactions made without a license to practice the respective activities[63]. However, merely the fact that a transaction is made by exceeding the limits of the special legal capacity determined in the charter or without the necessary license to it is not sufficient for recognition it as invalid in Russian civil law. Additionally, it must be proven that the other party (physical or juristic person) knew or clearly should have known of the illegality of the transaction. A transaction exceeding the limits of the special legal capacity may be recognized by the court as invalid on the claim of the juristic person, its founder (participant) or a State agency exercising control or supervision over the activities of the juristic person[64]. The burden of proof is to be on the claimant. In the cases provided by the law, a transaction exceeding the limits of the special legal capacity or made without the necessary license is to be null and void.[65] The general rules on invalidity of transactions shall not be applied, for instance, to (The state and municipal) unitary enterprises as well as to other enterprises the legal capacity of which is limited by the law or the activity of which is subject to license. In these cases, transactions contradictory to the requirements are null and void.[66]

Also, transactions made by exceeding the restrictions of powers, including contracts the other party of which may be a physical and juristic person, can be according to Article 174 of the Civil Code invalid in certain cases. It provides as presented above that if the powers of a person to conclude a transaction is restricted by the contract, or the powers of the body of a juristic person is restricted by its constituent documents as compared to the way they are defined in the power of attorney or in the law, or how they could be considered obvious from the situation in which the transaction is concluded, and if, in concluding this transaction such person or body exceeded the boundaries of these restrictions, the transaction may be recognized by a court as invalid upon the claim of the person, in whose interest the

[61]Article 178,

[62]Article 179. In such cases also contrariness to morality can be seen. This is, however, the invalidity ground contained into the other norm of the Civil Code (article 169). The distinction has significance since a transaction concluded under the influence of fraud, coercion, threat, or bad-faith agreement between a representative of one party with another party or as consequence of the coincidence of grave circumstances (article 179) may be recognized as void, whereas a transaction made for a purpose contradicting the foundations of the law, of legal order and of morality is considered in the Russian civil law as null and void (article 169).

[63]Article 173.

[64]Article 173.

[65]See Abova, Boguslavsky, Kabalkin & Lisicin-Svetlanov (2007) at 195–196.

[66]See Resolution 25.

said restrictions have been imposed. But it shall occur only if it is proven that the other party to the transaction knew or clearly should have known of these restrictions.

Also, a transaction concluded under the influence of a mistake[67] and a transaction concluded under influence of fraud, coercion, threat, or bad-faith agreement of representative of one party with other party or coincidence of grave circumstances[68] may be recognized by a court as invalid upon the claim of a juristic or physical person.[69]

Voidableness is known also in the contract law norms of the Civil Code. This concerns the cases when the norms provide that a contractual party has the right to demand recognition of the contract as invalid. An example of it is the rule regulating sale of enterprise. It protects the creditor who has not informed the seller or buyer in writing of his consent to the transfer of the debt[70]. The right to demand recognition of the contract as invalid is established also in the rule on lease of residential accommodation[71], insurance[72], pledge[73] and sale[74]. Voidableness is provided also in the corporation law rules[75], the application of which may concern interested and large-scale transactions.

Legal Consequences of Invalidity of Transaction

According to the rules of the Civil Code on consequences of invalidity of transaction[76] an invalid transaction shall not entail legal consequences other than those which are connected with its invalidity, and it is invalid from the moment of its conclusion. However, if it follows from the content of a voidable transaction that it may only be terminated for the future, the court, declaring the transaction to be invalid shall terminate its validity under the Civil Code[77] for the future. The legal consequences of invalidity of transaction are to appear in Russian law not until the transaction stated invalid is partly or fully performed. And in that case only the question of such the property law consequences is to arise as bilateral or unilateral restitution as well as other property law consequences[78].

