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ИМЕНИ АЛЬ-ФАРАБИ**



**Актуальные проблемы международного права и
национального законодательства**

Сборник материалов международной
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THE INTERNATIONALLEGAL COOPERATION OF THE CIS COUNTRIES ON QUESTIONS OF SETTLEMENT OF INVESTMENT ACTIVITY

One of the perspective regional organizations in the former Soviet Union is the Commonwealth of Independent States which unites in itself 11 independent states. Due to the emergence and development of globalization for development of the state relations in the sphere of economy is strengthening of interstate investment cooperation.

The CIS countries owing to the geographical location have the serious transit potential, and considerable resource potential. And therefore such integration association as the CIS is attractive regional association and attracts great interest of the developed and developing countries.

According to the Strategy of economic development of the Commonwealth of Independent States for the period till 2020 occupies 16,4% of the world territory in which about 4,4% of the world population. Also about 20% of world reserves of oil, 40% of natural gas, 25% of coal, 10% of electricity generation, 25% of world reserves of the wood, nearly 11% of world renewable water resources and 13% of arable lands fall to the share of the CIS.[1]

Common goal for the CIS countries is creation of the favorable investment climate for joint use of financial resources of the State Parties of the CIS providing development of competitive production, multinational corporations, financial and industrial groups and other subjects of economic activity.

It is known that in the problem resolution connected with attraction of foreign investments it is impossible without reliable international legal basis of protection of the rights of foreign investors. In modern conditions, legal regulation of investment disputes is performed on the basis of interaction of international law and the national legal system. It has complex character in case of obvious

domination of international law. It is caused by the fact that rules of international law concern foreign investments, and serves for attraction of the foreign equity for development of the international investment cooperation.

One of the first multilateral treaties of the State Parties of the Commonwealth signed in by Ashgabat the Agreement on cooperation in the sphere of investing activity of December 24, 1993. This agreement represents on content the agreement on assistance and involvement of investments, and also for determination and implementation of investment policy for investors from the State Parties of the CIS. At the same time a number of guarantees are fixed in it: complete and unconditional legal protection of investments of the parties, nationalization is possible only in exceptional cases with payment of adequate and effective compensation; free transfer to the State Parties, and also to other states of profit and other amounts from investing activities, the reinvestment right, etc. [2]

The Convention on protection of the rights of the investor signed in Moscow on March 28, 1997 became the following step in development of a cooperation of the State Parties of the CIS in the sphere of investing activity. This Convention on the sphere of activity in difference from the agreement Ashgabat has a wide range of the affected its aspects: its regulations extend to the investments performed in the territory of the State Parties by investors of various nationality establishes such important principles of international protection of investments as guarantees of protection of investments against nationalization, requisition, from decisions and actions (inactions) of the state bodies and officials violating the investor's rights payment to the investor of adequate compensation in case of nationalization, etc.[3]

The convention of 1997 in detail regulates the main legal mechanism in the international investment law — observance of a national regime for foreign investors. But not observance it will be led to investment disputes, and also to serious consequences for the offender. Disputes are considered by courts or arbitration tribunals of the participating countries of disputes, Economic Court of the CIS and/or other international courts, or the international arbitration tribunals.

Now the Agreement of the states of the CIS of 1993 "About a cooperation in the sphere of investing activity" and the Convention of the states of the CIS on protection of the rights of the investor of 1997 should be considered as the single multilateral international convention of state members of the CIS which includes the principles and regulations providing a priority and preferential legal status of foreign investments from the states of this regional international market. But one of the main problems is lack of an accurate condition of protection of investments, openness and transparency of the market, and also lack of the specific, accurately formulated international legal liabilities of the states as constituent documents of integration associations determine only the purposes and the priority directions of a cooperation.

At the same time the overwhelming number of the cases considered and which are in production of Economic Court of the CIS represent cases of

interpretation of regulations of international treaties and acts of bodies of the Commonwealth. Among such cases 16 spheres of the international customs legal relationship concern; 11 cases are connected with questions of application of agreements in the sphere of the free trade area, a cooperation in the field of investing activities and rules of determination of the country of goods' origin, general terms of deliveries of goods between the organizations of the State Parties of the CIS, etc. The economic Court of the CIS has only the insignificant number of judicial acts concerning foreign investments, for example, the solution № C-1/12-96/C-1/18-96 of January 21, 1997 about interpretation of the Agreement on cooperation in the sphere of investing activity of December 24, 1993, the Agreement on mutual recognition of the rights and regulation of the relations of property of October 9, 1992. [4]

Thus, it is necessary to reform Economic Court of the CIS, one of the main directions of which is expansion of its objective and subjective jurisdiction. It is obvious that the Economic Court of the CIS as body for interpretation and application of economic agreements shall have competence on permission of specific international investment disputes between subjects of the investment relations in the Commonwealth, by analogy with the Center for permission of investment disputes in case of the International Bank for Reconstruction and Development on the basis of the Washington convention of 1965.

So, the main directions of a cooperation in the investment sphere within a cooperation of the CIS countries it is proclaimed: providing a national regime for activities of investors, development of direct economic ties between accounting entities, creation of optimum conditions for development of investment flows, creation of joint ventures, transnational production associations, networks commercial and financial credit institutes and the organizations and coordination of investment policy, and also determination of common approaches to investments from the third countries which would determine common interest for the CIS countries.

In addition to the CIS in the former Soviet Union also other integration associations setting the tasks of development of economic cooperation of the states including investment area are created. In particular, the Eurasian Economic Union (EEU), the Shanghai Cooperation Organisation (SCO) treats them.

Summarizing, despite all shortcomings, considering that speed which was set by leaders of the CIS countries in a question of the Eurasian integration, it is possible to speak with confidence about the positive solution of all above-mentioned problems on the way to the fastest transition to the Common economic space.

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THE ROLE OF MONTREAL CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION

Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation was signed on the 23th of September 1971 in Montreal and entered into force on the 26th of January 1973. The aim of the Convention consists in prevention of the acts of sabotage and violence directed against some definite aircraft [1, page 261]. The convention is mainly connected with other acts than hijacking. It determined a wide range of unlawful acts against safety of the civil aviation. The convention contains detailed requirements to jurisdiction, protection, prosecution and the extradition of an offender. The Montreal Convention specialized threats to the aircraft as during flight, as at other stages.

In general Montreal convention contains similar provisions to the Hague Convention for the Suppression of Unlawful Seizure of aircraft about jurisdiction and extradition of presumptive offenders. However it considerably expanded the list of acts against safety of the civil aviation which are qualified as crimes to which the State Parties shall apply severe measures of punishment. Article 1 of the Convention determines that belongs to unlawful acts in the sphere of an aviation security:

1. Any person commits an offence if he unlawfully and intentionally: