

facts as alleged in the complaint as true”; (b) “accord plaintiffs the benefit of every possible favorable inference” and (c) “determine only whether the facts as alleged fit within any cognizable legal theory.” *ABN AMRO Bank, N.V. v. MBIA Inc.*, 17 N.Y.3d 208, 2011 WL 2534059 (N.Y. June 28, 2011) (internal citations omitted).

4. **Question 1: Do the Complaint’s allegations state a claim for tort liability under Russian law against all Defendants?**

5. In my opinion, the Complaint’s allegations state a claim for tort liability against all the named Defendants.

6. **Question 2: Do the Complaint’s allegations state a claim for unjust enrichment under Russian law against all Defendants?**

7. In my opinion, the Complaint’s allegations state a claim for unjust enrichment against all the named Defendants.

II. QUALIFICATIONS

8. I am the John Edward Fowler Distinguished Professor of Law at the Dickinson School of Law, Pennsylvania State University; Emeritus Professor of Comparative Law, University of London; and an Academician of the Russian Academy of Natural Sciences and the Russian Academy of Legal Sciences. I have been involved with the study and practice of Russian (formerly Soviet) law for more than 45 years, having published numerous books, articles, translations, and reviews on the subject. Among my principal works are: *Russian Law* (3d ed.; Oxford University Press, 2009); *The Russian Legal Profession* (2011); and my translation of *Civil Code of the Russian Federation* (2010). My CV is attached as Appendix A. I have attached as Appendix B a list of the materials I have reviewed in preparing this Report.

9. I am the recipient of numerous honors for my service to Russian and international law, including being an Academician of the National Academy of Sciences of Ukraine, and am serving my fourth term as a member of the Russian International Court of Commercial Arbitration. I was recently appointed to the Panel of Distinguished Neutrals as an arbitrator of the International Institute for Conflict Prevention and Resolution. I teach Russian Law; Foreign Investment in Russia and the Commonwealth of Independent States; Law of Treaties, Law of the Sea; History of International Law; and Comparative Approaches to International Law.

10. I am the author, co-author, editor, or translator of more than 3,500 books, looseleaf services, articles, and reviews on Soviet, Russian, Ukrainian, Belarus, Tadjikistan, Uzbekistan, Kazakhstan, Baltic, and other CIS legal systems.

11. I have served as Dean of the Faculty of Laws, University College London (1977-79) and of the University of London (1988-90). I have been Visiting Professor of Law at New York University School of Law (1978) and Harvard Law School (1986-87), Lecturer at the Hague Academy of International Law (1985), Visiting Professor of Law, Washington and Lee University (Spring 2005), and Visiting Scholar countless times at Moscow State University and the Institute of State and Law of the USSR (now Russian) Academy of Sciences.

III. OPINIONS

12. **Question 1: Do the Complaint's allegations state a claim for tort liability under Russian law against all Defendants?**

13. Russian law does not speak of tort liability and does not have individual torts. Rather, in common with the socialist and continental legal traditions, the Civil Code of the Russian

Federation refers to “obligations as a consequence of causing harm”.¹ Article 1064 of the Civil Code addresses the “general grounds of responsibility for causing of harm” and provides that: “Harm caused to the person or property of a citizen, and also harm caused to the property of a juridical person, shall be subject to compensation in full by the person who caused the harm.” It is considered that the definition and the provisions of Article 1064 require that four criteria be met if liability or responsibility is to be determined to exist for harm caused: (1) fault of the person causing harm; (2) a causal link between an action or failure to act and the harm caused; (3) the existence of harm; and (4) an unlawful action or failure to act.

14. The Complaint alleges actions and/or a failure to act on the part of defendants, which are intentional and/or negligent, a causal link between the actions or failure to act and the harm caused by them, the existence of harm sustained by the plaintiff, and unlawful actions on the part of the defendants. If proved, they would represent a violation of the obligation not to cause harm to the person or property of others.

