1 **GENERAL**

Book Three of the Civil Code is divided into two sections: general rules of the law of obligations and general rules of contract law. The first section is divided into six chapters: concepts of and parties to an obligation, performance of obligation, securing of performance of obligation, change of parties, liability for the breach of an obligation, and the termination of an obligation.

Individual types of obligation are provided in Book Four, which is in Part Two of the Code enacted one year after Part One in 1996. Book Four not only contains obligations arising from various types of contracts, but also obligations arising out of tort and unjust enrichment.

This structure is in line with the tradition of Russian civil law under the influence of the Pandekten system. The draft Civil Code of the Russian Empire of 1905 was arranged in this way.

2 **PERFORMANCE OF OBLIGATION**

1) **Manner of Performance**

The general rule is that an obligation should be performed in an adequate manner in accordance with the terms of the obligation and the requirements of the law and other legal acts, and in their absence, in accordance with the business custom (*obychai delovogo oborota*) or other normally applicable requirements (Art.309). Inadequate performance is not acknowledged as performance:

The Allied Colleges of Advocates of St.Petersburg brought an action in court against an open joint stock company Stroimashin for the payment of 42,500,000 roubles for legal services provided to the latter. The first instance court acknowledged the claim of the plaintiff. The Supreme Commercial Court, upon protest, quashed the judgment and remanded the case for a new hearing.
According to Article 309 of the Civil Code, an obligation must be performed in an adequate manner. The defendant argued that the plaintiff had performed its contractual obligations in an inadequate manner. The advocates were acting on behalf of Stroimashin against a limited liability company Medlamo. Documents prepared and submitted to the court on behalf of Stroimashin were rejected several times by the court, due to their poor formulation. Even the iskovoe zaiavlenie was returned four times. The proceedings were delayed because of this, and in the end, although the court acknowledged the claim of the Stroimashin, because Medlamo had become bankrupt in the meantime, Stroimashin was unable to receive payment.¹

Commercial custom means “accumulated and widely applied rules of conduct in a particular area of entrepreneurial activity” (Art.5). Some other laws, such as the Law on International Commercial Arbitration, use the term commercial custom (torgovyi obychai). There are three requirements for business custom to be applied; it has to be accumulated, i.e. continuous and sufficiently defined in its content, it has to be widely applied and not against the law.²

2) Time of Performance

If the obligation presupposes a fixed date or period of performance, it has to be performed on that day or within the period. If no date or period is determined, the obligation must be performed within a reasonable period after the obligation emerged. With an obligation which was not performed within a reasonable period, or an obligation by presentation, the debtor must perform the obligation within seven days of the creditor requiring the performance, unless otherwise provided by law, legal acts, business custom or emanates from the content of the obligation (Art.314). Performance of obligation ahead of the agreed time is allowed in principle. However, in obligations involving entrepreneurial activities, performance ahead of time is allowed only when it is provided by law, legal acts, business practice or emanates from the content of the obligation (Art.315).

¹ Decision of the Presidium of the Supreme Commercial Court, February 23, 1999, Case 2732/98.