

### **República de Macedonia:**

Información aportada por la Sección Económica y Comercial de la Embajada Argentina en Bulgaria.

Fecha: 02.10.12

**Adjuntamos la reglamentación de los países que fue aportada por la Embajada correspondiente. Dado que en muchos casos el texto de la ley no es específico aconsejamos leer el que figura para Alemania, pues si bien este solo rige para los 27 países que forman la UE el conocimiento de su texto ayuda a conocer los aspectos a tener en cuenta al firmar un contrato con un agente o representante.**

**De todas maneras puede también comunicarse con la embajada correspondiente solicitando mayor información.**

**Ley de Macedonia vigente, que rige el sistema de agentes comerciales en ese país, Véase Parte VI, Cap. 3 Secc. 2 a partir del Art. 68 en adelante.**

# Company Law

May 2004

Ministry of Economy,  
Republic of Macedonia



In cooperation with the  
Macedonian Corporate Governance Council



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USAID Macedonia Corporate  
Governance and Company Law Project



## Editors' Note - Final Translation 2004 Macedonian Company Law

While the utmost care has been taken in the preparation of the final translation of the Macedonian company law, it should not be relied upon as a substitute for legal advice, as a basis for formulating business decisions or as an official translation of the Macedonian company law. On all legal issues and questions, an independent lawyer should be consulted.

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USAID CG&CL Project  
Skopje, December 2004

### Contact information

Ms. Vesna Mirkoska  
Head Legal Translation Department and Senior Editor  
Mitropolit Teodosij Gologanov 42A  
1000 Skopje, Republic of Macedonia

Tel: +389 2 3231 239

Fax: +389 2 3231 040

Email: [vmirkoska@maccorpgov.com.mk](mailto:vmirkoska@maccorpgov.com.mk) or [vesnamirkoska@yahoo.co.uk](mailto:vesnamirkoska@yahoo.co.uk)

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## **PART ONE - GENERAL PROVISIONS**

### **Article (1) - Subject of Regulation**

This law shall regulate: the commercial entity (according to the activity, form, type and scope of activity, the entry); the sole proprietor; the core (charter) capital; the parts and shares; the company agreement; or company charter; the pre-incorporated company; the duration of the company; the capacity of a legal person (legal status); the branch offices; the liability of the company; the special responsibility of the members; or shareholders; the persons that may or may not found a company; the conditions under which the foreign person may be a member, or shareholder; the rights of the foreign persons; the annulment of the company; the contributions (monetary and non-monetary); the prohibition on exemption from the liability to pay, or making the contribution; the participation in the profit; the member's or shareholder's right to information; the legal regime of the company's property; the protection of the rights of the members or shareholders before the court; the judgment of validity; the characteristics of the company (business name, registered office, scope of operations); the representation (legally authorized representative, representative by proxy and representative by employment); the commercial representative; the sales agent; the commercial register; the procedure, the entries in the commercial register and their disclosure; the conditions for founding, management, supervision; decrease and increase of the core (charter) capital; the relations between the members or shareholders; and other issues pertinent to the different types of companies - the general partnership, the limited partnership, the limited liability company, the joint stock company and the limited partnership by shares; the major transactions and the interested party transactions of the company; the trade books; the annual accounts and financial statements and their audit; the dividend; the equity holding in other companies (related companies); the consolidated annual accounts and the consolidated financial statements; the transformation of the companies from one form to another form of a company; accession, merger and division of companies; the liquidation of the company; the economic interest grouping; the silent partnership; the foreign company and foreign sole proprietor; the branch offices of the foreign company, or of the foreign sole proprietor and the representative offices of foreign companies; the manner of establishing a centralized commercial register in material and electronic form and the one-stop-shop system; the control and supervision; the penalty provisions as well as the transitional regime pertaining to application of this law.

## Article (2) - Scope of Application

This law shall apply to the sole proprietor, the trade company, the economic interest grouping and the branch office established by a foreign company, or foreign sole proprietor, as entered in the commercial register as well as to the silent partnership.

## Article (3) - Definitions

(1) Terms used in this law shall have the following meaning:

1) "Shareholder" means an owner of one or more shares in a joint stock company or limited partnership by shares, who shall not be liable for the liabilities of the joint stock company or the limited partnership by shares;

2) "Share" means a security (that may be issued by the joint stock company or limited partnership by shares), which represents a part of the charter capital and which embodies the rights of a shareholder, who, as an owner of the share, is neither a creditor of the company nor the owner of a part of the company's assets;

3) "Acts and documents available to the public" means acts and documents that the company shall make available, in an appropriate manner, to members, or shareholders, interested parties and the wider public;

4) "Contribution in the company" shall represent the cash, contributions in kind and rights, or labour and services if stipulated by this law, that the member, or shareholder assigns or transfers to the company during the founding procedure or the procedure for increasing the charter/core capital;

5) "Due care and diligence" means a legal standard that determines the responsibilities of persons in charge of the management and supervision of companies and the care, which these persons should apply while executing entrusted tasks in the company, and the requirement that they act in a diligent manner (in the operations of the company) and skilled (professional) persons, pursuant to which they shall be liable for normally negligent behaviour while executing operations with which they have been entrusted, unless another law specifies that they shall only be liable for gross negligence;

6) "Voting group" means a group of shareholders, co-owners of one class of shares, who are entitled to adopt special resolutions at a separate meeting of shareholders or at the general meeting of shareholders in order to protect their special interests;

7) "Core/charter capital" means the remainder of the participation in the ownership of the company's assets after deduction of all the company's liabilities, mainly comprised of the core/charter capital, the amount paid in excess of the nominal value, or the premium on the shares, the revalorised reserve and other reserves and accumulated profit;

8) "Record date" means the date on which the identity of members or shareholders as well as the rights attaching to their parts, or shares (right to be notified, to vote and right to distribution) and other rights as stipulated by law, the company agreement or charter, is determined;

9) "By-laws of the company" means the general regulations adopted by the joint stock company and the limited liability company, which regulate, in a general manner, the procedures and regulations of the company, which have not been



regulated by the company agreement or charter and which have to be in compliance with the latter (*inter alia* the rule book, resolutions and rules of procedures);

10) "Dividend" means a part of the profit of the company that is distributed to members or shareholders of the company in accordance with the rights attached to the parts or each type and class of shares;

11) "Company agreement" means a document pursuant to which the general partnership, limited partnership, limited liability company and limited partnership by shares are founded, as well as a basic set of general regulations that regulate the relations, organisation and functioning of these companies following their founding, drawn up with the consent of all the founders, and amended with the consent of a majority determined by this law or the company agreement;

12) "Contract for regulating relations between the company and the executive member of the board of directors, a member of the management board or manager" means a contract governing mutual rights and liabilities between the company and the executive member of the board of directors, a member of the management board or manager;

13) "Contract for regulating relations with an officer" means the contract governing mutual rights and liabilities between the company represented by the management body and the officer;

14) "One-stop-shop system" means the system which shall, through the information infrastructure of the Central Register of the Republic of Macedonia, enable a central unified access to data entered in the commercial register as determined by law and provide data on the commencement of operations of the registered entities;

15) "Issue price of the share" means the amount at which shares are issued, comprised of the nominal value of the share increased by any issue premium, if such a premium is stipulated, whereby the amount of such premium shall not be considered a part of the nominal value of the charter capital;

16) "Legally authorised representative" means an executive member of the board of directors, member of the management board, or manager who represents the company in accordance with this law;

17) "Statement certified by a notary" means a statement, the signature of which is certified by a notary;

18) "Appraisal report" means the written report prepared by an authorised appraiser who shall appraise the value of contributions in kind and rights (non-monetary contribution) and other elements as determined by this law, in accordance with appropriate procedures and methods pursuant to international appraisal standards;

19) "Executive member of the board of directors" means a natural person who is a member of the board of directors to whom the board of the directors has entrusted the day-to-day management of the company;

20) "Statement of founding" means a document pursuant to which a limited liability company with a single person is founded, corresponding to the company agreement, subject to its legal validity;

21) "Company assets" means the entirety of rights, ownership rights and other property rights, that the company acquires over the assets (cash, contributions in kind and rights) that members or shareholders transferred to the company or which the company acquired during the course of its operations;

22) "Convertible bond" means a type of bond that may be converted into shares of the company that issues the bonds, in accordance with an option within a period as specified within such option, pursuant to the procedure for the conditional increase of the core/charter capital;

23) "Person" means any natural or legal person, unless specified that it is a natural or a legal person;

24) "Place of residence" means the place of residence indicating the address (street and number) of a natural person as well as the country for foreign natural persons;

25) "Independent non-executive member of the board of directors, or supervisory board" means a natural person who, and whose family members: (1) has not had any material interest or business relation with the company directly as a business partner, a member of the management body, supervisory body or an officer of the company within the five preceding years; (2) has not within the five preceding years received and does not receive from the company any additional income to his salary; (3) is not a relative of any of the members of the management body, supervisory board or the officers of the company; and (4) is not a shareholder who owns more than one tenth of the shares in the company or who represents a shareholder who owns more than one tenth of the shares in the company;

26) "Non-executive member of the board of directors" means a natural person, member of the board of directors who has no executive function in the company and whose powers refer primarily to the general governance and supervision over the management of the company;

27) "Non-monetary contribution" means the total amount of contributions in kind (movable and immovable) and rights that, members or shareholders transfer to the company;

28) "Decision-making by way of correspondence" means a procedure through which members may express their opinions or adopt resolutions on issues stipulated by the company agreement without convening a members' meeting;

29) "Certified auditor" means the person who is entitled to conduct an audit as a certified auditor in accordance with the law on audits;

30) "Authorised appraiser" means the person who is entitled to carry out an appraisal as an authorised appraiser and is registered in the register of authorised appraisers established in accordance with the law;

31) "Authorised capital" means the amount determined by the charter of the joint stock company up to which the core/charter capital may, upon a resolution of the management body, be increased by issuing new shares on the basis of the amount of the contributions transferred to the company;

32) "Approval by a competent body" means a licence, consent, decision or any other document by a competent state body or other authorised body, unless this law stipulates the document of the state or other authorised body;

33) "Responsible official" in a general partnership means the partner authorised to manage and represent the company, unless the management is entrusted to a third party (manager); general partners in a limited partnership and a limited partnership by shares; unless the management is entrusted to a third party (manager); the manager or managers, members of the supervisory board, or controller in a limited liability company; and the members of management bodies in a joint stock company or

members of a supervisory board and officer in companies;

34) "Management body" means the body of the joint stock company entrusted with the management of the company as a board of directors in the one-tier system of management, management board or manager in the two-tier system of management or manager, or managers or the body into which they are organised as a limited partnership, limited partnership by shares or limited liability company;

35) "Supervisory body" means the body of the limited liability company or the joint stock company (supervisory board or controller) the powers of which relate to the supervision over the company's operations and in particular to the operations of the management bodies;

36) "Charter/Core Capital" means the total amount of all the contributions of the members, or shareholders, whereby the amount of the charter/core capital shall be equal to the total of the nominal value of all the contributions or the nominal value of all the shares in the joint stock company;

37) "Founder of a company" means any person who for the purpose of founding a company signed the company agreement, charter or a statement of founding of a single member limited liability company;

38) "Monetary contribution" means the amount of cash, expressed in domestic or foreign currency that the member, or shareholder transfers to the company;

39) "Share market value" means the value of the share as set by an organised (institutionalised) securities market;

40) "Business" means the entirety of the rights, goodwill, and factual relations which have property value and which relate to the commercial activity of the commercial entity, which make up both the assets and the liabilities of the commercial entity. The business shall be an integral and independent legal object that may participate in commercial affairs;

41) "Scope of operations" means the activity or activities determined by the company agreement, charter or statement of founding of a single member limited liability company, classified according to the activities as determined by the National Classification of Activities;

42) "Voting shares represented at the general meeting of shareholders" means voting shares, the owners of which attend the general meeting of shareholders in person or are represented through a proxy;

43) "Agent" means a natural person authorised by the commercial entity to manage his/its business for a commission, through the carrying out of all the actions and transactions relating to the operation of the company's activities, without any power to alienate or encumber the real estate of the commercial entity, unless such power or authorisation is granted to him;

44) "Treasury shares" means shares issued by the joint stock company which are purchased by the company on special grounds whereby the rights attached to those shares are suspended;

45) "Registered office of the company" means the location and address (street and number) stated in the company agreement, charter or statement of founding of a single member limited liability company as entered in the commercial register;

46) "Company charter" means a document by which a joint stock company is founded and a basic general document governing the relations, organisation and operations of such company, which is adopted with the consent of all the founders, and

amended with the majority determined by this law, or the company charter (hereinafter: the “charter”);

47) “Reorganisation” shall mean accession, merger or division of companies in the manner and under the conditions set forth by this law;

48) “Commercial register” means a basic register in which entries determined by this law are made;

49) “Part in the company” means the total of the rights and liabilities acquired by each member on the basis of the contribution transferred in the core capital of the general partnership, limited partnership and limited liability company, whereby, each member has a part that may not be used as a security.

(2) In this law, the singular shall include the plural, and *vice versa*, unless the words ‘only’ and ‘solely’ exclude plural or singular.

## **PART TWO - COMMERCIAL ENTITIES**

### **Article (4) - Commercial Entity by Type of Activity**

(1) For the purposes of this law, a commercial entity shall be any person that independently and continuously performs commercial activities in order to generate a profit from market production, trade and provision of services, by means of:

1) purchase of movables so as to sell them in their original, refined or processed form;

2) sale of movables in a refined or processed form from his/its own production;

3) trading of securities and fund management;

4) banking, exchange and other financial activities;

5) insurance activities;

6) transport of persons and goods;

7) commission-based activities, freight-forwarding services, storage services and leasing;

8) commercial representation and negotiation;

9) hotel and restaurant services, information services, marketing and other intellectual services;

10) production of movies, video-cassettes, audio-visual records, software, as well as other similar activities;

11) publishing and printing activities, as well as other commercial activities relating to trading with books and artistic works; and

12) purchase, construction and decoration of real estate for the purpose of sale and rental.

(2) The activities that the commercial entity shall perform in accordance with paragraph 1 of this article shall be classified according to the activities as stipulated by the National Classification of Activities.

### **Article (5) - Commercial Entity by Form**

Companies referred to in this law, shall be commercial entities by their form.

### **Article (6) - Commercial Entity by Type and Scope of Activity**

(1) For the purposes of this law, a commercial entity shall also be deemed to be any person that, as a professional occupation, performs a business activity the nature and scope of which require that the organisation and operations be undertaken in the manner prescribed for commercial activities, even though such activities are not laid out in Article 2 of this law, provided that his/its business name has been entered in the commercial register.

(2) The provision pertaining to paragraph 1 of this article shall also apply to agriculture and forestry but only with regard to the business activities relating to refining or processing of the commercial entity's own agricultural and forestry products.

### **Article (7) - Commercial Entity by Entry**

Once a business name has been entered in the commercial register, it may not be claimed that the business activity performed under such business name is non-commercial.

### **Article (8) - Natural Persons Who Are Not Considered as Commercial Entities**

(1) For the purposes of this law, the following entities shall not be considered as commercial entities:

1) natural persons engaged in agricultural or forestry activities (individual farmers), unless their activity is defined as a business activity in accordance with article 4 paragraph 1 of this law;

2) craftsmen and natural persons who provide services, unless their activity is defined as a business activity in accordance with Article 4 paragraph 1 of this law; and

3) natural persons who render hotel or restaurant services and rent rooms in their own places of residence.

(2) For the purposes of this law, natural persons engaged in self-employed/freelance activities (lawyers, notaries, doctors etc) shall not be considered as commercial entities.

### **Article (9) - Application of Provisions on Commercial Entities to Persons**

The provisions of this law pertaining to the liabilities of commercial entities undertaking commercial activities shall also apply to persons who are prohibited by any regulation to undertake such activity or fail to meet the requirements for conducting such activities.

## **Article (10) - Available Data on Commercial Entities**

Any commercial entity shall be obliged, in the course of its day-to-day communication, to use and make available the following information in writing, or through electronic form or any other means in an easy, direct and continuously accessible manner:

- 1) business name;
- 2) registered office;
- 3) the registration number under which the subject (commercial entity) is registered in the commercial register or the registration number of the foreign person that organised the branch office (hereinafter: "registration number" (MBS));
- 4) telephone number, fax, and e-mail, in order to enable swift and efficient communication; and
- 5) in cases when the commercial entity is carrying out business activities on the basis of an approval, license and the like, data on the body or institution that issued the approval or license and, if a separate register is maintained, the registration number, data on the education or qualification level of the persons that perform the respective activities (and if there is a requirement for a professional qualification or appropriate education to perform that activity), data on the professional rules and the means of entry for performing the respective activity.

## **Article (11) - Small-Scope Commercial Activity**

(1) Natural persons that perform small-scope activity as a profession shall, in accordance with this law, be registered with the competent body of the local government.

(2) Persons referred to in paragraph 1 of this article shall not maintain trade books.

(3) Small-scope activities and their manner of registration shall be regulated by the Government of the Republic of Macedonia.

## **PART THREE - SOLE PROPRIETOR**

### **Article (12) - Definition**

(1) A sole proprietor shall be a natural person who, as a profession, performs one or several of the commercial activities stipulated by this law.

(2) A sole proprietor shall be personally liable without limitation with his entire property.

(3) Any natural person with business capacity who has a permanent residence in the Republic of Macedonia may be registered as a sole proprietor in the commercial register.

(4) Sole proprietor status shall be acquired upon entry in the commercial register.

(5) The provisions of this law pertaining to the company shall respectively apply to the sole proprietor, unless otherwise specified by this law.

### **Article (13) - Limitations**

A natural person may not be registered as a sole proprietor if such natural person is one:

- 1) against whom a bankruptcy procedure has been initiated;
- 2) who by a definitive court decision is deemed to have deliberately caused bankruptcy as a result of which creditors are not able to collect their claims, whilst the prohibition determined by the court decision is in force; and
- 3) who has been prohibited by a competent body, in accordance with the law, to carry out one or several of the activities specified by this law, whilst the prohibition is in force.

### **Article (14) - Entry into the Commercial Register**

(1) A sole proprietorship shall be entered into the commercial register through the court having jurisdiction over the location where the activity is performed. The registration form shall state:

- 1) the sole proprietor's full name, unique ID number (EMBG) (hereinafter: "unique ID number") and place of residence;
- 2) the business name under which the activities are to be performed;
- 3) the registered office from which the activities are to be performed; and
- 4) the scope of operations.

(2) The registration form for entry of a sole proprietor in the commercial register shall be filed by the natural person requesting to be entered as a sole proprietor, or his proxy representative who holds the necessary power of attorney which contains the information that is to be entered into the commercial register.

(3) The following documents shall also be enclosed with the registration form:

- 1) a signature of the sole proprietor certified by a notary;
- 2) a statement that the natural person is not prohibited to perform any of the activities determined by this law;
- 3) a statement by the sole proprietor that he has duly paid his tax obligations and pension, disability and health insurance contributions and that according to article 29 of this law, there are no obstacles for his acquiring the status of a sole-proprietor; and

(4) a natural person registered as a sole proprietor may not also be registered as a sole proprietor under a different business name, under any circumstances.

### **Article (15) - Business Name**

The business name of a sole proprietor shall include his name, father's name and surname, as well as the abbreviation "TP".

### **Article (16) - Transfer of a Business Name**

(1) The business name of a sole proprietor may be transferred to a third party provided that the associated business activities are also part of the transfer. The name, father's name and surname of the new owner shall be added to the transferred business name.

(2) The sole-proprietor shall publish his intention to transfer the business name to another person in at least one daily newspaper as well as in the business premises. If within 30 days as of the date of publication of the intention to transfer the business name, none of the creditors file an objection against the transfer of the business name with the court, it shall be deemed that the creditors have agreed to the transfer. The document on the basis of which the creditor objects to the transfer of the business name shall also be submitted to the sole-proprietor.

(3) If approved by the former owner or his legal successors, the person taking over the business name of the sole proprietor, may, in addition to his name, father's name and surname, keep the name, father's name and surname of the former owner as one of the company marks.

(4) The transfer of a business name shall be registered in the commercial register.

(5) The registration form for entry of the transfer of the business name shall also include:

- 1) the agreement for transfer of the business name certified by a notary; and
- 2) proof that all creditors have agreed to the transfer of the business name, unless none of the creditors file an objection against the transfer of the business name with the court within the term referred to at paragraph 2 of this article.

### **Article (17) - Termination of Operations**

(1) A sole proprietor shall notify the public revenue office of the termination of his operations.

(2) A sole proprietor shall announce the termination of his operations and the effective date of such termination in at least one daily newspaper as well as at his business premises, not later than three months prior to notifying the public revenue office thereof pursuant to paragraph 1 of this article. The sole proprietor shall notify the creditors of whom he is aware, individually and in writing.

(3) The provisions pertaining to paragraph 2 of this article shall also apply to a sole proprietor who intends to sell his business activity or to invest it in a company.

### **Article (18) - Application Form for Deletion of the Entry**

(1) The termination of the status of a sole proprietor shall also be entered into the commercial register.

(2) The sole proprietor shall file an application form for the deletion of his entry in the commercial register. The following documents shall be enclosed with the application form:

- 1) a statement of termination of the sole proprietor status;
- 2) proof that the bank account of the sole proprietor has been closed; and



3) proof that all tax obligations and pension, disability and health insurance contributions and employment contributions have been duly paid.

(3) The status of sole proprietor shall terminate upon the deletion of the entry of the sole-proprietor from the commercial register

## **PART FOUR - COMMON PROVISIONS FOR COMPANIES, REPRESENTATION, COMMERCIAL REGISTER AND REGISTRATION PROCEDURE**

### **CHAPTER ONE - GENERAL PROVISIONS FOR COMPANIES**

#### **Article (19) - Definition**

(1) A company shall be a legal person wherein one or more persons invest cash, contributions in kind and/or rights in assets, used for joint operation and where such persons jointly share the profit or loss from such operation.

(2) A company shall independently and continuously perform activities for the purpose of generating a profit.

#### **Article (20) - Types of Companies**

(1) Companies shall be classified according to their form, regardless of whether they perform commercial or other activities, as a:

- 1) General Partnership;
- 2) Limited Partnership;
- 3) Limited Liability Company;
- 4) Joint Stock Company; and
- 5) Limited Partnership by Shares.

(2) A company may be established only in the form and manner set forth by this law.

(3) The founder(s) shall freely choose the form of company, unless otherwise provided by law.

#### **Article (21) - Charter and Core Capital, Parts and Shares, Members and Shareholders**

(1) Assets contributed to the company shall be expressed in cash value and shall represent the core or charter capital of the company. The core/charter capital shall be expressed in denars or foreign currency and shall be obligatorily stated in the memorandum.

(2) Rights and liabilities acquired by a member on the basis of his contribution in the core capital shall be represented by his part in the company (hereinafter: "part").

(3) Rights and liabilities acquired by a shareholder on the basis of his contribution in the charter capital of the joint stock company, or limited partnership by shares shall represent his part in the company for which he acquires shares (hereinafter:

“shares”).

(4) Persons contributing in the general partnership, limited partnership, limited liability company and general partners in the limited partnership by shares shall be partners or members of the partnership or company (hereinafter: “partners or members”).

(5) Persons contributing in the joint stock company and limited partners in the limited partnership by shares shall be shareholders of the company (hereinafter: “shareholders”).

### **Article (22) - Company Agreement or Charter**

(1) The company shall have a company agreement or company charter (hereinafter: “charter”)

(2) A company agreement shall be concluded or the charter shall be adopted in writing. All amendments to the company agreement or charter shall be in writing.

(3) The founders shall define the contents of the company agreement or charter in accordance with this law.

(4) Amendments to the company agreement or charter that contain data that are to be entered into the commercial register shall be obligatorily published. Upon each amendment a revised text of the company agreement or charter shall be prepared including the executed amendments therein. A copy of the revised text shall be submitted to the court that maintains the commercial register. If there is a need to obtain consent from a competent body determined by law, regarding particular amendments made to the company agreement or charter, or particular provisions thereof, such consent shall be enclosed with the application form.

(5) The founders may conclude an agreement regarding the preparatory activities to be undertaken prior to the founding of the company. If the liability obligations assumed with the agreement are not fulfilled, the parties shall only be liable for any damage ensuing, unless otherwise agreed.

### **Article (23) - Pre-Incorporated Company**

(1) A pre-incorporated company shall be established by concluding a company agreement or by adopting a charter and by acquiring participations in the charter/core capital, the total value of which may not be less than the minimal amount of the charter/core capital of the respective company, as determined by this law.

(2) Legal relations between the founders prior to the company's entry in the commercial register shall be governed by the concluded company agreement or the adopted charter. The provisions of the law on obligations regulating partnership agreements shall apply to the legal relations between the founders, which are not regulated by this law or the company agreement or charter.

(3) Rights acquired in the name of the company prior to the entry in the commercial register shall be mutual, undivided assets of the founders, unless they have agreed otherwise. As regards liabilities, the person who assumed the liabilities in the name of the pre-incorporated company prior to its entry into the commercial register shall be held personally liable, and if liabilities were assumed by more than one person, they shall be jointly and severally liable with their entire property.

(4) If following the entry of the company into the commercial register, the company assumes the liabilities, thereby becoming a debtor, the assuming of such debts shall not require the consent of any creditor, provided that the liabilities are assumed within three months as of the entry of the company in the commercial register and the company or debtor notifies the relevant creditor(s) within the said term.

(5) If liabilities assumed in the name of the company prior to its entry in the commercial register exceed the core/charter capital specified in the company agreement or charter, the founders shall make up the difference in value.

(6) Upon the entry of the company in the commercial register the pre-incorporated company shall terminate. Following the entry in the commercial register, rights and liabilities assumed from the pre-incorporated company shall become rights and liabilities of the company.

#### **Article (24) - Duration of a Company**

(1) A company may be founded for an indefinite period of time as well as for a definite period of time.

(2) If the company agreement or charter does not specify the duration of the company it shall be deemed that the company is incorporated for an indefinite period of time.

#### **Article (25) - Company as a Legal Person**

(1) As a legal person a company may acquire rights and assume liabilities, acquire property and other assets, enter into contracts and other legal agreements and undertakings, act as a party, claimant or defendant in legal proceedings before a court, arbitration tribunal or other elected court and participate in other procedures.

(2) A company shall acquire the status of a legal person upon its entry in the commercial register.

(3) The company shall cease to exist as a legal person upon the deletion of its entry from the commercial register.

#### **Article (26) - Branch Office**

(1) A company may carry out activities and affairs within its scope of operations outside its registered office, through one or more branch offices.

(2) A branch office shall be established pursuant to a decision made by the competent body of the company in accordance with the company agreement or charter.

(3) The decision for founding of a branch office shall contain the business name and registered office of the founding company, the scope of operations of the company and the branch office, the code and the name of the sector and the group of activities according to the National classification of activities and persons in the branch office authorised to represent the company. The branch office may carry out all activities within the scope of operations of the company.

(4) A branch office shall not be a legal person. Rights and liabilities arising from its operation shall be assumed by the company.

(5) The branch office shall operate under the business name of the company

which established the branch office and it shall obligatorily refer to its registered office and include the term “branch office”. The branch office may add its own name to the business name of the company.

(6) The branch office shall terminate if the competent body of the company that established it reaches a decision to terminate it or if the company ceases to exist.

(7) The establishment and deletion of the branch office shall be registered in the company’s file in the commercial register. The registration shall be published in the same manner as the other entries made in the commercial register.

### **Article (27) - Responsibility for Liabilities**

(1) A company shall be liable for its liabilities with its entire property.

(2) Partners in a general partnership and general partners in a limited partnership and a limited partnership by shares shall be jointly and severally liable for the company’s liabilities with their entire property.

(3) Members in a limited liability company, shareholders in a joint stock company, and limited partners in a limited partnership and limited partnership by shares shall not be liable for the liabilities of the company, unless otherwise determined by this law.

### **Article (28) - Special Liability of Members or Shareholders**

(1) Members or shareholders of the company shall be jointly and severally liable for the company’s liabilities, if they:

1) abused the company’s status as a legal person in order to carry out transactions and pursue objectives prohibited to them as individuals;

2) abused the company’s status as a legal person in order to cause damage to their creditors;

3) used the company's assets as if they were their own, contrary to the law;

or

4) decreased the company’s assets for their own benefit or for the benefit of a third party when they were aware or should have been aware that the company was not capable of settling its liabilities to third parties.

(2) Paragraph 1 of this article shall respectively apply to the liability of a silent partner.

### **Article (29) - Entities Permitted or Prohibited to Found a Company**

(1) Domestic and foreign natural and legal persons may found a company.

(2) A company may not be founded by:

1) a natural person determined by a definitive court decision to have caused bankruptcy intentionally due to which creditors could not collect their claims, whilst the prohibition determined by the court decision is still in force;

2) persons against which a bankruptcy procedure has been initiated during the bankruptcy procedure;

3) persons or members of the management body or the manager of these persons including persons from terminated companies, who failed to pay taxes and

contributions which they were legally obliged to pay;

4) persons, members or shareholders or members of the management body or the manager of these persons whose account has been frozen whilst the freeze is still in force;

5) other cases when prohibition on founding of a company is prescribed by law.

(3) Any person may be a founder of several companies unless prohibited by this law.

(4) Natural persons with no business capacity shall not be founders of a general partnership or founders as general partners in a limited partnership or limited partnership by shares.

(5) A natural person may only be a partner with unlimited liability in one company. A general partnership, limited partnership or limited partnership by shares may not act as a partner with unlimited liability in another company of that form.

(6) The founders shall enclose a personal written statement certified by a notary that there is no limitation arising from this article or other limitation determined by this law for their founding of a company, along with the registration form for entry of the founding of the company in the commercial register.

#### **Article (30) - Foreign Person - Member or a Shareholder**

(1) Any foreign person may be a member or shareholder.

(2) A foreign person may acquire parts or shares in the manner and under the conditions prescribed for the citizens of the Republic of Macedonia and legal persons entered in the commercial register in the Republic of Macedonia, unless otherwise determined by law.

(3) Participation of a foreign person in a newly founded or an existing company shall be unlimited, unless otherwise provided by another law.

(4) A company having foreign participation shall have the same rights and liabilities as those of a company without foreign participation, except in cases specified by the law.

#### **Article (31) - Rights of Foreign Persons**

(1) Rights acquired based on contributions of capital to the company by foreign persons may not be reduced by a law or other regulation.

(2) In the event of partial or full assignment of the parts, or shares of the foreign person, the part of the company's profit, to which such person has a right may be freely transferred abroad, without any approval being required, upon the order of the foreign person, in the same currency in which the contribution was originally made, provided that such company has sufficient funds at its disposal under the conditions specified by law.

(3) In the event of the company's bankruptcy or liquidation, the foreign person shall be entitled to have the non-monetary contribution transferred, returned to him/it, following the completion of the bankruptcy or liquidation procedure, under the terms set forth by law.

(4) Privileges and special benefits pertaining to contributions and operations

by foreign persons shall be set forth by law.

### **Article (32) - Statement of Founding, Reorganisation and Transformation**

(1) Founders of the company and initial members of the management bodies or manager except for the initial members of the management bodies in case of a simultaneous founding of a joint stock company shall submit a statement that describes the activities relating to the proper founding of the company and which certifies that the company has been founded in accordance with the law and that data contained in the enclosures (documentary evidence of ownership and other documents) enclosed with the registration form for entry of the founding in the commercial register are valid and in accordance with the law.

(2) The provision pertaining to paragraph 1 of this article shall also apply in cases of amendments to the company agreement or charter. The statement shall be given by the members of the management bodies or the supervisory board or the controller, if the company has a supervisory body, who perform such functions at the time the amendments of the company agreement or charter are made.

(3) In the event of an accession, merger or division of the company, or transformation from one form of company into another form of company, the statement pertaining to paragraph 1 of this article, including a statement relating to the accession, merger or division or transformation from one form of company into another form of company, shall be submitted by the members of the management body, manager or supervisory body, or controller if the company has a supervisory body, who perform such functions in the merging companies, or the company subject to accession and the acquiring company, or the company subject to division and the company which acquires the part of the company divided by separation with takeover or spin-off with takeover or in the company under transformation.

(4) The statement pertaining to paragraphs 1, 2 and 3 shall be certified by a notary.

(5) If the appropriate statement under paragraphs 1, 2 and 3 of this article is not submitted, the founding, the amendments in the company agreement or charter, the executed reorganisation or the transformation from one form of company into another form of company shall not be entered into the commercial register.

### **Article (33) - Annulment of a Company**

(1) Annulment of a company may be determined only in the following cases:

1) Non-existence of a company agreement or charter, or the agreement or charter was not concluded or adopted in a form set forth by this law;

2) The company agreement or charter does not state the amount of the individually subscribed contributions of the members/partners/shareholders in the core/charter capital of the company during the founding of the company, the total amount of the subscribed core/charter capital, the business name or the scope of operations of the company or the scope of operations is not in accordance with the law or good business practice;

3) The minimum amount of the charter/core capital as prescribed (by law) has not been paid up;

4) The company's registered office address has not been registered in the commercial register according to its actual registered office address;

5) Business incapacity of all founders; and/or

6) The number of founders of the company is less than the minimum number of founders determined by this law for certain forms of companies.

(2) Any member and shareholder or member of the management body, manager or member of the supervisory board, controller, certified auditor and/or creditor may submit a request for annulment of the company to the court.

(3) The court shall proclaim nullity of the company only if, the violation of the law has not been remedied within the term specified by the court which may not be longer than three months. The claim may be filed within three years as of the date of entry of the company into the commercial register. The provisions pertaining to Article 415 of this law shall respectively apply to the claim and liabilities of the management bodies for submitting the claim before the court which entered the company subject to annulment into the commercial register. The management bodies of the company shall submit a certified copy of the claim, without any delay as of the day it was submitted to the court that maintains the commercial register, which shall register the claim in the commercial register, and register the nullity of the company after receiving a definitive court decision stating that the company has been annulled. The definitive court decision, by which the claim for proclaiming nullity of the company has been rejected, shall be entered in the commercial register.

(4) The definitive court decision by which the claimed annulment of the company is rejected shall have legal effect as against third parties from the day following its publication in the "Official Gazette of the Republic of Macedonia".

(5) The nullity of the company shall have no effect as against third parties in relation to commitments entered into by or with the company.

(6) Members or shareholders shall remain liable to pay up the capital agreed to be subscribed by them, but which they have still not paid up, to the extent that commitments entered into with creditors so require.

(7) Following the publication of the definitive court decision pertaining to paragraph 4 of this article, the court shall appoint a liquidator to perform the liquidation of the company.

#### **Article (34) - Contributions in the Core/Charter Capital**

(1) Contributions transferred during the founding of a company or during the increase of the core/charter capital shall be made available to the company.

(2) Contributions may be in cash (hereinafter: "monetary contributions"), in contributions in kind (real estate and movables) and rights with property value that may be appraised and expressed in cash (hereinafter: "non-monetary contributions"), or they may consist solely of cash, contributions in kind or rights. As an exception, partners in a general partnership or general partners in a limited partnership may contribute labour and services.

(3) The contributions shall not be refunded or returned to the members or shareholders of the company except under cases determined by this law.

## Article (35) - Non-Monetary Contribution

(1) When a non-monetary contribution is transferred to the company, the company agreement, charter or the decision to increase the core/charter capital shall contain the business name, the name of the person making the non-monetary contribution, and a detailed description of the non-monetary contribution and its appraised value expressed in cash.

(2) Non-monetary contribution in a limited liability company, joint stock company, limited partnership and limited partnership by shares shall be appraised by one or several authorised appraisers appointed by the founders, members, shareholders or the company's bodies, from the list of authorised appraisers.

(3) The appraiser may require the person who transfers the contribution and the management body of the company, to provide an explanation and the data necessary to conduct the appraisal. The appraiser shall be entitled to be reimbursed for his expenses and remunerated for the service provided.

(4) The appraiser shall be personally liable with his entire property for the accuracy of the data in the appraisal report and the appraised value of the non-monetary contribution and shall be criminally liable in case of failure to apply the Code of Ethics of authorised appraisers and the International Appraisal Standards due to the non-application of which he inaccurately appraised the non-monetary contribution acquired by the company.

(5) Only non-monetary contributions the value of which may be appraised in cash may be transferred to the company.

(6) The authorised appraiser shall prepare a report on the appraised value of the non-monetary contribution, in accordance with International Appraisal Standards. The appraisal report shall describe the non-monetary contribution, the method used to appraise the contribution, or the conversion of a debt into the contribution and shall state whether the value stipulated by these methods corresponds to the nominal value of the part or shares as well as to the premium required for them. Proof of ownership of the real estate as well as movables the obligation for registration of which (in a register) is stipulated by law, shall be enclosed with the report. A copy of the report of the appraisal of the non-monetary contribution and the registration form for entry shall be submitted to the commercial register together with the company agreement, the charter, the resolution to increase the core/charter capital and/or any other appropriate document on the basis of which the non-monetary contributions are transferred, in accordance with this law.

(7) When making the entry in the commercial register, the accuracy of the data, or the appraised value shall not be inspected.

(8) The value of the non-monetary contribution as set out in the company agreement or charter, or the resolution to increase the core/charter capital shall not exceed the value determined in the appraisal report.

(9) If, in the appraisal report, the value of the non-monetary contribution is appraised at a value lower than the one presented by the person who made the non-monetary contribution, such person shall cover the difference in value by payment in cash, if the other founders, members or shareholders agree.

(10) Persons who acquired a part or shares in exchange for non-monetary contributions shall be personally liable to the company to transfer in full the value of



the non-monetary contributions as specified in the appraisal report within a period of five years as of the date of publication of the entry of the company agreement, charter or the resolution to increase the core/charter capital in the commercial register.

#### **Article (36) - Participation in the Profit**

Members or shareholders shall participate in the distribution of the profit of the company to which they are entitled, in a manner and under the conditions stipulated by the company agreement or charter.

#### **Article (37) - Publication of the Entries**

(1) Data entered into the commercial register and the court decisions shall be published in the “Official Gazette of the Republic of Macedonia”, unless otherwise stipulated by this law. The entity subject of the entry shall bear the costs of publication.

(2) Following the enforcement of the registration decision, the court shall, ex officio, submit the data entered in the commercial register for publication in the “Official Gazette of the Republic of Macedonia”. The publication shall also contain reference to documents upon which the entry is made and the right to inspect these documents in the commercial register.

(3) Data entered in the commercial register shall be published in their entirety in the “Official Gazette of the Republic of Macedonia”, unless this law provides for a partial publication and/or publication of excerpts of entered data and/or a notification of an entry, at the expense of the entity subject to the entry.

(4) The registered entity may also publish the data entered into the commercial register in a daily newspaper of its own choice at its own expense.

(5) In case the data published in a daily newspaper differs from the data published in the “Official Gazette of the Republic of Macedonia”, third parties may not rely on the data published in the daily newspaper.

(6) The “Official Gazette of the Republic of Macedonia” shall, whenever necessary, but not less than twice a month, issue special editions containing data entered in the commercial register.

(7) Where this law sets forth the obligation for the publication to be made in a daily newspaper, the publication shall be made in a daily newspaper distributed in the whole territory of the Republic of Macedonia.

#### **Article (38) - Data on Third Parties**

(1) Data entered in the commercial register may only be relied on by the company as against third parties after they have been disclosed in accordance with this law, unless the company proves that the third party had knowledge thereof even prior to the publication. With regard to transactions taking place prior to the expiry of 15 days as of the date following the publication, the data and the particulars of documents shall not be relied on as against third parties who prove that it was impossible for them to have had knowledge thereof.

(2) In cases of discrepancy between data published in the “Official Gazette of the Republic of Macedonia” and data entered in the commercial register, such

discrepancies may not be relied upon as against third parties. Such third parties may nevertheless rely on data published in the “Official Gazette of the Republic of Macedonia” unless the company proves that they had knowledge of the data entered into the commercial register.

#### **Article (39) - Right of a Member or Shareholder to Be Informed**

(1) In order to exercise his rights determined by law, the company agreement or charter, each member or shareholder of the company shall have the right to be personally informed about the company’s operations and to have access to the company books, acts and other documents of the company even if he does not participate in the management of the company.

(2) Each member, or shareholder shall be entitled to request copies of the acts and documents subject to consideration and decision-making at the members meeting or general meeting of shareholders, or by way of correspondence. The company shall be obliged to provide the copies free of charge. In all other cases the fee may not exceed the administrative cost thereof.

(3) If a member or shareholder is denied to exercise the rights referred to in paragraphs 1 and 2 of this article he shall be entitled to seek protection of his rights before the court in the manner and under the conditions stipulated by law.

(4) Any provision set forth in the company agreement or charter that contradicts paragraphs 1 and 2 of this article shall be deemed null and void.

#### **Article (40) - Obligation for Payment of the Contribution and Legal Regime of the Company’s Property**

(1) Members in a limited liability company or shareholders in a joint stock company shall have the obligation to pay in the monetary contribution or transfer the non-monetary contribution they have subscribed in the capital of the company and shall not be exempted from this obligation except in cases determined by this law.

(2) Subscriptions made in the capital of the company shall belong to the company.

(3) A creditor of a member or shareholder in a company shall not collect his/its claim against the member or shareholder from the company’s assets.

(4) A creditor of a company shall not collect his/its claim from the property of the member or shareholder in the company, except under cases provided by this law.

#### **Article (41) - Resolving Disputes by Settlement and/or Arbitration**

(1) Members or shareholders of the company may agree to initially attempt to resolve disputes related to the company agreement or charter by settlement including mediation and negotiation.

(2) If the disputes pertaining to paragraph 1 of this article may not be resolved by means of settlement, members or shareholders may, if they so agree, resolve the disputes by means of arbitration.

### **Article (42) - Protection of Rights before the Court**

Any member or shareholder, whose rights arising from his/its interest in the company have been violated by the company bodies, may seek protection of such rights before the court, according to the jurisdiction determined by the Law on Courts.

### **Article (43) - Judgment of Validity**

(1) If the company agreement, or charter or other general documents of the company or the provisions thereof are in contravention with the law, they shall be deemed null and void.

(2) The court shall, upon a proposal of a member, or shareholder, or member of a management body, or member of a supervisory board, or controller, if the company has a supervisory body, assess the validity of documents, or the provisions of the documents referred to in paragraph 1 of this article. A proposal may also be filed by any person who proves his/its legal interest.

(3) If the court considers that the document referred to in paragraph 1 of this article or a provision thereof is in contravention with the law, it shall reach a decision stating that the document or the provision is in discrepancy with the law.

(4) The right pertaining to paragraph 2 of this article may be exercised following the completion of the registration procedure in the commercial register.

**CHAPTER TWO - CHARACTERISTICS OF COMPANIES**  
**SECTION 1 - BUSINESS NAME**

**Article (44) - Definition of a Business Name**

(1) The business name shall be the name used by the company in its operations and legal transactions.

(2) The business name of a company shall be determined and altered in the manner set forth by the statement of founding of a single member company, company agreement or charter.

(3) The business name of a company and all alterations thereto shall be entered in the commercial register.

**Article (45) - Principle of Truth**

Data contained in the business name shall be accurate.

**Article (46) - Content of the Business Name**

(1) The business name shall contain a designation that refers to its scope of operations, its registered office and type of company.

(2) The business name may contain additional inscriptions (drawings, pictures, symbols, etc.) to designate the company in more detail, with the exception of data that is or may be misleading regarding the company's scope of operations, or data that might create confusion with the identity of another company, or data that violates the intellectual property rights and/or other rights of other companies or persons registered in the country and abroad.

(3) The business name may be used as a trade mark, in a manner and under the terms and conditions specified by law.

**Article (47) - Prohibited Components of the Business Name**

(1) The business name shall not contain names, flags, coats of arms, emblems or other signs of other countries and/or international organisations, or any imitations thereof through heraldic symbols, without approval from the country or the organisation.

(2) The business name shall not contain any official signs of quality control or quality assurance.

(3) The business name shall not contain words that are misleading or may be confused with the business name of another company, name of an institution or other entity.

#### **Article (48) - Use of the word “Macedonia” or a Name of the Local Government Unit**

(1) The word “Macedonia” and other words having the same root as well as any abbreviations thereof, the flag and the coat of arms, may be contained in the business name, if approved by the Ministry of Justice.

(2) Approval by the competent body of the local government unit shall be required when the business name consists of words containing the name of the local government unit.

#### **Article (49) - Use of a Personal Name**

(1) The full name of a natural person may be included in the business name only upon his consent, or if that natural person is deceased, upon the consent of his linear descendants to the third degree.

(2) The full name of a historical or other renowned person may be included in the business name, only upon consent of that person, or if the person is deceased, upon the consent of his linear descendants to the third degree and, if such persons do not exist, the consent shall be provided by the Ministry of Justice.

(3) If the honour or reputation of a natural person, whose full name has been included in the business name of a company is in any way violated, upon his request, or if he is deceased, upon the request of his heirs, the court shall prohibit the use upon a complaint. If within eight days from the date the decision for prohibition took effect, a request to change the business name is not filed, the court shall appoint a liquidator to conduct the liquidation of the company.

#### **Article (50) - Use of the Macedonian Language and Other Languages**

(1) The business name shall be expressed in the Macedonian language using the Cyrillic alphabet.

(2) The business name of a company having a registered office on the territory of a local government unit, where at least 20% of the citizens speak an official language other than Macedonian, may also be expressed in that language and used only together with the text of the business name in the Macedonian language using the Cyrillic alphabet.

#### **Article (51) - Business Name of a Company under Liquidation or Bankruptcy**

The business name of a company against which a bankruptcy or liquidation procedure has been initiated shall obligatorily contain the designation “in liquidation” or “under bankruptcy”, and shall be entered as such into the commercial register.

### **Article (52) - Use of the Business Name**

(1) A company shall, in the course of its operations, use the business name as registered in the commercial register.

(2) A company may also use its abbreviated business name that shall include a designation to distinguish the company from other companies, and the abbreviated designation indicating the form of company and the registered office, as prescribed by this law.

(3) The abbreviated business name shall be registered in the commercial register.

(4) The business name and/or the abbreviated business name shall be displayed in the company's business premises.

### **Article (53) - Requirements for Transfer of a Business Name**

(1) A business name may be transferred to another entity only with the whole, or a significant portion of the business activity.

(2) The consent of the natural person, or if the person is deceased, the consent of his linear heirs to the third degree, whose name is included in the business name of a company shall be required when the business name is transferred.

### **Article (54) - Business Name and Changes in the Company**

If a new member joins the company or if any member leaves the company, the existing business name may still be used.

### **Article (55) - Principle of Identical Use of a Business Name**

Each part of the company shall use the same business name in legal transactions, and may add a designation to the business name indicating that it is a part of that company.

### **Article (56) - Requirement That a Business Name Be Unique**

(1) New business names shall be clearly distinguished from the business names of companies already entered in the commercial register.

(2) A business name identical to a business name that has already been entered or which is not sufficiently different from an already registered business name shall not be registered in the commercial register. This shall be decided upon *ex-officio*.

(3) A partner of a general partnership or a general partner of a limited partnership or a limited partnership by shares who has the same name and surname as another person already registered or filed in the commercial register shall add a designation to their name or surname to clearly distinguish their business name from the business names of the companies already registered or filed in the commercial register.

(4) A clear distinction shall be one that may be ascertained by a usually prudent business person.

(5) Related companies and companies related on any grounds to a local or foreign person in the context of its scope of operations may, upon his/its consent, use mutual designations in the company's business name or refer to the joint operation in a usual manner.

#### **Article (57) - Principle of Priority**

(1) If identical business name(s) or business names that do not clearly differ between each other are filed in the commercial register for the purpose of registration, the business name that was filed first shall be registered.

(2) Notwithstanding paragraph 1 of this article, the business name that was filed later shall be registered, if the person that filed such business name proves that he used the business name or some significant elements thereof on the market as a designation for his business activity or as a trade mark for designation of his products and services at the time the first business name was filed, and prior to the submission of the already filed registration form.

#### **Article (58) - Protection of the Rights of the Owner of an already Filed Business Name**

(1) A commercial entity which, by using a similar business name registered in the commercial register, violates the rights of another commercial entity and/or endangers his/its position in the market or there is a threat that his/its rights and position in the market will be violated and/or endangered and/or the commercial entity (by using the business name) consequently uses his/its business authority and/or assumes it without authorisation, the other commercial entity may file a claim requesting prohibition of use of the business name by the infringing commercial entity and compensation for the damage caused by the use of the business name.

(2) If, within eight days as of the date the decision for prohibition takes effect, an application for changing the business name is not filed, the court shall appoint a liquidator to conduct the liquidation of the company.

(3) The claim may be filed within three years as of the date of announcement of the entry of the business name.

(4) The definitive court decision approving the claim shall be published by the court in a newspaper selected by the claimant at the defendant's expense.

#### **Article (59) - Protection of Copyright and Other Related Rights and Intellectual Property Rights**

Notwithstanding the provisions pertaining to paragraphs 1 and 2 of article 58 of this law, the commercial entity may protect his/its rights in terms of use and entry of the business name in the commercial register pursuant to the Law on Protection of Copyright and other related rights and the Law on Industrial Property Rights.

## **SECTION 2 - REGISTERED OFFICE**

### **Article (60) - Definition**

The registered office address entered in the commercial register shall be the registered office of the company.

### **Article (61) - Transfer of Registered Office**

- (1) The company may transfer its registered office.
- (2) The transfer of the registered office shall be carried out in a manner and in accordance with the procedure set forth by the founding statement of a single member company, the company agreement, or charter.
- (3) The transfer of the registered office shall be entered in the commercial register.

## **SECTION 3 - SCOPE OF OPERATIONS**

### **Article (62) - Freedom of Operation**

- (1) The scope of operations of a company may include any activity which is not prohibited by law.
- (2) The scope of operations of a company shall be entered in the commercial register by indicating the code and title of the department and name of the group of the activity as determined by the National Classification of Activities.
- (3) If the law specifies that certain activities may be performed only upon the consent, license, or other document of a state body or other competent body, the entry of such activity in the commercial register shall be registered only upon receiving such consent, license or any other document of such body.
- (4) A company may, carry out other activities necessary for its existence and for conducting activities within its scope of operations, without their being registered in the commercial register even if such activities do not directly fall within the scope of operations.

### **Article (63) - Compliance with Special Requirements**

- (1) A company may commence conducting an activity which falls within its scope of operations following the entry of the scope of operations in the commercial register and after having obtained approval from the competent body regarding the fulfilment of prescribed requirements for conducting such activity within the context of the registered scope of operations, if stipulated by law.
- (2) The approval referred to in paragraph 1 of this article shall have no effect as regards the entry of the scope of operations of a company in the commercial register.



#### **Article (64) - Effects of Legal Transactions and Activities**

(1) The company may undertake legal transactions and operations only within the scope of operations entered in the commercial register.

(2) The legal transactions and operations, undertaken by the company with or against third parties, that exceed the scope of operations entered in the commercial register, shall be deemed valid, unless the company proves that third parties knew that such transaction or operation was outside the scope of operations or could not in view of the circumstances have been unaware of it. The entry of the company's scope of operations in the commercial register shall not of itself be sufficient proof thereof.

**CHAPTER THREE - REPRESENTATION**  
**SECTION 1 - COMMON PROVISIONS**

**Article (65) - Legally Authorised Representative**

(1) A legally authorised representative shall be a natural person determined by the provisions of this law to represent the specific form of company (hereinafter: “legally authorised representative”).

(2) The appointment, termination of mandate and particulars of the legally authorised representative, as well as the limitations to his powers as against third parties shall be registered in the commercial register. A signature-certified by a notary shall be submitted when making the entry of the legally authorised representative in the commercial register. Foreign persons may submit a signature, certified by a competent body in the country of their citizenship.

(3) The signature referred to at paragraph 2 of this article may also be submitted as an electronic signature on the appropriate electronic registration application form.

(4) Procedural omissions and/or any sort of irregularity in issuing an authorisation for representation and/or in publishing information pertaining to the legally authorised representative, shall not be relied upon as against third parties, unless the company proves that third parties had knowledge thereof.

(5) A legally authorised representative shall not act as a contractual party or enter into agreements with the company in his own name and on his behalf, in his name and on behalf of other persons, or in the name and on behalf of other persons, without special authorisation having been given by the company.

**Article (66) - Representative by Proxy**

(1) The representative pertaining to article 65 of this law may issue a proxy to another person.

(2) The proxy may be issued subject to the limitations of the powers on the representative registered in the commercial register.

(3) Unless otherwise provided by this law, the proxy pertaining to paragraph 1 of this article shall be issued in accordance with the provisions of the law on obligations.

(4) The provisions of paragraph 4 of article 65 of this law shall also apply to the representative by proxy referred to in this Article.

## **Article (67) - Proxy Representative by Employment**

(1) Employees of the company, who perform activities, which in their ordinary course of business include the entering into of certain agreements and contracts, or undertaking particular legal actions, shall be authorised as a proxy representative of the company to enter into such agreements and contracts and undertake legal actions within the scope of their activities.

(2) The provisions of paragraph 4 of article 65 of this law, shall also apply to the proxy representative by employment.

## **SECTION 2 - AGENCY**

### **Article (68) - Definition of Agency**

(1) An agency relationship shall be determined by a commercial power of attorney, the content and scope of which shall be determined by this law.

(2) An agency relationship may be established only by a person who is considered as a commercial entity under this law.

(3) An agency relationship shall be established in a manner determined by the founding statement of a single member company, the company agreement or charter.

(4) An agency agreement shall be issued in writing.

### **Article (69) - Agent**

(1) An agency agreement may be issued to any natural person with business capacity, regardless of the duties and activities he performs, unless otherwise provided by the founding statement of a single member company, the company agreement or charter.

(2) An agency agreement shall not be issued to a legal person.

(3) Relations between the company and the agent as well as his commission, shall be regulated by the agency agreement.

### **Article (70) - Individual and Joint Agency**

(1) An agency agreement may be issued to a single natural person (individual agency) or to two or more natural persons jointly (joint agency).

(2) If two or more natural persons are appointed as agents, each of these persons shall be considered as an agent who independently represents the company pursuant to the powers set forth by this law.

(3) The agency issued to two or more persons shall be considered as a joint agency only if this is explicitly stated in the agency agreement.

(4) In case of a joint agency, undertakings, legal actions and activities shall be considered valid if jointly performed by all agents or if all agents have consented thereto. Legal actions and activities performed by one of the agents shall be deemed valid if an explicit consent has been obtained from the other agents and/or if the consent has been additionally obtained from the other agents.

(5) An undertaking and/or a legal activity and action effected by one of the

agents shall be considered to have been effected by all agents.

(6) In case of a joint agency, knowledge of legally relevant facts and/or knowledge of the liability of one of the agents shall have legal effect as against the provider of the agency, notwithstanding whether other agents also had knowledge thereof and/or were liable.

#### **Article (71) - Scope of Powers of the Agency**

(1) An agent may enter into agreements and all contracts and conduct legal transactions and activities in the name and on behalf of the company within the scope of operations of the company, manage the business activity of the issuer of the agency and represent the company in procedures before administrative and other state bodies, public authorities and before courts.

(2) An agent may not alienate and/or encumber the immovable property of the company and may not issue undertakings or undertake legal activities that lead to the initiation of a bankruptcy or any other procedure that may result in the termination of the company. The agent may not issue a power of attorney to another person for the purposes of entering into agreements and contracts and executing other legal affairs.

#### **Article (72) - Limitation of Agency**

(1) A limitation of agency that has not been referred to by this law shall have no legal effect as against third parties notwithstanding whether the third party had knowledge thereof or, considering the circumstances, should have had knowledge thereof.

(2) A limitation of agency that applies to the operation of one or more branch offices shall have legal effect as against third parties only if it has been entered in the commercial register.

#### **Article (73) - Self-Contracting**

An agreement entered into by an agent in the name of the company as one party and in his personal capacity as the other party, whether in his name and on his behalf, in his name and on another party's behalf, or in the name and on behalf of another party, shall be considered null and void, unless the agent has been explicitly authorised to enter into such agreement.

#### **Article (74) - The Agent's Signature**

(1) The agent shall be a signatory on behalf of the company by signing his name and surname below the company's business name including words that indicate his position as an agent or by adding the abbreviation: "*p.p*".

(2) In case of a joint agency, each agent shall sign in the manner set out by paragraph 1 of this article.

#### **Article (75) - Transfer of Agency**

(1) An agency agreement may not be assigned to another natural person.

(2) Any provision in the agency agreement and/or a statement of the company which authorises the agent to assign the agency, or a statement of the company which previously or subsequently approved the assignment shall have no legal effect.

#### **Article (76) - Revocation of Agency**

(1) The agency agreement may be revoked at any time, regardless of the legal conditions for the issuance of the same.

(2) Any provision in the agency agreement pursuant to which the company waives the right to revoke the agency agreement as well as any provision which imposes time limits and/or other terms relating to the right to revoke the agency agreement shall be considered null and void.

(3) Provisions pertaining to paragraphs 1 and 2 of this article shall neither exclude nor reduce the agent's rights stipulated in the agreement on the basis of which he was appointed as an agent.

#### **Article (77) - Sole Proprietor Agency**

(1) A sole proprietor shall issue the agency agreement in person and may not authorise any other natural person to issue agency agreements.

(2) The agency agreement issued by a sole proprietor shall not terminate in the event of the death of the issuer of the agency agreement, or in the event of a limitation or termination of the sole proprietor's business capacity.

(3) The provisions in this section of the law governing agency agreements issued by companies shall respectively apply to sole proprietors.

#### **Article (78) - Registration of an Agency Agreement**

(1) The issuance and revocation of individual and joint agency agreements and all limitations thereto shall be registered in the commercial register by the company or sole proprietor.

(2) The name and surname of the agent and his unique ID number shall be registered in the commercial register.

(3) The decision for issuing an agency agreement or any decision that limits or revokes the agency as well as a proof of signature example (containing the full name of the agent) certified by a notary shall be enclosed with the registration form for entry.

### **SECTION 3 - COMMERCIAL REPRESENTATIVE AND SALES AGENT**

#### **Article (79) - Definition of a Commercial Representative**

(1) A commercial representative shall be an employee of the company or other natural person authorised by the legally authorised representatives of the company to manage the company or a part thereof for a commission, as defined by the power of attorney.

(2) The authorisation shall be issued in writing with the signatures certified by a notary.

### **Article (80) - Powers of the Commercial Representative**

(1) A commercial representative shall be authorised to enter into all agreements and contracts and undertake all legal transactions for the everyday management of the operations of the company or a part thereof, within the scope of his power of attorney.

(2) A commercial representative may not alienate or encumber the company's immovable property, make it an obligor by issuing a bill of exchange and/or cheque, assume liabilities from guarantees, obtain a loan on its behalf, consent to a court's jurisdiction, enter into settlements and/or initiate disputes without a special authorisation from the issuer of the power of attorney.

(3) The limitations imposed within the power of attorney, except for the limitations set forth in paragraph 2 of this article, shall have no legal effect as against third parties who neither were nor should have had knowledge thereof.

(4) The provisions of paragraph 4 of article 65 of this law shall also respectively apply to the commercial representative.

(5) The commercial representative shall add an indication to his signature that he is a commercial representative, but may not add any other designation that may be considered as an indication that he is an agent.

### **Article (81) - Sales Agent**

(1) A company or a sole proprietor may issue a sales agent power of attorney to its own employees or any other natural person.

(2) The sales agent power of attorney shall be issued in writing.

(3) The sales agent shall be authorised in the name and on behalf of the issuer of the power of attorney to enter into agreements and contracts for the sale of its goods, to deliver the goods, sell on credit, if authorised, receive undertakings from purchasers referring to the goods that are the subject of contracts, make undertakings and undertake other activities for the purpose of the protection of the rights of the issuer of the power of attorney, that arise from the agreement or contract entered into in his/its name and on his/its behalf.

(4) Limitations on the powers of a sales agent shall have no legal effect as against third parties who neither had nor should have had knowledge thereof.

(5) A sales agent may not sell goods, where payment is deferred or by instalments, without special authorisation.

(6) The provisions of paragraph 4 of article 65 shall also apply to the sales agent.

## **CHAPTER FOUR - COMMERCIAL REGISTER AND REGISTRATION PROCEDURE**

### **Article (82) - Definition of Commercial Register**

(1) The commercial register is a public book and shall contain data and enclosures (documentary (ownership) evidence and other relevant documents) for each entity, the registration of which is stipulated by law.

(2) The commercial register shall consist of a registration file wherein registration data are entered and a book of enclosures containing documentary (ownership) evidence and other relevant documents for each registered entity. All enclosures shall be entered into the book of enclosures of the registered entity.

(3) Data entered and enclosures delivered (documentary (ownership) evidence and other documents) and registered in the commercial register shall be kept permanently.

### **Article (83) - Centralisation of the Commercial Register**

(1) The commercial register shall be maintained nationally in a centralised manner within the territory of the Republic of Macedonia.

(2) The Minister of Justice shall adopt an act which shall regulate the maintenance of the commercial register in a written and electronic form, the manner of registration, the form, content and number of forms required for registration in the commercial register and the electronic records, the link between the court and the Central Register for the purpose of maintaining the commercial register in an electronic form by the Central Register and the establishment of the one-stop-shop system, as well as other issues pertinent to the proper maintenance of the commercial register.

### **Article (84) - Manner of Maintaining the Commercial Register**

(1) Entries in the commercial register shall be made both in writing and electronically.

(2) The commercial register in electronic form shall be a part of the central informational database of the Central Register, which shall be responsible for its establishment, maintenance, and administration.

(3) Electronic documents, electronic signatures and seals, filing and circulation of electronic and original documents in the course of the registration procedure shall be regulated in accordance with the Law on the Central Register and laws governing the legal validity of electronic records.

### **Article (85) - Principle of Publicity**

- (1) Data entered in the commercial register shall be public.
- (2) Any person may, at his/its expense, request a copy and/or a verified transcript of the data entered in the registration file.
- (3) Any person may submit a request to inspect the book of enclosures, and may, at his/its own expense, request a copy of the documents contained therein, with the exception of the book of enclosures of the general partnership and the limited partnership. Any member or person who has a legal interest in these partnerships may inspect their book of enclosures.
- (4) Upon the request of an interested party, a certificate shall be issued proving that the registration of data of an entity subject to entry contained in the registration file, has been made and that the same was deleted.
- (5) Upon the request of any person, a certificate shall be issued that no entry has been made in the commercial register.

### **Article (86) - Jurisdiction and Territorial Competence**

- (1) The commercial register shall be maintained by the courts as determined by the law on courts.
- (2) Data entries shall be made in the commercial register of the competent court in the jurisdiction where the registered office of the entity subject to registration is located.

### **Article (87) - Registration Procedure**

- (1) The procedure for registration in the commercial register shall be conducted pursuant to the rules of a non-litigation procedure unless otherwise determined by this law.
- (2) The procedure for registration in the commercial register shall be conducted according to the rules of an urgent procedure.
- (3) The court shall effect registrations in the order of the receipt of their applications.

### **Article (88) - Validity of the Entry**

- (1) Each person that acts with due care in legal transactions and who relies on the data entered in the commercial register shall not be affected by the detrimental legal consequences that will occur.
- (2) No person may rely on the fact that he/it is not familiar with the data entered in the commercial register, unless otherwise stipulated by law.