15. Under the Russian Civil Code (Article 1080), persons who have caused harm jointly are liable to the victim jointly and severally.²

16. If allegations of bribery and/or interference with judicial proceedings in Russia were proved and a causal link established between those criminal actions and harm sustained by the Plaintiff, in my view this would constitute a wrong for which compensation should be paid.

17. **Question 2: Do the Complaint’s allegations state a claim for unjust enrichment under Russian law against all Defendants?**

¹ See W. E. Butler, *Civil Code of the Russian Federation* (2010), p. 341 (relevant excerpts attached as Appendix C).

² Butler, *supra* note 1, p. 346 (Appendix C).

18. I prefer the more literal version of Russian terminology, which refers to “unfounded,” rather than “unjust” enrichment because it more accurately reflects the position of the Civil Code that the unfoundedness of enrichment, that is, the lack of a legal basis for the enrichment, rather than whether it is justly obtained or not, gives rise to the obligation to return that which was not lawfully or legitimately received.

19. Article 1102 of the Civil Code provides that a person, who without grounds established by a law, other legal acts, or a transaction, acquired or saved property at the expense of another person, called the victim, is obliged to return to the victim the property unfoundedly acquired or saved, unless provided otherwise by Article 1109 of the Civil Code.³ These provisions apply irrespective of whether the unfounded enrichment is a result of the behavior of the person who acquired the property, or of the victim himself, or of third persons, or occurred independently of their will. Unless exceptions are provided elsewhere in Russian law or this arises from the essence of the respective relations, the rules on unfounded enrichment also apply to demands for the return of performance under an invalid transaction; the demanding and obtaining of property from another’s illegal possession by the owner; the return by one party to an obligation of all that was performed under this obligation; and compensation of harm, including that caused by behavior not in good faith of the person enriched. Property acquired by unfounded enrichment must be returned to the victim in kind.

20. Accordingly, if it is proved that the named Defendants received revenues in the form of the acquisition of stocks, or dividends paid on those stocks, or other benefits that can be expressed in monetary valuation without a legal basis for doing so, these would be subject to restitution on the basis of unfounded enrichment. Subject to the evidence, unfounded

³ Butler, *supra* note 1, pp. 354-355 (Appendix C).

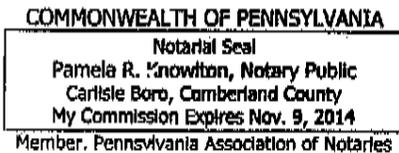
enrichment may also include revenues or benefits generated by party-related transactions entered into by some or all of the named Defendants, approval for which is required by a minority stockholder (which Norex appears to have been) under the joint-stock society legislation of the Russian Federation.

21. There are certain situations in which unfounded enrichment is not subject to return (Article 1109), but so far as I can determine preliminarily, they would not be germane to the allegations made in the First Amended Complaint.

Sworn before me this 26th day of October, 2011


Notary Public


William Elliott Butler



APPENDIX A: CURRICULUM VITAE

WILLIAM ELLIOTT BUTLER

William Elliott Butler, FSA, is a preeminent authority on the legal systems of Russia, the other members of the Commonwealth of Independent States (CIS), and Mongolia and extensively involved in the field of public and private international law. He advises international organizations, governments, and leading companies and financial institutions who invest or do business in those countries with particular reference to the interface between domestic law and practice with international investment transactions. His experience extends to banking, securities, project finance, the creation and operation of companies of all types, commercial agreements, licensing, technology transfer, privatization, finance and other leasing, concessions, economic zones, shipping, aircraft, oil and gas, nuclear power, electric power, and environmental protection.

For more than four decades he has advised on and given formal legal opinions with respect to all aspects of Russian and Soviet Law before English, American, and Australian courts and tribunals and in international arbitrations, and has prepared expert opinions and reports for the Office of the Legal Advisor, United States Department of State, the United States Department of Justice, the Department of Health and Social Security of the United Kingdom, the Department for International Development (DFID) of the United Kingdom, the United Nations Office on Drugs and Crime, the United Nations Development Programme, and for other international organizations, banks, large corporations, and industry associations.

Professor Butler is The John Edward Fowler Distinguished Professor of Law, Dickinson School of Law, Pennsylvania State University (2005-) and Professorial Research Associate, School of Oriental and African Studies, University of London (2006-), as well as Emeritus Professor of Comparative Law in the University of London (2005-). He held a Chair of Comparative Law (1976-2005) and established Readership of Comparative Law (1970-76) in the University of London and is the founder and Director of The Vinogradoff Institute, University College London (1982-2005), now removed to Dickinson School of Law, and on secondment has acted as the founder and Dean (1993-98) of the Faculty of Law and M. M. Speranskii Professor of International and Comparative Law, Moscow Higher School of Social and Economic Sciences (1994-2004). He is a Member of the Senior Common Room of St Antony's College, Oxford University (2004-). During Spring 2002 he acted as a part-time professor in the Chair of Civil Law, Moscow State Legal Academy, where he introduced the standard course on Comparative Law. In autumn 2009 he offered the course on "Russian Law and the International System" as Professorial Lecturer in International Law, Johns Hopkins University School of Advanced International Studies.

In May 1992 he was elected Academician of the Russian Academy of Natural Sciences and in November 1992, of the National Academy of Sciences of Ukraine. In March 2009 he was elected to the American Law Institute. He has served as Dean of the Faculty of Laws, University College London (1977-79) and of the University of London (1988-90). He has been Visiting

Professor of Law at New York University School of Law (1978) and Harvard Law School (1986-87), Lecturer at the Hague Academy of International Law (1985), Visiting Professor of Law, Washington and Lee University (Spring 2005), and Visiting Scholar countless times at Moscow State University and the Institute of State and Law of the USSR (now Russian) Academy of Sciences.

In 1989 he was appointed Special Counsel and Chairman of a Working Group attached to the Commission for Economic Reform of the USSR Council of Ministers. In this capacity he evaluated key draft *perestroika* legislation and was co-author of the Draft USSR Law on Pledge which, in May 1992, was the basis for legislation enacted by the Russian Federation Supreme Soviet and then of similar laws adopted in Belarus, Kazakhstan, Kyrgyzia, Turkmenistan, Ukraine, and Uzbekistan. The same Working Group prepared the Edict of the President of the Russian Federation on Trust Ownership, adopted 24 December 1993. He also has advised the President and the Prime Minister of Lithuania and deputies and members of the Government of the RSFSR on draft legislation, was a member of the team funded by the United Kingdom Know-How Fund to advise on the Russian Project Finance Bank (registered January 1993), and was a member of the Task Force which developed the Open Sector Concept in the Soviet Union, now known as the Free Entrepreneurship Zone.

In 1992 he was appointed a member of the European Commission Joint Task Force on Law Reform in the Independent States and advised the World Bank on energy and banking legislation in Russia and Kazakhstan. In September 1992 he served as a member of a team which advised, on behalf of the World Bank, the State Property Fund of Kyrgyzia on the legal framework for privatization. In 1992 he also was appointed to the group drafting the Russian Law on Securities in collaboration with the Institute of Legislation and Comparative Law attached to the Russian Federation Supreme Soviet. From July 1992-February 1993 he was seconded as Senior Legal Counsel to the Russian Federation State Committee for the Administration of State Property, where he headed a small team of legal specialists to prepare draft Russian laws on trust ownership, securities and investment funds, joint-stock societies, full partnerships, Kommandit partnerships, and limited responsibility partnerships. In June 1993 he was appointed Convenor of the Anglo-Russian Working Group to draft a legal assistance treaty. In May 1994 he became Counsel to a Russian working party drafting legislation on finance leasing, and in November 1994 delivered lectures to the Ukrainian Ministry of Justice on commercial law at the invitation of the Council of Europe. In January 1995 he advised the Belarus Supreme Soviet on parliamentary procedure under a TACIS project and from July 1995, Uzbekistan on privatization investment funds. In 1998-99 he served as Special Counsel to the Commission for National Reconciliation in Tadjikistan on behalf of the United Nations, advising on constitutional reforms. In March 2000, at the request of the Union of Jurists in Moscow, he assisted as an expert with the application of the Republic Azerbaijan for membership of the Council of Europe, helping to independently assess the record of that country in implementing law reforms and acted as a formal signatory of the Report. In October-November 2002 he acted as a Consultant to a health project in Russia for the Department for International Development of the Government of the United Kingdom, and in Spring 2003 completed a substantial report for International Family Health on the legal regime of harm reduction programs in Russia. In December 2004 he was appointed one of two foreign members of the Committee on Corporate Management Reform

