

THE LAW OF THE KYRGYZ REPUBLIC

On the System of Arbitration Courts of the Kyrgyz Republic

(wording of KR Law of November 16, 1998 # 144)

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Chapter 1 General Provisions

Article 1. Arbitration Courts in the Kyrgyz Republic

Arbitration courts of the Kyrgyz Republic shall be the bodies of justice that settle on behalf of the Kyrgyz Republic the disputes arising in the sphere of economy and in the process of economic management between economic entities of various types of ownership.

Arbitration Courts of the Kyrgyz Republic shall be state institutions that have the rights of a legal entity.

Article 2. Legislation on Arbitration Courts of the Kyrgyz Republic

Powers of and procedure for formation and activity of arbitration courts in the Kyrgyz Republic shall be established by the Constitution of the Kyrgyz Republic, by this Law and by other laws of the Kyrgyz Republic.

The procedure for court proceedings in arbitration courts of the Kyrgyz Republic shall be established by the Constitution of the Kyrgyz Republic, by this Law, by the Arbitration Procedural Code of the Kyrgyz Republic, and by other laws.

Article 3. The System of Arbitration Courts in the Kyrgyz Republic

The system of arbitration courts in the Kyrgyz Republic shall be composed of:

- the High Arbitration Court of the Kyrgyz Republic; and
- oblast and Bishkek city arbitration courts.

Arbitration courts in the Kyrgyz Republic shall be part of court system of the Kyrgyz Republic.

Article 4. Main Targets of Arbitration Courts in the Kyrgyz Republic

The main targets of arbitration courts in the Kyrgyz Republic in the course of settlement of disputes within their jurisdiction shall be as follows:

- protection of breached or disputed rights and legal interests of enterprises, institutions, organizations (hereinafter - organizations), and citizens who conduct business without formation of a legal entity and have the status of a sole proprietor acquired in the manner established by the legislation (hereinafter - sole proprietors) in the sphere of business or other economic activities;

- assistance to strengthening the rule of law and to prevention of law violations in the field of business and other economic activities; and

- uniform and correct application of laws in the course of settlement of economic and other disputes.

Article 5. General Principles of the Activity of Arbitration Courts in the Kyrgyz Republic

The activity of arbitration courts in the Kyrgyz Republic shall be based on the rule of law, independence of judges, equality of organizations and citizens under the law, competitiveness and equal rights of parties, and openness of court proceedings.

Article 6. Binding Judicial Acts

Judicial acts having come into effect - decisions, rulings and decrees rendered by arbitration courts - shall be binding upon any state governance body, local government, and any other bodies, entities, and individuals, and shall be subject to execution throughout the territory of the Kyrgyz Republic.

Orders of arbitration courts issued in the course of hearing and settlement of disputes shall be binding upon state governance bodies, local governments, other bodies, organizations and individuals, and subject to execution within the terms established by the court.

Article 7. Judges of Arbitration Courts in the Kyrgyz Republic

A Chairperson, Deputy Chairpersons and Judges of the High Arbitration Court of the Kyrgyz Republic shall be elected by the Assembly of People's Representatives of Jogorku Kenesh of the Kyrgyz Republic upon recommendation of the President of the Kyrgyz Republic, for a 10-year term.

Chairpersons of oblast and Bishkek city arbitration courts, their deputies and judges of oblast and Bishkek city arbitration courts shall be appointed by the President of the Kyrgyz Republic. The first term of appointment shall comprise 3 and the following term - 7 years.

A Judge of the High Arbitration Court of the Kyrgyz Republic may be relieved from their posts by the Assembly of People's Representatives of Jogorku Kenesh of the Kyrgyz Republic upon recommendation of the President of the Kyrgyz Republic, by not less than a two-third majority vote of the total number of the Representatives.

A judge of an oblast or Bishkek arbitration court may be relieved from his/her post by the President of the Kyrgyz Republic.

Judges of arbitration courts of the Kyrgyz Republic shall settle the disputes referred to the jurisdiction of the arbitration courts and review judicial acts in the cases and in the manner provided by law.

Judges of arbitration courts of the Kyrgyz Republic may not be engaged in any other paid activity except science, teaching, or other creative activities.

Judges of oblast and Bishkek city arbitration courts shall be subject to testing in compliance with the procedures established by law.

Chapter 2 Powers and Procedure for Formation and Activity of the High Arbitration Court of the Kyrgyz Republic

Article 8. High Arbitration Court of the Kyrgyz Republic

The High Arbitration Court of the Kyrgyz Republic shall be the supreme judicial body settling economic disputes within jurisdiction of arbitration courts, shall exercise in the procedural forms provided by law judicial supervision over the activity of arbitration courts, and provide explanations on the issues referred to judicial practice.

Article 9. Powers of the High Arbitration Court of the Kyrgyz Republic

High Arbitration Court of the Kyrgyz Republic may:

- 1) review in exercise of supervisory power judicial acts rendered by arbitration courts having become effective, upon petitions by parties to the proceedings;
- 2) review, based on newly discovered facts and in accordance with the law of procedure, judicial acts that it has rendered and that have come into effect;
- 3) request the Constitutional Court of the Kyrgyz Republic to check constitutionality of a law applied or subject to application to a case under consideration of the High Arbitration Court;
- 4) study and generalize the arbitration courts' practice of application of laws and normative legal acts governing the relationships in the field of business and other economic activities referred to the courts' jurisdiction by the legislation, and provide explanations regarding the issues of judicial practice;

- 5) develop proposals for improvement of the legislation governing the relationships in the sphere of economic and other activities referred to the jurisdiction of arbitration courts by law;
- 6) maintain court statistics and organize the activity with regard to such maintenance in oblast and Bishkek city arbitration courts;
- 7) take action aimed at creation of adequate conditions of judicial activity of arbitration courts, including their staffing, organizational issues, material and technical basis, etc.;
- 8) settle within its competence the issues ensuing from the international treaties to which the Kyrgyz Republic is a party; and
- 9) exercise other powers granted to it by the Constitution of the Kyrgyz Republic, by this Law, and by other laws of the Kyrgyz Republic.

The right to initiate legislation on the issues within jurisdiction of the High Arbitration Court of the Kyrgyz Republic shall belong to the said Court.

Article 10. Composition of the High Arbitration Court of the Kyrgyz Republic

The High Arbitration Court of the Kyrgyz Republic shall consist of a Chairperson, First Deputy, Deputy Chairperson, and Judges of the High Arbitration Court of the Kyrgyz Republic.

The High Arbitration Court of the Kyrgyz Republic may supervise the judicial activities of oblast and Bishkek city arbitration courts if it is composed of at least of half of the total number of Judges of the High Arbitration Court of the Kyrgyz Republic.

Article 11. Plenary Session of the High Arbitration Court of the Kyrgyz Republic

A Plenary Session of the High Arbitration Court of the Kyrgyz Republic shall resolve the most important issues of arbitration courts activity in the Kyrgyz Republic.

The Plenary Session of the High Arbitration Court of the Kyrgyz Republic shall carry out its activity in the following composition: a Chairperson of the High Arbitration Court of the Kyrgyz Republic, Deputy Chairpersons, and Judges of the High Arbitration Court of the Kyrgyz Republic.

Deputies of the Assembly of People's Representatives and the Legislative Assembly of Jogorku Kenesh of the Kyrgyz Republic, Chairperson of the Constitutional Court of the Kyrgyz Republic, Chairperson of the Supreme Court of the Kyrgyz Republic, Prosecutor General of the Kyrgyz Republic, Minister of Justice of the Kyrgyz Republic, and chairpersons and judges of oblast and Bishkek city arbitration courts may take part in plenary sessions of the High Arbitration Court of the Kyrgyz Republic. Representatives of state governance bodies, scientific institutions and other organizations may participate in plenary sessions of the High Arbitration Court of the Kyrgyz Republic upon the invitation of the Chairperson of the High Arbitration Court.

Article 12. Powers of the Plenary Session of the High Arbitration Court of the Kyrgyz Republic

The Plenary Session of the High Arbitration Court of the Kyrgyz Republic may:

- 1) study the materials of analysis and generalization of the practice of application of laws and other normative legal acts by arbitration courts and provide supervising explanations with regard to the issues of judicial practice;
- 2) take decision to initiate legislation;
- 3) take decision to request the Constitutional Court of the Kyrgyz Republic for examination of constitutionality of laws, other normative legal acts and agreements;
- 4) elect from among Judges of the High Arbitration Court of the Kyrgyz Republic, upon recommendation of the Chairperson of the High Arbitration Court of the Kyrgyz Republic, a Secretary of the Plenary Session of the High Arbitration Court of the Kyrgyz Republic;
- 5) hear presentations of chairpersons of oblast and Bishkek arbitration courts on the activities carried out by the said courts;
- 6) approve, upon recommendation of the Chairperson of the High Arbitration Court of the Kyrgyz Republic, the structure and list of staff of arbitration courts, including positions and salaries; and
- 7) take decisions on other issues of organization and activity of arbitration courts in the Kyrgyz Republic pursuant to this Law.

The Plenary Session of the High Arbitration Court of the Kyrgyz Republic shall render rulings on the issues within its jurisdiction.

Article 13. Procedures for the Activity of the Plenary Session of
the High Arbitration Court of the Kyrgyz Republic

The Chairperson of the High Arbitration Court of the Kyrgyz Republic shall call a Plenary Session of the High Arbitration Court of the Kyrgyz Republic in case of need, but not less frequently than twice a year.

The Plenary Session of the High Arbitration Court of the Kyrgyz Republic may take decisions if at least two thirds of its composition are present.

Rulings of the Plenary Session of the High Arbitration Court of the Kyrgyz Republic shall be rendered by open voting, by simple majority of the members of the Plenary Session present at it.

Rulings of the Plenary Session of the High Arbitration Court of the Kyrgyz Republic shall be signed by the Chairperson of the High Arbitration Court of the Kyrgyz Republic and by the Secretary of the Plenary Session.

Article 14. Composition of the Supervisory Level of the High
Arbitration Court of the Kyrgyz Republic (Excepted)

Article 15. Procedures for the Supervision Performed by the High
Arbitration Court of the Kyrgyz Republic over the
Activity of Oblast and Bishkek City Arbitration Courts

The High Arbitration Court of the Kyrgyz Republic may not hear arbitration cases unless at least half of the total number of Judges of the High Arbitration Court of the Kyrgyz Republic are present. The Chairperson of the High Arbitration Court of the Kyrgyz Republic or his/her Deputy, and in certain cases and by instruction of the Chairperson of the High Arbitration Court of the Kyrgyz Republic a Judge of the High Arbitration Court of the Kyrgyz Republic shall preside at a session of the High Arbitration Court of the Kyrgyz Republic.

A High Arbitration Court decision shall be considered rendered if a majority of judges present at the session have voted for it.

A Presiding Judge shall be the last to vote.

In case of a vote split the Presiding Judge shall have the decisive vote.

A Ruling of the High Arbitration Court of the Kyrgyz Republic shall be announced immediately after it is rendered. In case of need the High Arbitration Court of the Kyrgyz Republic may announce the operative part of the ruling, while a motivated ruling shall be composed within the ten-day term.

Article 16. A Chairperson of the High Arbitration Court of the
Kyrgyz Republic

A Chairperson of the High Arbitration Court of the Kyrgyz Republic shall be a judge and shall exercise the powers provided by the Constitution of the Kyrgyz Republic, by this Law, and by the Arbitration Procedural Code of the Kyrgyz Republic.

The Chairperson of the High Arbitration Court of the Kyrgyz Republic shall:

1) arrange the activity of the High Arbitration Court of the Kyrgyz Republic and of the arbitration court system of the Kyrgyz Republic;

2) call a Plenary Session of the High Arbitration Court of the Kyrgyz Republic and preside at the sessions, and submit to the Plenary Session for consideration the issues referred by this Law to the competence of the said Plenary Session;

3) perform general management of the Office of the High Arbitration Court of the Kyrgyz Republic;

4) distribute responsibilities among the Deputy Chairpersons of the High Arbitration Court of the Kyrgyz Republic;

5) distribute petitions for review of the decisions having come into effect and of other judicial acts rendered by arbitration courts among the Judges of the High Arbitration Court of the Kyrgyz Republic;

6) represent the High Arbitration Court of the Kyrgyz Republic in the relationships with the state governance, public and other bodies;

7) approve the Instruction on court proceedings in arbitration courts of the Kyrgyz Republic and the Regulation on the Office of the High Arbitration Court of the Kyrgyz Republic; and

8) exercise other powers granted to it by this Law and by other normative legal acts of the Kyrgyz Republic.

The Chairperson of the High Arbitration Court of the Kyrgyz Republic shall issue orders and instructions on the items of arrangement of arbitration courts activities.

Article 17. Deputy Chairpersons of the High Arbitration Court of

the Kyrgyz Republic

First Deputy Chairperson and Deputy Chairperson of the High Arbitration Court of the Kyrgyz Republic (hereinafter referred to as Deputies) shall be judges and shall exercise the powers provided by this Law and by the Arbitration Procedural Code of the Kyrgyz Republic.

Deputy Chairpersons of the High Arbitration Court of the Kyrgyz Republic shall, in compliance with the distribution of responsibilities, arrange the activity of the High Arbitration Court of the Kyrgyz Republic and of the system of arbitration courts in the Kyrgyz Republic.

In case of absence of the Chairperson of the High Arbitration Court of the Kyrgyz Republic, his/her powers shall be exercised by the First Deputy, and in case the First Deputy is absent, by the Deputy Chairperson.

Chapter 3 Powers and Procedure of Formation and Activity of Oblast and Bishkek City Arbitration Courts

Article 18. Oblast and Bishkek City Arbitration Courts

Oblast and Bishkek city arbitration courts shall function in the Kyrgyz Republic.

Oblast and Bishkek city arbitration courts shall be composed of a chairperson, deputy chairperson, and arbitration court judges.

Article 19. Powers of Oblast and Bishkek City Arbitration Courts

Oblast and Bishkek city arbitration courts may:

- 1) hear on the first level of jurisdiction any case within the competence of arbitration courts;
- 2) review, in the form of proceedings on the appellate level, judicial acts that have not come into effect;
- 3) review, based on newly found facts, judicial acts rendered by them and having come into effect;
- 4) study and generalize judicial practice;
- 5) develop proposals for improvement of laws and other normative legal acts;
- 6) analyze court statistics.

Article 20. Procedure for the Activity of Oblast and Bishkek City Arbitration Courts

Oblast and Bishkek city arbitration courts shall hear on the first level of jurisdiction the cases within their competence in the composition of one judge. A case may, by decision of a chairperson, be heard by three judges.

All the cases heard on the appellate level shall be heard collegially by arbitration court.

In case of a collegial hearing a chairperson of the court, a deputy chairperson or one of the judges appointed by the chairperson shall preside at the session.

The chairperson of the court shall determine the composition of the court in case of collegial hearings.

Determining the composition of the court, the chairman of an oblast or Bishkek city arbitration court shall take in consideration the inadmissibility of repeated participation of a judge in the hearing and of participation in the hearing of a judge with respect to whom there are grounds for plea of abatement. Inclusion of a judge in the composition of the court shall be based on the principle of equal distribution of arbitration cases among judges, subject to the categories of the cases and their complication.

The judges shall possess equal rights in the process of hearing of the cases.

Court decisions shall be rendered by open voting, by a majority vote. Members of the court may not abstain from voting. The presiding judge shall be the last to vote. Every member of the court composition shall sign the decisions.

Article 21. A Chairperson and a Deputy Chairperson of Oblast and Bishkek City Arbitration Courts

A chairperson of an oblast or Bishkek city arbitration court shall be a judge and shall exercise the powers provided by this Law and by the Arbitration Procedural Code of the Kyrgyz Republic.

A chairperson of an oblast or Bishkek city arbitration court shall:

- 1) organize the activity of the arbitration court;
- 2) determine the responsibilities of the deputy chairperson of the court;

- 3) determine the composition of the first and appellate levels, and distribute statements of claim and materials among the judges;
- 4) supervise the office of the arbitration court and appoint and release from office the court officials;
- 5) represent the oblast or Bishkek arbitration court in the relationships with state governance, public and other bodies; and
- 6) exercise other powers provided by this Law.

The chairperson of an oblast or Bishkek arbitration court shall issue orders and instructions on the issues of arrangement of the arbitration court activity.

