**THE CIVIL CODE**

**OF THE REPUBLIC OF MOLDOVA**

***[Excerpt]***

**BOOK FIVE: PRIVATE INTERNATIONAL LAW**

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**TITLE I: GENERAL PROVISIONS ON PRIVATE INTERNATIONAL LAW**

**Article 1576. Determination of Law Subject to Application to Civil-Law Relationships Complicated by Foreign Elements**

(1) The law applicable to civil-law relationships containing foreign elements shall be determined on the basis of international treaties, which the Republic of Moldova is a party to, present Code, other legislative acts of the Republic of Moldova, and international usages recognized by the Republic of Moldova.

(2) If it is impossible to determine the applicable law as provided by para. (1), the law most closely connected with the civil-law relationshipships complicated by foreign elements shall apply.

**Article 1577. Caracterization of Legal Concepts**

(1) When determining the law applicable to civil-law relationships complicated by foreign elements, account shall be taken of caracterization of legal concepts in accordance with the law of the Republic of Moldova, unless legislative acts and international treaties, which the Republic of Moldova is a party to, provide otherwise.

(2) If the legal concepts requiring legal caracterization are not known to the law of the Republic of Moldova or are known under another name or with another content and can not be determined by interpretation according to the law of the Republic of Moldova, then the law of a foreign State may be applied for their legal caracterization, unless civil rights are thus limited or civil liability measures are thus established.

**Article 1578. Establishing the Content of Rules of Foreign Law**

(1) When applying foreign law, a court shall establish the content of its rules by means of confirmations received from the bodies of the foreign State that has passed the law, having regard of its official interpretation and practice of application in the resepctive foreign State.

(2) For the purposes of establishing the content of rules of foreign law, a court may request their interpretation by the competent bodies of the Republic of Moldova or of foreign states, or may use opinions of experts in the field.

(3) The party relying on foreign law may be obliged by the court to give proof of its content.

(4) Where it is impossible to establish the content of foreign law, the law of the Republic of Moldova shall apply.

**Article 1579. Application of Law of a State with Multiple Legal Systems**

In case when the foreign law applicable to a legal relationship belong to a State in which several legal systems co-exists, and it is impossible to determine which one system among those [systems] is to be applied, the law of that State shall determine the applicable law, or it shall be applicable the legal system, which the relevant legal civil-law relationship is most closely connected with.

**Article 1580. Principle of Reciprocity**

(1) A court shall apply foreign law irrespective of whether the law of the Republic of Moldova is applied in the respective foreign State to analogous relationships, except for instances when the application of foreign law on reciprocity basis is provided for by the law of the Republic of Moldova.

(2) Where the application of foreign law depends upon reciprocity, it shall be deemed to exist, unless the contrary is proven.

**Article 1581. Proviso of Public Policy**

Arule of foreign law, which is applicable in accordance with art.1576 para.(1), shall not apply if the consequences of its application would clearly contradict the public policy of the Republic of Moldova. In case the aplication foreign law is refused, the law of the Republic of Moldova shall apply.

**Article 1582. Application of Imperative Rules**

(1) The provisions of the present Book shall not affect the effectiveness of those imperative rules of the law of the Republic of Moldova that, in view of an indication in the rule itself or in view of their special significance for ensuring the rights and interests of civil law subjects, govern the relevant relationships regardless of the applicable law.

(2) A refusal to apply arule of foreign law may not be merely based on the difference of the legal, political or economic system of the relevant foreign State from that of the Republic of Moldova.[[1]](#footnote-1)

**Article 1583. Reference to Foreign Law**

Any reference to foreign law in accordance with the provisions of the present Book shall be deemed as a reference to the substantive law and not the conflict-of-law rules of the relevant State.

**Article 1584. Retortion**

The Republic of Moldova may establish similar retaliatory limitations (retortion) with respect to the property and personal non-property rights of citizens and juridical persons of those States in which there are special limitations of the property and personal non-property rights of citizens and juridical persons of the Republic of Moldova.

**Article 1585. Recognition of Rights Acquired in Another State**

The rights acquired in another State shall be recognized and observed in the Republic of Moldova, unless they contravene to the public policy.