attached to the Ministry of Trade and Economic Development of the Russian Federation. In spring 2010 he completed a study of Russian law for the Government of Vietnam as part of a judicial reform program arranged by the United Nations.

In May 1995 he was elected to a five-year term as a member of the Russian International Court of Commercial Arbitration, and re-elected for further terms in 2000, 2005, and 2010. He has acted in more than twenty Moscow arbitrations, including as Chairman of the tribunal. He also has acted in the London and Stockholm courts of international arbitration as an arbitrator and has conducted arbitrations *ad hoc*. In 2008 he was appointed to the Panels of Distinguished Neutrals, both International and Pennsylvania, as an arbitrator by the CPR International Institute for Conflict Prevention and Resolution.

In 1991 he was elected the first Foreign Member of the Union of Jurists in Moscow (and from 1993, a member of the Executive Committee), and in 1990 an honorary member of the Soviet Association of Maritime Law, and in 1995 an Honorary Member of the Kazakhstan Association of Business Lawyers. In February 2004 he was elected a member of the Union of Russian Jurists; in August 2006 elected to membership in the Academy of Commercial and Consumer Law; and on 7 October 2008 to the Executive Committee of the Russian Association of Maritime Law. On 6 March 2009 he was elected to membership of The American Law Institute.

In 1996 he was awarded a Certificate of Honor by the International Union of Jurists (CIS) for services to Russian law and in June 2003, the G. I. Tunkin Medal by the Russian International Law Association for services to international law. On 2 December 2003 he was awarded a Certificate of Honor by the Russian Association of Maritime Law and on 11 October 2004 was awarded the Ivan Fedorov Medal and Diploma for services to Anglo-Russian cultural relations. In May 2005 he was awarded a second Certificate of Honor by the International Union of Jurists. In July 2007 he was awarded a Certificate of Honor of the Russian Association of International Law.

He has acted as Of Counsel to Cole Corette & Abrutyn (1988-92) and Clifford Chance (1992-94) and as Partner and Head of the CIS London Group and the Almaty and Tashkent offices of White & Case (1994-96). From 1997-2001 he was a co-founder and Senior Partner in the PwC (later Landwell) CIS International Law Firm in Moscow, and in 2002 co-founded Phoenix Law Associates CIS, a Russian law firm located in Moscow.

He is admitted to the Bar of the District of Columbia (1967) and the Bar of the Supreme Court of the United States (1970), and has been licensed by the respective Ministry of Justice in Uzbekistan (1996) and the Russian Federation (1997).

Citizenship

Dual citizenship: United States/British

Education

B.A., The American University (SIS), 1961 (valedictorian)
M.A., The Johns Hopkins School of Advanced International Studies, 1963 (with distinction)
J.D., Harvard Law School, 1966 (Addison Brown Prize)
LL.M., School of Law of the Academy University of Law, Institute of State and Law, Russian Academy of Sciences, 1997 (with distinction)
Ph.D., The Johns Hopkins School of Advanced International Studies, 1970 (Phi Beta Kappa)
LL.D., University of London, 1979