### **Article (89) - Costs of the Registration Procedure**

(1) Each participant in the registration procedure shall cover (pay) his/its own costs.

(2) If there is more than one participant in the registration procedure and costs are incurred, the decision on the costs' allocation shall be reached together with the decision for entry, in accordance with the provisions of the law on litigation procedure.

### **Article (90) - Entities Registered in the Commercial Register**

(1) The following entities are subject to registration in the commercial register (subjects of registration):

- 1) Sole Proprietor;
- 2) General Partnership;
- 3) Limited Partnership;
- 4) Limited Liability Company;
- 5) Joint Stock Company;
- 6) Limited Partnership by Shares;
- 7) Economic Interest Grouping; and
- 8) Branch office of a foreign company (hereinafter: "foreign company"), or

branch office of a foreign sole proprietor.

(2) All entities subject to registration in the commercial register shall enter the data determined by this law.

(3) Data entered in the commercial register shall be maintained in a separate file for each entity subject to registration.

(4) All amendments to data which are required to be entered in the register under this law shall be entered into the commercial register.

### **Article (91) - Term for Filing the Registration Form in the Commercial Register**

(1) Entities for which entry in the commercial register is mandatory shall be obliged to file the registration form in the commercial register within fifteen days as of the date the requirements for filing the registration form in the commercial register have been met, unless otherwise provided by this and other laws.

(2) The court shall not enter the data and shall reject the registration form after the expiry of three months as of the date the requirements for filing the registration form were met, unless otherwise provided by this law.

(3) If damages are suffered due to the failure to file the registration form within the term specified in paragraph 1 of this article, the natural person who had the obligation to file the registration form shall be personally liable for the damages with his entire property.

### **Article (92) - Initiation of Procedure**

(1) The registration procedure in the commercial register shall commence by filing a written application in a prescribed form, filed by an authorised applicant, containing a request to register the data.

(2) The registration form for entry of a company shall be filed by the management body, or an authorised member of the management body, unless otherwise determined by this law.

(3) Unless otherwise provided by this law, the registration form pertaining to paragraph 2 of this article may also be filed by a representative of the authorised applicant having a power of attorney certified by a notary.

(4) The authorised applicant referred to in paragraph 1 of this article, or the persons determined by this law shall be liable for the validity and legality of the data.

### **Article (93) - Submission of Enclosures**

(1) The necessary enclosures (documentary (ownership) evidence and other documents) containing data to be entered in the commercial register shall be enclosed with the registration form.

(2) If an immovable object is made as a non-monetary contribution, documentary ownership evidence which contains a record of the registration made in the public book of immovable objects shall be submitted, and if a movable object is contributed, the obligation for registration of which is stipulated by law, a documentary ownership evidence shall be submitted for such movable object.

(3) If an authorisation by a competent body is required to be submitted by law, such authorisation shall also be enclosed with the registration form.

(4) Except as prescribed this law, other data shall not be required to be enclosed with the registration form, and the entity subject to registration shall not be required to submit other enclosures (documentary ownership evidence and other documents) other than those defined by law as enclosures to the registration form.

(5) The enclosures (documentary ownership evidence and other documents) which are submitted with the registration form shall be scanned by an authorised official from the Central Register and kept in an electronic form, as well as in their original, transcript and/or copy form verified by a notary as a constituent part of the commercial register.

### **Article (94) - Examination and Revision of the Registration Form**

(1) Prior to the adoption of a decision for entry in the commercial register, it shall be determined whether all registration requirements as set out by this law have been met. The legality and validity of the contents of the enclosures (documentary ownership evidence and other documents) which are submitted for entry in the commercial register shall not be inspected nor shall the legality of the procedure according to which they were adopted or the legality of data entered in the commercial register and their compliance with this law be examined. The person, or persons determined by this law shall be liable for their validity and legality.

(2) If certain faults are identified in the registration form, or the registration

requirements are not fulfilled, the applicant shall be instructed, in a definitive manner, to remedy all such faults regarding the entry in the commercial register and the application form shall be returned to him for correction.

(3) In the case referred to in paragraph 2 of this article, a term for the correction of such faults shall be set, which may not exceed eight days. If the registration form with the enclosures (documentary ownership evidence and other documents) is returned prior to the expiry of this term without the necessary corrections having been made, the registration form shall be rejected as invalid.

(4) If, prior to the expiry of the term referred to at paragraph 3 of this article, the applicant fails to return the application form, it shall be considered as withdrawn and a decision for termination of the procedure shall be adopted.

#### **Article (95) - Several Applications on One Registration Form**

(1) All data contained in the registration request for entry in the commercial register shall be considered and decided upon at the same time.

(2) If the registration form contains several requests for entry of a change of data entered in the commercial register, these may be considered and decided upon separately and in a different manner as regards each request.

#### **Article (96) - Withdrawal of a Registration Form**

(1) An applicant may withdraw a registration form prior to the adoption of the first instance decision.

(2) If the registration form has been withdrawn, a decision to terminate the procedure shall be adopted.

#### **Article (97) - Decisions in the Registration Procedure**

(1) If it is determined that the requirements for entry have been met, and that the application form with the contents stipulated by this law and all enclosures (documentary ownership evidence and other documents) set out by this law have been submitted by an authorised person, a decision to register the entry shall be adopted within eight days as of the date the application or the request was submitted, without holding a hearing in this respect. The decision to register the entry in the commercial register shall be adopted in a form appropriate to the type of registration, without it being necessary to specify the grounds upon which such decision was made.

(2) If the requirements, as set out by law, to register the entry in the commercial register have not been met, the court shall reach a decision to reject the registration form for entry, explaining its reasons for such rejection therein.

(3) Issues pertaining to procedural matters in the conducting of the procedure shall be decided upon in a definitive manner.

(4) Pre-registration of data, the pre-registration of which is required by this law, shall be carried out without it being necessary for a ruling to be made.

### **Article (98) - Enforcement of the Decision**

The decision to register the entry in the commercial register shall take effect as of the day of its adoption.

### **Article (99) - Delivery of the Decision**

(1) The decision to register the entry shall be delivered to the Central Register, immediately following its having been made.

(2) The Central Register of the Republic of Macedonia, shall, after having received the decision to register the entry in the commercial register electronically, enter all data in the appropriate registration form relevant to the entity subject of the entry (pursuant to its code and title of registered activities and its main activity according to the national classification of activities) and also insert its business number, tax number, bank account number as submitted by the entity subject to the registration, VAT number, customs record number, statements and records of entry in the National Bank of Macedonia and other data and licenses which shall be submitted through the one-stop-shop system in order to register the entity subject of the entry, and shall accordingly submit the decision to the subject of entry or to persons having a legal interest.

(3) Following the entry of the data pertaining to paragraph 2 of this article, the decision to register the entry shall be delivered to the applicant and to the participants to whom the decision refers.

(4) The Central Register of the Republic of Macedonia shall, *ex officio*, transfer the data referred to in paragraph 2 of this article, to the State Bureau of Statistics.

(5) The Central Register shall impose a fee to cover its actual (operational) costs incurred for the provision of its services referred to in paragraph 1 of this article. Such costs shall be borne by the entity, subject of the entry.

### **Article (100) - Discrepancy between the Decision and the Data Entered into the Commercial Register**

(1) In the event of a discrepancy between the data entered into the commercial register and the decision, the court shall correct the decision and deliver a transcript of the corrected decision to the applicant, the other participants and to the Central Register with a note stating that such transcript supersedes the transcript of the previous decision.

(2) Evident mistakes in the decision to register the entry or in the entry itself shall be corrected by reaching a decision *ex officio* or upon a request of the entity, subject of the entry. The contents of the correction shall be entered in the entry already made in the register and shall indicate the number of the decision, pursuant to which the correction was made. A transcript of the corrected entry shall be a constituent part of the decision, pursuant to which the correction was made. The contents of the decision pursuant to which the correction was made shall be disclosed if it pertains to significant data.

### **Article (101) - Legal Remedies**

(1) An appeal may be filed against a decision to register an entry in the commercial register.

(2) The appeal shall not suspend the enforcement of the decision.

(3) *Restitutio in integrum* and the suspension of the procedure shall not be applicable in the procedure for the registration of the entry in the commercial register.

(4) No review or recommencement of the procedure against a definitive court decision shall be allowed.

(5) A special appeal may not be filed against the definitive decision.

### **Article (102) - Right to Appeal**

(1) The applicant, the participants in the procedure and the parties whose rights or interests under the law have been violated by the decision to register the entry shall be entitled to appeal against the decision to register the entry in the commercial register.

(2) An appeal may be filed within eight days as of the date the court decision was delivered.

(3) Persons entitled to appeal pursuant to this law to whom the decision to register the entry or a transcript was not delivered, shall be entitled to appeal within eight days as of the date of publication of the entry.

### **Article (103) - Change of Court Decision after Filing an Appeal**

If the court upholds the appeal of an applicant and no additional procedure is required, it may issue a different decision as regards the request to register the entry and may replace the appealed decision with a new one.

### **Article (104) - New Facts and Documentary Evidence**

(1) If the appeal of the applicant reveals new facts and proposes new documentary evidence in support of the data entered in the commercial register, the appeal shall be considered as a proposal to change the decision.

(2) After examining the appeal, the court may decide to change the decision, provided that the proposal is fully accepted and that the rights of third parties are not violated.

### **Article (105) - Procedure upon Appeal**

If the court determines that there are no grounds to change the decision, the appeal together with all the attached documentation shall be submitted to the court of second instance no later than eight days as of the date of filing the appeal, unless the appeal was previously rejected as having been filed out of time, disallowed or incomplete.

### **Article (106) - Enforcement of the Second Instance Court Decision**

(1) In the event that the Second Instance court alters the First Instance court decision and allows the request to register the entry in the commercial register, the decision shall set out the contents of the entry in the commercial register on the basis of which the First Instance court shall make the entry.

(2) In the event that the Second Instance court alters the decision to register the entry of the First Instance court and rejects the request for entry in the commercial register, the First Instance court shall *ex officio* or upon request of a person having a legal interest, adopt a decision to delete the entry and shall proceed with the deletion of the same and a liquidation or bankruptcy procedure shall be initiated against the entity, subject of the entry, in the event of the deletion of an entry of founding of the entity, subject of the entry.

### **Article (107) - Claim for Nullity**

(1) Nullity of an entry made on the basis of false documents may be claimed, in the event that the documents on the basis of which the entry was made contain invalid data, if the documents have been certified and issued pursuant to an illegal procedure, if an illegal action has been carried out, on the basis of which the data was entered in the commercial register and/or other reasons stipulated by law.

(2) The claim may be filed by a person having a legal interest with regard to the nullity of the entry.

(3) The claim shall be filed within 30 days as of the day when the plaintiff learned about the reasons for nullity, but it may not be filed after the expiry of one year as of the date of entry.

### **Article (108) - Action following a Definitive Court Decision for Nullity**

(1) In the event that the court proclaims the nullity of an entry in accordance with Article 107 of this law, the court that maintains the commercial register, shall *ex officio*, on the basis of a definitive court decision, adopt a decision to delete the entry thereby proclaimed null.

(2) The deletion of the entry in the commercial register shall be published. The decision referred to in Article 107 of this law shall have legal effect as against third parties the day following the day of its publication.

(3) Nullity of the entry shall not affect the validity of any commitments entered into in the name of the company.

### **Article (109) - Action following a Definitive Court Decision**

(1) The definitive court decision, made regarding a claim or proposal, which pertains to the entry made in the commercial register shall be *ex officio* submitted by the court that adopted it to the court that maintains the commercial register.

(2) Protective measures pronounced in order to prohibit the performance of an activity, function or duty, shall be *ex officio* executed by the court where the entity, subject of the entry was registered, upon the definitive court decision.

(3) The court shall enter such protective measures by registering them in the registration file and shall publish the same.

## PART FIVE - FORMS OF COMPANIES

### CHAPTER ONE - GENERAL PARTNERSHIP

#### SECTION 1 - DEFINITION AND FOUNDING

##### Article (110) - Definition

(1) A general partnership (hereinafter: “general partnership”) means a company of two or more legal or natural persons that are jointly and severally liable to creditors for the company's liabilities with their entire property.

(2) A general partnership shall be founded with a partnership agreement entered into between the founders.

##### Article (111) - Business Name

The business name shall also include the words “*Javno Trgovsko Drustvo*” (General Partnership) or the abbreviation “*JTD*.”

##### Article (112) - Partnership Agreement

(1) The partnership agreement shall contain the following provisions:

1) full name, unique ID number, passport number or ID number (if the partner is a foreign natural person) and/or the number of any other identification document - valid in his country and under his citizenship, as well as his place of residence, or the business name, registered office and registration number, if the partner is a legal person;

2) business name and registered office of the general partnership;

3) scope of operations of the general partnership;

4) type and amount of the contribution of each partner;

5) manner of personal participation of each partner in the operation of the general partnership;

6) manner of management of the operations, representation of the general partnership and the manner of decision-making;

7) manner of distribution of profit and coverage of the losses; and

8) other issues governing the relationships between the partners as set out by this law.

(2) The signatures of the partners of the partnership agreement shall be certified by a notary.



### **Article (113) - Special Conditions for Conducting Operations**

A general partnership may perform activities related to an occupation which requires appropriate qualifications if a partner or employee possesses such required qualifications, unless the law requires all or a majority of the partners of the general partnership to have the prescribed qualifications for the activity related to a particular occupation.

### **Article (114) - Entry**

The founding of a general partnership shall be entered in the commercial register. The application for entry of the founding of the general partnership shall be submitted by all the partners of the general partnership authorised to represent the partnership.

### **Article (115) - Data Subject to Entry and Enclosures to the Registration Form**

- (1) The following data shall be entered in the commercial register:
  - 1) business name and registered office of the general partnership;
  - 2) full name, unique ID number, occupation, passport number or ID number (if the partner is a foreign person) and/or the number of other identification documents - valid in his country and under his citizenship, as well as his place of residence, or the business name, registered office and registration number, if the partner is a legal person;
  - 3) scope of operations of the general partnership;
  - 4) type and amount of the contribution of each partner; and
  - 5) manner of representation of the general partnership.
- (2) The following shall be enclosed with the registration form:
  - 1) the partnership agreement;
  - 2) a copy of the passport or personal ID card for foreign natural persons and/or a copy of other identification documents, valid in their country, or proof of registration if the founder is a legal person;
  - 3) license and/or a by-law of the state body or other competent body if such obligation for registration is set out by law for the purpose of the entry of the general partnership in the commercial register;
  - 4) documentary ownership evidence which contains a record of the registration made in the public book for immovable property, and documentary ownership evidence of movable property in the event that this is transferred as a contribution and is required to be registered as prescribed by law;
  - 5) a statement from the legally authorised representative of the legal person, or a statement by the natural person, certified by a notary, or submission of documentary evidence that there is no obstacle for him/it to be a founder of a general partnership in accordance with article 29 of this law; and
  - 6) a statement pertaining to article 32 of this law.
- (3) Partners or persons authorised to represent the general partnership under the partnership agreement shall enclose their signatures, certified by a notary, enclosed and submitted pursuant to article 65, paragraph 2 and 3 of this law.

(4) Any change in the data pertaining to paragraph 1 of this article, as well as admission or withdrawal of a partner from the general partnership shall be registered in the commercial register in the form of a resolution to amend the partnership agreement.

## **SECTION 2 - LEGAL RELATIONS AMONG THE PARTNERS OF A GENERAL PARTNERSHIP**

### **Article (116) - General Provision**

(1) Legal relations among the partners in the general partnership shall be governed by the partnership agreement.

(2) The provisions of this law shall apply to the legal relations among the partners that are not governed by the partnership agreement.

(3) The provisions of the law on obligations regulating the partnership agreement (agreement for joint actions) shall apply to legal relations among the partners that are not governed by this law or the partnership agreement.

### **Article (117) - Contributions to the General Partnership**

(1) The partners' contributions to the general partnership may be of different types.

(2) Contributions of the partners to the general partnership may be made in cash, contributions in kind, rights, labour or services.

(3) The value of non-monetary contributions shall be determined by the partners and set out in an agreement.

### **Article (118) - Consequences of Default**

(1) A partner who either fails to pay in his/its monetary contributions, or fails to deposit the money received on behalf of the general partnership with the cashier of the general partnership, in a timely manner, and/or who, without justification, takes money from the general partnership for his own benefit, or who is behind in the payment of other monetary contributions, shall pay default interest in arrears to the general partnership, calculated as of the date the contribution was due, or when the money was to have been submitted or when he took the money without justification. The general partnership may also request compensation for damages.

(2) A general partnership may request compensation for damages notwithstanding whether the contribution is monetary or non-monetary.

### **Article (119) - Increasing, Supplementing and Withdrawing the Contribution**

(1) Partners of a general partnership shall neither be obliged to increase their contribution above the amount determined by the partnership agreement, nor supplement their contribution in cases of loss, if partners were not liable for such loss.

(2) Partners may request to withdraw their contribution only in cases of termination of their partnership in the general partnership.

### **Article (120) - Compensation for Costs and Damages**

(1) Partners in a general partnership, who incur costs that under the circumstances may be considered as justified or who suffer damages as a direct result of carrying out operations in the general partnership or due to a risk connected to such operations, shall be compensated for such costs or damages by the general partnership.

(2) The general partnership shall pay interest for the incurred costs and the damages suffered, calculated as of the day the costs were incurred, or as of the day the damages occurred.

(3) The partners may request advance payment from the partnership for costs necessary to perform the partnership's activities.

### **Article (121) - Prohibition on Competition**

(1) A partner of a general partnership shall not undertake activities within the scope of operations of the general partnership, become a partner with personal liability, or become a member of a body or an employee of a company which is or may be a competitor to the general partnership, unless the other partners explicitly agree thereto.

(2) The prohibition referred to in paragraph 1 of this article shall not apply to a partner who, at the time he joined the general partnership, notified the other partners thereof, unless the partnership agreement specifies that the partner should abandon the activities or give them up.

### **Article (122) - Consequences of Prohibited Competition**

(1) A general partnership may request compensation for damages from partners who violated article 121, paragraph 1 of this law. In lieu of compensation for damages, the general partnership may require the partner to state that activities undertaken on his/its own behalf were undertaken on behalf of the partnership, or to assign to the general partnership all proceeds that were acquired from the activities carried out on a third party's behalf, or to assign the right to any future proceeds that he/it may acquire to the general partnership.

(2) The other partners shall decide how to exercise the rights of the general partnership pertaining to paragraph 1 of this article. The right of the general partnership to exercise its claim shall lapse three months as of the day the other partners learned of the violation of the prohibition referred to in paragraph 1, article 121 of this law and not later than five years as of the day the violation of the prohibition occurred.

(3) Exercise of the rights pertaining to paragraph 1 of this article shall not exclude the right of other partners to request a termination of the general partnership.

#### **Article (123) - Transfer of Parts**

(1) A part in a general partnership may be transferred to a third party only with the consent of all partners.

(2) A part shall be transferred pursuant to a written, legal act.

(3) The transfer of a part shall have effect upon the general partnership once the legal act setting out the terms of the transfer is submitted to the general partnership and once one of the persons authorised to govern the general partnership, confirms in writing that it has been received.

#### **Article (124) - Part as a Pledge**

(1) A partner in a general partnership may pledge his/its part if the other partners agree thereto.

(2) The partner whose part is pledged shall remain a partner in the partnership and shall exercise all rights as a partner under the partnership agreement.

#### **Article (125) - Management of a General Partnership**

(1) Each partner shall be authorised to manage the general partnership.

(2) If one or more general partners are assigned by agreement of the partners to manage the general partnership, the other partners shall be excluded from such management.

#### **Article (126) - Manner of Conducting the Assigned Management**

(1) Managers shall be authorised to act independently in the management of the general partnership. If a manager objects to an action to be taken, such action shall be suspended until the partners reach an agreement thereon.

(2) If the partnership agreement provides that the managers shall act jointly, decisions relating to such actions shall be adopted with the consent of all such managers. Each manager may independently take urgent measures to prevent damage to the general partnership. The manager shall inform the other managers of the urgent measures undertaken, without delay.

#### **Article (127) - Transfer of Management Authorisation**

(1) The partners may transfer the authorisation to manage the general partnership to a third party, provided that the other partners agree thereto, in the manner set out by the partnership agreement.

(2) Partners shall not transfer the authorisation to manage the general partnership to a third party if prohibited by the partnership agreement.

(3) A partner who has transferred the management authorisation shall be liable for the activities of the manager referred to in paragraph 1 of this article, in

accordance with the provisions of the law on obligations governing warranty agreements.

#### **Article (128) - Scope of the Management Authorisation and Decision-Making**

(1) Authorisation to manage the general partnership shall be granted for activities related to the ordinary business operations of the general partnership.

(2) Decisions, which exceed the powers of the managers, shall be reached by all the partners unanimously, unless otherwise specified by the partnership agreement. If the partnership agreement provides that such decisions are to be made by a majority vote, each partner in the general partnership shall be entitled to one vote, unless otherwise stipulated by the partnership agreement.

#### **Article (129) - Decision Making by way of Correspondence**

The partnership agreement may specify that decisions to be made by all partners be adopted by a decision making procedure by way of correspondence, provided that none of the partners require a partners' meeting to be called. If a decision is made by way of correspondence, the opinions received shall be included in a written report, which shall be entered within the register of resolutions. Answers to questions asked by each of the partners shall be enclosed with the minutes.

#### **Article (130) - Relinquishment of the Management Authorisation**

(1) A partner may relinquish his/its entrusted management authorisation only in case of justified reasons. A justified reason shall be considered as the inability to carry out the entrusted management due to obstruction from other partners, or due to health problems.

(2) A partner may relinquish his/its entrusted management authorisation of the general partnership provided that he/it carries out a resignation notice period for the benefit of the other partners that will enable them to undertake all necessary actions related to the management of the general partnership, unless there is a justified reason due to which a partner may withdraw from the management prior to the expiry of such notice period.

(3) The duration of the resignation notice period pertaining to paragraph 2 of this article shall not be less than three months.

#### **Article (131) - Dismissal of Managers**

(1) If all partners are managers or if one or more managers are elected from among the partners or appointed by the partnership agreement, the dismissal of a manager shall be effected by a unanimous resolution of all the partners. The dismissed partner may withdraw from the general partnership and request compensation arising from his/its partnership rights in the general partnership.

(2) If one or more partners are managers and are not appointed by the partnership agreement, each of them may be dismissed under the conditions set out in

the partnership agreement or, if none, by unanimous resolution of all the partners.

(3) A manager who is not a partner may be dismissed under the conditions set out in the partnership agreement, or with a resolution adopted by a majority vote of the partners.

(4) A manager who is dismissed without justification may request compensation for damages.

#### **Article (132) - Right to Be Notified**

(1) Partners who are not managers shall be entitled to receive accounting reports and other documents of the general partnership, as well as to raise questions in writing regarding the management of the general partnership, to which they shall receive answers in writing.

(2) While exercising the right pertaining to paragraph 1 of this article, partners who are not managers shall be entitled to review the trade books, contracts, correspondence, minutes and all other relevant documents created or received by the general partnership, in the registered office of the general partnership.

(3) The right pertaining to paragraph 2 of this article shall also include the right to obtain transcripts and copies of the necessary documents.

#### **Article (133) - Right to a Bonus**

The partner may be entitled to receive a bonus for his/its personal participation in the general partnership's activities as defined by the partnership agreement.

#### **Article (134) - Participation in the Profit and Loss**

(1) The profit and the losses shall be distributed among partners in the general partnership in proportion to their parts in the general partnership, unless otherwise stipulated by the partnership agreement.

(2) When calculating the participation in the profit that should be allocated to the partner pursuant to paragraph 1 of this article, the contributions that were transferred by the partner during the financial year shall be taken into account and the participation calculated in proportion to the period that has passed from the date when the payment was effected. If, during the financial year, the partner decreases his/its participation in the capital, the participation shall be calculated in proportion to the period that passed from the date when the decrease was effected.

### **SECTION 3 - RELATIONS OF THE GENERAL PARTNERSHIP WITH THIRD PARTIES**

#### **Article (135) - Representation of the General Partnership**

(1) Each partner shall be authorised to represent the general partnership.

(2) The partnership agreement may authorise one or more partners to

represent the general partnership. In such a case, the other partners shall not be entitled to represent the partnership.

(3) If more than one partner is authorised to represent the general partnership, each of one of those partners shall be authorised to represent the general partnership independently. The partnership agreement may also provide for joint representation.

(4) Representatives of the general partnership shall sign individually or jointly on behalf of the general partnership, depending on whether they have an individual or joint representation authorisation.

(5) The authorisation to represent the general partnership shall be without limitation. Limitations on the authorisation to represent the general partnership shall have no legal effect as against third parties, regardless of whether they knew or, considering the circumstances, must have known about the limitation.

#### **Article (136) - Relinquishment and Withdrawal of the Authorisation for Representation**

(1) The representative may relinquish his/its right to represent the partnership provided that he/it has given the other partners a prior written notice of not less than three months of his/its relinquishment of such representation authorisation. Exclusion or limitation of such right of relinquishment shall be void.

(2) The court may, pursuant to a claim filed by the other partners, withdraw the partner's authorisation to represent the partnership due to significant reasons. For the purposes of this law, a significant reason shall be considered to be any severe violation of the obligations of the partner or his/its inability to duly represent the general partnership.

#### **Article (137) - Personal Liability of the Partners**

(1) Each partner shall be jointly and severally liable to the creditors of the general partnership with his/its entire property and jointly liable with all the other partners for the obligations of the general partnership.

(2) Provisions of the partnership agreement that are in contravention with paragraph 1 of this article shall be deemed null and void.

(3) The creditors may request that the partners fulfil a liability of the general partnership towards them only if the general partnership fails to fulfil the liability within the date stipulated in the written notice from the creditor.

(4) A partner who is admitted to an already existing general partnership shall be equally liable with the other partners for the liabilities of the partnership incurred prior to him/it becoming a partner.

#### **Article (138) - Outdated Claims**

(1) A partner's claim that arises from the liabilities of the general partnership shall become statute-barred five years after the termination of the general partnership, or following the termination of the partnership of the partner from the general partnership, unless the claim is statute-barred within a shorter period of time in accordance with the law.

(2) The limitation period shall start to run from the date when the termination of the general partnership or the termination of the partner's partnership status has been registered in the commercial register. If the general partnership is terminated by bankruptcy, the limitation period shall start to run as of the date of the entry of the deletion of the general partnership in the commercial register. If the claim falls due after such entry in the commercial register, the limitation period shall start running as of the maturity date.

#### **Article (139) - Termination of the Limitation Period**

(1) The termination of the limitation period for claims against a terminated general partnership shall have legal effect as against the partners of the general partnership who had a partnership status at the time of the partnership's termination.

(2) The termination of the limitation period for claims against a general partnership that has not been terminated shall not have legal effect as against the partners who withdrew from the general partnership and the termination of the limitation period which is effective only against particular partners shall not have effect as against the other partners.

### **SECTION 4 - TERMINATION OF THE GENERAL PARTNERSHIP AND TERMINATION OF PARTNERSHIP**

#### **Article (140) - Grounds for Termination**

(1) A general partnership shall terminate upon:

- 1) the expiry of the term for which the partnership was founded;
- 2) a resolution adopted by all of the partners;
- 3) bankruptcy of the general partnership;
- 4) death of any partner, or the termination of a partner who is a legal person, unless otherwise specified by the partnership agreement;
- 5) bankruptcy of any partner;
- 6) dissolution of the general partnership by any partner, unless otherwise specified by the partnership agreement;
- 7) a definitive court decision;
- 8) loss of business capacity of one of the partners, unless otherwise specified by the partnership agreement; and
- 9) withdrawal of a permit for carrying out an activity, in the event that the general partnership fails to alter the activity.

(2) The general partnership shall also terminate in other cases stipulated by this and other laws.

(3) The partnership agreement may also stipulate other grounds for termination of the general partnership.



### **Article (141) - Dissolution by a Partner**

(1) If the general partnership was founded for an indefinite period, any partner may, in accordance with the requirements set out in the agreement, terminate the partnership agreement with a notice of not less than thirty days and not more than six months as of the last day of the business year. All partners shall be notified of the termination. The termination term may be extended by the partnership agreement.

(2) The provisions of the partnership agreement that exclude the right of the partner to terminate the agreement and/or that limit that right shall be null and void.

(3) The provisions pertaining to paragraph 1 of this article shall apply to a general partnership which according to the partnership agreement has a duration for the life of each of the partners, or the existence of which has been extended tacitly following the expiry of the stipulated duration of the partnership.

### **Article (142) - Termination upon Court Order**

(1) The court may, upon a claim by a partner in the general partnership, order the termination of the general partnership due to significant reasons, prior to the expiry of the term for which it was founded or terminate it in the event that it has not been dissolved by such partner, if it was founded for an indefinite period. The claim shall be filed against the other partners.

(2) Significant reasons pursuant to paragraph 1 of this article shall include gross negligence, lack of due care and/or an intention, as a result of which a violation of an essential obligation occurs and/or the fulfilment of the obligation and/or the achievement of the general partnership's goal becomes impossible, or the aim has been accomplished.

(3) The claim pertaining to paragraph 1 of this article shall be filed within ninety days as of the date the reason occurred.

(4) The provisions of the partnership agreement that exclude and/or violate the right of the partners to request termination of the general partnership, contrary to paragraphs 1 and 2 of this article, shall be considered null and void.

(5) The court may decide to exclude the liable partner from the general partnership rather than to terminate the partnership, pursuant to a claim of a partner as set out in paragraph 1 of this article.

### **Article (143) - Termination due to Severe Violation or due to Conduct**

Any partner may, without notice, terminate his partnership in the general partnership if any other partner of the general partnership grossly violates the partnership agreement, and/or if the conduct of a partner jeopardises any further cooperation or accomplishment of the aim of the general partnership.

### **Article (144) - Protection of a Partner's Creditor**

(1) A creditor of a partner, who has been unable to collect his claim from such partner's movable property under an enforcement procedure during the past six months, or on the basis of an enforcement document, to forfeit the partner's portion

and request a transfer of a payment equivalent to to what such partner would receive upon the termination of the partnership, may, by notifying all partners in writing, terminate the partnership agreement regardless of whether the partnership was founded for a definite or an indefinite period of time. The creditor may require from the partnership only what would belong to such partner following the termination of the partnership.

(2) The general partnership shall not terminate if the partnership itself and/or its partners settle the claim following the issuance of the forfeiture order pertaining to paragraph 1 of this article.

(3) If the claim of the partner's creditor pertaining to paragraph 1 of this article is settled by the partnership and/or by the other partners, the participation of the partner in the partnership shall terminate, unless the partners decide otherwise.

#### **Article (145) - Continuation of a General Partnership after Terminating a Partner's Participation**

(1) The partnership agreement may provide that the general partnership shall continue to exist despite the termination of a partner's participation. In such case, the other partners shall purchase the rights attached to the part of the partner whose participation in the general partnership was terminated from the general partnership and in case of a partner's death, the successors of the partner shall become partners in the general partnership, if they express such a wish and if allowed by the partnership agreement or if the other partners subsequently agree to this. The successors shall provide a statement to acquire partnership status in the general partnership within three months as of the date the decision declaring them as successors came into effect.

(2) If the successors do not become partners or if they do not wish to become partners, the general partnership shall purchase the rights attached to the part of the deceased partner.

#### **Article (146) - Continuation of the Operations of the General Partnership with One Partner**

(1) If a general partnership consists of only two partners and one of the partners is excluded according to the terms and the procedure stipulated by this law, and/or a bankruptcy procedure has been initiated against one of the partners, the partner may, within a period of one year, find another partner and continue to operate as a general partnership or transform the general partnership into another form of a company.

(2) The determination of liabilities and the part of the partner who was expelled and/or whose partnership was terminated pursuant to a bankruptcy procedure shall be effected in accordance with an appropriate application of the provisions of this law regulating the resignation of the partner from the general partnership.

(3) If, following the expiry of the period stipulated in paragraph 1 of this article, the partner fails to act in accordance with paragraph 1 of this article, the court shall *ex-officio* conduct a liquidation procedure.

**Article (147) - Entry of the Termination of a General Partnership in the  
Commercial Register**

(1) The termination of the general partnership shall be filed for registration with the commercial register by all the partners, unless the general partnership terminates pursuant to a definitive court decision, or due to bankruptcy.

(2) If the general partnership terminates pursuant to a court order, the court that made the order shall *ex-officio* submit the order to the commercial register.

## **CHAPTER TWO - LIMITED PARTNERSHIP**

### **SECTION 1 - GENERAL PROVISIONS**

#### **Article (148) - Definition**

(1) A limited partnership means a partnership of two or more natural and/or legal persons, where at least one of the partners shall be personally liable or, in the event of there being two partners, jointly and severally liable with his/their entire property for the liabilities of the limited partnership (hereinafter: "general partner") and at least one partner shall be liable for the liabilities of the limited partnership only up to the amount of his/its subscribed contribution in the capital of the limited partnership (hereinafter: "limited partner"). The contribution of the limited partner may not be in labour or services.

(2) General partners shall contribute an amount of at least one-fifth of the total amount of contributions.

#### **Article (149) - Application of the Provisions on General Partnerships**

The provisions of this chapter pertaining to general partnerships shall respectively apply to limited partnerships, unless otherwise specified in the provisions of this chapter.

### **SECTION 2 - FOUNDING AND ENTRY IN THE COMMERCIAL REGISTER**

#### **Article (150) - Limited Partnership Agreement**

A limited partnership shall be founded by a partnership agreement. The signatures in the agreement shall be certified by a notary.

#### **Article (151) - Contents of the Partnership Agreement**

- (1) The partnership agreement shall contain the following provisions:
- 1) business name and registered office of the limited partnership;
  - 2) scope of operations of the limited partnership;
  - 3) full name, unique ID number, occupation, passport number or ID number if the partner is a foreign natural person and/or the number of any other identification document valid in his country and under his citizenship, as well as his place of residence, or the business name, registered office and registration number, if the partner is a legal person;
  - 4) total amount of the partners' contributions and definition of the status of the partners as limited or general partners;
  - 5) manner of representation of the limited partnership;
  - 6) type and ratio of the contributions of each partner

7) manner and date of payment or transfer of the contribution;  
8) manner of distributing the profit and covering the losses;  
9) manner of personal participation in the operations of the limited partnership, managing the limited partnership and the manner of decision-making; and  
10) other provisions set out by this law that regulate the relations among the partners.

(2) Amendments to the partnership agreement shall be made with the consent of all the general partners and the majority of the limited partners in accordance with the proportion of the amount of their contribution to the capital.

#### **Article (152) - Business Name**

The business name of a limited partnership shall also include the words “*Komanditno Drustvo*” (Limited Partnership) or the abbreviation “KD”.

#### **Article (153) - Data Subject to Entry in the Commercial Register and Enclosures to the Registration Form**

(1) The following data shall be entered in the commercial register:

1) full name, unique ID number, occupation, passport number or ID number if the partner is a foreign natural person and/or the number of any other identification document, valid in his country, and under his citizenship, as well as the place of his residence, or the business name, registered office and registration number, if the partner is a legal person;

2) business name and registered office of the limited partnership;

3) scope of operations of the limited partnership;

4) representation of the limited partnership.

(2) The registration form for entry of the founding of the limited partnership in the commercial register shall be filed by the general partners.

(3) The following shall be enclosed with the registration form:

1) the partnership agreement;

2) a copy of the passport and/or personal ID card for foreign natural persons and/or other identification document valid in their country, or proof of registration if the founder is a legal person;

3) documentary ownership evidence, which contains a record of the registration made in the public book for immovable property, and documentary ownership evidence of movable property in the event that this is transferred as a contribution and is required to be registered as prescribed by law;

4) a statement from the legally authorised representative or the natural person, certified by a notary, or submission of documentary evidence that there is no obstacle for him/it to be the founder of the partnership in accordance with article 29 of this law;

5) a statement pertaining to article 32 of this law; and

6) a license and/or by-law of the state body and/or other competent body if such obligation for registration is set out by law for the purpose of the entry of the limited partnership in the commercial register.

(4) Partners or persons who are authorised to represent the limited

partnership under the partnership agreement, shall enclose their signatures, certified by a notary, enclosed and submitted pursuant to article 65 paragraph 2 and 3 of this law.

(5) Any change in the data pertaining to paragraph 1 of this article, as well as admission and withdrawal of a partner from a limited partnership shall be registered in the commercial register.

(6) The publication of the entry of the founding of the limited partnership in the commercial register may only, in addition to the prescribed data, indicate the number of the limited partners and the total amount of their contributions. The name and surname or the business name of the limited partner may not be disclosed without his/its consent.

(7) Paragraph 6 of this article shall also apply when the limited partner joins an existing limited partnership, or withdraws from the limited partnership, as well as in the event of changes in the type of contribution and/or the amount up to which the limited partner is liable.

### **SECTION 3 - LEGAL RELATIONS AMONG PARTNERS**

#### **Article (154) - Freedom of Contract**

(1) Legal relations among partners shall be regulated by the partnership agreement.

(2) The provisions of this law pertaining to general partnerships shall apply to those issues, which have not been addressed by the partnership agreement, unless otherwise specified in this Section.

#### **Article (155) - Obligation for Personal Participation**

(1) Only general partners shall personally participate in the operations of the limited partnership.

(2) A limited partner may also be obliged to participate personally in the operations of the limited partnership under the terms of the partnership agreement.

(3) The limited partner and general partner may be entitled to a bonus for their personal participation in the operations of the limited partnership.

#### **Article (156) - Management of the Partnership**

(1) A limited partnership shall be managed by its general partners. Limited partners shall not be entitled to manage the partnership.

(2) A limited partner shall not contest the decisions of the general partners, with the exception of the decisions and proceedings that refer to or are undertaken outside the ordinary course of business of the limited partnership.

### **Article (157) - Application of Provisions pertaining to Compensation for Costs, Damages and Prohibition on Competition**

The provisions pertaining to Articles 120, 121 and 122 of this law shall apply to limited partners unless otherwise stipulated by the partnership agreement.

### **Article (158) - Right to Inspection**

(1) A limited partner shall have the right to request a transcript and/or a copy of the annual accounts of the partnership, or to inspect the trade books for the purpose of reviewing their accuracy, as well as to be informed of the contents of the limited partnership's trade books and documents and to receive answers in writing to his/its written questions regarding the management of the limited partnership.

(2) The court may, upon request of the limited partner, order the limited partnership to provide a transcript and/or a copy of the annual accounts to the limited partner, and/or to allow him to inspect the trade books and other documents of the limited partnership.

### **Article (159) - Transfer of Parts**

(1) A part in a limited partnership may be transferred to a third party only with the consent of all partners (both limited and general) of the limited partnership, provided in writing and certified by a notary.

(2) The partnership agreement may provide for a:

1) free transfer of parts of limited partners among the partners;

2) transfer of parts of the limited partners to third parties with the consent of all general partners and the consent of the majority of the limited partners, in proportion to the amount of their contributions; and

3) a general partner to transfer a portion of his/its part to a limited partner and/or to a third party with the consent of all other general partners and the majority of the limited partners, in proportion to the amount of their contributions.

### **Article (160) - Participation in Profit and Loss**

(1) The profit shall be distributed among the partners of the limited partnership in proportion to their parts in the partnership, unless otherwise stipulated by the partnership agreement.

(2) The profit shall be added to the contribution of the limited partner until his/its contribution totals the amount which he/it is obliged to pay up under the partnership agreement as his/its contribution.

(3) A limited partner shall cover the limited partnership's losses up to the amount of his/its subscribed contribution, unless otherwise stipulated by the partnership agreement.

(4) A limited partner shall not be obliged to refund his/its received profit for the purposes of covering the subsequent losses of the limited partnership.

## **SECTION 4 - LEGAL RELATIONS BETWEEN THE LIMITED PARTNERSHIP AND THIRD PARTIES**

### **Article (161) - Representation of the Limited Partnership**

(1) A limited partner may not represent the limited partnership. If the partnership agreement provides that the limited partner may represent the partnership, such provision shall be deemed null and void.

(2) A limited partner may not represent the limited partnership on the basis of a power of attorney either.

(3) Limited partners who act in contravention of paragraphs 1 and 2 of this article shall be jointly and severally liable with their entire property for the liabilities of the limited partnership together with the general partners.

### **Article (162) - Liability of a Limited Partner**

(1) Limited partners who have fully paid up their contribution as stipulated in the partnership agreement shall not be liable for the liabilities of the limited partnership. Limited partners who failed to fully pay up their contribution as stipulated in the partnership agreement shall be jointly and severally liable to the creditors of the limited partnership with the other partners for the amount of their agreed contribution as decreased by the amount already paid.

(2) Limited partners who, on the basis of an agreement with the other partners of the limited partnership, decrease the amount of their contribution shall be liable to third parties for the amount of their original contribution until such time as their new contribution is registered in the commercial register.

(3) General partners who become limited partners shall be liable as limited partners as of the date of publication of the entry of their new status as limited partners registered in the commercial register.

(4) The person who joins the partnership as a limited partner shall also be liable for the liabilities assumed by the limited partnership prior to his/it acquiring the status of a limited partner.

## **SECTION 5 - TERMINATION OF A LIMITED PARTNERSHIP**

### **Article (163) - Grounds for Termination**

The following shall be considered as grounds for termination of a limited partnership:

- 1) expiry of the term for which it was founded;
- 2) a resolution adopted by all of the partners (both general and limited);
- 3) bankruptcy of the limited partnership;
- 4) death of any of the general partners, or termination of the general partner who is a legal person, unless otherwise stipulated by the partnership agreement;
- 5) bankruptcy procedure against any of the general partners;
- 6) resignation of any of the general partners, unless otherwise stipulated by the partnership agreement;



- 7) a definitive court decision;
- 8) loss of business capacity of a general partner, unless otherwise stipulated by the partnership agreement;
- 9) withdrawal of a license for the carrying out of an activity, in the event that the limited partnership fails to change the activity; and
- 10) other cases determined by law and the partnership agreement.

#### **Article (164) - Death or Termination of Partnership of a Limited Partner**

(1) A limited partnership shall not terminate upon the death of a limited partner or upon the termination of a limited partner which is a legal person.

(2) If following the withdrawal of all limited partners in a limited partnership, at least two general partners remain, the limited partnership may continue its operations as a general partnership.

(3) The change pertaining to paragraph 2 of this article shall be filed for entry in the commercial register within thirty days as of the termination of the partnership of the last limited partner. A general partnership agreement shall be enclosed with the registration form.

(4) If the time limit referred to in paragraph 3 of this article is not complied with, the limited partnership shall terminate.

#### **Article (165) - Successors of a General Partner**

If a partnership agreement prescribes that the limited partnership shall continue to operate notwithstanding the death of a general partner, through his/its successor who is a minor, the latter shall have the status of a limited partner prior to the age of maturity, but shall be represented by his legally authorised representative.

## CHAPTER THREE - LIMITED LIABILITY COMPANY

### SECTION 1 - GENERAL PROVISIONS

#### Article (166) - Definition

(1) A limited liability company means a company in which one or more natural or legal persons each subscribe to the pre-determined core capital of the company with a contribution.

(2) The contributions of members may vary in amount.

(3) The members shall not be liable for the company's liabilities.

#### Article (167) - Founders

(1) A limited liability company may be founded by one or more natural or legal persons.

(2) The number of members of a limited liability company shall not exceed 50.

(3) If the number of members of the company exceeds 50, the members or the bodies of the company shall undertake actions to adjust the number of members pursuant to paragraph 2 of this article, within one year as of the date when the number of members exceeded fifty.

(4) If no action for adjusting the number of members has been taken in compliance with paragraph 2 of this article, the members or the bodies of the company shall, within the term anticipated in paragraph 3 of this article, undertake actions to transform the company into a joint stock company or conduct a procedure for the liquidation of the company.

#### Article (168) - Members' Obligations

The Members shall be obliged to make additional contributions and execute other obligations towards the limited liability company as stipulated by the company agreement.

#### Article (169) - Business Name

(1) The business name of a limited liability company shall contain the words "*Drustvo so ogranicensa odgovornost*" (Limited Liability Company) or the abbreviation "DOO".

(2) The business name of a single member company shall contain the words "*Drustvo so ogranicensa odgovornost od edno lice*" (Single Member Limited Liability Company) or the abbreviation "DOOEL".

## SECTION 2 - FOUNDING OF A COMPANY

### Article (170) - Manner of Founding of the Company

(1) A limited liability company (hereinafter referred to in chapter three, part five as a: “company”) shall be founded by a company agreement entered into between all founders.

(2) If the company is founded by a single person, the company agreement shall be replaced by a founding statement of the limited liability company drawn up by the founder (hereinafter: “a statement of founding of the company”).

(3) The signatures of the founders in the company agreement, or the signature of the founder in the statement of founding of the company shall be certified by a notary.

(4) The founders shall conclude the company agreement in person or through a proxy representative whose proxy agreement shall be certified by a notary. The proxy shall not be required if the founder’s representative is legally authorised to conclude the company agreement on behalf of the founder or to draw up the statement of founding of the company.

(5) Founding of a company by gathering members or subscriptions of contributions by way of a public notice shall not be allowed.

### Article (171) - Contents of the Company Agreement or the Statement of Founding of the Company

(1) The company agreement or the Statement of Founding of the company shall include the following provisions:

1) full name, unique ID number, passport number or ID number if the member is a foreign natural person and/or the number of any other identification document, valid in his country, and under his citizenship, as well as the place of his residence, or the business name, registered office and registration number, if the member is a legal person;

2) business name and company’s registered office;

3) company’s scope of operations;

4) duration of the company;

5) amount of the core capital and the amount of each member’s separate contribution and if the contribution is non-monetary - a detailed description and designation of its value;

6) manner and time period for payment of the monetary contributions that are not paid up in full;

7) the full name, unique ID number of the manager, or managers (hereinafter: “manager”), passport number or ID number for a foreign natural person and/or the number of any other identification document, valid in his country and under his citizenship, as well as the place of his residence;

8) representation of the company;

9) rights and liabilities of members towards the company in addition to the payment of their contributions, as well as the rights and liabilities of the company towards its founders;

10) manner and criteria for distribution of the profit and coverage of the losses;

11) management of the company; and

12) termination of the company.

(2) The company agreement or the statement of founding of the company may also, in addition to the issues pertaining to paragraph 1 of this article, regulate other issues and relations.

(3) Provisions in the company agreement or the statement of founding of the company that are contrary to this law shall be null and void.

### **SECTION 3 - CORE CAPITAL OF THE COMPANY**

#### **Article (172) - Composition and Amount of the Core Capital**

(1) The core capital of the company shall consist of the total amount of the contributions of each member.

(2) The minimum value of the core capital shall not be less than 5,000 EUR expressed in denar counter value calculated according to the average exchange rate, which is published by the National Bank of the Republic of Macedonia on the day of the payment, unless the founders agreed to calculate it according to the day when the company agreement or the founding statement of the company was signed. The amount of the core capital shall be expressed in a round number divisible by one hundred.

#### **Article (173) - Obligation to Increase the Decreased Core Capital**

(1) In the event that, due to any reason, the core capital is decreased below the minimum level specified in Article 172, paragraph 2 of this law, the amount shall be increased up to the amount stipulated by this law within a period of six months as of the day of adopting the annual accounts, unless, within that period, the company is transformed into another form of company.

(2) In the event that, within the term set out in paragraph 1 of this article, the core capital is not increased up to the amount specified in article 172 paragraph 2 of this law, any person who has a legal interest may submit a proposal to the court requesting the termination of the company, after having notified the company's legally authorised representative that such situation needs to be harmonised with the law.

### **Article (174) - Contributions of Members**

- (1) The contribution of a member may be monetary and/or non-monetary.
- (2) Making contributions in the form of labour and services, including labour and services already performed shall be contrary to this law.
- (3) Participations subscribed for shall be paid up in full.
- (4) The amount of individual contributions shall not be less than 100 EUR in denar counter value. The contribution shall be expressed in a round number divisible by one hundred.
- (5) Each member shall be entitled to a single part in the founding of the company. A single contribution may be made by several persons.

### **Article (175) - Payment and Making of Contributions**

- (1) Prior to filing the registration form for entry of the founding of the company in the commercial register, members shall be required to pay up at least one third of their subscribed monetary contribution. Prior to filing the registration form, the total amount of all cash payments shall not be less than 2,500 EUR expressed in denar counter value.
- (2) The non-monetary contributions shall be transferred in full prior to filing the registration form for entry of the founding of the company. If the value of the non-monetary contribution transferred at the time the registration form for entry of the founding of the company in the commercial register was filed, does not correspond to the value of the subscribed participation in the capital, the member shall pay the difference in value in cash prior to the entry of the founding of the company in the commercial register.
- (3) The payment of the monetary contribution shall be deposited in a temporary account of the company maintained by the authorised bearer of payment transactions in the Republic of Macedonia.
- (4) Payments pertaining to paragraph 1 of this article, as well as the transfer of non-monetary contributions in full shall be made in such manner so that the company may freely use them, as of the date of entry of the founding of the company in the commercial register.

### **Article (176) - Non-Monetary Contribution**

(1) If the contribution transferred to a company is non-monetary, the company agreement or the founding statement of the company shall define the following in detail:

- 1) the member who makes the non-monetary contribution,
- 2) the non-monetary contribution transferred,
- 3) the value at which the non-monetary contribution is transferred to the company; and
- 4) the benefits granted to the member who transferred the non-monetary contribution, if such benefits are agreed upon by the members.

(2) An appraisal report on the non-monetary contribution by an authorised appraiser shall be enclosed with the company agreement. Provisions pertaining to article 35 of this law shall respectively apply to non-monetary contributions.

### **Article (177) - Determining the Value of a Non-Monetary Contribution**

Founders may unanimously decide not to appraise the value of the non-monetary contribution, if the value of the individual non-monetary contributions is less than 5,000 EUR in denar counter value and if the total value of the non-monetary contributions as a whole does not exceed one half of the core capital. In such case, prior to filing the registration form for entry of the founding of the company in the commercial register, the members shall prepare a report on the non-monetary contributions stating therein that the value of the non-monetary contribution is not less than the value of the subscribed participation in the capital.

### **Article (178) - Special Benefits for Members**

If a member of the company is reimbursed for the non-monetary contribution he/it transferred to the company and that value is added to his participation, and/or if the company grants special benefits to a member, the company agreement shall, fully and in detail, state the member of the company who transferred the non-monetary contribution, the description of the non-monetary contribution and its value expressed in cash, as well as the special benefits granted to such member of the company.

### **Article (179) - Terms for Refunding the Transferred Contributions**

(1) If the company is not founded within six months as of the date of making of the initial contribution pursuant to the terms set out by the company agreement, each founder who made a contribution may, by a proposal, request from the court that it upholds his/its right to a restitution of the non-monetary contribution transferred and to oblige the other members to refund him/it and to oblige the bank in which the monetary contribution is made to execute the refund payment.

(2) New procedures for transferring contributions to the company may be conducted if the founders decide to found the company pursuant to the definitive court decision pursuant to paragraph 1 of this article.

### **Article (180) - Covering the Founding Costs of a Company**

(1) Founders shall bear the founding costs of the limited liability company in proportion to their contributions, unless otherwise stipulated by the company agreement. The reimbursement for the costs of founding of the company may neither be paid from the core capital nor considered as a contribution to the core capital.

(2) The reimbursement for the founding costs of the company may be approved up to the maximum amount for reimbursement stipulated by the company agreement.

(3) The reimbursement for the costs pertaining to paragraph 1 of this article may only be paid out of the profits of the company, unless otherwise stipulated by the company agreement. Members may decide for these payments to have priority over any distribution of the profit.

### **Article (181) - Liabilities of Members and Managers for the Damages**

(1) In the event that the core capital does not correspond to the agreed amount as a result of false information provided by the members and managers in the course of founding the company, they shall be obliged to make the payments and compensate the payments made during the founding of the company, which are not accepted as founding costs of the company. Members and managers shall also be liable for other damages caused.

(2) Members and managers shall be jointly and severally liable to the limited liability company for damages caused by the failure to make contributions or by the improper transfer of non-monetary contributions, as a result of an inflated valuation of the contributions or any other detrimental behaviour and action undertaken in the procedure for founding of the company for which the court finds them liable.

(3) Any member or manager, who was not aware of the facts, which resulted in the liabilities, or who should not have been aware thereof, shall be exempted from the liabilities defined in paragraph 1 and 2 of this article provided that he/it acted with due care and diligence.

(4) If compensation of damages is required for the purpose of settling liabilities against third parties, the limited liability company shall neither waive the right to ask for compensation of damages pertaining to paragraphs 1 and 2 of this article nor negotiate in respect to that right.

(5) The right to request compensation of damages pertaining to paragraphs 1, 2 and 4 of this article shall become statute-barred within five years as of the date of publication of the entry of the founding of the company in the commercial register.

## **SECTION 4 - FILING A REGISTRATION FORM FOR ENTRY OF THE FOUNDING IN THE COMMERCIAL REGISTER**

### **Article (182) - Registration Form and Data Entered in the Commercial Register**

- (1) The founding of the company shall be entered in the commercial register.
- (2) The registration form for entry of the founding of the company shall be filed by the manager or a manager authorised by the other managers, if the company has more than one manager.
- (3) The following data shall be entered in the commercial register:
  - 1) business name and registered office;
  - 2) scope of operations of the company;
  - 3) full name, unique ID number, passport number or ID number, if the member is a foreign natural person and/or the number of any other identification document, valid in his country, and under his citizenship, as well as his place of residence, or the business name, registered office and registration number, if the member is a legal person;
  - 4) amount of the core capital;
  - 5) date of concluding the company agreement, or the date of signing the founding statement of the company;
  - 6) duration of the company if stipulated by the company agreement or the founding statement of the company,
  - 7) full name of the manager, members of the supervisory board, or controller, if the company has a supervisory body, unique ID number, profession, passport number or ID number for a foreign natural person and/or the number of other identification documents, valid in his country, and under his citizenship, as well as his place of residence;
  - 8) authorisation to represent the company; and
  - 9) web site if the company has one.
- (4) Any change of data referred to in paragraph 3 of this article as well as the admission and withdrawal of a member shall be entered in the commercial register.

### **Article (183) - Enclosures to the Registration Form**

- (1) The following documents shall be enclosed with the registration form for entry of the founding of the company:
  - 1) the company agreement or the founding statement of the company, with all the enclosures thereto, including the proxy agreement for the proxy representative, certified by a notary;
  - 2) a copy of the passport and/or personal identification card for founders who are foreign natural persons and/or the number of any other identification documents valid in their country, or proof of registration if the founder is a legal person;
  - 3) proof issued by a bank authorised to execute payment operations that each founder has paid up at least one third of his/its monetary contributions;
  - 4) proof that at least one-half of the core capital has been paid up and not



less than 2.500 EUR in denar counter value;

5) in the event that non-monetary contributions are transferred, the agreements determining and transferring such non-monetary contributions, the appraisal report by an authorised appraiser, except when, pursuant to article 177 of this law, appraisal is not conducted and documentary ownership evidence, which contains a record of the registration made in the public book for immovable property and if movable property is transferred which is required to be registered as prescribed by law, documentary ownership evidence of such movable object;

6) a resolution for the appointment of a manager if he/it has not been appointed by the company agreement stating the full name, unique ID number, passport number or ID number for a foreign natural person and/or the number of any other identification document, valid in his country and under his citizenship, as well as his place of residence;

7) a statement from each manager that he accepts the appointment as certified by a notary, and if the company agreement prescribes that the company having more than one manager shall be represented only by one of the managers, jointly or without an agent, a statement that the manner of representation of the company stipulated in the company agreement is thereby accepted;

8) a resolution for the appointment of the members of the supervisory board, or the controller, if the company has a supervisory body, stating the full name, unique ID number, passport number or ID number for a foreign natural person and/or the number of any other identification document -valid in his country, and under his citizenship, as well as his place of residence;

9) documentary ownership evidence which contains a record of the registration made in the public book for immovable property, and if movable property is transferred, which is required to be registered as prescribed by law, documentary ownership evidence of such movable object;

10) license and/or by-law issued by a state body and/or other competent body, if such obligation is stipulated by law, for the purposes of the entry of the company in the commercial register.

11) a statement from the legally authorised representative of the legal person or from the natural person, certified by a notary, or submission of proof that there is no obstacle for him to be a founder of the company according to article 29 of this law; and

12) a statement in accordance with article 32 of this law.

(2) The manager or persons that are authorised to represent the company pursuant to the company agreement shall submit certified signatures, enclosed and provided in accordance with article 65 paragraphs 2 and 3 of this law.

**SECTION 5 - LEGAL RELATIONS BETWEEN THE COMPANY AND  
ITS MEMBERS**

**Subsection 1 - RIGHTS AND LIABILITIES OF MEMBERS IN THE  
COMPANY**

**Article (184) - Rights of Members**

(1) Each member of the company shall be entitled:

- 1) to participate in the management of the limited liability company;
- 2) to participate in the distribution of the profit;
- 3) to be informed about the operations of the company;
- 4) to inspect the books of the company and other documents; and
- 5) to the remainder of the liquidation or bankruptcy estate.

(2) A member shall be granted other rights as stipulated by law. The members may also provide for other rights within the company agreement.

(3) Rights pertaining to paragraphs 1 and 2 of this article shall be exercised by the members to the extent, manner and under the terms stipulated by this law and the company agreement.

**Article (185) - Right to Participate in the Profit**

(1) The members shall be entitled to an adequate portion of the profit, unless the right to participate in the profit is restricted or excluded by the company agreement.

(2) The profit shall be distributed among the members in proportion to their parts in the company unless otherwise stipulated by the company agreement.

(3) The member shall become a creditor of the company for the amount of the profit to which he/it is authorised to receive but for which he/it has not been paid.

(4) The company agreement shall set out the manner of deciding upon the distribution, the distribution date, the possibility of the manager to decide upon the distribution according to the criteria and guidelines determined at the members' meeting, the manner of keeping records of the distribution, as well as the amount each member is entitled to, any restrictions in the distribution and other issues, except those that pursuant to this law and the company agreement, are to be decided upon by the members' meeting.

### **Article (186) - Obligation to Pay the Contribution**

(1) The member shall be obliged to pay up the contribution in full, in accordance with the company agreement.

(2) All members shall pay up their monetary contributions in proportion to their participation to be acquired in the capital of the company, unless otherwise provided for by the company agreement or by a resolution of the members meeting.

(3) The members' obligation to pay the monetary contributions may not be exempted, alleviated or postponed. The obligation for payment of the monetary contribution may not be settled by setting off a debt owed by the company to the member.

(4) Members may be exempted from the obligation to pay up the monetary contribution in the event of a decrease of the core capital, but only up to the amount by which the core capital is decreased.

(5) If during the founding of the company, the full amount of the monetary contribution has not been paid up, the remaining amount of the contribution shall be paid in the manner stipulated by the company agreement. The remainder of the contribution shall be paid up within a year as of the date of publication of the entry of the founding of the company.

(6) The member who has not paid up his/its contribution in a timely manner, shall pay default interest in arrears.

(7) The provisions of the company agreement, as well as the other legal undertakings and actions which contradict the provisions of this article shall be considered null and void.

### **Article (187) - Additional Term for Payment of Contributions and Payment of Interest**

(1) In the event of the payment of the contribution being delayed, the company shall grant the member an additional period of at least thirty days to fulfil his/its obligation. The notification sent to the member by the manager of the company shall indicate that the failure to make the payment within the additional period shall result in his/its expulsion from the company. The notification shall be hand delivered and/or sent to the member by registered mail. In case of sending the notification to several members, the additional period shall apply equally to all of them.

(2) The limited liability company may file a complaint against the member, requesting him/it to pay the contribution in full or a portion thereof, which shall not forfeit its right to expel the member from the company.

### **Article (188) - Expulsion of a Member due to Delay and Liability of Transferors**

(1) In the event that the additional term for payment of the contribution referred to in paragraph 1 of article 187 of this law expires, the manager shall announce that the member has forfeited his/its part as well as the partial payment of the contribution, in favour of the company. The member shall thereby be considered as expelled. The member shall be notified of his/its expulsion from the company in

writing by registered and/or hand delivered mail.

(2) The expelled member shall lose all his/its rights in the company, but shall still be obliged to pay the unpaid portion of his/its contribution. His/its liability for damages caused to the company arising from his/its failure to make the payment shall not be excluded.

(3) The direct transferor and all transferors of the expelled member's parts in the company, if any, shall be liable for the payment of the unpaid amount of the contribution and the default interest in arrears. The payment shall be first of all requested from the direct transferor of the expelled member's parts. Should he/it fail to pay the contribution within one month as of the date of sending the notice, the payment shall in turn be requested from the transferor of his/its parts.

(4) The transferor of the expelled member's parts in the company shall acquire the parts of the expelled member by paying in the remainder of the contribution.

#### **Article (189) - Sale of the Parts of the Expelled Member**

(1) In the event that the transferors of the expelled member's parts in the company fail to pay up the remainder of his/its contribution, the limited liability company shall sell the parts of the expelled member at a public auction, unless acquired by other members of the company at an adequate price with the consent of the expelled member. The parts may be sold and converted into cash in a different manner, only with the consent of the expelled member.

(2) If the price of the part(s) obtained at the public auction is higher than the amount owed to the company by the expelled member, the remaining amount, after settlement of sale costs and default interest in arrears, shall be used for the payment of the unpaid contribution and any surplus shall be paid to the expelled member.

#### **Article (190) - Withdrawal of Parts, or Payment of Contributions by Other Members**

(1) If, pursuant to the provisions of article 189 of this law, the conversion of the part into cash is by no means possible within a period of six months, the company may withdraw the part or the other members of the company may, in proportion to their parts in the company, pay the contribution of the expelled member in full. The contributions of members shall be increased in proportion to the amounts paid in such manner.

(2) In the event of withdrawal of the parts or payment of the contribution in full by other members, the expelled member shall be entitled to be reimbursed the paid up part of his/its contribution.

### **Article (191) - Additional Payments**

(1) The company agreement may provide for all or certain members to covenant to make additional payments exceeding the amount of the contribution, only insofar as necessary to cover the losses and/or the temporary necessity for cash.

(2) If the company agreement does not stipulate that the resolution for additional payments shall be adopted with a majority of at least two thirds of the votes cast, the members shall unanimously adopt the resolution.

(3) Additional payments shall neither increase the contributions of members, nor the core capital of the company.

(4) The additional payments of members shall be proportional to their parts in the company, unless the members agree upon a different ratio.

(5) The member may not settle his/its obligation for additional payment by offsetting a debt owed to him/it by the company.

(6) A member, who is late in his/its obligation to make the additional payment, shall be obliged to pay default interest in arrears to the company and compensate the damage caused to the company, unless otherwise provided by the company agreement.

(7) If the grounds referred to in paragraph 1 of this article pursuant to which the members are obliged to make additional payments, cease to be valid, the additional payments shall be refunded to the members. The refund shall not be executed prior to the expiry of three months as of the date the resolution to refund the additional payments has been published in the prescribed manner. The refund of the additional payments shall be allowed only if the members have paid their contribution in full. The refund of the additional payments prior to the full payment of the contribution shall be considered null and void.