**Article 1586. International Treaties**

The provisions of the present Book shall apply unless otherwise provided for by international treaties.

**TITLE II: CONFLICT-OF-LAW RULES**

**CHAPTER I: STATUS OF NATURAL PERSON**

**Article 1587. National Law of Natural Person**

(1) The civil status and the capacity of the natural person shall be governed by his national law.

(2) By national law of a citizen is understood the law of the State, the citizenship of which this person bears. The citizenship shall be determined in accordance with the law of the State, the citizenship of which is invoked. If a person has two or more citizenships, his national law shall be considered to be the law of the State with which the person is most closely connected.

(3) For a person without citizenship, the law of the State, in which this person has his domicile or residence, shall be deemed his national law.

(4) The law of the State that has granted asylum to a refugee shall be deemed to be the refugee’s national law.

(5) The national law of a Republic of Moldova’s citizen, who under foreign law is deemed to have another citizenship, shall be the law of the Republic of Moldova.

**Article 1588. Legal Capacity of Foreign Citizens and Persons without Citizenship**

The legal capacity, which foreign citizens and stateless persons enjoy in the Republic of Moldova, shall be equal to that of the citizens of the Republic of Moldova, except for the cases provided by the Constitution of the Republic of Moldova, the legislative acts of the Republic of Moldova or international treaties, which the Republic of Moldova is a party to.

**Article 1589. Name of Foreign Citizen or Stateless Person**

The rights of a foreign citizen or stateless person to his name, its use and protection are subject to his national law. The protection against acts infringing upon the right to one’s name committed on the territory of the Republic of Moldova shall be ensured as provided by its legislation.

**Article 1590. Capacity to Contract of Foreign Citizens and Stateless Persons**

(1) The capacity to contract of foreign citizens or stateless persons shall be determined by their national law.

(2) A person not enjoying capacity to contract under his national law does not have the right to invoke his lack of such capacity if he has it under the law of the place of entering into the transaction, with the exception of those cases when the other party knew or should have known of the lack of capability.

(3) The capacity to contract of a foreign citizen or a stateless person in respect of transactions in the Republic of Moldova and of obligations arising from torts shall be determined by the law of the Republic of Moldova.

(4) The application of a new law as the national law of a person shall not prejudice the attainment of adult age and its recognition under the law that was previously applicable.

**Article 1591. Declaration of Foreign Citizen or Stateless Person Incapable or with Limited**

**Capability**

(1) The foreign citizen or the stateless person may be declared incapable or with limited capability, in accordance with the law of the Republic of Moldova.

(2) Legal representation of the foreign citizen or of the stateless person deprived of his capacity, as well as the assistance granted to the foreign citizen or the stateless person with limited capacity, shall be governed by the law regulating legal relationships of representation and assistance.

**Article 1592. Guardianship and Protectorship**

(1) The establishment, modification, effects and termination of relationships of guardianship and protectorship over minors, adult persons that are incapable or with limited capability, as well as relationships between the guardian or protector and the ward, shall be governed by the national law of the ward.

(2) The acceptance of the guardianship and protectorship shall be governed by the national law of the person appointed as the guardian or protector.

(3) The relationships between the guardian or protector and the ward shall be governed by the law of the State, the authorities of which have appointed the guardian or protector. Where the person under guardianship or protectorship resides on the territory of the Republic of Moldova, the law of the Republic of Moldova shall apply where it is more favorable with regard to the ward.

(4) A guardianship or protectorship established over citizens of the Republic of Moldova residing outside the territory of the Republic of Moldova shall be deemed to be valid where the consular office of the Republic of Moldova accredited in the relevant State or, absent such office, the embassy, does not produce any legally-grounded objections.

**Article 1593. Declaration of Absence or Death of Foreign Citizen or Stateless Person**

A court judgement regarding declaration of absence of a foreign citizen or a stateless person shall be adopted or contested in accordance with his national law. Where the determination of this law is impossible, the legislation of the Republic of Moldova shall apply.