Publications

He is the author, co-author, editor, or translator of more than 3,500 books, looseleaf services, articles, and reviews on Soviet, Russian, Ukrainian, Belarus, Tadjikistan, Uzbekistan, Kazakhstan, Baltic, and other CIS legal systems. Salient recent titles include: *Soviet Law* (London, Butterworths, 1983; 2d ed., 1988); *Russian Law* (Oxford, Oxford University Press, 1999; 2d ed., 2003; 3d ed., 2009);⁴ *Civil Code of the Russian Federation* (Oxford, Oxford University Press, 2003; London, Wildy, Simmonds, & Hill, 2010); *Russian Company and Commercial Legislation* (Oxford, Oxford University Press, 2003); *Russian Civil Legislation* (Boston/The Hague, Kluwer Law International, 1999); *Criminal Code of the Russian Federation* (4th ed.; London, Wildy, Simmonds & Hill, 2004); *Russian Criminal Law and Procedure* (London, Wildy, Simmonds & Hill, 2011); *Tax Code of the Russian Federation* (Boston/The Hague, Kluwer Law International, 1999); *Russian Legal Texts* (with J. E. Henderson: Boston/The Hague, Kluwer Law International, 1998); *Russian Legal Bibliography* (London, Simmonds & Hill; Boston/The Hague, Kluwer Law International, 1997-); *Russian Company Law* (London, Simmonds & Hill; Boston/The Hague, Kluwer Law International, 2000); *Russian Family Law* (London, Simmonds & Hill; Boston/The Hague, Kluwer Law International, 1998); *Civil Code of the Republic Belarus* (London, Simmonds & Hill; Boston/The Hague, Kluwer Law International, 2000); *Civil Code of the Republic Uzbekistan* (3d ed.; London, Simmonds & Hill; Boston/The Hague, Kluwer Law International, 1999); *Civil Code of the Republic Kazakhstan* (3d ed.; London, Simmonds & Hill, 1997); *Turkmenistan Civil Code* (London, Simmonds & Hill; Boston/The Hague, Kluwer Law International, 1999); *Tadjikistan Legal Texts* (London, Simmonds & Hill; Boston/The Hague, Kluwer Law International, 1999); *Uzbekistan Legal Texts* (London, Simmonds & Hill; Boston/The Hague, Kluwer Law International, 1999); *Intellectual Property Law in the Russian Federation* (London, Simmonds & Hill, 2002); *The Corporation and Securities Under Russian and American Law* (with Maryann E. Gashi-Butler) (Moscow, Zertsalo, 1997); *The Soviet Legal System* (together with J. N. Hazard and P. B. Maggs); Dobbs Ferry, Oceana Publications, 1977; new ed., 1984); *Russian-English Legal Dictionary* (Ardley, Transnational, 2001). *Foreign Investment Law in the Commonwealth of Independent States* (2002); *The Law of Treaties in Russia and Other Member Countries of the Commonwealth of Independent States* (Cambridge University Press, 2002); *Intellectual Property Law in the*

⁴ Cited United States Court of Appeals, 2004.

Russian Federation (4th ed.; London, Simmonds & Hill, 2005); *Economic Code of Ukraine* (London, Wildy, Simmonds & Hill, 2004), *Russian Criminal Law and Procedure* (London, Wildy, Simmonds & Hill, 2010), and others. In addition he has published numerous articles in the leading law reviews of the United Kingdom, the Russian Federation, and the United States.

In 2003 he completed a major study for the Department for International Development, published separately in the English and Russian languages as: *HIV/AIDS and Drug Misuse in Russia: Harm Reduction Programmes and the Russian Legal System* (London, DFID/IFH, 2003). In 2009 the United Nations Office on Drugs and Crime published in the English and Russian languages *The Right to Health and the United Nations Conventions on Narcotics*, a study of Russian compliance with the United Nations conventions on narcotics.

He also has published translations of more than 2500 normative legal acts adopted in the former USSR, all CIS countries, and Mongolia, a full bibliography of which is contained in the Transnational Publishers edition of his *Russian-English Legal Dictionary* (2001) and in *International and Comparative Law* (2005).