[67]Article 178.
[68]Article 179.
[69]For more on details see Sergeev (2009):457–470.
[70]Article 562.2.
[71]Article 684.
[72]Articles 934.2, 944.3 and 951.3.
[73]Article 349.1.
[74]Article 459.2.
[75]Articles 79 and 84 of the Joint Stock Company Law, and articles 45 and 46 of the Law on Limited Liability Company.
[76]Article 167.1.
[77]Article 167.3.
[78]Claims for return of the performances executed under an invalid transaction are to be governed by the rules of the Civil Code on the obligations to return unjust enrichment, unless otherwise following from the law, other legal acts or the nature of the respective obligation (Article 1103). The restitution rules provided in the provisions on invalidity of transactions are not applicable, in accordance with the ruling of the Constitution Court, to the claims of plaintiff in which he demands the return of his property invoking the *bona fide* rules of the ownership law, in which case the vindication claim rules must be applied. See Decree of Constitutional Court of Russian Federation No 6-P of 21 April 2003. http://ksportal.garant.ru:8081/SESSION/S__Y2mBIaVG/PILOT/main.html

Other property law consequences followed from the invalidity of a transaction are additional by their nature consequences and comprehend the compensation of costs and of the value of the lost or damaged property. In general, the invalidity of a transaction does not invalidate the transactions connected with it, unless the question is of an additional contract like suretyship and pledge. The period of limitation for a claim for the application of the consequences of the invalidity is determined in the Civil Code[79] in respect of a void transaction as three years[80] and voidable transaction as one year[81].

Bilateral restitution is regarded in Russian civil law as the main form of the legal consequences of the invalidity of a transaction. According to the rule of the Civil Code[82] concerning the consequences of the invalidity of a transaction in case of the invalidity of a transaction, each of the parties shall be obliged to return to the other everything received under the transaction, and in case of the impossibility of returning in kind what was received (including when the received consisted of the use of property, work performed, or service provided), to compensate for its value in money. The purpose of the bilateral restitution is to return the parties of an invalid transaction to the position they had before the conclusion of the transaction. The rules on bilateral restitution intended to be applied in accordance with the Civil Code generally to all cases of the invalidity of a transaction, unless other consequences of the invalidity of the transaction are provided by the law.

Unilateral restitution is provided in the rules of the Civil Code on invalidity of transaction as a consequence of the invalid transactions which are made under the influence of fraud, coercion, threat, or bad-faith agreement of representative of one party with other party or coincidence of grave circumstances[83].The purpose of it, according to the Civil Code[84] is that the other party shall return to the victim everything, and if it is impossible to return it in kind, its value in money is to be compensated. Instead, the dishonestly acted party shall not get his performance back, because the property received under the transaction by the victim from the other party and also due to him in compensation for that transferred to the other party shall go under the Civil to the income of the Russian Federation. And if it is impossible to transfer the property to the income of the Russian Federation in kind, its value in money is to be recovered. Thus, the party acted dishonestly in the conclusion of the invalid transaction is subject in Russian law to confiscatory sanctions.[85]

The restitution is to be, however, excluded under the Civil Code in which case everything received by the intentionally acted parties under the invalid transaction

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[79]Article 181.

[80]Calculating from the day when the performance of the transaction started.

[81]Calculating from the day when coercion or threat under which the transaction was concluded was used or from the day when the claimant became known, or he should have become known of the other circumstance entailing invalidity of the transaction.

[82]Article 167.2.

[83]Article 179.1.

[84]Article 179.2.

[85]The rule of the Civil Code concerning unilateral restitution shall be applied also in the case of transaction made evidently for a purpose contradicting the foundations of the law, of legal order and of morality (article 169), when only the other party has committed the illegal action. In both cases the claimant must prove the intent of the defendant. See Sergeev (2009) at 495–496.

is to be recovered to the income of the Russian Federation[86]. This is the case of a specific consequence of the invalidity of transaction which is provided to be applied only in the event the transaction is declared invalid as a transaction made for a purpose contradicting the foundations of the law, of legal order and of morality.

The application of the general rules on the consequences of the invalidity of transaction may be restricted in Russia by the law to protect public interests and the substantive interests of the participants of the civil circulation. An example of it is the rule of the Civil Code regulating sale of enterprise which enable the exceptions to the rules on restitution and confiscation[87]. It establishes that the rules of the Civil Code on the consequences of invalidity of transactions providing for the return or the recovery in kind of what have been received is to be applied to the contract for sale of an enterprise, if such consequences do not substantially violate the rights and interests protected by the law of creditors of seller and buyer, of other persons, and do not contradict the interests of society.