**Article 1594. Registration Abroad of Acts of Civil Status of Moldovan Citizens**

The consular offices or, absent such offices, embassies of the Republic of Moldova shall conduct the registration of civil status acts of citizens of the Republic of Moldova residing outside of the Republic of Moldova.

**Article 1595. Entrepreneurial Activity of Foreign Citizen or Stateless Person**

The status of entrepreneur of a foreign citizen or a stateless person allowing him to conduct a business without creating a juridical personjuridical person shall be determined by the law of the State where the foreign citizen or stateless person has obtained permission to carry out entrepreneurial activity.

**CHAPTER II: STATUS OF JURIDICAL PERSONJURIDICAL PERSON**

**Article 1596. National Law of Foreign Juridical persons**

(1) The national law of a foreign juridical personjuridical person shall be the law of the State where the juridical person has been constituted [founded].

(2) In particular, the following shall be determined on the basis of the national law of a juridical person:

(a) the legal status of the organization as a juridical person;

(b) the organizational legal form;

(c) the requirements regarding name of the [juridical] person;

(d) the grounds for person’s creation and termination;

(e) the terms of reorganization, including legal succession;

(f) the content of person’s legal capacity;

(g) the procedure for acquisition of civil rights and assumption of civil duties;

(h) the relationships within the juridical person, including relationships of the person with its participants;

(i) the liability of the juridical person.

(3) A foreign juridical person may not rely upon a limitation of powers of a organ or representative thereof to conclude a transaction, which is unknown to the law of the State in which the organ or representative of the foreign juridical person concluded the transaction, except when it is proved that the other party to the transaction was or obviously should have been aware of this limitation.

**Article 1597. Law Applicable to Representation Offices (Subsidiaries) and Branch Offices Juridical Persons**

(1) The legal status of the representation offices (subsidiaries) of the juridical person, situated on the territory of another State, shall be governed by the national law of the juridical person.

(2) The legal status of the branch office of a juridical person, situated on the territory of another State, shall be governed by the law of the State where the branch office has been constituted, regardless of the national law of the juridical person.

**Article 1598. National Regime for Foreign Juridical persons in the Republic of Moldova**

A foreign juridical person shall effectuate in the Republic of Moldova entrepreneurial and other activity governed by civil legislation, in compliance with the provisions set by this legislation for a similar activity effectuated by the juridical persons of the Republic of Moldova, unless the law of the Republic of Moldova provides otherwise in respect to foreign juridical persons.

**Article 1599. National Law of Organizations Which Are Not Juridical Persons under Foreign Law**

The national law of a foreign organization, which is not a juridical person under foreign law, shall be the law of the State in which the organization is founded. The activity of such organisations shall be subject to the rules of the present Code that govern the activities of juridical persons, except as otherwise required by a legilative act, to the rules of other normative acts or to the substance of the relation in question.

**Article 1600. Participation of State in Civil-Law Relationships Complicated by Foreign Elements**

The rules of the present Book shall apply on the general grounds to the participation of the State in civil-law relationships complicated by foreign elements, unless otherwise provided by law.

**CHAPTER III: REAL RIGHTS [*RIGHTS IN THINGS*] AND PERSONAL NON-PROPERTY RIGHTS**

**Article 1601. General Provisions on Law Applicable to Real Rights**

(1) The substance of the right of possession, ownership and other real rights over immovable and movable property, their exercise and protection shall be determined according to the law of the State in which this property is situated, unless otherwise provided.

(2) The classification of property as immovable or movable, as well as any other legal caracterization of property, shall be determined according to the law of the State where this property is situated.

**Article 1602. Acquisition and Termination of Property Rights**

(1) The acquisition and termination of the right of ownership and other real rights to property shall be determined according to the law of the State where this property is situated at the moment of occurrence of the action or other circumstance which served as the ground for the arising or termination of the right of ownership or other real rights, unless provided otherwise by the legislation of the Republic of Moldova.

(2) The acquisition and termination of the right of ownership and other real rights to property which is the subject of a transaction shall be determined according to the law of the State applicable to the relevant transaction, unless established otherwise by agreement of the parties.

(3) The acquisition of the right of ownership and other real rights as a consequence of acquisitive prescription shall be determined by the law of the State where the property was situated at the moment of ending of the period of acquisitive prescription.