### **Article (192) - Prohibited Payments**

(1) A member to whom the company has paid a certain amount contrary to the law, the company agreement, and/or the resolution of the members shall be obliged to return such received amount to the company. The member may keep the distribution of profit received by him/it in good faith.

(2) In addition to the member who received the refund of the prohibited amount, the payment of which decreased the core capital of the company (prohibited payment), the manager, the members of the supervisory board, or the controller, if the company has a supervisory body, as well as the other officers in the company who failed to act with due care with regard to such prohibited payment shall be jointly and severally liable.

(3) In the event that the full amount of the prohibited payment may not be collected from the parties referred to in paragraph 2 of this article, the amount for which the core capital has been decreased shall be compensated by the members in proportion to their contributions in the company.

(4) Persons referred to in paragraphs 2 and 3 of this article may neither be fully nor partially exempted from their liability to reimburse the full amount of the prohibited payment.

(5) The right of the company to request a reimbursement of the prohibited

payment pursuant to paragraphs 1, 2 and 3 of this article shall become statute-barred within five years as of the date of receiving the prohibited payment, unless the company proves that the person was aware, or considering the circumstances, must have been aware of the illicit nature of the payment.

## **Subsection 2 - PARTS**

### **Article (193) - Determining the Value of the Part**

(1) The part of a member in a company shall be determined according to the amount of that member's contribution in the company, unless otherwise provided by the company agreement.

(2) A member may have only one part in the company. If the member acquires another part, his/its part shall be increased by the value of the acquired part.

### **Article (194) - Part Certificate**

(1) The company agreement may oblige the company to issue part certificates to the members. Part certificates shall be issued in the form of a transcript of the data registered in the register of parts.

(2) A part certificate issued to a member of a company shall not be considered as a security.

(3) The company shall not issue documents that grant a right of payment from the annual profits.

### **Article (195) - Register of Parts**

(1) The manager of a limited liability company shall maintain a register of parts in which, following the entry of the founding of the company in the commercial register, the following data shall be entered for each member: the name and surname, the unique ID number, passport number or ID number, if the member is a foreign natural person and/or the number of other identification documents valid in his country, and under his citizenship, as well as his place of residence and address, or business name, registered office and registration number if the member is a legal person, date of acquiring member status, amount of the contribution transferred and paid up and/or which remains to be paid, the time and manner of payment, additional payments that were executed, description and statement for the agreed value of the non-monetary contribution that was transferred or which the member covenanted to transfer in the future, all liabilities encumbering the part, the number of votes in the decision making process, as well as other special rights and obligations attached to the part.

(2) Any amendments relating to the registered entries, as well as the divisions and encumbrances relating to the part shall be registered in the register of parts without any delay. The managers shall, without any delay and without the need for filing an application form, enter the withdrawal and expulsion of a member, change of the owner of the part with regard to the conversion of a part into cash, as well as the transfer of new contributions, decrease of contributions or refund of additional

payments, whereas other changes, encumbrances and divisions shall be entered only upon an application form duly completed and filed by any of the members. The manager shall be obliged to file an application form for the change of the entry in the commercial register within three days as of the date of the change made in the register of parts, if this law stipulates that data entered in the register of parts shall be registered in the commercial register.

(3) The manager shall be responsible for the diligent maintenance of the register of parts and accuracy of the data entered in the register of parts. The manager shall be personally liable to the company and to the members and creditors without limitation for the damage caused by the inaccurate data and the lack of diligence in the maintenance of the register of parts.

(4) The company agreement shall set out the manner of maintaining the register of parts.

### **Article (196) - Effects of the Entry in the Register of Parts**

(1) With respect to the company, only the member registered in the register of parts shall be considered to be a member of the company.

(2) The entry in the register of parts shall be considered to have been made on the date when the company receives the application form for entry, if it meets the requirements for such entry, regardless of the time when the entry was effectively registered. The application form shall be filed in writing.

(3) If the manager refuses to make an entry in the register of parts, within eight days as of the date of filing the application form, the member, or any other person that has legal interest may, after the expiry of this term, submit a proposal to the court to reach a decision regarding the entry in the register of parts.

(4) Following the definitive decision of the court, the manager shall be obliged, within three days as of the date of receipt of the decision, to enforce the decision and register the entry in the register of parts.

### **Article (197) - Use of the Part**

(1) Members shall dispose of the parts under the terms set out in the company agreement.

(2) The parts of the company may be transferred in the manner and according to the procedure provided for by the company agreement.

(3) A member of the company may transfer his/its part in full or in part.

(4) The part shall be transferred pursuant to a transfer agreement, certified by a notary.

(5) Each transfer of a part made in a manner and according to terms, which are contrary to this law and/or the company agreement, shall be deemed null and void.

(6) The member of the company may pledge his/its part under the terms set out in the company agreement. The provisions pertaining to Article 200, paragraph 1 of this law shall not apply to the pledge of a part.

### **Article (198) - Terms of Transfer of a Part to a Third Party**

(1) The member may transfer his/its part to a third party only if he/it has paid his/its contribution in full.

(2) The right to a pre-emptive purchase of a part shall be exercised in the following order: other members followed by those persons determined by the company.

(3) If the other members and/or the persons determined by the company fail to express their position within thirty days as of the date of announcing the intention to transfer the part, the member shall freely exercise his/its right to transfer the part, unless the company agreement stipulates special requirements.

### **Article (199) - Transfer of a Part by way of Inheritance**

(1) The transfer of a part by way of inheritance shall not be subject to any restrictions.

(2) Upon the death of the member, the legal representative of his inheritance shall exercise all rights and assume all liabilities arising from the membership, including all rights and liabilities exercised or assumed by the deceased member pursuant to the company agreement.

(3) For the purpose of a transfer of a part through inheritance or through the acquisition of property as a whole, the company agreement may prescribe that the heir, or the transferee is required to transfer the part to any of the members and/or persons designated by the company, unless the parties agree otherwise, at a price that corresponds to the value of such part as contained in the most recent balance sheet of the company. If the company fails to call upon the heir, or the transferee to transfer his part within thirty days as of the day the company became aware of the transfer, the obligation of transfer shall cease.

### **Article (200) - Transfer of Rights and Liabilities from the Transferor Member to the Transferee Member**

(1) In the event of a transfer of a part, the rights and liabilities of the transferor member shall be transferred to the transferee member. As regards the relations in the company, all legal actions undertaken in relation to the transferor member, as well as the legal actions that the transferor member has undertaken prior to notifying the company of the transfer of the part by registering the transfer in the register of parts, shall apply to the transferee.

(2) The transferee and transferor shall be jointly and severally liable for carrying out activities that, on the basis of the part, have to be performed in favour of the company pursuant to the obligations existing at the time when the registration form for entry of the transfer of the respective part in the register of parts was filed with the company and for the liabilities at the moment of the transfer of the part, in proportion to his/its contribution in the core capital of the company on the basis of which the part was acquired.

(3) The right to request the execution of the activities referred to in paragraph 2 of this article from the transferor of the part shall expire following a period of five



years as of the date of filing the registration form for entry of the transfer of the part in the register of parts.

(4) The transferee of the part shall be obliged to file an application for the change in ownership of the part with the company, for the purpose of entry in the register of parts.

(5) The application referred to in paragraph 4 of this article shall contain a statement from the transferee of the part that he/it agrees to become a member in the company, and that he/it fully and unconditionally accepts the provisions of the company agreement.

#### **Article (201) - Division of Parts**

(1) A part may be divided only in the event of transfer, legal succession of a member whose status as member has terminated, or in case of inheritance. The division of a part shall require the consent of all members, unless otherwise specified in the company agreement.

(2) Provisions of this law pertaining to the minimum amount of contributions shall also apply to the division of parts.

(3) The division of parts may be excluded by the company agreement, except in the case of transfer of parts among company members.

(4) Provisions of this law pertaining to the transfer of parts shall respectively apply to the transfer of a portion of a part.

#### **Article (202) - Co-Ownership of a Part**

(1) One part may be owned by several co-owners.

(2) Persons referred to in paragraph 1 of this article shall be considered as one member; they shall exercise their rights only through a joint representative, and they shall be jointly liable for the liabilities attached to the part.

(3) Each of the co-owners of a part shall provide the company with membership data as prescribed by this law.

(4) The co-owners of a part shall be obliged to sign a written proxy for appointing a joint representative and submit it to the company. If the appointed representative votes and/or undertakes any other action regarding the part, the company shall accept his vote and/or any other action without further examination of his authorisation granted by the members.

(5) If the co-owners of a part fail to notify the company of their joint representative, the legal undertakings and actions undertaken by the company shall be deemed valid towards all the co-owners, if effected against a single co-owner.

(6) The company shall send all reports regarding the company's operations and pay the distributed profit only to the joint representative, and shall not have an obligation to do so for each co-owner.

### **Article (203) - Acquisition of Own Parts by the Company**

- (1) The company may acquire its own parts under the following conditions:
  - 1) the contribution for the part that is acquired has been fully paid up; and
  - 2) the part is acquired from the company assets that exceed the amount of the core capital and the company has established reserves for the acquisition of its own parts, and provided that the core capital of the company and/or the level of reserves, stipulated by the company agreement, which may not be used for payments to the members shall not be decreased.
- (2) The company may re-purchase up to one-third of the parts subscribed in the core capital by a members' resolution, adopted by at least a three quarters majority vote of the total number of votes attached to the parts.
- (3) The company shall be obliged, within one year as of the date of the re-purchase, to either transfer, dispose of or, by applying the rules for the decrease of the core capital, withdraw the part acquired contrary to paragraphs 1 and 2 of this article.
- (4) The rights attached to the treasury part shall be suspended.

### **Article (204) - Pledging a Member's Part**

- (1) The company may accept a pledge of a member's part for which the part subscribed for has been fully paid up.
- (2) The member who has pledged his/its part to the company shall exercise all rights and assume all liabilities arising from the membership.
- (3) The company may accept a pledge of a part only if the total amount secured with the pledge over the part is lower than the value of the part, or if the value of the pledged part is lower than the amount secured, such amount should not exceed the amount of the company's assets less the core capital.

### **Article (205) - Withdrawal of a Part**

- (1) A part may be withdrawn only in cases stipulated by the company agreement.
- (2) A part may be withdrawn without the member's consent if the terms for withdrawal were specified in the company agreement prior to the member acquiring that part.
- (3) If the withdrawal results in a decrease of the core capital, the withdrawal shall be executed only through a procedure for decreasing the core capital.
- (4) A single member limited liability company may neither acquire nor withdraw its own parts.

### **Subsection 3 - TERMINATION OF MEMBER STATUS**

#### **Article (206) - Grounds for Termination of Member Status**

- (1) Member status in the company shall be terminated upon:
  - 1) death of a natural person – member;
  - 2) termination of a legal person – member;
  - 3) withdrawal of a member from the company;
  - 4) expulsion of a member from the company;
  - 5) bankruptcy of a member; and
- (2) The company agreement may set out other grounds for termination of member status.
- (3) Property entitlements arising from member status shall be regulated by a balance sheet prepared not later than the end of the month when the member status was terminated.

#### **Article (207) - Withdrawal of a Member from the Company**

- (1) The company agreement may allow a member to withdraw from the company. In such case, the company agreement shall set out the conditions, procedure and consequences of the member's withdrawal from the company.
- (2) A member may, by a complaint, request a withdrawal from the company upon justified reasons. It shall be considered that there are justified reasons for withdrawal of the member from the company if:
  - 1) other members and/or a company's body cause damage to the member, and/or if he/it suffers unfair prejudice as a member in the company;
  - 2) the member is denied the exercise of his/its rights in the company; and
  - 3) a company body imposes disproportionate liabilities on the member.
- (3) The complaint shall be filed within ninety days as of the date the reason occurred.
- (4) A member may not agree to waive his/its rights set out in paragraph 2 of this article.

#### **Article (208) - Expulsion of a Member from the Company**

- (1) The company agreement may provide for a member to be expelled from the company. In such case, the company agreement shall specify the conditions, procedure and consequences of the expulsion of a member from the company.
- (2) A member or the company may, by a complaint, request the expulsion of another member from the company, upon justified reasons. It shall be considered that there are justified reasons if the other member:
  - 1) causes damage to the company or to any member, or if his/its further participation in the company as a member causes damages to the company or the members;
  - 2) acts in violation of the resolutions of members adopted at the members' meeting, and/or by way of correspondence;
  - 3) does not participate in the management of the company, thereby

impeding and limiting the ordinary course of business of the company and/or the exercise of the rights of other members;

4) deliberately and/or grossly violates the provisions of the company agreement, or fails to perform duties assigned to him/it as a member; and/or

5) fails to fulfil, in any other way, the obligations assumed by him/it under the company agreement.

(3) The complaint shall be filed within ninety days as of the date the reason occurred.

(4) A member may not, by prior agreement, agree to waive his/its rights set out in paragraph 2 of this article.

#### **Article (209) - Effect of Withdrawal and Expulsion of a Member from the Company**

(1) The withdrawal or expulsion of a member shall result in the termination of his/its member status and of all rights arising therefrom.

(2) A member who withdraws or is expelled from the company shall be entitled to compensation for his part based on the latter's market value at the time of withdrawal or expulsion of the member. If the contribution was non-monetary, the member shall be entitled to a restitution of his contribution, if such right is stipulated by the company agreement, and/or if the other members agree thereto, within a period of not less than three months as of the date of his/its withdrawal or expulsion from the company. The member may not request compensation for damage caused by accidental destruction, damage and/or decrease of the value of his contribution, and in cases when this occurred as a result of regular use.

(3) If the expelled member is obliged to settle any liability towards the company, the company shall not, in accordance with paragraph 2 of this article, reimburse the contribution to the member, until he settles such liability and compensates the company for any damage, if the latter was caused by the failure to settle the assumed liability.

(4) The method of conducting the assessment, or the method for determining the compensation for the part shall be specified by an agreement between the member who withdraws or the expelled member and the company.

(5) If the withdrawn, or expelled member does not accept the proposal of the company, in accordance with paragraph 2 of this article, the compensation for the part of the withdrawn, or expelled member shall be appraised by an authorised appraiser, appointed by the court.

(6) In case of withdrawal or expulsion, member status shall cease once the compensation referred to in the paragraphs 2 and 5 of this article has been paid to the member.

## **SECTION 6 - ACTS, DOCUMENTS AND NOTIFICATION OF MEMBERS**

### **Article (210) - Acts and Documents That a Company Must Keep**

A limited liability company shall keep the following acts and documents, at its registered office:

- 1) a copy of the company agreement and all amendments thereto along with the revised texts;
- 2) enclosures (documents and documentary ownership evidence) which have been filed with the commercial register;
- 3) the register of parts;
- 4) the register of resolutions;
- 5) an updated list with the full name, place of residence of the manager, the members of the supervisory board, or the controller, if the company has a supervisory body;
- 6) minutes of all the members meetings, and all resolutions adopted by the members by way of correspondence, as well as minutes of the management body, if the company has a supervisory body;
- 7) a copy of the annual accounts and the annual report on the company's operations for the previous business year;
- 8) written statements from members that they accept the provisions of the company agreement;
- 9) pledge and mortgage documents;
- 10) collective agreement;
- 11) entire written correspondence of the company with its members;
- 12) report of the certified auditor and report of the authorised appraiser, if any; and
- 13) other acts and documents set out by this law and the company agreement.

### **Article (211) - Members' Access to Acts, Documents and Information**

(1) The limited liability company shall make available the acts, documents and information to any member, or former member for the period when he was a member of the company, to a representative of a member and a successor of a deceased member for the purpose of inspection and copying (hereinafter: "access to acts, documents and information") during the company's working hours.

(2) The company may, as a prerequisite for providing access to acts, documents and information pertaining to paragraph 1 of this article, require the member or former member with respect to the period when he was a member, the representative of a member or the successor of a deceased member to prove their status as member, representative of a member or successor of a deceased member.

(3) The company may require the persons referred to in paragraph 1 of this article to cover the actual costs (for copying and the like) for access to the acts, documents and information of the company.

**Article (212) - Access to Acts, Documents and Information upon a Court Decision**

(1) The limited liability company shall enable access to the acts and other documents referred to in Article 210 of this law in its registered office, to a member, or a former member, for the period when he was a member, or a representative of a member, or a successor of a deceased member, in the manner stipulated by the company agreement.

(2) If the person referred to in paragraph 1 of this article is denied the right set out in paragraph 1 of this article, he/it may, by a proposal, require the court to reach a decision pertaining to the exercise of this right. The court shall, within a term not longer than eight days as of the date the request pertaining to paragraph 1 of this article was filed, determine whether the person referred to in paragraph 1 of this article is entitled to inspect acts and other documents and if it determines that access was denied it shall require the company to allow access.

(3) The person who inspected the acts and other documents may not publicly disclose and/or present the obtained information if it causes damages to the company, unless he exercises a certain right stipulated by law, the company agreement or a by-law of the company.

(4) If the person pertaining to paragraph 1 of this article discloses the acts, documents or information thereby causing damage to the company, he shall be liable for damages, except in the cases referred to in paragraph 3 of this article.

**SECTION 7 - DECISION-MAKING OF MEMBERS OF THE LIMITED LIABILITY COMPANY**

**Subsection 1 - DECISION-MAKING BY MEMBERS**

**Article (213) - Forms of Decision-Making by Members**

(1) Members shall adopt resolutions of the company at the members' meeting, or by way of correspondence.

(2) The issues decided upon by the members at the members' meeting or by way of correspondence and the manner, terms and procedure for adopting such resolutions shall be stipulated by the company agreement.

**Subsection 2 - Members' Meeting**

**Article (214) - Composition of the Members' Meeting**

(1) The members' meeting shall consist of all members.

(2) The manager of the company who is not a member may participate in the operation of the members' meeting, without having the right to vote.

### **Article (215) - Competence of the Members' Meeting**

(1) The members' meeting shall perform the following activities:

1) adopt the annual accounts and the annual financial statements as well as the annual report on the company's operations for the previous financial year and decide upon the distribution of the profit and the coverage of the losses;

2) elect and dismiss the manager, or managers, if the company elects more than one manager, and decide on entering into an agreement between the company and manager;

3) elect and dismiss members of the supervisory board, or elect and dismiss the controller, if the company has a supervisory body;

4) decide upon the measures on examination and control over the conduct of operations;

5) adopt a resolution to initiate a procedure for the compensation of damages, suffered by the company in relation to its founding and management, against the manager, members of the supervisory board or controller, (if the company has a supervisory body) and appoint a litigation representative, if the company may not be represented by the manager or managers or members of the supervisory board;

6) approve procurement contracts that exceed one-fifth of the core capital;

7) approve the entering into of contracts between the company and each member, manager and/or their next of kin without limitation, of horizontal lineage to the third degree, unless these contracts are concluded under the company's usual business terms;

8) decide upon any amendments to the company agreement; and

9) perform other activities stipulated by this law.

(2) The company agreement may provide for the members meeting to decide upon other issues as well.

(3) The company agreement may provide for the members to decide upon the issues referred to in paragraph 1 of this article by way of correspondence.

### **Article (216) - Persons Who May Call the Members' Meeting**

(1) The members' meeting shall be called by the manager, unless the company agreement grants the right of calling the meeting to another person.

(2) The members' meeting shall be called at least once a year. The members' meeting shall be called by a written notice and pursuant to the terms set out by this law and the company agreement, wherever the interests of the company so require.

(3) The members' meeting shall be called without any delay, even if requested in writing by stating the reasons, by one or more members whose contributions represent at least one-tenth of the core capital.

(4) If the body competent for calling the members' meeting fails to call the members' meeting within fifteen days as of the date of filing the request referred to in paragraph 3 of this article, the members that filed the request may call the members' meeting, and set the agenda of the meeting.

(5) The members' meeting may be called by the supervisory board, or the controller if the company has a supervisory body.

(6) If, upon a request from one or more members whose contributions

represent at least 51% of the core capital, the manager, or the supervisory board fails to call the members' meeting within twenty-four hours as of the date of filing the request, the members may file a claim for calling the meeting with the court.

#### **Article (217) - Manner of Calling and Venue of the Members' Meeting**

(1) The members' meeting shall be called by written invitation, or another written notification delivered by registered mail, express mail or another convenient way, with an acknowledgement of receipt to be received from each member, unless otherwise provided by the company agreement. At least eight days shall pass between the date the written invitation, or the other written notification has been sent, and the date of convening the members' meeting. The agenda for the meeting shall be enclosed with the invitation or written notification.

(2) If the members' meeting is not properly called, or it is called contrary to paragraph 1 of this article, resolutions may be adopted only if all members attend and if they do not object to the members' meeting being convened.

(3) Any member is entitled to request for a certain item to be added to the agenda of the meeting. The member shall inform the other members of his/its proposal not later than three days prior to the date of convening the meeting. Items that are not listed in the invitation or items, which members have not been additionally notified of three days prior to the convening of the meeting, may be added to the agenda and discussed at the meeting only if all members attend and they do not object thereto.

(4) The members' meeting shall be convened in the registered office of the company, unless otherwise provided by the company agreement.

#### **Article (218) - Limitations on the Members' Voting Right**

(1) Each part of the amount of the contribution equal to 100 EUR calculated according to the average exchange rate of the National Bank of the Republic of Macedonia on the day when the company agreement was concluded or on the day the resolution for changing the core capital is passed, shall confer one vote whereas parts below 100 EUR expressed in denars shall not be taken into consideration when determining the voting right.

(2) The company agreement may provide for the members to have voting rights that differ from those referred to in paragraph 1 of this article, whereby each member is entitled to a minimum of one vote.

#### **Article (219) - Quorum and Adoption of Resolutions**

(1) The members' meeting, shall operate and pass resolutions (operating quorum) if members who hold a majority of the votes conferred by contributions in accordance with article 218 of this law are present at the members' meeting, unless the company agreement prescribes a higher majority.

(2) Resolutions reached at the members' meeting or by way of correspondence shall be adopted by a majority vote of the quorum pertaining to paragraph 1 of this article, unless this law or the company agreement prescribe a higher majority.



### **Article (220) - Limitations on Exercising the Voting Right**

(1) A member may neither vote nor express his opinion on a resolution at the members' meeting or by way of correspondence, which exempts him from liability and/or an obligation and/or acknowledges certain benefits and/or privileges in his/its favour and/or pursuant to which a legal agreement is entered into between the member and the company for initiating court proceedings in which the company and the member act as parties and/or in other cases stipulated by the company agreement.

(2) With respect to the issues referred to in paragraph 1 of this article, the member may also not vote through a representative.

(3) Provisions of the company agreement contrary to paragraphs 1 and 2 of this article shall be deemed null and void.

### **Article (221) - Representation of a Member**

(1) If the company has more than two members, the member may be represented by another member or by another person at the members' meeting.

(2) Where a member exercises his/its voting right through another member or another person, he shall issue a proxy to such person. The proxy shall be issued in writing and certified by a notary. The proxy shall state the scope of authorisation of the proxy representative.

(3) The revocation and/or limitation of the authorisations of the proxy referred to in paragraph 2 of this article shall be made by a statement certified by a notary.

(4) The legally authorised representatives of a natural person and the legally authorised representatives of a legal person shall represent the member at the members' meeting without a proxy and shall be obliged to submit proof of their status as legally authorised representatives.

(5) The actions in the name of a member may be performed by a representative holding a written authorisation certified by a notary and/or by another appropriate body which certifies authorisations in the country of citizenship of the foreign natural person, or in the country in which he/it has founded a company.

### **Subsection 3 - DECISION-MAKING BY WAY OF CORRESPONDENCE**

#### **Article (222) - Decision-Making by way of Correspondence**

(1) Where the company agreement stipulates that the members shall decide by way of correspondence, the draft resolution and an explanation thereto shall be presented to the members in writing and a reasonable deadline for reply shall be determined, which may not be shorter than 24 hours and not longer than eight days, as of the date of their acknowledged receipt of the written draft resolution. The terms of the draft resolution shall be clearly worded.

(2) The resolution may be adopted in a term shorter than the term referred to in paragraph 2 of this article if all members vote in its favour, and/or if the voting is conducted electronically.

(3) Decision making by electronic means shall also be considered as decision making by way of correspondence if such manner of decision making is set out in the company agreement and if it provides security, documentary records and possibility to control such decision making as well as the availability for each member to personally cast his vote by electronic means.

(4) Members who fail to respond, or vote within the term referred to in paragraph 2 of this article shall be deemed to have voted against the draft resolution.

(5) If the company agreement stipulates that members shall decide upon a certain issue by way of correspondence, any member may put forward a proposal for calling a members' meeting where the issue shall be decided upon.

#### **Subsection 4 - LIABILITY FOR ADOPTED RESOLUTIONS AND REGISTER OF RESOLUTIONS**

##### **Article (223) - Liability of Members for Adopted Resolutions**

Members of a limited liability company who adopted a resolution at the members' meeting, or by way of correspondence, which, they knew or, in view of the circumstances, must have known, that it violates the interests of the company, shall be jointly and severally liable for the damages caused by such resolution.

##### **Article (224) - Register of Resolutions**

(1) Resolutions adopted at the members' meeting, or resolutions adopted by the members by way of correspondence shall be recorded in the register of resolutions by the manager. The resolutions shall be registered in the register of resolutions immediately after their adoption and certified by the signature of at least one of the members involved in the adoption of the resolution. The minutes from the convened members' meetings where the resolutions were adopted, or the material documenting the decision making process by way of correspondence, as well as the adopted resolutions, shall be a constituent part of the register of resolutions.

(2) Each member shall be entitled to inspect the register of resolutions and may request copies of resolutions adopted at the members' meeting, or by way of correspondence, from the manager.

(3) Resolutions of a single member company shall be registered in the register of resolutions immediately after their adoption and certified by the signature of the single member.

(4) The manner of maintaining the register of resolutions shall be regulated in further detail by the company agreement.

**Subsection 5 - ANNULMENT AND CONTESTING OF A RESOLUTION  
ADOPTED AT THE MEMBERS' MEETING OR BY WAY OF CORRESPONDENCE**

**Article (225) - Annulment of a Resolution**

(1) Annulment of a resolution adopted at a members' meeting, or by way of correspondence may be requested by filing a complaint in the event that:

1) the members' meeting at which the resolution was adopted is called contrary to the law and the company agreement, or in the event that all members were not properly called to the meeting, except in cases pertaining to article 217, paragraph 2 of this law;

2) the resolution has not been adopted in the manner and the form stipulated by this law and/or the company agreement; and

3) the content of the resolution is contrary to the law, good business practice and/or the provisions of the company agreement.

(2) The complaint for annulment referred to in paragraph 1 of this article may be filed by:

1) any member who participated to the members' meeting and stated his objection to the resolution in the minutes, and/or filed the objection in writing with the company, in the case where the decision making was by way of correspondence; and

2) the member who was prevented to attend and/or vote at the members' meeting or to express an opinion by way of correspondence.

(3) The complaint referred to in paragraph 1 of this article may be filed by any manager, member of a supervisory board or controller, (if the company has a supervisory body), if they are required to take actions pursuant to a resolution for which they may be held liable for damages, or which may be considered as a criminal act.

(4) The complaint shall be filed within sixty days as of the date of adopting the resolution.

(5) The complaint shall be filed against the company. The manager shall represent the company. If the complaint is filed by the manager, the company shall be represented in the dispute by a member of the supervisory board, determined by the board, or the controller, if the company has a supervisory body. The court shall determine an interim representative of the company in the dispute in the event that the company has no supervisory body or where a complaint is filed jointly by the manager, member of the supervisory board, or controller.

(6) The court may, through the adoption of provisional measures and upon the proposal by the persons referred to in paragraph 3 of this article, suspend the execution of the resolution, the annulment of which is requested by the complaint, if it is probable that such execution may cause irreparably detrimental consequences.

### **Article (226) - Legal Consequences of Nullity**

(1) If the court, pursuant to a definitive decision, determines that the resolution adopted at the members' meeting or by way of correspondence is null and void, such decision shall have effect against all members, the manager, the members of the supervisory board, or the controller, if the company has a supervisory body, even if those persons did not act as a party in the dispute.

(2) If the court determines that the resolution registered in the commercial register is null and void, it shall *ex-officio* record the definitive court decision in the commercial register. The entry of the court decision shall be published in the same manner as the previously published entry.

(3) If the court determines that a resolution to amend the company agreement is null and void, it shall submit the revised text of the agreement together with the resolution to the commercial register.

### **Article (227) - Contesting the Resolutions**

(1) The resolution adopted at the members' meeting and the resolution adopted by way of correspondence may be contested pursuant to a claim. The resolution may be contested if a member, by voting at the members' meeting or by decision making by way of correspondence, acquired benefits for himself and/or enabled a third party to do so, at the expense of the company and/or the other members.

(2) The resolution of the members' meeting which was adopted following a failure to provide a notification that influenced the decision making may also be contested.

(3) The claim shall be filed against the company within sixty days as of the date the resolution was adopted.

(4) The resolution of the members' meeting and the resolution adopted by way of correspondence may not be contested if it is confirmed by a new resolution, and the latter is not contested within the term referred to in paragraph 3 of this article.

(5) The provision pertaining to article 225, paragraph 5 of this law shall apply to the contesting of a members' resolution.

### **Article (228) - Authorisation to Contest**

The resolution adopted at the members' meeting or by way of correspondence may be contested by:

1) any member who participated in the members' meeting, or to the decision making by way of correspondence and who stated his objection to the resolution in the minutes, or filed his/its objection with the company in writing;

2) members who did not participate in the members' meeting, or to the decision making by way of correspondence, since they were not allowed to participate in its activities contrary to the law and company agreement, in the event that the meeting was not properly called, or the decision making by way of correspondence was not properly conducted and/or if the issue subject to the decision making at the members' meeting or the decision making by way of correspondence was not properly

announced or formulated; and

3) any manager and member of the supervisory board or controller, if the company has a supervisory body, who, with the enforcement of the resolution would perpetrate a punishable, illegal act and/or act for which he could be held liable for damages.

## **Subsection 6 - PROTECTION OF RIGHTS OF MINORITY MEMBERS**

### **Article (229) - Appointing a Certified Auditor**

(1) A member or members whose contributions jointly represent at least one-tenth of the core capital of the company shall be entitled to appoint a certified auditor to conduct a special audit of the last annual accounts and the financial statements.

(2) If the company refuses that the certified auditor conduct the audit referred to in paragraph 1 of this article, the court may, upon a proposal of any member of the company, appoint a certified auditor to conduct the special audit.

(3) The member or members referred to in paragraphs 1 and 2 of this article may not transfer their parts without the consent of the company, during the audit.

(4) The remuneration for the work performed by the certified auditor appointed by the court shall be set by the court. In order to appoint the certified auditor, the court may request a guarantee that the member or members requesting the audit shall cover the audit costs.

(5) If the audit confirms the regularity of the annual accounts, or if it determines that the trade books have been properly maintained, the costs shall be covered by the member or members who requested the audit.

### **Article (230) - Report of the Certified Auditor**

(1) The auditor shall be obliged to submit the report of the conducted audit to the manager and the supervisory board, if the company has a supervisory body, without any delay.

(2) The members who requested the audit shall be entitled to inspect the audit report and the accompanying documentation at the company's registered office.

(3) The manager and the supervisory board, or the controller, if the company has a supervisory body, shall be obliged to submit the audit report at the next members' meeting and request that the members' meeting express its opinion thereto. The auditor who conducted the audit shall also be called to the members' meeting. The manager and the supervisory board, or the controller shall disclose all irregularities and state the measures to be undertaken, or proposed to be undertaken. The supervisory board, or the controller shall state whether the company is entitled to request compensation for damages. If the audit report states that the law or the company agreement has been severely violated, the members' meeting shall be called within a term not longer than eight days.

## **Subsection 7 - MANAGEMENT OF A LIMITED LIABILITY COMPANY**

### **Article (231) - Requirements for Election of a Manager**

(1) Limited liability companies shall be managed by a manager or managers (hereinafter: “manager”).

(2) Where the company has three or more managers, they may jointly manage the company as a management body of the company in the manner stipulated by the company agreement. The composition, organisation, operation and the competencies of the management body of the company shall be determined by the company agreement.

(3) Any natural person with business capacity may be elected as a manager.

(4) A person who, by a definitive court decision is partially or fully prohibited to perform a profession, activity or duty related to the function of a manager of the company, shall not be elected as manager of the company while the prohibition is in force.

### **Article (232) - Election and Term of Office**

(1) The members shall elect the manager.

(2) When founding the company, the first manager may be appointed by the company agreement.

(3) If a member is elected as a manager, his term of office may last only while he is a member in the company.

(4) If the company agreement does not specify the duration of the term of office of a manager who is not a member, he shall be deemed to have been elected for a period of four years.

(5) The manager may be re-elected regardless of the number of terms of office for which he has been elected, unless otherwise stipulated by the company agreement.

### **Article (233) - Reduction of the Number of Managers**

(1) If the company has several managers and if their number is reduced below the number stipulated by the company agreement, the remaining managers shall be obliged, in accordance with the company agreement, to call a members’ meeting or, by decision making by way of correspondence, to organise an election of managers in accordance with the number determined in the company agreement within thirty days as of the date the number of managers was reduced below the number stipulated by the company agreement.

(2) In the event that the company loses its remaining manager, and the members fail to elect a manager within thirty days as of the day the company lost its remaining manager, the supervisory board, or the controller, shall call a members’ meeting. In the event that the company has no supervisory body, the court shall call the members’ meeting upon a proposal of any person having legal interest. The court shall, within eight days as of the receipt of the proposal, determine the natural person who and the term within which he shall undertake all steps necessary to convene the members’ meeting. In the event that the company remains without a manager, the

court may, until the election of a new manager, appoint an interim manager from among the members of the company for a period of not longer than six months, upon a proposal of a member or a person having legal interest. Until the election of a manager, the interim manager shall only perform activities, which are necessary to the company's existence.

#### **Article (234) - Registration of the Appointment of a Manager**

(1) The manager, his authorisation to represent the company, and all changes shall be registered in the commercial register without any delay.

(2) The following documents shall be enclosed with the registration form:

1) the resolution to elect the manager, unless the appointment has been made by the company agreement;

2) the resolution to dismiss the manager, if such manager was dismissed;

3) the resignation notice in writing, if the term of office of such manager was terminated by his resigning;

4) the act determining the type and scope of representation;

5) a statement that there exist no prohibitions pursuant to article 231, paragraph 4 of this law; and

6) the signatures of the manager, or signatures of the persons authorised to represent the company, certified, enclosed and submitted in accordance with article 65, paragraphs 2 and 3 of this law.

#### **Article (235) - Powers of a Manager**

(1) The powers of the manager shall be prescribed by the company agreement. If the powers of the manager are not specified by the company agreement, the manager may conduct all related legal undertakings and actions usual for the management of the company which are in the interest of the company.

(2) In relations with third parties, the manager shall be authorised to act in the name of the company in all circumstances, excluding those, which relate to powers which are granted to the members, pursuant to this law and/or the company agreement.

(3) If more than one manager is elected, all managers of the company shall have equal powers and rights regarding the management of the company, unless otherwise stipulated by the company agreement.

(4) A member elected as a manager and/or a member of the supervisory board of the company shall have the same rights and obligations as the other members in the company and, when exercising his rights and executing his obligations, he shall not make reference to the powers, rights and obligations he has as a manager of the company and/or as a member of the supervisory board of the company.

### **Article (236) - Authorisation for Representation**

(1) The manager shall represent the company in relations with third parties. The manager shall indicate his status as manager after having stated the business name of the company and shall put his signature thereunder.

(2) If a company has more than one manager, it shall be represented by all managers, unless otherwise stipulated by the company agreement. A statement of will by the company expressed to a single manager shall be considered to have been expressed towards all managers.

(3) The manager shall be obliged to adhere to the limitations of the authorisation for representation specified by the company agreement and/or the resolution adopted at the members' meeting or by way of correspondence.

(4) The limitations referred to in paragraph 3 of this article shall have no legal effect against third parties, even if such limitations have been disclosed.

(5) The manager who is aware that he has undertaken operations in the name of the company without being authorised to do so, shall be personally liable to the company for any damages caused there from.

### **Article (237) - Manner of Operation of the Manager**

(1) If more than one manager has been elected, and the company agreement does not specify otherwise, no manager may independently undertake actions necessary for conducting the operations of the company, unless the delay and/or failure to undertake such actions would pose a threat of causing damage to the company and/or in any other manner endangers the interests of the company.

(2) Each manager authorised by the company agreement to undertake actions necessary for conducting the company's operations independently may object to the action undertaken, unless otherwise stipulated by the company agreement.

(3) If managers fail to settle the dispute referred to in paragraph 2 of this article, the members' meeting shall adopt a resolution on the contentious issue.

(4) Objections referred to in paragraph 2 of this article shall have no legal effect as against third parties.

### **Article (238) - Prohibition against Competition**

(1) A manager of a limited liability company may not, without first obtaining the consent of the members' meeting:

1) conduct actions within the scope of operations of the company on his behalf and/or on behalf of a third party;

2) be a member with unlimited liability in another company having the same or similar scope of operations as the company;

3) be a member of a management body and/or a supervisory board, or controller in another company having the same and/or similar scope of operations as the concerned company; and

4) undertake any activity within the premises of the company on his behalf and/or on behalf of a third party.

(2) If the manager acts contrary to the prohibitions referred to in paragraph 1



of this article, the company may request:

1) that he compensate the damages; and/or

2) that he assign to the company the legal business concluded on his behalf and transfer to the company the proceeds arising from the legal business concluded on his behalf and/or on the behalf of a third party.

(3) In the event that the manager fails to compensate the damage and/or fails to assign to the company the legal business concluded on his behalf and/or fails to transfer the proceeds arising from the legal business-concluded on his behalf and/or on behalf of a third party to the company, and/or fails to transfer receivables arising therefrom, the other managers, as well as the members of the supervisory board, or the controller, if the company has a supervisory body, and any member, may file a complaint for exercising the rights referred to in paragraph 2 of this article.

(4) The right to bring the claims referred to in paragraph 2 of this article shall become statute-barred following the expiry of a period of ninety days as of the date the other managers, the members of the supervisory board, or the controller, if the company has a supervisory body, or any member learned about the action which results in the right for compensation of damages or the right to request a transfer of the legal business concluded on his behalf and transfer of the proceeds arising from the legal business concluded on his behalf and/or on behalf of a third party. The right to exercise the rights referred to in paragraph 2 of this article may not be exercised after the expiry of five years as of the date the violation of the prohibition occurred.

(5) In case of a violation of the prohibitions referred to in paragraph 1 of this article, the manager may be dismissed without prior notice and without the right to compensation of damages, unless otherwise stipulated by the agreement regulating the relations between the manager and the company.

#### **Article (239) - Conflict of Interests**

(1) With respect to each agreement and/or business activity of the company in which the company is a party, and in which, a manager, member of the supervisory board, or controller has an interest, even in an indirect manner, the articles 457, 459 and 460 of this law shall apply. The manager, supervisory board member, or controller if the company has a supervisory body, who has an interest, shall be obliged to immediately report such interest.

(2) In the event that the member, the member of the supervisory board, or the controller, becomes aware that the conditions referred to in paragraph 1 of this article are met, he/it shall immediately inform the members' meeting, the supervisory board, or the controller, thereof. The manager, the member of the supervisory board, or the controller, shall have the right to be heard, but he/it may not participate in the debate and/or in the decision making process regarding the agreement and/or business activity, or in the decision making process for granting the approval referred to in article 460 of this law.

(3) If the members' meeting, the supervisory board, or the controller, fails to grant approval, or the resolution by which approval is granted or refused is contrary to the law, or the company agreement, no claims may be raised as against third parties, unless the company proves that the third party was aware of the non-existence of the approval or the irregularity of the resolution, or, in view of all the circumstances, must

have been aware thereof.

#### **Article (240) - Obligation to Maintain Trade Books and to Prepare Annual Accounts**

(1) The manager shall be responsible to duly maintain the trade books of the limited liability company in accordance with the law and other regulations.

(2) The manager shall be responsible to prepare the annual accounts and the annual report on the operations of the company for the previous business year in a timely manner, and to submit them to the members' meeting not later than the term determined by this law.

(3) Documents referred to in paragraph 2 of this article, as well as the draft resolutions the adoption of which are proposed by the manager, and, if necessary, the audit report, shall be submitted to the members in the manner and within the term stipulated by the company agreement.

(4) With respect to documents referred to in paragraph 3 of this article, members may put forward written questions and request additional explanations which the manager shall be obliged to answer in the course of the members' meeting.

#### **Article (241) - Due Care and Liability of the Manager**

(1) The manager shall be obliged to carry out the activities of the company with due care and diligence and to keep the business secrets of the company.

(2) The manager shall be personally liable without limitation, and if the company has two or more managers they shall be jointly and severally liable towards the limited liability company and towards third parties for the activities conducted contrary to law and other regulations, as well as for failing to adhere to the company agreement. If there is more than one manager, they shall be jointly and severally liable.

(3) The manager shall compensate any damages, if, contrary to this law and/or the company agreement, he divides the assets of the company, or returns the contributions to the members in part and/or in full, pays them interest and/or a distribution of the profit, and/or if the company acquires its own parts, accepts a pledge of parts and/or withdraws them.

(4) The manager shall also be personally liable for any damages caused to the company resulting from the legal business he concluded with the company in his name and/or in the name of a third party, and on his behalf, if he/she did not receive a prior approval thereof by the supervisory body, or in the event that there is no supervisory body in the company, an approval by the other managers, if the members have elected more than one manager in the company.

(5) In case of any dispute, the manager shall be obliged to prove that he has acted in the best interests of the company with due care and diligence. If more than one manager participated in the same action, and there is a dispute over the damage caused, the court shall determine the extent of liability of each manager for the damage caused.

(6) In addition to the claim for compensation of the damages they suffered personally, the members may, individually or jointly, file a claim against the manager to indemnify the company for damages caused to the company. Claimants may request

compensation for the damages suffered by the company.

(7) Any provision in the company agreement stating that the claim shall be filed after having obtained the prior opinion and/or approval by the members' meeting, and/or any provision containing a prior waiver to file a claim shall be deemed null and void.

(8) No resolution adopted at the members' meeting may prevent the filing of a claim which would impose liability on a manager for defaulting in the performance of his duties.

(9) Claims based on the liabilities pertaining to paragraphs 3, 4 and 6 of this article shall become statute-barred following the expiry of a period of three years as of the date the detrimental action occurred, or the damage was caused, or, if the action was concealed, as of its discovery. If the action is qualified as a criminal act, the claim shall become statute-barred following the expiry of a period of ten years.

#### **Article (242) - Dismissal of a Manager and Termination of the Term of Office due to Resignation**

(1) A manager may be dismissed at any time by a resolution of the members in a manner identical to the manner of decision making for his election with or without an explanation. Any differing provision in the company agreement shall be deemed null and void.

(2) Upon a request from a member, the court may order the dismissal of a manager, who is also a member.

(3) A manager may resign at any time by filing a written notification to all members, unless otherwise required by the interests of the company.

(4) The term of office of a manager shall be considered terminated as of the date stated in his written resignation submitted in writing to all members. The manager shall certify his signature with a notary. Once the resignation is submitted, there shall be no need for a resolution to be passed as regards its acceptance. In the event that the interests of the company so require, the members may require the manager to perform his duties until the election of a new manager, but no longer than thirty days. The resignation shall be filed with the commercial register in writing for the purpose of deletion of the entry of the manager in the commercial register. If the company has only one manager, and the company has not elected a manager, the court shall appoint an interim manager in the manner stipulated by this law.

(5) The dismissed manager shall be entitled to compensation of damages, if it is stipulated by the agreement governing the relations between the manager and the company.

### **Article (243) - Management of a Single Member Company**

(1) A single member limited liability company shall be personally managed by that member and/or a manager elected by that member. If the single member is a legal person, the company shall be managed by a person elected by that legal person.

(2) The single member shall, as a manager, manage the company in the manner he considers suitable for fulfilling the interests of the company. Provisions of this law pertaining to the liability of the company as against third parties, and to the manager as a legally authorised representative as against third parties, shall apply to the single member as a founder, member and manager of the company.

(3) Agreements between the single member and his company as represented by him shall be recorded in the minutes and/or drawn up in writing.

(4) The provisions of this law pertaining to the manager of the limited liability companies having two or more members, shall respectively apply to the manager elected by the single member.

### **Subsection 8 - SUPERVISION OVER THE OPERATIONS OF THE COMPANY**

#### **Article (244) - General Provisions**

(1) The supervisory board or controller shall supervise the operations of the company, and if no supervisory body has been established within the company, the members shall, individually or jointly, carry out the supervision.

(2) The provisions of this law regulating the supervisory board, or controller shall apply only if this law or the company agreement provides for a supervisory body to be established in the company.

### **PART ONE - SUPERVISORY BODIES**

#### **Article (245) - Election of Supervisory Bodies**

The company agreement may provide for the establishment of a supervisory board, or the election of a controller of the company that shall monitor the implementation of the company agreement, the operations related to the property of the limited liability company and its protection, control the manner in which the manager conducts the management of the company and submit reports to the members' meeting.

### **Article (246) - Election and Dismissal of the Supervisory Body**

(1) Supervisory board members, or the controller, shall be elected and dismissed by the members' meeting, unless otherwise stipulated by the company agreement. The initial supervisory board, or controller, may be appointed by the company agreement.

(2) In the event that the single member has decided to establish a supervisory board in a single member limited liability company, such single member shall personally decide on the election and dismissal of the members of the supervisory board, or the controller.

(3) The following persons may not be elected as members of the supervisory board, or controllers:

- 1) the manager and the employees of the company;
- 2) spouses, vertical lineage relatives and relatives of horizontal lineage up to the third degree of the manager;
- 3) persons who have been prohibited from performing auditing activities by a court decision, whilst such prohibition is in force; or
- 4) a natural person who is a member in five supervisory boards of joint stock companies and/or limited liability companies.

### **Article (247) - Composition and Term of Office of the Supervisory Board**

(1) The supervisory board shall consist of at least three members.

(2) Unless otherwise stipulated by the company agreement, the duration of office of the members of the supervisory board shall be of four years.

(3) Members of the supervisory board may be re-elected regardless of the number of mandates they have held, unless otherwise stipulated by the company agreement.

### **Article (248) - Organisation and Operations of the Supervisory Board**

(1) The members of the supervisory board shall elect the president of the supervisory board from amongst them. The president of the supervisory board shall call and chair the meetings of the supervisory board, as well as organise its operations.

(2) All members of the supervisory board shall have equal rights, liabilities and obligations.

(3) The decision-making process and the manner of operations of the supervisory board shall be regulated by the company agreement.

(4) The supervisory board shall meet at least three times during the course of one business year.

### **Article (249) - Competencies of the Supervisory Board**

(1) The supervisory board, or the controller, shall supervise the operations of the limited liability company. When supervising the operations of the company, the supervisory board, or the controller, may review and assess the trade books of the company, its acts and other documents, property, and especially the treasury, and the securities-related situation of the company. The supervisory board may assign the execution of these activities to one of its members, and/or assign certain activities to an expert who is not a member of the supervisory board.

(2) The supervisory board, or the controller, shall review the annual accounts of the company and other financial statements and the proposal to distribute profit, evaluate the annual report on the operations of the company for the preceding business year, and notify the members' meeting thereof. In their report, the supervisory board, or the controller, shall separately indicate the manner and the scope of review of the company operations during the calendar year and the conclusions reached after reviewing the annual accounts and the annual report for the operations of the company in the preceding business year.

(3) The supervisory board, or the controller, shall call the members' meeting if the interests of the company so require.

(4) The company agreement may set out the activities that shall not be performed without the approval of the supervisory board, or the controller.

### **Article (250) - Application of the Provisions on Conflict of Interest, Prohibition against Competition and Liability**

Provisions referred to in Articles 238, 239 and 241 of this law regulating prohibition against competition, the conflict of interest and the liability of the manager shall respectively apply to the members of the supervisory board, or the controller.

## **PART TWO - CONDUCTING DIRECT SUPERVISION BY THE MEMBERS**

### **Article (251) - Supervisory Authorisations of a Member**

(1) The members shall, through the members' meeting, carry out regular supervision by means of reviewing and adopting the annual accounts and the annual report for the operations of the company in the previous business year.

(2) Each member shall also be entitled to personally obtain information on the operations of the company, to review the annual accounts and the annual reports and the other trade books, acts, and other documents of the company, the reports for the operations of the company submitted by the manager, the reports by the certified auditors, and to supervise the operations of the company in the manner and under the terms stipulated by this law and the company agreement.

(3) Where the exercise of the right to conduct the supervision referred to in paragraphs 1 and 2 of this article is obstructed and/or prevented by a competent body of the company and/or by an officer, the court shall decide upon the exercise of such

right, upon a proposal by the members.

(4) Each member may, in writing and at any time, bring to the attention of the supervisory board, or the controller, and/or the person performing the audit, issues within his/its scope of activity. Where such action is undertaken by a member or members, whose contributions jointly represent at least one-tenth of the core capital, the supervisory board, or the controller, shall submit a report with the necessary steps to be taken at the next members' meeting.

(5) If such action is important and urgent, and the manager, upon proposal by the supervisory board, or the controller, failed to call the members' meeting, the supervisory board, or the controller shall call the meeting without any delay. If the company does not have a supervisory board, or controller, the members' meeting shall be called by the members referred to in paragraph 4 of this article.

## **SECTION 8 - AMENDMENTS TO THE COMPANY AGREEMENT**

### **Subsection 1 - COMMON PROVISIONS ON AMENDMENTS TO THE COMPANY AGREEMENT**

#### **Article (252) - Resolution to Amend the Company Agreement**

(1) The company agreement may be amended only by a resolution of the members, adopted with at least a three quarters majority of the total number of votes of members in the company. The company agreement may stipulate a higher majority and may also provide for additional requirements for its amendment.

(2) The resolution to amend the scope of operations of the company set out in the company agreement shall be reached unanimously by the members, unless otherwise stipulated by the company agreement.

(3) The resolution to increase the liabilities of the members arising pursuant to the company agreement, and/or to reduce the rights of the members pursuant to the company agreement, shall be reached with the consent of all members of the company who are affected by the increased liabilities, or the reduced rights.

(4) Provisions of the company agreement that contradict the provisions referred to in paragraphs 1, 2 and 3 of this article shall be deemed null and void.

(5) Members shall, pursuant to the resolution to amend the company agreement, authorise the manager, or the supervisory board, or controller, if the company has a supervisory body, to draw up a revised version of the company agreement which shall include the amendments to the company agreement executed on the basis of the resolution.

### **Article (253) - Legal Effect of the Resolution to Amend the Company Agreement**

(1) The registration form for entry of the resolution to amend the company agreement for the purpose of its entry in the commercial register shall be submitted by the manager, or a person authorised by the manager by way of a proxy, certified by a notary.

(2) The resolution to amend the company agreement and the revised version of the company agreement shall be enclosed with the registration form for entry in the commercial register.

(3) The entry of the resolution to amend the company agreement in the commercial register shall be published by indicating the number of the resolution and the date when the resolution was adopted.

(4) The resolution to amend the company agreement shall have legal effect as against members as of the day of its adoption.

### **Subsection 2 - INCREASE OF THE CORE CAPITAL**

#### **Article (254) - Manner of Increasing the Core Capital**

(1) The core capital shall be increased by a resolution of the members' meeting, having the same effect as a resolution to amend the company agreement.

(2) The increase of the core capital may be executed by receiving new contributions, and/or by adding the reserves and the profit of the company to the core capital.

(3) The core capital may be increased only if all previous contributions have been fully paid up.

#### **Article (255) - Requirements for Increasing the Core Capital**

(1) The resolution to increase the core capital shall determine: the amount of the increase of the core capital, the manner in which persons shall subscribe to the capital and participate in the distribution of profit and as of from when in the business year in which the core capital was increased, they shall exercise such right, the amount of the portion of the core capital to be paid prior to filing the registration form for entry in the commercial register, the term for the payment of the contributions, as well as the manner of payment, the type of non-monetary contributions, if the capital is increased through the transfer of non-monetary contributions, additional obligations and other requirements for the increase of the core capital.

(2) Only a resolution to increase the core capital may require persons who have subscribed and made contributions up to the amount of the increase, to make a payment exceeding the nominal value of the part subscribed as well as determine special rights attaching to the new subscribed parts. If the required payment exceeds the nominal value of the subscribed part, the surplus shall be paid prior to filing the registration form for entry of the increase of the core capital in the commercial register.

(3) Where the core capital is increased through the transfer of non-monetary contributions, this shall be explicitly determined in the resolution to increase the core



capital, whereby the term for transferring the non-monetary contributions shall be specified. The non-monetary contributions shall be transferred prior to filing the registration form for entry of the increase of the core capital in the commercial register.

(4) Provisions of this law pertaining to the minimum amount of the contribution, the manner of payment, the maturity of the payment of the contribution, as well as the legal consequences arising from any delay in payment shall also apply to the new contributions.

(5) Where the core capital is increased through the transfer of non-monetary contributions, the provisions referred to in article 35 of this law pertaining to the appraisal of the non-monetary contributions and the liability of the member who makes the non-monetary contribution shall also apply to the new contributions.

#### **Article (256) - Acquiring New Parts by the Members**

(1) The company shall offer the new parts to the existing members and/or to other persons who are not members.

(2) The existing members shall have a pre-emptive right to acquire new parts in proportion to their parts already acquired in the core capital of the company, unless otherwise stipulated by the company agreement or the resolution to increase the core capital.

(3) The manager shall, by registered letter, offer the members the option to acquire parts for an amount corresponding to the increase of the core capital, to which the members are entitled, in accordance with paragraph 2 of this article. If a member, within fifteen days as of the date of delivery of the registered letter, fails to acquire the part, the manager shall offer such part to the other members following the same procedure. If the other members fail to acquire the part within eight days as of the date of delivery of the letter, the manager shall, at his discretion, and in the interests of the company, offer up the part to persons who are not members, unless otherwise specified by the company agreement and/or the resolution to increase the core capital.

(4) The part shall be acquired by a written statement for acquiring the part. In addition to the amount of the part, the statement shall contain information about all other liabilities arising from the company agreement, or the resolution to increase the core capital. If the person acquiring the part is not a member, the statement shall contain his/its consent to become a member and that he/it assumes the rights and liabilities stipulated by the company agreement. The statement shall be certified by a notary.

#### **Article (257) - Entry of the Increase of the Core Capital through an Increase in Subscriptions to the Capital of the Company**

(1) Following the payment of the monetary contributions, or following the transfer of the non-monetary contributions that increase the core capital, in accordance with the resolution to increase the core capital, a registration form for entry of the increase of the core capital shall be filed with the commercial register.

(2) The following shall be enclosed with the registration form for entry:

- 1) the resolution to increase the core capital;
- 2) the statements for acquiring the parts, certified by a notary;

3) the list of persons, who have acquired new parts, signed by the applicant, indicating the amounts of the acquired parts and contributions paid up, the form of payment and the proofs of payment enclosed with the list, as well as the total amount of the contributions if the parts are acquired by existing members of the company;

4) the agreement pursuant to which non-monetary contributions were transferred, in the event that the core capital is increased through the transfer of non-monetary contributions; and

5) documentary ownership evidence, which contains a record of the registration made in the public book for immovable property, and documentary ownership evidence over the movable property if movable property is contributed, which is required to be registered as stipulated by law.

(3) The registration form for entry of the increase of the core capital in the commercial register shall be filed by the manager, or the person authorised by him with a proxy certified by a notary.

(4) The company shall not refer to the increase of the core capital in its business announcements and correspondence prior to the announcement of the entry of the increase of the core capital in the commercial register.

(5) The announcement for the entry of the increase of the core capital shall indicate the content of the entry, and if non-monetary contributions are transferred to the company, the agreements for transferring the non-monetary contributions. It shall suffice to only make a reference in the announcement for the entry to the documents enclosed with the registration form for entry.

#### **Article (258) - Increase of the Core Capital from the Reserves**

(1) The members may adopt a resolution to increase the core capital by converting the reserves into the core capital, having the same effect as a resolution to amend the company agreement. The increase in the parts shall be made in proportion to the already acquired parts of the members.

(2) The members may adopt the resolution to increase the core capital pursuant to paragraph 1 of this article only after having adopted the annual accounts, which shows that the company does not have any current and uncovered losses from previous years, and after having adopted the report by the certified auditor that confirms the facts stated in the annual accounts. If from the date of adopting the annual accounts and the report by the certified auditor, more than eight months have passed prior to filing the registration form for entry of the resolution to increase the core capital in the commercial register, a new report on the balance sheet shall be prepared and an audit shall be conducted by a certified auditor.

(3) The profit and reserves of the company may be used to increase the core capital in accordance with the purposes for which they are intended. In the event that the members decide to increase the core capital of the company from the profit, they shall distribute the profit into reserves, by indicating that it shall be used to increase the core capital, at the time of deciding on the distribution.

(4) The increase of the core capital shall be executed by increasing the nominal values of the existing parts in the company. In such case, the provisions pertaining to article 174, paragraph 4 of this law shall accordingly apply.

(5) The increase of the core capital shall be executed in such manner that the

total amount of the increased subscriptions corresponds to the increased core capital of the company.

(6) The increased parts of the members of the company shall be proportional to those held prior to the increase of the core capital of the company.

(7) The treasury parts acquired by the company shall have an equal share in the increase of the core capital.

(8) Unless otherwise specified by the resolution to increase the core capital, the increased parts shall participate in the profit of the company generated during the entire business year in which the resolution to increase the core capital was passed.

(9) The provision of the resolution to increase the core capital that is contrary to the provisions of this article shall be deemed null and void.

#### **Article (259) - Entry of the Increase of the Core Capital from the Reserves**

(1) The registration form for entry of the increase of the core capital from the company's reserves shall be filed in the commercial register without any delay.

(2) The following shall be enclosed with the registration form:

1) the resolution to increase the core capital by converting the reserves into core capital;

2) the adopted annual accounts, and/or the balance sheet on the basis of which the resolution to increase the core capital was passed, certified by a certified auditor; and

3) a statement by the manager, certified by a notary, stating that as of the day to which the annual accounts and/or the balance sheet refer, until the day of filing the registration form, no changes in the property of the company have occurred that would hinder the adoption of the resolution to increase the core capital.

(3) An entry of the resolution to increase the core capital in the commercial register shall be made provided that the filed annual accounts are not older than eight months calculated as of the last day covered in the annual accounts until the day of filing the registration form for entry of the increase of the core capital in the commercial register.

(4) The accuracy of the annual accounts and its compliance with the law shall not be verified or examined.

(5) When making the entry, it shall be indicated that the core capital has been increased with the assets of the company.

#### **Article (260) - Admission of New Members in a Single Member Company**

(1) In the event that the single member limited liability company admits persons who shall make new contributions and become new members, for the purpose of increasing the core capital, the members shall be obliged to harmonise the organisation and operations of the company with the provisions of this law, pertaining to a company with two or more members.

(2) Following the harmonisation referred to in paragraph 1 of this article, the manager shall be obliged to file a registration form for entry of the executed compliance in the commercial register.

### **Subsection 3 - DECREASE OF THE CORE CAPITAL**

#### **Article (261) - Manners of Decreasing the Core Capital**

(1) The core capital of the company may be decreased only by a resolution to decrease the core capital adopted by the members, having the same effect as a resolution to amend the company agreement. The resolution shall determine the scope and the purpose of the decrease of the core capital, as well as the manner in which the decrease will be executed.

(2) Any decrease of the core capital specified by the company agreement shall be deemed as a decrease of the core capital, regardless of whether the decrease is executed by returning contributions to the members, by decreasing the nominal values of the parts, or by fully, and/or partially exempting the members of the company and/or their legal transferors from the obligation to pay the contributions.

(3) The core capital of the company shall not be decreased below EUR 5,000 in denar counter-value. If the decrease of the core capital is executed by returning the paid contributions and/or by exempting the members from the obligation to pay the contributions in full, the remaining amount of the other contributions in the company may not be decreased below EUR 2,500 in denar counter-value, in which case a resolution to increase the core capital to at least EUR 5,000 in denar counter-value shall be simultaneously adopted.

#### **Article (262) - Entry and Announcement of the Intended Decrease of the Core Capital**

(1) The manager shall file a registration form for the registration of the resolution regarding the intended decrease of the core capital in the commercial register.

(2) The manager shall, immediately following the registration of the resolution regarding the intended decrease of the core capital in the commercial register, publish an announcement for the intended decrease of the core capital in the "Official Gazette of the Republic of Macedonia". The announcement shall state that the company agrees, upon request by any creditor, to settle his/its claims or to provide him/it with security. It shall be deemed that all creditors agree to the intended decrease of the core capital, if no claims have been filed following the expiry of ninety days as of the day of publishing the announcement.

(3) Creditors of whom the company is aware shall be notified in writing.

#### **Article (263) - Entry of the Decrease of the Core Capital**

(1) The registration form for the entry of the resolution to decrease the core capital in the commercial register shall be filed following the expiry of the term set for creditors to file their claims.

(2) The following shall be enclosed with the registration form:

1) a copy of the announcement for the intended decrease of the core capital as published in the "Official Gazette of the Republic of Macedonia";

2) evidence that the company has provided a guarantee to the creditors that

filed claims shall be settled;

3) a statement by the manager that the notification for the intended decrease of the core capital was delivered to all creditors of whom the company was aware and that other creditors did not file any claims, except those whose claims the company had already settled or provided a guarantee that their filed claims would be settled; and

4) a transcript from the register of parts.

(3) If the submitted evidence that the company has settled the claims of creditors or has provided them with a guarantee that the filed claims shall be settled is false, the manager shall be personally liable without limitation with his entire property for the damages caused to the creditors whom he provided with false information, but only for the amount that could not be settled from the property of the company.

(4) The manager who can prove that he was not aware that the evidence and the statements he has given are false, shall not be liable for any damages.

#### **Article (264) - Payment to the Members and Exemption from Obligations**

(1) Payments to members based on the decrease of the core capital shall be allowed following the entry of the resolution to amend the company agreement into the commercial register.

(2) The exemption from the obligation to pay the full amount of the unpaid contributions in relation to the executed decrease of the core capital shall take effect, as of the date of the entry of the resolution to decrease the core capital in the commercial register.

### **SECTION 9 - TERMINATION OF A LIMITED LIABILITY COMPANY**

#### **Article (265) - Grounds for Termination**

(1) The following shall be grounds for terminating the company:

1) the expiry of the period determined by the company agreement;

2) resolution of the members;

3) accession of the company to another company, merger with another company, or division;

4) bankruptcy of the company; and

5) court decision.

(2) The company shall also terminate in other cases stipulated by this and other laws.

(3) The company agreement may also set out other grounds to terminate the company.

(4) In cases of termination of a limited liability company on the basis of items 1, 2 and 5 of paragraph 1 of this article, a liquidation procedure of the company shall be conducted.

### **Article (266) - Grounds for Termination of a Single Member Company**

(1) A single member limited liability company, where the single member is a natural person, shall terminate with the death of that person, provided that following the probate proceedings, the heirs do not request that the company resume its operations.

(2) With respect to the part of the deceased member, the voting right shall be exercised by the joint representative of the legal heirs of the deceased member appointed by a written power of attorney, certified by a notary, until the probate proceedings are completed.

(3) Where the single member is a legal person, the company shall terminate with the termination of that legal person, unless its part is acquired by another person, during the bankruptcy procedure.

### **Article (267) - Resolution by the Members to Terminate the Company**

(1) The Members shall adopt a resolution to terminate the company with at least a three quarters majority of the total number of votes.

(2) Any provision in the company agreement, which is contrary to paragraph 1 of this article, shall be deemed null and void.

### **Article (268) - Termination of the Company on the Basis of a Court Decision**

(1) The court may, by a decision, announce the termination of the company upon a claim by one or more members whose contributions in the company represent at least one-tenth of the core capital, if the attainment of the goal of the company arising from the scope of operations becomes impossible and/or if there are other significant reasons for the termination of the company.

(2) The claim shall be filed against the company within ninety days as of the day of becoming aware of the reasons but not longer than one year as of the day the reason occurred.

### **Article (269) - Entry of the Termination of a Company in the Commercial Register**

(1) The registration form for the entry of the termination of the company in the commercial register, resulting from the expiry of the period for which it has been established and/or due to a resolution by the members to terminate the company shall be filed by the manager without any delay.

(2) If the manager fails to act pursuant to paragraph 1 of this article, he shall be liable personally and without limitation for the damages caused.

(3) After the completion of the liquidation, or bankruptcy procedure, the entry of the deletion of the company shall be registered in the commercial register. The request for entry shall be filed by the liquidator, or the bankruptcy judge. The decision to delete the entry of the company shall be published at the expense of the company. The costs for the entry of the deletion shall be borne by the company.

## CHAPTER FOUR - JOINT STOCK COMPANY

### SECTION 1 - COMMON PROVISIONS

#### Article (270) - Definition

(1) A joint stock company means a company in which shareholders participate with contributions in the charter capital that is divided into shares.

(2) The shareholders shall not be liable for the liabilities of the joint stock company.

(3) Exceptions to the provisions of this law governing joint stock companies shall be allowed only in the manner and under the conditions stipulated by this law and other laws.

#### Article (271) - Business Name

The business name of a joint stock company (hereinafter in chapter four section five: "the company") shall also contain the words "*Akcionersko Drustvo*" (Joint Stock Company), and/or the abbreviation "AD" (JSC).

#### Article (272) - Number of Shareholders

The company may have one or more shareholders.

#### Article (273) - Minimum Nominal Value of the Charter Capital and the Share

(1) When a company is founded simultaneously without a public offering notice to subscribe for shares, the minimum nominal value of the charter capital shall be EUR 25,000 in denar counter value, according to the average exchange rate of the National Bank of the Republic of Macedonia published on the day prior to the date of adoption of the company charter or the resolution to amend the charter capital and when a company is founded successively by way of a public offering notice to subscribe for shares, the minimum nominal value of the charter capital shall be at least EUR 50,000 in denar counter-value.

(2) The nominal value of the share shall not be less than EUR 1, according to the average exchange rate for that respective currency, published by the National Bank of the Republic of Macedonia on the day prior to the date of adoption of the company charter or the resolution to amend the charter capital.

## **SECTION 2 - SHARES**

### **Article (274) - Issue, Transfer and Registration of Shares**

- (1) Shares shall be issued, transferred and maintained in an electronic record form in the Central Securities Depository of the Republic of Macedonia (hereinafter: "Central Securities Depository"), pursuant to the law.
- (2) Shares of a company shall be undividable.

### **Article (275) - Nominal and Issuance Value of Shares**

- (1) Each share shall have a nominal value at which the share is registered.
- (2) Shares issued at an amount below their nominal value shall be null and void. The issuers shall be jointly and severally liable for any damages incurred from the issue of the shares below their nominal value.
- (3) Shares may be issued at an amount greater than their nominal value (issue premium).

### **Article (276) - Split Share and Reverse-Split Share**

- (1) A company may, by amending the charter, split the shares, and simultaneously reduce their nominal value, provided that the charter capital remains unchanged.
- (2) A joint stock company may, by amending the charter, carry out a reverse split of the shares, and simultaneously increase their nominal value, provided that the charter capital remains unchanged.

### **Article (277) - Types and Classes of Shares**

- (1) A company shall issue common shares, and may also issue other shares conferring different rights.
- (2) Shares conferring the same rights shall comprise the same type of shares. Shares may be common or preferred, according to the rights attached to them.
- (3) Preferred shares may consist of several classes and shall not be issued at a nominal value below the nominal value of the common shares. Preferred shares of the same class shall confer identical rights.
- (4) The company may also request special, one-off cash payments for the issue of shares, which confer special rights (preferred shares) at the time of their being issued.

### **Article (278) - Rights Attached to Shares**

- (1) Common shares shall confer the following rights to their owners:
  - 1) the right to vote at the general meeting of shareholders of the company;
  - 2) the right to receive a payment of a portion of the profit (dividend); and
  - 3) the right to receive a payment of a portion of the remainder of the liquidation, or bankruptcy estate of the company.



(2) When attributing the voting rights, preferred shares shall, apart from the rights referred to in paragraph 1 of this article, confer other preferential rights to their owners, such as the right to a dividend for an ex-ante determined pecuniary amount and/or a percentage of the nominal value of the share, the pre-emptive right to a payment of a dividend, the right to a payment of the remainder of the liquidation, or bankruptcy estate, and other rights determined by the company charter and the resolution to issue shares, pursuant to the law. Preferred shares, which do not confer voting rights, shall acquire such rights, if provided for by this law or the charter.

(3) The rights referred to in paragraph 2 of this article may be exercised individually or jointly.

#### **Article (279) - Classes of Preferred Shares**

(1) Preferred shares may be cumulative or participatory.

(2) Cumulative preferred shares shall confer the right to a payment of the accumulated unpaid dividends to its owner prior to any dividend payment to the owners of common shares.

(3) Participatory preferred shares shall, in addition to the determined (fixed) dividend, confer the same dividend right to its owner as that of owners of common shares.

#### **Article (280) - Voting Right**

(1) Each voting share shall confer a right to one vote at the general meeting of shareholders of the company (hereinafter: "the general meeting of shareholders").

(2) Each common share shall confer a voting right at the general meeting shareholders.

(3) Preferred shares may be issued as voting shares or as non-voting shares, in accordance with the provisions of this law. The total nominal value of the preferred non-voting shares shall not exceed 30% of the charter capital of the company. The total nominal value of the preferred shares, including both voting and non-voting shares, shall not exceed the total nominal value of the common shares in the charter capital of the company.

(4) The issue of shares of the same type that confer different voting rights for an identical nominal value at the general meeting of shareholders shall be prohibited.

#### **Article (281) - Shares Free of Charge or Shares Issued at a Preferential Price**

(1) The company charter may provide for the establishment of a fund from which employees may acquire shares free of charge or at a preferential price. The shares that employees may acquire from the fund shall not exceed one-tenth of the charter capital.

(2) The charter shall regulate the organisation and management of the fund of the shares as well as the use and manner of the distribution of assets intended for the employees' shares. In the event that the fund pertaining to paragraph 1 of this article is established, the general meeting of shareholders shall adopt a programme according to which the employees shall acquire shares. The general meeting of shareholders shall

adopt a resolution to issue shares intended for the fund referred to in paragraph 1 of this article as well as for the criteria for their distribution.

(3) The fund may acquire the shares referred to in paragraph 1 of this article from the treasury shares acquired by the company in accordance with this law and/or from shares issued from the assets of the company that exceed the charter capital, from the reserves, and from the accumulated profit, and by a simultaneous increase of the nominal value of the charter capital.

#### **Article (282) - Resolution to Issue Shares**

The resolution to issue shares shall be passed by the general meeting of shareholders of the company by a majority of votes that may not be lower than two-thirds of the voting shares represented at the general meeting of shareholders, unless the charter specifies a greater majority.

#### **Article (283) - Register of Shareholders (Shareholders' Register)**

(1) Shares shall be registered in the register of shareholders of the company (hereinafter: "shareholders' register") maintained in electronic form by the Central Securities Depository by indicating the full name of the shareholder, his unique ID number, passport number or ID number if the shareholder is a foreign natural person and/or the number of any other identification document valid in his country of origin and under his citizenship, as well as his place of residence, or the business name, the registered office, and the registration number, if the shareholder is a legal person, and other information.

(2) Data specified in the resolution to issue shares, all encumbrances related to the shares as determined by law and the charter and the prohibitions declared by a court decision shall also be registered in the shareholders' register.

(3) Each person registered in the register of shareholders in the manner prescribed by law shall be deemed to be a shareholder of the company.

(4) The initial entry and the entry of shares issued in the course of an increase of the charter capital, in the register of shareholders shall be carried out upon the company's order. Changes in the register of shareholders shall be executed pursuant to the transfer of the shares by trading on the Stock Exchange or according to the transfer carried out in another manner allowed by law.

(5) Upon a request of the company, the Central Securities Depository shall notify the company of the changes made to the register of shareholders.

(6) Each shareholder shall be entitled, upon request, to inspect all data registered in the register of shareholders' of the company in which he/it is a shareholder. Access shall be enabled by the Central Securities Depository. A shareholder requesting urgent access to the shareholders' register, shall be granted access within a period of not longer than one working day as of the day of the request for access, submitted in writing. In all other cases, the shareholder requesting access to the shareholders' register shall specify the day of the intended inspection. Data obtained from the inspection shall be used exclusively for the purpose of exercising the shareholders' rights.

## **Article (284) - Issue of Other Securities and Financial Derivatives**

(1) Pursuant to the law and the charter, the company may issue convertible bonds, up to the amount of the charter capital, that confer the right to exchange such bonds for shares to creditors while the bond is valid, during a determined option period or at any time, bonds that confer a pre-emptive right to buy shares issued by the company as well as other types of bonds. Bonds may be issued at an amount greater than the amount of the charter capital, only if the issue of the bonds is secured in its entirety by the company's assets and/or through any other manner.

(2) Shareholders shall have a pre-emptive right to acquire the bonds referred to in paragraph 1 of this article.

(3) Bonds shall be purchased with cash.

(4) The provisions of this law pertaining to the pre-emptive right to the subscription of newly issued shares, shall accordingly apply to the exercise of the pre-emptive right to subscribe to the newly issued convertible bonds.

(5) The company may, in accordance with the law, enter into option agreements for the sale and purchase of shares and bonds, as well as futures contracts, in a manner and under the terms stipulated by the charter.

(6) The charter shall determine the manner and terms under which the company issues the securities, enters into the option agreements for the sale and purchase of the shares and bonds and enters into futures contracts.

## **SECTION 3 - FOUNDING AND ENTRY OF THE COMPANY**

### **Subsection 1 - COMMON PROVISIONS**

#### **Article (285) - Founders**

(1) The company may be founded by one or more persons.

(2) Persons who have signed the charter shall be deemed to be founders of the company.

(3) Founders shall have their signatures on the charter certified by a notary.

(4)

#### **Article (286) - Manner of Founding**

(1) The founders shall found the company simultaneously or successively.

(2) The company shall be deemed to be founded upon its entry in the commercial register.

#### **Article (287) - Charter Content**

(1) The charter shall contain provisions on:

1) the business name and the registered office of the company;

2) the scope of operations of the company;

3) the amount of the charter capital;

4) the nominal value of the shares, the number of shares of each type and class and the rights, liabilities, limitations and privileges attached to them;

5) the duration of the company, if the company is founded for a definite period;

6) the privileges that the founders retain for themselves;

7) the procedure for calling and convening the general meeting of shareholders;

8) the full name of the founder, the unique ID number, the passport number or the ID number if the founder is a foreign natural person and/or the number of any other identification document valid in his country of origin and under his citizenship, as well as his place of residence, or the business name, the registered office and the registration number, if the founder is a legal person;

9) the type, composition and manner of election of the management body and the supervisory board and their competencies;

10) the full name of the first members of the management body or the supervisory board, their unique ID number, the passport number or the ID number for a foreign natural person or the number of any other identification document valid in their country of origin, and under their citizenship, as well as the place of residence, or the business name, the registered office, the registration number, if the first members of the management body, or the supervisory board are appointed by the company charter; and

11) the form and the manner of announcements of the company.

(2) In addition to the provisions referred to in paragraph 1 of this article, the charter shall contain other provisions pertaining to issues that, pursuant to this law, shall be regulated by the charter.

(3) In addition to the provisions pertaining to paragraphs 1 and 2 of this article, the charter may contain other provisions of importance for the company, unless such provisions are prohibited by law.

(4) Other issues of importance for the company, which are not regulated by the charter, may be regulated by other company by-laws, pursuant to this law.

#### **Article (288) - Relation between the Law, the Charter and the By-Laws**

(1) Any provision of the charter and/or of a company by-law that is contrary to the provisions of this law shall be null and void.

(2) If a provision of a company by-law is not in compliance with the charter, the provisions of the charter shall apply.

#### **Article (289) - Special Privileges of the Founders and Founding-Related Costs**

(1) Any special privilege of the founders and third parties shall be stipulated by the charter.

(2) The total amount of the costs which are refunded to the founders and/or to third parties at the expense of the company as well as bonuses for the founding and/or the participation in the preparation for founding of the company shall be stipulated by the company charter.

(3) If special privileges, costs and/or bonuses referred to in paragraphs 1 and 2 of this article are not stipulated by the charter, the agreements and the legal

transactions that confer such privileges and/or which refer to the refunding of the costs or bonuses, shall have no legal effect as against the company.

(4) Following the registration of the company in the commercial register, the nullity of the agreements or the legal transactions referred to in paragraph 3 of this article may not be eliminated by amending the company charter.

#### **Article (290) - Payment of Shares**

(1) Issued shares may be paid in cash, by transferring non-monetary contributions or both.

(2) Where the shares are paid for in cash, such payments shall be transferred to a temporary bank account of the founders.

(3) In the event that the contributions are paid in cash prior to the filing of the registration form for entry of the company in the commercial register, at least 25 % of the nominal value of each share shall be paid, and if the share is issued at an amount greater than its nominal value, the amount exceeding its nominal value shall also be paid in full. The payment of the remaining amount shall be effected in one or more instalments pursuant to the resolution to issue the shares, within a term of not longer than three years as of the date of entry of the company in the commercial register, unless the law stipulates a shorter term. Prior to filing the registration form for entry, the total amount of all payments in cash shall not be less than EUR 12,500, or EUR 25,000 in denar counter-value.

(4) If the share is partially paid in cash, and partially by making a non-monetary contribution, the portion paid in cash shall be paid in full, prior to filing the registration form for entry of the company in the commercial register.

#### **Article (291) - Non-Monetary Contributions and Transfer of Non-Monetary Contributions**

(1) Prior to filing the registration form for entry of the founding of the company, the non-monetary contribution shall be made in full. If, at the moment of filing the registration form for entry of the founding of the company, the value of the non-monetary contribution does not correspond to the amount of the subscribed shares, the shareholder shall pay the difference in cash prior to the entry of the founding of the company in the commercial register.

(2) The transfer of non-monetary contributions in full shall be effected so as to enable the company to freely dispose of the non-monetary contributions as of the date of entry of the founding of the company in the commercial register.

(3) Subscriptions by way of non-monetary contributions in exchange for shares shall be effected pursuant to the agreement for acquiring shares.

(4) In the event that the transfer of the non-monetary contribution of the founder consists of an obligation of the founder to transfer an object to the company, such transfer shall be executed no later than five years as of the date of entry of the company in the commercial register. The right to a lien pertaining to a claim that does not refer to the non-monetary contribution shall not be exercised over the non-monetary contribution in question transferred to the company. The appraised value of the non-monetary contribution to be made shall correspond to the nominal value of the

shares, and if the shares are issued at an amount greater than their nominal value, the appraised value of the non-monetary contribution shall correspond to such greater amount.

(5) In the event that the person referred to in paragraph 4 of this article fails to fulfil the obligation set out at paragraph 4 of this article, he shall be obliged to pay the value of the object for which the obligation for transfer as a non-monetary contribution to the company was assumed.

(6) Where the charter or the resolution to issue shares stipulates that the shares acquired by the shareholders, fully or partially, shall not be paid in cash, but by transferring existing and/or future non-monetary contributions, the charter shall determine the non-monetary contributions to be transferred, the persons who are to transfer the non-monetary contributions to the company and the nominal value of the shares to be granted in consideration of the contributions transferred and/or the compensation to be granted in consideration of the non-monetary contributions transferred, which shall be deemed as a part thereof.

(7) Agreements to transfer non-monetary contributions and related legal transactions shall have no effect against the company, if they are not determined pursuant to the provisions referred to in paragraph 3 of this article. If the company is registered in the commercial register, agreements and transactions having no legal effect against the company shall not affect the validity of the charter. If the agreement to transfer non-monetary contributions has no legal effect against the company, the shareholder shall be obliged to pay the total nominal value of the shares and/or the greater amount at which they have been issued in cash.

(8) Following the entry of the company in the commercial register, the nullity of the agreement or the legal transactions referred to in paragraph 7 of this article shall not be eliminated by amending the company charter.

(9) The value of the non-monetary contribution transferred in exchange for shares shall be determined by an appraisal report, prepared by an authorised appraiser, pursuant to article 35 of this law.

### **Article (292) - Prohibitions during the Payment of Shares**

(1) The payment of issued shares and other securities in the form of labour and/or services, including services and/or labour already effected, shall be contrary to this law.

(2) The company shall not lend money and/or provide financial assistance to the subscriber of shares, in any other manner, during the payment of such shares.

## **Subsection 2 - SIMULTANEOUS FOUNDING**

### **Article (293) - Definition**

(1) The company may be founded by way of the founders themselves and/or together with other persons acquiring all the shares and signing the charter, without a public notice.

(2) The founders shall acquire the shares pursuant to a written statement stating that they are the founders of the company and that they assume the obligation

to pay up the shares. The statement may be enclosed with the charter or may be comprised within the charter, which is signed by the founders. The statement shall state the person(s) who acquired the shares, the number and the type of shares acquired by the person(s) and their nominal value, and shall designate the manner, time and the place for the payment of the shares.

#### **Article (294) - Appointing the First Members of the Board of Directors or the Supervisory Board**

(1) The founders shall, pursuant to the company charter, appoint the members of the first board of directors, or the members of the first supervisory board.

(2) The first members of the board of directors, or the supervisory board shall be appointed for a period up until, but no longer, than the time of convening the first annual meeting of shareholders.

#### **Article (295) - Report on the Founding Operations (Founding Report)**

(1) The founders shall prepare a written report on the founding operations of the company (hereinafter: "founding report").

(2) The founding report shall set out the main operations relating to the company's founding. It shall particularly indicate:

1) the amount of the monetary contributions paid up and/or the value of the non-monetary contributions transferred;

2) the legal agreements pursuant to which the company acquired non-monetary contributions;

3) the procurement and/or the production costs related to the non-monetary contributions transferred during the course of the last three years;

4) in the event that a business activity was invested in the company, its declared profit for the last three years, or in the event that the business has been established for a period shorter than three years, such profit as presented in the annual accounts of the preceding business year, audited by a certified auditor;

5) the number of shares acquired during the course of the founding on behalf of a member of the management body, or the supervisory board; and

6) whether and in which manner a member of the management body or the supervisory board has been allocated privileges or reimbursement and/or remuneration for participation in the company's founding.

#### **Article (296) - Disputes relating to the Founding Report and Audit Report on the Founding**

(1) If a dispute arises during the founding of the company, and/or with respect to the founding report, each founder, subscriber and the person acquiring the shares shall be entitled to request an audit of the founding, and particularly of the data stated in founding report.

(2) The audit referred to in paragraph 1 of this article shall be carried out by a certified auditor. The auditor may require the founders to provide clarification and facts necessary for carrying out the audit.

(3) The certified auditor shall verify the data provided by the founders with respect to the shares acquired pursuant to the transfer of the non-monetary contributions, whether the total nominal value of the acquired shares corresponds to the appraised value of the non-monetary contributions transferred, as well as whether the company may freely dispose of the non-monetary contributions.

(4) The certified auditor shall submit an audit report on the founding, stating his findings and conclusions therein. The auditor shall be materially and criminally liable for the accuracy, thoroughness and compliance of data, subject to the audit, with the law, other regulations and international auditing standards, as well as for the verification of the appraised value of the non-monetary contributions transferred and that their appraised value is not substantially lower than the nominal values of the shares given in exchange, and that the company may freely dispose of the non-monetary contributions transferred.

(5) The audit-related costs shall be borne by the person requesting the audit.

#### **Article (297) - Registration Form for Entry**

(1) The founding of the company shall be registered in the commercial register.

(2) The registration form for entry shall be filed with the court by the management body, or by an authorised member of the management body, unless otherwise stipulated by this law.

(3) Persons referred to in paragraph 2 of this article shall be personally, jointly and severally liable to the founders for the oversight and the detrimental consequences arising from an untimely filing of the registration form for entry.

#### **Article (298) - Data Subject to Entry**

(1) The following data shall be entered in the commercial register:

- 1) the business name and the registered office of the company;
- 2) the scope of operations of the company;
- 3) the amount of the charter capital and the number of the issued shares;
- 4) the total number of shares paid up;
- 5) the full name, the unique ID number, passport number or the ID number

if the founder is a foreign natural person and/or the number of any other identification document valid in his country of origin and under his citizenship, as well as his place of residence, or the business name, the registered office and registration number, if the founder is a legal person;

6) the full name of all members of the management body and the supervisory board, their unique ID number, passport number or the ID number if the member is a foreign natural person and/or the number of any other identification document which is valid in his country of origin and under his citizenship, as well as his place of residence, or the business name, the registered office and registration number if a member of these bodies is a legal person;

7) the duration of the company, if it is founded for a definite period; and

8) the authorisations for representation of the members of the management body and other persons, authorised to represent the company.



(2) Each change of data referred to in paragraph 1 of this article, except the data pertaining to paragraph 1, item 5 of this article, shall be entered in the commercial register.

(3) The following shall be enclosed with the registration form:

- 1) the charter;
- 2) a copy of the passport and/or copy of the ID for a foreign natural person and/or of any other identification document valid in his country of origin and under his citizenship or a proof of registration if the founder is a legal person;
- 3) proof of the amount paid issued by the bank into which the payment of the shares was transferred;
- 4) in the event that shares are subscribed for through the transfer of non-monetary contributions, the agreements pursuant to which such non-monetary contributions are determined and transferred, the appraisal report and documentary ownership evidence containing a record of the registration made in the public register of immovable property, and documentary ownership evidence of movable property in case movable property is contributed the obligation for registration of which is stipulated by law;
- 5) the resolutions for election of the members of the management body, or the supervisory board if they are not appointed by the charter;
- 6) the agreements specifying and granting special privileges, if during the founding, such privileges were granted;
- 7) the calculation of the founding related costs, by indicating individual items and the total costs;
- 8) the founding report and the audit report on the founding, if such report has been prepared; and
- 9) a license and/or any other document issued by a state body and/or other competent body, if such obligation is stipulated by law as regards the registration of the company in the commercial register;
- 10) a statement from the legally authorised representative of a legal person, or a statement from a natural person, certified by a notary, or proof that there is no obstacle for the person to be a founder of the company pursuant to article 29 of this law and;
- 11) a statement pursuant to article 32 of this law.

(4) The executive members of the board of directors or the members of the management board, as well as other persons authorised by the charter to represent the company shall submit certified signatures, pursuant to article 65, paragraphs 2 and 3 of this law.

(5) The founders of the company shall be liable for the reliability, accuracy and validity of the data stated in the registration form and for the enclosures to the registration form for entry of the founding of the company in the commercial register set out by this law.

### **Article (299) - Liability of the Founders**

(1) Founders of the company shall be jointly and severally liable for the damages suffered by the company and the creditors due to illegal activities, false and/or incomplete data related to the founding of the company, or data contained in the founding report and entered in the commercial register, and/or contained in the enclosures, which are enclosed with the registration form for entry of the founding of the company in the commercial register, pursuant to this law.

(2) The founders may not rely on their being unaware of the discrepancy in the data, if they have signed the statement referred to in article 32 of this law.

(3) The founders shall be obliged to jointly indemnify the damage if they caused the damages pursuant to the transfer of non-monetary contributions and/or they incurred unjustified founding-related costs. The founder, who acted with due care and diligence shall not be liable for damages.

(4) In addition to the founders, the persons on behalf of whom the founders have acquired the shares shall be equally liable for the damage. Those persons may not rely on their being unaware of the circumstances, of which the founders acting on their behalf were aware or must have been aware.

### **Article (300) - Liability of Other Persons**

In addition to the founders and the persons on behalf of whom the founders have acquired the shares, the following persons shall be obliged to jointly indemnify the damages caused to the company:

1) any party who received payment, which is contrary to the law and is not determined to be a founding-related cost, and who knew or, in view of the circumstances, must have known that it was a case of intentional concealment and/or who participated in such concealment with full knowledge;

2) the party who, intentionally and/or due to gross negligence, caused damages to the company and/or enabled the damage to be caused pursuant to the transfer of non-monetary contributions; and

3) the party who, prior to the entry of the company in the commercial register or in the first two years following such entry, publicly announces that he/it will release outstanding shares, although he/it was aware and/or should have been aware of the inaccuracy and the incompleteness of the data pertaining to the founding of the company if he/it had acted with due care and diligence, and/or of the damages caused to the company pursuant to the transfer of non-monetary contributions.

### **Article (301) - Liability for False Statements**

(1) The founders and/or other persons who gave false statements during the founding of the company shall be jointly and severally liable to the company. If the false statement refers to the amount paid up, such liability shall also include an obligation to pay to the company the difference between the amount subscribed and the amount paid.

(2) If the false statement refers to founding related costs, such liability shall include the obligation to pay and/or to compensate to the company all costs that

exceed the costs stated in the founding report.

(3) The company may not waive the right to the receivables under this article and/or offer any other form of agreement, if the collection of these receivables is necessary for the settlement of the claims of the company's creditors, unless the creditors agree to a different solution.

#### **Article (302) - Prohibition against the Issue of Shares**

(1) Shares may not be issued, prior to the entry of the founding of the company in the commercial register.

(2) Actions undertaken contrary to paragraph 1 of this article shall be null and void.

(3) Persons acting contrary to the provision referred to in paragraph 1 of this article shall be obliged to compensate for the damages incurred.

### **Subsection 3 - SUCCESSIVE FOUNDING**

#### **Article (303) - Definition**

(1) A company may be founded by way of the founders adopting the charter, subscribing for a certain number of shares, and announcing a public notice for the subscription of shares.

(2) The shares that are not subscribed on the basis of a public notice shall be acquired and paid up by accordingly applying the provisions of this law that pertain to the acquisition of shares in case of a simultaneous founding of a company.

#### **Article (304) - Public Notice**

(1) The public notice for the subscription of shares shall be prepared pursuant to the provisions of the charter adopted by the founders.

(2) The public notice for the subscription of shares shall, in addition to the business name, registered office and the scope of operations, contain the following data:

1) the date of adoption of the charter, on the basis of which the public notice is announced;

2) the amount of the charter capital;

3) the non-monetary contributions;

4) the number, the type, and if more than one type or class of share are being offered up for subscription, all types and classes of shares offered up for subscription, their nominal value and sale price, as well as the number and type, or the classes of shares that were acquired without subscription and the rights attached to the issued shares, as well as the privileges, limitations and other conditions relative to the type and the class of the issued shares;

5) the full name of each founder, the unique ID number, passport number or the ID number if the founder is a foreign natural person and/or the number of any other identification document valid in his country of origin and under his citizenship, as well as his place of residence, or the business name, the registered office and the

registration number if the founder is a legal person;

6) the registered office of the bank where the shares shall be subscribed and a reference to the possibility to review the charter, the prospectus, and depending on the case, the founding report and the audit report on the founding, if such report has been prepared pursuant to this law, upon request by the founders or other persons;

7) the date of commencement and completion of the subscription of the shares;

8) the date as of which the subscriber's obligation shall cease if the entry of the founding of the company in the commercial register failed;

9) the date on which the subscribed shares should be paid up and the portion of the subscribed shares that should be paid up prior to the entry of the company in the commercial register, or the date on which the subscription of the shares shall be deemed successful, as well as the consequences arising from the failure to pay the instalments in full and in a timely manner;

10) the data pertaining to any special privileges;

11) the costs incurred during the founding of the company, any special payments or remuneration and bonuses, and the maximum costs that may be paid in case of the unsuccessful founding of the company;

12) the manner of calling the founding meeting of shareholders; and

13) the maximum amount of the founding-related costs, which should be borne by the company.

(3) The public notice may also contain other data relevant for the issue and sale of shares.

(4) The public notice shall be deemed null and void if it does not contain the data referred to in paragraph 2 of this article and/or if it contains data that restrict the rights of a subscriber of shares. A subscriber of shares may not call upon the fact that he/it is not bound by the subscription of shares and/or upon the nullity of the public notice, if the company has been entered in the commercial register, and he/it voted at the founding meeting of shareholders, and/or subsequently exercised a right within the company as a shareholder and/or fulfilled an obligation towards the company. A restriction that is not stated in the public notice shall have no legal effect as against the company.

(5) Data pertaining to the founding and other information relating to the company shall be set out in a prospectus, which shall be enclosed with the public notice.

(6) The primary issue of shares shall be deemed successful if the percentage of issued shares stipulated by the public notice is subscribed, which shall not be less than the amount stipulated by this law as a prerequisite for a successive founding of a joint stock company.

### **Article (305) - Subscription Form**

(1) Each subscriber shall sign three copies of the statement on the subscription of the shares (subscription form), including one copy for himself/itself and two copies for the company. If the subscription is carried out through a proxy, the power of attorney shall be enclosed with the subscription forms that remain with the company.

(2) The subscription form shall contain the following information:

1) the number, type and class of the subscribed shares, their nominal value, and, if necessary, the issue value;

2) a statement of the subscriber that he/it undertakes to pay the share in accordance with the terms stipulated by the public notice;

3) the pecuniary amount the subscriber shall pay upon subscription;

4) a statement of the subscriber that he/it is familiar with the charter and the public notice, or the prospectus, the founding report, the audit report on the founding, if such report has been prepared pursuant to this law, upon request by the founders or other persons, and that he/it approves the charter and the manner in which the company was founded;

5) the subscriber's signature and an indication of the subscriber's full name, or the full name of the subscriber's proxy, the unique ID number, the passport number or the ID number if the subscriber is a foreign natural person and/or the number of any other identification document valid in his country of origin and under his citizenship, as well as his place of residence, or the business name, the registered office and the registration number if the subscriber is a legal person;

6) evidence issued by the bank where the subscription and the payment were, or shall be transferred, as well as the receipt issued for the received payment.

(3) The subscription form shall have a binding effect as against the subscriber only if the company is founded.

(4) The subscription form shall be deemed null and void if it does not contain all data referred to in paragraph 2 of this article and if, contrary to the law, it restricts the liability assumed by the subscriber.

### **Article (306) - Term for Subscription and Unsuccessful Subscription of Shares**

(1) The term for subscription of shares shall not be longer than ninety days as of the date of commencement of the subscription.

(2) If, within the term referred to in paragraph 1 of this article, all shares offered for subscription are not subscribed and duly paid up in accordance with the public notice, the founders may, within fifteen days following the expiry of the term for subscription, subscribe for and/or acquire the unsubscribed and unpaid shares. In such case, the term for the distribution of the shares shall be fifteen days as of the expiry of the term previously referred to.

(3) If, within the term referred to in paragraph 2 of this article, the founders fail to acquire and/or subscribe and pay up the shares offered for subscription in accordance with the conditions specified in the public notice, the founding shall be deemed unsuccessful, and the founders shall be obliged, within the next fifteen days, to call the subscribers to withdraw their paid amounts by an announcement. The

announcement shall be published in the same manner as the announcement of the public notice.

#### **Article (307) - Distribution of Subscribed Shares**

(1) If shares are subscribed in such manner that the founding is deemed successful, the founders shall, within fifteen days following the expiry of the term for subscription of the shares as set out in the public notice, distribute the shares to the subscribers.

(2) A complete list of the shares shall be made available to the subscribers for inspection at each location where the subscription is made, indicating how many shares of each type have been subscribed, as well as how many shares of each type have been distributed to each subscriber. The list shall also contain an invitation for the subscribers to whom a single share has not been assigned and/or to whom subscribed shares have not been distributed, to withdraw the paid amounts corresponding to shares, which have not been distributed.

#### **Article (308) - Untimely Payments**

(1) If an obligation for payment that matures prior to the entry of the company in the commercial register is not executed in a timely manner, the founders may declare the acquisition, or the further subscription of shares as invalid and the shares may be thereupon acquired or subscribed by themselves or by a third party.

(2) The payments executed by the former subscriber and/or by the person that acquired the shares unsuccessfully shall be refunded, as decreased by the costs incurred by the company due to the unsuccessful subscription of the shares referred to in paragraph 1 of this article, according to the procedure stipulated by the public notice.

#### **Article (309) - Use of the Amounts Paid**

(1) The founders shall not use the amounts paid for the shares. The management body may use the amounts paid following the entry of the company's founding in the commercial register.

(2) Special remuneration, refunds and bonuses shall not be paid out from the charter capital.

#### **Article (310) - Calling the Founding Meeting of Shareholders**

(1) The founding meeting of shareholders shall be convened not later than sixty days following the expiry of the term for the subscription of shares specified by the public notice, unless the subscription of shares is completed within a term shorter than the one specified for the subscription of the shares. The founders shall call the founding meeting of shareholders by way of a public notice that has to be published in the same manner as the public notice for the subscription of the shares. At least fifteen days shall pass between the day of the last publication of the public notice and the day of convening of founding meeting of shareholders.

(2) The founders shall be obliged, within the term referred to in paragraph 1

of this article, to enable the subscribers whose shares have been distributed by the bank at which the shares were subscribed to inspect the company charter, the founding report, the public notice, the list of the subscription forms, the founders' report on the founding-related costs, the list of the share distribution and the list of the persons who have acquired shares without subscription on the basis of the public notice, by indicating the number and the type of the shares each of them acquired, as well as the audit report on the founding, if such report was prepared upon request by the founders or other parties.

(3) The court which has territorial jurisdiction over the area where the registered office of the company is located, may, upon request of the founders and due to justified reasons, extend the term for convening the founding meeting of shareholders for thirty days.

(4) The provisions of this law pertaining to the general meeting of shareholders shall respectively apply to the convening of the founding meeting of shareholders, unless otherwise stipulated by this law.

#### **Article (311) - Consequences of Failure to Convene the Founding Meeting of Shareholders**

(1) If the founding meeting of shareholders is not convened within the stipulated term, the founding of the company shall be deemed as unsuccessful.

(2) The founders shall, within fifteen days following the expiry of the term for convening the founding meeting of shareholders, call the subscribers of shares to withdraw their payments by an announcement, published in the same manner as the public notice.

(3) If the founders fail to act pursuant to paragraph 2 of this article, the announcement shall be published by the court, upon proposal by any of the subscribers of shares, and at the expense of the founders.

#### **Article (312) - Requirements for Valid Decision-Making at the Founding Meeting of Shareholders**

(1) The founding meeting of shareholders shall be convened at the company's registered office, unless the public notice specifies another location.

(2) The founders and subscribers of shares possessing the majority of the shares shall be present at the founding meeting of shareholders, and if the company has issued shares of more than one type, the founders and subscribers of shares, possessing the majority of each type of shares, shall also be present.

(3) The founding meeting of shareholders shall be opened by a notary, previously appointed by the founders. The notary shall compile a list of all present founders and subscribers of shares, or their proxy representatives, and shall determine whether all requirements for convening the founding meeting of shareholders have been met.

(4) If the requirements set out at paragraph 2 of this article are not met at the founding meeting of shareholders, and if the court has not extended the term for convening the founding meeting of shareholders pursuant to article 310, paragraph 3 of this law, the founders may re-call the meeting not later than fifteen days as of the date

the non-convened founding meeting of shareholders was supposed to have been convened. Not less than eight days and no more than fifteen days shall pass between the date on which the founding meeting of shareholders is re-called and the date of its convening. The re-called meeting shall operate and pass resolutions pursuant to the quorum determined in paragraph 2 of this article.

#### **Article (313) - Course of the Founding Meeting of Shareholders**

(1) The chairman of the founding meeting of shareholders and two vote counters shall be elected following the opening of the founding meeting of shareholders. Subsequently and upon request of the founders or other parties, the founding report and the audit report on the founding, if prepared pursuant to this law, shall be read out. The enclosures of the aforementioned reports shall be read only if requested by the present and represented founders and subscribers of shares, possessing at least one-tenth of the total number of the voting shares.

(2) The notary shall keep the minutes from the founding meeting of shareholders. In addition to the notary, the chairman of the founding meeting of shareholders and the vote counters shall also sign the minutes.

#### **Article (314) - Competencies of the Founding Meeting of Shareholders**

The founding meeting of shareholders shall:

1) adopt the company's founding report and the audit report on the founding, if such report has been prepared;

2) determine whether all shares have been subscribed, acquired and distributed, whether all contributions, which under the law and the company charter had to be made prior to the convening of the founding meeting of shareholders, have been made and whether the company may freely use all contributions following the entry in the commercial register;

3) determine the amount of the founding-related costs that shall be borne by the company; and

4) elect the company's bodies, which pursuant to the law and the charter, shall be elected by the general meeting of shareholders, unless they are appointed by the company charter, pursuant to this law.

#### **Article (315) - Voting at the Founding Meeting of Shareholders**

(1) Each share shall confer the right to one vote at the founding meeting of shareholders, except for the case of election of the board of directors or the supervisory board, for which only voting shares shall confer the right to vote.

(2) The votes shall, with respect to the issues referred to in article 314, item 2, of this law pertaining to non-monetary contributions, be exercised separately for each non-monetary contribution. The founders and the subscribers of shares shall not be entitled to vote with respect to the non-monetary contributions. The founders shall also not be entitled to vote with respect to the issues referred to in article 314, items 1 and 3, of this law.

(3) The founding meeting of shareholders shall pass resolutions with a



majority of votes of the quorum determined in article 312, paragraph 2, of this law, excluding the shares represented at the founding meeting of shareholders which, pursuant to paragraph 2 of this article, are excluded from the voting.

(4) Notwithstanding paragraph 3 of this article, the election of the board of directors or the supervisory board shall be carried out by a majority of the present founders and subscribers of voting shares, provided that the majority of founders and subscribers of voting shares are present at the founding meeting of shareholders.

(5) Amendments to the provisions of the charter pertaining to article 287, paragraph 1 of this law, shall be adopted by a unanimous consent of all founders and subscribers of shares.

### **Article (316) - Application Form and Data for Entry**

(1) The registration form for entry of the successive founding of the company in the commercial register shall be filed in the manner and under the terms referred to in article 297 of this law.

(2) The data set out at article 298, paragraph 1, of this law shall be entered in the commercial register. Each change of the entered data, except the data referred to in article 298, paragraph 1, item 5 of this law, shall be entered in the commercial register.

(3) The following shall be enclosed with the application form:

1) the charter;

2) a copy of the passport or the ID for foreign natural persons or of any other identification document valid in their country of origin, or evidence of registration if the founder is a legal person;

3) evidence of the paid amount issued by the bank where the payment of the shares was transferred, the appraiser's report and documentary ownership evidence containing a record of the registration in the public book for registering immovable property if the non-monetary contribution is immovable property; documentary ownership evidence of a movable property in case movable property, the obligation for registration of which is stipulated by law, is contributed and a copy of the prospectus on the basis of which the total or part of the charter capital was subscribed;

4) the minutes of the founding meeting of shareholders, the invitation thereof, and the list of participants;

5) the resolutions on election of the members of the management body, or of the supervisory board, if they are not appointed by the charter;

6) the founding report and the audit report on the founding, if such report was prepared upon request by the founders or other persons, pursuant to this law;

7) the agreements pursuant to which non-monetary contributions are determined or transferred, if non-monetary contributions are transferred in the course of founding;

8) a license or other document of a state body or other competent body, if such obligation is stipulated by law for entry of the company in the commercial register;

9) a statement of a legally authorised representative of a legal person, or statement of a natural person, certified by a notary, or submitted evidence that there is no obstacle for such person to be a founder of the company pursuant to article 29 of this

law; and

10) a statement pursuant to article 32 of this law.

(4) The executive members of the board of directors or the members of the management board, as well as other persons authorised by the charter to represent the company shall submit certified signatures, pursuant to article 65, paragraphs 2 and 3 of this law.

(5) The founders of the company shall be liable for the reliability, accuracy and validity of the data stated in the registration form and for the enclosures of the registration form for entry of the founding of the company stipulated by this law.

#### **Article (317) - Appropriate Application of Other Provisions to the Successive Founding**

(1) The provisions referred to in article 296, paragraph 4, 299, 300, and 301 of this law shall respectively apply to the liability for damages caused during the founding procedure and, or to the liability of the founders and the members of the management body and the supervisory board, the liability of other persons and the liability for giving false statements.

(2) The provisions referred to in article 23 shall apply to the actions undertaken on behalf of the company prior to its entry in the commercial register.

### **SECTION 4 - BY-LAWS, DOCUMENTS AND INFORMING THE SHAREHOLDERS**

#### **Article (318) - Manner of Publishing Data and Reports**

Unless otherwise stipulated by this law, the management body shall determine the manner of publishing the data and reports which, pursuant to the company charter, have to be mandatorily published in the company's bulletin, in a daily newspaper, on the Internet or in another manner and shall determine the data and reports which are published and which are considered significant for the shareholders and the company.

#### **Article (319) - By-Laws and Documents Required to Be Kept**

The company shall keep the following by-laws and documents, in its registered office:

1) the charter and the other by-laws and all amendments thereto along with the consolidated texts;

2) the minutes and all other documents pertaining to all the general meetings of shareholders;

3) the minutes and the resolutions pertaining to the meetings of the management body and the supervisory board;

4) the annual accounts and other financial statements required to be kept pursuant to the law;

5) all enclosures (documentary ownership evidence and proofs) submitted

to the commercial register;

6) all public notices and prospectuses for the issue of shares and other securities of the company;

7) all written communication of the company with the company's shareholders;

8) an updated list of the full names and addresses of all elected members of the management body and of the supervisory board;

9) documents pertaining to pledges and mortgages;

10) the reports of the certified auditor and of the authorised appraiser;

11) the ballot-papers and proxies for participation in the general meeting of shareholders in an original or copy form;

12) the company's collective agreement; and

13) the by-laws, regulations and documents as determined by law and the charter.

### **Article (320) - Right to Information**

(1) Each shareholder shall be entitled to inspect the by-laws, regulations and the documents of the company referred to in article 319 of this law, at the company's registered office in the manner stipulated by the company charter.

(2) The shareholders shall exercise their right to be informed about the minutes and the resolutions of the meetings of the management bodies through the non-executive members of the board of directors and/or the supervisory board.

(3) The company may require the shareholder, requesting inspection, to provide advance notice for the inspection within a term of not longer than three days prior to the date of the intended inspection. The company may require the shareholder to cover the cost of the requested copies, which may not be higher than the administrative cost thereof.

(4) In the event that the company does not allow the shareholder to carry out the inspection and copy the by-laws, regulations and documents, the shareholder may submit a proposal to the court in order to obtain access to the by-laws, regulations and documents. The proposal shall indicate the by-laws, regulations and documents that the shareholder wishes to inspect or receive, as well as the form in which the by-laws, regulations or the documents should be delivered.

(5) The court shall, within eight days as of the submission of the proposal, reach a decision, obliging the company to allow the shareholder who submitted the proposal to inspect the by-laws and the documents to which the proposal pertains and/or to supply the shareholder with a transcript of the by-laws, regulations and documents, at the expense of the company.

(6) The shareholder shall not publicly announce and/or present such information, unless the shareholder presents it to other shareholders when exercising certain rights as determined by law, the company charter and/or company by-laws and regulations, before a competent body and/or in the event the information has already been publicly announced.

## **SECTION 5 - LEGAL RELATIONS BETWEEN THE COMPANY AND ITS SHAREHOLDERS**

### **Article (321) - Principle of Equal Treatment of Shareholders**

(1) The shareholders shall, under equal conditions, have equal status in the company.

(2) Each agreement entered into and/or any other legal activity undertaken by any shareholder, which infringes the rights and interests of other shareholders, shall be null and void, unless all shareholders provide their consent to such agreement or legal activity.

### **Article (322) - Basic Obligations of the Shareholder**

(1) The shareholder shall be obliged to pay the nominal value of the share to the company, as well as the premium if the share is issued at a premium and to transfer the non-monetary contribution, if the share is acquired on the basis of a non-monetary contribution.

(2) The terms for payment of shares that the shareholders have subscribed for but not paid shall be equal for all shareholders according to the type and class of the shares.

(3) The shareholder shall neither set-off his claims against the company by means of withholding payments for the shares nor exercise the right to a lien on the non-monetary contributions.

(4) The company shall neither defer the payment of certain shareholders, nor exempt them from the obligation to pay or accept as payment assets that differ from those stipulated in the company charter. The non-monetary contribution that consists of a receivable shall be deemed as transferred only after the company collects or is assigned that receivable. The company shall be liable to the shareholder, if it does not handle the collection with due care and diligence.

### **Article (323) - Consequences of Untimely Payment**

(1) The shareholder shall pay the shares upon notice of the management body of the company in accordance with the terms pursuant to which the shares were subscribed. The notice shall be made by personal notification to the shareholder, unless otherwise stipulated by the company charter.

(2) The shareholder, who fails to execute the payment in a timely manner pursuant to paragraph 1 of this article, shall not be entitled to vote until he/she transfers the due payment and the default interest in arrears. The shareholder, who failed to pay the shares within the stipulated term, shall be obliged to pay the default interest in arrears.

(3) The shareholder who is late in transferring the non-monetary contribution shall be obliged to pay the contractual penalty under the terms stipulated by the contract of acquisition of the non-monetary contributions pursuant to the charter.

### **Article (324) - Expulsion of a Shareholder**

(1) The shareholder, who fails to transfer the payment of the subscribed shares within the stipulated term and pursuant to the terms of subscription, may, by registered mail, be given an additional term, with a warning notice that if he fails to fulfil the obligation for payment in the additional deadline, he shall be required to forfeit the partially paid shares to which the warning for payment refers. The additional deadline shall be announced in a daily newspaper.

(2) The shareholder who fails to pay the due amount required in favour of the company despite the warning notice referred to in paragraph 1 of this article, shall be required to forfeit the shares and shall be expelled from the company. The announcement referred to in paragraph 1 of this article shall indicate the shares which the shareholder shall be required to forfeit in favour of the company.

(3) The shareholder shall be notified about his/its expulsion from the company in writing by means of registered mail and/or hand delivered mail.

### **Article (325) - Rights and Liabilities of the Expelled Shareholder**

(1) If the company sells the forfeited shares of the expelled shareholder:

1) below their nominal value, and the funds are not sufficient to settle the unpaid portion of the contribution as well as the costs and the default interest in arrears, the expelled shareholder shall be obliged to pay the difference in the amount to the company;

2) at their nominal value, following the settlement of the costs and the default interest, in arrears, the company shall refund the previously paid amount to the expelled shareholder as reduced by the amount of the costs and the default interest in arrears; and

3) above their nominal value, following the settlement of the costs and the default interest in arrears, the company shall refund to the expelled shareholder the previously paid amount after deducting the costs and the default interest in arrears up to the nominal value of the share, and shall retain the difference.

(2) The expelled shareholder shall also be obliged to pay a contractual fine for untimely transfer of the non-monetary contribution if such obligation is stipulated in the public notice. The payments pertaining to paragraph 1 of this article shall not exclude the liability of the expelled shareholder for any damages caused to the company due to the failure to transfer the payment.

### **Article (326) - Sale of Shares of the Expelled Shareholder**

(1) The company shall sell the shares of the expelled shareholder through the Stock Exchange and/or through any other organised market. The shares may be sold and converted into cash in another manner only after first having obtained the consent of the expelled shareholder.

(2) The provision of the company charter and other legal actions and activities undertaken contrary to the provisions of article 324 and 325 of this law and paragraph 1 of this article shall be null and void.

### **Article (327) - Liability of an Owner of Partially Paid Shares**

(1) Each owner of partially paid shares shall be personally liable for the unpaid portion of the amount at which the shares were issued. The company shall not discharge the owner of the partially paid shares from the liability to pay the unpaid amount of the subscribed shares.

(2) Notwithstanding paragraph 1 of this article, the company may discharge the shareholder from the liability to pay the subscribed shares only in the event of a decrease of the charter capital of the company by the withdrawal of shares up to the amount for which the charter capital is decreased in the manner and under the conditions stipulated by this law.

### **Article (328) - Prohibition against the Refund of Contributions and Payment of Interest**

(1) Except in cases stipulated by this law, the contribution paid up shall not be refunded to the shareholders. The payment of the purchase price in cases where the acquisition of the company's own shares by the company is allowed shall not be considered as a refund of the contribution.

(2) Shareholders shall neither be guaranteed nor paid interest for their contributions transferred to the company.

### **Article (329) - Participation of Shareholders in the Profit**

(1) Shareholders shall be entitled to participate in the profit, unless distribution of the profit among the shareholders is excluded pursuant to a resolution of the general meeting of shareholders on the use of the profit, adopted on the basis of the law and/or the charter.

(2) The participation of the shareholders in the profit shall be determined according to the type and the class of shares.

(3) The dividend allocated to each type and class of share shall be paid out proportionally to each owner of the respective type or class of shares. If the contributions in the charter capital are not paid up in full, and/or if all shares are not paid in an equal ratio, the shareholders that comply with their obligations in a timely manner shall participate in the profit distribution in proportion to the paid portion of the shares. The payments made during the business year shall be taken into consideration according to the time of the transfer of the payment.

(4) Prior to the termination of the company, only the profit as set out in the income statement may be distributed to shareholders.

### **Article (330) - Liability of a Shareholder Who Received a Prohibited Payment**

(1) A shareholder who received any advance payment of dividend, dividend and/or other payments on any grounds, shall be obliged to refund such received amount to the company provided that the company proves that he/it was aware and/or, in view of the circumstances, must have been aware that the distribution of funds was in contravention with the law.

(2) The refund of payments referred to in paragraph 1 of this article received contrary to the law, may also be claimed by the creditors, if they are not able to collect their claims from the company. During a bankruptcy procedure initiated against the company, the bankruptcy trustee shall exercise the rights of the creditors in relation to the shareholders.

(3) The right to file a claim pursuant to paragraphs 1 and 2 of this article shall become statute-barred, five years following the receipt of the prohibited payment.

### **Article (331) - Co-Owners of a Share**

(1) The co-owners of a share shall exercise their rights through a single joint representative.

(2) Legal actions that the company undertakes against the co-owners shall be performed against the joint representative, provided that the representative is registered with the company. If the joint representative is not registered with the company, the company may undertake a legal action or express its will against any co-owner, whereupon such legal action shall be deemed as undertaken, or the company's will shall be deemed as expressed as against every co-owner.

(3) The representative shall be registered in the register of shareholders in the Central Securities Depository.

(4) All co-owners shall be liable for the liabilities arising from the shares as joint debtors.

### **Article (332) - Prohibition against the Subscription of Treasury Shares**

(1) The company shall not subscribe treasury shares.

(2) Any person that has acquired shares on behalf of the company may not rely upon the fact that the shares were not acquired on his/its behalf. The person who acquired the shares on behalf of the company shall not be entitled to any right attached to the shares until he/it acquires the shares in his/its name.

(3) If shares are subscribed for contrary to paragraph 2 of this article, the founders and/or the members of the management body shall be obliged to personally pay for those shares, if they failed to act with due care and diligence.

### **Article (333) - Acquisition of a Company's Own Shares via Repurchase**

(1) The company may acquire its own shares via repurchase, either itself and/or through a third party acting in his/its name but on behalf of the company. The repurchase of treasury shares shall be valid under the following conditions:

1) authorisation shall be given by a resolution for the acquisition of the shares via repurchase by the general meeting of shareholders, which shall determine the manner of repurchase, the maximum number of shares to be acquired, the time period in which the repurchase shall be executed, which shall not be longer than twelve months as of the date of adopting the resolution on the acquisition of the company's own shares, and the minimum and maximum counter value that may be paid for the shares;

2) the nominal value of the acquired shares, including the shares the company has previously acquired or which are in possession of the company shall not exceed one tenth of the charter capital;

3) the acquisition of the company's own shares shall not lead to the decrease of the assets of the company below the amount of the charter capital, and the reserves, which, pursuant to the law and/or the charter, the company is obliged to maintain, and which shall not be used for payments to the shareholders; and

4) only shares fully paid may be acquired via repurchase.

(2) As an exception, the company may acquire own shares contrary to the terms set out at paragraph 1, item 1 of this article, when the acquisition of the company's own shares is necessary in order to prevent serious and imminent damage to the company. A resolution shall be adopted to this effect by the board of directors, or the management board after having obtained the prior consent of the supervisory board. In such a case, the board of directors, or the management board shall be obliged to inform the general meeting of shareholders at its next meeting of the reasons and the objectives of the effected acquisition of its own shares, the number and the nominal value of the acquired shares, the proportion of the charter capital represented by the acquired shares, the price at which they were acquired, as well as of the source of funds utilised for their acquisition.

(3) The provision referred to in paragraph 1, item 1 of this article shall not apply to treasury shares that were acquired by the company and/or by a party acting in his/its own name, but on behalf of the company, with the purpose of distributing the shares to the employees of this company and/or to the employees of a related company. The distribution of such shares shall be executed within one year as of the date of acquisition of those shares.



**Article (334) - Procedure for Proportional Acquisition of a Company's Own Shares from Its Shareholders**

(1) When acquiring its own shares proportionally from its shareholders, the company shall, pursuant to the resolution on the acquisition of own shares, deliver a public notice which contains an offer for the acquisition of shares to all shareholders. The public notice shall state the number of shares the company intends to acquire by indicating the type and the class of the shares, the proportionate number of shares the shareholder may offer up for sale based on the number of shares he/it holds, the purchase price and the manner of calculating the purchase price, the payment procedure and date of payment, as well as the procedure and the deadline by which all shareholders should offer up their shares for sale to the company. The public notice shall remain valid at least thirty days as of the date of announcement.

(2) In the event that the total number of shares offered up for sale by the shareholders exceeds the number of shares the company may acquire in accordance with this law, the company shall purchase shares from each shareholder proportionally to the number of shares that each shareholder offered up for sale, based on the number of shares he/it holds, except in cases when this is not possible without resulting in the purchase of fractions of a share.

**Article (335) - Special Procedure for the Acquisition of a Company's Own Shares**

(1) The conditions set out in article 333 paragraph 1 of this law shall not apply, if the acquisition of own shares is carried out:

1) on the basis of a resolution of the general meeting of shareholders and the withdrawal of shares is carried out pursuant to the provisions of this law pertaining to a decrease of the charter capital;

2) free of charge and/or when a bank, investment fund or other financial institution acquires shares in its own name as purchasing commission;

3) as a result of a universal transfer of all assets;

4) within a procedure for enforced execution for the purpose of settling a company's claim on the basis of a court decision;

5) in case of merger, accession and division, and during the transformation of the company, if the company, pursuant to this law is obliged to purchase the shares of the shareholders that have not accepted the offer to receive shares;

6) in case of expulsion of a shareholder in accordance with article 324 of this law;

7) on the basis of an obligation stipulated by law and/or on the basis of a court decision; and

8) as compensation for a debt and/or within a procedure of reorganisation of the debtor pursuant to the bankruptcy law.

(2) The shares acquired in the cases referred to in paragraph 1 of this article shall be paid up in full and shall be disposed of within three years as of the date of their acquisition, unless the nominal value of the acquired shares, including the treasury shares acquired pursuant to article 333 of this law, does not exceed one-tenth of the charter capital.

(3) In the event that the treasury shares acquired pursuant to paragraph 1 of this article are not disposed of within the term stated in paragraph 2 of this article, they shall be cancelled without any delay. Where the cancellation of treasury shares results in a reduction of the company's assets below the nominal value of the charter capital, a procedure for an appropriate decrease of the charter capital shall be conducted.

#### **Article (336) - Disposal of Treasury Shares**

Shares acquired contrary to articles 333, 334 and 335 shall be disposed of within one year as of the date of their acquisition. If the shares are not disposed of within this term, the provisions of article 335, paragraph 3 of this law shall apply.

#### **Article (337) - Notification for the Treasury Shares**

The annual report of the company's operations shall mandatorily state:

- 1) the reasons for the acquisition of the treasury shares in the course of the financial year;
- 2) the number and the nominal value of the treasury shares acquired and disposed of for any reason in the preceding financial year, the proportion of the charter capital which they represent and the counter value paid for them;
- 3) the number and price at which treasury shares have been acquired and disposed of in the preceding financial years and the proportion of the charter capital which they represent; and
- 4) the number and the nominal value of the acquired treasury shares distributed to employees and the proportion of the charter capital which they represent.

#### **Article (338) - Rights Arising from Treasury Shares**

The rights attached to treasury shares shall be suspended.

#### **Article (339) - Redeemable Shares**

(1) The company may be authorised by its charter to issue redeemable shares with the right of the company to repurchase such issued shares within a certain time period. The redemption shall be valid if the following conditions are met:

- 1) the terms and the manner of redemption must be stipulated by the company charter;
- 2) the general meeting of shareholders shall adopt a resolution on the redemption of such shares prior to their subscription;
- 3) the shares should be paid up in full;
- 4) the redemption shall only be effected by funds that exceed the amount of the charter capital plus the reserves which may not be distributed to the shareholders under this law and the charter; and
- 5) an amount which is not less than the nominal value of the issued shares shall be set aside into a reserve which shall not be distributed, under this law and the charter, except in the case of a decrease of the charter capital.

(2) The provision pertaining to paragraph 1, item 2 of this article shall not apply to redemptions that pertain to the use of proceeds of a new issue made with a view of effecting such redemption over the existing shares, which include the right of redemption by the company.

(3) In the event that there is a provision pertaining to the payment of a premium to the shareholders pursuant to the redemption, the premium shall only be paid from the reserves that may be distributed to shareholders.

(4) The charter shall determine the term for the redemption of the shares which confer the right of redemption by the company.

(5) The notification for the redemption of the shares pertaining to paragraph 1 of this article shall be published in the "Official Gazette of the Republic of Macedonia".

#### **Article (340) - Null and Void Transactions**

(1) Transactions by which the company provides a third party with an advance payment, loan, credit, and/or other type of financial assistance for the purpose of acquiring shares in that company, shall be considered null and void. This shall not apply to the normal legal transactions of banks and other financial institutions, unless otherwise stipulated by a separate law, and/or when the company acquires treasury shares for the purpose of their distribution to employees, under the terms set out by this law.

(2) Transactions shall also be considered null and void in cases when the company acquired treasury shares from the reserves necessary to preserve the nominal value of the charter capital, and/or from reserves, which pursuant to the law and the charter, should not have been used for other purposes.

(3) Transactions between the company and third parties, that authorise and/or oblige the third party to acquire shares in another company on behalf of the company, a controlled company and/or a company in which the company has a majority share, shall be considered null and void, if the acquisition of shares by the company is contrary to article 333 paragraphs 1 and 2 of this law.

(4) The acquisition of a company's own shares, on any grounds, shall be null and void if the nominal value at which such shares were issued has not been fully paid up.

#### **Article (341) - Pledging the Own Shares**

(1) The acceptance of the company's own shares as a pledge or any other type of security either by the company itself and/or through a person acting in his/its own name, but on behalf of the company shall be treated as an acquisition of the company's own shares for the purposes of articles 333, 335, 337 and 339 of this law.

(2) Paragraph 1 shall not apply to normal, on-going transactions of banks, as well as other financial institutions, unless otherwise stipulated by law.

## **SECTION 6 - BODIES OF THE COMPANY**

### **Subsection 1 - GENERAL PROVISIONS**

#### **Article (342) - Management Systems**

(1) The management of the company may be organised either into a one-tier system (board of directors) and/or two-tier system (management board or manager and supervisory board).

(2) The company shall choose the management system. The one-tier management system may be replaced by a two-tier management system and vice versa, by amending the charter.

(3) The provisions governing the general meeting of shareholders shall respectively apply to joint stock companies with either a one-tier or two-tier management system.

(4) The participation of the employees in the management of the company shall be regulated by law.

#### **Article (343) - Conditions for Election**

(1) Only natural persons having full business capacity may be elected as members of the management body or supervisory board.

(2) As an exception, if it is stipulated by the charter, a legal person may also be elected as a non-executive member of the board of directors or member of the supervisory board, who shall, immediately after having been elected, appoint a permanent representative who shall have the same rights, obligations and liabilities as the other non-executive members or members of the supervisory board. A legal person who has a representative in the board of directors or supervisory board shall not be exempted from joint and several liability. The representative of the legal person, as a non-executive member of the board of directors or a member of the supervisory board, shall be appointed by the management body of the legal person.

(3) A person against whom a protective measure is pronounced for the prohibition to perform an activity from a particular profession which is partly or entirely included in the company's scope of operations, may not act as a member of the management body or supervisory board whilst such prohibition is in force.

#### **Article (344) - Bodies that Conduct the Election**

(1) The members of the board of directors and the members of the supervisory board shall be elected by the general meeting of shareholders by a majority of votes of the voting shares from the operating quorum of the general meeting as specified by this law, unless a greater majority is stipulated by the charter, in the manner and pursuant to the terms stipulated by the charter.

(2) If stipulated by the charter, the election of the members of the board of directors and/or the supervisory board may be carried out by cumulative voting. A shareholder who has a voting right shall be entitled to cast the votes attached to the shares, multiplied by the number of members subject to election, either for one

candidate or for distribution among the candidates in any manner. The election of the candidates shall be carried out simultaneously. The votes cast for each candidate shall be calculated separately. The candidates who have the greatest number of votes shall be deemed to be elected.

(3) Prior to the election of a member of the board of directors or the supervisory board, in accordance with paragraphs 1 and 2 of this article, particulars shall be published in writing for each candidate including his age, gender, education and other professional qualifications, working experience and how it was gained, in which companies he is and/or has been a member of the management body or the supervisory board, and other important positions held by him, the number of shares he owns in the company and in other companies, as well as loans and other liabilities towards the company.

(4) The data stated in paragraph 3 of this article shall be submitted to the shareholders no later than seven days prior to carrying out the election at the general meeting. The data shall be made available to any shareholder.

(5) The resolution of the general meeting of shareholders on the election of the board of directors and/or the supervisory board, or a member thereof, shall enter into force on the date of its adoption. The application for registration in the commercial register of the elected board of directors, supervisory board, or a member thereof, shall be filed by the person specified in the resolution of the general meeting. The court decision to register the entry in the commercial register in accordance with the resolution of the general meeting of shareholders, shall be adopted within 48 hours as of the filing of the application.

#### **Article (345) - Term of Office**

(1) The members of the management body or supervisory board shall be elected for a period specified in the company charter, which shall not be longer than six years. If the company charter does not stipulate the duration of the term of office of the members of the management body or supervisory board, their term of office shall be of four years.

(2) The members of the management body or supervisory board may be re-elected, regardless of the number of terms of office they have previously been elected for, unless otherwise stipulated by the charter.

#### **Article (346) - Limitations on the Election**

(1) A non-executive member of the board of directors or a member of the supervisory board may not be appointed in more than five boards of directors as a non-executive member, or in more than five supervisory boards of joint stock companies having a registered office in the Republic of Macedonia, at any one time.

(2) An executive member of the board of directors or a member of the management board may not be elected as an executive member of a board of directors, or member of a management board of other joint stock companies having their registered office in the Republic of Macedonia, except in banks, insurance companies, and other companies as provided for by law.

(3) An executive member of the board of directors, or a member of the

management board, may not be elected as a non-executive member or a member of the supervisory board in more than five other joint stock companies with a registered office in the Republic of Macedonia.

(4) The limitations referred to in paragraph 1 of this article shall not apply to legal persons.

#### **Article (347) - Incomplete Composition**

(1) In the event that certain members of the board of directors or the supervisory board cease to carry out their functions, and/or are prevented to do so during the term of office, the other members of the board of directors or supervisory board shall continue to work until the vacancy is filled.

(2) In the event that the number of members in the board of directors or the supervisory board is reduced below the number stipulated by the company charter, but is not less than the minimum stipulated by the law, the board of directors or the supervisory board may, within ninety days as of the date the function of the member terminated, add a member to its composition by electing an acting member of the board of directors or the supervisory board until the next general meeting of shareholders. The resolutions adopted and the legal transactions and operations undertaken by the board of directors or the supervisory board shall remain valid.

(3) In the event that the number of the members in the board of directors or the supervisory board is reduced below the number stipulated by law, the remaining members of the board of directors or the supervisory board shall call a general meeting of shareholders within three days, in order to add a member to the composition of the board of directors or supervisory board. If the general meeting of shareholders is not called within that term, the general meeting of shareholders shall be called by the non-executive members of the board of directors or the management board, within three days following the expiry of the previous term.

(4) In the event that the board of directors or the supervisory board fails to conduct the election of an acting member of the board of directors or the supervisory board, or if the remaining members of the board of directors or supervisory board fail to call the general meeting of shareholders, or if the non-executive members of the board of directors or the management board fail to call the general meeting of shareholders within the time periods set out at paragraphs 2 and 3 of this article, any person having a legal interest may file a proposal to request the court to appoint a natural person who shall call the general meeting of shareholders.

#### **Article (348) - Prohibition against Competition**

(1) The members of the board of directors or the management board may not, without the approval of the board of directors or the supervisory board:

1) perform activities within the scope of operations of the company, on their own behalf and/or on behalf of a third party;

2) perform any activity or action, paid or unpaid, in another company having the same or a similar scope of operations, on their/its behalf and/or on behalf of a third party;

3) be a member of a management body and/or supervisory board, or

controller in another company having the same or similar scope of operations as the company; and

4) perform activities in the premises of the company on their own behalf and/or on behalf of a third party.

(2) Prior to the election of a natural person as a member of the management body, the candidate shall notify the body of the company authorised for his election in writing, stating all paid and/or unpaid actions and activities in other companies, undertaken on his behalf and/or on behalf of a third party.

(3) The general meeting of shareholders shall be notified with regard to the approvals pertaining to paragraph 1 of this article at its next meeting.

(4) In the event that a member of the board of directors or management board acted contrary to the prohibitions under paragraph 1 of this article, or failed to disclose a relevant fact in the notice referred to in paragraph 2 of this article, the company may:

1) request compensation for damages; and/or

2) require the member to assign to the company the legal operation concluded on his behalf as well as the proceeds arising from the legal operation concluded on his behalf and/or on behalf of a third party.

(5) In the event that the member of the board of directors or the management board fails to indemnify the damages and/or fails to assign to the company the legal operation concluded on his behalf, and/or the proceeds arising from the legal operation concluded on his behalf and/or on behalf of a third party, and/or fails to transfer to the company any claim he/it may have arising from such legal operation, the remaining members of the board of directors, the management board or the supervisory board, and/or any shareholder may file a complaint in order to enforce the claims set out at paragraph 4 of this article.

(6) The right to submit the claims set out at paragraph 4 of this article shall become statute-barred within ninety days as of the day the non-executive members of the board of directors, the members of the supervisory board, or the shareholder learned about the action, resulting in the claim for compensation for damages, or the right to require the company to assign the legal operation concluded on the member's behalf along with the proceeds arising from the legal operation concluded on his behalf and/or on behalf of a third party. The claims set out at paragraph 4 of this article shall become statute-barred following the expiry of a term of five years as of the date the violation of the prohibition occurred.

#### **Article (349) - Conflict of Interests**

(1) Any contract and/or other business transaction of the company, in which the company acts as a party and in which a member of the management body or supervisory board has an interest even in an indirect manner, shall be acted upon in accordance with articles 457, 459 and 460 of this law.

(2) Any member of the management body or supervisory board having an interest shall be obliged to declare it immediately.

(3) In the event that a member and/or an interested member of the management body or supervisory board learns that any of the terms referred to in paragraph 1 of this article is fulfilled, he/it shall immediately notify the board of directors or supervisory board thereof. The interested member shall be entitled to

express his/its opinions, but he/it may not participate in the debate and/or the decision making related to the agreement and/or other legal transactions, and/or in the decision making for granting the approval referred to in paragraph 1 of article 460 of this law.

(4) The fact that the board of directors, the supervisory board, or the general meeting of shareholders failed to grant an approval, and/or if the resolution for granting an approval was illegal, may not be relied upon as against third parties, unless the company proves that the third party was aware about the non-existence of the approval and/or about the illegal nature of the resolution, and/or, in view of the circumstances, must have been aware thereof.

#### **Article (350) - Rights and Liabilities**

The rights and liabilities of the executive members of the board of directors, the members of the management board, or the manager, may, in addition to the rights and liabilities determined by this law, be specified by the agreement governing the relations between the company and the executive member of the board of directors, member of management board, or the manager. The non-executive members of the board of directors shall enter into an agreement with the executive member of the board of directors, on behalf of the company and the president of the board of directors shall sign it, whilst the agreement between the member of the management board and/or the manager and the company shall be entered into by the supervisory board and signed by the president of the supervisory board.

#### **Article (351) - Equal Status**

(1) The members of the management body, the supervisory board, or the manager shall have equal rights and liabilities in accordance with their status as provided for by this law, notwithstanding the manner of distribution of those rights and liabilities among them within such body. They shall jointly carry out their activities according to the authorisations determined by this law, and according to the duties entrusted to them pursuant to this law and the charter. The charter may stipulate a different manner of managing and conducting these activities, but only within the scope of the authorisations of the members of the management body or supervisory board, as provided for by this law.

(2) The documents or resolutions of the management body or supervisory board, adopted outside the scope of the authorisations as provided for by this law and the charter, shall be binding on the company in relations with third parties, unless the third party was aware and/or, in view of the circumstances, must have been aware thereof.

(3) The management body or supervisory board shall operate and adopt resolutions in a manner provided for by this law, the charter and its rules of procedure. The rules of procedure shall be adopted in the manner stipulated by the charter.



### **Article (352) - Report on the Operations of the Company**

(1) The executive members of the board of directors, the members of the management board or the manager shall submit a written report on the operations of the company to the board of directors or the supervisory board, at least once every three months and they shall also submit annual accounts, annual financial statements and annual report on the company's operations, following the expiry of the business year.

(2) Upon request by the non-executive members of the board of directors or the supervisory board, the executive members of the board of directors, the members of the management board, or the manager shall prepare a special report on the state of affairs of the company and/or on particular issues related to its operations.

(3) The non-executive members of the board of directors or the supervisory board may, personally and/or through other persons, undertake actions for the purpose of carrying out an inspection over the operations of the company and the management by the executive members of the board of directors, the members of the management board or the manager. Upon request of at least one-third of the non-executive members of the board of directors, or the members of the supervisory board, the executive members of the board of directors, or the members of the management board or the manager shall be obliged to prepare all documents and notifications required for the supervision over the operations.

(4) Any non-executive member of the board of directors or the supervisory board shall be entitled to inspect all reports, acts and documents delivered by the executive members of the board of directors, the members of the management board, or the manager, to the non-executive members of the board of directors or the supervisory board, for the purpose of exercising his functions.

### **Article (353) - Preparation and Execution of the Resolutions of the General Meeting of Shareholders**

During the preparation and execution of the resolutions of the general meeting of shareholders, the management body shall, in particular, be obliged:

1) upon request by the general meeting of shareholders, to prepare the resolutions and general by-laws, the adoption of which falls within the competence of the general meeting of shareholders;

2) to prepare contracts which may be entered into solely with the consent of the general meeting of shareholders;

3) to execute the resolutions adopted by the general meeting of shareholders within its competencies; and

4) to carry out other activities for the general meeting of shareholders, which fall within its competencies, pursuant to this law.

### **Article (354) - Liabilities in Case of Loss, Over-Indebtedness and Insolvency**

(1) If the company shows new losses during the course of its operations, and, in particular, according to the quarterly and/or semi-annual calculations, or the annual accounts, which are higher than 30% of the value of the assets of the company, or 50% of the charter capital, the executive members of the board of directors, or the management board shall immediately prepare a written report explaining the reasons for the loss and proposing measures for covering the loss. The report shall be approved by the board of directors or the supervisory board. Within 48 hours as of the moment they learned that the company demonstrated losses, the management body shall call the general meeting of shareholders at which it shall notify the shareholders about the state of affairs and about the measures undertaken.

(2) If a circumstance which, pursuant to the law, is deemed as a condition for initiating a bankruptcy procedure occurs, the management body shall, no later than 21 days as of the date when the condition for initiating a bankruptcy procedure occurred, call a general meeting of shareholders at which it shall notify the shareholders about the state of affairs and the measures undertaken as well as the measures which need to be undertaken and approved by the shareholders at the general meeting of shareholders.

(3) Following the occurrence of insolvency and/or over-indebtedness, the management body shall not propose and/or make any payments, except the payments that are necessary for the ordinary course of business of the company and which are executed with due care and diligence.

(4) The members of the management body shall be jointly and severally liable to the creditors and to the shareholders for damages, if they acted contrary to paragraphs 1, 2, and 3 of this article.

### **Article (355) - Operating Quorum and Decision Making**

(1) The board of directors may operate and adopt resolutions, if at least one half of all its members are present and provided that the number of the non-executive members of the board of directors present is higher than the number of present executive members of the board of directors.

(2) The management board and the supervisory board may operate and adopt resolutions provided that the meeting is attended by at least half of all its members.

(3) Any provision in the charter which is contrary to paragraphs 1 and 2 of this article shall be null and void.

(4) The management body or the supervisory board shall adopt the resolutions with a majority vote of the quorum determined by paragraphs 1 and 2 of this article, unless a greater majority is stipulated by this law and/or the charter.

(5) The vote of the president of the management body or the supervisory board, and in his absence, the vote of the chairperson authorised by the president to replace him, shall be decisive in case of a deadlock in the votes, unless otherwise determined by the company charter.

(6) The resolutions of the management body or supervisory board shall enter into force on the day of their adoption, unless otherwise stipulated by this law.

### **Article (356) - Meetings and Notification**

(1) The management body shall hold meetings when required for the carrying out of operations that fall within the scope of its competencies.

(2) Any member of the management body may submit a written request to the president, requesting him to call a meeting of the management body, stating the reasons and purpose for such meeting therein.

(3) In the event that the member who has requested to call a meeting obtains the support of at least one third of the members of the management body for calling the meeting, the president of the management body shall call the meeting within fifteen days as of the day the request was filed.

(4) Calling the meeting referred to in paragraph 3 of this article shall be effected by a notification containing the reasons, time and venue of the meeting that shall be delivered to all the members of the management body, pursuant to the usual terms for calling meetings of the management body.

### **Article (357) - Meetings by Teleconference**

(1) Unless prohibited by the charter, the members of the management body or supervisory board may participate and pass resolutions at a meeting organised via teleconference and/or by using other audio and visual communication equipment, whereby all the persons participating in such meeting can hear, see and talk to each other. Participation in such meetings shall be deemed as attendance and personal participation of the persons involved in this manner.

(2) The participation at the meeting shall be recorded in the minutes of the management body or supervisory board, which shall be signed by all members participating at the meeting organised in the manner referred to in paragraph 1 of this article.

### **Article (358) - Passing of Resolutions without Convening a Meeting**

(1) The charter may provide for the management body or supervisory board to adopt resolutions without convening a meeting, if all members of the management body or supervisory board give their consent for the resolution to be adopted without convening a meeting.

(2) The president of the management body or supervisory board, and/or the natural person authorised by the president, shall prepare minutes for recording all the resolutions adopted in the manner referred to in paragraph 1 of this article. The minutes shall be signed by the president of the management body or supervisory board, and in his absence, by a member of the management body or supervisory board, not later than thirty days as of the date of obtaining the consent for the resolution to be adopted without convening a meeting.

(3) The resolutions adopted in the manner referred to in paragraph 1 of this article shall enter into force on the date when the consent referred to in paragraph 1 of this article is given by all members of the management body or supervisory board, unless the resolution specifies another date for entry into force. The consent may be

confirmed by personal signature and/or by signature sent by fax and/or electronically on the draft resolution.

#### **Article (359) - Committees**

(1) The management body or the supervisory board may establish one or more committees from among its members and other persons.

(2) The committees shall neither decide on issues falling under the competence of the management body or the supervisory board, nor shall their rights and liabilities be transferable.

(3) The composition, terms, the scope and the manner of operations of such committees shall be regulated in detail by the charter and the by-laws of the company adopted in accordance with the charter.

(4) All activities of the committees shall be subject to approval by the management body or the supervisory board.

#### **Article (360) - Meeting Minutes**

(1) Minutes shall be prepared for each meeting of the management body or the supervisory board and the committees, regardless of how the meeting was convened.

(2) The minutes shall be prepared within three days as of the date when the meeting was held, unless otherwise stipulated by this law.

(3) The minutes shall contain data about the manner of operation of the management body or the supervisory board (at a meeting and/or otherwise), the venue and the time of the meeting, the persons in attendance and the agenda of the meeting, the issues put to a vote and the results of each vote, including the names of the members who voted "for" and "against" the resolutions adopted at the meeting. The minutes may, upon request of the member who voted "for" or "against", state the reason for the vote. If a member has a conflict of interests, he shall be obliged to disclose such conflict at the beginning of the meeting and it shall be recorded in the minutes.

(4) The minutes shall be signed by all members of the management body or supervisory board attending the meeting. The minutes shall also be signed by the president of the management body or the supervisory board, and in his absence, by the member of the management body or the supervisory board who, upon authorisation given by the president, chaired the meeting.

#### **Article (361) - Obligations Relative to the Fulfilment of Duties pursuant to Authorisations**

(1) Members of the management body or supervisory board shall be obliged to fulfil their duties pursuant to the authorisations granted to him by this law and/or the charter, in the interest of the company and in the interest of shareholders, with due care and diligence and may not transfer his authorisations to another member of the management body or supervisory board.

(2) The members of the management body or the supervisory board shall be

obliged to keep all confidential notifications and data that are related in any way to the operations of the company, as a business secret.

(3) The obligation referred to in paragraph 2 of this article shall continue even after the termination of the member's term of office in the management body or the supervisory board, pursuant to the obligations assumed under the agreement regulating the relations between the company and an executive member of the board of directors, member of the management board or manager.

(4) The obligation referred to in paragraph 2 of this article shall continue even after the termination of the member's term of office in the management body or supervisory board.

(5) When performing his duties pursuant to paragraph 1 of this article, the member of the management body or the supervisory board may rely on the information, opinions and/or reports prepared by independent legal advisers, independent authorised accountants and certified auditors and other persons, believed to be trustworthy and competent for the matters they perform, but this shall not exempt him from his obligation to act with due care and diligence.

(6) The limitations on the authorisations for representation of the executive members of the board of directors, or the members of the management board shall have no legal effect as against third parties, even if those limitations were disclosed.

#### **Article (362) - Liability for Damages**

(1) In the event that the members of the management body violate their obligations, they shall be liable to the company for the damage caused as joint debtors, if they have failed to operate and act with due care and diligence. The member of the management body, who acted on the basis of a resolution adopted by the general meeting of shareholders although he had pointed out that the resolution was contrary to this law, as well as the member of the management body who objected to the resolution by setting out his opinion in the minutes of the meeting of the management body in a separate manner and voting "against" the resolution, shall not be held liable.

(2) The members of the management body shall, in particular, be liable for the damages caused, if they, contrary to this law, perform the following:

- 1) return to the shareholders their contribution in the company;
- 2) pay interest and/or dividends to the shareholders;
- 3) subscribe, acquire, accept as a security and/or withdraw the shares of the company;
- 4) divide the assets of the company;
- 5) make payments after the company has become insolvent or over-indebted;
- 6) submit false annual accounts and financial statements;
- 7) abuse and dispose of the assets of the company without authorisation;

and

8) in case of the conditional increase of the charter capital, they issue shares contrary to its purpose and/or issue shares before the full payment of shares from the previous issue has been received.

(3) In the event that the members of the management body fail to remedy the irregularities in the actions as set out at paragraph 2 of this article, the shareholders

shall be entitled to request compensation for damages from the members of the management body.

(4) In the event that a member of the management body grossly violates his obligation to act with due care and diligence, the creditors of the company may request compensation for damages if they fail to settle their claims against the company.

(5) The non-executive members of the board of directors, or the members of the supervisory board shall be jointly and severally liable with the executive members of the board of directors or the members of the management board for the damage caused, if they failed to act with due care and diligence, when giving their prior consent.

(6) The right to request compensation for damages contained in this article shall be statute-barred following a period of five years.

### **Article (363) - Dismissal of Members of the Management Body or Supervisory Board**

(1) The general meeting of shareholders may dismiss all members of the board of directors, or the supervisory board, or a member thereof even prior to the expiry of their term of office. The resolution for dismissal requires a majority of votes from the voting shares represented at the general meeting of shareholders, unless otherwise stipulated by this law, or unless the company charter stipulates a greater majority. The charter may also stipulate additional terms for the adoption of the resolution.

(2) An executive member of the board of directors may be dismissed at any time by the board of directors, with or without an explanation. The membership of the dismissed executive member of the board of directors shall be suspended until the following general meeting at which it shall be decided whether he will be dismissed prior to the expiry of his term of office.

(3) In the event that the general meeting of shareholders adopted a resolution to dismiss all the members of the board of directors or supervisory board, or a member thereof, it shall, at the same meeting, elect new members of the board of directors or supervisory board, or a new member in the place of the dismissed member, if the general meeting of shareholders so decides and if the data regarding the candidates to be elected are provided in writing to the shareholders at the general meeting.

(4) The supervisory board may, at any time, with or without an explanation, dismiss all members of the management board or a member thereof. The supervisory board shall, at the same meeting, elect new members of the management board or a new member in the place of the dismissed member or members. The resolution on dismissal shall enter into force on the date of its adoption.

(5) An executive member of the board of directors, a member of the management board or a manager who is dismissed shall be entitled to request compensation for damages, if stipulated by the agreement referred to at article 350 of this law.

(6) The term of office of a member of the management body or the supervisory board shall terminate also in the case when the conditions referred to at paragraph 8 of article 384 of this law are met.

(7) In the event that a member of the board of directors or the supervisory board, who was elected by cumulative voting, is dismissed, he shall be considered to be

dismissed if the shareholders having more than 90% of the voting shares represented at the general meeting of shareholders voted in favour of his dismissal.

(8) In the event that the general meeting dismisses more than one member of the board of directors or supervisory board, voting shall be conducted relating to the dismissal of all members of the board of directors or supervisory board. Members of the board of directors or supervisory board shall be deemed to be dismissed if the majority of shareholders having voting shares represented at the general meeting voted in favour of the dismissal, unless the charter prescribes a greater majority. The election of the new members of the board of directors or supervisory board shall be conducted by cumulative voting.

(9) The resolution of the general meeting of shareholders for dismissal of the board of directors or supervisory board, or a member thereof, shall enter into force on the date of its adoption.

(10) The registration form for entry in the commercial register of the elected or dismissed members of the bodies stated in this article shall be filed by the person authorised by the resolution for election or dismissal. The decision for making the entry in the commercial register, in accordance with the resolution of the general meeting, shall be adopted within 48 hours as of filing the application.

#### **Article (364) - Resignation**

(1) A member of the management body or supervisory board may resign at any time, by submitting a written notice to the body that elected him, unless the interests of the company require otherwise.

(2) The signature of the member of the management body or the supervisory board on the resignation notice shall be certified by a notary.

(3) The acceptance of the resignation shall not be subject to the passing of a resolution. If the interests of the company so require, the management body or the supervisory board may oblige the member who resigned to continue to exercise his functions until the election of a new member in the management body or supervisory board, but in any event, not longer than sixty days. The term of office of a member of the management body or supervisory board shall be deemed terminated on the date of submitting the written notice of resignation, unless another date is stated in the notice. An application to delete the entry of the resigned member of the management body or supervisory board from the commercial register shall be submitted, on the basis of the resignation notice.

#### **Article (365) - Bonuses for the Members of the Management Body and Supervisory Board**

(1) The general meeting of shareholders shall pass a resolution specifying the allowable monthly lump sum and/or lump sum per meeting of the non-executive members of the board of directors, or the members of the supervisory board. The non-executive members of the board of directors, or the members of the supervisory board shall have the right to reimbursement of all their expenses incurred (travel and other expenses), right to life insurance and other types of insurance, as well as other rights related to the performance of their function (usage of the business premises, necessary

assets for operation etc).

(2) The executive members of the board of directors, the members of the management board, or the manager, shall be entitled to a salary, or a monthly remuneration, right to life insurance and other types of insurance, compensation of travel and other expenses and other rights.

(3) The general meeting of shareholders may, by a resolution, approve the executive members of the board of directors' or the manager's right to participate in the profit. Such participation, shall, as a rule, consist of a share in the annual profit of the company (payment in cash, shares, royalty, and bonus and/or in other manner). The approved participation in the annual profit of the company shall be calculated on the basis of the portion of the annual profit that remains after the deduction of the amount of the total losses carried forward from previous years, and the amounts which are set aside as legal and statutory reserves from the realised profit. Any resolution contrary to this provision shall be null and void.

(4) The rights of the executive members of the board of directors, the members of the management board or the manager, as referred to in paragraphs 2 and 3 of this article, shall be regulated by the agreement referred to at article 350 of this law, in accordance with the type and scope of the responsibilities assigned, the employment status, and their personal contribution to the successful operations of the company.

(5) The agreement referred to at article 350 of this law shall set out the situations when the financial condition of the company shall be deemed to be significantly deteriorated, due to which the earnings of the member of the management body present a great burden to the company and on the basis of which the general meeting of shareholders, the non-executive members of the board of directors, or the supervisory board may reduce the total earnings and other rights of the member of the management body as referred to in paragraphs 2 and 4 of this article. The reduction of earnings shall not affect the relations between the member of the management body and the company, and the executive member of the board of directors or the member of the management board may terminate the agreement and resign as early as the end of the next quarter, with a resignation period that may not be shorter than thirty days, unless the general meeting of shareholders, the non-executive members of the board of directors or the supervisory board accepts a shorter deadline.

(6) The remuneration paid to the members of the management body, the manager or the supervisory board shall be considered as operating costs of the company. Regarding specially entrusted matters, performed for the company by a member of the management body, a manager, and/or a member of the supervisory board, an additional bonus may be granted to that member and paid out of the operating costs.

(7) The company may not grant credit to a member of the management body, the supervisory board, or to a manager and to their close family members, or to a member of the management body, supervisory board, or manager of a controlled company and/or to their close family members. The prohibition shall not apply to the obligations assumed by the company pursuant to the agreement referred to at article 350 of this law, if a resolution has been approved by the general meeting of shareholders to this effect, with a two thirds majority of the voting shares represented at the general meeting.



## **Article (366) - Status of the Members of the Management Body and the Officers**

(1) The rights and liabilities, arising from the employment status, acquired by an executive member of the board of directors, member of the management board, or manager, who was employed in the company prior to the election, shall be suspended. The suspension shall start running as of the date of election of such member.

(2) Unless an executive member of the board of directors, a member of the management board, or a manager performs his functions without establishing an employee status he shall, within the time period he was elected for, exercise the rights arising from such employment status according to the terms stipulated by the agreement regulating the relations between executive members of the board of directors, members of the management board, or manager, and the company, in accordance with this law.

(3) Paragraph 1 of this article shall respectively apply to persons who, by a resolution of the management body, have been appointed as persons with special authorisations and responsibilities (hereinafter: "officers"). The officers shall exercise the rights and liabilities arising from an employee status according to the terms stipulated by the agreement regulating the relations between the management body and the officer (hereinafter: "agreement regulating the relations with an officer"). The agreement regulating the relations with an officer shall determine the salary, the reimbursements, the participation in the profit, the compensation of expenses, the reimbursement for life insurance and other types of insurance, and other rights arising from employment. The type and the amount of total earnings and the other rights and obligations arising from the employment of an officer shall correspond to the type and scope of the entrusted duties and the responsibilities of the officer, as well as to his personal contribution to the successful operation of the company. The agreement with an officer shall be signed by the president of the management body on behalf of the management body.

(4) The provisions of the collective agreements as well as the Labour Law, referring to establishing and terminating employment, disciplinary responsibility, salary, reimbursements and protection of employees' rights, shall not apply to the executive members of the board of directors, members of the management board or the manager and the officers. These persons shall exercise the rights deriving from the provisions of the Employment Law in the manner and under the terms specified in the agreement referred to at article 350 of this law and the agreement referred to at paragraph 3 of this article.

(5) The provisions referred to in this Article and in Article 365 of this law shall respectively apply to the manager in other forms of trade companies, in the manner and under the conditions stipulated by the company agreement, unless they perform their functions without establishing an employee status.

## **Subsection 2 - ONE-TIER MANAGEMENT SYSTEM (BOARD OF DIRECTORS)**

### **Article (367) - Composition**

(1) The board of directors shall consist of at least three and not more than fifteen members.

(2) The members of the board of directors shall be elected by the general meeting of shareholders.

(3) When electing the members of the board of directors, it shall be specified which members are elected as independent members of the board of directors. The independent members of the board of directors shall be elected from among the non-executive members of the board of directors.

(4) The board of directors shall, from among the elected members, appoint one or more executive members of the board of directors (hereinafter: "executive members"). A member of the board of directors who is elected as an independent member of the board of directors may not be elected as an executive member of the board of directors. The number of executive members shall be lower than the number of non-executive members of the board of directors (hereinafter: "non-executive members").

(5) If the board of directors has up to four non-executive members, at least one of the non-executive members of the board of directors shall be an independent member. If the board of directors has more than four non-executive members, at least one quarter of them shall be independent members of the board of directors.

### **Article (368) - Manner of Electing Executive Members**

(1) The manner of electing executive members of the board of directors shall be determined by the charter. The charter may provide for the election of an executive member to be carried out by unanimous resolution of all members of the board of directors.

(2) One of the executive members of the board of directors, duly elected as an executive member, may bear the title which is typically associated with the performance of his duties (general director, or chief executive director, and/or other appropriate titles), and the other executive members may bear the title which is typically associated with the performance of their duties, entrusted to them as executive members of the board of directors.

(3) If the board of directors consists of more than one executive member, the members of the board of directors shall decide by a majority vote which executive member shall be responsible for the issues related to employees and relations with them.

### **Article (369) - President of the Board of Directors**

(1) The board of directors shall elect its president from among its non-executive members by a majority of votes from the total number of members of the board of directors.

(2) The board of directors may dismiss the president and elect a new one at any time.

(3) The president of the board of directors shall call and chair the meetings, and shall be responsible for keeping records of the meetings and organising other manners (forms) of operation and decision making of the board of directors.

(4) If the president, for any reason, is not able to perform his functions, or if he is absent, the meetings of the board of directors shall be chaired by another non-executive member of the board of directors, elected by a majority of votes of the members of the board of directors present at the meeting.

### **Article (370) - Authorisations of the Board of Directors**

The board of directors shall manage the company within the scope of the authorisations provided for by the law and the charter and the authorisations expressly granted by the general meeting of shareholders. The board of directors shall have the broadest authorisations in managing the company, within its scope of operations, and acting, in all circumstances, on behalf of the company, except for matters falling within the authorisations explicitly granted to the non-executive members of the board of directors.

### **Article (371) - Authorisations of the Executive Members**

(1) With the exception of the authorisations explicitly granted to the board of directors pursuant to the law, the executive members shall manage the operations of the company and shall have the broadest authorisations to undertake all matters related to the management, implementation of the resolutions of the board of directors and execution of the day-to-day activities of the company, as well as to act on behalf of the company in all circumstances.

(2) The board of directors shall entrust the representation of the company in relations with third parties, to its executive members.

(3) In the event that the board of directors elects more than one executive member, it shall appoint a member who shall manage the activities of the executive members and upon whose proposal the board of directors shall determine the internal organisation and the manner of coordinating the management of the operations of the company.

(4) The board of directors shall file an application form for registration of the executive members authorised to represent the company in the commercial register. The registration form shall be signed by all members of the board of directors, unless the members authorised an executive member of the board of directors to sign the application. Upon the entry in the commercial register, the executive members shall submit signatures certified by a notary, enclosed and provided pursuant to article 65, paragraphs 2 and 3 of this law.

(5) For the purpose of exercising the authorisations referred to in paragraph 1 of this article, the executive members may appoint officers who shall run the day-to-day management of the company, in accordance with the resolutions, instructions, and orders of the executive members of the board of directors.

#### **Article (372) - Authorisations of the Non-Executive Members relative to Supervision**

(1) The non-executive members, in addition to the authorisations provided for by this law concerning the exercise of the right of supervision over the management by the executive members, shall be entitled to inspect and verify the books and documents of the company as well as its assets, and in particular, the petty cash of the company and its securities and goods. The non-executive members may oblige any employee in the company and/or another expert to carry out certain expert matters related to supervision.

(2) In the course of the supervision, the president of the board of directors, and/or any non-executive member, the certified auditor and/or another person stipulated by the charter, and/or the shareholders representing at least one tenth of the voting shares, may request a meeting of the board of directors to be called. The request shall be submitted to the president of the board of directors.

#### **Article (373) - Authorisations Not Transferable to the Executive Members**

(1) The board of directors may not transfer authorisations to the executive members where the following issues are to be decided upon:

- 1) closure (termination) and/or transfer of the business and/or any part thereof, contributing to more than 10% of the revenue of the company;
- 2) decrease and/or expansion of the scope of operations of the company;
- 3) essential internal organisational changes in the company, set out by a by-law/regulation of the company;
- 4) establishing long-term cooperation with other companies, being of essential importance for the company and/or its termination;
- 5) founding and termination of a trade company participating to more than one-tenth of the charter capital of the company; and
- 6) founding and termination of branch offices of the company.

(2) The charter may prohibit the transfer of the authorisations to the executive members for decision-making on other issues within the competence of the board of directors.

(3) The prohibitions laid down in paragraphs 1 and 2 of this article may not be used as against third parties, unless the company proves that the third party was aware, or, in view of the circumstances, must have been aware thereof.

**Subsection 3 - TWO-TIER MANAGEMENT SYSTEM (MANAGEMENT BOARD AND SUPERVISORY BOARD)**

**Part One - MANAGEMENT BOARD**

**Article (374) - Composition and Election**

(1) The management board shall have at least three, but not more than eleven members.

(2) Notwithstanding paragraph 1 of this article, in companies with a charter capital of less than 150,000 EUR in denar counter value, a manager may be elected instead of a management board, having all the rights and liabilities of the management board.

(3) The members of the management board or the manager shall be elected by the supervisory board. One of the members of the management board shall be appointed as president of the management board, by the resolution for the election of the members of the management board.

(4) The supervisory board may dismiss the president of the management board and appoint a new one, at any time.

(5) No person may be a member of the management board or manager, and a member of the supervisory board, at the same time.

(6) The president of the management board shall call and chair the meetings, and shall be responsible for keeping the minutes of the meetings and organising the forms of operation and decision making of the management board.

(7) If for any reason the president is not able to exercise his function, and/or if he is absent, the meetings of the management board shall be chaired by a member of the management board, appointed by the supervisory board.

**Article (375) - Authorisations**

(1) The management board shall manage the company, and within such scope, it shall be personally responsible for conducting the operations of the company. The management board shall have the broadest authorisations in managing the company, or in undertaking all matters related to the management of the operations and day-to-day activities of the company, and in acting, in all circumstances, on behalf of the company, within the scope of operations of the company, except for authorisations explicitly granted to the general meeting of shareholders and the supervisory board.

(2) All members of the management board shall jointly conduct and carry out the activities referred to in paragraph 1 of this article. The charter may provide for a different manner of conducting and carrying out such activities.

(3) The management board may, for the purpose of exercising the authorisations referred to in paragraph 1 of this article, appoint managers who shall conduct the day-to-day management of the company, in accordance with the resolutions, instructions and orders of the management board.

### **Article (376) - Decision-Making upon Prior Approval by the Supervisory Board**

(1) The management board shall, upon having obtained prior approval by the supervisory board, decide on the issues stipulated in article 373, paragraph 1 of this law.

(2) The company charter may specify other cases when prior approval by the supervisory board shall be required for the resolutions of the management board.

(3) The lack of a prior approval by the supervisory board may not be relied upon as against third parties.

### **Article (377) - Representing the Company**

(1) The members of the management board shall jointly represent the company in its relations with third parties, unless otherwise stipulated by the charter.

(2) The management board may, upon approval by the supervisory board, authorise one or more members of the management board to represent the company. In such case, the other members of the management board shall be excluded from the representation. The supervisory board may revoke the authorisation for representation at any time.

(3) The management board shall file an application form for registration of the members of the management board, authorised to represent the company, in the commercial register. The application form shall be signed by all members of the management board, unless the members have granted a written authorisation to a member of the management board to sign the application. Upon entry in the commercial register, the members of the management board authorised for representation, shall submit signatures-certified, enclosed and provided in accordance with article 65, paragraphs 2 and 3 of this law.

(4) The limitations on the representation authorisations of the members of the management board shall have no legal effect as against third parties.

(5) The members of the management board representing the company may bear the titles general director and/or other titles.

## **Part Two - SUPERVISORY BOARD**

### **Article (378) - Composition and Election of the Members of the Supervisory Board**

(1) The supervisory board shall have at least three but not more than eleven members.

(2) The members of the supervisory board shall be elected by the general meeting of shareholders. When electing the members of the supervisory board, it shall be specified which members are elected as independent members of the supervisory board.

(3) If the supervisory board has up to four members, at least one of the members shall be an independent member. If the supervisory board has more than four members, at least one quarter of its members shall be independent members of the supervisory board.

### **Article (379) - President of the Supervisory Board**

(1) The supervisory board shall elect the president of the supervisory board from among its members, with a majority of votes from the total number of members of the supervisory board.

(2) The supervisory board may dismiss the president at any time and elect a new one.

(3) The president of the supervisory board shall call and chair the sessions, and shall be responsible for keeping records of the meetings and organising the forms of operation and decision making of the supervisory board.

(4) If, for any reason, the president of the supervisory board is not able to exercise his functions, and/or if he is absent, the meetings of the supervisory board shall be chaired by a member of the supervisory board elected by a majority of votes of the present members of the supervisory board.

### **Article (380) - Authorisation of the Supervisory Board**

(1) The supervisory board shall supervise the management of the company performed by the management board.

(2) The supervisory board may inspect and verify the books and documents of the company, as well as its assets, in particular the petty cash of the company and its securities and goods. The supervisory board may oblige certain members of the board, the certified auditor and/or experts, to carry out certain expert matters related to supervision.

(3) The authorisations related to the management of the company may not be transferred to the supervisory board, unless otherwise stipulated by this law. By way of exception, the charter may provide for the management board to decide on certain types of activities only upon prior approval of the supervisory board. If the supervisory board refuses to grant an approval, the management board may request an approval from the general meeting of shareholders by submitting an explanation in writing. The resolution of the general meeting of shareholders granting the approval shall be

adopted by a majority vote which shall not be less than two thirds of the voting shares represented at the general meeting of shareholders, unless the charter prescribes a greater majority. The charter may provide for additional requirements for the adoption of the resolution.

(4) The supervisory board shall represent the company in relations with members of the management board.

### **Article (381) - Calling and Convening the Meetings**

(1) The supervisory board shall convene meetings as and when required by the performance of the duties under its competence.

(2) Any member of the supervisory board and/or management board may, by stating his/its reasons and purpose, request in writing from the president of the supervisory board to call a meeting of the supervisory board. The meeting shall be convened within fifteen days as of the date the request was filed.

(3) The supervisory board, shall be obliged to convene at least four regular meetings during the year, one every three months, provided that one of the meetings is convened within one month prior to convening the general meeting of shareholders.

(4) In addition to the obligation for convening meetings, as set out at paragraph 2 of this article, the supervisory board may also convene other meetings, which shall be called by the president of the supervisory board, and/or that are called upon a written request by a member of the board, the certified auditor and/or another person stipulated by the company charter and shareholders who represent at least one tenth of the voting shares. The request shall be submitted to the president of the supervisory board. If the president fails to call the meeting after the filing of the written request within the period under paragraph 1 of this article, the members of the supervisory board may call the meeting in the manner set out at article 356, paragraph 3 of this law.

## **Subsection 4 - GENERAL MEETING OF SHAREHOLDERS**

### **Part One - GENERAL PROVISIONS ON THE GENERAL MEETING OF SHAREHOLDERS**

#### **Article (382) - General Meeting of Shareholders**

(1) The shareholders shall exercise their rights as members of the company at the general meeting of shareholders, unless otherwise stipulated by this law.

(2) Each shareholder registered in the shareholders' register shall be entitled, as of the date of the registration, to participate in the operations of the general meeting and to vote, unless otherwise determined by this law.

(3) Members of the management body and supervisory board shall participate in the operations of the general meeting of shareholders without having the right to vote, unless they are shareholders.



### **Article (383) - Competencies of the General Meeting of Shareholders**

(1) The general meeting of shareholders shall only pass resolutions upon issues expressly set out by this law and/or the charter, and in particular the:

- 1) amendment of the charter;
- 2) the approval of the annual accounts, financial statements and the annual report on the operations of the company for the preceding business year, and decision making on the distribution of the profits;
- 3) election and dismissal of members of the board of directors and members of the supervisory board;
- 4) approval of the operations and management of the company's business by the members of the management body and supervisory board;
- 5) alteration of the rights attached to particular types and classes of shares;
- 6) increase or decrease of the company's charter capital;
- 7) issue of shares and other securities;
- 8) appointment of the certified auditor to audit the annual accounts and other financial statements, if the company is obliged to prepare them;
- 9) transformation of the company into another form of company, as well as reorganisation of the company; and
- 10) termination of the company.

(2) The general meeting of shareholders shall elect a chairman of the general meeting, an official to take the minutes and two shareholders to certify the minutes, unless the minutes are taken by a notary. The general meeting shall also elect a committee for conducting a secret ballot, and other natural persons (*inter alia* to count the votes), if so required for performing other activities necessary to enable a continuous operation of the general meeting of shareholders in the manner and under the conditions set out by this law and/or the charter.

(3) In the event that the general meeting of shareholders passes resolutions, which would have the effect of changing data which, pursuant to article 298 of this law, are entered in the commercial register, the minutes shall be taken by a notary.

(4) The general meeting of shareholders may not decide on matters related to the governance of the company or the management the company's operations, which are under the competence of the management bodies, unless otherwise determined by this law.

### **Article (384) - Annual Meeting of Shareholders**

(1) The annual meeting of shareholders shall be called by the management body, no later than three months after the preparation of the annual accounts, the financial statements and the annual report on the operations of the company for the preceding business year and no later than six months after the end of the calendar year and 14 months as of the last annual meeting.

(2) The annual meeting of shareholders shall:

- 1) examine and adopt the annual accounts, financial statements and the annual report on the operations of the company in the preceding business year;
  - 2) decide upon the use of the net profit, and/or the coverage of the losses;
- and

3) approve the work of the members of the management body and supervisory board.

(3) In the event that the management body fails to call the annual meeting in a timely manner, the non-executive members of the board of directors or the supervisory board shall call the annual meeting, without any delay.

(4) In the event that the annual meeting is not called by the non-executive members of the board of directors or the supervisory board, and/or if it is not convened due to any other reason within the term stipulated in paragraph 1 of this article, the court may reach a decision to call the annual meeting upon a proposal by any shareholder.

(5) Following the end of each business year, the annual meeting shall be obliged to decide on approving the work and the management of the company's operations by the members of the management body as well as the work effected by the members of the supervisory board. Voting on the approval of the work of members of the company's bodies shall be conducted separately for each member of the body.

(6) The discussion and the approval of the resolution relating to the operations of the management body and/or supervisory board, or the discussion on the manner of the management of the company operations shall be related to the discussion on the annual accounts, financial statements and the annual report on the operations of the company for the preceding business year.

(7) The management body shall be obliged to objectively present and explain in the annual report on the operations of the company for the preceding business year, the main factors and circumstances which influenced the operations, including any changes in the environment in which the company operates, the response of the company to such changes and their impact, the investment policy for maintenance and support to the successful operations of the company, including the dividend policy, the sources of the company's assets, the policy of the long term debt as against the charter capital and the policy of risk management, major transactions and interested party transactions, as well as the assets of the company, the value of which is not reflected in the balance sheet according to International Accounting Standards, the prospects of future development of the company and its business ventures, activities in the field of research and development, as well as information in relation to the acquisition of its own shares or parts, depending on the relevant circumstances. The annual report of the company shall disclose the earnings of each executive member of the board of directors and member of the management board (salary, allowances, bonuses, insurance and other rights) and the remuneration of the non-executive members of the board of directors and members of the supervisory board.

(8) In the event that the annual meeting of shareholders does not approve the operations of the management body or supervisory board, and/or work effected by any of the members thereof, the general meeting of shareholders may decide, at the same meeting session, to elect all the members of the management body or supervisory board, and/or to elect new members in these bodies to replace those whose work was not approved by the general meeting. The general meeting of shareholders may decide for the members of the management body or supervisory board, whose work was approved, to continue performing urgent matters in the company until the election of the members making up the full composition of these bodies, which shall be effected during a continuation of the meeting session, to be held within a period of not less than

eight days, but not more than fifteen days as of the date of publication of the date of the continuation of the session of the annual meeting of shareholders. The date of convening the continuation of the meeting session shall be published in a daily newspaper.

(9) The resolution to approve the operations of all the members of the management body or supervisory board shall not exclude the right to request compensation for damages.

(10) The provisions of this law pertaining to the general meeting of shareholders shall also apply to the annual meeting of shareholders, unless otherwise provided by this law.

## **Part Two - CALLING AND CONVENING THE GENERAL MEETING OF SHAREHOLDERS**

### **Article (385) - Calling a General Meeting of Shareholders**

(1) A general meeting of shareholders may be called within the period between two annual meetings, whenever the interests of the company and the shareholders so require.

(2) The management body, the supervisory board or the non-executive members of the board of directors may, with a majority of votes of its members and where provided for by this law, pass a resolution to call the general meeting of shareholders upon their own initiative and/or upon a request of any shareholder.

(3) The request for calling the general meeting of shareholders may be submitted by shareholders holding at least one tenth of all voting shares. The shareholders requesting the meeting to be called shall, in their request submitted in writing, state the purpose and reasons for calling the meeting, their name and surname, place of residence and ID number, or business name, registered office, and the registration number, if the shareholder is a legal person. The shareholders shall enclose with the request an excerpt from the shareholders' register, issued by the Central Securities Depository, which states the number of the voting shares they own in the company.

(4) The request shall be submitted to the management body at the company's registered office. The request may be a single document, or it may comprise two or more documents signed by the shareholders holding at least one tenth of the total number of voting shares.

(5) The management body of the company shall reach a resolution to accept or refuse the request, within eight days as of the date of receipt of the request by the shareholders for calling a meeting. The resolution of refusal shall state the reasons for the refusal.

(6) In the event that the management body or the supervisory board fails to call the general meeting within twenty four hours as of the date of filing the request of the shareholders having a majority of all voting shares, the shareholders may submit a proposal for calling the general meeting to the court.

### **Article (386) - Calling a Meeting upon a Court Decision**

(1) If the management body, the supervisory board, or the non-executive members of the board of directors fail to adopt a resolution within the period under paragraphs 5 and 6 of article 385, and/or refuse the request for calling a meeting, the court may, upon a proposal, reach a decision for calling the general meeting.

(2) The court shall, within eight days as of the date of filing the proposal referred to in paragraph 1 of this article, reach a decision for calling the general meeting, if the terms, the manner and the procedure for calling the general meeting of shareholders as provided for by this law are met and if the issues proposed for the agenda of the meeting are within the competence of the general meeting of shareholders as determined by this law and/or the charter.

(3) The court shall, in the decision for calling the meeting under paragraph 2 of this article, order that the meeting be called and allow for other activities necessary to carry out the purposes for which the meeting is called to be undertaken, including the appointment of a natural person to call the general meeting. The person determined by the court shall specify the time and place of the meeting, the date of recording of the list of the shareholders entitled to vote, and shall, in accordance with the charter, send invitations for the meeting and/or publish a public notice for calling the meeting.

(4) The general meeting of shareholders that is to be called pursuant to a decision as referred to in paragraph 2 of this article, shall be called no later than eight days as of the date when the court adopted the decision ordering the meeting to be called.

(5) The company shall bear the costs for convening the general meeting of shareholders, as well as the court expenses, when the request is approved by the court. Should the court refuse such request, all costs shall be borne by the applicant.

### **Article (387) - Invitation and Public Notice for Calling a General Meeting of Shareholders**

(1) The general meeting of shareholders may be called by an invitation and/or by publication of a public notice to the shareholders.

(2) The general meeting of shareholders shall be called by sending invitations to all shareholders having shares that confer the right of participation to the operations of the general meeting of shareholders that is called. The invitation shall be sent according to the excerpt from the shareholders' register which shall be issued not more three days prior to the date of sending the invitation.

(3) The public notice shall be published in at least one daily newspaper.

(4) The sending of the invitation shall be carried out in a manner which enables the date of dispatch as well as the date of receipt by each shareholder to be confirmed.

(5) The period between the publication of the public notice, or the date of sending the invitation for participation at the meeting, and the convening of the meeting shall not be more than fifty days nor less than twenty one days prior to the date of holding the meeting.

(6) The management body shall specify the date (record date) to be referred to for sending out the invitations according to the excerpt from the shareholders' register,

which shall not be more than three days prior to the date of actual dispatch.

#### **Article (388) - Content of the Invitation or the Public Notice**

(1) The invitation or the public notice for calling the meeting shall contain the following data:

- 1) business name and registered office of the company;
- 2) date and location of the general meeting of shareholders;
- 3) other procedural formalities stipulated by the charter pertinent to the shareholders' presence at the meeting and the manner of voting;
- 4) agenda of the meeting; and
- 5) manner in which the materials prepared for the called meeting shall be made available.

(2) The charter may stipulate additional data to be contained in the invitation or the public notice, which are pertinent to the exercise of the shareholders' rights as regards the calling and convening of the meeting.

(3) The materials shall be made available to the shareholders as of the date of sending out the invitations or the publication of the public notice.

#### **Article (389) - Manner of Notification, Delivery and Receipt of Materials and Other Information**

(1) Where the notification or delivery of materials and other information from the company to its shareholders and from the shareholders to the company is determined by this law and/or the charter, it shall be carried out by registered mail, telegram, fax, e-mail and/or a daily newspaper.

(2) The notification, or the delivery of materials and other information as referred to in paragraph 1 of this article, from the company to the shareholders, shall be considered executed if:

- 1) sent by registered mail and/or telegram via mail, at the place of residence reported by the shareholder to the Central Securities Depository; and/or
- 2) sent by fax, e-mail, and/or to an electronic address reported by the shareholder; and/or
- 3) published in a daily newspaper.

(3) The notification, or the delivery of materials and other information pertaining to paragraph 1 of this article, from the company to the shareholders, shall be considered as received:

- 1) if it arrived at the place of residence of the shareholder, as registered in the register of shareholders;
- 2) if received personally or by an authorised person in the company, a member of the management body or a shareholder who is a natural person;
- 3) if received electronically, provided that dispatch and receipt may be confirmed; and
- 4) as of the date stated in the declaration for delivery of the registered mail and/or sending the telegram, including in cases of sent but not received and/or collected registered mail or telegram.

(4) The notification or the delivery of materials and other information from

the shareholders to the company shall be considered received if:

- 1) it arrived at the registered office of the company as entered in the commercial register;
- 2) received personally by an authorised person of the company, or a member of the management body;
- 3) received electronically, provided that dispatch and receipt may be confirmed; and
- 4) as of the date stated in the declaration for delivery of the registered mail and/or sending the telegram, including in cases of sent but not received and/or collected registered mail or telegram.

#### **Article (390) - Agenda and Inclusion of New Items on the Agenda**

(1) The general meeting of shareholders may only pass resolutions on issues duly included in the agenda.

(2) The general meeting of shareholders may also discuss, but not pass resolutions upon issues that are not duly included in the agenda.

(3) Any shareholder shall have the right to submit a proposal for the inclusion of items on the agenda of the general meeting of shareholders that is to be called.

(4) Shareholders who jointly own at least 5% of the total number of the voting shares may request in writing that one or more items be added to the agenda of the meeting that has already been called.

(5) The request for including one or more items in the agenda for the meeting that is already called, shall be sent to the official who called the meeting, or to the official determined by the court to call the meeting, in accordance with this law, within eight days as of the date when the invitation was sent or the date of publication of the public notice for participation at the meeting.

(6) The request for including one or more items on the agenda of the general meeting of shareholders, which has already been called, may not be refused, except in the following cases:

1) the shareholder(s) has(ve) missed the deadline referred to in paragraph 5 of this article;

2) the shareholder(s) do(es) not own a sufficient number of voting shares in the company, in accordance with paragraph 4 of this article;

3) the proposal fails to meet other requirements provided for by this law; and/or

4) the item(s) requested to be included in the agenda at the general meeting of shareholders are not under the competence of the general meeting of shareholders and/or are not in compliance with the law and/or the charter.

(7) In the event that the request referred to in paragraph 5 of this article is not put on the agenda, except for the reasons set out at paragraph 6 of this article, the final decision relating to the request shall be adopted by the general meeting of shareholders when adopting the agenda.

(8) The body that called the meeting, or the official determined by the court to call the meeting, shall send the request for including one or more items in the agenda of the meeting, which has already been called, to all shareholders, or shall publish it in the

same manner in which the invitations were sent, or in which the public notice for participation at the meeting, which has already been called was announced, no later than eight days prior to convening the meeting.

#### **Article (391) - Registration and Recording of Attendance at the General Meeting of Shareholders**

(1) Each shareholder who intends to participate to the called general meeting of shareholders shall be obliged to report his proposed attendance at the meeting (registration for attendance at the meeting), no later than prior to the commencement of the scheduled general meeting of shareholders. A list of registered shareholders shall be prepared by the management body or the official authorised to call the general meeting.

(2) The list of registered shareholders pursuant to paragraph 1 of this article shall be made available for inspection at the registered office of the company.

(3) Prior to the start of the general meeting of shareholders, the management body or the official authorised to call the general meeting shall compare the list of registered shareholders with the shareholders' register, obtained from the Central Securities Depository, forty-eight hours prior to convening the general meeting.

(4) Prior to the start of the general meeting of shareholders, the list under paragraph 3 of this article shall be signed by each present shareholder or his proxy representative, by which he certifies his presence at the meeting (certified participant at the general meeting of shareholders). The signed list shall be certified by the signatures of the chairman of the general meeting of shareholders and the minutes taker. Following the certification of the list, the chairman of the general meeting of shareholders shall confirm that the meeting has an operating quorum.

(5) All participants at the general meeting of shareholders shall have access to the certified list pertaining to paragraph 4 of this article, prior to the initial voting. Any certified participant at the general meeting may request a copy of the signed list at his own expense, which may not exceed the administrative cost thereof.

#### **Article (392) - Proxy Representative of a Shareholder at the General Meeting of Shareholders**

(1) Any shareholder may, by a proxy, authorise his representative to attend the general meeting of shareholders on his behalf (hereinafter: "proxy representative").

(2) The authorisation of the proxy representative pertaining to paragraph 1 of this article shall be granted by signing a written proxy form, certified by a notary.

(3) A proxy representative may not be:

1) a member of the management body or supervisory board of the company, or a close family relation of such member;

2) an officer of the company or a close family relation of such member;

3) a member of the management body or supervisory board of related and/or controlled companies; or

4) a legally authorised representative, or other natural person authorised by the company and/or another legal person owned by the company.

(4) As a rule, the proxy shall be issued for one general meeting.

(5) If the proxy does not contain restrictions and/or orders, the proxy representative may vote at his own discretion, provided that he always takes into consideration the interests of the shareholder granting the proxy.

(6) The proxy may be cancelled unilaterally, without stating the reasons, by the shareholder or the proxy representative, by submitting a written notification to the other party. If the shareholder personally registers his presence at the general meeting, it shall be considered that the proxy of the representative for that meeting is cancelled, and the shareholder may personally exercise his voting right without restriction.

(7) Issuing and cancelling a proxy shall be carried out only under the provisions of this article.

### **Article (393) - Operating Quorum at the General Meeting of Shareholders**

(1) The general meeting of shareholders may operate (operating quorum), if certified participants who own at least a majority of the total number of the voting shares are present at the meeting, unless the charter stipulates a greater majority.

(2) In the event that the quorum pursuant to paragraph 1 of this article is not reached, the general meeting of shareholders shall not proceed. In a period of not longer than fifteen days as of the date the general meeting on which there was no operating quorum was scheduled, a new date for convening the meeting shall be scheduled (rescheduled meeting), and the meeting shall be convened within such period. The new date of the rescheduled meeting shall be announced in the same manner of announcing the calling of the general meeting of shareholders that did not have an operating quorum.

(3) Participation at the rescheduled meeting shall not be required to be reported again. Prior to the start of the rescheduled meeting, each participant shall sign the list to certify his presence at the rescheduled meeting. The signed list shall then be certified by the signature of the chairman of the general meeting and the minutes taker. After the certification of the list, the chairman of the general meeting of shareholders shall confirm the presence of the registered shareholders or their proxy representatives as well as confirming that the general meeting of shareholders has an operating quorum.

(4) Any certified participant at the rescheduled meeting may request a copy of the signed list at his own expense.

(5) The rescheduled meeting of shareholders may only pass resolutions related to issues included in the agenda for the first general meeting of shareholders called, regardless of the number of shareholders attending and the number of shares that they own. The rescheduled general meeting of shareholders may not decide on issues that, according to this law, require a greater majority than the quorum referred to in paragraph 1 of this article.



### **Article (394) - Majority Required for the Passing of Resolutions at the General Meeting of Shareholders**

Resolutions at the general meeting of shareholders shall be passed with a majority of the voting shares represented at the general meeting, unless this law and/or the charter provides for a greater majority and/or prescribes other conditions in relation to the majority for passing resolutions.

### **Article (395) - Conducting a Meeting**

(1) The chairman shall preside over the general meeting of shareholders (hereinafter: "chairman of the general meeting of shareholders"). The chairman shall determine the course of the meeting and maintain the order at the general meeting, and he may establish rules for conducting the general meeting.

(2) A chairman shall be elected for each meeting.

(3) The term of office of the chairman shall run until the election of a chairman for the next general meeting of shareholders that is to be convened.

(4) Any shareholder or shareholder's representative may be elected as chairman. A member of the management body and/or supervisory board may not however be elected as a chairman.

### **Article (396) - Continuation of the Adjourned Session of the General Meeting of Shareholders**

(1) In the event that the session of the general meeting of shareholders which has already started is adjourned, the shareholders present at the meeting may decide for the meeting to continue its operations at a time and place determined by the majority of votes of the operating quorum of the general meeting, unless the charter requires a greater majority (continuation of the adjourned session of the meeting). The adjournment period may not exceed eight days as of the date of the adjournment.

(2) In the event that the session of the general meeting of shareholders that commenced its operations is adjourned, and the general meeting of shareholders failed to reach a resolution to continue its operations pertaining to paragraph 1 of this article, the chairman of the meeting shall set the time and place for the continuation of the adjourned session, unless otherwise stipulated by the charter.

(3) The registration of the attendance at the continuation of the adjourned session of the general meeting of shareholders shall not be repeated. A shareholder who did not register his attendance at the session of the general meeting that was adjourned shall be entitled to register his attendance prior to the start of the continued session, according to the conditions set out in the list of shareholders. At the opening of the continued session, the list of registered shareholders or shareholders' representatives shall be signed by each attendee, by which he certifies his attendance at the continuation of the adjourned session of the general meeting of shareholders. The signed list shall be certified by the signatures of the chairman of the general meeting of shareholders and the minutes taker. After the certification, the chairman of the general meeting of shareholders shall confirm that the continued meeting of the adjourned session of the general meeting of shareholders has an operating quorum.

(4) The certified list referred to in paragraph 3 of this article shall be made available to all attendees at the continued session of the general meeting, prior to the first voting. Any certified participant at the meeting may request a copy of the signed list at his own expense.

(5) In the event that there is no operating quorum at the continued session, and/or if it is not convened within the period specified in paragraph 1 of this article, a new general meeting of shareholders shall be scheduled according to the terms, manner and procedure specified by this law and/or the charter.

(6) The resolutions reached at the general meeting of shareholders, which was adjourned after it started to operate, shall be deemed valid, regardless of whether the meeting is continued through a further session. At the continued session, the general meeting of shareholders shall discuss and decide only upon the issues that were not discussed and decided upon at the initial meeting.

#### **Article (397) - Conditions for Exercising the Voting Right**

(1) The voting right shall be acquired upon full payment of the monetary contribution or upon transferring a non-monetary contribution in full.

(2) Notwithstanding paragraph 1 of this article, the charter may provide for the voting right to be acquired when the minimum amount of the contribution for the share as determined by law and/or the charter is paid. The right to one vote shall be acquired for the share for which the minimum amount of the contribution determined by law and/or the charter is paid. For larger contributions, the acquired rights shall be determined in proportion to the amount which has been paid up. In such cases, fractions of votes shall be taken into account and grouped together only insofar as they create full votes.

(3) If the charter does not specify that the voting right shall be acquired prior to the full payment of the contribution, and no share has been fully paid up, the voting right shall be determined in proportion to the amount of the contributions paid up. The payment of the minimum amount of the contribution shall confer the right to one vote. In these cases, fractions of votes shall be taken into account and grouped together only insofar as they provide the shareholder who has a voting right with full votes.

(4) The provisions in the charter referred to in paragraphs 1, 2, and 3 of this article, which only apply to particular shareholders and/or to particular types of shares, shall be null and void.

#### **Article (398) - Exercising the Voting Right in Particular Cases**

(1) The shareholder shall not lose his voting right when pledging his shares.

(2) The voting right attached to shares owned by a minor and/or another person having no business capacity shall be exercised by his legally authorised representative or guardian, either in person and/or through a proxy representative authorised by a written proxy statement certified by a notary.

(3) The voting right attached to shares owned by a deceased person shall be exercised by the joint representative determined by the successors of the deceased person, by a written proxy statement certified by a notary, until completion of the probate procedure.

(4) The voting right attached to shares owned in another legal person by a company under liquidation and/or subject to bankruptcy proceedings, shall be exercised by the liquidator or the bankruptcy trustee, and/or by a proxy representative determined by them by a written proxy statement certified by a notary.

#### **Article (399) - Limitations on the Exercise of the Voting Right**

(1) A shareholder may not vote at the general meeting of shareholders on a resolution which exempts him personally from a liability, payment of a receivable that the company has against him, and/or from obligations, and/or which grants him certain advantages and/or privileges by the company, or on a resolution to initiate court and/or other proceedings against him, unless otherwise stipulated by this law. In such cases, the shareholder shall neither exercise his voting right personally nor through a proxy representative.

(2) The provisions in the charter which are contrary to paragraph 1 of this article shall be null and void.

(3) A shareholder who acted contrary to paragraph 1 of this article shall be liable for damages suffered by the company, unless he proves that a majority vote would have been reached even without his vote.

(4) An agreement obliging the shareholder to exercise his voting right according to the instructions of the management body and/or the supervisory board shall be null and void. An agreement obliging the shareholder to vote for each proposal of the management body and/or the supervisory board shall also be deemed null and void.

#### **Article (400) - Manner of Voting at the General Meeting of Shareholders**

(1) Unless otherwise provided by the law and/or the charter, and/or if the general meeting of shareholders has not determined a special manner of voting and/or secret voting, the manner of voting shall be determined by the chairman of the general meeting of shareholders. The general meeting of shareholders shall elect at least one person to count the votes.

(2) Unless the charter provides for public voting, all elections of members of the management body or the supervisory board, and/or the dismissal of members of these bodies shall be carried out by secret voting.

(3) In the event that the charter provides for public voting at the general meeting of shareholders, upon request of one or more shareholders who have at least one tenth of the total number of voting shares, the general meeting of shareholders shall conduct secret voting.

(4) The charter may provide that the shareholders may vote at the called meeting by telephone and/or by other appropriate electronic means which is part of the public communications network, and which may enable, in a secure manner, to verify the identity of each shareholder, the voting right and the manner of establishing the communication link between the company and the shareholders in such a way that voting is accessible to each shareholder and the conducted voting may be recorded with certainty. The shareholder who voted by phone and/or by other electronic means shall be considered to be present at the meeting and shall be considered as part of the

operating quorum necessary for passing resolutions at the general meeting.

(5) In the event that the identity of each shareholder and the manner of establishing a communication link between the company and the shareholder may not be determined with certainty, and that the voting is not accessible to each shareholder and the quorum and the conducted vote may not be recorded with certainty, the voting shall be null and void.

#### **Article (401) - Manner of Conducting a Secret Ballot**

(1) A secret ballot shall be conducted by a committee for conducting secret ballots, elected by way of a resolution of the general meeting of shareholders, unless otherwise provided by the charter. The committee shall consist of at least three members elected from among the shareholders. A shareholder or other person who is a member of the management body of the company or the supervisory board, or a chairman of the general meeting of shareholders at which the secret ballot takes place shall not be elected as a member of the committee. The committee for conducting secret ballots shall operate impartially and fairly.

(2) The committee shall specify the content of the ballot papers, provide sufficient number of the ballot papers, enumerate the ballot papers, count the votes and submit a written report on the secret ballot conducted, specifying the number of ballot papers used for the secret ballot, number of unused ballots, and shall determine the results from the voting. The report on the secret ballot conducted shall be signed by all members of the committee.

(3) The ballot paper shall state the names and surnames of all candidates to be elected by the secret ballot.

(4) When a secret ballot is conducted, the ballot paper shall state the issues to be voted upon, the option for voting: "for", "against", "abstaining" for each issue and/or group of issues, and/or other clear options, as well as an explanation of the manner of conducting the secret ballot.

(5) The ballot papers (used and unused), the report on the conducted voting, and other election material shall be maintained in the same manner as the minutes of the general meeting of shareholders.

#### **Article (402) - Date of Effectiveness of the Resolutions of the General Meeting of Shareholders**

The resolutions of the general meeting of shareholders shall enter into force on the date of their adoption, unless the resolution specifies another date of effectiveness.