Improvement of Transaction or Rectification of its Invalidity[88]

In certain cases, the invalidity of a transaction (contract) is not definite, and it can, through the actions of the parties or the other party, become valid or improved. Such possibilities concern according to the rules of the Civil Code transactions the conclusion of which is subject to strict form requirements, like transactions requiring notarial authentication and registration.[89] The rule on the rectification of a contract subject to notarial authentication is contained in Article 165.2 of the Civil Code. According to it, if one of the parties has wholly or partially performed a transaction which requires notarial authentication, and the other party refuses such authentication of the transaction, the court shall have the right on demand of a party who has performed the transaction to recognize the transaction as valid. In this event, subsequent notarial authentication of the transaction shall not be required. Since this rule is general and concerns any transaction, it is to be applied irrespective of if there is a reference to it in the special rules of the Civil Code or not. Thus, the court has discretionary power on the issue and may decide after considering all the relevant circumstances of the case if the contract contrary to the law requirements or agreement of the parties left unauthenticated at the notary is valid or not. In considering the case, the court must clarify, if the contract is really concluded, in which case it must follow the above presented rule of the Civil Code which prohibits the use of the testimony of witnesses as evidence[90]. This means again that if the conclusion of the contract will not be proven through the other evidence than the testimony, such a contract is unrectifiable and remains finally invalid. In case of a negative decision of the court

[86]Article 169.
[87]Article 566.
[88] See particularly Tuzov (2006) at 190–202.
[89]According to the rules presented here, rectifiable is the transaction regarding which the form requirements are not observed; otherwise, it must correspond with the law.
[90]Article 162.1.

the only remedy for the party who performed the transaction is to be the claim for the return of unjust enrichment.

The rules on the rectification of an unregistered contract are provided in Article 165 of the Civil Code. According to them, if a transaction requiring State registration has been concluded in the proper form but one of the parties refuses to register it, the court shall have the right on demand of the other party to enter a decision on the registration of the transaction. The registration of the contract may be demanded by the party, otherwise than in the case of notarial authentication, regardless of if he has performed it or not. But it is required that, in the conclusion of the contract, all the form requirements are observed. This means that if neither the form requirements, for instance, notarial authentication, nor registration requirements are observed, the contract is not rectifiable and remains finally invalid. The decision of the court on the registration does not, however, exclude the necessity of the registration neither constitutes the transfer of the right grounded on the transaction. But it is sufficient ground for that the register officers enter the transaction in the register, and it shall occur by the decision of the court. The transaction is to be registered in accordance with the court decision[91].

In respect of both cases of the ratification of the contract requiring notarial authentication and registration alike, it is provided in Article 165.4 of the Civil Code that the party who unjustifiably refuses notarial authentication or State registration of the transaction must compensate the other part for the damages caused by the delay in concluding or registering the transaction, which means real damage.

Interpretation of Contract[92]

The rules on interpretation of contract are included in the Civil Code[93] as the rules guiding the consideration of a court. Their starting point or the basic stage of interpretation is the literal meaning of the words and expressions contained in the contract. Only in case when the literal meaning of a condition of the contract is not clear shall this be established by comparison with other conditions and the sense of the contract as a whole. Where the content of the contract may not be determined in accordance with the above rules, then in accordance with the supplementary rule the real common will of the parties must be clarified, taking into account the purpose of the contract. In such a case all surrounding circumstances are to be taken into account, including negotiations and correspondence preceding the contract, the practice established in the relations of the parties[94], the commercial customs and the subsequent conduct of the parties, which play ancillary role[95]. Additionally, it is regarded in Russian legal doctrine that the rule *contra proferentum* must be applied in the

[91]Article 165.3.
[92]On the subject see Sergeev (2020) at 879–881; Braginsky & Vitrjansky (1999) at 266–274; and Orlov (2011) at 204.
[93]Article 431.
[94]Thus, in the Russian civil law, the established (habitual) practice is legally significant concerning interpretation of contract.
[95]Thus, the real will of the parties is placed at the third stage of interpretation.

interpretation of a contract containing ambiguous terms which must be construed against the person who prepared such a contract.

Fulfilment of Contract[96]

Concept of Obligation[97]

The substance of a contract is formed of the obligations that it contains (contractual obligations), where the performances aimed to be executed for fulfilment of the contract are defined. According to Article 307 of the Civil Cod, by virtue of an obligation, a person the debtor) is obliged to make in favour of another person Article the creditor) a certain action, such as: to transfer property, to perform a work, to render a service, to make a contribution to joint activities, to pay money, etc., or to abstain from a certain action, while the creditor has the right to demand of the debtor execution of the obligation thereof and often also the obligation to accept the performance.

Contractual obligations are subject to obligation law provisions of the Civil Code. In Article 307[1] it is expressly provided that that the general provisions on obligations of the Civil Code are applicable to the obligations arising from a contract from a contract (contractual obligations), unless otherwise provided for by the rules in respect of individual kinds of contracts contained in the Civil Code and other laws or, in the absence of such special rules, by the general provisions on a contract[98].

In general, parties of the obligation relation based on the contract (contract relation) and its subject are concretely defined, where concrete persons are obligated to concrete behaviour that has property purpose. As legally fixed an agreed notion of the contracting parties transfers into legally binding contractual obligations. The binding effect of contract means generally, as presented above, that its parties are (legally) obligated to fulfil it (perform its obligations) and even the termination of the validity of the contract does not terminate, according to the Civil Code, the obligation until this is fulfilled in conformity with the contract, unless otherwise provided by the law or a contract[99].

Subjects of Contractual Obligation

Subjects of contractual obligation in Russia may be any civil law subjects: physical persons, juristic persons, Russian federation, subjects of Russian federation and municipal bodies. They participate in contractual obligations as their parties. The obligation is not to create the duties for the persons, who do not participate in it in the capacity of the parties (third parties).

[96]For more on the subject see, for instance, Sergeev (2020) at 901–1041; Shabolova (2023) at 172–174.
[97]For more on the subject see, for instance, Karapetov (2017) at 18–72.
[98]Articles 420-453.
[99]Article 425.

As bilateral or multilateral transactions contracts often require not only at least the concurring expression of will of two parties but also their commitment to it. Usually each of the parties by the contract is to bear a duty in favour of the other party, consequently he is to be regarded as the debtor of the other party by what it is obliged to do in its favour, and simultaneously as its creditor by what it has the right to claim from it. In particular bilaterality concerns pecuniary contracts that means in Russian law the contract, by which the party is to receive a pay or a different kind of the regress remuneration for the performance of his duties. Such a bilateral by nature contract is ordinary in civil law, and in Russia it is subject to the special rules of the Civil Code according to which one or several persons simultaneously may participate in the obligation in the capacity of each of its parties. According to Article 308 of the Civil Code, one or several persons simultaneously may take part in the obligation in the capacity of each of its parties. In such a case the invalidity of the creditor's claims against one of the persons, participating in the obligation on the side of the debtor, the same as the expiry of the term of the limitation of actions by the claim against such a person, shall not of themselves have a bearing on his claims against the rest of these persons. Thus, the obligation is not to create the duties for the persons, who do not participate in it in the capacity of the parties (third parties). However, in the cases, stipulated by the law, by other legal acts or by an agreement between the parties, the obligation may create for third parties the rights with respect to one or to both parties of the obligation. The fact that the obligation law is based on the notion that each obligation has two parties. the debtor and creditor, does not mean the limitation of the number of persons who participate in the obligation.

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Determination of the Content of Contractual Obligations

Related to the determination of the content of contractual obligations, the parties have under the Civil Code the right to conclude a contract, both stipulated and unstipulated by the law or other legal acts. According to Article 422.1 of the Civil Code, the content of contractual obligations, that represents the substance of the contract, is formulated in the contract terms (provisions) that are defined at the discretion of the parties, except for the cases, when the content of the corresponding term (provision) has been stipulated by the law or other legal acts. In the absence of an agreement on the contract provision, they ought to be defined by the dispositive norm. Unless the contract provision has been defined by the parties or by the dispositive norm, the corresponding provisions are to be defined by the customs, applicable to the relationships between the parties.

The most part of the obligation law is represented in the ordinary obligations regulated by legislative norms that are imperative or dispositive. According to Article 422.1 of the Civil Code the contract ought to correspond to the rules, obligatory for the parties, which have been laid down by the law and other legal acts (the imperative norms), operating at the moment of its conclusion. In the cases, when the contract provision has been stipulated by the norm, applied so far as it has not been otherwise stipulated by the agreement between the parties (the dispositive norm), the parties may by their own agreement exclude its application, or may introduce the provision, distinct from that, which has been stipulated by it.

In addition to ordinary obligations the Civil Code contains the provisions on facultative (optional) and alternative obligations. The main difference between alternative and facultative obligations is the creditor's right, or lack thereof, to choose which obligation must be performed. Under an alternative obligation, as a general rule, the debtor is entitled to choose which obligation to perform. If, pursuant to the law or the contract, the choice belongs to the creditor or a third party, and they have missed the deadline for making the choice, then the debtor will decide which obligation to perform. Similarly, if the debtor misses the relevant deadline, the creditor or the third party will decide. In turn, a facultative obligation entitles the debtor to substitute the performance of the main obligation by the performance of the facultative obligation. In such a case the creditor may only request the performance of the main obligation, even if the performance of the facultative obligation may seem preferable to them.

