You might be one of the many traders who carry a lot of accounts receivable under various contracts on their books and know that the collection of these late payments would take you a lot of time, efforts and costs, including legal costs. At the same time, the Christmas and New Year season is over and you need fast and easy ways of obtaining disposable funds for new investment. What could you do in such a situation?

There exist two main options in such cases. The first one is to send reminders, to hold negotiations, to reschedule the debt of your business partners and, failing that, to take the case to court. This is a costly option which would take a lot of time, effort and costs. And when the court finally sentences your debtor to pay you, it might well turn out that inflation rates have greatly depreciated what you ultimately get.

The other option is to find somebody to whom you can transfer your accounts receivable rapidly and easily. Thus you can achieve results here and now and get investment resources rather than wait forever. This option is the debt cession agreement (transfer of debt). The relevant legal provisions under the Bulgarian law are contained in Arts. 99-100 of the Obligations and Contracts Act.

The debt cession agreement must have legal grounds; otherwise it would be null and void. It belongs to the category of causal contracts. The principle of contractual freedom enshrined in Article 9 of the Obligations and Contracts Act enables the parties to freely negotiate the content of their agreement insofar as it does not contravene the imperative provisions of the law and good morals. This means that you can determine the content of the debt cession agreement on your own, while taking the necessary precaution so that the agreement has its legal grounds, does not contravene moral norms, and does not contravene or circumvent the law.

If you have decided to get rid of a debt someone owes to you, you can sell the debt, swap it for another debt, make it a gift, etc. In practice, you can cede all your transferrable rights. You can also cede sets of rights. They will be transferred to the new creditor together with all privileges and all security and other accessories, as well as with the penalty interest on late payment, unless agreed otherwise. You cannot transfer those rights which are closely associated with your personality like your right to name, family rights and others. You will not

be able to transfer accounts receivable if the contract you have with the debtor includes an explicit restriction to this effect.

Debts are often subject to sale in reality. There have emerged many companies which specialize primarily in the purchase of debts. Therefore we shall focus on this type of transaction.

There are two parties to the debt sale agreement: the initial creditor who cedes his accounts receivable (the ceding party or the cedent) and the new creditor (the cessionaire). The debtor is not a party to this agreement at all and his consent is not required. The agreement is not formal and, generally speaking, the law does not contain any specific requirements to its execution. It is advisable that you conclude it in writing so that to prove its existence. However, in case the debt you cede is secured with a mortgage, the signatures under the debt cession agreement have to be notarized. If you decide to cede a debt under a bill of exchange or a promissory note, the cession has to be endorsed.

What happens after the debt cession agreement is signed? How does the debtor know whom he has to pay?

It is the law that gives the answers to these questions. In accordance with Art. 99, para 3 of the Obligations and Contracts Act the former creditor has the obligation to inform the debtor of the cession and to deliver the documents which serve as evidence of the debt and to confirm the existence of the debt to the new creditor. It is appropriate to inform the debtor in writing and, to feel even more secure, you can deliver the notice through a notary public. It has effect with regard to third parties and to debts as from the time of reception of the notice. However, if the debtor still pays the initial creditor, the principle applied here is that who pays badly pays twice, i.e. the debtor will have to pay a second time, this time to the new creditor.

Is there any protection of the new creditor? What will happen is he buys a non-existent debt?

Pursuant to Art. 100, para 1 of the Obligations and Contracts Act, if the cession is for consideration (and this is exactly the case with the debt cession agreement) the creditor is responsible for the existence of the debt as of the time of the cession. Here a certain risk

occurs for the new creditor. By virtue of Art. 100, para 2 of the said Act, the initial creditor is not responsible for the solvency of the debtor, unless he has assume liability for the debtor's solvency and it is only to the amount which he has received for the ceded debt.

There is yet another risk for the new creditor. The debtor might have paid to the initial creditor before he has become aware of the debt cession. For this reason, the notice should be served quickly.

So if you decide to get rid of a debt by ceding it to another person, the only thing left to do is find someone to whom you can sell it.

The next article will explain how you can get rid of a contract under which you are no longer willing to have rights and obligations or how you can become a party to an agreement that you like but that has not been signed with you.