In 1995 he founded the quarterly journal *Sudebnik*, published jointly by The Vinogradoff Institute, University College London, and the Moscow Higher School of Social and Economic Sciences (1995-2007). He has served or serves on the editorial boards of the principal English-language journals, law reviews, and yearbooks devoted to Russia and other CIS legal systems, amongst them the *Review of Central and East European Law* (Leiden), the *Uppsala Yearbook of East European Law* (Sweden), the *Parker School Journal of East European Law* (Columbia University), *Statutes & Decisions* (New York); and the *East European and Russian Yearbook of International and Comparative Law* (2007-). Commencing in 2004, he became the founding editor of *Russian Law: Theory and Practice*, issued by the Russian Academy of Legal Sciences (2004-2009) and the Book Review Editor and Co-Editor of *The Journal of Comparative Law* (2005-).

In October 2003 he was elected a Trustee of The Hakluyt Society and has served as a Member of the Committee for Central and Inner Asia attached to The British Academy since its inception and as a member of The Bentham Committee since 2003. He has been appointed editor of Bentham's works on international law.

Details

Who's Who (1986-)

Debrett's People of Today

International Who's Who

Who's Who in International Relations (2006-)

Marquis Who's Who in the United States (2007-)

Marquis Who's Who in the World

Marquis Who's Who in American Law

Marquis Who's Who in Finance and Industry

Wikipedia (Russian edition)
Who's Who in Education (2d-5th editions)
Who's Who in Public International Law (2007-)
http://en.wikipedia.org/wiki/William_Elliott_Butler

APPENDIX B: MATERIALS CONSULTED

In preparing this Report I have used the following materials:

1. First Amended Complaint dated June 23, 2011.
2. Defendants' Joint Memorandum of Law in Support of Motion to Dismiss Plaintiff Norex Petroleum Limited's Complaint, dated September 16, 2011.
3. BP P.L.C.'s Memorandum in Support of its Motion to Dismiss, [undated].
4. Affidavit of Dmitry Borisovich Dyakin, dated September 15, 2011.
5. Affidavit of Nikolay Georgievich Eliseev, dated September 16, 2011.
6. Affidavit of Boris Romanovich Karabelnikov, dated September 15, 2011.
7. Affidavit of Valerii Abramovich Musin, dated September 15, 2011.

APPENDIX C: SELECTED EXCERPTS

1. *Civil Code of the Russian Federation* (2010) (Translated by W.E. Butler).

The Vinogradoff Institute
Dickinson School of Law
Pennsylvania State University

**CIVIL CODE OF THE
RUSSIAN FEDERATION**

Translated & Edited By

William E. Butler

John Edward Fowler Distinguished Professor of Law
Dickinson School of Law, Pennsylvania State University
Foreign Member, National Academy of Sciences of Ukraine
and Russian Academy of Natural Sciences
Professor Emeritus of Comparative Law in the
University of London

Wildy, Simmonds & Hill Publishing

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The proposal concerning the conclusion of a contract provided for by point 1 of the present Article must include the conditions concerning the period of conducting the games and the procedure for the determination of the winnings and the amount thereof.

In the event of a refusal of the organizer of the games to conduct them within the established period, the participants of the games shall have the right to demand compensation from the organizer thereof for real damage sustained because of the cancellation or postponement of the period thereof.

Persons who in accordance with the conditions of conducting a lottery, totalizer, or other games are deemed to be winners must be paid the winnings by the organizer of the games in the amount, form (monetary or in kind), and period provided for by the conditions of conducting the games, and if the period is not specified in these conditions, not later than ten days from the moment of determining the results of the games or other period established by a law [as amended by Federal Law of 11 November 2003, C3 PΦ (2003), no. 46(I), item 4434].