#### **Article (403) - Special General Meeting of Shareholders and Separate Voting**

(1) In the event that a resolution of the general meeting of shareholders, including a resolution to amend the charter, alters or restricts any right attached to a certain type of shares, such resolution shall be considered valid if the shareholders holding that respective type of share give their consent through the adoption of a

resolution for consent, passed with the majority determined by this law and/or the charter.

(2) The shareholders referred to in paragraph 1 of this article shall vote on the resolution for consent at a separate meeting (special general meeting of shareholders) or at the same general meeting of shareholders with other shareholders present, but through a separate vote (separate vote), unless otherwise provided by law. The provisions of this law referring to the passing of resolutions at the general meeting of shareholders shall respectively apply to the calling of separate sessions of the general meeting of shareholders, participation at the session, right of notification, as well as the passing of special resolutions. Shareholders who hold at least one tenth of the total number of shares and who may participate in the vote on the special resolution for consent, may request a separate meeting and/or a separate vote to be called.

#### **Article (404) - Rights Attached to Preferred Non-Voting Shares**

If the amount which is to be paid for the preferred non-voting shares from the dividend has not been paid and/or has not been paid in full for one year, and if it is also not paid in the subsequent year, in addition to the right to receive the full amount of the dividend for that year, the preferred non-voting shares shall be deemed to be voting shares until such amounts are paid. In such case, the preferred shares shall also participate in constituting the operating and decision making quorum, in the same manner as voting shares.

#### **Article (405) - Resolution for Cancelling the Pre-Emptive Right**

(1) Consent by the owners of preferred shares shall be required for a resolution that cancels a pre-emptive right.

(2) Consent by the owners of preferred shares shall be required for the issue of preferred shares that have priority in the distribution of profit and/or when making payment of a part of the remainder of the liquidation or bankruptcy estate of the company.

(3) The consent shall be given by the owners of preferred shares by way of the adoption of a special resolution. Such resolution shall be adopted by a majority vote which may not be less than two thirds of the represented preferred shares, unless the charter requires a greater majority. The charter may determine other terms for the adoption of the resolution.

(4) Should the pre-emptive right be cancelled, the preferred non-voting shares shall become voting shares.

#### **Article (406) - Right of Information**

(1) Any shareholder may request to be informed at the general meeting of shareholders about the company's state of affairs and its relations with other companies, if such information is related to the items on the agenda of the general meeting of shareholders.

(2) The shareholder who is denied the information may request in writing that his question and request, as well as the reasons for the denial be entered into the

minutes of the meeting.

(3) The shareholder, who has been denied the information, may request court protection of his right of information. The claim shall be filed within fifteen days as of the date of convening the general meeting of shareholders.

#### **Article (407) - Minutes from the General Meeting of Shareholders**

(1) Minutes shall be taken at the general meeting of shareholders, containing the following information:

- 1) business name and registered office of the company;
- 2) date, time and place of the meeting;
- 3) name of the chairman of the general meeting of shareholders, name of the minutes taker and names of the members of the voting committee, if elected;
- 4) agenda of the meeting;
- 5) number of shareholders or proxy representatives of the shareholders present at the meeting and the operating quorum;
- 6) discussion held at the general meeting of shareholders;
- 7) the most important points raised at the general meeting of shareholders, as well as proposals submitted;
- 8) resolutions, number of votes “for” and “against” and the number of abstentions; and
- 9) abstentions or objections made by a shareholder, member of the management body or supervisory board against a resolution, if any abstention or objection has been stated.

(2) A member of the management body or supervisory board, or the chairman of the general meeting may not be elected as minutes taker or minutes certifier.

(3) The minutes shall be prepared no later than eight days as of the date of convening the general meeting of shareholders, and signed by the minutes taker and the chairman of the general meeting of shareholders, and certified by the certifiers of the minutes.

(4) Any shareholder may request a copy of the minutes of the general meeting of shareholders from the executive members of the board of directors or the management board, at his own expense. The cost shall not exceed the administrative cost thereof.

(5) In case the minutes are taken by a notary, these shall be prepared no later than three days as of the date the general meeting of shareholders was convened, and shall be signed by the notary and the chairman of the general meeting of shareholders. The notary who took the minutes shall issue copies of these pursuant to the terms of paragraph 4 of this article.

(6) The minutes and the enclosures thereof shall be kept for at least ten years.

### **Part Three - NULLITY AND CONTESTING THE RESOLUTION OF THE GENERAL MEETING OF SHAREHOLDERS**

#### **Article (408) - Grounds for Nullity**

Apart from the cases explicitly prescribed by this law, a resolution of the general meeting of shareholders shall be null and void if:

1) the resolution is adopted at a general meeting of shareholders that was not called in accordance with the law and/or the charter, unless all shareholders attended the meeting;

2) the general meeting of shareholders failed to adopt the resolution in the manner and form stipulated by this law and/or the charter;

3) the resolution contradicts the nature of the company and/or its content is contrary to the law, public morals and/or the provisions of the charter;

4) the general meeting of shareholders decided upon an issue which is not under its competence;

5) the resolution is not entered in the minutes in the manner stipulated by this law;

6) the management body or the supervisory board is elected contrary to the provisions of this law and/or the charter;

7) the general meeting of shareholders elected, by a resolution, a natural person, who was not appointed in accordance with this law and/or the charter, as a member of the management body or supervisory board;

8) the general meeting of shareholders, elected, by a resolution, more natural persons in the management body or supervisory board than the number determined by this law or the charter;

9) the general meeting elected, by a resolution, a person who, at the time of election did not meet the terms for election in the management body or supervisory board determined by this law;

10) the general meeting of shareholders approved an unaudited annual accounts and financial statements or the audit was not conducted in accordance with the law, and/or by a certified auditor;

11) the general meeting of shareholders approved the annual accounts, the financial statements and the annual report on the operations of the company for the preceding business year, without prior adoption by the management body and the supervisory board;

12) the provisions of this law and/or the charter stipulating the obligations for setting aside and utilisation of assets for the reserves have not been observed when preparing the annual accounts; and

13) a definitive court decision has proclaimed the resolution of the general meeting as null and void.

### **Article (409) - Calling upon Nullity**

(1) Nullity of the resolution of the general meeting of shareholders based on the grounds set out at article 408, item 5 of this law may not be called upon, following its entry in the commercial register.

(2) Nullity of the resolution of the general meeting, based on the grounds set out at article 408 item 1 and/or 3 of this law, may not be called upon after the expiry of three years as of its entry in the commercial register. If within such period a procedure is initiated pursuant to a claim for a declaration of nullity of the resolution, the three year term shall be extended until a definitive court decision is reached on the claim and/or until the dispute is resolved in another manner. In the event that nullity of the resolution of the general meeting is based on the grounds set out at article 408, item 1 of this law, such nullity cannot be called upon if all shareholders who were not duly invited to the general meeting have subsequently agreed to the resolution.

### **Article (410) - Claim for a Declaration of Nullity**

(1) Nullity may be declared pursuant to a claim or in any other manner.

(2) Any shareholder, the management body and/or member of the management body and/or supervisory board may file a claim against the company requesting the resolution of the general meeting of shareholders to be declared null and void.

(3) The claim shall be filed within thirty days as of the date of adoption of the resolution. If the claimant was present at the general meeting at which the resolution was adopted, the period shall start running from the first day after the date of completion of the operations of the general meeting at which the resolution was adopted. If the claimant did not attend the general meeting at which the resolution was adopted, the period shall start running from the first day after the date when he could have learned about the resolution, but not later than one year as of the adoption of the resolution.

(4) The claim shall be filed against the company. The company shall be represented by an authorised member of the management body or supervisory board. If the claim is filed by the executive members of the board of directors, the company shall be represented by the non-executive members; if the claim is filed by the management board and/or a member thereof, the company shall be represented by an authorised member of the supervisory board and if the claim is filed by the supervisory board, the company shall be represented by an authorised member of the management board.

(5) The court may pronounce an interim measure to prevent the implementation of the resolution, the annulment of which is requested by the claim, if there is a likelihood that its implementation may cause irreparable damage to the company or to a shareholder.

(6) If the claim for a declaration of nullity is filed by the members of the management body, supervisory board or the manager, the provision under paragraph 4 of this article shall respectively apply.



### **Article (411) - Legal Consequences Arising from Nullity**

(1) The resolution which is declared to be null and void shall have no legal effect, except in the cases provided for under article 409 of this law.

(2) Everything that was acquired from the company on the basis of a null resolution shall be returned to the company and the costs arising thereof shall be compensated.

(3) The nullity of the resolutions under article 408 paragraph 1 items 10, 11, and 13 shall entail the nullity of the resolutions of the general meeting adopted on the basis of such resolutions. The resolutions of the management body or supervisory board approving the financial notifications shall also be null and void.

### **Article (412) - Contesting a Resolution**

(1) A resolution of the general meeting of shareholders may be contested in the event that a shareholder voted for the resolution with the intention to gain benefit for himself and/or for a third party at the expense of the company and/or other shareholders, and the contested resolution enables him to achieve that. This provision shall not apply when the other shareholders are duly compensated for any damages.

(2) The resolution of the general meeting of shareholders may be contested if it is based on the grounds of the provision of insufficient information that affected the decision-making process.

(3) The resolution of the general meeting may not be contested if it has been confirmed by a new resolution of the general meeting, provided that such new resolution is not contested within the term provided for under article 410 paragraph 3 of this law.

### **Article (413) - Parties Entitled to Contest the Resolution**

A resolution of the general meeting of shareholders may be contested by:

1) a shareholder who participated in the operations of the general meeting of shareholders and who declared his objection to the resolution in the minutes of the meeting;

2) a shareholder who did not participate in the operations of the general meeting of shareholders because he was not allowed to participate in its operations contrary to the law and/or the charter due to the general meeting of shareholders not having been properly called, and/or if the issue subject to the resolution at the meeting was not properly announced;

3) any shareholder, where the general meeting of shareholders adopted a resolution with the intention for shareholders who voted for the resolution to gain benefit for themselves and/or for a third party, at the expense of the company and/or other shareholders;

4) the management body and/or supervisory board;

5) any member of the management body and/or supervisory board, if by implementation of the resolution he would perform an action which is punishable, illegal and/or which would make him liable for damages; and

6) any creditor of the company who has a legal interest.

**Article (414) - Complaint of Contestation and Legal Consequences Arising from Contestation**

(1) Paragraphs 2, 3, 4 and 6 of article 410 of this law shall respectively apply to the claim for contestation.

(2) If the court, by a definitive decision, annuls the resolution of the general meeting, it shall have effect against all shareholders, members of the management body or supervisory board, even if they were not parties in the procedure.

**Article (415) - Obligation for Delivery and Entry of the Court Decision**

(1) The management body shall, within three days as of the date of receiving the definitive court decision, deliver the decision to the commercial register if the entry was made on the basis of that decision. The entry of the court decision in the commercial register shall be published in the same manner as the entry.

(2) In the event that the charter has been amended pursuant to the court decision, the consolidated text of the charter shall be delivered to the commercial register in addition to the decision.

**SECTION 7 - SINGLE MEMBER JOINT STOCK COMPANY**

**Article (416) - Appropriate Application of the Provisions pertaining to the Single Member Company**

(1) The provisions of this law pertaining to a company with two or more shareholders shall respectively apply to a single member joint stock company, whereby the rights and liabilities of the general meeting of shareholders of the joint stock company shall be exercised by the body determined by the founder, or the single shareholder, in a manner prescribed by the charter of the single member joint stock company.

(2) Agreements between the single shareholder and the company, as represented by him, shall be recorded in the minutes and/or drawn up in writing.

**SECTION 8 - AMENDMENTS TO THE CHARTER**

**Article (417) - Manner and Procedure**

(1) The charter shall be amended by a resolution to amend of the charter.

(2) The procedure to amend the charter may be initiated by the management body or the supervisory board, as well as the shareholders who own at least one tenth of the total number of voting shares. Proposals, in the form of amendments, shall be submitted to the management body, and, if authorised by this law, to the supervisory board.

(3) The draft resolution to amend the charter which sets out the proposed, shall be drawn up by the management body, and, if authorised by this law, the supervisory board, regardless of the party who proposed the amendments. The draft resolution to amend the charter shall contain an explanation.

### **Article (418) - Resolution for Amendment**

(1) The resolution to amend the charter shall be adopted by the general meeting of shareholders.

(2) The resolution to amend the charter shall be adopted by a majority vote which may not be lower than two thirds of the voting shares represented at the general meeting, unless the charter requires a greater majority.

(3) The general meeting of shareholders shall, pursuant to the resolution to amend the charter, authorise the board of directors or the supervisory board to prepare a revised text of the charter including the amendments made by the resolution to amend the charter, as well as the provisions from the resolutions having the effect of a resolution to amend the charter, as defined by this law.

### **Article (419) - Date of Effectiveness of the Amendments**

Amendments to the charter shall enter into force on the date when the resolution to amend the charter was adopted, unless another date of effectiveness is specified in the resolution to amend the charter.

## **SECTION 9 - INCREASE AND DECREASE OF THE CHARTER CAPITAL**

### **Subsection 1 - INCREASE OF THE CHARTER CAPITAL**

#### **Part One - GENERAL PROVISIONS**

#### **Article (420) - Manners of Increase**

The increase of the charter capital of the company may be carried out by:

- 1) contributions;
- 2) conditional increase of the charter capital;
- 3) authorised capital; and
- 4) from the assets of the company.

#### **Article (421) - Resolution to Increase the Charter Capital**

(1) Any increase of the charter capital shall be decided upon by a resolution of the general meeting of shareholders to increase the charter capital. The resolution to increase the charter capital shall have the effect of a resolution to amend the charter, except for the resolution to increase the charter capital that the management body adopts pursuant to the provisions of the charter concerning the authorised capital.

(2) If the newly issued shares are issued at an amount higher than the nominal value of the shares, the resolution to increase the charter capital shall specify the amount below which the shares may not be issued.

(3) The resolution to increase the charter capital shall contain data on the amount, manner and date of increasing the charter capital, number, type and classes of shares, monetary and non-monetary contributions, on the basis of which the newly

issued shares are subscribed for, as well as other data stipulated by law and the provisions of this section of this law, in accordance with the procedures to increase the charter capital.

(4) The resolution to increase the charter capital shall be adopted by a majority vote that may not be lower than two thirds of the voting shares represented at the general meeting of shareholders, unless the charter requires a greater majority.

(5) Where there are several classes of shares, the resolution referred to in paragraph 1 of this article shall be valid if the shareholders of each class of shares agree thereon. The shareholders of each class of shares shall adopt the resolution for approval with the same majority by which the resolution referred to in paragraph 1 of this article has been adopted.

#### **Article (422) - Pre-Emptive Right of Subscription of Newly Issued Shares**

Whenever the charter capital is increased, the shareholders shall be entitled to a pre-emptive right of subscription of newly issued shares in proportion to the charter capital of the company represented by their shares, regardless of whether the newly issued shares are sold through a bank and/or other financial institution.

#### **Article (423) - Replacement of Shares for the Purpose of Increasing the Nominal Value of Shares**

(1) Shares, which are fully paid up, shall participate in the increase of the charter capital in proportion to their nominal value.

(2) Shares, which are partially paid up, shall participate in the increase of the charter capital in proportion to their nominal value which is paid up.

(3) Shares owned by the company shall participate in the increase of the charter capital only if the increase of the charter capital is carried out by increasing the nominal value of those shares, under the same terms as the other shares.

(4) In the event that the increase of the charter capital is carried out by increasing the nominal value of the shares, the increase shall be carried out in proportion to their nominal value, so that the nominal value of each share is proportionally increased, whereby the total increase shall be equivalent to the amount for which the charter capital is increased. The resolution to increase the charter capital shall state the manner in which it shall be carried out.

(5) The board of directors or the management board, shall, within thirty days after the increase of the charter capital, replace the shares registered in the shareholders' register with the shares with the increased nominal value (exchange of shares), and shall request that this change be entered in the shareholders' register, and shall notify the Central Securities Depository thereof.

### **Article (424) - Participation of New Shares in the Profit**

(1) The resolution to increase the charter capital may provide for the new shares to participate in the profit of the company for the business year preceding the year when the resolution to increase the charter capital was adopted. In such case, the resolution to increase the charter capital shall be passed prior to the resolution for distribution, or utilisation of the profit for the business year preceding the year when the resolution to increase the charter capital was adopted. The resolution for distribution or utilisation of the profit from the preceding business year shall produce legal effect following the increase of the charter capital.

(2) The resolution referred to in paragraph 1 of this article shall be null and void in the event that the resolution to increase the charter capital is not entered in the commercial register within three months as of the date of its adoption. This period shall be suspended during the claim procedure, which contests the resolution, and/or a claim requiring its nullity, and/or for the time until approval is obtained from a competent body to increase the charter capital, if so determined by law.

### **Article (425) - Exclusion of the Pre-Emptive Right When Subscribing Newly Issued Shares**

(1) The pre-emptive right when subscribing newly issued shares may, prior to the subscription of shares, only be fully or partially excluded by the resolution to increase the charter capital, in accordance with the charter, which shall be notified in the same manner in which the calling of the general meeting of shareholders was notified.

(2) The general meeting of shareholders may only decide upon the exclusion of the pre-emptive right to subscribe new shares upon having received a written report of the management body stating the reasons for the limitation or exclusion of the pre-emptive right for subscription, and justifying the proposed price for the issue of the shares. The resolution referred to in paragraph 1 of this article shall be adopted by a majority vote which may not be less than two thirds of the voting shares represented at the general meeting, unless the charter requires a greater majority. The charter may stipulate additional conditions for the adoption of the resolution.

### **Article (426) - Protection of Rights of Shareholders and Third Parties**

(1) If certain rights attached to shares that are partially paid, such as the right to participate in the profit and/or the voting right, are determined in proportion to the amount paid, the shareholders shall have the rights that are determined in proportion to the amount they have paid until full payment of shares.

(2) The increase of the charter capital shall not have an effect on the agreements between the company and third parties, which are contingent upon the generated profit, the value of the shares and/or the value of the charter capital prior to the increase of the charter capital.

(3) The provision under paragraph 2 of this article shall also apply to additional obligations, assumed by the shareholders.

**Part Two - INCREASE OF THE CHARTER CAPITAL BY  
CONTRIBUTIONS**

**Article (427) - Conditions for Increase**

(1) The increase of the charter capital by contributions may be performed only by the issue of new shares. The newly issued shares may be paid in cash and/or by making non-monetary contributions.

(2) The resolution to increase the charter capital by contributions may be adopted only if the nominal value of the shares subscribed for in the previous issue has been fully paid up.

**Article (428) - Increase of the Charter Capital by Non-Monetary  
Contributions**

(1) If the increase of the charter capital is carried out by non-monetary contributions, the resolution to increase the charter capital by contributions shall indicate the non-monetary contributions, the persons who shall transfer the non-monetary contributions to the company, and the nominal value of shares acquired in exchange for the non-monetary contributions transferred.

(2) In the event that the resolution to increase the charter capital by non-monetary contributions fails to specify the data referred to in paragraph 1 of this article, the transfer of the non-monetary contributions, the agreements transferring the non-monetary contributions and the legal transactions for their transfer to the company shall be null and void.

(3) The provisions under article 35 of this law shall respectively apply to the increase of the charter capital made by way of the transfer of non-monetary contributions.

**Article (429) - Publishing a Notice for the Subscription of the Shares**

(1) After having obtained the approval to issue shares from the Securities Exchange Commission, the management body shall publish a notice to the shareholders, in accordance with the resolution to increase the charter capital by way of contributions. The notice shall be published in at least one daily newspaper. The shareholders shall be notified that they may subscribe, within a period of not longer than thirty days but not shorter than fifteen days as of the date of publication of the notice, for the proportion of the new shares which corresponds to the participation of their shares in the charter capital prior to its increase, and to use their pre-emptive right of subscribing for such newly issued shares, unless they have waived this right in the resolution to increase the charter capital by way of contributions.

(2) The management body shall, at the same time, inform each shareholder in writing of the amount of the issued shares, the number of the shares corresponding to the participation of his/its shares in the charter capital, and the period under paragraph 1 of this article within which the shareholder may subscribe for the new shares.

(3) Following the expiry of the period set out at paragraph 1 of this article,

within which shareholders may exercise their pre-emptive right of subscribing for such newly issued shares, other persons shall have the right to subscribe for the newly-issued shares within a period of not shorter than fifteen days as of the date of expiry of the term under paragraph 1 of this article.

#### **Article (430) - Pre-Emptive Right**

Any shareholder shall be entitled, upon request, to subscribe by way of a written statement for the portion of the new shares that corresponds to the participation of his/its shares in the charter capital prior to its increase, within a term not shorter than the term set out at article 429, paragraph 1 of this law.

#### **Article (431) - Subscription of Newly Issued Shares**

(1) Newly-issued shares shall be subscribed for by a written statement (subscription form), clearly indicating the subscriber, the number of shares he subscribes for, the nominal value of the shares, and, in case of shares of several types and classes, the type and class of shares. The subscription form shall contain the following:

1) the date when the resolution to increase the charter capital by contributions was adopted;

2) the amount for which the charter capital is increased, the type and number of shares, the manner of payment and additional obligations, if determined by the resolution to increase the charter capital by way of contributions;

3) data regarding the increase of the charter capital by the transfer of non-monetary contributions, and, in case of the issue of shares of several types, the total nominal value of shares of each type; and

4) the date when the obligation assumed by the signing of the subscription form terminates, if prior to this date, the entry of the increase of the charter capital has not been registered in the commercial register.

(2) Subscription forms that do not contain the data and/or contain limitations other than those referred to in paragraph 1, item 4 of this article, shall be null and void.

(3) Persons who subscribed for shares on the basis of the subscription form and exercised rights and/or fulfilled obligations as a shareholder, may not call upon nullity and/or be exempted from the obligations assumed with the subscription form, once the resolution to increase the charter capital has been registered in the commercial register.

(4) Any limitation that is not stated in the subscription form shall have no effect as against the company.

### **Article (432) - Payment and Making of Contributions**

(1) Monetary contributions shall be paid in full prior to the date of entry of the increase of the charter capital in the commercial register.

(2) Non-monetary contributions shall be transferred in full, according to their appraised value, prior to the date of entry of the increase of the charter capital in the commercial register. The company shall enter into an agreement for the transfer of the non-monetary contributions with the person transferring such non-monetary contribution. The agreement shall be signed by an executive member of the board of directors, the president of the management board, or the person authorised by him, and the person transferring the non-monetary contribution.

(3) If the person under paragraph 2 of this article fails to make the non-monetary contribution in accordance with the terms stipulated in the agreement referred to in paragraph 2 of this article, he shall be obliged to pay the nominal value of the shares acquired, as well as to fulfil other obligations stipulated by the agreement.

### **Article (433) - Entry of the Increase of the Charter Capital by Contributions**

(1) Following the executed increase of the charter capital by way of contributions, an application for entry of the increase of the charter capital in the commercial register shall be filed within eight days as of the increase of the charter capital.

(2) The following shall be enclosed with the application form for entry of the increase of the charter capital:

1) the resolution to increase the charter capital by way of contributions, and if more than one type of share exists, the resolution approving the increase by the shareholders of each class of share;

2) an excerpt from the minutes of the general meeting of shareholders at which the resolution to increase the charter capital was adopted, certified by a notary;

3) the approval for the issue of shares from the Securities Exchange Commission;

4) the appraisal report, in the event that the increase of the charter capital of the company is effected through the transfer of non-monetary contributions and documentary ownership evidence, which contains a record of the registration made in the public book for recording immovable property, and if movable objects are contributed, the registration of which is required by law - documentary ownership evidence of that movable object;

5) the agreement for the transfer of each non-monetary contribution;

6) the calculation of the costs incurred by the issue of new shares;

7) the revised text of the charter;

8) evidence of the exercised pre-emptive right to subscribe for the issued shares and a list of the persons who have exercised such right, indicating the number of shares acquired and the contributions paid or transferred for their acquisition, signed by the president of the management body, in the event that the pre-emptive right of subscription is not excluded; and

9) the approval for the increase of the charter capital by a competent body, if required by law.



(3) The notification of the entry of the increase of the charter capital in the commercial register shall be published.

### **Part Three - CONDITIONAL INCREASE OF THE CHARTER CAPITAL**

#### **Article (434) - Pre-Conditions**

(1) A resolution for the conditional increase of the charter capital may be adopted only for the purpose of achieving the following objectives:

1) creditors to be able to exercise their right to exchange their convertible bonds with shares in the company, and their pre-emptive right when subscribing for new shares issued by the company;

2) preparation for merger and division by separation with takeover or spin off with takeover; and

3) employees, executive members of the board of directors, management board or the manager of the company, and the members of such bodies of companies related to the company to be able to exercise their rights in respect of the shares.

(2) The resolution for the conditional increase of the charter capital shall stipulate the purpose of the conditional increase of the charter capital, the persons entitled to the pre-emptive right to subscribe for the newly issued shares, the term within which the conditional increase of the charter capital shall be carried out, the terms under which these rights may be exercised, the amount at which the shares are issued and the measures and criteria according to which this amount may be calculated.

(3) The nominal value of the conditionally increased charter capital may not exceed one half of the charter capital on the date when the resolution for the conditional increase of the charter capital was adopted.

(4) The resolution of the general meeting for the conditional increase of the charter capital adopted contrary to the provisions of this article shall be void.

(5) The right to convert the bonds or the pre-emptive right to subscribe for shares pursuant to paragraph 1, item 1 of this article, shall be exercised pursuant to a written statement for their conversion into shares or subscription of shares. Article 429 of this law shall respectively apply to the written statement.

(6) The provisions under articles 35 and 428 of this law, pertaining to non-monetary contributions, shall respectively apply in case of the conditional increase of the charter capital.

(7) The provisions under articles 429 and 430 of this law, pertaining to the pre-emptive right of subscribing for newly issued shares, shall respectively apply to the exercise of the pre-emptive right when subscribing newly issued shares pursuant to the resolution for the conditional increase of the charter capital.

### **Article (435) - Registration of the Increase of the Charter Capital**

(1) The increase of the charter capital shall be deemed executed upon the issue of shares and when any of the objectives set out at article 434 paragraph 1 of this law has been achieved.

(2) An application form for the registration of the total amount, for which the charter capital is increased, shall be filed in the commercial register, within eight days following the increase of the charter capital.

(3) In addition to the enclosures under article 433, paragraph 2, items 3, 4, 5, 6, 7, and 9, the application referred to in paragraph 2 of this article shall contain the following:

1) the resolution for the conditional increase of the charter capital;  
2) an excerpt from the minutes of the general meeting at which the resolution for the conditional increase of the charter capital was adopted, certified by a notary; and

3) a statement by which the management body declares that bonds and shares have been issued only for the purpose of achieving the objective(s) set out in the resolution for the conditional increase of the charter capital.

### **Part Four - AUTHORISED CAPITAL**

#### **Article (436) - Manner of Authorisation**

(1) The charter may authorise the management body to increase the charter capital up to a certain nominal value (authorised capital) by the issue of new shares by way of contributions, for a maximum period of five years following the entry of the founding of the company, or five years following the entry of the resolution to amend the charter in the commercial register if such possibility was not stipulated by the charter.

(2) The nominal value of the authorised capital may not exceed one half of the charter capital at the time when the authorisation for the conditional increase of the charter capital was granted.

(3) New shares may be issued only upon having obtained the consent of the majority of the non-executive members of the board of directors, or the majority of the members of the supervisory board.

#### **Article (437) - Issue of New Shares**

(1) The provision granting the authorisation pursuant to article 436 paragraph 1 of this law shall be deemed as a resolution to increase the charter capital by authorised capital.

(2) The issue of new shares shall be carried out pursuant to the provisions of this law regulating the increase of the charter capital by way of contributions, unless otherwise provided for by this section of this and other laws.

(3) The authorisation referred to in paragraph 1 of article 436 of this law may authorise the board of directors, or the supervisory board, to decide on the exclusion of the pre-emptive right to subscribe for new shares. The resolution for the exclusion of

the pre-emptive right shall be adopted with the consent of the majority of the non-executive members of the board of directors or the majority of the members of the supervisory board. These members shall be obliged to submit a written report at the next annual meeting of shareholders, stating the reasons for the exclusion of the pre-emptive right to subscribe for the new shares.

(4) The provisions contained in articles 35 and 428 of this law, pertaining to non-monetary contributions, shall respectively apply to the increase of the charter capital by authorised capital.

(5) The provisions contained in articles 429 and 430 of this law, pertaining to the pre-emptive right to subscribe for new shares, shall respectively apply to the exercise of the pre-emptive right to subscribe for newly issued shares, pursuant to the resolution to increase the charter capital by authorised capital.

#### **Article (438) - Entry of the Increase of the Charter Capital in the Commercial Register**

(1) Within eight days as of the date of acquiring the shares, an application form for the entry of the increase of the charter capital corresponding to the total amount of the acquired shares shall be filed in the commercial register.

(2) In addition to the enclosures under article 433, paragraph 2, items 2, 3, 4, 5, 6, and 9, the application under paragraph 1 of this article shall contain the following:

1) the charter which contains provisions on the conditional increase of the charter capital;

2) an excerpt from the minutes of the meeting of the management body at which the resolution to issue the shares was adopted;

3) the consent by the majority of the non-executive members of the board of directors, or the majority of the members of the supervisory board, in the event that the board of directors may, pursuant to the authorisation under article 436 paragraph 1 of this law, exclude the pre-emptive right to subscribe for shares only after having obtained their consent; and

4) a statement by which the management body declares that the shares have been issued within the scope of the authorisation for the issue of the new shares and only for the purpose of achieving the objective(s) determined in the authorisation, if so stipulated by the charter.

#### **Part Five - INCREASE OF THE CHARTER CAPITAL FROM THE COMPANY ASSETS**

##### **Article (439) - Resolution to Increase the Charter Capital from the Company's Assets**

(1) The general meeting of shareholders may increase the charter capital by a resolution to increase the charter capital, by converting the profit, the reserves and the undistributed (withheld) profit that has not been distributed as a dividend and/or for which no other purpose has been determined (hereinafter: "resolution to increase the charter capital from the company assets").

(2) The resolution to increase the charter capital from the company assets shall

be based on the last annual accounts verified by a certified auditor, and on the annual report on the company's operations for the preceding business year, approved by the general meeting of shareholders.

(3) If no certified auditor was appointed at the last regular general meeting of shareholders, it shall be deemed that the appointed certified auditor is the one who was appointed by the general meeting of shareholders for auditing the last annual accounts, or the certified auditor who shall be appointed by the court upon a proposal of the company.

(4) The increase of the charter capital from the company assets may be carried out by the issue of new shares and/or by increasing the nominal value of the issued shares. The resolution to increase the charter capital shall state the manner in which the increase of the charter capital shall be carried out.

(5) The shareholders shall be entitled to the newly issued shares in proportion to the participation of their shares in the charter capital.

(6) The resolution of the general meeting of shareholders or the provision in the charter which is contrary to paragraph 5 of this article shall be null and void.

#### **Article (440) - Suitability of the Profit and the Reserves for the Increase of the Charter Capital**

(1) Statutory reserves may be fully converted into charter capital, while legal default reserves may only be converted into charter capital if they exceed the amount determined pursuant to this law.

(2) Reserves and profit shall not be converted into charter capital if losses, including any transferred losses brought forward, are stated in the balance sheet.

(3) Statutory reserves intended for a particular purpose may be converted into charter capital only if their conversion corresponds to that particular purpose.

#### **Article (441) - Application Form for Entry of the Increase of the Charter Capital from the Company Assets**

(1) An application form for entry of the increase of the charter capital shall be filed in the commercial register, within eight days as of the date of the issue of the shares pursuant to the resolution for the increase of the charter capital from the company assets.

(2) In addition to the enclosures under items 6, 7, and 9 of paragraph 2 article 433 of this law, the following shall be enclosed with the application form referred to in paragraph 1 of this article:

1) the annual accounts, verified by a certified auditor;

2) the resolution to increase the charter capital with the company assets;

3) an excerpt from the minutes of the general meeting at which the resolution to increase the charter capital with the company assets was adopted, certified by a notary; and

4) a statement signed by the president of the board of directors, or by the president of the management board, which certifies that, from the date of the balance sheet used as the basis for the increase of the charter capital, verified by a certified

auditor, until the date of filing the application form for entry of the increase of the charter capital in the commercial register, there was no decrease of the assets of the company that would represent an obstacle for the increase of the charter capital from the company assets, if the increase is to be effected on the date of filing the application form.

## **Subsection 2 - DECREASE OF THE CHARTER CAPITAL**

### **Part One - GENERAL PROVISIONS**

#### **Article (442) - Methods of Decrease of the Charter Capital**

- (1) Charter capital may be decreased by means of:
  - 1) a decrease of the nominal value of one or more types and classes of share;
  - 2) a reverse-split of one or more types of share, whereby the minimum nominal value of the merged share may not be less than 1 EUR;
  - 3) a withdrawal of treasury and other shares, if the withdrawal results in a decrease of the charter capital.
- (2) Following the decrease of the nominal value and the number of shares or following the withdrawal of treasury and other shares, if the withdrawal results in a decrease of the charter capital, and following the entry and the publication of the entry of the decrease of the charter capital in the commercial register, the shares shall be cancelled.
- (3) The charter capital shall not be decreased below the minimum nominal value of the charter capital stipulated by this law.
- (4) In the event that the company decreases the charter capital contrary to paragraph 3 of this article, the resolution to decrease the charter capital shall be null and void, unless a resolution to increase the charter capital at least up to the minimum amount determined by this law is adopted to take effect together with the resolution to decrease the charter capital.

### **Part Two - REGULAR DECREASE OF THE CHARTER CAPITAL**

#### **Article (443) - Resolution for the Regular Decrease of the Charter Capital**

- (1) Any decrease of the charter capital shall be subject to a resolution to decrease the charter capital adopted by the general meeting of shareholders by a majority of votes that may not be lower than two thirds of the votes attaching to the shares represented at the general meeting of shareholders, unless the charter stipulates a greater majority.
- (2) In the event that there are several types of share, the resolution shall be deemed valid if the shareholders of each type of share provide their approval with a majority that may not be lower than the majority referred to in paragraph 1 of this article. The shareholders of each type of share shall adopt a resolution for providing such approval. The resolution for providing such approval shall be adopted in the manner and under the terms set out at paragraph 1 of this article.
- (3) The resolution to decrease the charter capital shall determine the amount,

the purpose, as well as the manner for carrying out the decrease of the charter capital. If the decrease of the charter capital is carried out for the purpose of refunding a part of the decreased charter capital to the shareholders, this shall be separately stated in the resolution.

(4) The invitation calling the general meeting of shareholders, at which the decrease of the charter capital shall be decided upon, shall specify the reason, purpose of the decrease of the charter capital and the way in which it is to be carried out.

#### **Article (444) - Entry of the Resolution**

(1) Notice of the resolution to decrease the charter capital shall be pre-registered in the commercial register. An application for entry shall be filed for registering this prior notice.

(2) The following shall be enclosed with the application form for entry:

1) the resolution to decrease the charter capital of the general meeting of shareholders;

2) an excerpt from the minutes of the general meeting at which the resolution to decrease the charter capital was adopted, certified by a notary.

(3) The president of the board of directors, or the president of the management board shall disclose the intention to decrease the charter capital in the "Official Gazette of the Republic of Macedonia" on the first business day following the entry of the pre-registered notice of the resolution to decrease the charter capital in the commercial register. The company shall state in the announcement that it agrees to pay the matured claims to each creditor who files a request and/or provide such creditors with security for their respective claims. If, following the expiry of ninety days as of the date of publication of the announcement, no request for settling any claim is filed, it shall be deemed that all the creditors have consented to the resolution to decrease the charter capital

(4) Creditors, of whom the company is aware and whose claims exceed 10,000 EUR in denar counter-value shall be individually notified in writing, at their place of residence or at their registered office as entered in the commercial register.

#### **Article (445) - Creditors' Security**

(1) The company shall provide each creditor with adequate security for claims, which antedate the publication of the resolution to decrease the charter capital in the commercial register, provided that:

1) the creditor has reported his/its claim, which antedates the adoption of the resolution to decrease the charter capital, regardless of whether the claim has matured, within ninety days as of the date of publication of the announcement of the intention to decrease the charter capital;

2) the creditor has requested security when filing the claim which is not matured; and

3) there are sufficient reasons to consider that the decrease of the charter capital shall diminish the company's capability to settle the creditor's claim.

(2) A creditor who is entitled to a pre-emptive settlement from the bankruptcy estate of the debtor company or who has realised his security right shall not be entitled

to request new security due to the decrease of the charter capital.

(3) In the event that the decrease of the charter capital of the company is carried out contrary to paragraphs 1 and 2 of this article, the resolution to decrease the charter capital shall be null and void.

#### **Article (446) - Reverse Spilt of Shares**

(1) In the event that the decrease of the charter capital is carried out by reducing the nominal value of the shares and/or by a reverse split of one and/or more types and classes of share through the reduction of their nominal value, new shares with a new nominal value shall be issued to the shareholders, in proportion to the participation of their shares in the charter capital prior to the decrease of the charter capital. The new shares shall be of identical type and class as the shares for which they have been replaced.

(2) The board of directors, or the management board, shall submit a request to the Central Securities Depository to register the changes in the shareholders' register of the company arising from the executed decrease of the charter capital, so that the new nominal value of the shares and/or the reduction of the number of shares due to their reverse split and/or the withdrawal of shares is registered.

(3) Prior to the issue of new shares due to the reduction of the nominal value of the shares and/or for the purpose of a reverse split of shares, the issue of new shares shall be prohibited.

#### **Article (447) - Payments to Shareholders**

(1) A part of the decreased charter capital may be paid to the shareholders only after settling the creditors' claims and/or after securing their claims pursuant to this sub-section.

(2) Payments referred to in paragraph 1 of this article may be executed following the decrease of the charter capital and the entry of the executed decrease in the commercial register. Shareholders may not be discharged from the obligation to pay the unpaid part of the shares, or from the payment of the contribution for which they have assumed an obligation for payment, until the claims filed by the creditors have been settled, or until the company provides adequate security for their claims.

(3) In the event that a claim for the annulment of the resolution to decrease the charter capital is filed, no payments may be made, nor shall exemption of further payments of shares be allowed prior to the entry into force of the court decision.

#### **Article (448) - Payment of Dividend**

(1) The company may not pay out a dividend of higher than 4% of the charter capital of the company prior to the expiry of two years as of the year when the resolution to decrease the charter capital was adopted.

(2) The limitation referred to in paragraph 1 of this article shall not apply to companies which, have settled the claims of their creditors and/or have provided them with adequate security for their claims, prior to the entry of the resolution to decrease the charter capital in the commercial register.

(3) The company, which intends to pay out a dividend, referred to in paragraph 1 of this article, shall be obliged to publish an announcement thereof through its annual financial statements. In the announcement, it shall notify the creditors about its intention to pay out a dividend and about their right to request settlement of their claims and/or adequate security. The security may not be requested by creditors who have a pre-emptive right to collect their claims in case of bankruptcy.

### **Part Three - SIMPLIFIED DECREASE OF THE CHARTER CAPITAL**

#### **Article (449)**

(1) A simplified decrease of the charter capital may be carried out only for the purpose of adjusting the nominal value of the charter capital with the lower nominal value of the charter capital, as a result of covering the losses of the company out of the charter capital. If the decrease of the charter capital is carried out in a simplified manner, the provisions of articles 445 and 447 of this law shall not apply.

(2) The simplified decrease of the charter capital shall be carried out by a resolution to decrease the charter capital. The resolution to decrease the charter capital shall state that the purpose of decreasing the charter capital is to cover the losses and supplement the legal default reserves.

(3) The charter capital may be decreased in a simplified manner only after the undistributed profit and the reserves of the company have been exhausted.

(4) The amount obtained from the decrease of the charter capital shall not be used for making payment or distributions to the shareholders and shall not be used for discharging the shareholders from the obligation of making further payments relating to their contributions in consideration of which they have acquired the shares.

### **Part Four - DECREASE OF THE CHARTER CAPITAL BY WITHDRAWAL OF SHARES**

#### **Article (450) - Conditions**

(1) The decrease of the charter capital by the withdrawal of shares may be carried out only if explicitly allowed by law and/or the charter.

(2) The withdrawal of shares shall be carried out pursuant to the provisions of this law that pertain to the regular decrease of the charter capital.

(3) The general meeting of shareholders shall, in the resolution to decrease the charter capital, specify the manner, the time limit and the terms for carrying out the withdrawal of shares.

(4) In the event of the compulsory withdrawal of shares, and/or when shares are acquired in order to be withdrawn, as well as in cases of exemption from the obligation for payment of the contributions, the provisions of article 445 of this law shall respectively apply to any distribution to the shareholders.

(5) Paragraph 2 of this article shall not be applicable, if the shares, for which the nominal or higher amount at which they were issued was fully paid and:

1) were made available to the company free of charge;



2) are withdrawn using sums available out of the profits and/or other distributable reserves that may be used for that purpose.

(6) In the cases under paragraph 5 of this article, an amount equal to the amount of the charter capital that corresponds to the withdrawn shares shall be included in a reserve. Except in the event of a decrease of the charter capital, this reserve may not be distributed to the shareholders.

(7) The decrease of the charter capital, in accordance with paragraph 5 of this article, shall be carried out by a resolution to decrease the charter capital, adopted by the general meeting of shareholders by a majority of the votes attaching to the shares represented at the general meeting, unless the charter stipulates a greater majority and/or requires the fulfilment of other conditions. The resolution shall specify the purpose of the decrease of the charter capital.

(8) In the event that the compulsory withdrawal of shares is prescribed by the charter, it shall not be necessary for the general meeting to reach a resolution to decrease the charter capital by the withdrawal of shares. In such case, the management body shall be authorised to adopt the resolution for the withdrawal of the shares.

(9) The resolution to decrease the charter capital by the withdrawal of shares shall be entered in the commercial register.

## **Part Five - REGISTRATION OF THE DECREASE OF THE CHARTER CAPITAL**

### **Article (451) - Registration**

(1) Within eight days as of the date of the executed decrease of the charter capital, an application form for registration shall be filed in the commercial register.

(2) The charter capital shall be decreased for the amount of the total decrease of the nominal value of one or more types of share, or for the total decreased nominal value of the reverse split shares of one or more types of share, and/or for the total nominal value of the withdrawn shares.

(3) The charter capital shall be considered decreased upon the registration of the entry of the resolution to decrease the charter capital in the commercial register.

## **SECTION 10 - TERMINATION OF THE COMPANY**

### **Article (452) - Grounds for Termination**

(1) The company shall be terminated:

1) upon the expiry of the term stipulated by the company charter, if the company was established for a definite period of time;

2) upon a resolution of the general meeting of shareholders to terminate the company, adopted by a majority of the votes which may not be less than two thirds of the votes attached to the shares represented at the general meeting of shareholders, unless the company charter requires a greater majority or stipulates additional terms for the adoption of the resolution;

3) upon a definitive court decision declaring the nullity of the company or the entry of the company in the commercial register;

4) by accession, merger or division of the company by separation with founding or separation with takeover; and

5) in case of bankruptcy.

(2) The intention to delete the entry of the company from the commercial register shall be published. Any person having a legal interest may file an objection not later than thirty days as of the date of publication of the intention to terminate the company.

(3) The company shall terminate without a liquidation procedure being necessary, unless it is proven within the term referred to in paragraph 2 of this article that the company has assets to be divided and/or claims to be settled. In such case, a liquidation or bankruptcy procedure shall be carried out. The liquidators shall be determined by the court, upon a proposal of the interested parties.

(4) The company charter may also stipulate additional grounds for termination of the company.

#### **Article (453) - Entry of the Resolution for Termination**

(1) The management body, or other natural person authorised by the general meeting of shareholders that adopted the resolution to terminate the company, shall submit an application for entry of the resolution to terminate the company in the commercial register.

(2) In the event that the resolution referred to in paragraph 1 of this article is not filed and entered in the manner set out at paragraph 1 of this article, the court shall, upon request of any person having a legal interest, deliver a notice to the management body or to the natural person referred to in paragraph 1 of this article, to file an application form for entry of the resolution to terminate the company in the commercial register within a term no longer than eight days as of the receipt of the notification. If the application form is not filed within this prescribed term, the court shall re-send the notice, warning the management body or the natural person referred to in paragraph 1 of this article that, following the expiry of the additional term, which shall not be longer than eight days as of the receipt of the second notice, it shall, *ex officio*, enter the resolution to terminate the company in the commercial register and shall appoint liquidators pursuant to this law.

(3) In the event that the management body fails to act pursuant to paragraph 2 of this article, the members of the management body or the natural person referred to in paragraph 1 of this article shall be personally, jointly and severally liable with their entire property for the damages caused by the non-fulfilment of their obligation set out at paragraph 1 of this article.

(4) In the event that the resolution for termination of the company was adopted by the court, the resolution shall be *ex officio* entered by the court in the commercial register.

### **Article (454) - Grounds for Termination of a Single Member Company**

(1) Single member companies, where the member/owner of the shares is a natural person, shall terminate upon the death of that person, provided that, following the probate procedure, the successors do not request that the company continue to operate.

(2) The voting right attached to the shares owned by a deceased person shall be exercised by a joint representative appointed by the successors of the deceased person, with a written proxy certified by a notary, until the completion of the probate procedure.

(3) In the event that the member/owner of the shares is a legal person, the company shall terminate upon the termination of that legal entity, unless the shares are acquired by another person during the course of the bankruptcy procedure.

## **CHAPTER FIVE - MAJOR TRANSACTIONS AND INTERESTED PARTY TRANSACTIONS**

### **SECTION 1 - MAJOR TRANSACTIONS**

#### **Article (455) - Definition of a Major Transaction**

(1) Any transaction (including, but not limited to a loan, credit, pledge and/or guarantee) and/or interrelated transactions, shall be considered to be a major transaction, if such transaction or transactions involve direct and/or indirect acquisition, disposal and/or potential disposal of the company's assets, the value of which represents more than 20% of the book value of the company's assets, determined according to the company's most recent financial statements, with the exception of transactions realised in the ordinary course of business of the company, transactions related to acquisitions pursuant to the subscription of common shares of the company, and transactions related to the acquisition of convertible bonds. The charter may stipulate other transactions that shall be subject to the procedure for approval of major transactions, in the manner prescribed by this law.

(2) In case of disposal and/or the potential disposal of assets, the value of such assets determined according to the most recent audited financial statements of the company, and, in case of acquiring assets, the price of the assets to be purchased, shall be compared to the book value of the company's assets.

(3) In the event that the general meeting of shareholders, pursuant to this law, adopts a resolution to approve a major transaction, the resolution shall be adopted on the basis of the appraised value of the assets being acquired and/or disposed of, as determined by the board of directors or supervisory board.

#### **Article (456) - Procedure for Approval of a Major Transaction**

(1) Each major transaction shall be subject to approval by the board of directors, the supervisory board and/or the general meeting of shareholders, according to its value.

(2) The resolution to approve any major transaction, which involves assets, the value of which is estimated to be above 20% to 50% of the book value of the company's assets shall be adopted with the consent of all members of the board of directors or supervisory board.

(3) In the event that the consent set out at paragraph 2 of this article for the approval of the major transaction is not reached, the board of directors or the supervisory board may decide to submit the major transaction for approval to the general meeting of shareholders. The general meeting of shareholders shall adopt the resolution by a majority vote which may not be lower than the majority of the voting shares represented at the general meeting of shareholders, unless the charter stipulates a greater majority.

(4) The resolution to approve a major transaction involving assets the value of which is estimated to be more than 50% of the book value of the company's assets shall be adopted by a majority vote that shall not be less than two thirds of the voting shares

represented at the general meeting of shareholders, unless the charter stipulates a greater majority.

(5) The board of directors or the supervisory board shall submit a written notification on the major transaction to the general meeting of shareholders, stating that the general meeting of shareholders should review the proposal for the major transaction and their recommendation, including a statement about the shareholders' right to object to the major transaction. The written notification shall indicate the party or parties to the transaction, the beneficiary or beneficiaries of the transaction, the value, the subject, the scope and other financial terms of the transaction.

(6) In case a member of the management body or the supervisory body has a personal interest in the realisation of the major transaction, or acts as an interested party in its approval, the provisions of this law pertaining to interested party transactions shall apply.

(7) A major transaction which is effected in a manner contrary to the provisions of this article shall be null and void.

(8) The provisions of this article shall not apply to single member companies, where such member represents the company in a managerial capacity.

## **SECTION 2 - INTERESTED PARTY TRANSACTIONS**

### **Article (457) - Transactions of the Company with Interested Parties**

(1) Any transaction (including but not limited to a loan, credit, pledge and/or guarantee) in which a member of the management body and/or supervisory board or the manager is an interested party, including the officers and/or a shareholder who together with related parties own 20% or more of the company's voting shares, and/or a person who has the authorisation to provide mandatory instructions to the company, shall be considered as interested party transaction and shall be effected by the company pursuant to a procedure in compliance with the provisions of this law.

(2) The person referred to in paragraph 1 of this article shall be deemed as an interested party and as a party having an interest in the realisation of the transaction by the company, if such person, his representative, spouse, parents, children, brothers/sisters from both parents and/or from one parent only, adoptive parents, adopted children, and/or any related party (hereinafter: "interested party"):

1) is a party to such transaction, a beneficiary thereof, a representative and/or intermediary in such transaction; and/or

2) individually and/or jointly owns 20% and/or more of the shares of the legal person that is a party in the transaction, a beneficiary thereof, a representative and/or intermediary in such transaction; and/or

3) is a member of the management or the supervisory body of the legal person which is a party in the transaction, a beneficiary thereof and/or representative in such transaction, and/or is an officer in such legal person; and/or

4) if so stipulated by the company charter.

(3) Paragraphs 1 and 2 of this article shall not apply:

1) if the company is a single member company and that single member also represents the company in a managerial capacity;

- 2) if all shareholders of the company have an interest in the transaction;
- 3) in the case of exercising a pre-emptive right to purchase shares issued by the company; and
- 4) in the case of acquisition and/or redemption of a company's own shares.

#### **Article (458) - Notification for the Existence of Assets**

In the event that the company, within two years as of its founding, acquires any assets owned by the founders for a consideration, which exceeds one tenth of the charter capital of the company, the acquisition of the assets shall be thoroughly examined and the report on such acquisition shall be published and submitted to the next general meeting of shareholders in order to request its approval.

#### **Article (459) - Notification for the Existence of an Interested Party in the Company's Transactions**

Persons referred to in article 457 of this law shall be obliged to notify the board of directors, or the supervisory board of:

- 1) the companies, in which they alone and/or together with related parties possess 20% and/or more of the parts or voting shares;
- 2) the companies in which they perform certain managing duties; and
- 3) current and/or potential transactions known to them, in which they act or may act as interested parties.

#### **Article (460) - Procedure for Approval of Interested Party Transaction**

(1) Any interested party transaction shall be subject to the prior approval by the board of directors or supervisory board and/or the general meeting of shareholders, in a manner and in accordance with the procedure set out in this article.

(2) The resolution to approve an interested party transaction shall be reached by a majority of votes of the members of the board of directors or the supervisory board who do not have an interest in the transaction. If all members of the board of directors, or the supervisory board are interested parties, and/or if the number of disinterested members of the board of directors or the supervisory board is less than the quorum requirement for a meeting of the board of directors or the supervisory board pursuant to the charter, such transaction shall be approved by the general meeting of shareholders.

(3) An interested party transaction shall be approved by the general meeting of shareholders by a majority vote of all disinterested shareholders who own voting shares if:

- 1) the value of assets involved in such transaction and/or series of related transactions is 2% and/or more of the book value of the company's assets, based on the company's most recent audited financial statements and/or based on the offered price in case of purchasing property;
- 2) a transaction and/or related transactions involve the issue pursuant to subscription and/or the sale of shares that represent more than 2% of the company's

common shares outstanding in that period and the common shares into which securities previously issued in series and convertible into shares can be converted; or

3) a transaction and/or related transactions involve the issue pursuant to the subscription of convertible bonds, which may be converted into common shares and which represent more than 2% of the company's issued common shares, and if, at the same time the common shares previously issued in series may be converted into shares.

(4) The resolution to approve an interested party transaction shall specify the person who is a party to the transaction and/or the beneficiary thereof, as well as the value, subject matter and other material terms of the transaction.

(5) The general meeting of shareholders may approve an interested party transaction that may be realized by the company in the future, in its ordinary course of business. The resolution adopted by the general meeting of shareholders shall specify, among other issues, the maximum value of such transaction.

(6) The board of directors or the supervisory board shall specify the price of the assets and/or services sold and/or purchased through the transaction during the procedure for approval of the interested party transaction.

(7) An interested party transaction realised in contravention of the provisions of this section of the law shall be null and void.

(8) Each interested party shall be liable to the company for damages caused to the company. If several parties are liable, their liability to the company shall be joint and several.

## CHAPTER SIX - LIMITED PARTNERSHIP BY SHARES

### Article (461) - Definition

(1) A limited partnership by shares means a company, the charter capital of which is divided into shares, and in which one or more partners are jointly and severally liable for the liabilities of the company with their entire property (hereinafter: "general partners") and several partners who have the status of shareholders are liable up to the amount of their contributions and are not liable for the liabilities of the company (hereinafter: "limited partners").

(2) The number of the limited partners may not be lower than three.

(3) The legal relations among general partners and towards the limited partners, as well as towards third parties, and the right of the general partners to manage and represent the limited partnership by shares, shall be governed by the provisions of this law pertaining to a limited partnership.

(4) The provisions of this law pertaining to a joint stock company, with the exception of the provisions pertaining to the management of a joint stock company, shall respectively apply to limited partnerships by shares, unless otherwise stipulated by this law.

(5) The business name of a limited partnership by shares shall contain the words: "*Komanditno drustvo so akcii*" [Limited Partnership by Shares] and/or the abbreviation "KDA".

### Article (462) - Agreement for the Limited Partnership by Shares

(1) The Agreement for a limited partnership by shares (hereinafter: "company agreement") shall be concluded by all founders, whose signatures shall be certified by a notary.

(2) General partners shall participate in the conclusion of the company agreement. The persons having the status of shareholders, who acquire shares in consideration for their contributions, shall participate in the conclusion as well.

### Article (463) - Data Contained in the Company Agreement

(1) In addition to the data pertaining to article 151 of this law, the company agreement shall contain the full name, the unique ID number, passport number or the ID number and/or the number of any other identification document valid in his country of origin and under his citizenship, if the general partner is a foreign natural person, as well as the place of his residence, or the business name, the registered office and registration number if the general partner is a legal person.

(2) The transfer of non-monetary contributions by the general partners shall be determined in the agreement according to their amount and type.

(3) The joint contributions of the general partners shall not be lower than 10% of the charter capital.



### **Article (464) - Entry of a Limited Partnership by Shares**

The entry of the limited partnership by shares into the commercial register shall state the particulars of the general partners. If the agreement contains special provisions for authorising the general partners to represent the limited partnership by shares, such provisions shall be entered into the commercial register.

### **Article (465) - Restrictions Applicable to General Partners in the Decision-Making Process**

(1) General partners shall have a right to vote at the general meeting of the limited partnership by shares, in proportion to their participation in the charter capital.

(2) Notwithstanding paragraph 1 of this article, general partners may neither exercise their voting right for themselves nor on behalf of another person, when deciding upon:

- 1) the election and/or the dismissal of the supervisory board;
- 2) approval of the work of the general partners and the supervisory board;
- 3) the election of special controllers;
- 4) requesting remuneration and/or waiving their right to remuneration; and
- 5) appointing certified auditors for the annual accounts and the financial

statements.

(3) The general partners' consent shall be required for the resolutions of the general meeting if such resolutions pertain to matters for which consent of both general and limited partners in the limited partnership by shares is required. Resolutions of the general meeting of the limited partnership by shares, which require consent of the general partners, shall be filed for entry in the commercial register only after such consent has been obtained.

### **Article (466) - Managing a Limited Partnership by Shares**

(1) General partners shall manage the limited partnership by shares.

(2) General partners may entrust the management of the limited partnership by shares to one or more managers.

### **Article (467) - Supervisory Board**

(1) The general meeting of the limited partnership by shares shall, under the conditions and in the manner stipulated in the agreement of a limited partnership by shares, elect members of a supervisory board, which shall consist of at least three shareholders. A general partner may not be elected as a member of the supervisory board. General partners shall not participate in the election of the members of the supervisory board.

(2) The supervisory board shall supervise the management of the limited partnership by shares. The supervisory board shall submit a regular annual report to the general meeting of the limited partnership by shares, indicating any irregularities or inaccuracies, especially in the annual accounts. The supervisory board may call the general meeting of the limited partnership by shares.

(3) In legal disputes initiated by all limited partners against the general partners, and/or in disputes initiated by the general partners against all limited partners, limited partners shall be represented by the members of the supervisory board, in the manner set out in the charter, unless the general meeting has already elected special representatives. The limited partnership by shares shall be liable for costs incurred by the dispute that are attributable to the limited partners, notwithstanding its right to obtain reimbursement from the limited partners.

#### **Article (468) - Liability of the Members of the Supervisory Board**

(1) The members of the supervisory board shall not be liable for the manner of managing the limited partnership by shares and for the results thereof.

(2) The members of the supervisory board shall not be liable for the wrongdoings of the general partners and/or the managers in the course of the fulfilment of their duties and/or for any intentional wrongdoings unless they were aware of such wrongdoings, negligence and/or omissions and failed to inform the general meeting of the limited partnership by shares.

## **CHAPTER SEVEN - TRADE BOOKS, ANNUAL ACCOUNTS AND FINANCIAL STATEMENTS**

### **SECTION 1 - ACCOUNTING**

#### **Article (469) - Accounting Obligation**

(1) Each commercial entity shall be obliged to keep accounting records and submit annual accounts in a manner determined by this law, and the accounting regulations.

(2) Each large and medium size commercial entity, commercial entities specified by a law, as well as commercial entities performing banking activities, insurance activities, commercial entities listed on the Stock Exchange and commercial entities, the financial statements of which are included in the consolidated financial statements of the above mentioned commercial entities, shall be obliged to prepare and submit financial statements in accordance with the adopted International Accounting Standards, published in the "Official Gazette of the Republic of Macedonia". The International Accounting Standards shall be updated on an annual basis, so as to be harmonised with the current standards, as revised, amended or adopted by the International Accounting Standards Board.

(3) Other commercial entities may also prepare and submit financial statements in compliance with the International Accounting Standards, pertaining to paragraph 2 of this article, if prescribed by law or other regulations pursuant to a law, in a manner and at a time they themselves will decide upon.

(4) The provisions of this law related to keeping accounting records, classification of commercial entities, trade books, annual accounts and financial statements, shall also respectively apply to legal persons with a registered office in the Republic of Macedonia, performing activities set out in the National Classification of Activities, that are not considered as commercial entities under this law and other regulations, unless otherwise provided for by another law.

(5) The provisions of this law that regulate the accounting, trade books and annual accounts shall also apply to sole proprietors and other natural persons performing business activities, unless otherwise provided by other laws.

(6) The Minister of Finance shall prescribe special regulations for the keeping of accounts referred to in paragraph 1 of this article.

#### **Article (470) - Classification of Commercial Entities**

(1) Commercial entities shall be classified as large, medium, small or micro-size commercial entities, depending on their number of employees, their annual revenues and the average value of their total assets as declared in their annual accounts for the last two years (accounting years).

(2) In their first year of operations, the commercial entity shall be classified according to the estimated size of its operations and, in the second year, according to the data from the preceding year of operations.

(3) A change in the classification of the commercial entity based on its estimated size of operations in accordance with paragraph 1 of this article may not be effected during the course of the year.

(4) A micro size commercial entity shall be a commercial entity that, in each of the last two accounting years, or in the first year of its operations, has met the first criterion and at least one of the second or third of the following criteria:

1) the average number of employees, based on the number of their full-time working hours, is up to 10 employees; and

2) the gross annual revenue acquired from any source does not exceed EUR 50,000 in denar counter-value; and

3) not more than 80% of the gross income of the commercial entity is acquired from one client/consumer and/or from an individual who is related to this client/consumer; and

4) all rights to participate in the micro-company are owned by not more than two natural persons.

(5) A small size commercial entity shall be a commercial entity that, in each of the last two accounting years, or in the first year of its operations, has met the first criterion and at least one of the second or the third of the following criteria:

1) the average number of employees, based on the number of their full-time working hours, is up to 50 employees; and

2) the annual income is less than EUR 2,000,000 in denar counter-value, and the total turnover is less than EUR 2,000,000 in denar counter-value; and/or

3) the average value (at the beginning and at the end of the accounting year) of the total assets is less than EUR 2,000,000 in denar counter-value.

(6) A medium size commercial entity shall be a commercial entity that, in each of the last two accounting years, or in the first year of operations, has met the first criterion and at least one of the second or third of the following criteria:

1) the average number of employees, based on the number of their full-time working hours, is up to 250 employees; and

2) the annual income is less than EUR 10,000,000 in denar counter-value; and/or

3) the average value (at the beginning and at the end of the accounting year) of the total assets is less than EUR 11,000,000 in denar counter-value.

(7) Commercial entities, which are not classified as micro, small or medium-size commercial entities shall be treated as large commercial entities. In case of the inability to classify the commercial entities according to the criteria referred to in paragraphs 4, 5 and 6 of this article, the commercial entities shall be classified according to the first criterion only.

(8) If, over the last two accounting years, different data is determined with respect to the classification of the commercial entity, the commercial entity shall retain the classification from the preceding year.

(9) The Register of annual accounts within the Central Register, to which the annual accounts and financial statements are submitted and which carries out supervisory functions, shall, within sixty days as of the stipulated term for submission of the annual accounts for the preceding year, on the basis of which the commercial entity is classified, inform the commercial entity of its classification, pursuant to the provisions referred to in paragraph 1 of this article.

(10) Banks, insurance companies and other financial institutions and commercial entities that compile consolidated annual accounts and consolidated financial statements shall be classified pursuant to the provisions of this article related to large commercial entities.

## **SECTION 2 - TRADE BOOKS**

### **Article (471) - Obligation to Keep Trade Books**

(1) Each commercial entity, in accordance with the principles of proper keeping of accounts, shall keep its trade books in a manner that clearly reflects all business and legal operations and the position of its assets, liabilities, equity, revenues and expenses. The trade books shall be kept in a manner that enables any third party - expert when reviewing the trade books to gain a general overview and insight into the operations of the commercial entity, as well as the financial condition and financial results of the company. The trade books shall clearly present how all of the business transactions of the commercial entity have been commenced, conducted and completed.

(2) The commercial entity shall be obliged to keep one copy of each business letter sent. Such copy shall be identical to the original sent.

(3) The trade books shall be kept according to the double entry accounting system.

(4) Trade books, kept in accordance with the double entry system shall be the Journal, the Ledger and the Subledger records.

### **Article (472) - Keeping Trade Books**

(1) The commercial entity shall keep their trade books in the Macedonian language, using Arabic digits and values expressed in denars. If abbreviations, codes, signs or symbols are to be used, the commercial entity shall clearly define their meaning.