Performance of Contractual Obligations[100]

General Rules

The rules on fulfilment (performance) of contract[101] are included in the obligation law norms of the Civil Code. The binding effect of contract means generally, as presented above, that its parties are (legally) obligated to fulfil it (perform its obligations) and even the termination of the validity of the contract does not terminate, according to the Civil Code, the obligation until this is fulfilled in conformity with the contract, unless otherwise provided by the law or a contract.[102]

This principle or the principle of proper performance is expressly provided in the general rule of the Civil Code concerning the fulfilment (performance) of obligations[103], according to which the obligations must be performed in the proper way in conformity with the conditions of the contract and requirements of the law and other

[100]For more on the subject see, for instance, Karapetov (2017) at 73–194

[101]It is regarded as a transaction. There is a special rule concerning the form of such transactions, according to which legal acts in performance of a contract, concluded in the written form, may by agreement of the parties be affected orally, unless this contradicts the law or the contract (article 159.3). As a matter of fact, any transaction in performance of a contract may be executed orally, unless otherwise provided by the law of the agreement of the parties. See Sergeev (2009) at 880–881.

[102]Article 425. Stability of obligations is the general principle of the Russian obligation law and it follows from the principle of the proper performance. See Sergeev (2009) at 881.

[103]Article 309.

legal normative acts, and in the absence of those, in conformity with the commercial customs or other habitually presented demands.

Real (or in kind) performance is directly required as obligatory in Article 398 of the Civil Code on the consequences of the non-performance of the obligation to transfer an individually definite thing under which the creditor has right to claim the forcible withdrawal of the thing from the debtor and its transfer to the creditor. Furthermore, according to Article 396 of the Civil Code, the payment of the forfeit and the compensation of the losses in case of an improper performance of the obligation will not absolve the debtor from the performance of the obligations in kind, unless otherwise stipulated by the law or by the contract, but in case of the non-performance of the obligation the debtor will be released from duty to perform the obligation. Generally, the creditor is entitled under the Civil Code to request specific or real (or in kind) performance of an obligation at court unless the law or the contract provides otherwise or if the opposite can be inferred from the nature of the obligation[104].

As regards enterprise activity, the Civil Code prescribes that the (unilateral) refusal to fulfil the obligation and the unilateral amendment to the contract is to be admissible only in cases provided by the law or a contract, unless otherwise following from the law or the substance (nature) of the obligation[105].

According to Article 307 of the Civil Code, parties to a contract must act not only in accordance with the law and the conditions of the contract, but also in good faith and in accordance with the principle of fair dealing that is of importance both for pre-contractual (negotiations) and post-contractual relations.

Specified Requirements

According to Article 312 of the Civil Code the performance of the obligation is to be executed to the proper person and, unless otherwise provided by the parties' agreement and follows from the customs, or the substance of the obligation, the debtor has the right, while performing the obligation, to demand proof of the fact that the performance is accepted by the creditor himself or by the person he has authorized for this purpose, and the debtor is to bear the risk of consequences of his failure to present such a demand. In such a case the creditor is, however, protected by the rules of Article 408.2 of the Civil Code, according to which, while accepting the performance, the creditor is obliged, upon the debtor's claim, to give him a receipt for accepting the performance in full or in the corresponding part thereof, and If the creditor refuses to issue the receipt, the debtor has the right to delay his performance.

According to the rules of Article 313 of the Civil Code on performance of the obligation by the proper person, the execution of the obligation may be imposed by

[104]In accordance with Article 309 of the Civil Code, the parties may agree on the performance of the obligations resulting from the transaction, when definite circumstances occur, without an additional separately expressed declaration of will, by using the information technologies determined by the terms of the transaction.
[105]Article 310.

the debtor on the third party. In such a case the creditor is bound to accept the execution offered for the debtor by a third party. Also, the creditor is bound to accept the execution offered for the debtor by a third party in the following instances:

1) the debtor has delayed in performing a pecuniary obligation.
2) such third party is in danger of forfeiting the right thereof to the debtor's property as a result of levying execution against this property. Otherwise, the creditor is not bound to accept the execution offered for the debtor by a third party, if it follows from a law, other legal acts, terms of the obligation or from the essence thereof that the obligation must be executed by the debtor in person.