5. In the event of the failure of the organizer of the games to perform the duties specified in point 4 of the present Article, the participant who won the lottery, totalizer, or other games shall have the right to demand the payment of the winnings from the organizer of the games, and also the compensation of losses caused by a violation of the contract on the part of the organizer.

Chapter 59. Obligations as Consequence of Causing Harm

§1. General Provisions on Compensation of Harm

Article 1064. General Grounds of Responsibility for Causing of Harm

1. Harm caused to the person or property of a citizen, and also harm caused to the property of a juridical person, shall be subject to compensation in full by the person who caused the harm.

The duty of compensation of harm may be placed by a law on a person who is not the causer of the harm.

The duty of the causer of harm to pay contributory compensation to a victim above the compensation of harm may be established by a law or by a contract.

2. A person who has caused harm shall be relieved from compensation of harm if it is proved that the harm was caused not through his fault. Compensation of harm in the absence of the fault of the causer of harm also may be provided for by a law.

3. Harm caused by lawful actions shall be subject to compensation in the instances provided for by a law.

Compensation of harm may be refused if the harm was caused at the request or with the consent of the victim, and the actions of the causer of the harm do not violate moral principles of society.

Article 1065. Warning of Causing of Harm

1. The danger of causing harm in the future may be grounds for a suit concerning the prohibition of the activity creating such a danger.

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increased danger unless it is proved that the harm arose as a consequence of insuperable force or the intent of the victim. The possessor of a source of increased danger may be relieved by a court from responsibility fully or partially also on the grounds provided for by Article 1083(2) and (3) of the present Code.

The duty of compensation of harm shall be placed on the juridical person or citizen who possesses the source of increased danger by right of ownership, right of economic jurisdiction, or right of operative management, or other legal basis (right of lease, power of attorney for the right to drive means of transport, by virtue of the regulation of a respective agency concerning the transfer of the source of increased danger to it, and the like).

2. The possessor of a source of increased danger shall not be liable for harm caused by this source if it is proved that the source left his possession as a result of the unlawful actions of other persons. Responsibility for harm caused by the source of increased danger in such instances shall be borne by the person who unlawfully possessed the source. If there is fault of the possessor of a source of increased danger in the unlawful seizure of his source from his possession, responsibility may be placed both on the possessor and on the person who unlawfully took possession of the source of increased danger.

3. The possessors of sources of increased danger shall bear responsibility jointly and severally for harm caused as a result of the interaction of these sources (collisions of means of transport, and others) to third persons on the grounds provided for by point 1 of the present Article.

The harm caused as a result of the interaction of the sources of increased danger to their possessors shall be compensated on the general grounds (Article 1064).

Article 1080. Responsibility for Jointly Caused Harm

Persons who have caused harm jointly shall be liable to the victim jointly and severally.

Upon the application of the victim and in his interests a court shall have the right to place on the persons who have caused harm jointly responsibility in participatory shares determined according to the rules provided for by Article 1081(2) of the present Code.

Article 1081. Right of Regression Against Person Who Caused Harm

1. The person who has compensated harm caused by another person (or by a worker when performing his employment, official, or other labor duties, by a person driving means of transport, and so forth) shall have the right of counter demand (regression) against this person in the amount of the compensation paid unless another amount has been established by a law.

2. The causer of harm who has compensated harm jointly caused shall have the right to demand from each of the other causers of harm a participatory share of the compensation paid to the victim in the amount corresponding to the degree of fault of this causer of harm. If it is impossible to determine the degree of fault, the participatory shares shall be deemed to be equal.

3. The Russian Federation, subject of the Russian Federation, or municipal formation in the event of compensation by them of harm caused by an official of agencies of inquiry or preliminary investigation, the procuracy, or a court (Article 1070[1]) shall have the right of regression against this person if his fault has been established by the judgment of a court which has entered into legal force.

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compensation of harm. When determining the amount of contributory compensation of harm, the requirements of reasonableness and justness must be taken into account.

The character of physical and moral sufferings shall be valued by the court by taking into account the factual circumstances under which the moral harm was caused and the individual peculiarities of the victim.

*Chapter 60. Obligations as Consequence of Unfounded Enrichment***Article 1102. Duty to Return Unfounded Enrichment**

1. A person who without grounds established by a law, other legal acts, or transaction acquired or saved property (acquirer) at the expense of another person (victim) shall be obliged to return to the last property unfoundedly acquired or saved (unfounded enrichment), except for instances provided for by Article 1109 of the present Code.

2. The rules provided for by the present Chapter shall be applied irrespective of whether the unfounded enrichment is a result of the behavior of the acquirer of the property, the victim himself, third persons, or occurred outside their will.

Article 1103. Correlation of Demands Concerning Return of Unfounded Enrichment with Other Demands Concerning Defense of Civil Rights

Insofar as not established otherwise by the present Code, by other laws, or by other legal acts and does not arise from the essence of the respective relations, the rules provided for by the present Chapter shall be subject to application also to demands:

- (1) concerning the return of that performed under an invalid transaction;
- (2) concerning the demanding and obtaining of property by the owner from another's illegal possession;
- (3) by one party in an obligation to another concerning the return of that performed in connection with this obligation;
- (4) concerning compensation of harm, including that caused by the behavior not in good faith of the person enriched.

Article 1104. Return of Unfounded Enrichment in Kind

1. Property comprising unfounded enrichment of the acquirer must be returned to the victim in kind.

2. The acquirer shall be liable to the victim for any, including also for any accidental, shortage or deterioration of the unfoundedly acquired or saved property which occurred after he knew or should have known about the unfoundedness of the enrichment. Before that moment he shall be liable only for intent and gross negligence.

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Article 1105. Compensation of Value of Unfounded Enrichment

1. In the event it is impossible to return in kind property unfoundedly received or saved, the acquirer must compensate the victim for the real value of this property at the moment of its acquisition, and also the losses caused by the subsequent change of the value of this property if the acquirer did not compensate its value immediately after he knew about the unfounded enrichment.

2. A person who unfoundedly and temporarily used another's property without the intention to acquire it or another's services must compensate the victim for that which he saved as a consequence of such use at the price which existed at the time when the use ended and in that place where it occurred.

Article 1106. Consequences of Unfounded Transfer of Right to Another Person

A person who has transferred by means of assignment of a demand or otherwise a right belonging to him to another person on the basis of a nonexistent or invalid obligation shall have the right to demand the restoration of his previous position, including the return to him of documents certifying the transferred right.

Article 1107. Compensation to Victim of Revenues Not Received

1. The person who unfoundedly received or saved property shall be obliged to return or to compensate the victim for all revenues which he derived or should have derived from this property from the time when he knew or should have known about the unfounded enrichment.

2. Interest shall be subject to being calculated on the amount of unfounded monetary enrichment for the use of another's means (Article 395) from the time when the acquirer knew or should have known about the unfoundedness of the receipt or savings of monetary means.

Article 1108. Compensation of Expenditures on Property Subject to Return

In the event of the return of property unfoundedly received or saved (Article 1104) or compensation of the value thereof (Article 1105), the acquirer shall have the right to demand compensation from the victim of necessary expenditures incurred for the maintenance and preservation of property from the time from which he is obliged to return revenues (Article 1106), setting off the advantages received by him. The right to compensation of expenditures shall be lost in an instance when the acquirer intentionally withheld property which is subject to return.

Article 1109. Unfounded Enrichment Not Subject to Return

There shall not be subject to return as unfounded enrichment:

(1) property transferred in performance of an obligation before the ensuing of the period of performance unless provided otherwise by the obligation;

(2) property transferred in performance of an obligation upon the expiry of the period of limitations;

(3) earnings and payments equated thereto, pensions, benefits, stipends, compensation of harm caused to life or health, alimony and other monetary amounts granted to a citizen as means for existence, in the absence of lack of good faith on his part and mathematical error;