**Article 1603. Real Rights in Means of Transport**

(1) The establishment, assignment and extinction of real rights in means of transportat shall be governed by:

(a) the law of the flag under which the ship or the aircraft is registered;

(b) the law applicable to the legal status of the transport enterprise, in regard of railroad vehicles and motor-vehicles that belong to it.

(2) Provisions of para.(1) shall also apply to:

(a) the assets on board composing the technical equipment;

(b) the claims pertaining to outlays for technical assistance of the means of transport.

**Article 1604. Real Rights in Things Subject to State Registration**

The right of ownership and other real rights to things subject to state registration shall be determined in conformity with the law of the State on the territory of which the rights to those things are tabulated into the state register.

**Article 1605. Real Rights in Movable Property in Course of Transportation**

The arising and termination of the right of ownership and other property rights under a transaction in respect to movable property in course of transportation shall be determined by the law of the State from which this property was despatched, unless:

(a) the agreement of the parties provides otherwise;

(b) the things are personal things of the passenger. In such a case, the things are subject to the passenger’s national law.

**Article 1606. Securities**

(1) The issuance of securities shall be governed by the law governing the legal status of the issuer juridical person.

(2) The conditions and effects of a certificated security conveyance shall be subject to the:

(a) law of the place of payment of the security by order;

(b) law of the place of the bearer security at the moment of the conveyance;

(c) law applicable to the legal status of the juridical person of the nominal [*registered*] security.

(3) The securities in form of registration on account shall be governed by the law of the country in which the register or account, in which entries on the securities are made, is situated.

(4) Book entry securities collateral shall be governed by the law of the country in which the relevant account is maintained, in respect to:

(a) the legal nature and proprietary effects of book entry securities collateral;

(b) the requirements for perfecting a financial collateral arrangement relating to book entry securities collateral and the provision of book entry securities collateral under such an arrangement, and more generally the completion of the steps necessary to render such an arrangement and provision effective against third parties;

(c) whether a person's title to or interest in such book entry securities collateral is overridden by or subordinated to a competing title or interest, or a good faith acquisition has occurred;

(d) the steps required for the realisation of book entry securities collateral following the occurrence of an enforcement event.

**Article 1607. Personal Non-Property Rights**

(1) The acquisition, content and extinction of copyrights to a creative work shall be governed by the law of the State on the territory of which this work was for the first time made public by exhibition, distribution, publication, representation or by any other method.

(2) The copyrights to a creative work that has not been made public shall be governed by the author’s national law.

(3) The acquisition, content and extinction of intellectual property rights shall be governed by the law of the State on whose territory those rights are registered.

(4) The claim for compensation of material or moral damage shall be governed by the law of the State on the territory of which the copyright or the intellectual property right has been infringed.

(5) Foreign citizens and stateless persons shall be granted on the territory of the Republic of Moldova national treatment with regard to copyrights and intellectual property rights.

**Article 1608. Forms of Publicity**

(1) Any form of publicity regarding property shall be governed by the law applicable at the date and in the place it is fulfiled.

(2) The forms of publicity indicated in para.(1) that result in the arising of the rights to immovable things shall be governed by the law of the State on the territory of which the things are situated, even if the legal grounds of acquisition, conveyance or extinction of the real right or the real guaranty have arisen under another law.

**CHAPTER IV: TRANSACTIONS**

**Article 1609. Law Applicable to Transactions**

(1) The formal requirements of a transaction shall be determined by the law of the State which governs the substance of the transaction. The transaction concluded outside the territory of the Republic of Moldova shall be deemed valid as to its form, where it fulfills one of the following conditions:

(a) the law of the place where the transaction was drawn up has been complied with;

(b) the requirements of the legislation of the Republic of Moldova have been complied with;

(c) the national law or the law of the domicile of the person that drew up the transaction has been complied with;

(d) the transaction is valid under the law applicable to the authority that examines the validity of the transaction.

(2) The substantive requirements of the transaction ashall be governed by the law chosen by the author or by the law of the State with which the transaction has the closest connections or by the law of the place where the transaction is concluded. Where the law applicable to the substance of the transaction imposes a certain authenticated form, this requirement may not be removed, even if the transaction is concluded abroad.