Furthermore, according to Article 313 of the Civil Code on the execution of an obligation by a third party the creditor's rights under an obligation is to pass to a third party that has executed the debtor's obligation in compliance with the rules of Article 387 of the Civil Code on transfer of creditor's rights to another person by law.

In the event that only a part of the creditor's rights under an obligation has passed over to a third party, they may not be used by the latter to the detriment of the debtor, in particular such rights have no priority when they are satisfied on account of the securing obligation or when the debtor does not have enough assets for satisfying claims in full. But if a third party has performed a debtor's duty which is not a pecuniary one, such person is to bear the liability instead of the debtor with respect to creditors established for the given obligation for deficient performance[106].

According to the rules of the Civil Code on proper object of obligation that concern the currency of the pecuniary obligations[107], the pecuniary obligations in Russia ought to be expressed in roubles, and they are subject to the rules on the currency regulation and the currency control[108]. The rouble ought to be the legal means of payment, which is to be accepted by its face value on the entire territory of the Russian Federation, and the payments on the territory of the Russian Federation is to be affected both in cash and cashless, including payments in digital roubles.

According to the rules of the Civil Code that regulate interest on a pecuniary obligation[109], where a law or contract requires that interest is to be charged on the amount of a pecuniary obligation for the period while monetary assets are being used, the rate of interest is to be determined by the key rate of the Bank of Russia (legal interest) that was in effect in appropriate periods, unless another rate of interest is fixed by law or contract. Article 317[1].2 of the Civil Code expressly provides that the clause of an obligation that provides for charging interest on interest is to be deemed null and void, except for the clauses of the obligations arising from bank deposit contracts and from contracts connected with the exercise of business activities by the parties.

[106]Article 313.6.
[107]Article 317.
[108]Articles 140 & 141.
[109]Article 317.

According to the rules of the Civil Code on priority (order) for satisfaction of claims under the monetary obligation[110], in the event the amount of the effected payment is insufficient for the performance of the pecuniary obligation in full, and in the absence of another agreement, it will first of all cover the creditor's expenses, involved in the enforcement of the performance, then - the interest, and in the remaining part - the basic amount of the debt.

Civil Code[111] contains also the rules on satisfaction of claims in respect of homogeneous obligations. If the execution effected by the debtor is not sufficient for satisfaction of all the debtor's homogeneous obligations with respect to the creditor, the execution ought to be counted against the obligation specified by the debtor when it is being executed or without any delay after the execution. But in the event the debtor has not specified against which of the homogeneous obligations the execution has been affected and among such obligations there are those for which the creditor has security, the execution ought to be counted, unless otherwise provided for by law or the parties' agreement, against the obligations for which the creditor has no security. Furthermore, when the debtor has not specified against which of homogeneous obligations the execution has been effected, as the priority ought to be deemed, unless otherwise provided for by law or the parties' agreement, the obligation which is mature or which is the earliest to become mature, or if the time of an obligation's execution is not fixed, then the obligation that was the first to arise. And if the time of obligations execution is the same, the execution ought to be counted proportionally for satisfaction of all the homogeneous claims to be satisfied[112].

According to the rules on the place of performing an obligation of the Civil Code[113], in the event that the place of executing an obligation is not established by a law, other legal acts or contract, or is not clear from customs or the essence of the obligation, the execution is to be affected:

- in respect of an obligation to transfer a land plot, building, construction or other immovable property - at the location of such property.
- in respect of an obligation to transfer goods or other property providing for their carriage - at the place of the property's delivery to the first carrier for its transportation to the creditor.
- in respect of other obligations of a businessman to transfer goods or other property - at the place of the property's manufacture or storage, if this place was known to the creditor at the time of the obligation's arising.
- in respect of a pecuniary obligation to pay money in cash - at the place of the creditor's residence at the time of the obligation's origination or, if the creditor is a legal entity, at its location at the time of the obligation's arising.
- in respect of a pecuniary obligation to pay money on a cashless basis - at the location of the bank (of its affiliate or subdivision) that is serving the creditor, if not otherwise provided for by law; and

[110]Article 319.
[111]Article 319[1]1.
[112]Article 319[1]3.
[113]Article 316.

- in respect of other obligations - at the debtor's place of residence or, if the debtor is a legal entity, at the location thereof.

The provisions of Article 314 of the Civil Code on the term for executing an obligation contain at first the rules that concern the case when the term for executing the obligation is or could be determined. According to Article 314.1 of the Civil Code in the event that an obligation provides for or allows the fixing of the date of its execution or the time period within which is must be executed (including if this period is counted from the time of performance of duties by the other party or of the occurrence of other circumstances provided for by law or contract), the obligation is subject to execution on this date or, accordingly, at any time within such time period. In default of such determination, as well as when the term of the obligation's execution is determined by the time of raising a claim, the obligation ought to be executed within seven days from the date when the creditor makes a claim for its performance, if the duty to perform it at a different time is not provided for by a law, other legal acts, conditions of the obligation or does not follow from customs or the essence of the obligation. Furthermore, in the event that the creditor fails within a reasonable time period to claim for the execution of such obligation, the debtor is entitled to demand that the creditor accept the execution. Noteworthy is that in general the breach of requirements on the term for executing an obligation means the delay of performance, however, also advanced (or early) performance of the obligation could be deemed in Russia as a breach of contract.

Exceptionally to the general rule, that the obligation is to be performed in the time determined by law or agreement Article 315 of the Civil Code offers the opportunity for advance performance According to it the debtor have the right to perform the obligation in advance of the deadline, unless otherwise stipulated by the law, other legal acts or by the terms of the obligation or follows from its substance. However, an advanced performance of the obligations, involved in the performance by its parties of the business activity, is to be admitted only in the cases, when the possibility to perform the obligation before the fixed date has been stipulated by the law, other legal acts or by the terms of the obligation, or follows from the customs or from the substance of the obligation.

The nonperformance of an obligation in proper time means the breach of contract that is implied as the debtor's or the creditor's delay. According to the rules of Article 405 of the Civil Code on the debtor's delay, if because of the debtor's delay, the performance has lost all interest for the creditor, he has the right to refuse to accept the performance and to claim the compensation of the involved losses. In turn, according to the rules of Article 406 of the Civil Code on the creditor's delay, the creditor's delay will give to the debtor the right to the compensation of losses, caused to him by the said delay, unless the creditor proves that the delay has occurred through the circumstances, for which neither he himself, nor the persons, to whom, by force of the law, other legal acts or of the creditor's commission, the acceptance of the performance has been entrusted, are answerable.

According to the rules on performance of the obligation by parts[114], the creditor has the right not to accept the performance of the obligation by parts, unless otherwise stipulated by the law, other legal acts and by the terms of the obligation and does not follow from the customs or from the substance of the obligation.

According to the rules on performance of the obligation by placing the debt on a deposit[115], the debtor has the right to place the money or the securities he owes on the notary's deposit, and in the law-established cases - on the court's deposit, if the obligation cannot be performed by the debtor on account of in the event of:

1) the absence of the creditor or of the person, whom he has authorized to accept the performance of the obligation, at the place, where the obligation shall be performed.
2) the creditor's legal incapacity and his having no substitute.
3) an obvious absence of any certainty about who is the creditor by the obligation, in particular, in connection with the dispute on this issue arising between the creditor and other persons.
4) the creditor's avoidance of accepting the performance of the obligation or any other delay on his part.

The placing of the sum of money or of the securities on the notary's or on the court's deposit is to be regarded as the performance of the obligation.

According to the rules 327[1] of the Civil Code on the conditional execution of an obligation, the execution of the duties, as well as the exercise, change and termination of definite rights under a contractual obligation, may be conditional on one of the parties to the obligation taking or not taking definite actions or on the occurrence of other circumstances provided for by the contract, including fully dependent on the will of one of the parties.

The Civil Code contains provisions on counter performance of obligations. The provisions have directly enforced the principle that none of the parties to an obligation whose terms provide for counter performance is entitled to demand execution judicially without providing that for which he is liable with respect to the other party under the obligation[116]. Moreover, in the event of failure of the liable party to provide execution of an obligation or where there are the circumstances clearly showing that such execution will not be provided in due time, the party which is responsible for providing counter performance is entitled to suspend execution of the obligation thereof or to refuse to execute this obligation and to demand compensation for losses. If the obligation provided for by a contract is not executed in full, the party which is responsible for counter performance is entitled to suspend execution of the obligation thereof or to deny execution in the part thereof corresponding to the execution which is not provided.

[114]Article 311.
[115]Article 327,
[116]Article 328.3.

Business Obligations

The Civil Code includes a considerable number of dispositive norms on the performance of obligations. They contain the rules concerning the term (including a reasonable term) and place, and in which the conditions of contract, legislation, substance of the obligation and commercial customs etc. are important[117]. An advanced performance of the obligation connected with entrepreneurship is admissible, under the Civil Code[118], only if it is provided in the law or other normative act or condition of contract, or it is implied from the commercial custom or substance of the obligation. On the same conditions the obligation to accept performance concerns the creditor[119], i.e. his duty to co-operate, and this means the actions, without which it is impossible for the debtor to fulfil his obligations. The duty to collaborate is to be stipulated by the contract or it could be implied from the conditions of the contract. Although the principle of cooperation is not expressly enforced in the Civil Code, it is, however, regarded as the general principle of contract law[120] also in Russia. Furthermore, fulfilment of obligation is subject also to the principles of reasonableness and fairness, which are regarded as general principles of Russian civil law. As means of providing the performance (means of security for performance of obligations), liquidated damages (penalty), pledge (mortgage)[121], retention of property (withholding of property of the debtor)[122], surety[123], independent guarantee[124], earnest money and other measures provided by the law or a contract are mentioned in CC[125], and to this list could be

[117]Articles 314 and 316.
[118]Article 315.
[119]Article 406.
[120]According to the UNIDROIT Principles of International Commercial Contracts. The Principles are translated into Russian by Komarov (2006).
[121]According to the article 334 of the Civil Code, by virtue of a pledge a creditor under an obligation secured by a pledge (pledgee) shall have the right, in the event the debtor fails to perform the obligation, to obtain satisfaction from the value of the pledged property preferentially before other creditors of the person to whom this property belongs (pledger) with the exceptions established by the law. As to a pledge of land plots, enterprises, buildings, structures, apartments, and other immovables (mortgage), it shall be regulated by the law on mortgage. Unless otherwise provided by the contract, the pledged property shall remain with the pledger (article 338.1). See also the Mortgage Law no102-FZ of 16 July 1998, the norms of which shall be applied to the mortgage (of immovables) prior to the norms of the Civil Code regulating pledge, unless otherwise provided by the law.
[122]According to the article 359 of the Civil Code, a creditor, who has a thing subject to transfer to a debtor or person specified by the debtor, shall have the right, in the event of non-performance by costs and other damages connected with it, to withhold it until the obligation is performed.
[123]Under a contract of suretyship, the surety is, according to the article 363 of the Civil Code, obligated to the creditor of another person to be liable for the performance by the latter of his obligations in full or in particle.
[124]Under the article 368 of the Civil Code, by virtue of an independent guarantee the bank, other credit institution, or insurance organization (guarantor) gives at the request of another person (principal) a written obligation to pay a monetary amount to a creditor of the principle (beneficiary) in accordance with the conditions of the obligation given by the guarantor, upon presentation by the beneficiary of a written demand for its payment. In contrast to other security means, the independent guarantee is independent of the basic obligation, in security of which it was issued.
[125]Article 329. See more about the means of security for performance in Sergeev 2030: 920–973.

added the rule which allows the self-protection of the civil rights mentioned above[126], which seems to be rather large in Russian law.

In the case of an obligation connected with enterprise activity, the refusal of a contract party to perform the obligation is admissible under the Civil Code[127], not only in case of a breach of the contract by the other party but also if it is agreed, unless otherwise follows from the contract or substance of the obligation. On the same conditions the creditor could refuse to accept the performance of parts of the obligation; however, in such a case attention must also be paid to the commercial custom[128]. Furthermore, performance in kind may be substituted by pecuniary compensation for damages or liquidated damages. Under the Civil Code, in case of an improper performance of the obligation, performance in kind could be demanded unless otherwise provided by the law or contract, whereas in provisions of the Civil Code on early (advanced) performance of such an obligation[129], case of non-performance, performance in kind requires the provision for this in the law or a contract[130]. The nature of entrepreneurial obligations is represented also in the according to which it is allowed only in cases when such a possibility is provided for by the law, other legal acts, or the terms of the obligation or follow from the customs of trade or the nature of the obligation. Noteworthy is in this connection also that the duties of several debtors relating to an obligation connected with entrepreneurial activity likewise as the claims of several creditors under the same obligation are solidary or joint and several, unless otherwise provided by the law, other legal acts, or the terms of the obligation.

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