

**THE ECONOMIC COURT OF THE
COMMONWEALTH OF INDEPENDENT STATES**

DECISION

September 23, 2014

№01-1/1-14

Minsk

**On Interpretation of Article 11 of the Convention for the Protection of
Investor's Rights dated March 28, 1997**

The Economic Court of the Commonwealth of Independent States consisting of:
presiding judge – Chairman of the Economic Court of the CIS Kamenkova L.E.,
judges of the Economic Court of the CIS: Nagornaya E.N., Seytimova V.Kh.,
in the presence of court secretary Medvedeva T.E.,

with participation of the representatives of the Government of the Kyrgyz Republic
Satarov U.M., Askarov A.A., Yakovlev A. (power of attorney dated September 16,
2014 №36), Dordoev M.B. (power of attorney dated September 16, 2014 №34),

having examined in an open hearing the case upon request of the Kyrgyz Republic
represented by the Government of the Kyrgyz Republic on interpretation of Article
11 of the Convention for the Protection of Investor's Rights dated March 28, 1997,

being guided by paragraphs 5, 16 of the Regulations on the Economic Court of the
Commonwealth of Independent States, paragraphs 150-153, 155 of the Rules of the
Economic Court of the Commonwealth of Independent States,

RESOLVES:

To give the following interpretation of Article 11 of the Convention for the
Protection of Investor's Rights dated March 28, 1997 at the request of the Kyrgyz
Republic represented by the Government of the Kyrgyz Republic.

1. The provisions of Article 11 of the Convention for the Protection of
Investor's Rights dated March 28, 1997 are of a general nature being limited
solely by determination of potential types of institutions which may examine
the disputes related to making investments under the present Convention.

2. Investment disputes under the Convention for the Protection of Investor's Rights dated March 28, 1997 may be examined by international courts when such courts fall under jurisdiction in rem and jurisdiction in personam of an international court determined in accordance with its constituent documents and other international legal instruments which establish the possibility of dispute examination in international courts.

The reference in Article 11 to the possibility of examination of investment disputes by international courts is not a sufficient ground for investors to refer to any international court.

3. According to Article 11 of the Convention for the Protection of Investor's Rights dated March 28, 1997, disputes related to making investments under this Convention may be a subject-matter of examination in a specific international arbitration court provided that the competence of such court is stipulated by the national legislation of a state-party to the dispute, in a treaty to which the state-party to the dispute is a participant and/or in a separate agreement between the investor and the state-party to the dispute.

4. The provisions of Article 11 of the Convention for the Protection of Investor's Rights dated March 28, 1997 to the effect that disputes related to making investments shall be examined by international arbitration courts establish solely the principal possibility of their examination in international arbitration subject to conclusion of arbitration agreements according to the established procedure.

The provisions of Article 11 of the Convention may not be considered as an arbitration agreement to examine a dispute related to making investments.

5. The decision of the full bench of the Economic Court of the Commonwealth of Independent States on interpretation is final and not subject to appeal.
6. A copy of the Decision shall be sent to the Government of the Kyrgyz Republic, for information – to the governments of the member states of the Commonwealth of Independent States, to supreme arbitration, commercial, economic and other courts which examine disputes in the economic sphere, the Executive Committee of the Commonwealth of Independent States.
7. The Decision shall be subject to mandatory promulgation in the publications of the Commonwealth and mass media of the participating states of the Agreement on the Status of the Economic Court of the Commonwealth of Independent States dated July 6, 1992.

Chairman

L.E. Kamenkova