A deputy chairperson of an oblast or Bishkek arbitration court shall be a judge and shall exercise the powers provided by this law and by the Arbitration Procedural Code of the Kyrgyz Republic.

In the event of absence of the chairperson of the oblast or Bishkek arbitration court the deputy chairperson shall exercise the powers of the former.

Chapter 4 Administrative and Business Activity of Arbitration Courts in the Kyrgyz Republic

Article 22. Organizational basis of the Activity of Arbitration Courts in the Kyrgyz Republic

The High Arbitration Court shall provide organizational basis of the activity of arbitration courts in the Kyrgyz Republic.

The High Arbitration Court of the Kyrgyz Republic shall organize the work on upgrading professional skills of the judges and the officials of arbitration courts, finance the arbitration courts within the limits of budget assignments, and ensure control over the spending of the funds allocated to the arbitration courts.

Article 23. Arbitration Court Office

Implementation of the activity of an arbitration court shall be ensured by the arbitration court office.

The court office shall:

- 1) arrange preliminary prejudicial reception of the persons participating in a case and of representatives of such persons;
- 2) accept and issue documents, certify copies of the arbitration court documents, send documents and hand them in, check the payments of the state fee, court expenditures subject to be put in the deposit account of the arbitration court, and arbitration penalties;
- 3) assist the judges in preparation of the dockets for hearing in the court sessions;
- 4) register the circulation of the cases and the dates of their consideration in the arbitration court, keep dockets and documents;
- 5) study and generalize judicial practice;
- 6) develop proposals for improvement of laws and other normative legal acts, obtain and provide information and references;
- 7) provide material and technical basis of the arbitration court work.

Employees of an arbitration court office are state employees. Rights, responsibilities, and liabilities of the employees of an arbitration court office and the conditions of their service for the State shall be established by laws and by other normative legal acts on state service.

Officials in authority and experts of arbitration court offices in the Kyrgyz Republic shall be subject to testing in the manner provided by the legislation.

The first official in authority of the office appointed and released from office by the Chairperson of the High Arbitration Court of the Kyrgyz Republic shall be the head of the Office of the High Arbitration Court. The first official in authority shall work under the direct supervision of the Chairperson of the High Arbitration Court and shall supervise, manage, and administer the office activities, appoint the employees of the Office of the High Arbitration Court and release them from their duties, and dispose of the funds within the limits of estimate costs of arbitration courts.

Article 24. Funding of Arbitration Courts in the Kyrgyz Republic

Arbitration courts shall be funded at the expense of the state funds and shall ensure the possibility of full and independent administration of justice under the Constitution of the Kyrgyz Republic and this Law.

Article 25. Number of Arbitration Court Officials

The number of judges and other officials of arbitration courts in the Kyrgyz Republic including officials of the High Arbitration Court of the Kyrgyz Republic shall be established by normative legal acts of the Kyrgyz Republic.

Article 26. International Relations

Arbitration courts of the Kyrgyz Republic shall enter into international relations in compliance with the established procedures.

Article 27. A Seal of an Arbitration Court

Arbitration courts shall have seals with their names and with the National Coat of the Arms of the Kyrgyz Republic.

Article 28. Symbols of the Judicial Power of an Arbitration Court

The National Flag of the Kyrgyz Republic shall be installed on the Building of an arbitration court.
There must be the National Coat of the Arms of the Kyrgyz Republic and the National Flag of the Kyrgyz Republic in the courtroom of an arbitration court.

Article 29. Location of Arbitration Courts

Bishkek city, the capital of the Kyrgyz Republic, shall be the place of permanent location of the High Arbitration Court of the Kyrgyz Republic.

Oblast and Bishkek arbitration courts shall be permanently located in the administrative centers of the corresponding oblasts and in Bishkek city.

Article 30. Implementation of This Law

This Law shall come into force as of the day on which it is published.

Since the date of coming of this law into force the Law of the Kyrgyz Republic On Arbitration Court of the Kyrgyz Republic of March 2, 1992 (Vedomosti of the Supreme Soviet of the Republic of Kyrgyzstan, 1992, # 4/1, p. 156) shall be repealed.

President of the Kyrgyz Republic A.Akaev

Adopted by the Legislative Assembly
of Jogorku Kenesh of the Kyrgyz Republic November 5, 1997