(3) The accessory transaction shall be governed by the law of the State that regulates the substance of the main transaction, unless the agreement of the parties provides otherwise.

**CHAPTER V: CONTRACTUAL AND EXTRA-CONTRACTUAL OBLIGATIONS**

**Article 1610. Law Applicable to the Substance of the Contract**

(1) The contract shall be governed by the law chosen by agreement of the parties.

(2) The parties to a contract can select the applicable law to the whole of the contract or to certain parts of it.

(3) The choice of the applicable law must be expressed or follow from the terms of the contract or the other circumstances.

(4) The applicable law can be chosen by the contract parties at any time, either at the conclusion of the contract or at any time thereafter. The contract parties may at any time agree on amending the applicable law applicable.

(5) A choice of applicable law made after the conclusion of the contract shall have retroactive force and be considered effective from the time of contract’s conclusion, without prejudice to the validity of the contract’s formor rights acquired by third parties in relation to this contract.

(6) If trade terms accepted in international commerce are used in a contract, then, absent of other indications in the contract, it shall be deemed that the parties have agreed on the application to their relationships of the trade usages and customs corresponding to the relevant trade terms.

**Article 1611. Applicable Law to Contract in the Absence of a Choice Agreement**

(1) Absent an agreement of the parties on the applicable law to the contract, the applicable law shall be that of the State with which the contract has the closest connections. It shall be presumed that such connections exist with the law of the State where, at the moment of the conclusion of contract, the debtor of the [characteristic] performance has his domicile, residence or is registered as a juridical person.

(2) Absent an agreement of the parties on the applicable law to the contract, by derogation from the provisions of para.(1):

(a) to a contract whose object is immovable property, as well as to the contract on fiduciary administration of property, the law of the State where the property is situated shall apply;

(b) to the contract for independent building contractor work and to the contract for indpendent design and prospecting contractor work, the law of the State where the results stipulated by the contract are created shall apply;

(c) to the contract on civil society [general partnership], the law of the State on the territory of which the activity of the civil society [genearl partnership] is pursued shall apply;

(d) to the contract concluded by auction or by tender, the law of the State on the territory of which the auction or tender is held shall apply.

**Article 1612. Scope of Applicable Law**

(1) The law applicable to a contract by virtue of the provisions of the present Book shall encompass, in particular, the:

(a) interpretation of the contract;

(b) rights and obligations of the parties;

(c) performance of the contract;

(d) consequences of nonperformance or improper performance of the contract;

(e) termination of the contract;

(f) consequences of nullity or invalidity of the contract;

(g) assignment of claims and assumption of debt in connection with the contract.

**Article 1613. Law Applicable to the Form of the Contract**

(1) The contract shall correspond to the formal requirements set by the law provided for in art.1609 para.(1).

(2) The contract shall be deemed valid where:

(a) at the moment of contract conclusion, the contracting parties are in different States, and the formal requirements set by the legislation of one of those States have been satisfied;

(b) the agent of a contracting party complied with the formal requirements set by the legislation of the State on whose territory he is at the moment of contract conclusion.

**Article 1614. Management of Affairs [*Negotiorum gestio*] and Unjustified Enrichment**

(1) The management of affairs [without specific authorization] shall be subject to the law of the place where the *gestor* performs the acts of management.

(2) The obligations arising from unjustified enrichment shall be subject to the law of the place where it occurred.

**Article 1615. Illicit Act**

(1) The illicit act shall be caracterised as a tort in accordance with the law of the State where it occurred.

(2) The law that governs obligations arising from causation of damage shall set the:

(a) tort capacity;

(b) forms, terms and extent of tort liability;

(c) conditions for limitation or exemption from tort liability;

(d) nature of damage for which compensation may be claimed;

(e) transmissibility of the right to compensation;

(f) persons entitled to receive compensation.

(3) Where all or part of the damaging consequences of the illicit act occur on the territory of another State than that on which the illicit act occurred, the law of this State shall apply to the relevant reparation.

**Article 1616. Liability for Personal Damage**

The claims regarding compensation for personal damage caused through mass media shall be governed, at the choice of the injured person, by the:

(a) national law of the injured person;

(b) law of the State on the territory of which the injured person has his domicile or residence;

(c) law of the State on the territory of which the damaging consequences ensued;

(d) law of the State where the author of the damage has his domicile or residence.

**Article 1617. Liability for Defective Products**

(1) The claims concerning compensation for damage caused by defective products shall be governed, at the choice of the injured consumer, by the:

(a) law of the State on the territory of which the injured person has his domicile or residence;

(b) law of the State on the territory of which the product was acquired, contingent on the fact that the manufacturer or the provider proves that the product has been released on the market without his consent.

(2) The claims provided for in para.(1) may be filed only where the products are designated for personal or family consumption.

**Article 1618. Liability for Unfair Competition**

(1) The claims regarding compensation for damage caused by an act of unfair competition shall be governed by the:

(a) law of the State on the territory of which the damaging result occurred;

(b) law of the State on the territory of which the injured person is registered;

(c) law that governs the substance of the contract concluded by the parties, if the act of unfair competition has been committed and damaged the relationships between them.

**Article 1619. Conveyance and Extinction of Obligations**

(1) The assignment of claim shall be governed by the law of the assigned claim, unless the parties agree otherwise. The choice of another law, by agreement between the assignor and assignee, shall not be opposable to the debtor, unless he consents to this. The relationships between the assignor andassignee shall be governed by the law applicable to the legal relation on which the assignment is based.

(2) The contractual subrogation shall be governed by the law of the obligation, the creditor of which is substituted, unless otherwise provided by agreement between the parties.

(3) The delegation and novation shall be governed by the law applicable to the obligation that forms their substance.

(4) The set-off shall be governed by the law applicable to the claim that admits extinction by set-off.

**Article 1620. Currency of Payment**

(1) The payment currency shall be determined by the law of the issuer State.

(2) The effects currency exerts over the extent of a debt shall be set by the law applicable to the debt.

(3) The currency of payment shall be set by the law of the State, on the territory of which the payment must be made, unless otherwise agreed by the parties.

**CHAPTER VI: RELATIONSHIPS OF SUCCESSION COMPLICATED BY FOREIGN ELEMENTS**

**Article 1621. [Scope of the] Law Applicable to Succession**

The law applicable to succession refers to the:

(a) moment of opening the inheritance;

(b) persons entitled to inheritance;

(c) legal conditions of the passive capacity to inherit;

(d) exercise of possession over property left by the deceased;

(e) conditions and effects of the succesoral option;

(f) extent of the heirs’ obligation to incur the liabilities of the decedent;

(g) rights of the State to the escheat.

**Article 1622. Law Applicable to Susscession Property**

(1) The inheritance relationships regarding movable property shall be goverened by the national law in force at the moment of the decease of the person to be inherited.

(2) The inheritance relationships regarding immovable property shall be governed by the law of the State on the territory of which the property is situated.

**Article 1623. Law Applicable to Testamentary Succession**

(1) The testator may subject the conveyance of his property by inheritance to another law than that provided for in art.1622, contingent on non-removal of application of imperativerules. The chosen law shall apply to situations provided for in art.1621.

(2) The draw up, modification or revocation of will shall be deemed valid, where the will has complied with the applicable formal requirements, on the date when the will was drawn up, modified or revoked, or on the date of testator’s decease, in accordance with either of the following laws:

(a) the national law of the testator;

(b) the law of testator’s domicile;

(c) the law of the place where the document has been drawn up, modified or revoked;

(d) the law of the place where the immovable property subject to the testamentary inheritance is situated;

(e) the law of the court or of the body conducting the procedure of conveyance of inheritance property.

**CHAPTER VII: STATUTE OF LIMITATIONS**

**Article 1624. Law Applicable to Statute of Limitations**

The statute of limitations of the right to file action shall be governed by the law applicable to the subjective right.

1. Note of the Translator: The para. (2) of Art. 1582 shall be read as belonging to the Art. 1581. [↑](#footnote-ref-1)