(2) The commercial entity with a registered office in a local self-government unit, where at least 20% of the population uses an official language other than the Macedonian language, shall keep its trade books in the Macedonian language and may also keep them in the respective language.

(3) All data registered in the trade books shall be comprehensive and complete, prepared in a timely manner, up-dated as necessary and presented chronologically, or shall accurately reflect the time sequence of their occurrence.

(4) The trade books shall be kept on the basis of reliable accounting documents.

(5) Records registered in the trade books shall not be altered in such a manner that would prevent the determination of the originally registered contents. Making changes or modifications in a manner that prevents distinguishing the original and initially entered (registered) contents from subsequent additions or changes shall be contrary to this law.

(6) Trade books may be kept in a hard copy (in separate or bound sheets) or in electronic form, in accordance with proper accounting principles. The commercial

entity shall be obliged, regardless of the method of keeping and storing the trade books, to provide access to the trade books, at any time and pursuant to a reasonable notice period and to keep and ensure their protection from interference during such stipulated period, and to guarantee their availability at any time.

(7) Trade books kept under the double entry accounting system shall be kept by applying single accounts as prescribed by the Chart of Accounts. The Chart of Accounts shall prescribe the accounts that are obligatory for all trade companies, unless otherwise provided by law.

(8) The commercial entity shall, according to its needs, break down the accounts from the Chart of Accounts into analytical accounts (in its Subledger Chart of Accounts).

(9) The Minister of Finance shall prescribe the Chart of Accounts.

### **Article (473) - Inventory Count and Reconciliation of Balances**

(1) Each commercial entity shall compile an accurate inventory of its entire property. The inventory shall separately present the immovable property, installations, equipment, stock, intangible assets (patents and licenses), cash and cash equivalents and all current assets by stating the value for each part of the property separately.

(2) The balances of assets and liabilities in the accounting shall be reconciled, at least once a year, with the actual balances as determined by the inventory as at the 31<sup>st</sup> December.

(3) The commercial entity shall draw up the inventory every business year that shall last one calendar year.

(4) All entities considered to be commercial entities according to their form, as well as sole proprietors, shall be obliged to draw up an inventory.

(5) Parts of the property of the same or similar type may be presented together as a group with their total value.

(6) The commercial entity shall also draw up an inventory in the event of reorganisation, liquidation and bankruptcy proceedings and in other cases stipulated by law.

### **Article (474) - Keeping of Trade Books, Accounting Documents, Annual Accounts and Financial Statements**

(1) The commercial entity shall permanently keep its annual accounts and financial statements.

(2) Trade books shall be kept for a period of at least ten years as of the end of the financial year to which they refer.

(3) Accounting documentation shall be kept for a period of at least five years as of the end of the financial year when the documentation was used for compiling the trade books, except for the documentation related to the calculation of salaries, which shall be kept permanently.

(4) Annual accounts, and financial statements, the trade books and the accounting documentation shall be kept in original form or shall be transferred to an electronic or micrographic data processing media.

### **Article (475) - Presentation in Court Proceedings**

(1) During court proceedings, the court may, pursuant to a claim or *ex-officio*, order one or the other party or both parties to the proceedings to submit their trade books to the court for inspection.

(2) In the event that the trade books have been submitted for inspection in a court dispute, their contents shall be reviewed in the presence of the parties insofar as their contents refer to the dispute in question, and transcripts shall be made wherever needed. Contents of the trade books shall also be submitted to the court for inspection insofar as necessary for the court to assess whether the trade books have been duly kept in a proper and legal manner.

### **SECTION 3 - ANNUAL ACCOUNTS AND FINANCIAL STATEMENTS**

#### **Article (476) - Obligation to Prepare Annual Accounts and Financial Statements**

(1) Each commercial entity pertaining to paragraph 1 of article 469 and branch office of a foreign company shall prepare the annual accounts following the expiry of the business year.

(2) Commercial entities pertaining to paragraphs 2 and 3 of article 469 shall also prepare financial statements following the expiry of the business year.

(3) For the purposes of preparing annual accounts and financial statements, the business year shall be the calendar year.

(4) The annual accounts shall be comprised of a balance sheet and income statement. The financial statements shall be comprised of a balance sheet and income statement, statement of changes in equity, cash flow statement, applied accounting policies and other explanatory notes prepared in compliance with the International Accounting Standards referred to in paragraph 2 of article 469 of this law.

(5) The commercial entity shall, in compliance with paragraphs 1 and 2 of this article, prepare the annual accounts and financial statements for periods shorter than the periods set out at paragraph 3 of this article in the event of reorganisation (merger, accession, division), liquidation, bankruptcy and other cases determined by law.

(6) The annual accounts and financial statements shall be signed by the executive member of the board of directors or the officer appointed by the management board or in case such a person is not available, by the president of the management board or the manager, indicating the date when they were prepared and signed therein.

(7) The Minister of Finance shall prescribe the form and the contents of the annual accounts, which may not be altered during one fiscal year.

#### **Article (477) - Preparation and Submission of Annual Accounts and Financial Statements**

(1) The term for preparing the annual accounts referred to in paragraph 1 of article 476 of this law and the financial statements referred to in paragraph 2 of article 476 may not be longer than two months following the expiry of the business year,

unless the competent state body allows an extension to three months.

(2) Notwithstanding the provisions referred to in paragraph 1 of this article, commercial entities of a seasonal nature may prepare annual accounts and financial statements for their business year which differs from the calendar year, for which the Minister of Finance shall issue a decision upon a special request by the commercial entity.

(3) The company agreement and the charter may stipulate, in addition to the preparation of annual accounts and financial statements referred to in paragraph 1 of this article, an obligation to prepare financial statements for periods shorter than the business year.

(4) The annual accounts shall be submitted to the Central Register by the end of February of the following year, or within sixty days as of the date of initiating liquidation or bankruptcy proceedings or the date of the reorganisation, and the accounts statements prepared for periods shorter than the periods referred to in paragraphs 1 and 2 of this article shall be submitted by the end of the month following the end of the last month of the accounting period. The Central Register shall be obliged to process the annual accounts for the needs of the Ministry of Finance. The compensation for actual (operational) costs for such processing shall be regulated by an agreement.

(5) A company that fails to submit annual accounts and financial statements to the Central Register for a period of three successive years, where this is determined by this and other laws, it shall cease to exist upon its deletion from the commercial register pursuant to a claim by the Central Register. The court shall, within eight days as of the date of filing the claim by the Central Register, appoint a liquidator who will administer the liquidation of the company.

(6) The management body of the company shall, in addition to the annual accounts for commercial entities pertaining to paragraph 1 of article 469 of this law and the financial statements for commercial entities pertaining to paragraphs 2 and 3 of article 469 of this law, be obliged, following the end of each business year, to prepare a report on the operations of the company for the preceding business year with the contents set out at article 384, paragraph 7 of this law.

#### **Article (478) - Audit of Financial Statements**

(1) The following commercial entities shall be subject to an audit:

- 1) large and medium size commercial entities registered as joint stock companies;
- 2) companies the shares of which are listed on the Stock Exchange; and
- 3) large and medium size commercial entities organised as limited liability companies.

(2) Commercial entities referred to in paragraph 1 of this article:

1) who have an obligation to prepare financial statements according to International Accounting Standards shall submit only their financial statements for audit; and

2) that do not need to prepare financial statements according to the International Accounting Standards shall only submit their annual accounts for audit.

(3) The audit of the financial statements of the company shall be carried out



no later than one month prior to the members' meeting, or general meeting of shareholders.

#### **Article (479) - Selection of a Certified Auditor**

(1) The financial statements, which pursuant to article 478 are subject to an audit, may not be approved if they have not been audited by a certified audit firm.

(2) The general meeting of shareholders, or members' meeting shall select the certified auditor.

(3) The certified auditor shall be selected prior the expiry of the business year that is subject to audit.

(4) The executive members of the board of directors, or the members of the management board, or the manager of the company, shall be obliged to make available to the auditors all documentation for inspection, including what is considered to be a business secret.

(5) The certified auditor may request from the persons referred to in paragraph 4 of this article explanations and evidence necessary for the proper examination of the financial statements.

(6) The certified auditor of the financial statements shall submit a report on the audit performed, in accordance with the International Accounting Standards (IAS) published in the "Official Gazette of Republic of Macedonia" that are updated annually, for the purpose of harmonisation with the current standards as amended and adopted by the International Federation of Accountants (IFAC).

#### **Article (480) - Obligation to Submit the Audit Report**

(1) The executive members of the board of directors, or the management board, or the manager shall, immediately after receiving the audit report, submit it to the board of directors, the supervisory board, or to the controller together with the annual accounts and financial statements and the annual report on the company's operations. At the same time, the board of directors, the supervisory board or the controller shall also be provided with a draft of the resolution to distribute the realised profit, which is to be submitted to the general meeting of shareholders, or the members' meeting for decision making.

(2) The non-executive members of the board of directors or the supervisory board, or the controller shall be obliged to review the annual accounts and financial statements, as well as the draft of the resolution to distribute the profit. Upon request by the non-executive members of the board of directors, or the supervisory board, the certified auditor shall be obliged to attend the meeting of the board of directors, or the supervisory board.

(3) The non-executive members of the board of directors, or the supervisory board or the controller, shall submit to the general meeting of the shareholders, or to the members' meeting, a written report on the results of their review. In the report, the non-executive members of the board of directors, the supervisory board or the controller shall state the manner of supervision and the scope of supervision over the company management during the previous business year. The report shall also state the opinion regarding the results of the audit of the annual accounts and financial

statements conducted by the certified auditors, as well as the remarks of the auditors to the compiled annual accounts and financial statements, and shall recommend whether they should be adopted or not.

## **SECTION 4 - FINANCIAL RESULTS AND DISTRIBUTION OF PROFIT**

### **Subsection 1 - FINANCIAL RESULTS**

#### **Article (481) - Determining Financial Results**

(1) For the purposes of distribution of the profit, commercial entities that prepare and submit financial statements pursuant to paragraphs 2 and 3 of article 469 of this law, shall determine their financial result in compliance with the International Accounting Standards.

(2) For the purposes of distribution of the profit, commercial entities that keep their accounting according to paragraph 1 of article 469 of this law, shall determine their financial results in compliance with this and other laws.

#### **Article (482) - Publishing of the Adopted Annual Accounts and the Financial Statements**

(1) The annual accounts adopted by the management body shall be submitted to the Central Register no later than by the end of February.

(2) The approved financial statements, together with the annual report on the operations of the company, shall be submitted to the Register of the Annual Accounts at the Central Register within thirty days as of the date they were approved, but no later than the 30<sup>th</sup> June, by the management body, and shall be put in the business or other premises for inspection. Each shareholder or member shall be entitled to inspect these documents. The Central Register shall be obliged to process the audited annual accounts, or the audited financial statements where deviations from data of already submitted annual accounts, or the financial statements have been identified.

(3) The data in the annual accounts and financial statements shall be made public and available to all persons in a manner and in a procedure in compliance with this and other laws. The Central Register shall publish information, issue photocopies from accounting statements and relevant data from the electronic database, in compliance with the Law on the Central Register.

(4) The company, the scope of operations of which is banking and other crediting activities and insurance activities shall, within fifteen days as of the date of convening the general meeting of shareholders, disclose the accounts' forms stipulated by this law, excluding the notes on the applied accounting policies and other explanatory notes in a manner stipulated by law, and shall mandatorily publish them in the "Official Gazette of the Republic of Macedonia".

(5) The obligation for disclosure referred to in the paragraph 3 of this article shall also apply to other large size companies, and companies listed on the Stock Exchange.

(6) Where a company, although under no obligation, publishes its annual

accounts and financial statements in a daily newspaper, it shall disclose them as approved by the general meeting of shareholders, or members' meeting, without any amendments, including the report of the certified auditors thereto.

## **Subsection 2 - DISTRIBUTION OF PROFIT**

### **Article (483) - Resolution to Distribute Profit**

(1) The general meeting of shareholders, or the members' meeting shall decide upon the distribution of the profit.

(2) The resolution to distribute the profit shall state each purpose of the distribution of the profit separately and shall in particular include the following data:

- 1) the amount of the profit to cover losses from the past years (if any);
  - 2) the amounts to be entered into the legal and statutory reserves of the company;
  - 3) the amount to be paid as a dividend;
  - 4) the additional expenses based on the resolution;
  - 5) the possible carrying forward of the profit into the next year (accumulated profit); and
  - 6) the amount of the profit to be used to increase the charter (core) capital of the company and the amount of the profit to be used for investment purposes.
- (3) The resolution referred to in paragraph 1 of this article may not make any changes to the realised profit of the company.

### **Article (484) - Loss Coverage**

(1) The general meeting of shareholders, or the members' meeting shall pass resolutions relating to loss coverage.

(2) The resolution on the loss coverage shall list the sources for the loss coverage, in particular the following:

- 1) from grants;
  - 2) by writing off the creditors' receivables;
  - 3) from the mandatory general reserve;
  - 4) from special reserves for loss coverage; and
  - 5) by decreasing the charter or core capital.
- (3) The resolution referred to in paragraph 1 of this article shall not alter the level of losses of the company.

### **Article (485) - Mandatory General Reserve (General Reserve Fund)**

(1) The company shall have a mandatory general reserve as a general reserve fund established by retaining funds from the net profit. This reserve shall be calculated and allocated as a percentage determined in the company agreement, or the charter, and shall not be less than 15% of the profit until the reserves of the company reach an amount equal to one fifth of the charter or core capital. If the generated reserve decreases, it shall be supplemented in the same manner.

(2) As long as the general reserve does not exceed the minimum amount

determined in the law, the company agreement, or the charter, it may only be used for loss coverage.

(3) If the general reserve exceeds the minimum amount following the loss coverage, the surplus may, by a resolution of the general meeting of shareholders, or the members' meeting, be used for supplementing the dividend, if, for that business year, the dividend has not reached the minimum amount prescribed by the law, the company agreement, or the charter.

(4) The amount entered in the reserve based on additional payments by the members, or shareholders, shall not be used for supplementing the dividend.

#### **Article (486) - Special Reserves for Loss Coverage or Coverage of Other Expenditures**

(1) The company agreement, or the charter may provide for the generation of special reserves intended for covering certain losses or other expenditures. The purpose, the structure and the manner of utilisation of the reserves shall be defined by the company agreement, or the charter, and may only be changed by amending the company agreement, or the charter.

(2) If the company agreement, or the charter provides for reserves for pension insurance, risk insurance or charity purposes of the employees in the company, their purpose, the manner of their generation and investing, their structure and the manner of utilisation shall be precisely defined.

(3) The reserves referred to in paragraph 2 of this article shall be set aside from the general property of the company and shall be managed separately and their accounts shall also be kept separately from the other accounts of the company. Representatives of the persons to whom the reserves refer shall participate in their governance. During the existence of the company, these reserves may not be used for settling debts, or for any other purposes, except those purposes specified in the company agreement, or the charter.

### **Subsection 3 - DIVIDEND**

#### **Article (487) - Distribution of Dividend**

(1) Following the approval of the annual accounts and financial statements and following the determination of the existence of profit for distribution, the general meeting of shareholders, or the members' meeting, shall designate the portion of the profit to be distributed to the members, or the shareholders in a form of dividend in compliance with the rights attached to their part or type and class of shares.

(2) The amount that the management body may pay as a dividend may not exceed the total amount of the generated profit as stated in the last annual accounts and financial statements, as increased by any non-distributed profit brought forward from previous years and sums drawn from the reserves that may be distributed for this purpose, or that exceed the legal reserves and reserves determined by the company agreement or the charter provided that the losses from the previous years have been covered, if these were not covered with the last approved annual accounts and financial statements due to any reason.

(3) Prior to determining the amount of the dividend, members or shareholders may, pursuant to the company agreement, or the charter, decide to set up a special reserve for protective measures for the company or for the purpose of a more equitable dividend.

(4) The manner of payment of the dividend shall be determined by the members at the members' meeting, and/or by way correspondence, or by the shareholders at the general meeting of shareholders.

(5) The dividend shall be paid not later than nine months after the expiry of the business year. An advance payment from the dividend from the anticipated portion of the profit may be paid to the members, or shareholders during the business year.

#### **Article (488) - Dividend in Cash, Parts or Shares**

(1) With respect to the part of the dividend to be distributed or the advance payment of dividend, the company agreement, or the charter of limited liability companies and joint stock companies may provide for a possibility for the member, or shareholder to receive the dividend to be distributed, or the advance payment of the dividend in cash, and/or in parts, or shares.

(2) The offer for payment of the dividend or advance payment of dividend in parts, or shares shall be made to all members, or shareholders at the same time, in accordance with their type and class of shares.

#### **Article (489) - Advance Payment of Dividend**

(1) The company agreement or the charter may authorise the management body of the company to make an advance payment of dividend to members or shareholders, during the business year based on the periodical financial statements for the three, six or nine months, as applicable and as confirmed by the certified auditors.

(2) The amount that the management body may make as an advanced payment of dividend may not exceed the amount of the profit gained for the period for which the advance of the dividend is paid and it may not exceed the total profit gained during the previous year approved by the annual accounts, as increased by any transferred, but not distributed profit brought forward from previous years and sums drawn from reserves that may be distributed for this purpose, as decreased by the amounts that are to be set aside for the legal reserves and the reserves determined by the company agreement or charter, or the statutory reserves, for the period for which the advanced payment of dividend is calculated, provided that the losses from previous years have been covered, if they were not covered by the last approved annual accounts due to any reason.

(3) Consent from all non-executive members of the board of directors and a unanimous resolution by the supervisory board or the controller shall be required for the purposes of making the advanced payment of dividend.

### **Article (490) - Contents of the Resolution to Pay a Dividend**

(1) The resolution of the general meeting of shareholders approving the payment of dividend shall set out the following:

- 1) The amount of the dividend;
- 2) The record date, on the basis of which the list of shareholders entitled to a dividend is determined; and
- 3) The dividend distribution plan and date of payment of the dividend (date of payment), and the manner in which the company shall inform the persons entitled to a dividend in accordance with the resolution adopted.

(2) In the event that, following the record date and prior to the date of payment, the member, or the shareholder transfers his/its parts, or shares which conferred the right to a dividend, this right to a dividend shall be transferred to the transferee, unless the transferee and transferor agree otherwise.

## **CHAPTER EIGHT - EQUITY HOLDING IN OTHER COMPANIES (RELATED COMPANIES)**

### **Article (491) - Types of Equity Holdings and Establishment of Relationships between Companies**

Related companies shall be legally independent companies that are affiliated and which establish mutual relationships, including:

- 1) Companies having a participation, significant participation or majority participation or a majority right in decision making in another company, or shared participation; and
- 2) Controlling companies, controlled companies or companies that operate jointly.

### **SECTION 1 - COMPANY WITH PARTICIPATION, SIGNIFICANT PARTICIPATION, MAJORITY PARTICIPATION OR MAJORITY RIGHT IN DECISION MAKING**

#### **Article (492) - Definition of Participation in Another Company**

A company that acquired parts or shares, which represent at least 10%, but not more than 20% of the charter (core) capital in another company, shall be deemed as a company that has a participation in another company.

#### **Article (493) - Company with Significant Participation**

The participation of a company in another company shall be considered significant if a company acquires parts or shares in another company that represent more than 20% but not more than 50% of the latter's core or charter capital, or if the company exercises more than 20% but not more than 50% of all votes at the general meeting of shareholders or members' meeting.

#### **Article (494) - Company with Majority Participation and Majority Right to Decision Making in Another Company**

(1) The participation of a company in another company shall be considered as a majority participation if that company acquires parts or shares in another company, which represent more than 50% of the latter's core or charter capital, or holds more than 50% of the votes at the general meeting of shareholders or members' meeting.

(2) A company that owns the majority part or shares, or majority votes in another company shall be considered, as a company with a majority participation, while the other company shall be considered as a company in majority ownership, for the purposes of this law.

(3) Parts belonging to a trade company shall be determined in the limited liability company, joint stock company or limited partnership by shares on the basis of the ratio between the total nominal value of the parts or the shares and the total

nominal value of the company's core or charter capital, belonging to the other company. Treasury parts or shares of the company shall not be taken into account in the core or charter capital. Parts or shares belonging to another entity, which holds them on behalf of that company, shall be treated as treasury parts or shares of the company.

(4) The number of votes at the members' meeting, or the general meeting of shareholders that belongs to the company with majority participation in the other company shall be defined according to the ratio of the number of votes that it may acquire on the basis of the part or shares and the total number of all votes. The votes from treasury parts or shares shall be deducted from the total number of votes, as well as from the part or shares owned by another entity that holds them on behalf of that company.

(5) Parts or shares held by a controlled company in the controlling company or which are held on behalf of the controlled company or controlling company by a third party shall also be considered as parts or shares belonging to the controlling company, if the sole proprietor possesses parts or shares that are in any event included in its property.

## **SECTION 2 - CONTROLLED, CONTROLLING COMPANY, AND COMPANIES THAT OPERATE JOINTLY**

### **Article (495) - Definition of Controlled and Controlling Company**

(1) A controlled company shall be a legally independent company over which another company (the controlling company) has direct or indirect controlling influence.

(2) A company that has direct or indirect controlling influence over a controlled company shall be a controlling company.

### **Article (496) - Exercising the Controlling Influence**

(1) It shall be deemed that a company exercises a controlling influence over another company if that company:

1) holds a part or shares directly or indirectly in the core or charter capital, which provides the company with a majority of votes at the general meeting of shareholders, or members' meeting;

2) has control of a majority of voting rights in another company based on an agreement concluded with the members or shareholders of that company; or

3) effectively decides which and what kinds of resolutions shall be adopted by the general meeting of shareholders or members' meeting, using the voting rights it possesses.

(2) It shall be deemed that a company exercises controlling influence over another company if that company holds, directly or indirectly, over 40% of the total number of votes that can be cast at the members' meeting or general meeting of shareholders, and if no other shareholder or member directly or indirectly holds a number of votes which is greater than the votes held by the company.

(3) The Securities Exchange Commission shall be authorised to submit a proposal to the court for determining the existence of controlling influence over one or



more companies, in the event of a dispute on whether a company exercises controlling influence over another company, pursuant to paragraphs 1 and 2 of this article.

#### **Article (497) - Companies with Mutual Participation**

Companies that jointly acquired parts or shares, whereby each company has a part or shares, that participate with more than 20% in the core or charter capital of the other company, or if more than 20% of the votes of the members' meeting or general meeting of shareholders belong to the other company, shall be considered as companies with mutual participation. The provisions from article 494, paragraph 3 of this law shall apply in determining whether one company holds a part or shares that participate with more than 20% in the core or charter capital of the other companies.

#### **Article (498) - Restrictions on Majority Cross Holdings between Companies**

(1) If a controlled company, prior to becoming a controlled company, acquired a part or shares in a controlling company, it shall be obliged to dispose of such part or shares in the controlling company no later than five years as of the date on which that company became controlled.

(2) If this law determines that a controlled company may hold a part or shares in its controlling company, these shares may not provide any voting rights.

#### **Article (499) - Companies Acting Jointly**

(1) Companies that have entered into an agreement for the purpose of acquisition or transfer of voting rights, or for the exercise of voting rights with the purpose of enabling a joint policy of the companies, shall be considered as companies acting jointly.

(2) Companies acting jointly shall be jointly and severally liable for the liabilities arising from their joint operation.

### **SECTION 3 - NOTIFICATION RELATING TO PARTICIPATION IN OTHER COMPANIES**

#### **Article (500) - Notification on Acquired Part or Shares in Another Company**

(1) Where a company acquires a part or shares in another independent company, which represent more than 10% of the latter's core or charter capital, the company shall, without any delay, notify such other company in writing, as of the day of exceeding the participation threshold of 10%. The company that acquired a part or shares shall, in its written notification, state the amount of the part and the number, type and class of shares it acquired in the company.

(2) Parts or shares with a voting right held by the following companies shall be treated as parts or shares with a voting right that are owned by the company subject to the obligation for notification pursuant to paragraph 1 of this article:

- 1) Other companies on behalf of that company;
- 2) Companies having a controlling influence over that company pursuant to

this law;

3) A company that operates jointly with that company; and

4) Companies referred to in items 1 and 2 of this paragraph, that the company is entitled to acquire based on an agreement or other legal grounds.

(3) In the event that the participation level, for which there is an obligation for notification pursuant to paragraph 1 of this article is reduced, the company referred to in paragraph 1 of this article shall, without any delay, notify in writing the other company thereof. The notification shall include data on the amount of the part or number, type and class of shares for which the participation is reduced.

(4) The company that has acquired a majority participation shall be obliged to announce this information in the "Official Gazette of the Republic of Macedonia".

(5) In the event that a company fails to make the notification pursuant to paragraph 1 of this article, it shall not be able to exercise the voting rights attached to its parts or shares, and resolutions reached through the use of these votes shall be deemed null and void. The annulment of such resolutions shall not be used as against third parties who were not aware or in view of the circumstances, could not have been aware of the restriction on the voting right.

(6) In the event that a company acquires parts or shares to which at least 10% of all votes at the general meeting of shareholders or members' meeting are attached, during the business year, pursuant to paragraph 1 of this article, the management body shall be obliged to notify members or shareholders thereof in the annual report on the company's operations, as well as regarding the companies in which that company has significant, majority or shared participation.

(7) The annual report on the company's operations pertaining to paragraph 5 of this article, shall state the identity of the natural and legal persons that directly or indirectly have more than 5% participation in the core or charter capital or have more than 5% of the votes at the general meeting of shareholders or members' meeting. The report shall also state the changes that occurred during the course of one year, if any.

#### **SECTION 4 - MANAGEMENT AND OBLIGATION OF THE COMPANY WITH MAJORITY PARTICIPATION**

##### **Article (501) - Extent of Influence of a Company with Majority Influence**

(1) A company with majority participation shall not be allowed to use its influence in order to make the controlled company undertake harmful legal affairs, or undertake or fail to undertake actions, unless the company with majority participation assumes the obligation to compensate the controlled company for any damages thereby incurred.

(2) The management body of a controlled company shall be obliged to prepare a report on the relations with the company with majority participation, for the preceding business year, which shall be submitted as a constituent part of the annual report on that company's operation. All legal transactions undertaken in the preceding financial year by the controlled company related to the company with majority participation or to a company related to the latter, on the basis of a request or in the interest of these companies, as well as all other actions that the company, on the basis of a request or in the interest of these companies, has undertaken or failed to undertake

during the preceding business year, shall be included in the report. The information on the legal transactions shall include the payments and counter-payments, while the information on the other actions shall include the reasons for their having been undertaken, as well as the benefit or the damage thereby incurred to the company. When compensating the damage, the method of compensation, as well as whether the company was entitled to special benefits and the type of benefits during the business year, shall be separately set out.

(3) The report shall be prepared in accordance with the principles of due care and diligence and reliability.

(4) The management body of the controlled company shall explain in the report whether the company, in the circumstances that were known at the time the legal action was undertaken or if and when the action was not undertaken, received adequate compensation and whether the undertaking or failure to undertake an action would have resulted in any damage. In the event that the company suffered damages, the management body of the controlled company shall state whether the damage has been compensated. The explanation and the statement shall be included in the report on the controlled company's operations.

(5) If the audit of the annual accounts or the financial statements is required to be conducted by a certified auditor, he shall be provided with the necessary reports, including the report on the relations between the controlled company and the company with majority participation.

(6) Upon request by a member or shareholder, the court may appoint a certified auditor to examine the business relations between the company with majority participation and certain of its controlled companies.

#### **Article (502) - Liabilities of the Bodies of a Controlled Company**

(1) The members of a management body of a controlled company, as well as all other persons liable for compensation of damages as provided for by this law, shall be liable as joint debtors for the damage if, by failing to fulfil their obligations, they omitted to state in the report on the relations between the controlled company and company with majority participation and companies controlled by the latter, the harmful legal transaction or the harmful action, or failed to state that the company had suffered damage from such legal transactions or actions and that the damage had not been compensated. In case of a dispute, they shall be obliged to prove that they acted with due care and diligence, as required from them.

(2) The members of the supervisory board, or the controller, if any of the controlled company shall be liable as joint debtors, if with regard to the legal transaction or the harmful action they failed to fulfil their obligation to review the report referred to at paragraph 2 of article 501 of this law, and failed to state the harmful legal transaction or the harmful action with the company with majority participation and companies controlled by it, and failed to submit the results of such review to the general meeting of shareholders or members' meeting.

(3) No liability for compensation of damages shall arise if the undertaken activity is based on a resolution adopted at the general meeting of shareholders or the members' meeting that is in compliance with this law.

### **Article (503) - Obligation of a Company with Majority Participation and Its Legally Authorised Representatives**

(1) If a company with majority participation misleads a controlled company into undertaking certain legal operations or actions, or into a failure to undertake such operations or action by which damage is caused to the controlled company or to a third party, and if it fails to compensate for the damages by the end of the business year, the company with majority participation shall compensate the controlled company for the damages incurred, and with regard to the third party, it shall be jointly and severally liable with the controlled company. The complaint for compensation of damages may be filed, in the name and on behalf of the controlled company or individually, by the members or shareholders, regardless of the damages caused to them resulting from the damages caused to the company.

(2) If the company with majority participation fails to compensate for the damages it caused to the controlled company pursuant to paragraph 1 of this article, it shall prepare a report which shall state the time and the manner of compensation of the damages. The report shall be submitted to the controlled company within thirty days as of the date of expiry of the business year in which the damages were incurred.

(3) If the company with majority participation misleads the controlled company into undertaking or a failure to undertake legal operations or actions, thereby causing irreparable damage to the controlled company, or misleads the controlled company into actions or failures to act which resulted in the controlled company's bankruptcy by one of the grounds for bankruptcy having been met, the company with majority participation shall be jointly and severally liable for the claims that may not be collected from the company in bankruptcy.

(4) If the company with majority participation misleads the controlled company into undertaking a legal operation or action, or a failure to undertake such an action or operation thereby causing damage to shareholders of a controlled company, the company with majority participation and the controlled company shall be jointly and severally liable for the shareholder's claims.

(5) In addition to the company with majority participation, legally authorised representatives of the controlled company shall be jointly and severally liable for the damage caused by the legal actions or operations that they should have undertaken or have failed to undertake.

(6) No liability for compensation shall arise if a diligent and prudent businessman of the independent company would have undertaken such legal transaction or would have undertaken or failed to undertake an equivalent legal transaction or operation without being misled by the company with majority participation.

## **SECTION 5 - CONSOLIDATED ANNUAL ACCOUNTS AND CONSOLIDATED FINANCIAL STATEMENTS**

### **Article (504) - Consolidated Annual Accounts and Financial Statements**

(1) The company shall prepare and publish consolidated annual accounts and other consolidated financial statements each year, if it has a controlling influence over one or more companies.

(2) Consolidated annual accounts shall be prepared in accordance with accounting for tax purposes procedures adopted by the Minister of Finance.

(3) Consolidated financial statements shall be prepared according to International Accounting Standards.

(4) Consolidated annual accounts and consolidated financial statements shall be prepared on the same date when the annual accounts and other financial statements of the company with controlling influence were prepared.

### **Article (505) - Contents of the Consolidated Annual Accounts and Consolidated Financial Statements**

(1) The consolidated annual accounts shall consist of a consolidated balance sheet and consolidated profit and loss statement.

(2) The consolidated financial statement shall, in addition to the consolidated balance sheet and consolidated profit and loss statement, contain a consolidated cash flow report, a consolidated report on the changes of the capital, and notes attached to the consolidated statements pertaining to the applied accounting policies and other explanatory notes.

(3) The consolidated annual accounts and the consolidated financial statements shall be prepared in the manner determined by this law.

### **Article (506) - Audit of the Consolidated Annual Accounts and the Consolidated Financial Statements**

(1) Consolidated annual accounts and consolidated financial statements shall not be approved without conducting an audit.

(2) Companies shall submit their consolidated annual accounts and their consolidated financial statements to be audited by a certified auditor.

(3) The company authorised to conduct an audit shall determine whether the annual report on the operations of the company corresponds and is in compliance with the consolidated annual accounts or the consolidated financial statements for the corresponding business year.

(4) Companies shall be obliged to submit their consolidated accounts statement together with their report on the operations for the current business year to the bodies determined by article 477, paragraph 4 of this law, no later than the 31<sup>st</sup> March of the subsequent year.

(5) The management body shall submit the approved consolidated annual accounts and the approved consolidated financial statements, along with the annual report on the company's operations, in transcript, to the Register of Annual Accounts

within the Central Register, no later than thirty days as of the date of their approval and shall make them available in the business premises or other premises for inspection.

(6) The approved consolidated accounts and the approved consolidated financial statements, together with the report on the operations and the audit report, approved by the members' meeting or the general meeting of shareholders shall be published in the same manner and under the same conditions as the publishing of the company's annual accounts and the financial statements.

## **CHAPTER NINE - TRANSFORMATION OF A COMPANY FROM ONE FORM OF COMPANY INTO ANOTHER FORM OF COMPANY**

### **SECTION 1 - GENERAL PROVISIONS**

#### **Article (507) - Definition**

(1) Any company may be transformed, on the basis of a members' or shareholders' resolution adopted in the manner and under the terms prescribed by this law, company agreement or charter, into another form of company and continue its operations in the form of such successor company (hereinafter: "transformation from one into another form of a company").

(2) The provisions of this law pertaining to the founding of company of the same form as the successor company shall respectively apply to the transformation of one form of company into another unless otherwise prescribed by this chapter of the law.

#### **Article (508) - Exclusion (Non Application) of Liquidation**

(1) A liquidation procedure shall not be conducted in the course of transformation of the company from one form into another.

(2) A company under liquidation may be transformed from one form of company into another form of a company up to the commencement of the distribution and payment of the remainder of the liquidation estate following the settlement of the creditor's claims.

(3) A company subject to a bankruptcy procedure may not be transformed from one form of company into another form of a company, unless the transformation is incorporated in the adopted reorganisation plan of the bankruptcy debtor company pursuant to the law on bankruptcy.

#### **Article (509) - Continuity of a Legal Person**

(1) Following the conducted transformation of the company from one form into another, the company shall continue to operate as a legal person through its successor company form with all the rights and liabilities of the predecessor company, except the rights and liabilities of the members or shareholders which were altered by the company agreement or the charter of the company during the transformation procedure.

(2) Partners of the general partnership or general partners in the limited partnership or limited partnership by shares shall be jointly and severally liable with their entire property to the creditors of the predecessor company for all liabilities that arose prior to the transformation.

## **SECTION 2 - PROCEDURE FOR TRANSFORMATION OF A COMPANY OF ONE FORM INTO ANOTHER FORM OF COMPANY**

### **Article (510) - Resolution for Transformation of a Company of One Form into Another Form of Company**

(1) Transformation of a company of one form into another form of a company shall be carried out pursuant to a resolution adopted by the members' meeting or the general meeting of shareholders (hereinafter: "resolution for transformation").

(2) The resolution for transformation pertaining to paragraph 1 of this article shall be adopted by the members' meeting or the general meeting of shareholders by a majority of votes which may not be less than two thirds of the represented parts, or voting shares unless the company agreement or charter requires a greater majority.

(3) The resolution for transformation of a general partnership, or limited partnership into another form of a company shall be adopted with the consent of all partners, or general partners. The resolution for transformation of a limited partnership by shares into another form of a company shall be adopted with the consent of the general meeting of shareholders at which all general partners give their consent.

(4) The resolution for transformation of a limited liability company or joint stock company into a general partnership shall be adopted with the consent of all members or shareholders.

(5) At the members' meeting or the general meeting of shareholders at which the resolution for transformation is adopted, the annual accounts, along with the report of the certified auditors, shall be adopted up to the day when the transformation of the company is decided upon.

(6) The management body or members authorised to manage the company shall prepare a written report, stating therein the reasons, legal and business issues pertinent to the transformation and shall make it available to all members or shareholders. The written report shall be enclosed with the materials delivered to members (partners) or shareholders for the members' meeting or the general meeting of shareholders at which the transformation is decided upon.

### **Article (511) - Content of the Resolution for Transformation**

(1) The resolution for transformation shall contain the following data:

1) the business name of the predecessor company and the business name of the successor company;

2) the full name of each member or shareholder, the unique ID number, the passport number or ID number and/or the number of any other identification document valid in his country of origin and under his citizenship and his place of residence, if the member or shareholder is a foreign natural person, or the business name, registered office and registration number if the member or shareholder is a legal person;

3) a reference to the company agreement or charter which is enclosed with the resolution for transformation and is considered as a constituent part thereof;

4) a reference to the resolution for the election of a management body or supervisory body, if the company has a supervisory body; and



5) reference to the adopted annual accounts

(2) The provisions of this law which regulate the content of the company agreement or charter when founding a company of the same form as the successor company, shall respectively apply to the content of the company agreement or charter.

(3) If the transformation of parts of the predecessor company is contingent upon the consent of members who have other liabilities towards the company apart from the making of their contributions, their consent shall be required for the validity of the resolution for transformation.

#### **Article (512) - Conditions for Transformation**

(1) A company of one form may be transformed into another form of a company under the following conditions:

1) following the adoption of the resolution for transformation, all members, partners or shareholders shall be enabled to decide whether they wish to participate with parts or shares in the successor company, in exchange for their parts or shares in the predecessor company;

2) members, partners or shareholders shall be able to participate in the successor company with their part or shares in proportion to the nominal value of their part or shares with which they participated as members, partners or shareholders in the core (charter) capital of the predecessor company;

3) members, partners or shareholders shall be enabled to independently decide on the amount of their part or the number of shares in the successor company; and

4) the nominal value of members', partners' or shareholders' parts or shares in the successor company shall be at least two thirds of the core (charter) capital of the successor company.

(2) In the event that the total amount of the core (charter) capital is not fully covered by the participation referred to in item 4, paragraph 1 of this article, the core (charter) capital may be supplemented with contributions transferred by persons other than members, partners or shareholders, that shall exclusively be fully paid in cash, prior to the entry of the resolution for transformation in the commercial register, or the members, partners or shareholders shall be obliged to pay the remaining amount necessary to cover the total of the core (charter) capital in proportion to their participation by way of further contributions in the core/charter capital of the successor company.

(3) The value of each part or each share shall be calculated based on the balance sheet compiled for that purpose, which shall be a constituent part of the resolution for transformation.

#### **Article (513) - Acquiring Parts or Shares**

(1) The parts shall be acquired pursuant to statements certified by a notary, whereas shares shall be acquired pursuant to registration forms.

(2) In the event that the resolution for transformation, a constituent part of which is the company agreement, or charter, is adopted at the members' meeting or general meeting of shareholders at which the transformation of one form of company

into another form of company is decided upon, members or shareholders who participate in the operation of the members' meeting or general meeting of shareholders may, upon request of the majority, issue their statements at the members' meeting or the general meeting of shareholders for acquiring parts or shares, which shall be entered in the minutes of the members' meeting, or general meeting of shareholders provided that the minutes are kept by a notary and their content is in compliance with the provisions of this law.

(3) Members, or shareholders who did not attend the members' meeting or general meeting of shareholders shall be called by a public notice, within three days following the convened members' meeting, or general meeting of shareholders, and shall within a period that may not be shorter than one month and not longer than two months as of the date of the announcement of the public notice, issue a statement whether they agree to acquire parts, or shares in the successor company. The public notice shall be published in at least one daily newspaper. Members, or shareholders shall issue their statement for acquiring the parts, or shares certified by a notary, not later than the date specified in the public notice.

(4) All members, or shareholders who agreed to become members in the limited liability company, limited partners, or general partners in a limited partnership or limited partnership by shares or partners in a general partnership shall submit a written statement whereby they approve the company agreement. The signature(s) on the statement shall be certified by a notary.

(5) All members who agreed to be shareholders in the successor company shall sign a registration form for the shares that they acquire.

(6) When a limited liability company, or a joint stock company is transformed into a general partnership, members or shareholders who failed to attend the members' meeting or the general meeting of shareholders, may provide the statement referred to in paragraph 4 of this article within a term of not more than thirty days as of the date when the members' meeting or the general meeting of shareholders was convened.

(7) Provisions of this law pertaining to the core/charter capital, contributions in the company, the parts, or shares shall respectively apply in case of transformation of a company of one form into another form of a company.

#### **Article (514) - Registration of the Transformation**

(1) The transformation of a company from one form into another form of a company shall be registered in the commercial register.

(2) Following the adoption of the resolution for transformation, an application form for its registration shall be filed in the commercial register. The application form shall be signed by the members of the management body, the manager, the president of the supervisory board, or controller of the company, appointed by the company agreement, or charter.

(3) Originals, transcripts and/or copies certified by a notary of the following documents shall be enclosed with the application form for registration of the resolution for transformation into the commercial register:

1) the minutes of the members' meeting or general meeting of shareholders, at which the resolution for transformation was reached, certified by a notary;

2) the statement by all members of the management body, or manager and

the supervisory board, or controller, if the company has a supervisory body, or by the partners in a general partnership or general partners in a limited partnership and limited partnership by shares, that the requirements for transformation of the company into another form of a company, prescribed by this law, have been met;

3) the resolution for transformation along with its enclosures prescribed by this law;

4) a list of the full name of each member, or shareholder, his place of residence and citizenship, the unique ID number, passport number or his ID number, and/or the number of any other identification document valid in his country of origin and under his citizenship if the member or shareholder is a foreign natural person or the business name, registered office, registration number if the member, or shareholder is a legal person, indicating therein the amount of the part, or number of shares that each member, or shareholder acquires in the successor company in proportion to the nominal value of the part held by the member, or the nominal value of the shares that each shareholder holds in the core/charter capital of the successor company;

5) a list indicating individually the names of the members, or shareholders who voted in favour of the adoption of the resolution for transformation;

6) the resolution for the election of the management body, supervisory board, or controller, if the company has a supervisory body, or a resolution for appointing members, or persons authorised as representatives by the company agreement, which is enclosed with the resolution for transformation and is a constituent part thereof;

7) the statements of members for acquiring the parts or the registration forms for acquiring the shares and the adoption of the company agreement, notwithstanding whether these have been entered in the minutes, and/or provided in another manner determined by this law;

8) the annual accounts up to the day when the resolution for transformation was adopted, along with the report of the certified auditor; and

9) a statement pursuant to article 32 of this law.

(4) Upon entry of the resolution for transformation in the commercial register, the company shall continue to operate through the successor company.

(5) In the event that the application form pursuant to paragraph 2 of this article is not filed within ninety days as of the date when the members' meeting or general meeting of shareholders adopted the resolution for transformation, it shall be deemed that the resolution has not been adopted.

#### **Article (515) - Transforming Parts into Shares, or Shares into Parts**

(1) Following the registration of the transformation in the commercial register, the parts or shares shall be entered into the register of parts or shareholders' register, on the basis of the statements of acquisition of the parts, or the registration forms for the acquisition of the shares, and the certificate for the parts or shares acquired in the successor company.

(2) The certificate pertaining to paragraph 1 of this article shall be issued by the management body of the predecessor company.

(3) In the event that the company is transformed into a joint stock company, the president of the board of directors or the president of the management board shall,

not later than eight days as of the date of entry of the transformation in the commercial register, issue a request to the Central Securities Depository to open a shareholders' register.

(4) In the event that a joint stock company is transformed into another form of a company, the manager shall, not later than eight days as of the date of entry of the transformation in the commercial register, issue a request to the Central Securities Depository to close the shareholders' register.

(5) The rights of third parties over parts or shares of the predecessor company shall be transferred as rights of third parties over parts, or shares in the successor company.

#### **Article (516) - Rights of a Member or Shareholder following the Transformation of a Company**

(1) A company shall buy back the part, or shares at a price based on the adopted balance sheet as determined in the resolution for transformation of a company (offered price) from a member, or shareholder, who by way of a written statement objects to the transformation of the company into another form of a company.

(2) The member, or shareholder who refused to accept the offered price pursuant to paragraph 1 of this article, may submit a claim to the court to determine the value of the part, or shares no later than thirty days as of the date of his/its refusal of the offer. The member or shareholder shall lose all rights over his/its part or shares except the right to compensation for his part or shares.

(3) Members or shareholders of a company under transformation may submit a claim pursuant to paragraph 2 of this article solely through an interim representative, appointed by them. The interim representative shall be entitled to the reimbursement of his expenses, as well as to remuneration for his work. In the event that the member, or shareholder fails to determine the expenses and the remuneration himself/itself, the court shall determine them according to the circumstances of each particular case and it shall determine the extent to which the affected former members, or shareholders should be reimbursed.

(4) The court shall determine the value of the part, or shares of the objecting members, or shareholders based on an appraisal report, prepared by an authorised appraiser appointed by the court. In such case, the costs shall be borne by the company. However, if the appraiser determines that the price of the part, or the shares is equal and/or lower than the one determined by the company, the costs for appraisal shall be borne by the member, or shareholder who filed the request. The member, or shareholder may also request the payment of interest in his/its claim.

(5) Once the court decision pertaining to paragraph 4 of this article takes effect, the successor company shall set a term for the collection of payments, which may not be less than one month. Following the expiry of this term, the payments shall be deposited with the court.

(6) Members, or shareholders of the predecessor company shall not have other claims over the assets of the successor company on the grounds of the transformation.

## CHAPTER TEN - ACCESSION, MERGER AND DIVISION OF COMPANIES (REORGANISATION)

### Article (517) - Accession, Merger and Division of Companies

(1) One or more companies may be acquired (company subject to accession) by another company (acquiring company) by transferring its entire assets and liabilities, without conducting a liquidation procedure, in exchange for parts, or shares in the acquiring company.

(2) Two or more companies may merge without conducting a liquidation procedure, by founding a new company - beneficiary to which the entire assets and liabilities of the merging companies are transferred, in exchange for parts or shares of the new company -beneficiary.

(3) A company may, by way of division, simultaneously transfer its entire assets and liabilities to two or more newly founded companies (hereinafter: "separation with founding") and/or to two or more existing companies (hereinafter: "separation with takeover"), whereby the company subject to division shall be wound up without conducting a liquidation procedure. A company may, by way of division, transfer a part of its assets and liabilities to one or more newly founded companies (hereinafter: "spin - off with founding") and/or to one or more existing companies (hereinafter: "spin-off with takeover") whereby the company shall not be wound up.

(4) The division may be carried out by simultaneous transfer of the entire or part of the assets and liabilities of the company subject to division both to new companies and existing companies (combined division by separation with founding and separation with takeover and spin - off with founding and spin-off with takeover).

(5) Members or shareholders of the companies shall, pursuant to the activities set out at paragraphs 1, 2, 3 and 4 of this article, receive parts or shares from the acquiring or newly founded companies - beneficiaries and, if necessary, a cash payment for the difference in value, which may arise, the amount of which shall not exceed 10% of the nominal value of the received parts or shares.

(6) Accession, merger or division referred to in paragraphs 1, 2, 3 and 4 of this article may also be carried out when the resolution for termination of the company by way of liquidation is adopted, provided that the distribution of the remainder of the liquidation estate to the members or shareholders, following the settlement of the creditor's claims has not yet commenced, or when the initiated bankruptcy procedure is terminated for the purpose of reorganisation of the bankruptcy debtor company or when it is set forth in the reorganisation plan of the bankruptcy debtor company.

(7) Actions referred to in this article may also be carried out between companies of different forms.

### **Article (518) - Resolution for Reorganisation**

(1) The resolution for accession shall be passed by the company subject to the accession and the acquiring company;

(2) The resolution for merger shall be passed by the companies being merged;

(3) In the event of a division of the company by separation with founding and spin-off with founding of new companies, the resolution shall be passed by the company subject to division. Where the division of the company is carried out by separation with takeover and spin-off with takeover, the resolution shall be passed by the company subject to division and the company to which a part of the assets and liabilities of the company subject to division are transferred (acquiring company).

(4) Resolutions for accession, merger and division shall be passed by the members, members' meeting or the general meeting of shareholders of each company involved in the accession, merger and division in accordance with the terms and manner of amending the company agreement or charter, as specified by this law.

(5) If a new company is founded by a merger or division, the founding shall be carried out in accordance with the provisions of this law pertaining to the founding of the respective form of such company, unless otherwise prescribed by the provisions of this chapter.

(6) If due to the accession, merger or division, the liabilities of the members or the shareholders of one or more companies increase, the resolution for accession, merger or division shall be made with the consent of all members or shareholders.

(7) The president of the board of directors or the president of the management board shall, no later than eight days as of the date of registration of the accession of a company to a joint stock company or merger, or division involving a joint stock company, inform the Central Securities Depository about the executed reorganisation and issue a request for changes to be made into the shareholders' register, or for a shareholders' register to be opened.

### **Article (519) - General Transfer of the Entire Assets and Liabilities or a Part of the Assets and Liabilities**

(1) In case of accession, merger or division of the company by separation with founding and/or separation with takeover, the company shall terminate without going into liquidation and a general transfer of its entire assets and liabilities shall be made to the newly founded companies and to the acquiring companies, as of the date stipulated by the agreement which sets out the terms for accession, merger, or division (hereinafter: "agreement") or the plan on division by separation with founding and spin-off with founding (hereinafter: "plan on division").

(2) The newly founded companies that were established with the merger, or division by separation with founding or spin-off with founding and the acquiring companies in case of accession and division by separation with takeover or spin-off with takeover, shall be jointly and severally liable to the creditors of companies subject the accession, merger or division.

(3) The newly founded companies and acquiring companies in case of a division may agree amongst them for the liabilities of the divided company (which shall fall upon them) to be regulated without joint liability, or to be assumed by the

newly founded acquiring company. Notwithstanding the above, the newly founded companies and acquiring companies and the company that is being divided by spin-off with founding and/or spin-off with takeover shall be considered as having subsidiary joint and several liability to the creditors of the divided company.

(4) Issue, takeover or withdrawal of shares or parts shall be carried out in accordance with the agreement or the plan on division.

#### **Article (520) - Content of the Agreement**

(1) The management body of the company subject to the accession and the management body of the acquiring company(ies), the management bodies of the companies subject to merger, and the management body of the company subject to division by separation with takeover and/or spin-off with takeover and the management body of the acquiring companies shall conclude an agreement setting out therein the terms for accession, merger or division. The agreement shall be drawn up in the form of a notarised act.

(2) The agreement pertaining to paragraph 1 of this article shall contain the following data:

1) the form, the business name and the registered office of the company subject to accession and the acquiring company, or companies subject to merger or companies subject to division by separation with takeover and spin-off with takeover and the acquiring companies;

2) the method of transfer of the assets and liabilities and exchange for parts or shares from the company subject to accession, to the acquiring company and from the company subject to division by separation with takeover or spin-off with takeover to the acquiring companies, as well as from the merging companies to the new company-beneficiary established with the merger;

3) the purpose and the terms and conditions of the accession, merger or division by separation with takeover and spin-off with takeover;

4) the value of the assets and liabilities including a detailed description of the distribution of the assets and liabilities transferred or assumed (divestiture balance sheet), that are being transferred from the company subject to accession to the acquiring company and from the companies subject to merger to the new company - beneficiary and from the company subject to division by separation with takeover or spin-off with takeover to the acquiring companies;

5) the exchange ratio pursuant to which the exchange of parts or shares shall be carried out, and if necessary, the amount of any additional payment in cash, or the parts and/or shares that are to be acquired from the increased core /charter capital of the acquiring company, or the acquiring companies, or from the new company - beneficiary and the rights and liabilities they confer;

6) the rights conferred to the holders of parts or shares to which special rights are attached;

7) the method of acquiring parts or shares and the date as of which the acquired parts or shares confer the right of participation in the profit to the members or shareholders of the acquiring company, or the new company-beneficiary and all details relevant for exercising such right;

8) the date on which the business activities of the company subject to

accession or companies subject to merger shall cease;

9) the date as of which the transactions of the company subject to accession, companies subject to merger or the company subject to division by separation with takeover or spin-off with takeover shall be treated, for accounting purposes, as transactions undertaken on behalf of the acquiring company or the new company - beneficiary established with the merger;

10) each special privilege granted to a member of the management body and/or supervisory board, or the controller if the company has a supervisory body, of the companies participating in the accession, merger or division by separation with takeover or spin-off with takeover;

11) terms and conditions under which the employment status of the employees shall be continued within the acquiring companies or new companies-beneficiaries;

12) the deadline for the preparation of the annual accounts; and

13) other issues the companies consider to be of mutual interest for the carrying out of the accession, merger or division by separation with takeover or spin-off with takeover.

(3) The following documents shall be a constituent part of the agreement referred to in paragraph 2 of this article:

1) the draft resolutions for amending the acquiring companies' agreement in case of accession or division by separation with takeover or spin-off with takeover or the draft company agreement, or the draft charter of the new company-beneficiary in case of merger;

2) a list of members or shareholders of the company subject to the accession or companies subject to the merger or division by separation with takeover or spin-off with takeover, the nominal values of the existing parts or shares of the acquiring companies, as well as of parts or shares to be acquired by members or shareholders in the acquiring companies or in the new companies-beneficiaries; and

3) a list of employees whose employment status will be continued in the acquiring companies or the new companies - beneficiaries.

#### **Article (521) - Plan on Division**

(1) In the event of a division by separation with founding and/or spin-off with founding of new companies, the management body of the company subject to division shall adopt a plan on division. The plan on division with all enclosures thereto shall be drawn up in the form of a notarised act.

(2) The plan on division pertaining to paragraph 1 of this article shall contain the following data:

1) the form, the business name and the registered office of the company subject to division by separation with founding or spin-off with founding and the newly founded companies-beneficiaries;

2) the method of transfer of the assets and liabilities from the company subject to division to the companies that are being founded in exchange for parts or shares in these companies;

3) the purpose and the terms and conditions of the division by separation with founding or spin-off with founding;



4) the value of the assets and liabilities including a detailed description of the distribution of the assets, rights and liabilities transferred or assumed (divestiture balance sheet), from the company subject to division by separation with founding or spin-off with founding to the newly founded;

5) the exchange ratio pursuant to which the exchange of the parts or shares shall be carried out, and the parts and/or shares that will be acquired in the newly founded companies, as well as the rights and liabilities they confer and if necessary, the amount of the additional payment in cash;

6) the rights conferred to the holders of parts or shares to which special rights are attached;

7) the manner of acquiring parts or shares and the date as of which they shall confer the right of participation to the members or shareholders in the profit of the newly founded companies and all details relevant for exercising such right;

8) the date on which the business activities of the company subject to division shall cease;

9) the date as of which the transactions of the company subject to division by separation with founding or spin-off with founding shall be treated for accounting purposes, as transactions executed on behalf of the newly founded companies;

10) each special privilege, granted to a member of the management body and/or supervisory board, or to the controller, if the company has a supervisory body, of the company subject to division and the newly founded companies;

11) the terms and conditions under which the employment status of the employees shall be continued within the newly founded companies;

12) the deadline for the preparation of the annual accounts; and

13) other issues the company considers to be of mutual interest for carrying out the division by separation with founding or spin-off with founding.

(3) The following documents shall be a constituent part of the division plan referred to in paragraph 2 of this article:

1) the draft company agreement or charter of the newly founded companies;

2) a list of members or shareholders of the company subject to division by separation with founding or spin-off with founding and the nominal value of the parts or shares to be acquired by members or shareholders in the newly founded companies; and

3) a list of employees whose employment status shall be continued within the newly founded companies.

#### **Article (522) - Obligation to Publish a Notification for Reorganisation**

(1) The management bodies of the companies that concluded the agreement and the management body of the company subject to division by separation with founding and spin-off with founding shall, no later than one month prior to the convening of the members' meeting or the general meeting of shareholders at which a resolution for the adoption of the agreement or the plan on division shall be decided upon, jointly publish a notification on the concluded agreement, or the adopted plan on division in the "Official Gazette of the Republic of Macedonia" and in at least one daily newspaper. The notification shall include the following data:

1) the form, business name and the registered office of the companies

participating in the accession, merger or division;

2) the reasons, purpose, goal and the terms and conditions for the accession, merger, and/or division;

3) the value of the assets and liabilities to be transferred, or acquired;

4) exchange ratio pursuant to which the exchange of parts or shares shall be carried out, and if necessary, the amount of any additional payment in cash, or the parts and/or shares that are to be acquired from the increased core/charter capital of the acquiring companies and the rights and liabilities they confer;

5) the rights conferred to the holders of parts or shares to which special rights are attached;

6) the manner of acquiring the parts or shares and the date as of which they confer the right of participation in the profit to members or shareholders in the newly founded companies and all details relevant for exercising such right;

7) the date on which the business activities of the companies subject to the accession, merger, or division shall cease;

8) each special privilege granted to a member of the management body and/or the supervisory board, or the controller, if the companies have a supervisory body, of the companies participating in the accession, merger or division; and

9) the terms and conditions under which the employment status of the employees shall be continued in the acquiring companies or the new company-beneficiary or newly founded company.

(2) The agreement or the plan on division, and all enclosures deemed as constituent parts thereof shall be made available to all members or shareholders in the registered office of the companies participating in the accession, merger, or division. The notification referred to in paragraph 1 of this article shall specify the time-frame and other details significant for each member or shareholder as regards the inspection.

(3) The agreement or the plan on division shall be delivered to the commercial register for the purpose of pre-registration within the term set out in paragraph 1 of this article. Once the pre-registration has been entered, a notification shall be published in the "Official Gazette of Macedonia" stating that the pre-registration has been entered in the commercial register and that the agreement or plan on division is available for inspection.

(4) If the law prescribes an obligation to inform a competent body of the intention for reorganisation, the agreement or the plan on division shall be submitted to such competent body.

### **Article (523) - Notification of Creditors**

(1) Creditors of whom the company is aware, whose claims exceed EUR 10,000 in denar counter-value shall be notified in writing, individually, at their place of residence or at their registered office if the creditor is a legal person.

(2) Creditors who are not entitled to request settlement from the companies involved in the accession, merger or division, due to their claims not having yet matured and who consider that the accession, merger, or division shall endanger the settlement of their claims, shall file a request to obtain security for their claims with the companies subject to accession, merger or division, within thirty days as of the date of announcing the notification referred to in article 522 of this law. In the event that the

companies subject to accession, merger and division fail to respond to the creditor's request within fifteen days as of the date of the filed request and/or fail to provide the required security, the creditor may, in the next eight days, submit a claim to the court to terminate the procedure for accession, merger, or division. If the court determines that in the course of the procedure for accession, merger or division the creditor's request was not considered or that the required security was not provided, it may suspend the procedure, pursuant to the creditor's claim, until the companies subject to accession, merger or division submit evidence to the court, within the specified term, that the claim of the creditor has been secured.

(3) Creditors who have a pre-emptive right to settlement from the bankruptcy estate in a bankruptcy procedure shall not have the right to request security.

#### **Article (524) - Pre-Reorganisation Balance Sheet**

(1) Prior to the accession, merger and/or division, the companies involved therein shall prepare the annual accounts, within the term specified in the agreement or the plan on division.

(2) The term specified in paragraph 1 of this article shall not be shorter than three months from the date of concluding the agreement, or the date of adopting the plan, if the annual accounts relating to the business year, which ended more than six months before that date.

(3) The figures set out in the annual accounts of the company subject to accession, the merging companies or the company subject to division, shall correspond to those of the annual accounts of the acquiring companies or the new company - beneficiaries or the newly founded companies.

#### **Article (525) - Audit of the Agreement or Plan on Division**

(1) The agreement or the plan on division shall be reviewed by one and/or more certified auditors. Certified auditors shall be appointed for each company separately by the management bodies of the companies that participate in the accession, merger or division. The certified auditors may audit each of the companies participating in the accession, merger or division, if appointed by the court upon their joint request.

(2) The auditing report shall contain the opinion of the auditors on whether the exchange ratio of parts, or shares is fair and reasonable. The auditors shall state the following therein:

1) the methods used to evaluate the proposed exchange ratio and the primary method used;

2) what would the exchange ratio be if different methods were used and the relative importance attributed to each method used to determine the exchange ratio;

3) whether the methods used are appropriate for the exchange in question;  
and

4) the difficulties that occurred during the valuation and audit, if any.

(3) Each certified auditor shall be entitled to obtain all documents and data necessary for the audit from the management bodies and if necessary, to conduct separate investigations.

(4) The provisions of this law and other regulations pertaining to audit shall apply to the accountability of the certified auditors.

#### **Article (526) - Report on Reorganisation**

The management bodies that concluded the agreement or the plan on division shall prepare a written report, explaining the following in detail:

- 1) the reasons, or the objective to be achieved by the accession, merger or division;
- 2) the legal and business issues, as well as the proposed legal and economic grounds for the accession, merger and division;
- 3) the criteria and methods that determine the exchange ratio of the parts or shares and the criteria for their distribution;
- 4) the contents of the documents and the draft agreements for accession, merger and division;
- 5) any difficulties that occurred in the course of the procedure for the appraisal of the assets and liabilities;
- 6) the non-monetary contributions transferred, as well as any problems that arose from the appraisal carried out in accordance with article 35 of this law and a reference to the reports on the basis of which they were appraised and the manner in which such reports have been made available;
- 7) any change in the assets and liabilities that occurred between the date of concluding the agreement, or the adoption of the plan on division and the date of convening the members' meeting or the general meeting of shareholders at which a resolution for accession, merger and division shall be decided upon; and
- 8) any amendments made in the agreement or the plan on division due to an obligation to act in accordance with the recommendations of the certified auditor.

#### **Article (527) - Preparation for Calling the Members' Meeting or General Meeting of Shareholders**

(1) Each company participating in the accession, merger and division shall enable the members or shareholders, at least one month prior to the date on which the members, members' meeting and/or the general meeting of shareholders decides upon the adoption of the agreement or plan on division, to review the documents relevant to the accession, merger or division and in particular:

- 1) the agreement or the plan on division, including all enclosures thereto;
- 2) the annual accounts and the annual report on the operations of the companies participating in the accession, merger or division for the three preceding financial years, or for each year of existence of the companies if this is less than three years;
- 3) the annual accounts prepared in accordance with article 524 of this law;
- 4) the report on the accession, merger or division prepared by the management body;
- 5) the report of the certified auditor; and
- 6) other important data and notifications pertinent to the decision-making on the accession, merger or division.

(2) The annual accounts referred to in paragraph 1, item 2 of this article shall be prepared in accordance with the regulations valid at the time of their preparation.

#### **Article (528) - Resolution for Reorganisation**

(1) The agreement or the plan on division shall become effective once members, the members' meeting or the general meeting of shareholders of the companies involved in the accession, merger, and division approve it.

(2) The resolution for the approval of the agreement or the plan on division shall be reached in the same manner as a resolution to amend the company agreement or charter, as prescribed by this law, company agreement, or charter.

(3) The resolution for the approval of the agreement, or the plan on division referred to in paragraph 1 of this article shall be considered as a resolution on the accession, merger, or division itself.

(4) The members, or the members' meeting, and/or the general meeting of shareholders shall, simultaneously with the resolution on the accession, merger, or division by separation with takeover and spin-off with takeover, adopt a resolution to amend the company agreement, or charter and, simultaneously with the resolution on division by separation with founding and spin-off with founding, they shall reach a resolution for the adoption of the company agreements, or charters of the newly founded companies.

(5) The minutes from the members' meeting, or the general meeting of shareholders referred to in paragraph 1 of this article shall be taken by a notary. The agreement, or plan on division shall be enclosed with the minutes of the convened members' meeting or general meeting of shareholders, as a constituent part thereof.

#### **Article (529) - Liability for Damage**

(1) Members of the management body and members of the supervisory board, or the controller, if the company has a supervisory body, of the company subject to the accession, merging companies and the company subject to division, shall be jointly and severally liable in compensating the damage that occurred from the accession, merger or division, incurred by the companies subject to the accession, merger or division by separation with takeover and/or spin-off with takeover. Members of the management body, or members of the supervisory board, or the controller, if the company has a supervisory body, who acted with due care and diligence during the audit of the company's assets and while concluding the agreement or adopting the plan on division, shall not be held liable for damages.

(2) For the purposes of settling the claims for compensation of damage pertaining to paragraph 1 of this article as well as all other demands made for the benefit of and against the company subject to accession, merger, and division, it shall be deemed that such company still exists.

(3) A claim regarding the demands and claims referred to in paragraphs 1 and 2 of this article may be filed within five years as of the date of the publication of the entry of the accession, merger or division in the commercial register.

### **Article (530) - Right to Compensation for Damage**

(1) Claims for compensation of damage and other claims pertaining to article 529 of this law may be executed only through an interim representative appointed by the court according to the location of the registered office of the company subject to the accession, merger or division, upon a proposal of a member or shareholder and/or creditor of such company.

(2) The representative shall, stating the purpose of his appointment, notify the former members, or shareholders and the creditors of the company subject to the accession, or the companies subject to the merger, or the company subject to the division to file their claims referred to in article 529 of this law within a period of at least thirty days and no more than sixty days. The notice shall be published in the "Official Gazette of the Republic of Macedonia" and in at least one daily newspaper.

(3) The interim representative shall be entitled to the reimbursement of his expenses as well as to remuneration for his work. If members, shareholders or creditors fail to determine the expenses and the remuneration, they shall be determined by the court taking into account the circumstances for each case and it shall also determine the extent to which the affected former members, shareholders and creditors shall be reimbursed.

### **Article (531) - Court Examination of the Exchange Ratio**

(1) The resolution for accession, merger and division by which the members, the members' meeting or general meeting of shareholders approved the agreement, or the plan on division shall not be challenged, due to the fact that the ratio of exchange of parts or shares has been determined too low. In the event that the ratio has been determined too low, the court may, upon a claim of the members or shareholders, order an additional payment that shall not exceed 10% of the nominal value of the exchanged parts or shares.

(2) The claim referred to in paragraph 1 of this article shall be filed within thirty days as of the date when the member, or shareholder did not accept the offered exchange ratio referred to in paragraph 1 of this article. The company shall, pursuant to the court decision, pay an additional payment to all members, or shareholders that own parts, or shares of the same type and class for the amount determined by the court.

### **Article (532) - Accession or Division in Special Instances**

(1) In the event that the acquiring company owns at least 90% of the parts, or shares represented in the core/charter capital of the company subject to the accession, or the company subject to division by separation with takeover or spin-off with takeover, the consent of the members, the members' meeting or general meeting of shareholders of the acquiring company shall not be required.

(2) In the event that the acquiring company owns all the parts or shares of the company subject to the accession, the agreement on the accession shall not be required to contain data on the exchange of parts, or shares, an audit shall not be required to be conducted and the agreement shall not be required to be approved by the members' meeting or the general meeting of shareholders of the company in accession and the

acquiring company.

(3) Members or shareholders of the acquiring company whose parts or shares jointly represent 5% in the core/charter capital, may request for a members' meeting or general meeting of shareholders to be called at which the accession shall be confirmed. The core/charter capital shall not comprise the treasury parts, or treasury shares of the acquiring company, or parts or shares owned by another entity, but on behalf of the acquiring company.

(4) The company referred to in paragraphs 1 and 2 of this article shall disclose the terms for accession, or division by separation with takeover or spin-off with takeover no later than thirty days prior to the date of convening the members' meeting or general meeting of shareholders and shall, within this term, make available the documents for accession or division prescribed by this law, to members or shareholders.

(5) Members, or shareholders of the company subject to accession referred to in paragraph 1 of this article, who objected to the accession shall exercise their rights in accordance with the provisions of this chapter.

#### **Article (533) - Prohibitions against Increase of the Charter/Core Capital**

(1) The acquiring company shall not increase its charter/core capital while carrying out the accession, or division by separation with takeover or division by spin-off with takeover if:

1) it owns the parts or shares in the company subject to the accession or the company subject to the division by separation with takeover or spin-off with takeover;

2) the company subject to the accession or the company subject to the division by separation with takeover or spin-off with takeover owns parts, or shares in the acquiring company; and/or

3) the company subject to the accession or the company subject to the division by separation with takeover and/or spin-off with takeover owns parts or shares in the acquiring company for which contributions, which should have been fully paid up, have not been duly paid.

(2) The absorbing or acquiring company shall not increase its charter/core capital while the prohibitions referred to in paragraph 1 of this article are in force.

(3) In the event that the acquiring company makes additional payments in cash, such payments shall not exceed 10% of the total nominal value of the exchanged or issued parts or shares of such company.

#### **Article (534) - Increase of the Charter/Core Capital of the Company for the Purposes of Accession or Division**

(1) If the acquiring company increases its charter/core capital for the purposes of the accession, or division by separation with takeover or spin-off with takeover, the following provisions of this law pertaining to the increase of the charter/core capital shall not be applicable to:

1) the prohibition on increasing the core/charter capital until the subscribed contributions are paid in full;

2) the requirement to state in the application form for registration of the

resolution to increase the core/charter capital in the commercial register which contributions were not fully paid;

3) the requirements for subscribing new contributions, or shares; and

4) the pre-emptive right of purchase of parts, or shares.

(2) An audit shall be carried out in the event of an increase of the core/charter capital by non-monetary contributions, where the court determines that the value of the non-monetary contributions does not correspond to the nominal value of the issued parts, or shares as well as in the event of an increase of the core/charter capital in accordance with the provisions of this law pertaining to authorised capital.

### **Article (535) - Rights of Members or Shareholders**

(1) A company shall purchase the part, or shares of a member, or shareholder who states that he is not willing to acquire parts, or shares in the acquiring company, or in the new company-beneficiary that was established by merger, and in the newly founded company, in exchange for his part or shares, at a price determined by the resolution for accession, merger or division.

(2) The member, or shareholder who refused to accept the offered price set out at paragraph 1 of this article, may, not later than thirty days as of the date of the refusal of the offer, file a claim with the court to have his/its part or shares valued. The member, or shareholder shall lose all rights over the part, or shares, except the right to compensation for his part, or shares.

(3) The court shall, on the basis of an appraisal report prepared by an authorised appraiser appointed with a decision of the court, determine the value of the part or shares of the member, or shareholder. The costs shall be borne by the company unless the appraiser determines that the price of the part, or shares specified by the company is equal and/or lower than the one specified by the company, in which case the appraisal costs shall be borne by the member, or shareholder who filed the claim. The member, or shareholder may also request the payment of interest in his/its claim.

(4) The company may, pursuant to a court decision, pay an increased payment to all members or shareholders who own parts, or shares of the same type and class for the amount paid pursuant to the court decision referred to at paragraph 3 of this article.

(5) Once the court decision referred to in paragraph 3 of this article takes effect, the company subject to the accession, merger or division shall determine the term for the collection of the payments which shall not be shorter than thirty days. Following the expiry of this period the payments shall be deposited with the court, the parts shall be cancelled and the shares shall be declared invalid, and the Central Securities Depository shall be notified thereof. The amount deposited corresponding to the cancelled parts, or the invalid shares may be retrieved from the court.

(6) The member, or shareholder of the company subject to the accession, merger, or division shall not be entitled to other claims pertaining to the assets of the acquiring company or the new company-beneficiary, or the company which acquires parts of the assets and liabilities from the company divided by separation with takeover, or spin-off with takeover or the newly founded company established by division by separation with founding or spin-off with founding.

(7) The acquiring company, the new company-beneficiary or the newly founded company shall confer all rights to the holders of convertible bonds to which



they were entitled in the company subject to accession, the merging companies or the divided company.

(8) In the event that members, or shareholders of the company in accession, or the merged companies or the company subject to division had the obligation to pay an additional amount in cash, the accession, merger or division may only be entered in the commercial register, once evidence that the payment was made has been submitted to the court.

#### **Article (536) - Application Form for Registration in the Commercial Register**

(1) Each company shall file an application form for the registration of the accession, merger or division by separation with takeover or division by spin-off with takeover in the commercial register.

(2) When filing the application form, the manager, or members of the management body shall issue a statement that the resolution for the accession, merger or division by separation with takeover or division by spin-off with takeover have not been challenged within the prescribed term, or that the challenge was denied by a definitive court decision. The following documents shall be enclosed with the application form for the registration of the accession, merger or division by separation with takeover or division by spin-off with takeover in the commercial register, in original, transcript and/or copy form certified by a notary:

- 1) the agreement;
- 2) amendments to the company agreement or charter of the acquiring company, and the company agreement or charter of the new company-beneficiary established by the merger;
- 3) the resolution for the approval of the agreement;
- 4) the minutes from the members' meeting or the general meeting of shareholders at which the resolutions for approving the agreement were passed and the amendments to the company agreement or charter of the acquiring companies or company agreement or charter of the new company-beneficiary established by a merger were adopted, which specify the management bodies, or supervisory bodies, if the company has a supervisory body;
- 5) the report of the certified auditor;
- 6) the report on the accession, merger or division by separation with takeover or spin-off with takeover;
- 7) a list of the members or shareholders transferred to the acquiring company or the new company-beneficiary, signed by the manager, or members of the management body;
- 8) an approval by a state or other competent body for the accession, merger or division by separation with takeover or spin-off with takeover if required by a law;
- 9) a list of the employees transferred to the acquiring companies or new companies-beneficiaries; and
- 10) a statement of the manager, or members of the management bodies of the companies that participated in the accession, merger or division by separation with takeover or spin-off with takeover, in accordance with article 32 of this law.

(3) Apart from the enclosures set out at items 5, 7, 8, 9 and 10 of paragraph 2 of this article, the application form for division of the company by separation with

founding or spin-off with founding of new companies, shall also contain the following documents, in original, transcript and/or copy form certified by a notary:

- 1) the plan on division;
  - 2) the resolution for approval of the plan on division;
  - 3) minutes from the members' meeting or general meeting of shareholders at which the resolution for approval of the plan on division was passed and the company agreement or charter of companies founded by separation with founding or spin-off with founding were adopted;
  - 4) the company agreement or charter of the newly founded companies established by the division by separation with founding or spin-off with founding;
  - 5) a resolution for the election of the manager, members of the board of directors, or supervisory body of companies established with the division by separation with founding or spin-off with founding, if they are not appointed by the charter, or the company agreement; and
  - 6) the report on the division by separation with founding or spin-off with founding;
- (4) The annual accounts prepared and adopted not more than six months prior to the date of filing the registration form for registration shall be enclosed with the registration form for entry of each company subject to accession or merger or company divided by separation with takeover or spin-off with takeover in the commercial register.
- (5) Following the entry in the commercial register, the faults in the procedure for accession, merger, or division shall have no effect against the validity of the accession, merger or division.

#### **Article (537) - Legal Consequences from the Entry**

(1) Legal consequences from the accession, merger or division shall arise as of the date of publication of the entry of the accession, merger or division in the commercial register.

(2) Upon the accession, the assets and liabilities of the company subject to the accession shall be transferred to the acquiring company. Upon entry of the accession in the commercial register, the company subject to the accession shall be deleted. The members, or shareholders of the company subject to the accession shall become members or shareholders of the acquiring company.

(3) Upon the merger, the assets and liabilities of the merged companies shall be transferred to the new company-beneficiary. Upon registration of the new company-beneficiary, the entry of the companies that merged shall be deleted. The company agreement or charter of the new company-beneficiary shall specify the special benefits, founding costs and non-monetary contributions transferred. Upon entry of the merger in the commercial register, the members or shareholders of companies that merged shall become members or shareholders of the new company-beneficiary.

(4) Upon division of the company by separation with founding or separation with takeover, the assets and liabilities shall be transferred to the newly founded company or to the acquiring company. Upon registration, the entry of the divided company shall be deleted. Members or shareholders of the company divided by separation with founding or separation with takeover shall become members or

shareholders of the newly founded company.

(5) Upon division of the company by spin-off with founding or spin-off with takeover, part of the assets and part of the liabilities shall be transferred to the newly founded company or the acquiring company. The divided company shall not cease to exist. Members or shareholders of the company subject to division by spin-off with founding or spin-off with takeover, shall become members or shareholders of the newly founded company or the acquiring company by acquiring parts or shares in such company.

(6) Where the law prescribes the undertaking of special actions related to the transfer of contributions in kind, rights and/or liabilities to the acquiring company, the new company -beneficiary or the newly founded company, the transfer shall have effect as against third parties after having met the prescribed requirements for the transfer of those contributions in kind, rights and/or liabilities. These actions shall be executed within a term of not longer than six months.

## **CHAPTER ELEVEN - LIQUIDATION OF A COMPANY**

### **Article (538) - Liquidation of a Company**

(1) If no bankruptcy procedure has been initiated against the company, liquidation shall be executed pursuant to the adoption of a decision on the termination of the company.

(2) Unless otherwise stipulated by the provisions of this law and/or for the purposes of the liquidation, the provisions of this law applicable to companies in existence shall apply until the liquidation is completed.

### **Article (539) - Liquidators**

(1) Liquidation of a general partnership shall be carried out by all members as liquidators, and in the case of a limited partnership and a limited partnership by shares, it shall be carried out by all general partners, unless the members have entrusted such liquidation to certain members and/or to other persons, upon agreement. In the event that these procedures involve the participation of two or more successors of a deceased member, the former shall be obliged to appoint a joint representative.

(2) Liquidation of a limited liability company or a joint stock company shall be carried out by the members of the management body, or the managers of the company, in the capacity of liquidators. Other natural and/or legal persons may be appointed liquidators by the company agreement, the charter, and/or by a resolution passed at the members' meeting, or the general meeting of shareholders.

(3) The liquidators referred to in paragraph 1 and 2 of this article may be dismissed by the members, or the members' meeting or the general meeting at any time.

### **Article (540) - Liquidators Appointed by the Court**

(1) If the members, or shareholders have failed to appoint a liquidator, and where this law stipulates that the court is to carry out the liquidation of the company, the liquidator shall be appointed by the court.

(2) If there are substantial reasons for requesting the winding-up and if the applicants provide evidence for these, upon an application by the members, or the shareholders whose joint part or share represents at least 20% of the core or charter capital, the court may appoint liquidators from the list of persons proposed by the members, or the shareholders.

(3) The liquidators appointed by the court shall be entitled to compensation of their expenses and to remuneration for their services as liquidators. In the event that the liquidators appointed by the court and the company do not reach an agreement regarding the amount of such expenses and remuneration, this shall be determined by the court.

### **Article (541) - Registration in the Commercial Register**

(1) The particulars of the initial liquidators and their authorisations shall be registered in the commercial register. Any change thereto shall thereafter be registered in the commercial register by the liquidators themselves.

(2) The appointment and dismissal of liquidators by the court shall be *ex officio* entered in the commercial register.

(3) The liquidators shall file a copy of their signatures with the court, unless they have already done so as members of the management body or managers.

### **Article (542) - Rights and Obligations of the Liquidators**

(1) The liquidators shall be obliged to complete the transactions in progress, collect the claims of the company, sell the remaining assets and settle the liabilities towards creditors. If so required by the liquidation, they may also enter into new transactions on behalf of the company in liquidation.

(2) The liquidators may, pursuant to an agreement with the members, or the shareholders and the creditors, transfer certain assets from the liquidation estate to certain shareholders and members, provided that such transfer does not violate the rights of the other members, shareholders and creditors.

(3) The liquidators shall, within their scope of operations, have the same rights and obligations as that of the management body. If a company has a supervisory body, the liquidators shall act under its supervision.

### **Article (543) - Representation of a Company Undergoing a Liquidation Procedure**

(1) The liquidators shall represent the company.

(2) If more than one liquidator is appointed, they shall jointly represent the company, unless otherwise stipulated by the company agreement or the charter. If there is an obligation by third parties to issue a statement to the company by third parties, it shall be sufficient for the statement to be issued in the presence of one of the liquidators.

(3) Liquidators authorised to jointly represent the company may authorise a liquidator and/or certain liquidators to undertake certain activities and/or certain types of activities.

(4) An individual liquidator may authorise certain persons to undertake certain activities and/or certain types of activities.

(5) The representation authorisation referred to in paragraphs 3 and 4 of this article shall not be limited.

(6) When signing documents, liquidators shall add the words "undergoing under liquidation" to the business name of the company.

#### **Article (544) - Announcement of the Liquidation**

The liquidator shall, following the entry in the commercial register, announce without any delay that the company is undergoing liquidation, on two separate occasions within a period which shall not be shorter than fifteen and not longer than thirty days following the entry in the commercial register. The announcement shall be published in the "Official Gazette of the Republic of Macedonia" and in at least one daily newspaper. The announcement shall notify the creditors to report their claims within sixty days as of the date of the last announcement. Creditors, of whom the company is aware, shall be notified about the liquidation individually and in writing.

#### **Article (545) - Balance Sheet for Initiation of Liquidation Proceedings**

(1) The liquidator shall compile a balance sheet according to the situation of the company as at the date of the initiation of the liquidation proceedings (initial balance sheet on the initiation of the liquidation proceeding) and a report explaining the balance sheet, as well as a report on the operations of the company during the year for which the annual accounts are prepared.

(2) The members, the members' meeting and the general meeting of shareholders shall decide on the approval of the initial balance sheet, the annual accounts and the report on the operations of the company and on the approval of the liquidator's operations.

#### **Article (546) - Distribution of Remaining Assets following the Settlement of Liabilities**

(1) The remaining assets following the settlement of liabilities towards the creditors, shall be distributed among the members, or the shareholders.

(2) The amount of such assets shall be distributed in proportion to the nominal values of their parts, or shares, unless otherwise provided by the company agreement, or the company charter, and unless there are shares conferring different rights when distributing the remaining assets of the company.

#### **Article (547) - Submission and Keeping of Documentation**

(1) Following the completed liquidation, the liquidators shall submit the annual accounts and the report to the members, the members' meeting or the general meeting of shareholders.

(2) The liquidators shall, in addition to the application form for deletion of the entry of the company from the commercial register, submit the approved annual accounts and the report, as well as the transcript of the resolutions approving the operations of the liquidators adopted by the members, the members' meeting and the general meeting of shareholders of the company, to the commercial register.

**Article (548) - Term for Distribution of the Remaining Assets following the Settlement of Liabilities**

(1) The company assets shall be distributed following the expiry of six months as of the date the second announcement of the notice to the creditors was made.

(2) If one of the known creditors fails to respond, the amount owed to him shall be lodged with the court.

(3) If a certain liability may not be settled immediately and/or is disputable, the distribution of the assets may be carried out only if the creditor is provided with security for such liability.

**Article (549) - Assets following the Deletion of a Company**

If, following the deletion of the company in the commercial register, assets of the company are identified, the court shall, upon request of any person having legal interest, re-appoint the liquidators and/or appoint new ones, who shall act in accordance with the provisions of this law pertaining to liquidation.

**Article (550) - Protection of Rights against a Deleted Company**

If any right is exercised against the deleted company before a court, the court shall appoint an interim representative on behalf of the former company. The persons liable for the liabilities of the former company may be subject to claims within the scope of their responsibility, provided that such claims have not become statute-barred.

**Article (551) - Conditions under Which a Resolution for Extension of the Existence of the Company May Be Adopted**

(1) In the event that a company terminated as a result of the expiry of the period determined in the company agreement, or the charter and/or a resolution of the members, the members' meeting or the general meeting of shareholders may pass a resolution to extend the existence of the company until the initiation of the distribution of assets among the members, or the shareholders.

(2) The resolution referred to in paragraph 1 of this article shall be adopted with the consent of all members of the limited liability company, or by two thirds of the voting shares represented at the general meeting of shareholders.

(3) The liquidators shall register the extension of the existence of the company in the commercial register. When registering the entry, the liquidators shall be obliged to provide evidence that the distribution of the company assets among the members, or the shareholders has not yet commenced.

### **Article (552) - Announcement of the Deletion**

Following the completion of the liquidation proceedings, the liquidator shall submit an application for the deletion of the entry of the company from the commercial register and shall inform the Central Securities Depository that the shares of the joint stock company or the limited partnership by shares have been cancelled and shall issue a request for the closure of the shareholders register.

## **PART SIX - ECONOMIC INTEREST GROUPINGS**

### **Article (553) - Definition**

(1) Two or more natural and legal persons may establish among themselves an economic interest grouping for a limited or unlimited period of time in order to facilitate and/or develop the performance of their trading activities which shall constitute the scope of its operations, as well as to increase or improve the results thereof.

(2) The persons referred to in paragraph 1 of this article may act as associate members in a corresponding economic interest grouping established abroad.

(3) An economic interest grouping may not become a member of another economic interest grouping.

### **Article (554) - Scope of Operations**

The scope of operations of the economic interest grouping may only be related to the trading activities carried out by its members and must not be more than ancillary to those activities.

### **Article (555) - Purposes of Founding**

(1) The economic interest grouping shall not generate profit for its own purposes. The profit generated as a result of its operations shall be considered as profit of the members of the economic interest grouping and shall be distributed among them in accordance with the provisions set out in the founding agreement of the grouping and in the absence of any such provision, the profit shall be distributed among the members in equal shares.

(2) Rights of the members of an economic interest grouping shall not be presented as securities.

(3) Provisions of the founding agreement and/or resolutions contrary to paragraphs 1 and 2 of this article shall be considered null and void.

### **Article (556) - Status of a Legal Person**

The economic interest grouping shall acquire the status of a legal person as of the date of its entry into the commercial register.



### **Article (557) - Liabilities of the Members**

(1) Members of an economic interest grouping shall have unlimited liability for the liabilities of the economic interest grouping with their entire property. Unless otherwise agreed with a third contracting party, the members shall be jointly and severally liable.

(2) A creditor of the economic interest grouping may request settlement of his/its claim from the members, if he/it failed to collect the claim from the grouping itself.

### **Article (558) - Content of the Founding Agreement**

(1) An economic interest grouping shall be founded pursuant to an agreement for founding an economic interest grouping (hereinafter: "economic interest grouping agreement").

(2) The economic interest grouping agreement shall set out the organisational structure of the economic interest grouping. The economic interest grouping agreement shall be drawn up in writing and published in the manner prescribed for the publication of a company agreement.

(3) The economic interest grouping agreement shall at least contain the following provisions:

1) the name of the economic interest grouping preceded or followed by the words "*Stopanska interesna zaednica*" (economic interest grouping), unless these words already form a part of its name;

2) the name, business name, legal form, registered office and registration number, if applicable, from the commercial register for each member of the economic interest grouping;

3) the duration of the economic interest grouping;

4) the scope of operations of the economic interest grouping;

5) the registered office of the economic interest grouping;

6) the manner of decision-making;

7) the management bodies and their competencies;

8) detailed regulations on the joining, withdrawal and exclusion from the economic interest grouping; and

9) the supervision of the operations of the economic interest grouping;

(4) All amendments to the economic interest grouping agreement shall be made and published under the same terms and conditions as for the agreement itself.

### **Article (559) - Members and Their Admission**

(1) Members of an economic interest grouping may be persons carrying out any of the activities determined in article 4 of this law. Persons engaged in freelance activities, but not having the status of a trader, may also become members of an economic interest grouping.

(2) An economic interest grouping may admit new members during the period of its existence. The resolution for admission of a new member shall be reached unanimously by the economic interest grouping members' meeting.

(3) The new member shall be liable for the liabilities of the economic interest grouping, including those arising from the operations conducted prior to his/its admission to the economic interest grouping. New member(s) may be exempted from the liability of the economic interest grouping for obligations that arose prior to their admission only by way of the resolution for their admission to the economic interest grouping.

#### **Article (560) - Withdrawal and Exclusion of Members**

(1) A member of an economic interest grouping may withdraw from the grouping in accordance with the conditions laid down in the economic interest grouping agreement and provided that he/it has settled the liabilities stipulated by the agreement and/or in the resolutions of the members' meetings. In the event that the economic interest grouping agreement does not prescribe any conditions for withdrawal from the economic interest grouping, the withdrawal shall be carried out pursuant to a separate agreement.

(2) A member of an economic interest grouping may be excluded on the basis of reasons determined in the economic interest grouping agreement, and in any case, if he seriously fails to fulfil his obligations and/or if he causes and/or brings about severe disruption in the operations of the economic interest grouping and/or if he threatens to cause serious disruption to the operations. The court shall, pursuant to a non-litigation procedure and upon request by the other members of the economic interest grouping, reach a decision for exclusion.

#### **Article (561) - Members' Meeting**

(1) Members of an economic interest grouping shall decide upon matters of mutual interest at the members' meeting of the economic interest grouping.

(2) The members' meeting may decide on matters during its convened meetings and/or via the Internet, and voting may be executed via electronic mail and/or in writing, via fax and/or phone. The manner of calling the meeting, its operations and decision making, and the recording of the resolutions adopted at the members' meeting shall be defined by the economic interest grouping agreement.

(3) The members' meeting shall be authorised to pass all resolutions, including the resolution on early termination or extension of the duration of the economic interest grouping, under the terms and conditions laid down in the economic interest grouping agreement.

(4) The economic interest grouping agreement may provide for all or certain resolutions to be passed by a quorum and majority prescribed therein. In the event that the agreement does not prescribe a quorum and majority for decision making, the resolutions shall be adopted unanimously.

(5) The economic interest grouping agreement may provide for certain members to be granted more than one vote, provided that no one member holds a majority of the votes. In the event that the economic interest grouping agreement does not contain any such provision, each member shall be entitled to one vote only.

(6) The members' meeting shall be convened upon a request of at least 10% of the total number of members of the economic interest grouping.

### **Article (562) - Management**

(1) An economic interest grouping shall be managed by one or more managers, elected in the manner and under the terms and conditions laid down in the economic interest grouping agreement.

(2) Unless otherwise determined by the economic interest grouping agreement, the members' meeting shall organise the management of the economic interest grouping and shall elect the manager, define his powers and the terms and conditions for his dismissal.

(3) A natural person who may not act as a manager, a member of a management body and/or a supervisory body in a company, in accordance with this law, may not be elected as a manager.

### **Article (563) - Representation**

(1) The economic interest grouping shall be represented by its manager, determined by the economic interest grouping agreement in its relations with third parties.

(2) The manager referred to in paragraph 1 of this article may exercise rights and assume obligations and liabilities in legal transactions within the scope of operations of the economic interest grouping.

(3) An economic interest grouping shall be liable, without limitation, for the liabilities assumed by its manager in his dealings with third parties.

### **Article (564) - Supervision over the Operations**

(1) Members of the economic interest grouping shall supervise the operations of the economic interest grouping via the members' meeting and in a manner and under the terms and conditions laid down in the economic interest grouping agreement.

(2) Each member shall be entitled to obtain information related to the operations of the economic interest grouping from the management body and to review its business records and documents.

### **Article (565) - Termination of an Economic Interest Grouping**

An economic interest grouping shall be terminated upon:

- 1) the expiry of the duration for which it has been established;
- 2) the accomplishment and/or cessation of its scope of operations;
- 3) a resolution adopted by its members, under the terms and conditions laid down in the economic interest grouping agreement; and/or
- 4) a court decision.

### **Article (566) - Liquidation**

(1) The termination of an economic interest grouping shall entail its liquidation. The legal status of the economic interest grouping shall be maintained for the purposes of the liquidation.

(2) The liquidation shall be carried out under the terms and in the manner set out in the economic interest grouping agreement.

(3) If the economic interest grouping agreement does not contain provisions on the terms and conditions and the manner of the liquidation, the members' meeting of the economic interest grouping shall appoint a liquidator. In the event that the members' meeting does not appoint a liquidator, the court shall appoint the liquidator instead.

(4) Following the settlement of an economic interest grouping's liabilities, the remainder of its assets shall be distributed among its members, under the terms and conditions laid down in the economic interest grouping agreement.

(5) In the event that the economic interest grouping agreement does not contain any provisions on the manner of liquidation, the distribution shall be executed in equal shares.

## **PART SEVEN - SILENT PARTNERSHIP**

### **Article (567) - Silent Partners and Contributions**

(1) A silent partnership shall be founded by an agreement under which a person (the silent partner) shall contribute or make monetary and/or non-monetary contributions into a business owned by another person – entrepreneur – public partner, and on the basis of such contribution, that person shall acquire the right to participate in the profit and loss of the business of the entrepreneur.

(2) The contribution of the silent partner shall be included in the property of the business of the entrepreneur-public partner.

### **Article (568) - Status of the Partnership**

(1) A silent partnership shall not have the status of a legal person or a business name.

(2) A silent partnership shall exist only with respect to the relations between the silent partner and the public partner, and shall not exist with regard to third parties.

(3) Only the entrepreneur shall act in the legal transactions and shall be an exclusive holder of all rights and liabilities arising from the operations.

### **Article (569) - Agreement Regulating the Operations**

(1) The partners shall freely agree upon the objectives, the forms and the scope of operations and the terms and conditions for the operations of the silent partnership.

(2) When performing their duties, the entrepreneur partner and the silent partner(s), shall be obliged to act with the same due care as that when carrying out operations on their own behalf.

### **Article (570) - Agreement Regulating the Relationships**

(1) The relationship between the partners shall be regulated by an agreement.

(2) The relationships between the entrepreneur partner and the silent partner that are not regulated by the agreement referred to in paragraph 1 of this article and by the provisions in this section of the law shall be governed by the provisions of the Law on Obligations, which regulates partnership agreements.

### **Article (571) - Contribution of a Silent Partner**

If the contribution of the silent partner is decreased due to losses of the silent partnership, he/it shall neither be obliged to increase his contribution nor to supplement it.

### **Article (572) - Covering of the Losses**

(1) Unless otherwise agreed, the silent partner shall participate in covering the losses of the entrepreneur partner.

(2) The silent partner shall participate in covering the losses only in proportion to his/its paid up contribution and the contribution that he/it has still not been paid up.

(3) In the event of a dispute, if the share of a silent partner in the profit and loss has not been determined by an agreement, it shall be determined by the court through a non-litigation procedure.

### **Article (573) - Calculation of the Profit or Loss**

(1) At the end of each business year, the entrepreneur shall calculate the profit or loss of the silent partnership and shall pay the silent partner his/its share of the profit.

(2) The silent partner shall not be obliged to return the received profit if subsequent losses occur. As an exception, if the contribution is decreased due to a loss, the profit shall be used to increase the silent partner's contribution in the proportion set out in the agreement.

(3) The profit not collected by the silent partner shall not increase his/its contribution.

### **Article (574) - Right to a Transcript and Inspection of Books and Documents**

(1) The silent partner shall be entitled to request a transcript of the annual accounts of the partnership and to inspect their accuracy and regularity by comparing them to the partnership's books and documents.

(2) Upon request by the silent partner, at any time, the court shall through a non-litigation procedure, order the entrepreneur-public partner to provide the partnership's annual accounts and other explanations to the silent partner, and/or to make the books and documents available to the silent partner.

(3) The rights of the silent partner referred to in paragraphs 1 and 2 of this article may neither be excluded nor limited by an agreement.

### **Article (575) - Relationship with Third Parties**

The name of the silent partner shall not be included in the business name of the entrepreneur's business, however, if it is included, and the silent partner was aware and/or should have been aware thereof, he/it shall be jointly and severally liable to the creditors together with the entrepreneur for the liabilities arising from the operations of the partnership.

### **Article (576) - Terms and Conditions for Termination**

(1) A silent partnership shall terminate upon:

1) the expiry of the time period for which the agreement for the silent partnership was concluded;

2) an agreement between the silent partner(s) and the entrepreneur;

3) the achievement of the objectives for which the agreement of the silent partnership was concluded and/or if the achievement of those objectives becomes impossible, notwithstanding whether the agreement was concluded for a definite and/or indefinite period of time;

4) the death or termination of the entrepreneur-partner; and/or

5) the initiation of a bankruptcy procedure against the entrepreneur public partner and/or silent partner.

(2) As well as the cases referred to in paragraph 1 of this article whereupon the termination of the silent partnership shall occur pursuant to the law, the partnership agreement may also stipulate cases of termination.

(3) The silent partnership shall also terminate upon the death of a silent partner, unless otherwise stipulated by the agreement.

### **Article (577) - Regulation of Relationships where a Partnership Has Not Terminated due to Bankruptcy**

If a silent partnership is terminated due to reasons other than an initiation of a bankruptcy procedure against the silent partnership in which the entrepreneur acts as a public partner, the entrepreneur shall be obliged to make a calculation of the remaining assets of the partnership with the silent partner and pay his share in cash, unless otherwise agreed.

### **Article (578) - Bankruptcy of the Entrepreneur**

(1) If a bankruptcy procedure is initiated against the silent partnership in which the entrepreneur acts as a public partner, the silent partner shall be obliged to pay up his/its part of the contribution that has matured.

(2) If the loss exceeds the part that is to be paid by the silent partner, the bankruptcy creditor may collect his/its claim from the contribution that has already been made and/or, by initiating a bankruptcy procedure, from the contribution that has matured.

(3) The silent partner shall not be obliged to make the part of the contribution in the bankruptcy estate, which has not yet fallen due prior to the initiation of the bankruptcy procedure against the silent partnership, notwithstanding the part of the loss that he is obliged to cover.

**PART EIGHT - FOREIGN COMPANIES AND FOREIGN SOLE PROPRIETORS**

**CHAPTER ONE - FOREIGN COMPANIES AND FOREIGN SOLE PROPRIETORS**

**Article (579) - Definition**

(1) A foreign company, pursuant to this law, shall be any company established pursuant to the law of the country where it has its registered office, (hereinafter: "foreign company").

(2) Pursuant to this law, a foreign sole proprietor shall be any natural person recognized as a sole proprietor outside the territory of the Republic of Macedonia, in the country of his citizenship where he has a registered office and conducts his business activities.

**Article (580) - Criteria for Attribution**

(1) For the purposes of this law, a company which has a registered office, as stated within its company agreement or charter, outside the Republic of Macedonia, shall be deemed to be a company of the state in which its registered office is located.

(2) Where the registered office of the company pursuant to paragraph 1 of this article is not located in the Republic of Macedonia, the company shall be considered as domestic when it is actually managed from a location in the Republic of Macedonia and/or when it is engaged in commercial activities, which are fully or for the most part carried out in the Republic of Macedonia.

(3) The company, the registered office of which is not determined by the company agreement or charter, shall be deemed to a company of the state where its management is carried out.

**Article (581) - Operational Status**

(1) Foreign companies and foreign sole proprietors shall operate according to the terms and conditions stipulated by law and shall be given equal treatment in their operations with domestic natural persons and legal persons on the territory of the Republic of Macedonia, unless otherwise stipulated by an international agreement and/or by law regulating special types of foreign companies and foreign sole proprietors with a specific scope of operations.

(2) Foreign companies and foreign sole proprietors shall not operate on the territory of the Republic of Macedonia until they establish a branch office.

**Article (582) - Rules for Related Companies**

(1) The provisions pertaining to the form of companies that most closely resemble those of the foreign companies' shall respectively apply to the foreign



companies, the form of which is not regulated by this law. The similarity shall be determined, in particular, according to the manner in which the members make their contributions to the company, the manner and scope of responsibility of the members regarding its liabilities, and according to its organisation.

(2) If it is not possible to classify the foreign company under any form of company pursuant to this law, the provisions governing the joint stock company shall respectively apply.

#### **Article (583) - Legal Status**

(1) The legal and business capacity (the legal status) of a foreign company shall be determined pursuant to the laws of the state to which the company is attributed.

(2) A foreign company's business capacity may not be greater, and its liability may not be lower than the one recognized, or imposed by the legal regulations of the Republic of Macedonia, to domestic companies of the same or similar form and scope of operations nor may the foreign company with regard to the legal transactions it has been or will be a party to in the Republic of Macedonia, refer to its incapacity if a domestic company, of the same or similar form and scope of operations, may not refer to such incapacity.

#### **Article (584) - Application of the Law**

(1) The foreign company shall operate in the Republic of Macedonia pursuant to the laws of the Republic of Macedonia.

(2) The foreign company, the branch office of which is registered in the commercial register of the Republic of Macedonia, shall be deemed, regarding the transactions it has been or will be a party to in the Republic of Macedonia, to have the legal and business capacity of a domestic legal person of the same or similar form and scope of operations, notwithstanding that, pursuant to the laws of the state to which it is attributed, it would not have existed in such manner or would not have had such business capacity.

## **CHAPTER TWO - BRANCH OFFICES AND REPRESENTATIVE OFFICES OF FOREIGN PERSONS**

### **Article (585) - Branch Offices and Representative Offices of Foreign Companies**

(1) The foreign company shall have the right to establish branch offices and representative offices as its own organisational units or in any other manner to carry out operations and assume liabilities and exercise its rights before the courts and other bodies in the Republic of Macedonia, under the terms and conditions set out by the law.

(2) The foreign company shall provide evidence of its legal incorporation and the scope of its legal capacity in case of questioning or challenge.

## **SECTION 1 - BRANCH OFFICES OF FOREIGN ENTITIES**

### **Article (586) - Founding of Branch Offices**

(1) The foreign company shall have the right to carry out all activities, through its branch office, according to its form and scope of operations, to acquire and assume liabilities and to exercise its rights before the courts and other bodies in the Republic of Macedonia, under the same conditions as domestic companies with the same or similar form and scope of activities, unless otherwise stipulated by law.

(2) The foreign company, or the foreign sole proprietor may, by a decision in writing, establish a branch office in the Republic of Macedonia only if it is entered in the register of the country in which it has its registered office.

(3) A foreign sole proprietor may establish only one branch office.

### **Article (587) - Entry in the Commercial Register**

(1) A foreign company, or a foreign sole proprietor, shall register the establishment of its branch office in the commercial register having jurisdiction according to the location of the registered office of its branch office.

(2) The following shall be attached to the application form:

1) an extract from the register where the foreign company, or foreign sole proprietor who establishes the branch office is registered, indicating the contents and date of entry;

2) a transcript of the company agreement or the charter, or other document corresponding to these documents pursuant to the legislation of the country to which the foreign company is attributed, certified by an authorised state body according to the regulations of the state to which the company is attributed, as well as a certificate issued by the foreign authorities verifying that the submitted agreement or charter, or any other document corresponding to these documents pursuant to the legislation of the foreign country, is still in force. If, pursuant to the laws of the state to which the

company is attributed, no written agreement or charter is required, or other document corresponding to these documents, a certificate shall be submitted, pursuant to the legislation of the country to which the foreign company is attributed, that is issued by the competent diplomatic and consular representative office of the foreign country in the Republic of Macedonia, proving that the company exists, identifying its shareholders, or members and their liability for obligations and as regards the sole-proprietor, that his entry has not been deleted from the register;

3) a list of the persons authorised to represent the foreign company and the foreign sole proprietor in the Republic of Macedonia, indicating their full names, unique ID number, or the passport number for foreign natural persons and their citizenship and their place of residence. Evidence shall also be enclosed with the list indicating that the persons have been appropriately appointed pursuant to the company documents and the legal regulations of the state to which the company is attributed;

4) a resolution by the competent body of the foreign company or the foreign sole proprietor pertaining to the establishment of the branch office;

5) a report on the solvency of the foreign company or the foreign sole proprietor, issued by the competent state body or certified auditor, pursuant to the regulations of the state to which the foreign company and the foreign sole proprietor are attributed;

6) a description of the activities and the operations to be performed by the branch office; and

7) proof of the necessary license, approval or other authorisation obtained, in the event that, pursuant to the law, such a document is required to be obtained.

(3) The person who decided to establish the branch office shall not be allowed to operate through the branch office in the Republic of Macedonia prior to the entry of the branch office in the commercial register.

(4) The entry of other types of organisational units shall be carried out in the manner and under the terms and conditions stipulated by the decision referred to at article 586, paragraph 2 of this law.

(5) The branch office shall be obliged, for the purpose of entry into the commercial register, to report all changes and additional data to that entered into the commercial register, and all changes in the foreign company, or foreign sole proprietor that have established the branch office.

(6) The branch office shall be obliged to disclose each year the annual financial statements of the foreign company, or the foreign sole proprietor that have established the branch office in at least in one daily newspaper and to deliver such reports to the Central Register.

#### **Article (588) - Several Branch Offices**

(1) In the event that a foreign company operating in the Republic of Macedonia establishes several branch offices, it shall indicate in the application form for entry in the commercial register the branch office that, with respect to the operations in the Republic of Macedonia, shall be deemed as the main branch office (the Macedonian Central Registered Office).

(2) Other branch offices established by the foreign company in the Republic

of Macedonia shall be deemed as branch offices of the main branch office.

(3) The business name of the branch office shall indicate the main branch office, and the reference number of the other branch offices according to their order of registration.

#### **Article (589) - Acting in Legal Transactions**

The branch office shall act in legal transactions in the name and on behalf of the foreign company, or the foreign sole proprietor, and shall make reference to such foreign company's or foreign sole proprietor's business name, and registered office as well as the name of the branch office.

#### **Article (590) - Liability in Legal Transactions**

(1) The foreign company or the foreign sole proprietor shall be liable with its entire property for the liabilities incurred during the operation of the branch office.

(2) If the foreign company, or the foreign sole proprietor that has established the branch office has been registered in the register of the state where it has its registered office for less than two years as of the date of the submitted request for the establishment of the branch office, the founders of the foreign company, or the foreign sole proprietor shall be jointly and severally liable for liabilities that arise from the operations of the branch office, in addition to the liability referred to in paragraph 1, for a period of two years as of the date of its registration.

#### **Article (591) - Representatives**

(1) The foreign company or the foreign sole proprietor shall appoint one or more representatives for its branch office(s), which shall, with respect to that branch office, represent the operations of the foreign company or foreign sole proprietor in the Republic of Macedonia. The foreign company may appoint the same representatives for several branch offices.

(2) Pursuant to this law, the representative of the main branch office shall also be deemed to be a representative of the other branch offices notwithstanding whether other representatives have also been appointed for such other branch offices.

#### **Article (592) - Trade Books**

(1) The foreign company, according to its form and scope of operations, and the foreign sole proprietor, shall be obliged to maintain trade books for his/its operations in the Republic of Macedonia through his/its branch office.

(2) The branch office of the foreign company and the foreign sole proprietor shall disclose each year in the commercial register or other appropriate register, the annual accounts, the audit report and the notes pertaining to recorded data in the register, which were changed, pursuant to administration, or bankruptcy reorganisation proceedings or other notes, which are relevant to the financial situation of the foreign company or the foreign sole proprietor.

### **Article (593) - Termination of a Branch Office**

(1) The branch office of the foreign company, or of the foreign sole proprietor, shall be terminated upon the termination of a foreign company or upon the expiry of the time period for which it was established.

(2) The court may, pursuant to a claim by a person having legal interest, also decide to terminate the branch office of a foreign company if:

1) it finds that the foreign company has been terminated, or the entry of the foreign sole proprietor has been deleted terminated in the state to which he/it was attributed, for any reason, or he/it has been prohibited to conduct the scope of operations he/it performs in the Republic of Macedonia or the branch office has been prohibited to carry out the activity by a competent state body in the Republic of Macedonia;

2) the foreign company, or the foreign sole proprietor, fails to appoint representatives of its branch office(s) pursuant to legal regulations, the company agreement or charter or pursuant to its license, within three months as of the order to do so by the court;

3) the foreign company, or the foreign sole proprietor, was obliged to invest funds in the branch office, but has failed to do so, or he/it has completely or partially cancelled his/its investment; and/or

4) a creditor proves that his claim arising from the operations of the foreign company, or the foreign sole proprietor, that have established the branch office in the Republic of Macedonia, may not be settled.

(3) In the event that the main branch office is terminated, and the other branch offices continue with their operations, the foreign company shall designate a new main branch office, and shall register it in the commercial register.

### **Article (594) - Liquidation of a Branch Office**

(1) In the event that a foreign company, or foreign sole proprietor, fails to appoint liquidators, the liquidation of his/its branch office shall be carried out by his/its representatives.

(2) Creditors, having claims against the foreign company or the foreign sole proprietor arising from its operations through its terminated branch office, shall be entitled to a pre-emptive settlement of their claims in the liquidation proceedings with respect to the other creditors.

(3) Liquidation proceedings of the branch office of the foreign company or a foreign sole proprietor shall not be carried out if, within six months following the termination of the foreign company or deletion of the entry of the foreign sole proprietor from the commercial register, the branch office with its entire property in the Republic of Macedonia is transformed into a company of a form prescribed by this law with a registered office in the Republic of Macedonia, or if, within the same time period, it is taken over with its entire property by any legal or natural person in the Republic of Macedonia.

### **Article (595) - Liability for Damages**

(1) The provisions in this law pertaining to liability for damages that apply to domestic companies according to their form shall also apply to the branch offices of foreign companies, or foreign sole proprietors. The representatives and the representative-liquidators, with regard to their liability, shall be treated equally with the members of the management body, or the manager and with the liquidators.

(2) Provisions of this law pertaining to the liability for damages of the members of the management body, the manager, or the liquidators shall also apply to the representatives and the liquidators of the branch office of the foreign company.

(3) Persons who, as representatives, violate the provisions of this law shall be jointly and severally liable for damages. The foreign company, or the foreign sole proprietor, shall also be jointly and severally liable.

## **SECTION 2 - REPRESENTATIVE OFFICES**

### **Article (596)**

(1) A foreign company entitled to carry out commercial activities pursuant to its national legislation may establish a commercial representative office in the Republic of Macedonia.

(2) The representative office shall not be a legal person and shall not carry out commercial activities.

(3) The manner, registration procedure and the body authorised to register the entry of the representative offices shall be prescribed by the Government of the Republic of Macedonia.

## **PART NINE - CONTROL AND SUPERVISION**

### **Article (597)**

Control and supervision over sole proprietors, companies, economic interest groupings and branch offices established by a foreign company or a foreign sole proprietor shall be carried out by inspection services within their competencies prescribed by law.

## PART TEN - PENALTY PROVISIONS

### Article (598)

(1) A fine for infringement amounting from 10,000 to 40,000 denars shall be imposed on a sole proprietor if he:

1) registers more than one business name (Article 14, paragraph 4);

2) transfers the business name to a third party contrary to the provisions of this law (Article 16, paragraph 2) or fails to register the transfer in the commercial register (Article 16, paragraph 4);

3) fails to notify the termination of his operations to the competent public revenue office (Article 17, paragraph 1) or fails to submit an application for the deletion of his entry in the commercial register (Article 18, paragraph 2);

4) commences activities prior to his entry in the commercial register and prior to obtaining approval from the competent body regarding the fulfilment of prescribed requirements for conducting such activity/-ies, if prescribed by law (Article 63);

5) undertakes legal actions and activities outside the scope of operations entered in the commercial register (Article 64, paragraph 1);

6) fails to maintain or improperly maintains trade books (Article 471, paragraph 1 and Article 472, paragraph 3);

7) fails to keep in a proper and appropriate manner commercial and other documents (Article 474);

8) fails to prepare, disclose and submit annual accounts (Article 476, paragraph 1 and Article 477, paragraphs 1, 4 and 5).

(2) In addition to the fine for infringement pursuant to paragraph 1, items 4, 5, 6, 7 and 8 of this article, a protective measure shall be pronounced against the sole proprietor resulting in a prohibition against conducting business activities for a period from six months to one year.

(3) A fine for infringement amounting from 1,000 to 10,000 denars shall be imposed on a natural person that performs trade activity of a small scope, and is not registered with the competent body of the local self-government (Article 11, paragraph 1).

## Article (599)

(1) A fine for infringement amounting from 50,000 to 150,000 denars shall be imposed on a company if it:

1) commences its business activities prior to its entry in the commercial register and prior to obtaining approval from the competent body regarding the fulfilment of prescribed requirements for conducting such activity/-ies, if prescribed by law (Article 63);

2) fails to make available the information pursuant to article 10;

3) in its operations it fails to use the business name as registered in the commercial register (Article 52, paragraph 1) or uses an abbreviation of the business name and the same is not registered in the commercial register (Article 52, paragraph 3);

4) uses the old business name, without explicit agreement of the transferor or his successors (Article 53);

5) fails to enter the transfer of the registered office of the company in the commercial register (Article 61, paragraph 3);

6) fails to prepare, disclose and/or deliver annual accounts and consolidated annual accounts, financial statements and consolidated financial statements, if this law prescribes such obligation (Article 476, paragraph 1; Article 477, paragraphs 1, 4 and 6; Article 482, paragraphs 1 and 2; Article 504; Article 506, paragraphs 4 and 5).

(2) Regarding the infringement a fine amounting from 10,000 to 50,000 denars shall also be imposed on the company's responsible official.

(3) In addition to the fine referred to in paragraph 1 of this article, the company shall be subject to a protective measure pronounced against it resulting in a prohibition against its conducting business activities for a period from three months to one year.

(4) In addition to the fine for the infringement referred to in paragraph 1, items 1 and 3, a protective measure shall be pronounced resulting in the responsible official being prohibited from conducting the activity from three months to one year.



### **Article (600)**

(1) A fine for infringement amounting from 15,000 to 50,000 denars shall be imposed on a general partnership if it:

1) performs an activity related to a profession which may be performed by a person having the appropriate qualifications, but which does not have among its partners or employees persons possessing the required qualifications (Article 113);

2) deprives partners who are not managers of their rights pursuant to article 132;

3) fails to report its termination for the purpose of entry in the commercial register (Article 147).

(2) The liable partner in the general partnership shall also be fined an amount from 10,000 to 30,000 denars for the infringement referred to in paragraph 1 of this article.

(3) In addition to the fine for the infringement referred to in paragraph 1, item 3 the responsible official shall be prohibited from conducting the activity from three months to one year.

### **Article (601)**

(1) A fine for infringement amounting from 80,000 to 240,000 denars shall be imposed on a limited liability company if:

1) the expenses and remuneration for participation in the founding of a company are not paid out of profits, pursuant to article 180, paragraph 3;

2) it fails to register an application form with the commercial register for the entry of any change of data, or admission or withdrawal of a member in the company (Article 182, paragraph 4);

3) company assets required to preserve its core capital are paid to a member (Article 192, paragraph 2);

4) the register of parts is not maintained pursuant to article 195, paragraph 1 or the register of parts is not maintained in a diligent and proper manner (Article 195, paragraph 2);

5) it fails to execute a court decision and register the entry into the register of parts, according to such court decision, within a period of three days as of the date of receipt of the decision (Article 196, paragraph 4);

6) it fails to submit the report of the audit carried out by the certified auditors to the members' meeting (Article 230, paragraph 3);

7) the management body is constituted contrary to article 231;

8) it fails to prepare or fails to submit the annual accounts, financial statement and/or annual report on the operations of the company for the previous business year to the members' meeting under the terms prescribed by this law (Article 240, paragraph 2);

9) the supervisory board, or the controller are constituted contrary to article 246;

10) the increase of the core capital is referred to in the company's business announcements and by-laws, prior to the publication of the decision of the same in the commercial register (Article 257, paragraph 4);

11) it makes payments to the members on the basis of a decrease in the core capital, prior to the entry of the amendments of the company agreement in the commercial register (Article 264, paragraph 1);

12) it fails to register the termination of the company in the commercial register (Article 269, paragraph 1);

13) it fails to submit an application for the registration of the transformation of the company into a different form in the commercial register (Article 514, paragraph 1).

(2) In addition to the fine pursuant to paragraph 1, item 6 of this article, a company may also be prohibited from conducting business operations for a period ranging from three months to one year.

(3) A fine for the infringement amounting from 10,000 to 50,000 denars, shall also be imposed on the responsible official in the company.

(4) For infringements pertaining to paragraph 1, items 2, 6, 8 and 12 of this article, the responsible official shall be prohibited from conducting his duties-functions for a period ranging from three months to one year.

#### **Article (602)**

(1) A fine for infringement amounting from 80,000 to 250,000 denars shall be imposed on a joint stock company if:

1) it issued shares prior to the entry of the founding of the company in the commercial register (Article 302, paragraph 1);

2) it fails to keep acts and documents in the registered office of the company pursuant to article 319; and

3) it deprives the shareholders of their right to information (Article 320);

4) it guarantees or pays interest to the shareholders (Article 328, paragraph 2);

5) the notification for the redemption of the shares is not published in the "Official Gazette of the Republic of Macedonia" (Article 339, paragraph 5);

6) it fails to register the decision of the general meeting of shareholders for the election of the board of directors or supervisory board in the commercial register (Article 344, paragraph 5);

7) it fails to fulfil its obligations in case of loss, insolvency or indebtedness pursuant to article 354, paragraph 4;

8) it fails to submit an application for the registration of the dismissed or appointed members of the board of directors or the supervisory board (Article 363, paragraph 5);

9) the management board fails to submit an application for registration of the members of the management board authorised for representing the company to the commercial register (Article 377, paragraph 3);

10) the management body fails to submit the definitive court decision for the purpose of entry in the commercial register (Article 415, paragraph 1);

11) it fails to register the increase of the charter capital in the commercial register (Articles 433, paragraph 1; Article 435, paragraph 2; Article 438, paragraphs 1 and 2; and Article 441, paragraph 1);

12) it fails to register the resolution to decrease the charter capital, and the

executed decrease of the charter capital, in the commercial register (Article 444, paragraph 1; and Article 451, paragraph 1);

13) it fails to submit an application for the registration of the entry of the resolution to terminate the company in the commercial register (Article 453, paragraph 1);

14) it fails to submit an application for the registration of the entry of the transformation of the company into a different form in the commercial register (Article 514, paragraph 1).

(2) A fine amounting from 10,000 to 50,000 denars shall also be imposed on the responsible official in the company regarding the infringements referred to in paragraph 1 of this article. For infringements pertaining to paragraph 1 items 1, 2, 3, 13, 14 and 15 the responsible official shall be prohibited from conducting duties for a period ranging from three months to one year.

#### **Article (603)**

A fine amounting from 80,000 to 250,000 denars shall be imposed on the Central Securities Depository if the shareholder is denied access to the shareholders register as well as a fine amounting from 10,000 to 50,000 denars on the infringing official in the Central Securities Depository, pursuant to article 283, paragraph 7.

#### **Article (604)**

(1) A fine for infringement amounting from 80,000 to 250,000 denars shall be imposed on a limited partnership if:

1) the entry of the limited partnership by shares in the commercial register is conducted contrary to Article 464;

2) it fails to submit an application for the registration of the transformation of the company into a different form in the commercial register (Article 514, paragraph 1).

(2) A fine for infringement amounting from 10,000 to 50,000 denars shall also be imposed on the responsible official in the company for the infringements referred to in paragraph 1 of this article. For the infringements pertaining to paragraph 1 of this article, the responsible official shall be prohibited from conducting duties for a period ranging from three months to one year.

#### **Article (605)**

(1) A fine for infringement, amounting from 80,000 to 250,000 denars, shall be imposed on a foreign company if it conducts business operations in the Republic of Macedonia without establishing a branch office (Article 585).

(2) Penalty provisions of this law shall apply to the branch offices and responsible officials of the branch offices established by foreign persons, subject to entry in the commercial register.

## **PART ELEVEN - TRANSITIONAL AND FINAL PROVISIONS**

### **Article (606) - Application of This Law**

(1) Sole proprietors, companies, economic interest groupings and branch offices established by foreign companies, or foreign sole proprietors already in existence as at the date of application of this law, shall continue to operate in a manner and under the conditions under which they have been entered in the commercial register.

(2) Provisions of this law to which sections of the agreements of sole proprietors, company agreements, founding statements of single member limited liability companies, charters, economic interest grouping agreements and other usual company documents, are not compliant and which are already in existence as at the date of application of this law, shall not be applicable, except for those provisions relating to the amount of the core/ charter capital.

(3) Notwithstanding paragraph 2 of this article, provisions of this law relating to the issues regulated, in compliance with this law, by a founding statement of the single member limited liability companies, company charters, economic interest grouping agreements and such other usual agreements of companies, sole proprietors, economic interest groupings and branch offices organised by foreign companies, or foreign sole proprietors which are not in compliance with the provisions of this law, may be applicable until 30<sup>th</sup> June, 2005.

(4) Provisions pertaining to article 469, paragraphs 2 and 3 of this law shall apply to financial statements and consolidated financial statements for the year 2004.

### **Article (607) - Procedures Initiated Prior to the Application of This Law**

(1) The procedures for founding, merger, division and transformation of companies which were initiated prior to the application of this law, shall be continued pursuant to the provisions of this law.

(2) The registration procedures for entry in the commercial register, relating to companies that filed an application to the court prior to the enforcement date of this law, shall be conducted pursuant to the regulations that were in force at the time when the application for registration was submitted to the relevant court.

### **Article (608) - Centralised National Commercial Register**

(1) The Minister of Justice shall, within a period of sixty days as of the date of the enforcement of this law, adopt the act pursuant to article 83, paragraph 2 of this law.

(2) The centralised national commercial register shall be established on the territory of the Republic of Macedonia no later than 1<sup>st</sup> March, 2005.

(3) The registered data maintained in the commercial registers of the First Instance Courts of Skopje I-Skopje, Bitola and Stip shall be transferred in electronic form to the centralised national commercial register on the territory of the Republic of Macedonia, no later than 1<sup>st</sup> July, 2005.

### **Article (609) - Availability and Disclosure of the Data of the Centralised National Commercial Register in Electronic Form**

(1) Until the establishment of the centralised national commercial register in electronic form, entries registered in the commercial register shall have legal effect as against third parties as of the date of publication of the entry in the "Official Gazette of the Republic of Macedonia", unless otherwise prescribed by this or other laws. Once the centralised national commercial register in electronic form is established and made available to the public, the entry in the commercial register shall have legal effect as against third parties as of the date of its registration in the commercial register.

(2) As of 1<sup>st</sup> January, 2006, data and enclosures that in accordance with this law, are published fully, partially or as an excerpt in the "Official Gazette of the Republic of Macedonia" shall be published through the commercial register in electronic form.

### **Article (610) - Registration of Changes**

Until the establishment of the centralised national commercial register if:

1) a company, subject of the entry transfers its registered office, the competent court having jurisdiction shall also be changed, and the registration form for entry of the transfer of the registered office shall be submitted to the court which has jurisdiction over the new registered office. Following the receipt of the registration file, the court shall enter the transfer of the registered office and notify the court wherein the company was previously registered. Following the receipt of such notification, the court shall immediately deliver the company registration file and the book of enclosures to the new one;

2) the company, subject of the entry, was formed by merging two or more companies, which were registered in another court, or the company, subject of the entry, was acquired by another company registered in another court, the entry of the new company, or the accession shall be registered by the court according to the location of the registered office of the new company, or the court wherein the acquiring company is registered. A copy of the court decision shall be delivered to the court wherein the companies were previously registered, so that the court can *ex officio* register the entry of the new companies. The court wherein the companies were previously registered shall reach a decision for the deletion of the company subject to

the accession, or the merger; and

3) by division of one company, new companies are established the registered office of which is under the jurisdiction of another court, the court wherein the divided company was registered, shall make a decision for entry of the founding of the new companies. The court shall deliver a copy of the decision to the court where the registered office of the new companies is located. Once the court receives the notifications that all companies have been registered, on the basis of an already submitted registration form by the divided company, it shall *ex officio* delete the entry of the divided company and register the entry of the new companies.

#### **Article (611) - One-Stop-Shop System**

(1) Within ninety days as of the entry into force of this law, the Minister of Economy shall adopt a by-law regulating the one-stop-shop system pursuant to this law.

(2) The one-stop-shop system shall be established no later than the 31<sup>st</sup> December, 2004.

#### **Article (612) - Shares Conferring a Right to More than One Vote**

Issued shares conferring the right to more than one vote owned by the Republic of Macedonia shall remain in its ownership pursuant to the conditions under which they were issued. Upon the entry into force of this law, these shares may not be transferred to third parties unless they are transferred as common shares.

#### **Article (613) - Harmonisation with the Provisions of This Law**

(1) Limited liability companies and joint stock companies owned by the state shall be obliged to harmonise their by-laws with the provisions of this law, no later than 31<sup>st</sup> December, 2004.

(2) The Government of the Republic of Macedonia shall decide on the harmonisation of companies owned by the state and for acquiring a part, or shares in the companies determined by this law and shall exercise all rights and assume all liabilities of the Republic of Macedonia as a member or shareholder

(3) The companies referred to in paragraph 1 of this article, which fail to act pursuant to the provisions of paragraph 1 of this article, shall be subject to a liquidation procedure and shall be deleted from the commercial register. The court shall *ex officio* initiate the liquidation procedure, and the liquidation shall be conducted according to the provisions of this law.

### **Article (614) - Harmonisation with the Provisions of This Law pertaining to Legal Persons Registered in the Commercial and Court Register**

(1) Legal persons registered in the court register that on the date when this law takes effect failed to harmonise their regulations pursuant to the provisions of the Company Law (“Official Gazette of the Republic of Macedonia,” no. 28/96, 7/97, 21/98, 37/98, 63/98, 39/99, 81/99, 37/2000, 31/2001, 50/2001, 6/2002, 61/2002, 4/2003 and 51/2003) shall be deleted from the court register in the manner and under the terms stipulated in this article, if within 6 months as of the date of the enforcement of this law they have not been harmonised with this law. The deletion of these legal persons shall be *ex officio* effected by the court.

(2) Companies and sole proprietors whose accounts are frozen and transferred to the agency for blocked accounts shall be deleted from the commercial register in the manner and under the terms stipulated in this article, if they fail to de-freeze their frozen accounts within 6 months as of the date of the enforcement of this law.

(3) In the event that within the terms specified in paragraphs 1 and 2 of this article, no claims of creditors are reported, the court shall *ex officio* delete the entry of the legal persons pertaining to paragraph 1 of this article and the companies and sole proprietors pertaining to paragraph 2 of this article, from the court register or commercial register.

(4) In the event that within the term pertaining to paragraphs 1 and 2 of this article a claim of a creditor, or creditors has been reported, the court shall *ex officio* initiate a liquidation procedure pursuant to this law, or bankruptcy procedure pursuant to the law on bankruptcy. The costs for executing the liquidation or bankruptcy shall be borne by the legal person, sole proprietor or the company. In the event that their assets are not sufficient to compensate such costs, their manager, or members of the management body shall jointly and severally compensate the difference for covering the costs, with their entire personal assets.

### **Article (615) - Adoption of By-Laws**

The by-laws, provided for by this law, shall be adopted within ninety days as of the date of entry into force of this law.

### **Article (616) - Cessation of Validity**

The Company Law (“Official Gazette of the Republic of Macedonia” 28/96, 7/97, 21/98, 37/98, 63/98, 39/99, 81/99, 37/2000, 31/2001, 50/2001, 6/2002, 61/2002, 4/2003, 51/2003) as well as the Company Law (“Official Gazette of the Republic of Macedonia” 58/2002, 98/2002, 42/2003, 85/2003) shall cease to be valid as of the date of entry into force of this law.

### **Article (617) - Entry into Force of This Law**

This law shall enter into force eight days as of the date of its publication in the “Official Gazette of the Republic of Macedonia”.