

**CODE OF ARBITRATION PROCEDURE
OF THE KYRGYZ REPUBLIC**

(As amended July 11, 1997 by the
Decision of the Constitutional Court of the Kyrgyz Republic)

SECTION I. GENERAL PROVISIONS

- Chapter 1. Basic provisions
- Chapter 2. Composition of arbitration court. Disqualification
- Chapter 3. Subject matter jurisdiction and court jurisdiction
- Chapter 4. Persons, participating in case and other participants
of arbitration procedure
- Chapter 5. Representation on arbitration court
- Chapter 6. Evidence
- Chapter 7. Records
- Chapter 8. Securing claim
- Chapter 9. Suspension of proceedings
- Chapter 10. Termination of proceedings
- Chapter 11. Refusal to hear claim
- Chapter 12. Amicable agreement of parties
- Chapter 13. Court fees
- Chapter 14. Procedural periods
- Chapter 15. Court fines

SECTION II. PROCEEDINGS IN ARBITRATION COURT OF FIRST INSTANCE

- Chapter 16. Filing claim
- Chapter 17. Preparation of case to trial
- Chapter 18. Court trial
- Chapter 19. Judgement of arbitration court
- Chapter 20. Decision of arbitration court
- Chapter 21. Peculiarities of proceedings in bankruptcy cases

SECTION III. REVISION PROCEEDINGS

- Chapter 22. Proceedings in appellate instance
- Chapter 23. Proceedings in cassational instance
- Chapter 24. Oversight proceedings
- Chapter 25. Review of judgements, rulings, decisions of
arbitration court on newly discovered circumstances

SECTION IV. EXERCISE OF JUDICIAL ACTS

**SECTION V. PROCEEDINGS IN CASES, INVOLVING FOREIGN ENTERPRISES
AND INTERNATIONAL ORGANIZATIONS**

Arbitration courts in the Kyrgyz Republic, as a part of judicial system of the Kyrgyz Republic, administer justice by resolving economic disputes, implement tasks on protection of infringed or voidable rights and legal interests of enterprises, institutions and organizations in the sphere of economic activities, and assist in enforcement of the rule of law.

**SECTION I
GENERAL PROVISIONS**

**Chapter 1
Basic provisions**

Article 1. Legislation on arbitration court proceedings

I. The procedure of arbitration court proceedings in the Kyrgyz Republic shall be determined by the Constitution of the Kyrgyz Republic, the Law of the Kyrgyz Republic "On arbitration court of the Kyrgyz Republic", this Code and other laws of the Kyrgyz Republic, adopted in accordance therewith.

II. If an international treaty of the Kyrgyz Republic establishes the rules of court procedure, other than those, provided by the legislation of the Kyrgyz Republic, rules of the international treaty shall apply.

III. Arbitration court procedure shall be administered in accordance with laws, effective during the trial of a case, during exercise of specific procedural actions or enforcement the court decision.

Article 2. Right of recourse to arbitration court

I. Enterprises, institutions and organizations, irrespective of forms of ownership and being legal entities, (hereinafter - enterprises) shall have the right to petition to arbitration court for protection of their violated or challenged rights and legal interests, in accordance with the procedure, established by this Code.

Waiver of right of recourse shall be invalid.

II. In cases provided by this Code, government and other agencies shall have the right to petition to arbitration court for protection of state and public interests.

III. If the legislation establishes pre-trial settlement of some types of disputes, or such settlement is provided by contract, the dispute may be submitted for consideration to the arbitration court only after this procedure has been observed.

Article 3. Independence of judges

I. While administering the justice, judges of the Arbitration Court shall be independent, and shall abide by the Constitution of the Kyrgyz Republic and the law.

Any external influence on judges, or interference with their activities by any government agency, by agencies of local self-government and other agencies, enterprises, officials or citizens shall be inadmissible and shall entail liability, established by law.

II. Guarantees for independence of judges of arbitration court shall be established by law.

Article 4. Equality before law and court

Justice in arbitration courts shall be administered on the basis of equality of all participants of arbitration procedure before the law and the court, irrespective of the form of ownership, location and subordination.

Article 5. Adversariness and legal equality of parties

Arbitration court procedure shall be exercised on the basis of adversariness and legal equality of parties.

Article 6. Language of procedure

I. The Arbitration Court of the Kyrgyz Republic shall conduct the court procedure in Kyrgyz and in Russian.

II. Persons, participating in the case shall have the right to familiarize themselves with materials of the case, make pleadings, give explanations, present motions in his/her native language through the interpreter.

Article 7. Publicity of trial

I. Court trials in arbitration court shall be open.

The court shall have the right to announce a sitting or its part closed, to observe state, commercial or other secret, as well as interests of justice.

An order shall be made on trial of the case in closed sitting.

II. Trial of cases in closed sitting shall be conducted in compliance with rules of arbitration court proceedings. The judgement of the closed court sitting shall be announced publicly.

Article 8. Directness of proceedings

In trying the case, the arbitration court shall exercise direct investigation of all evidence in the case.

Article 9. Normative legal acts applicable in resolution of disputes

I. The arbitration court shall resolve disputes on the basis of the Constitution of the Kyrgyz Republic, international treaties of the Kyrgyz Republic and the laws. Arbitration court shall also apply normative legal acts, issued by the President of the Kyrgyz Republic, Legislative Assembly and Assembly of People's Representatives of Jogorku Kenesh of the Kyrgyz Republic, Government of The Kyrgyz Republic and other agencies of executive power, agencies of local self-government, provided that they comply with the laws.

II. Arbitration court shall not have the right to apply a normative act, which contradicts the Constitution of the Kyrgyz Republic.

III. If an issue of correspondence to the Constitution of the a law or other act, on which the resolution of the case depends arises during a trial of a case, the arbitration court shall send an inquiry to the Constitutional Court of the Kyrgyz Republic, and shall resolve the case in accordance with the ruling of the Constitutional Court.

IV. After the arbitration court finds in the trial of the case, that the act by a government agency, local agency of self-government, or by other agency is inconsistent with the law, or that it has been issued with excess of powers, the arbitration court shall render a judgement in accordance with the law.

V. If the international treaty of the Kyrgyz Republic establishes rules, other than those, provided by legislation effective on the territory of the Kyrgyz Republic, the rules of international treaty shall apply.

VI. If the law lacks the norms which regulate relationships under question, the arbitration court shall apply the norms, which regulate similar relationships, and if such missing from the law, it shall resolve the dispute, based on the general fundamentals and meaning of laws.

VII. Arbitration court shall apply legal norms of other countries, in accordance with the law or international treaty of the Kyrgyz Republic.

Article 10. Obligatoriness of court decrees

I. Arbitration court shall adopt court decrees in the form of judgement, order or ruling.

II. An effectuated court decree shall be binding for all government agencies, local agencies of self-government and other agencies, enterprises, officials and citizens, and shall be enforced on the entire territory of the Kyrgyz Republic.

III. Failure to perform an arbitration court decree shall entail the liability, established by this Code and other laws of The Kyrgyz Republic.

Chapter 2 Composition of arbitration court. Disqualification

Article 11. Composition of arbitration court

I. One judge only shall hear the cases in arbitration courts of first instance.

By the decision of the chairperson of the court, any case may be tried by a panel of judges.

II. All cases in the appellate, cassational and supervisory instances shall be tried in the arbitration court by a panel of judges.

III. If a case is heard by a panel, the panel must include no less than three judges.

IV. All judges shall enjoy equal rights, while trying cases.

V. In cases, where this Code gives a right to a judge to resolve cases and specific issues on his/her own, he/she shall act on behalf of the arbitration court.

Article 12. Procedure for resolving issues by court

I. The majority of votes of judges shall resolve the issues, arising while a panel of judges consider cases. None of judges shall have the right to refrain from voting. The chairperson in the sitting shall be the last to vote.

II. A judge, who does not agree with the judgement of the majority of members of the panel, shall sign this judgement, and shall have the right to give his/her personal dissent, which shall be attached to the file, but shall not be announced. Participants of the case shall not be familiarized with this dissent.

Article 13. Disqualification of judge

I. A judge may not participate in the case hearing, and shall be subject to disqualification:

1) in the event he/she is a relative of a participant in the case or of his/her representative;

2) if he/she is personally, directly or indirectly interested in the outcome of the case, or his/her impartiality is challenged due to other circumstances;

- 3) if he/she participated in the previous trial of this case as an expert, interpreter, procurator or representative.
II. Arbitration court panel, trying the case, may not be composed of relatives.

Article 14. Inadmissibility of recurring participation of judge in
trial of case

- I. A judge, who has participated in trial of the case, may not try this case in the court of other instance.
II. A judge, who has participated in trial of the case in any instance, may not participate in a recurring hearing of this case in the court of the same instance, unless new circumstances of this case have been discovered.

Article 15. Disqualification of expert and interpreter

I. An expert and an interpreter may not participate in trial of a case, and shall be subject to disqualification on the grounds, stipulated in Article 13 of this Code.

In addition, the following may serve as grounds for disqualification of an expert:

- 1) his/her present or past employment or other dependence on persons participating in the case, or on their representatives;
2) auditing of materials carried out by him/her, which materials serve as grounds or reason for petitioning to the arbitration court or are used in the trial of the case.

II. Participation of an expert or an interpreter in the previous trial of the same case, correspondingly in the capacity of expert or interpreter shall not be grounds for their disqualification.

Article 16. Announcement of disqualification and recusal

I. In presence of circumstances set forth in Articles 13, 15 of this Code, a judge, an expert, an interpreter shall recuse. The same circumstances may serve as grounds for disqualification of participants in the case.

II. Disqualification and recusal must be well-motivated and announced prior to the trial of the case on the merits. Recusal or disqualification shall be allowed in the course of trial only where the grounds for recusal or disqualification are discovered by the arbitration court or the person in question after the trial has started.

III. A groundless refusal to administer justice shall not be admitted.

IV. A groundless motion for disqualification of a judge shall not be granted.

Article 17. Procedure for resolving petitioned disqualification

I. If disqualification is petitioned, the arbitration court must hear opinions of parties, participating in the case, and hear a person, who is being disqualified, if he/she wants to give explanations.

II. The issue of disqualification of a judge, who tries the case on his/her own, shall be resolved by the chairperson of the arbitration court or the chairperson of a panel of judges.

III. The issues of disqualification of a member of the panel of judges, trying the case shall be resolved by the members of the arbitration court in the absence of the disqualified judge. If the number of votes for and against the disqualification is equal, the judge shall be considered disqualified.

The issue of disqualification of a number of judges or the entire panel of judges, trying the case, shall be resolved by the chairperson of the arbitration court.

IV. The issue of disqualification of an expert or an interpreter shall be resolved by the arbitration court, trying the case.

V. A judgement shall be rendered concerning the results of consideration of the issue.

Article 18. Consequences for granting petition on disqualification

I. In case of disqualification of a judge of an arbitration court or a number of judges or the panel of judges, the case shall be tried in the same court, but by another panel.

II. If after granting the petitions on disqualification a new panel may not be formed to hear the case in the same arbitration court, the case must be submitted to another arbitration court of the same level.

Chapter 3
Subject matter jurisdiction and court jurisdiction

Article 19. Subject matter jurisdiction

I. Economic disputes, arising from civil, administrative and other legal relationships between enterprises, institutions and organizations, which are legal entities, shall be within the subject matter jurisdiction of the arbitration court.

II. Arbitration court shall resolve the following economic disputes:

conflicts in agreement which is entered as provided by the law, or in which parties agree, that any disputes on the agreement shall be submitted to the arbitration court for resolution;

amendment of terms and termination of contracts;

failure to perform obligations or improper performance of obligations;

recognition of propriety right;

vindication of property by the proprietor or other legal possessor from other person's illegal possession;

infringement of rights of a proprietor or other lawful possessor, not related to deprivation of ownership;

compensation of losses;

full or partial invalidation of non-normative acts issued by government agencies, agencies of local self-government, and other agencies, which acts are inconsistent with laws and other normative legal acts, and violate rights and legal interests of enterprises;

finding as unenforceable the writ of execution or other document providing for foreclosure without recourse to the court (non-acceptance procedure);

collection of penalties from enterprises by government agencies, agencies of local self-government and other agencies, which exercise supervisory functions, unless the law provides for collection without recourse to the court (non-acceptance procedure);

withdrawal from the budget of funds written off by supervisory agencies without recourse to the court (non-acceptance procedure), with violation of requirements of law or other normative legal act.

Arbitration court shall also try other cases, including cases, involving bankruptcy of enterprises.

III. The law may also relate other economic disputes associated with the business activity to subject matter jurisdiction of the arbitration court.

IV. Arbitration court shall try cases within its subject matter jurisdiction with participation of enterprises of the Kyrgyz Republic, as well as foreign enterprises, enterprises involving foreign investments, international organizations, unless otherwise provided by international treaty of the Kyrgyz Republic.

Article 20. Jurisdiction of courts

I. Cases within the subject matter jurisdiction of arbitration courts, shall be tried by arbitration courts of oblasts, City of Bishkek and Higher Arbitration Court of the Kyrgyz Republic.

II. Higher Arbitration Court of the Kyrgyz Republic shall try cases on full or partial invalidation of non-normative acts of the President of the Kyrgyz Republic, Legislative Assembly and Assembly of People's Representatives of Jogorku Kenesh of the Kyrgyz Republic, of the Government of the Kyrgyz Republic, which acts do not comply with the laws and other normative legal acts, and violate the rights and legal interests of enterprises.

Article 21. Filing actions

I. Actions shall be filed to arbitration courts at the place of location of the Defendant.

II. An action against Defendants, located on the territory of different oblasts of the Republic, oblast (oblasts) and Bishkek City, shall be filed to Arbitration Court at the place of location of any Defendant at the discretion of the Plaintiff.

III. An action against a Defendant, whose place of location is unknown, may be filed in arbitration court at the place of location of the property of the same.

IV. An action against a Defendant, which is an enterprise of the Kyrgyz Republic and is located on the territory of another country, may be filed at the place of location of the Plaintiff or Defendant's property.

V. An action arising from the contract, which specifies the place of performance of the same, may also be filed at the place of performance of the contract.

Article 22. Jurisdiction of courts to hear bankruptcy cases

Cases on bankruptcy of enterprises shall be heard at the place of location of enterprises.

Article 23. Exclusive jurisdiction

I. Actions on recognition of ownership rights to buildings structures, on vindication of buildings and structures from other person's illegal possession, on elimination of violation of rights of a proprietor or a lawful possessor, not related to deprivation of possession, shall be filed at the place of location of the building or structure.

II. An action against a carrier arising from the shipment contract, including cases when a carrier is a defendant, shall be filed at the place of location of the transportation agency.

Article 24. Contractual jurisdiction

Jurisdiction, established by Article 21 of this Code may be amended by the parties' agreement.

Article 25. Submission of disputes for consideration to third party arbitration tribunals

By the parties' agreement, an arising or a potential dispute within the subject matter jurisdiction of the arbitration court, before the decision is made in the first instance, may be submitted for consideration to the third party arbitration tribunal, in accordance with its competence, established by law.

Article 26. Transfer of case from one arbitration court to another

I. A case, received by an arbitration court for trial in compliance with rules of jurisdiction, must be considered by this court on merits, even though in the future it becomes subject to jurisdiction of another arbitration court.

II. Arbitration court shall transfer a case to another court for trial:

1) if in the course of a trial it is discovered that, that the case has been received for consideration with violation of rules of jurisdiction;

2) if after disqualification of one judge or more, their substitution in this court becomes impossible, and in other cases, when the case may not be considered by this court.

III. A ruling shall be rendered on transfer of a case to another arbitration court for trial.

IV. A case, transferred to another arbitration court, must be accepted by this court for consideration. Disputes on jurisdiction between arbitration courts of the Kyrgyz Republic shall not be allowed.

Chapter 4

Persons, participating in case and other participants of arbitration procedure

Article 27. Persons participating in cases

I. Persons participating in a case shall be:

- parties, third parties;
- petitioners and other interested persons - in cases on bankruptcy of enterprises;
- procurator, government agencies, agencies of local self-government and other agencies, which filed an action to the arbitration court concerning protection of state and public interests.

II. Arbitration court in the course of arbitration proceeding shall explain to persons participating in the case their rights, duties, and shall suggest, that parties make amicable agreement, and shall inform on consequences for termination of proceedings in this connection, shall warn on consequences for exercising or non-exercising of procedural actions.

Rights and duties which have been explained pending preparation of the case to the trial, may not be explained during the hearing.

Article 28. Rights and duties of persons, participating in case

I. Persons participating in a case, shall have right to familiarize themselves with materials of the case, make excerpts, make copies, declare disqualification, present evidence, participate in examination of evidence, interrogate participants of the arbitration trial, submit motions, make petitions, give explanations to the arbitration court, present arguments on any issues, arising in the arbitration proceeding, object to motions and arguments of other persons, participating in the trial, appeal court acts and enjoy other procedural rights, provided by this Code.

II. Persons, participating in the case, shall have duties, provided by this Code, and shall exercise in good faith their procedural rights.

III. Arbitration court shall impose a fine in the amount of up to one hundred minimal monthly wages on the persons, participating in case for abuse of their procedural rights for the purpose of misleading the court, or when the abuse results in violation of the timing of the case trial, as well as for filing an intentionally false action against the defendant.

Article 29. Parties

- I. Plaintiff and defendant shall be the parties in a case.
- II. Plaintiff shall be an enterprise, which files an action in its interests, or an enterprise in which interests an action has been brought.
- III. Defendant shall be an enterprise, against which an action has been brought.
- IV. Both parties shall enjoy equal procedural rights.

Article 30. Participation of several plaintiffs and defendants in case

- I. An action may be filed by several plaintiffs or to several defendants. Each plaintiff or defendant acts in court independently. Co-participants may entrust one of the co-participants with conducting the case.
- II. If it is necessary to involve another defendant, the arbitration court shall involve this defendant with the plaintiff's consent, before the decision is rendered.

Article 31. Replacement of improper party

- I. If the arbitration court establishes during the trial, that the action has been filed by a wrong person, who does not have the right to claim or it has been filed against a wrong person, who is not answerable for this claim, the arbitration court may allow substitution of the initial plaintiff or defendant by the proper plaintiff or defendant, with the plaintiff's consent.
- II. If the plaintiff does not agree to be substituted by another person, this person may join the case as a third party, filing an independent claim related to the subject matter of the dispute, and the court shall notify this person thereof.
- III. If the plaintiff does not agree with substitution of a defendant by another person, the court may involve this person as the second defendant with the plaintiff's consent.
- IV. After replacement of an improper party the case shall be tried anew.

Article 32. Change of grounds or of subject matter of action, change of amount of action at law, rejection of action or recognition of action

- I. Before the judgement is rendered by the arbitration court, the plaintiff shall have the right to change the grounds or the subject matter of the action, increase or decrease the amount of action at law or reject the action.
- II. The defendant shall have the right to recognize the action in full or in part.
- III. The parties may finish the case by amicable agreement.
- IV. Prior to acceptance of rejection of the action or approval of the amicable agreement, the arbitration court shall explain the consequences for these procedural actions to the parties.
- V. Arbitration court shall not accept rejection of action, decrease of amount of action at law, recognition of action, shall not approve amicable agreement, if it contradicts laws and other normative legal acts or violates the rights and legal interests of other persons. In these cases the court shall try the dispute on merits.

Article 33. Third parties

- I. Third parties, filing independent claims for the subject matter of a dispute, may enter into the case before the arbitration court makes its decision. They shall enjoy all rights and shall have all duties of a plaintiff, except for the obligation to take measures for pre-trial settlement of the dispute with the defendant as provided by law for this category of disputes or by contract.
- II. Third parties, who do not file independent claims for the subject matter of the dispute, may join the case on the side of either the plaintiff or the defendant, before the arbitration court makes a decision, if the decision of the court may affect their rights and duties with regard to any party. They may be involved in the case also by the motion of parties or the initiative of the arbitration court.

Third parties who do not file independent claims, shall enjoy procedural rights and shall have procedural duties of parties, except for the right to change the grounds and subject matter of the claim, to increase or decrease the amount of actions at law, to reject the action, or to enter into an amicable agreement, to demand enforcement of the decision.

Article 34. Procedural succession

I. In case a party in disputable or established by arbitration court legal relationship (restructuring, assignment of a claim, transfer of a debt, etc.) leaves, arbitration court shall substitute this party by its successor, indicating this in the order, judgement or resolution. Succession shall be possible on any stage of arbitration proceedings.

II. All actions exercised in the trial before a successor joins the case, shall be binding for the successor to the extent, they are binding for the person, who have been substituted by the successor.

Article 35. Procurator's participation in case

I. Procurator shall have the right to file an action to the arbitration court for protection of state interests.

II. The Procurator General and his/her deputy, procurator or deputy procurator of oblast, Bishkek City and equated to him/her procurators and their deputies shall file a petition to the arbitration court.

III. The procurator, who files a claim, shall enjoy rights and have duties of the plaintiff, except for the right to enter into an amicable agreement.

IV. Procurators' rejection of the filed claim shall not deprive the plaintiff of the right to claim consideration of the case on merits.

V. Plaintiff's waiver of the action, which has been filed in his/her interests by the procurator, shall entail leaving the action without consideration.

Article 36. Participation in case of government agencies, agencies of local self-government and other agencies

I. As provided by laws of the Kyrgyz Republic, government agencies, agencies of local self-government and other agencies shall have the right to file an action to the arbitration court to protect state and public interests.

II. An agency, which files an action, shall enjoy rights and have duties of a plaintiff, except for the right to enter into an amicable agreement.

III. Waiver of a filed claim by the agency, shall not deprive the plaintiff of the right to claim consideration of the case on merits.

IV. Plaintiff's waiver of an action, which has been filed by the agency in the interest of the plaintiff, shall entail leaving the action without consideration.

Article 37. Other participants of arbitration proceeding

Besides persons, participating in the case, experts, interpreters, representatives may participate in the arbitration proceedings.

Article 38. Expert

I. A person, who has special skills, necessary to give the opinion, and who is appointed by the court as provided by this Code may be an expert in an arbitration court hearing.

II. A person, who is entrusted to conduct an expertise, shall appear by summons of the arbitration court, and shall give his/her objective opinion on the issues in question.

III. An expert may refuse to give an opinion, if the materials given to him/her are not sufficient, or if he/she does not have skills necessary to perform the entrusted task.

IV. An expert, if it is necessary for making an opinion, shall have right to familiarize with the materials of the case, participate in the sittings of the arbitration courts, interrogate, petition the court for providing him/her with additional materials.

V. The expert shall be criminally liable for perjury.

Article 39. Interpreter

I. An interpreter shall be a person, who speaks the languages, required for interpretation, and who is appointed by the court as provided by this Code.

- II. An interpreter may be appointed from the number of persons, suggested by the participants of the case. Other participants of the case shall not have the right to take over the duties of the interpreter, even though they speak languages required for interpretation.
- III. An interpreter shall appear by summons of the arbitration court and perform interpretation fully, correctly and timely.
- IV. While interpreting, an interpreter shall have the right to ask questions to persons present to clarify the translation.
- V. An interpreter shall be criminally liable for intentionally false interpretation.

Chapter 5 Representation on arbitration court

Article 40. Conducting cases through representatives

- I. The bodies of enterprises, acting within the limits of authority, given to the same by the legislation or by founding documents and the representatives of these enterprises shall conduct the cases in the arbitration court.
- II. In accordance with the founding documents, heads of enterprises, other persons shall submit the documents, certifying their position and authority, to the arbitration court.
- III. Any citizen having properly formalized authority to conduct cases in the arbitration court, may be a representative in the arbitration court.
- IV. Persons, who are not operationally capable or who are under guardianship or tutorship, may not be representatives in arbitration court.
- V. Judges, investigators, procurators and staff of the arbitration court may not be representatives in the arbitration court. This rule shall not extend to cases, when the said persons act in the proceedings in the capacity of designees of courts or procurators' offices.

Article 41. Authority of representatives

- I. The authority to conduct the case shall give the representative the right to exercise on behalf of the principal all procedural actions, except for the authority:
- to sign the claim;
 - to submit the case to the third party arbitration tribunal;
 - to deny or recognize the action in full or in part;
 - to change the subject matter or grounds of action;
 - to enter into an amicable agreement;
 - to transfer the authority to other person (subagency);
 - to appeal the judicial act of the arbitration court;
 - to sign a petition of protest;
 - to demand for enforcement of a judicial act, to receive the awarded property or money.
- II. Representative's authority to perform each of the actions set forth in this Article, must be precisely provided for in the power of attorney, issued by the principal.
- III. The authority on behalf of the enterprise shall be issued and signed by the head of this enterprise, or other person, authorized to do this by the founding documents, with the seal of this enterprise.
- The authority of the lawyer shall be certified in accordance with the procedure, established by law.
- IV. By the motion of a party, or by its own initiative, the arbitration court shall have the right to annul the authority of the representative for dishonest conduct, incompetence or irresponsibility.
- The arbitration court shall issue the judgement on annulment of representative's authority.

Chapter 6 Evidence

Article 42. Concept and types of evidence

- I. Evidence in the case shall be information received in accordance with the procedure provided by law, on which basis the arbitration court shall establish presence or absence of circumstances justifying the claims or objections of parties, as well as other circumstances significant for adequate resolution of the dispute.
- This information shall be established by written evidence or material evidence, expert's opinion, arguments of the parties participating in the case.
- II. Use of evidence, received in violation of law shall not be allowed.

Article 43. Obligation of proof

I. Each party must prove the circumstances, to which it refers as the grounds for its claims and objections.

In trying the disputes on invalidation of acts issued by government agencies, agencies of local self-government and other agencies, the agency which has adopted such act shall bear the obligation of proof of circumstances, which serve as grounds for issuing this act.

II. The arbitration court shall have the right to ask the parties to present additional evidence, if it decides, that the evidence presented is not sufficient for consideration of the case.

Article 44. Relevance and admissibility of evidence

I. The arbitration court shall accept only evidence relevant to the case in question.

II. Circumstances of the case, which must be proved by specific evidence, according to law or other normative legal acts, may not be proved by other evidence.

Article 45. Grounds for exemption from prove

I. Circumstances of the case, which are found commonly known by the court, shall not need to be proven.

II. Circumstances which have been established by the effective ruling of the arbitration court on a previously considered case, shall not be proved anew in another case hearing, where the same parties participate.

III. Effective ruling on a civil case issued by the court of general jurisdiction shall be binding on the arbitration court hearing another case, with regard to issues on circumstances established by the ruling of the court of general jurisdiction, which are relevant to parties, participating in the case.

IV. Effective sentence issued by a court on a criminal case shall be binding on the arbitration court with regard to issues of whether specific actions have taken place and who has committed the same.

Article 46. Written evidence

I. Written evidence shall be agreements, acts, references, business correspondence, other documents and materials, which contain information on circumstances significant for the case, including those received by facsimile, electronic or other communications or by other way, which allows to establish authenticity of the document.

II. Written evidence shall be presented in original or in the form of a copy, certified in a proper way. If only a part of a document is relevant to the case in question, the certified excerpt of this document shall be presented.

Original documents shall be presented, when according to laws or other normative legal acts, circumstances of a case must be proved by such documents only, as well as in other necessary cases, they shall be presented by the demand of the arbitration court.

III. Copies of written evidence, presented to the arbitration court by a person, participating in the case, shall be sent (transferred) by that person to other parties, participating in the case, who do not have these materials.

Article 47. Material evidence

Material evidence shall be objects, which by their appearance, inner qualities, place of location or other features may serve as means of establishing the circumstances significant for the case.

Article 48. Examination and inspection of evidence at place of its location

I. Arbitration court may exercise examination and inspection of evidence at the place of its location, if delivery of the evidence to court is impossible or difficult.

II. The arbitration court shall carry out inspection and examination of evidence with notification of parties, whose failure to appear in court does not impede examination and inspection.

III. If necessary, experts may be summoned to participate in examination and inspection of evidence.

IV. A record shall be compiled immediately after examination and inspection of evidence at the place of its location.

Article 49. Presentation and withdrawal of evidence

I. Evidence shall be presented by parties, participating in the case.

II. A person, who participates in the case, but does not have the opportunity to get the evidence himself/herself from a person holding this evidence who participates or does not participate in the case, shall have the right to petition to the arbitration court concerning withdrawal of this evidence. The petition shall indicate, which circumstances, relevant to the case, may be established by this evidence, shall identify the evidence and its location. If necessary, the court shall issue a request for the evidence to a person, participating in the case. A person, who holds the required evidence shall send it directly to court or shall hand over it to the party holding a corresponding request to be submitted to court.

III. If a person, from whom the evidence is withdrawn by court, does not have an opportunity to present it at all or present it within a period established by court, this person shall notify the court thereabout indicating the reasons within five days after receiving the court's request.

In the event of failure to perform the obligation to present the required evidence for reasons, which are found insufficient by court, a fine in the amount of one hundred minimal monthly wages shall be imposed on the person, who holds this evidence.

IV. Imposition of the fine shall not excuse the person holding the required evidence from the obligation to present the same to the arbitration court.

Article 50. Evaluation of evidence

I. The arbitration court shall evaluate the evidence by its inner persuasion, based on thorough, complete and objective study of the evidence available in the case.

II. No evidence shall have a previously established force for the arbitration court.

Article 51. Keeping material evidence

I. The arbitration court shall keep the material evidence.

II. Material evidence which may not be delivered to the arbitration court shall be kept at the place of its location. The evidence must be described in detail, sealed, and photographed or videotaped, if necessary.

III. The costs of keeping the material evidence shall be distributed between the parties in accordance with Article 86 of this Code.

IV. The arbitration court and the keeper shall take measures necessary to keep material evidence unchanged. The keeper shall be held liable in accordance with the legislation.

Article 52. Returning of original documents

Original documents, attached to the file, may be returned to persons, who presented them, by their request, after effectuation of the ruling of the arbitration court, and if the court decides, that returning the documents does not affect the proper resolution of the dispute, the original may be returned during the proceedings, before effectuation of the ruling. The nominated persons shall also present a properly certified copy of the original, along with the request for return, or shall request certification of the validity of the copy, staying in the file, by the court.

Article 53. Disposal of material evidence

I. After effectuation of the ruling of the arbitration court, material evidence shall be returned to the persons, from whom it has been received, or shall be transferred to those persons, whose right for these objects has been recognized by court, or shall be disposed in other procedure determined by court.

II. In specific cases, material evidence may be returned to persons from whom it has been received, in the course of the case proceedings after it has been inspected and examined by the arbitration court, if those persons file a request thereon, and granting this request does not affect the proper resolution of the dispute.

III. The arbitration court shall render a decision on disposal of evidence.

Article 54. Appointment of expertise

I. By the motion of a person, participating in the case, the arbitration court shall appoint an expertise to clarify issues, which arise in the case hearing and require special knowledge.

II. The parties shall have the right to present to the arbitration court issues, which must be clarified by means of the expertise, and to present proposals on experts' candidacies.

III. The arbitration court shall establish the final content of issues, on which expert's opinion is required. If the court decides to decline issues suggested by a person participating in the case, the court shall justify the declination.

IV. The arbitration court shall render a decision on appointment of expertise.

Article 55. Procedure for conducting expertise

I. Employees of expertise institutions or other specialists, authorized by the arbitration court shall carry out the expertise. Several experts may be put in charge of the expertise.

II. Expertise shall be conducted in the session of the arbitration court, or out of the session, if it is required by the nature of research, or if delivery of materials for research in the court session is impossible or difficult. Persons participating in the case shall have the right to be present in the course of conducting the expertise, except for cases, when such presence in the course of expertise out of the court session may disturb normal work of experts.

III. If two or more experts are charged with conducting the expertise, they shall have the right to consult with each other. If the expert come to one conclusion, they shall give one joint opinion. If an expert does not agree with the joint opinion, he/she shall give his/her personal opinion.

Article 56. Expert's opinion

I. Expert shall give his/her opinion in writing.

II. Expert's opinion must include a detailed description of the conducted research, drawn conclusions and answers to questions placed by the arbitration court.

If during the expertise an expert establishes circumstances, relevant to the case, but not covered by the questions of the arbitration court, he/she shall have the right to enter conclusions on these circumstances in his/her opinion.

III. Expert's opinion shall be examined in the sitting of the arbitration court, and shall be evaluated along with other evidence.

IV. In the event of unclarity or insufficiency of the expert's opinion, the arbitration court may appoint additional expertise, by entrusting the same or another expert with the expertise.

V. In the event of disagreement with the expert's opinion, the arbitration court may, by the motion of a person participating in the case, appoint additional expertise, by entrusting the same to another expert.

Article 57. Arguments of persons participating in case

I. Arguments of persons, participating in the case, with regard to relevant circumstances of the case, they have actual knowledge of, shall be subject to examination and evaluation along with other evidence. By the proposal of the arbitration court, a person participating in the case shall state his/her arguments in writing.

II. Recognition of facts by a person, participating in the case, which facts serve as grounds for other person's claims or objections, shall not be binding on the arbitration court.

III. The arbitration court may consider a recognized fact as established, if the court does not doubt that recognition corresponds to circumstances of the case and is not made under the fraud, duress, threat, mistake, or for the purpose to conceal the truth.

Article 58. Securing evidence

I. Persons having grounds for concerns about the fact that presentation of required evidence becomes impossible or difficult, may ask the arbitration court, which has accepted the case for trial, to secure this evidence.

II. The request for securing the evidence must specify the evidence to be secured, circumstances, which must be proven by this evidence, reasons which urged the petitioner to file the request for securing the evidence.

III. A justified decision shall be rendered on securing the evidence or on dismissal of the request.

IV. The decision on dismissal of the request to secure the evidence may be appealed against.

Article 59. Procedure for securing evidence

I. The arbitration court shall secure the evidence according to the rules, established by this Code.

II. Parties shall be notified on the time and place of considering the request for securing the evidence, and the failure of the parties to appear shall not be an impediment to consideration of the request.

Article 60. Commission by court

I. If necessary to obtain evidence on the territory of another oblast of the Kyrgyz Republic, the arbitration court hearing the case shall have the right to commission to the corresponding arbitration court to conduct specific procedural actions.

II. A decision on judicial commission to court shall briefly state the merits of the case in question, circumstances subject to clarification, evidence to be collected by the commissioned arbitration court.

III. A decision on commission to a court shall be binding for this arbitration court, and must be performed within fifteen days after the decision has been received.

Article 61. Procedure for performance of judicial commission

I. Judicial commission shall be performed in the sitting of the arbitration court in accordance with rules, established by this Code. Persons participating in the case shall be notified on the time and place of the sitting, their failure to appear, however, shall not impede the sitting.

II. A decision shall be rendered on performance of the judicial commission, which shall be immediately sent to the arbitration court hearing the case along with other documents.

III. Persons, participating in the case, who have presented their arguments or testimony to the commissioned arbitration court, in the event of their participation in a sitting of the court hearing the case, shall present their arguments and testimony in accordance with the general procedure.

Chapter 7 Records

Article 62. Maintaining records of sittings

I. Records shall be maintained of sittings of courts of first and appellate instances, as well as performance of specific extrajudicial procedural actions.

II. Records of other procedural actions, including sittings of courts of cassation instance, shall be maintained, if required by court.

Article 63. Contents of records

I. Records of court sitting or extrajudicial procedural action must reflect information relevant for consideration and resolution of the case or for performance of procedural actions.

II. Records of a court sitting shall indicate:

A. year, month, day and place of the sitting;

B. time of commencement and conclusion of the court sitting;

C. name of the court hearing the case, composition of the court and name of a person maintaining the record;

D. name of the case;

E. persons participating in case;

F. information on attendance of persons participating in the case and other participants of the arbitration procedure;

G. information on explanation to persons participating in the case and other participants of the arbitration procedure, of their procedural rights and duties;

H. decisions rendered by court without leaving the court room;

I. oral petitions and motions of persons, participating in the case;

J. oral explanations by experts of their opinions.

The records on performance of specific procedural actions shall also include the data received.

Article 64. Maintaining records

I. Records shall be maintained by a judge chairing the court sitting, or other judge of the panel hearing the case.

II. Secretary in the court sitting or a judge shall compile the records.

III. Arguments of parties and oral responses of experts shall be recorded in the volume, which is relevant for resolution of the case. Corresponding persons shall be informed immediately at the sitting about the contents of the records in this part, and this part shall be submitted to them for signing. Based on objections, which the court has agreed with, amendments shall be made to the records. Objections, which the court has disagreed with, shall be entered into the records, or if they are presented in writing, they shall be attached to the records.

IV. A person participating in the case, or other participant of the arbitration proceeding shall have the right to request the recording of circumstances, which he/she regards relevant.

V. Records of court sitting shall be signed by the judge chairing the sitting.

VI. By the court's ruling, arguments of participants of the hearing, oral responses of experts may be taken in short hand, recorded on audio and video tape. Audio or video tape and stenography shall be attached to the file, which shall be stated in the records.

Article 65. Records of court sitting in appellate and cassation instances

I. Only data, which by the court's opinion are relevant for consideration of the case in cassation instance, shall be subject to entering in the records of the court sitting in the appellate instance.

II. Only data relevant to circumstances of the case shall be entered in the records of court sitting in cassation instance.

Chapter 8 Securing claim

Article 66. Grounds for securing claim

I. Arbitration court by the petition of a party, shall have the right to take measures on securing a claim. Securing of claim shall be allowed on any stage of arbitration proceedings, if failure to take such measures may impede or make impossible performance of the judicial act.

II. Arbitration court hearing the dispute shall consider the petition on securing the claim no later than on the day following the submission of the petition.

III. Decision shall be rendered on the results of considering the petition.

IV. The court shall justify the decision to deny securing of a claim.

Article 67. Measures on securing claim

I. Measures to secure a claim may include:

A. imposition of arrest on property or monetary means owned by the defendant;

B. prohibition for defendant to exercise specific actions;

C. prohibition for other persons to exercise specific actions concerning the subject matter of the dispute;

D. suspension of execution under the writ of execution or other document challenged by the plaintiff, according to which execution is exercised without recourse to the court (non-acceptance procedure);

E. suspension of the sale of property in the event of filing an action on release from the arrest.

If necessary, several measures may be taken to secure the claim.

II. By the defendant's request, arbitration court, which allows securing of the claim, may demand that the plaintiff provide a security of compensation of possible losses of the defendant.

III. In the event of failure to comply with measures indicated in points 2 and 3 of part 1 of this Article, a fine shall be imposed on the enterprise to be collected to the republican budget:

on claims subject to evaluation - in the amount of up to 50% of the value of the claim;

on claims not subject to evaluation - in the amount of up to 100 minimal monthly wages.

IV. The plaintiff shall have the right to collect damages caused by failure to perform the decision of the arbitration court on securing the claim, by filing an action with the same arbitration court.

Article 68. Replacement of one security of claim with another

I. Replacement of one claim security with another shall be allowed.

II. The issue on replacement of one claim security with another shall be permitted in accordance with the procedure established in Article 67 of this Code.

III. In securing the claim on collection of monetary means, the defendant shall have the right to deposit the amount claimed by the plaintiff in the arbitration court, instead of taking the established measures on securing the claim.

Article 69. Performance of decision on securing claim

A decision on securing a claim shall be performed promptly in the procedure established for enforcement of arbitration court decisions.

Article 70. Cancellation of claim security

I. By the request of a person participating in the case, the claim security may be canceled by the arbitration court hearing the case. The issue on cancellation of the claim security shall be decided in the court sitting.

II. Persons participating in the case, shall be notified on the time and place of the sitting, their failure to appear, however, shall not impede consideration of the issue on canceling the claim security.

III. A decision shall be rendered concerning the results of consideration of the issue on canceling the claim security. The court shall justify the decision on cancellation of the claim security or on rejection to grant the request for canceling the claim security.

IV. In the event of rejection of the claim, measures taken to secure the claim shall remain valid till effectuation of the judgment. The arbitration court, however, may render a decision on canceling the claim security simultaneously with rendering the judgement or after its adoption.

Article 71. Compensation of defendant's damages caused by securing claim

After the judgement on dismissal of claim takes the legal effect, the defendant shall have the right to demand that the plaintiff compensate for damages caused to the defendant by securing the claim, by way of filing an action with the same arbitration court.

Chapter 9 Suspension of proceedings

Article 72. Grounds for suspension of proceedings

I. Arbitration court shall suspend proceedings in the case, if it is impossible to hear this case before the decision on another case or issue heard in the procedure of constitutional, civil or criminal proceedings is rendered, and in other cases, provided by law.

II. Arbitration court shall have the right to suspend the proceedings in the case, if expertise or restructuring of an enterprise acting as a party in the case is assigned by the arbitration court.

Article 73. Renewal of proceedings

Arbitration court shall resume proceedings in the case after elimination of circumstances, which caused its suspension by the petition of persons participating in the case or by the initiative of the arbitration court.

Article 74. Procedure for suspension and renewal of proceedings

I. The arbitration court shall render a decision on suspension and renewal of proceedings in the case.

II. Decision of the arbitration court on suspension of proceedings in the case may be appealed against.

Chapter 10 Termination of proceedings

Article 75. Grounds for termination of proceedings

I. Arbitration court shall terminate proceedings in the case:

A. if the dispute is not subject to consideration by the arbitration court;

B. if the plaintiff does not take measures for pretrial settlement of the dispute with the defendant, when the law or the contract establishes the same for such category of disputes, and the opportunity of such a settlement is lost;

C. if an effective court judgement is available, which has been rendered with regard to the dispute between the same parties, on the same subject matter, and on the same grounds;

D. if an effective judgement of the third party arbitration tribunal is available, which has been rendered with regard to the dispute between the same parties, on the same subject, and on the same grounds, except when the arbitration court rejects issuance of the writ of execution for enforcement of the decision of the third party arbitration tribunal, returns the case for rehearing in the third party arbitration tribunal, which has rendered the judgement, but hearing of the case in the same third party arbitration tribunal appears impossible;

E. if an enterprise acting as a party in the case is liquidated;

F. if the plaintiff rejects the claim and the rejection is accepted by the arbitration court;

- G. if the parties enter into an amicable agreement and it is approved by the arbitration court.
- II. Arbitration court shall render a decision on termination of proceedings of the case.
- III. The decision of the arbitration court may resolve the issues on allocation of judicial costs between the parties, and on complete or partial returning of state duties.
- IV. Arbitration court decision on termination of proceedings of the case may be appealed against.

Article 76. Consequences for termination of proceedings

In the event of termination of proceedings in the case, second petitioning to arbitration court on the dispute between the same parties, on the same subject, and on the same grounds shall not be allowed.

Chapter 11 Refusal to hear claim

Article 77. Grounds for refusal to hear claim

- I. Arbitration court shall leave the action without consideration:
 - A. if a proceedings on a case between the same parties, on the same subject matter, and on the same grounds are initiated by the court (third party arbitration tribunal);
 - B. if an agreement is reached by the parties on submitting this case to third party arbitration tribunal for resolution, and the possibility to petition to the third party arbitration tribunal has not been lost, and if the defendant, who objects to hearing of the case by arbitration court, files a request on submission of a dispute to third party arbitration tribunal for resolution, no later than the first petition on the merits of the dispute is filed;
 - C. if the claim is not signed, or is signed by a person, who does not have authority to sign the same, or by a person, whose official position is not indicated;
 - D. if the plaintiff does not apply to the bank or other financial institution to receive the debt, when it must be received via the bank or other financial institution, in accordance with the law or other normative legal act;
 - E. if the plaintiff does not take measures for pre-trial settlement of the dispute with the defendant, when it is provided by the law for this category of disputes, or by the contract, and the possibility for such settlement is not lost;
 - F. if the plaintiff or his/her representative does not appear in the hearing of the arbitration court, and does not notify the court on hearing the case without his/her participation.
- II. Arbitration court shall render a decision on refusal to hear a claim.
- III. Decision of the arbitration court may resolve the issues on allocation of judicial costs between the parties, on complete or partial returning of state duties.
- IV. Decision on refusal to hear the claim may be appealed against.

Article 78. Consequences for refusal to hear claim

After elimination of circumstances which serve as grounds for refusal to hear a claim, the plaintiff shall have the right to file an action to the arbitration court anew in the general procedure.

Chapter 12 Amicable agreement of parties

Article 79. Terms of amicable agreement of parties

- I. An amicable agreement of parties shall be allowed in hearing the case in the court of any instance. Achievement of an amicable agreement shall be drawn by the parties in writing.
 - II. An amicable agreement shall be approved by the arbitration court, a relevant decision shall be rendered indicating termination of proceedings on the case. In the event of approval of the amicable agreement of parties in the proceedings in appellate and cassation instances, arbitration court shall cancel the previous judgements and orders, and shall terminate the proceedings in the case.
 - III. In the event of refusal to approve the amicable agreement on the grounds set forth in Article 32 of this Code, arbitration court shall make a justified decision.
- Decision on refusal to approve the amicable agreement may be appealed against.

Chapter 13 Court fees

Article 80. Composition of court fees

Court fees shall be composed of state duties and expenditures related to consideration of the case: mailing expenses related to delivery of court acts, amounts payable for carrying out expertise appointed by the arbitration court, examination of evidence on premises, as well as expenses, related to execution of the court act.

The amount of predicted mailing expenses related to delivery of court acts shall be determined by the arbitration court, and shall be deposited by the plaintiff at the arbitration court.

Article 81. Payment of state duty

State duty shall be collected on all cases heard by arbitration courts of the Kyrgyz Republic.

Article 82. State duty

I. State duty shall be collected for:

- action suits;
- petitions on finding enterprises bankrupt;
- petitions on joining the case as a third party presenting independent claims on the subject matter of the dispute;
- appellate and cassation claims on decisions of the arbitration court, as well as decisions of arbitration court on termination of proceedings in a case, on dismissal of the claim and imposition of court fines;
- requests for issuance of a writ of execution for enforcement of a decision of the third party arbitration tribunal;
- issuance of copies of judgements, decisions, rulings of the arbitration court, and copies of other documents from the case, which are issued by the arbitration court at the request of persons, participating in the case;
- appellate and cassation complaints against a decision of the arbitration court concerning issuance of the writ of execution for enforcement of the judgement of third party arbitration tribunal and the amicable agreement, and concerning rejection to issue the writ of execution.

II. In the event of increasing the value of claims, the deficient amount of the state duty shall be paid in accordance with the increase of the value of the claim. In the event of decrease of the value of the claim the paid duty shall not be returned.

III. Issues on establishment of the amount of state duty, duty exemptions, postponement of payment or installment payment of the duty, and decrease of the duty amount shall be resolved in accordance with law.

IV. A person filing a petition on the oversight reviewing of the case shall deposit advanced money at the arbitration court:

- 1) in the amount of one per cent of the amount requested or challenged, but no less than 10 minimal monthly wages;
- 2) in the amount of two minimal monthly wages for actions on invalidation of acts of government agencies or other agencies, and for pre-contractual disputes.

In the event of full or partial recovery of the petition, monetary deposit shall be returned on the basis of a certificate issued by the arbitration court.

The deposit shall become revenue of the Republic, in the event of absence of grounds for submission of a report or rejection of a report on the effective judgement or ruling of the arbitration court submitted to the Presidium of Higher Arbitration Court of the Kyrgyz Republic for consideration.

Government agencies and agencies of local self-government petitioning to the arbitration court for protection of state and public interests shall be exempt from the monetary deposit.

Article 83. Value of claim

I. Value of claim shall be determined:

- on claims concerning collection of monetary means, based on the amount collected;
 - on claims concerning finding the writ of execution or another document as unenforceable, under which documents the execution is carried out without recourse to the court (in the non-acceptance procedure), based on the challenged amount;
 - on claims concerning withdrawal, based on the value of the property.
- The value of claims shall also include amounts of penalty (fine) stated in the claim and the damages.

II. The value of a claim, which consists of several independent claims, shall be determined by the total amount of all claims.

III. In the event of a wrong indication of the value of a claim, it shall be determined by the arbitration court.

Article 84. Return of state duty

- I. State duty shall be returned in accordance with law.
- II. A judicial act of the arbitration court shall indicate circumstances, which serve as grounds for full or partial return of the state duty.
- III. On petitions, appellate and cassation complaints, which are paid for by the state duty, but are not received by the arbitration court or are returned by the same, and on judicial acts providing for full or partial return of the duty, the duty shall be returned on the basis of a certificate issued by the arbitration court.

Article 85. Payment of amount due to experts and interpreters

- I. Experts and interpreters shall be reimbursed for losses related to appearance in the arbitration court, such as transport expenses, hiring premises, and per diem.
- II. Experts and interpreters shall receive compensation for the work performed by the same upon the commission of the arbitration court, unless this work is included in the scope of their professional duties.
- III. A party making the corresponding request shall deposit the amounts payable to experts and interpreters at the arbitration court in advance. If the request comes from both parties, the required amounts shall be equally deposited by both parties. If additional expertise is appointed by the initiative of the court, amounts payable to the expert shall be paid by the court from the deposit account. These amounts shall be collected from persons, participating in the case, in accordance with Article 86 of this Code, with entering the same on the deposit account of the court.
- IV. Arbitration court shall pay amounts due to experts and interpreters, after they have performed their duties.
- V. The procedure for payment and the amounts payable shall be established by the legislation of the Kyrgyz Republic.

Article 86. Allocation of court fees between the parties

- I. Court fees shall be divided between the parties in proportion to the amount of granted claims.
- II. If the case arose due to violation by a party of pretrial settlement of the dispute, provided by law for this category of disputes or by the contract (leaving the claim without response, failure to send required documents), the arbitration court shall have the right to attribute all judicial fees to this party, irrespective of the outcome of the case.
- III. In the event the parties reach an agreement on allocation of judicial fees, the arbitration court shall render a judgement in accordance with this agreement.
- IV. Court expenses incurred by parties in connection with filing the appellate, cassation complaint shall be allocated in accordance with the rules set forth in this Article.
- V. If the plaintiff is exempt from the state duty in the established procedure, the state duty shall be collected from the defendant in proportion to the amount of granted claims, unless the defendant is exempt from the state duty.

Chapter 14 Procedural periods

Article 87. Establishment and calculation of procedural periods

- I. Procedural actions shall be carried out within the time periods established by this Code or other law, and when procedural periods are not established, they shall be appointed by the arbitration court.
- II. Periods for performance of procedural actions shall be determined by the exact calendar date, by statement of an event, which shall definitely happen, or by the period of time, within which the action may be performed.
- III. Duration of the procedural periods calculated by years, months or days shall start on the day following the calendar date or the day of occurrence of the event, by which the beginning of the period has been determined.

Article 88. Termination of procedural periods and consequences for omission of the same

- I. The period calculated by years shall expire in the corresponding month and day of the last year of the established period. The period calculated by months shall expire on the corresponding day of the last month of the established period. If the period calculated by months expires in the month, which does not have the corresponding date, the period shall expire on the last day of this month.

In the event the last day of the period is a holiday, the day of expiration of the period shall be the next working day.

II. A procedural action may be performed up to the midnight of the last day of the established period. If the response to the claim, cassational complaint or other documents are submitted to the communication agency before the midnight of the last day of the period, the term shall not be considered omitted. If the procedural action must be performed in court, the period shall expire at the end of the working day of the court.

III. The right to perform procedural actions shall terminate with expiration of the period established by law or appointed by court.

IV. Complaints and documents filed after the expiration of the procedural periods, shall be left without consideration, and shall be returned.

Article 89. Suspension of procedural periods

Duration of all unexpired procedural periods shall be suspended along with suspension of the proceedings in the case. As of the date of renewal of the proceedings in the case duration of procedural periods shall continue.

Article 90. Revival and prolongation of procedural periods

I. By the petition of a party, the arbitration court shall revive the omitted period provided that it finds reasons for omission of the period established by this Code or other law of the Kyrgyz Republic sufficient.

II. The revival of the omitted term shall be set forth in the judgement, decision or ruling of the arbitration court. A decision shall be rendered on rejection of the revival of the period.

III. The decision of the arbitration court on rejection of the revival of the omitted procedural period may be appealed against.

IV. The arbitration court may prolong the procedural periods appointed by the same at its own initiative or by the petition of a party.

Chapter 15 Court fines

Article 91. Imposition of fine

The arbitration court shall impose a fine in cases and in amounts established by this Code, which fine shall be collected to the republican budget.

In the event of refusal to pay the fine voluntarily, enforcement of the court decision on imposition of the fine shall be carried out in accordance with the rules of proceedings on cases of administrative offences.

Article 92. Procedure for considering issue on imposition of fine

I. The issue on imposition of a fine shall be resolved in the sitting of the arbitration court.

II. A legal entity, in which respect issue of imposition of a fine is considered, shall be notified about the time and place of the sitting by a registered letter with the confirmation of receipt, or by handing over the notification to its representative under the written acknowledgment. The failure of the properly notified person to appear shall not impede consideration of the issue on imposition of the fine.

III. The arbitration court shall render a decision on the results of consideration of the issue on imposition of the fine, which shall be sent to a person, with regard to whom this issue was considered.

IV. The decision of the arbitration court on imposition of a fine may be appealed against.

SECTION II PROCEEDINGS IN ARBITRATION COURT OF FIRST INSTANCE

Chapter 16 Filing claim

Article 93. Form and content of claim

I. A claim shall be filed to the arbitration court typewritten, and shall be signed by the head of an enterprise or other specially authorized person.

II. The claim must contain:

A. the name of the arbitration court, where the claim is filed;

- B. names of persons participating in the case, their post addresses, and bank particulars;
 - C. the value of claim, if the claim is subject to evaluation;
 - D. circumstances, on which claim is established;
 - E. evidence proving the grounds for claims;
 - F. calculation of collected or challenged amounts;
 - G. plaintiff's claims with reference to laws and other normative legal acts, and in the event of filing a claim to several defendants, claims to each of them;
 - H. information on measures taken for pretrial settlement of the dispute with the defendant, when it is provided by law for this category of disputes or by contract;
 - I. list of the attached documents.
- The claim shall also indicate other data, if necessary for correct resolution of the dispute, and shall indicate the plaintiff's motions.

Article 94. Sending copies of claim and attached documents

While filing a claim, the plaintiff shall send copies of the claim and of the attached documents lacking to the other party and third parties.

Article 95. Documents attached to claim

- I. Attached to the claim shall be documents, which confirm:
 - A. payment of state duty and postage costs, in the established procedure and amount;
 - B. sending copies of the claim and attached documents;
 - C. measures taken for pretrial settlement of the dispute with the defendant, when provided by law for this category of disputes or by contract;
 - D. circumstances, on which claims are based;
- If a claim is signed by a specially authorized person or representative, a document confirming his/her authority shall be attached.
- II. A draft of the agreement shall be attached to the petition on coercion to enter into such an agreement.
 - III. The copy of a questioned act shall be attached to the petition on finding the act invalid.

Article 96. Consolidation and separation of several claims

- I. The plaintiff shall have the right to consolidate several connected claims in one claim.
- II. Arbitration court shall have the right to consolidate several homogeneous cases, in which the same persons participate in one proceeding.
- III. Arbitration court shall have the right to separate one consolidated claim or more into a separate proceeding.
- IV. Arbitration court shall render a decision on consolidation of cases or separation of claims into a separate proceeding.

Article 97. Acceptance of claim

- I. The judge shall decide the issue on acceptance of a claim individually.
- II. The judge shall accept a claim filed in compliance with requirements set forth in this Code for trial in the arbitration court.
- III. The judge shall render a decision on acceptance of a claim. The content of this decision may be stated in the decision on preparation of the case to hearing in the sitting.

Article 98. Rejection to accept claim

- I. The judge shall reject acceptance of a claim:
 - 1) if the dispute is not subject to hearing in the arbitration court;
 - 2) if an effective court judgement is available, which has been rendered with regard to the dispute between the same parties, on the same subject matter, and on the same grounds, or if there is a court judgment on termination of the proceedings of the case or on approval of the amicable agreement;
 - 3) if the parties reach an agreement to submit the case to third party arbitration tribunal for consideration;
 - 4) if proceedings have been initiated by the arbitration court or third party arbitration tribunal on the dispute between the same parties, on the same subject matter and on the same grounds;

5) if an effective judgement of the third party arbitration tribunal is available, which has been rendered with regard to the dispute between the same parties, on the same subject matter, and on the same grounds, except when the arbitration court rejects issuance of the writ of execution for enforcement of the decision of the third party arbitration tribunal, returns the case for rehearing in the third party arbitration tribunal, which has rendered the judgement, but hearing of the case in the same third party arbitration tribunal appears impossible.

II. The judge shall make a decision on rejection of acceptance of a claim, which shall be sent to the parties and third parties no later than five days after submission of the petition. The decision shall indicate the agency, where the applicant must petition.

The materials of the claims and the certificate for returning the state duty shall be attached to the decision sent to the plaintiff.

III. The decision on rejection of acceptance of the claim may be appealed against. In the event of cancellation of the decision, the claim shall be considered filed on the day of the first petitioning to the arbitration court.

Article 99. Returning of claim

I. The judge shall return a claim and attached documents:

A. if the form and the content of the claim, established in Article 93 of this Code have not been observed;

B. if the claim is not signed, or signed by a person who does not have a right to sign it, or by a person, whose position is not indicated;

C. if the case is beyond the court's subject matter jurisdiction;

D. if confirmation of mailing or handing out of a copy of the claim to persons, participating in the case have not been presented;

E. if the documents have not been presented, which confirm payment of state fees and other court expenses in established about and in accordance with the established procedure, as well as in cases, when the court provides for the opportunity of delay of payment or payment by installments of state fees, or decreasing of its size, and the request for that is absent or has been rejected;

F. if the plaintiff has not presented documents which prove that measures for pretrial settlement of the dispute with the defendant have been taken, when it is provided by law for such categories of disputes or by the contract;

G. if several demands, not related to each other present one or several defendants in one claim;

H. if proves of petitioning to the bank or other crediting department for collection of debt from the defendant have not been presented, in the event, this debt must be received through the bank, or other crediting department, in compliance with law, or other normative legal act, or the agreement;

I. if a petition for withdrawing of the claim has been received before the decision on the acceptance of the claim is made.

II. The judge shall render a decision on withdrawing of a claim.

III. The decision on withdrawing of a claim may be appealed. In the event of canceling of the decision, the claim shall be considered as filed on the day of the initial petitioning to the arbitration court.

IV. Returning of the claim shall not impede the second petitioning to the arbitration court in a general order, after the violations made have been eliminated.

Article 100. Comment of claim

I. A person, participating in the case, shall have the right to send a comment of a claim to the arbitration court, with attached documents, which confirm objections against the claim, within a term which provides receiving the claim by the day of the case hearing, and evidence of sending of a copy of the comment and lacking documents to persons, participating in the case.

II. The comment shall include:

A. the name of the arbitration court, where the comment is sent;

B. the name of the plaintiff and the number of the case;

C. in the event of rejection of the claim - the motives of full or partial rejection of the plaintiff's claims, with a reference to the laws and other normative legal acts, as well as the proofs, which substantiate the objections;

D. list of documents attached to the comment.

The comment may include other information, as well as defendant's pleadings.

III. The comment shall be signed by the head of the enterprise or other specially authorized person. A document shall be attached to the comment, which attests the authority of a person, signed the comment to administer the case.

Article 101. Filing counter-suit

I. Before the case is resolved, the defendant shall have the right to file a counter-suit to the plaintiff, to be considered simultaneously with the initial claim.

II. A counter suit shall be filed in compliance with the general rules of claims.

III. A counter suit shall be accepted:

A. if the counter suit is filed to set off the initial claim;

B. if granting of the counter suit excludes granting of the initial claim in full or in part;

C. if there is a connection between the counter suit and the initial claim, and consideration of both initial claim and counter suit will lead to a faster and fair trial of the dispute.

Article 102. Change of address pending proceedings in case

Persons, participating in the case shall inform the arbitration court on change of their address pending the case. In the event of failure to inform the court, all procedural documents shall be sent to the latest address, available in the arbitration court, and shall be considered delivered, although the addressee is not located at that address any longer.

Chapter 17 Preparation of case to trial

Article 103. Actions of judge in course of preparation of case to trial

I. While preparing the case to a trial, the judge shall exercise the following actions within no less than ten days:

A. considers the issue of involving another defendant or third party;

B. notifies the interested persons of the proceedings in the case;

C. proposes to persons, participating in the case, other enterprises and their officials to exercise definite actions, including presentation of documents and information, which are relevant to resolution of the dispute;

D. checks relevance and admissibility of evidence;

E. considers the issue of appointing the expertise;

F. sends court orders to other arbitration courts;

G. summons persons, participating in the case;

H. takes necessary measures to reconcile the parties;

I. resolves the issue of summoning heads of enterprises, participating in the case for presentation of explanations;

J. takes measures to secure the claim.

II. The judge shall exercise other actions, which are aimed at provision of fair and timely resolution of the dispute.

Article 104. Decision on preparing case to trial

I. The judge shall render a decision on preparation of a case to trial, where he/she points out the actions in preparation of the case, appointment of the case to trial in the sitting of the arbitration court, time and place of hearing.

II. The decision shall be sent to persons, participating in the case by registered letter with notification, or shall be handed to their representatives under certification.

Chapter 18 Court trial

Article 105. Term of case trial

I. The case must be tried and the judgement must be rendered within a term, not exceeding one month term after the day, when the decision on preparation of the case to trial is rendered.

Disputes related to entering into, amending or breaking contracts, as well as disputes on finding invalid non-normative acts, issued by state agencies, agencies of local self-government and other agencies, shall be subject to resolution within twenty days.

II. In exceptional cases, the chairperson of the arbitration court or his/her deputy may extend the term of resolution of disputes.

Article 106. Session of arbitration court

I. The case shall be tried in the session of an arbitration court.

- II. A judge, presiding in the session shall:
- A. open the session of the arbitration court and announce the case subject to hearing;
 - B. check the appearance of participants of the arbitration procedure, their authority, whether people, who do not appear have been notified in accordance with the established procedure, and what information about their default is available;
 - C. announce the members of the court, inform, who participates in the hearing as an expert, interpreter, and explains the right of participants to propose disqualifications;
 - D. explain procedural rights and duties to the participants of the arbitration procedure;
 - E. warn the interpreter of his/her liability for knowingly incorrect interpretation, and warn the expert for knowingly wrong testimony or refusal to give opinion;
 - F. determine the order of the court hearing and examination of evidence;
 - G. govern the session, providing revelation of circumstances, relevant to the case;
 - H. take measures to provide a due order in the hearing.
- III. Those present in the courtroom shall have right to make written notes, keep the short-hand recording. Filming and taking pictures, video and audio recording, as well as TV and radio broadcasting of the session shall be allowed with the permission of the court, hearing the case.

Article 107. Order in arbitration court session

- I. Persons, participating in the case, and other participants of the arbitration procedure shall observe the order in the court session and absolutely obey all rulings of the judge, presiding in the session.
- II. Those present in the hearing shall stand up, when the judges enter the courtroom. All present in the courtroom shall listen to the judgement of the court upright.
- III. Persons, participating in the case and other participants of the procedure shall address the court and give their explanations upright. The rule may be departed with the permission of the judge presiding in the court.
- IV. The judge presiding in the court shall have the right:
- A. to remove from the courtroom any person, who breaks the order of the hearing or hinders the trial of the case;
 - B. to impose fine in the amount of up to 20 minimal monthly labor fees on any person who:
 - rudely violates the order in the courtroom and does not obey the rulings of the judge, presiding in the hearing;
 - expresses his/her contempt of the court orally or in writing (in a complaint or in a document, addressed to the court), uses obscene or offensive expressions or comparisons. The court may exclude a letter, complaint or document, which contain the contempt of the court from evidence.

Article 108. Examination of evidence and immutability of composition of court

- I. While hearing the case, the arbitration court shall examine evidence in the case: the court shall hear the explanation of parties and other persons participating in the case, and their representatives, shall hear experts' opinions, shall familiarize with written evidence, and inspect exhibits.
- II. The case shall be tried by an immutable composition of the court. In the event of replacement of a judge, the case must be tried anew.

Article 109. Order of resolution of petitions and motions by court

- I. Petitions and motions of persons, participating in the case, for requirement of new evidence and on all other issues, related to trial of the case, shall be resolved by the arbitration court after opinions of other persons, participating in the case have been heard.
- II. The arbitration court shall render a decision on the results of consideration of the petition and motion.

Article 110. Resolution of dispute in the event of failure to present comment on claim or additional evidence, as well as without participation of persons, participating in case

- I. Failure to present a comment on the claim, or additional evidence, which the judge has requested from the persons, participating in the case, shall not be an impediment to trial of a case on available materials.
- II. In the event of non-appearance of the defendant, who has been properly informed of the time and place of hearing, the dispute may be resolved in his/her absence.

III. In the event of non-appearance of the plaintiff, who had been properly informed of the time and place of the trial, the dispute may be resolved in his/her absence, if there is a petition by the plaintiff, on trial of the case in his/her absence.

Article 111. Postponement of trial

I. Arbitration court shall have the right to postpone trial of the case in the events, when it cannot be tried in this session, including cases of non-appearance of any person, participating in the case, expert, interpreter, or the necessity to present additional evidence.

The court shall render a decision on postponement of the case.

II. The participants of the arbitration procedure shall be notified on the time and place of the new session of the arbitration court by the decision or other document, which shall be sent by registered mail with notification or handed over to their representatives on certification.

Article 112. End of trial

After investigation of all evidence, the judge presiding in the court session, shall inquire persons, participating in the case about presence of additional materials on the case. If there are not such petitions, the judge, presiding in the court shall announce that investigation of the case is over, and the court shall retreat for making a judgement.

Chapter 19 Judgement of arbitration court

Article 113. Making judgement

I. While resolving a dispute on merits, the arbitration court shall render a judgement. The judgement of the arbitration court must be lawful and grounded.

Arbitration court shall base its judgement only on the evidence, which has been examined at the trial.

II. The judgement shall be rendered after the trial of the case in the sitting of the court is over. Only the judges, who are the members of the panel of the arbitration court in this case may stay in the room while making the judgement.

III. If the case is tried by a panel of judges, the judgement shall be rendered by the majority of votes.

Article 114. Issues, resolved during making judgement

I. While making a judgement, the arbitration court shall: estimate the evidence;
determine, which circumstances relevant to the case have or have not been established;
decide, which laws and other normative legal acts, to which the persons, participating in the case referred to, should not be applied in this case;

determine, which laws and other normative legal acts should be applied in this case;

establish the rights and duties of the persons, participating in the case;

decide, whether the claim shall be granted or not.

II. Arbitration court shall resume the trial of the case if it decides during the conference, that additional examination of evidence must be exercised or clarification of circumstances, relevant to the case must be continued.

III. The arbitration court, while making the decision may not:

go beyond the demands of a party;

apply limitation of actions by its own initiative, unless the parties refer to it;

refer to a circumstance, to which the parties did not refer during the trial of the case, except the cases, provided by part 4 of Article 32 of this Code.

Article 115. Statement of judgement

The judgement shall be stated in writing by the judge, hearing the case, presiding in the session or a judge of the panel, and shall be signed by all judges, participating in the session.

Article 116. Content of judgement

I. The arbitration court shall render a judgement in the name of the Kyrgyz Republic.

II. Judgement of the arbitration court shall consist of introduction, description, motivation and resolution.

The introduction of the judgement must contain the name of the arbitration court, which has rendered the judgement, the composition of the court, the number of the case, the date and the place of the trial of the case, names of the parties and other persons, participating in the case, the subject of the dispute, names of officials and representatives, who have participated in the session, with indication of their positions and authority.

The description of the judgement must contain a brief statement of the claim, comment on it, other explanations and motions by persons, participating in the case, issues, presented for the discussion by the initiative of the arbitration court.

The motivation of the judgement must contain the circumstances of the case, established by the arbitration court, evidence, on which the conclusions of the arbitration court on the circumstances have been made, and arguments, based on which the arbitration court declines any evidence, and does not apply laws and other normative legal acts, to which the persons, participating in the case refer, as well as the law and other normative acts, by which the court has been governed while making the judgement.

The resolution of the judgement shall contain opinion on granting or denial of any filed claim.

If there are several plaintiffs or defendants in the case, the judgement shall indicate, how the dispute has been resolved in relation to each of them.

If the initial and counter-claims were granted in full or in part, the resolution shall contain the amount, subject to collection as a result of set-off.

The resolution of the judgement indicates distribution of court fees between the parties.

III. If the arbitration court establishes the procedure for execution of the judgement, or takes measures to provide execution of this decision, it shall be reflected in the judgement.

Article 117. Judgement on collection of funds and awarding property

I. In the event of granting the claim on collection of funds, arbitration court shall indicate in the resolution of the judgement the total amount of funds, subject to collection, with specific determination of the main debt, losses and penalty (fine).

II. In the event of awarding the property, the arbitration court shall indicate the name of the property subject to transfer, its value and the place of location.

Article 118. Judgement on finding executive or other document non-subject to execution

In the event of granting the claim on finding an executive or any other document on which collection is made in unquestioned (non-accepted) order, including the grounds of certification by the notary non-subject to execution, the resolution of the judgement shall indicate the name, number and date of the document, non-subject to execution, and the amount, non-subject to writing-off.

Article 119. Judgement on entering into or amending agreement

On a dispute, arising while entering or amending an agreement, the resolution of the judgement shall contain a decision on each disputable provision of the agreement, and in the dispute on coercive entering into contract the resolution shall contain terms, based on which the parties must enter into an agreement.

Article 120. Judgement, which requires definite actions to be made by defendant

I. In the event of making a judgement, requiring the defendant to exercise definite actions, not related to transfer of property or collection of funds, the arbitration court shall indicate in the resolution, who, where, when or within which period of time is obliged to exercise such actions.

II. In the event of necessity the arbitration court may indicate, that if the defendant does not perform the judgement, the plaintiff shall have the right to exercise necessary actions at the defendant's expense, with collection of necessary expenses from him.

III. If the indicated actions may be exercised by the defendant only, the arbitration court shall establish a term in its judgement, within which the judgement must be performed.

Article 121. Announcement of judgement

I. After the judgement is rendered, the presiding judge shall announce it in the same session, in which the case has been heard. In exceptional events, in especially complicated cases, writing of a motivated judgement may be postponed for three days, but resolution shall be announced in the same session, in which the hearing is over. The presiding person shall announce, when persons participating in the case, may familiarize with motivated judgement.

The announced resolution of the judgement must be signed by all judges and attached to the file.

II. The judge presiding in the hearing shall explain the procedure of appeal of the judgement of the arbitration court.

Article 122. Effect of judgement

I. The judgement of the arbitration court shall come into effect upon expiration of a month term after it has been rendered.

The judgements of the Higher Arbitration Court of the Kyrgyz Republic shall become effective as of the moment they are rendered.

In the event of filing an appeal, a judgement, if it is not annulled, shall become effective as of the moment the appellate instance renders its ruling.

II. The judgement of the arbitration court shall be executed after its coming into effect.

III. Judgements of the court on the disputes on finding illegal non-normative acts or acts issued by the state, state agencies, agencies of local self-government and other agencies, as well as decisions on approval of amicable agreements, shall be subject to immediate execution.

Article 123. Enforcement of judgement

By the request of persons, participating in the case, the arbitration court shall take measures to enforce the judgement, as provided by the rules, established in Chapter 8 of this Code.

Article 124. Dissemination of judgement among persons participating in case

The judgement of the arbitration court shall be mailed by registered letter notification to persons, participating in the case or handed on receipt within five days after it has been signed.

Article 125. Additional judgement

I. Arbitration court, which renders the judgement, may make additional judgement in cases:

A. if a judgement has not been rendered on some claim, on which the persons, participating in the case present their evidence;

B. if the court, which resolves the issue of the right, does not indicate the awarded amount, property subject to transfer, or an action, which must be exercised by the defendant;

C. if the issue of court expenses is not resolved.

II. The issue of making an additional judgement may be raised before the judgement comes into effect.

III. The issue of making an additional judgement shall be resolved in the sitting. Persons, participating in the case, shall be notified of the time and place of the session by registered letter with notification or by handed over notification to their representatives on receipt. Non-appearance of the properly notified persons, participating in the case shall not impede consideration of the issue.

A decision shall be rendered in the event of rejection of the additional judgement.

IV. The decision of the arbitration court on rejection of the additional judgement may be appealed.

Article 126. Explanation of judgement. Correction of misspellings, mistypings and arithmetical errors

I. In the event of unclarity of the judgement, by the petition of a party, the arbitration court, which has resolved the dispute, shall have the right to explain the judgement, without changing its content, as well as correct misspellings, mistypings and arithmetical errors, without changing the nature of the judgement, by the petition of a party, or by its own initiative.

II. The decision shall be rendered on explanation of the judgement and correction of misspellings, mistypings or arithmetical errors.

III. The decision may be appealed.

Chapter 20
Decision of arbitration court

Article 127. Rendering of decision and its content

I. Arbitration court shall render its decision in the form of a separate act in the event of postponement of hearing of the case, suspension or termination of proceedings in the case, leaving the claim without consideration, as well as other events, provided by this Code.

II. The decision, rendered in the form of a separate act, must contain:

A. the name of the arbitration court, the case number, the date of rendering of the decision, composition of the court, the subject of the dispute;

B. names of the persons, participating in the case;

C. the issue, on which the decision is being rendered;

D. motives, by which the arbitration court came to its conclusions, with reference to laws and other normative legal acts;

E. the conclusion on the subject under consideration.

III. While hearing of the case in the court session, the arbitration court shall have the right to render a decision in a form, other than a separate act on issues, requiring resolution in the course of the court trial.

The decision shall be announced orally and shall be included in the record of the trial. The decision shall indicate the issue, on which it is made, motives, by which the court came to its conclusions, and the conclusion on the considered issue.

Article 128. Intermediate order

I. In the event of finding out of violations of legislation in the activities of an enterprise, state agency, agency of local self-government and other agency, and official, the arbitration court shall have the right to render an intermediate order.

II. An intermediate order shall be sent to corresponding enterprises, state agencies, agencies of local self-government and other agencies, officials, which shall inform the arbitration court on measures taken, within one month term after receiving of the intermediate order, and in the event of appeal, within one month term after the ruling on rejection of the appeal has been received.

III. The intermediate order may be appealed within ten days after it has been received.

IV. In the event of failure to perform the duty to present a report on measures taken in connection with the intermediate order, the fine in the amount of up to fifty minimal labor fees shall be imposed on a corresponding agency.

V. The fine shall not relieve the agency of the duty to present to the arbitration court the report on measures taken according to the intermediate order.

Article 129. Sending decisions

I. In the event, when the arbitration court renders a decision in the form of a separate act, it shall be sent to persons, participating in the case, and other persons, whom it concerns, within the term of five days, after it has been rendered, or shall be handed under receipt.

II. Decisions, which may be appealed in accordance with this Code, shall be sent to persons, participating in the case, and other persons, whom they may concern, by registered letter with notification or shall be handed to them under receipt.

III. Addressee's rejection of the registered letter shall not impede exercise of procedural actions by the arbitration court.

Chapter 21
Peculiarities of proceedings in bankruptcy cases

Article 130. Trial of bankruptcy cases

Cases on bankruptcy of enterprises shall be tried by the arbitration court in compliance with the rules, provided by this Code, with the peculiarities, established by the Law of the Kyrgyz Republic "On bankruptcy".

SECTION III
REVISION PROCEEDINGS

Chapter 22
Proceedings in appellate instance

Article 131. Right of appeal

Persons, participating in the case, shall have the right to file an appeal on the judgement of the arbitration court, which has not become effective.

The appeal shall be filed to the arbitration court, which makes the judgement, within one month after the judgement has been carried out.

Article 132. Arbitration court considering appeal

The appellate instance of the arbitration court, which carries out the judgement, shall consider the appeal.

Article 133. Content of the appeal

I. The appeal shall indicate:

- A. the name of the arbitration court, where the appeal is being filed;
- B. the name of a person, filing an appeal, and persons, participating in the case;
- C. the name of the arbitration court, which has carried out the judgement, on which the appeal is filed, the case number and the date, when the judgement has been carried out, the subject of the dispute;
- D. claims of a person, who files the appeal, and the grounds, on which the petitioner considers the judgement unlawful, with reference to the laws and other normative legal acts and materials of the case;
- E. the list of attached documents.

The appeal shall be signed by the person, filing the claim or his/her representative.

The representative who signs the appeal shall attach a proxy to the appeal, which certifies his/her authority to file an appeal on the court judgement, unless he/she has filed such a proxy earlier on the same case.

II. The proofs, which certify payment of the state fee and mailing of copies of the appeal to other persons participating in the case shall be attached to the appeal.

III. The person filing an appeal shall send the copies of the appeal and of missing documents to the persons, participating in the case.

Article 134. Opinion on appeal

I. The person, participating in the case, shall have the right, upon receiving of a copy of the appeal, to send an opinion about it to the arbitration court within the term, providing the receipt of the opinion by the day of the appeal consideration and proofs of sending copies of the opinion to other persons, participating in the case.

II. The opinion is signed by the person, participating in the case or by his/her representative. The proxy, certifying the authority to participate in the case shall be attached to the opinion which is signed by the representative.

III. The documents, which have not been provided earlier, may be attached to the opinion. In this event, the proofs of sending copies of the documents which are missing to other persons participating in the case, shall be attached to the opinion.

Article 135. Returning of appeal

I. The judge shall return the appeal:

A. if the appeal is not signed or signed by a person, who does not have right to sign it, or by a person, whose position in the office is not specified;

B. if the proofs that the copy of the appeal has been mailed to the persons, participating in the case, are not attached to the appeal;

C. if the documents, certifying payment of state fee in accordance with the established procedure and in the amount established by law have not been attached to the appeal, and if the request for postponement of payment of fees or payment by installments, or decrease of the amount is missing, in the events, when law provides for it, or the court has rejected such request;

D. if the appeal is filed after the expiration of the established term, and does not contain a request on restoration of the default;

E. if a person, who has filed the appeal, files a petition on returning of this appeal, before the judgement on initiation of appellate proceedings is sent to persons, participating in the case.

- II. A decision shall be carried out on returning of the appeal.
- III. A cassational complaint may be filed on the decision to return the appeal.
- IV. After the circumstances, indicated in points 1, 2, 3, of Part I of this Article have been eliminated, a person who files the appeal, shall have the right to file the appeal to the appeal court in common procedure.

Article 136. Decision on initiation of appellate proceedings on appeal

- I. The judge shall carry out a decision on initiation of appellate proceedings on the appeal.
- II. The decision shall indicate the time and place of hearing of the appeal.
- III. The decision shall be sent to persons, participating in the case, by registered letter with notification, or shall be handed to their representatives under receipt.

Article 137. Procedure of hearing in appellate instance

The appellate instance shall hear the case in accordance with the rules of hearing of cases by the arbitration court of first instance, with peculiarities, provided by this Chapter. In this event, the rules, established for the first instance only, shall not apply.

Article 138. Waiver of appeal

- I. A person, who filed an appeal, shall have the right to waive it, before the court carries out the judgement.
- II. The court shall have the right to dismiss the waiver of appeal on the grounds, provided by Article 32 of this Code, and hear the case in the appellate procedure.
- III. In the event of carrying out a judgement on waiver of the appeal the court shall terminate the proceedings in the appellate instance, unless the judgement has been appealed by other persons.
- IV. The arbitration court shall carry out a judgement on termination of proceedings in the appellate instance.

Article 139. Limits of hearing in appellate instance

- I. In hearing in the appellate instance, the arbitration court shall rehear the case on the evidence in case and additional evidence. The arbitration court shall accept the additional evidence, if the petitioner substantiates the failure to present them in the court of first instance by the reasons, beyond his/her control.
- II. The court shall not be bound with the reasons of the appeal and shall check the legality and validity of the judgement in full extent.
- III. The appellate instance shall neither accept nor consider new claims, which have not been presented in the first instance.

Article 140. Term of hearing of appeal

The appeal on the decision of the arbitration court shall be heard within one month as of the date it has been filed to the arbitration court.

Article 141. Authority of appellate instance

The arbitration court, after hearing the case in the appellate instance shall have the right:

- A. to leave the judgement of the court without changing, and the appeal without granting;
- B. to annul the judgement in full or in part, and carry out a new judgement;
- C. to change the judgement;
- D. to change the judgement in full or in part and terminate the proceedings in the case or dismiss the claim in full or in part.

Article 142. Grounds for changing or annulment of judgement

I. Grounds for changing or annulment of the judgement of the arbitration court shall be:

- A. incomplete discovery of circumstances, relevant to the case;
- B. understatement of circumstances, relevant to the case, which the arbitration court considered as established;
- C. inconsistency of conclusions, stated in the judgement to the circumstances of the case;

D. violation or misapplication of norms of substantive law or procedural law.

II. Violation or misapplication of norms of procedural law shall be a ground for changing or annulment of the judgement, if this violation has led or might lead to carrying out a wrong judgement.

III. In any event, violation of norms of procedural law shall be a ground for annulment of a judgement of the arbitration court of the first instance:

A. if the case has been tried by an unlawful composition of the court;

B. if the case has been tried by the court, in the absence of any person, participating in the case, who has not been notified on the place and the time of trial properly;

C. if the court carries out a judgement on the rights and duties of persons, who are not involved in the case. These persons shall have the right to appeal such a judgement in accordance with the procedure, established by this Code;

D. if the judgement has not been signed by any judge or signed by judges other than those, whose names are indicated in the judgement;

E. if the judgement has been carried out by judges other than members of the panel which tried the case.

Article 143. Ruling of appellate instance

I. Based on the results of trial of the appeal, the ruling shall be adopted, which shall be signed by all judges.

II. The ruling must indicate:

A. the name of the arbitration court, which adopted the ruling, the case number and the date of adoption the ruling, the composition of the panel, which adopted the ruling, the names of the attendees, with indication of their authority, date of adoption the judgement in the first instance and names of judges, who adopted this ruling;

B. name of the person, who filed an appeal, and the persons, participating in the case;

C. brief statement of the essence of the adopted ruling;

D. grounds on which the issue of lawfulness and substantiality of the judgement is raised;

E. arguments, stated in the comment of the appeal;

F. explanations of persons, who attended the session;

G. circumstances of the case, established by the arbitration court, evidence, on which the conclusions of the arbitration court on these circumstances is based and the arguments, by which the arbitration court dismisses any evidence, and does not apply the laws and other normative acts, to which persons, participating in the case refer, as well as laws and other normative legal acts, by which the court has been governed while adopting the ruling;

H. in the event of annulment or changing the judgement of the court - the motives, by which the court of appellate instance does not agree to the conclusions of the court of the first instance;

I. conclusions on the results of trial of the appeal.

Distribution of court expenses between the parties shall be also indicated in the ruling of the court.

III. The ruling shall come into effect as of the moment it is carried out.

IV. The ruling shall be mailed to the persons, participating in the case, by registered letter with notification or shall be handed to them under certificate within 5 days after it has been carried out.

V. The ruling may be appealed.

Article 144. Appeal on decision of arbitration court

I. Decisions of the arbitration court may be appealed in cases, provided by this Code.

II. Appeals on the decisions of the arbitration court shall be tried in the procedure, provided for trial of appeals on the decisions of the court.

III. In the event when the appellate instance of the arbitration court annuls the decision on rejection of initiation of proceedings on the claim, on returning of a claim, suspension of proceedings in the case, termination of proceedings in the case, leaving the case without consideration, the case shall be submitted for trial by the court of the first instance.

Chapter 23 Proceedings in cassational instance

Article 145. Right of cassational appeal

Persons participating in the case shall have the right to file a cassational appeal on a judgement of the arbitration court, which has come into effect, and on the decision of the appellate instance.

Article 146. Control of lawfulness of judgements in cassational instance

The Higher Arbitration Court of the Kyrgyz Republic shall control the lawfulness of judgements and rulings, carried out by oblast and Bishkek City arbitration courts of the first and appellate instance.

Article 147. Term and procedure of filing cassation appeal

I. A cassation appeal may be filed within one month after the judgement or ruling of the arbitration court becomes effective.

II. The cassation appeal shall be filed to the Higher Arbitration Court of the Kyrgyz Republic via arbitration court, which has carried out a judgement.

III. The arbitration court, which has carried out a judgement shall send an appeal along with the case to the Higher Arbitration Court of the Kyrgyz Republic within 5 days after it is filed.

IV. The person, who files a cassation appeal, shall send copies of the appeal and attach lacking documents to other persons, participating in the case.

Article 148. Contents of cassation appeal

I. The cassation appeal shall indicate:

A. the name of the arbitration court, where the appeal is submitted;

B. the name of the person, filing the appeal, and the persons, participating in the case;

C. the name of the arbitration court, which has carried out the judgement or ruling, on which the appeal is being filed, the number of the case, the date, when the judgement or ruling has been carried out, the subject of the dispute;

D. the demand of a person, filing the appeal and the indication to the violation or misapplication of norms of substantial law or norms of procedural law;

E. the list of documents, attached to the appeal.

Any reference, that the circumstances of the case has not been proven or that stated in the judgement or the ruling conclusions on factual relationships between the persons participating in the case, do not correspond to circumstances of the case, shall not be allowed.

The person filing the appeal, or his/her representatives shall sign the cassation appeal.

II. A proxy shall be attached to the appeal signed by the representative, which certifies the authority of the representative, unless it has been attached earlier.

Proofs of payment of state fees and mailing of copies of the appeal to other persons participating in the case shall be attached to the appeal.

Article 149. Response to cassation appeal

I. The person, participating in the case, on receiving a copy of the cassation appeal shall have the right to send an opinion about this appeal to the arbitration court within a term, which provides delivery of the opinion by the day of trial of the cassation appeal, and documents, which certify mailing of copies of the opinion to other persons, participating in the case.

II. The person, participating in the case or his/her representative shall sign the opinion. A proxy, which certifies the representative's authority to conduct the case, shall be attached to the opinion, signed by the representative.

Article 150. Return of appeal

I. A cassation appeal shall be returned:

A. if the cassation appeal is not signed or signed by a person, who does not have the right to sign it, or by a person, whose office position is not specified;

B. if the cassation appeal does not have an indication on the essence of the violation or an indication on improper application of substantive law norms or norms of procedural law;

C. if the proofs of mailing copies to persons participating in the case were not attached to the cassation appeal;

D. if the documents, certifying payment of state fees in established amount and in accordance with established procedure, have not been attached to the cassation appeal, and in the events, when law provides for the possibility of postponement of payment, or payment by installments of the state fees, or decrease of its amount, the request for that is missing, or this request has been rejected;

E. if the cassation appeal is filed on expiration of the established term and does not contain the request on restoration of the missed term;

F. if the cassation appeal is filed ignoring the arbitration court rendered the decision;

G. if the application on return of appeal has been submitted by the person, who files this appeal, before the decision on initiation of proceedings on the appeal is sent to the persons, participating in the case.

Cassation appeal shall be returned:

by the judge of the court of the first instance on the grounds, provided by points 1-5 of this part;

by the judge of the cassation instance, on the grounds, provided by point 6 of this part;

by the judges of courts of the first instance and cassation instance depending on where the case of appeal has been by the moment, when the motion of returning is filed, on grounds, provided by point 7 of this part.

If the grounds for which the appeal is returned have been found out in the cassation instance, it shall be returned by the judge of this instance.

II. The decision shall be carried out on return of the cassation appeal.

III. The decision on return of the cassation appeal may be appealed in cassation instance.

IV. After the circumstances, indicated in points 1, 2, 3, 4, 6, of part I of this Article have been eliminated, the person, who files the appeal, shall have the right to file the cassation appeal to the arbitration court again, in common procedure.

Article 151. Decision on initiation of proceedings on cassation appeal

I. A judge shall carry out a decision on initiation of proceedings on cassation appeal.

II. The decision indicates the time and place of hearing of the cassation appeal.

III. The decision shall be mailed to the persons, participating in the case by registered letter with notification on delivery, or shall be handed for certificate.

Article 152. Suspension of exercise of judgement

Arbitration court of cassation instance shall have the right to suspend the exercise of judgement or ruling, carried out by the court of the first instance and of appellate instance, by the motion of the persons, participating in the case.

Article 153. Procedure of trial of cases in cassation instance

The cassation instance shall try the case by the rules, established for trial of cases by the first instance with regard of peculiarities, provided by this Chapter. In this event, rules, provided solely for the court of the first instance shall not apply.

Article 154. Waiver of cassation appeal

I. A person, who files the cassation appeal shall have the right to waive it before the ruling has been carried out.

II. The court shall have the right to reject waiver of appeal on the grounds, provided in Article 32 of this Code, and try the appeal in cassation procedure.

III. In the event of carrying out a judgement on of the waiver of the appeal, the court shall terminate the proceedings in the cassation instance, unless the judgement has been appealed by other persons, participating in the case.

IV. The arbitration court shall carry out a decision on termination of proceedings in the cassation instance.

Article 155. Term of trial of cassation appeal

The cassation appeal on the judgement of the arbitration court and the ruling of the appellate instance shall be tried within one month term after the Higher Arbitration Court receives the appeal and the case.

Article 156. Limitations of trial in appellate instance

While trying the case in the cassation instance, the arbitration court shall check, whether the norms of substantive law and norms of procedural law have been properly applied by the arbitration court of the first instance and the appellate instance.

Article 157. Authority of cassation instance

After the trial of the case, the arbitration court of cassation instance shall have the right:

A. to leave the decision of the first instance or appeal instance unchanged and the appeal ungranted;

B. to annul the judgement of the first instance and the ruling of the appellate instance in full or in part, and carry out another judgement;

C. to annul the judgement of the first instance and ruling of the appellate instance and submit the case for retrial to the instance of the arbitration court, which judgement or ruling had been annulled, if the judgement of ruling are not sufficiently grounded;

D. to change the judgement of the first instance or the ruling of the appellate instance;

E. to annul the judgement of the first instance or the ruling of the appellate instance in full or in part and terminate the proceedings in the case, or dismiss the claim in full or in part;

F. to leave in force any earlier carried out judgement or ruling.

Article 158. Grounds for changing or annulment of judgement

I. Grounds for changing or annulment of a judgement or ruling shall be violation or misapplication of norms of substantive law or norms of procedural law.

II. Violation of misapplication of norms of procedural law shall be the grounds for changing or annulment of a judgement or ruling, if this violation has led or might lead to a wrong judgement.

III. The violation of norms of procedural law shall entail annulment of the judgement or ruling:

A. if the case has been tried by the unlawful panel of the arbitration court;

B. if the arbitration court has tried the case in the absence of any person, participating in the case, who has not been properly notified of the time and place of the sitting;

C. if reference to the law or any other normative legal act, by which the arbitration court has been governed while carrying out the judgement or ruling, is missing from the judgement or the ruling;

D. if the arbitration court has carried out a judgement or ruling about the rights and duties of persons, who are not involved in the case. These persons shall have the right to appeal this judgement or ruling in accordance with the procedure, established by this Code;

E. if the judgement or ruling is not signed by any judge or signed by judges, other than those indicated in the judgement or ruling.

Article 159. Ruling of cassation instance

I. By the results of the trial of the appeal, a ruling shall be carried out, which all judges shall sign.

II. The ruling must indicate:

A. the name of the arbitration court, which has carried out the ruling, the number of the case and the date of the ruling, the panel of judges, which has carried out the ruling, the names of the persons, who has participated in the sitting, with indication of their authority;

B. names of the person, who files the cassation appeal and persons, participating in the case;

C. the name of the arbitration court, which has tried the appeal in the first instance and appellate instance, the number of the case, the date, when the judgement or ruling has been carried out, the names of judges who have carried out them;

D. a brief statement of the essence of carried out judgements or rulings;

E. the grounds, on which the issue of control of lawfulness of the judgement or ruling has been raised;

F. arguments, stated in the opinion on cassation appeal;

G. explanations of the persons, participating in the sitting;

H. motives, by which the arbitration court does not apply laws and other normative legal acts, on which the persons, participating in the case referred, as well as laws and other normative legal acts, which govern the court while carrying out the judgement or ruling;

I. in the event of annulment or changing the judgement of the first instance, ruling of the appellate instance, the motives, by which the court of the cassation instance does not agree with the conclusions of the court of the first instance or the appellate instance;

J. conclusions on the results of trial of cassation appeal;

K. actions, which must be exercised by parties and arbitration court, if the case is submitted for retrial.

Distribution of court fees between the parties must be also indicated in the ruling.

III. The ruling shall become effective as of the moment it has been carried out, the ruling shall not be subject to appeal.

IV. The ruling shall be mailed to the persons, participating in the case, by registered letter with notification on delivery, or shall be handed for certificate within 5 days after it has been carried out.

Article 160. Binding force of precepts of cassation instance

- I. Precepts, contained in the ruling of the cassation instance, shall be obligatory for the court, retrying the case.
- II. The arbitration court, trying the case in the cassation instance, shall not have the right to predetermine the issues of certainty or uncertainty of any evidence, of preference of one circumstances over others, or which norm of substantive law must be applied, and which judgement must be carried out while retrial of the case.

Article 161. Cassation appeals on decisions of arbitration court

- I. Decisions of the arbitration court may be appealed in the cassation procedure in the events, provided by this Code.
- II. Cassation appeals for decisions of the arbitration court shall be tried in the procedure, provided for hearing of cassation appeals on the judgements of the arbitration court.

Chapter 24 Oversight proceedings

Article 162. Oversight review of judgements and rulings of arbitration courts - (was repealed by the Decision of the Constitutional Court of the Kyrgyz Republic of July 11, 1997)

Article 163. Suspension of exercise of judgement or ruling

The Chairman of the Higher Arbitration Court of the Kyrgyz Republic may suspend exercise of a corresponding judgement or ruling.

The Deputy Chair of the Higher Arbitration Court of the Kyrgyz Republic, in accordance with procedure provided by Article 162 of this Code, may suspend exercise of the corresponding judgement or ruling.

Article 164. Arbitration court hearing cases on presentations in oversight procedure

The Presidium of the Higher Arbitration Court of the Kyrgyz Republic shall try cases on report in the exercise of the oversight function on judgements of all arbitration courts of the Kyrgyz Republic.

Article 165. Sending up proceedings

The Chairman of the Higher Arbitration Court of the Kyrgyz Republic shall direct the corresponding arbitration court to send up proceedings for resolution of issue of presence of grounds for bringing a report in the exercise of the oversight function.

Article 166. Lodging report

I. In the event of presence of grounds for lodging a report, including cases, when this lodging is related to the petition of the person, participating in the case, the Chairperson of the Higher Arbitration Court of the Kyrgyz Republic shall draft the report and lodge it along with the case for consideration of the Presidium of the Higher Arbitration Court of the Kyrgyz Republic. The petition on lodging of a report on the effective judgement, ruling of the arbitration court may be lodged after the case has been considered in the appellate or cassation instance. The person, who files the petition, shall be informed of absence of grounds for lodging of a report.

II. Copies of the report shall be sent to the persons, participating in the case.

III. The Chairperson of the Higher Arbitration Court of the Kyrgyz Republic shall have the right to recall the report before hearing of the case starts. The persons participating in the case shall be informed of the recall of the report.

Article 167. Procedure of hearing of report

While hearing the report, the Presidium of the Higher Arbitration Court of the Kyrgyz Republic shall hear the presentation of a Justice of the Higher Arbitration Court of the Kyrgyz Republic on circumstances of the case and arguments of the report.

Article 168. Authority of Presidium of Higher Arbitration Court

of Kyrgyz Republic to review cases in oversight
procedure

I. Presidium of the Higher Arbitration Court of the Kyrgyz Republic, after hearing the case in the oversight procedure shall have the right:

- A. to leave a judgement or ruling of the arbitration court unchanged;
- B. to dismiss the judgement or ruling in full or in a part, and send the case for retrial;
- C. to change or dismiss the judgement or ruling and carry out a new judgement, without sending the case for retrial;
- D. to dismiss the judgement or ruling in full or in a part and terminate the proceedings in the case, or dismiss the claim in full or in a part;
- E. to leave effective any earlier adopted judgement or ruling.

II. By the results of hearing in oversight procedure, a ruling shall be carried out, which shall be mailed to the persons, participating in the case, by registered letter with notification or handed to them for certification, within five days after the ruling is carried out.

Article 169. Grounds for changing or dismissal of judgement or
ruling

Judgement or ruling may be dismissed in oversight procedure on the grounds of unlawfulness of groundlessness only. Judgements or rulings of the arbitration court, correct in merits, cannot be dismissed by formal grounds only.

Article 170. Procedure of carrying out ruling

I. The Presidium of the Higher Arbitration Court of the Kyrgyz Republic shall carry out ruling.

II. The ruling shall be considered adopted, if the majority of the general number of the members of Presidium present vote for it. The Chairperson of the Presidium shall vote in the last turn. In the event of equal splitting of the votes, the judgement, for which the Chairperson votes shall be considered adopted.

III. The Chairperson of the Higher Arbitration Court of the Kyrgyz Republic shall sign the ruling of the Presidium.

IV. The ruling shall become effective as of the moment it is adopted.

Article 171. Obligatoriness of directives of arbitration court,
hearing case in oversight procedure

I. The directives of the arbitration court, hearing the case in the oversight procedure, stated in the ruling on dismissal of the judgement or ruling shall be binding for the arbitration court, which retries the case.

II. The arbitration court hearing the case in oversight procedure, shall not have the right to establish the circumstances which has not been established or has been rejected in the judgement or ruling, shall not consider them proven, or predetermine the issues of certainty or uncertainty of any evidence, on preponderance of evidence, or establish which norm of substantive law must apply and which judgement or ruling must be carried out in the event of retrial of the case.

Article 172. Oversight review of decisions of arbitration court

I. Decisions of the arbitration courts, which come into effect, may be reviewed in oversight procedure apart from a judgement, in the events, when this Code provides for appeal of these decisions, as well as when they impede the further progress of the case.

II. Reports on arbitration court decisions shall be reviewed in compliance with the procedure, provided for review of reports on judgements and rulings of the court.

Chapter 25
Review of judgements, rulings, decisions of arbitration
court on newly discovered circumstances

Article 173. Grounds for review

I. Arbitration court may review on newly discovered circumstances a judicial act, which it has adopted and which has come into effect.

II. Following shall be the grounds for review on newly discovered circumstances:

- A. circumstances, relevant to the case, which the petitioner is not and can not be aware;
- B. knowingly false expert's opinion, knowingly wrong interpretation, forgery of documents or exhibits, established by the effective verdict of the court, which entailed adoption of unlawful and ungrounded judicial act;
- C. criminal acts of the persons, participating in the case, or their representatives, or criminal acts of judges, committed while hearing of this case, established by the effective court verdict;
- D. dismissal of a judicial act of the arbitration court, judgement, verdict of the court or ruling of other agency, which served as a ground for adoption of the judgement.

Article 174. Procedure and schedule of filing petition

- I. The persons, participating in the case may file a petition for review of an effective judicial act on newly discovered circumstances to the arbitration court, which adopted this act no later than within one month after the day, when the circumstances, serving the grounds for review of the judicial act are discovered.
- II. The petitioner shall send copies of his/her petition and attached lacking documents to other persons, participating in the case. The documents certifying sending of the copies of the petition to other persons, participating in the case shall be attached to the petition.
- III. In the event of filing the petition after expiration of the established term and failure to file a motion for restoration of the missed term or in the event of failure to present proofs of sending copies of the petition with attached documents to other persons participating in the case, the judge shall return it to the petitioner.
- IV. A decision shall be made on returning of the petition.
- V. The decision may be appealed.

Article 175. Arbitration courts, reviewing effective judicial acts on newly discovered circumstances

- I. The arbitration court, which has carried out an effective judgement or decision in the first instance, shall review judgements or decisions.
- II. The appellate, cassation or oversight instance of the arbitration court, which amends the judicial act or carries out a new judicial act, shall review on newly discovered circumstances rulings and decisions of the respective instance of the arbitration court, which has amended the judicial act or has carried out a new judicial act.

Article 176. Consideration of petition

The arbitration court shall consider the petition for review of an effective judicial act on newly discovered circumstances, within one month after it has been submitted. The petitioner and other persons, participating in the case, shall be notified on the time and place of the sitting by the registered letter with notification on delivery or shall receive a corresponding notification for certificate, although their failure to appear shall not impede consideration of the petition.

Article 177. Decision of the arbitration court on review of the case

- I. After consideration of the petition for review of the effective judicial act on newly discovered circumstances, the arbitration court shall either grant the motion and dismiss the judicial act, or reject the review.
- II. The decision of the arbitration court on rejection of the petition for review of a judicial act on newly discovered circumstances, may be appealed.
- III. In the event of dismissal of the judicial act, the arbitration court shall hear the case in accordance with the rules, established by this Code.

SECTION IV EXERCISE OF JUDICIAL ACTS

Article 178. Procedure of exercise of judicial acts

Effective judicial acts shall be binding for all state agencies, agencies of local self-government and other agencies, enterprises, officials and citizens on the entire territory of the Kyrgyz Republic, as set forth by this Code and the law.

Article 179. Marshals of court

I. Marshals of the court, working for the arbitration courts of oblast and Higher Arbitration Court of the Kyrgyz Republic shall exercise the judicial acts of the arbitration courts.

A marshal of the court shall take all lawful measures to exercise the judicial act in a fast and actual manner and assist the execution creditor and debtor to protect their rights and lawful interests.

A corresponding judge of the arbitration court of oblast, City of Bishkek, and Higher Arbitration Court of the Kyrgyz Republic shall control the correct and timely exercise of a judicial act of the arbitration court.

II. A marshal of the court cannot participate in exercise of judicial acts, if there are grounds present, indicated in points 1 and 2 of Article 13 of this Code.

The procedure of resolution of the motion for disqualification shall be determined by Article 17 of this Code.

Decision of the court on dismissal of the motion for disqualification of the court marshal may be appealed.

Filing of an appeal for the decision on rejection of disqualification of a court marshal, shall not suspend activities to exercise the judicial act.

III. The court marshal shall initiate exercise of the court judgement by the petition of the execution creditor.

The court marshal, who works for the court at the debtor's place of location or for the court at the location of the debtor's property, shall exercise the judicial act.

IV. Orders of the court marshal to exercise judicial acts shall be binding for all state agencies, agencies of local self-government and other agencies, enterprises, officials and citizens on the entire territory of the Kyrgyz Republic.

Article 180. Writ of execution

I. Binding exercise of the judicial act shall be carried out on the basis of a writ of execution, issued by the arbitration court, which adopted this act.

II. The writ of execution shall be issued to the execution creditor after the judicial act becomes effective. The writ of execution for collection of funds in the budget shall be sent to the tax agency at the place of location of the debtor.

III. The execution creditor shall send writ of execution for collection of funds to the bank or other crediting institution, and in other instances - to the marshal of the court.

Article 181. Issuance of several writs of execution based on sole judicial act

If the judicial act has been carried out in favor of several plaintiffs or against several defendants, or this act must be exercised in several places, writs of execution shall be issued with indication of the part of the judicial act, which is subject to execution by this writ of execution.

Article 182. Content of writ of execution

I. A writ of execution must contain:

A. the name of the arbitration court, which issued this writ of execution;

B. the case, on which this writ of execution has been issued and the case number;

C. the date, when the writ of execution, subject to execution was carried out;

D. name of execution creditor and debtor, their addresses;

E. resolute part of the judicial act;

F. the date, when the judicial act becomes effective, date of issuance of the writ of execution and the term of its effect.

If before issuance of the writ of execution the arbitration court has granted postponement of execution of the judicial act, or execution of the judicial act by installments, it must indicate the time, when the duration of the effective term of the writ of execution starts.

II. The writ of execution shall be signed by the judge and certified with the stamp of the arbitration court.

Article 183. Term of enforcement of writ of execution

I. The writ of execution may be enforced no later than six months after the judicial act becomes effective, or after expiration of a term, established for enforcement of the writ of execution while postponement of execution or granting execution by installments, or as of the day of carrying out a decision on restoration of omitted term.

II. In the event, when execution of a judicial act is suspended, the term for which it is suspended, shall not be counted in the six month term of enforcement of the writ of execution.

Article 184. Break of term for enforcement of writ of execution

I. The period of limitations of enforcement of writ of execution shall be broken by submission of writ of execution for enforcement, or by partial execution of the judicial act.

II. In the event of returning the writ of execution to the execution creditor, because of impossibility to enforce it, the new term for submission of writ of execution for enforcement shall be calculated as of the date of its returning.

Article 185. Restoration of omitted term for submission of writ
of execution

I. In the event of omission of the term for submission of the writ of execution for enforcement by reasons, which have been found reasonable by the arbitration court, the omitted term may be restored.

II. The petition on restoration of the omitted term shall be filed in the arbitration court, which has carried out the judicial act. The petition shall be considered in the sitting of the arbitration court with notification of the execution creditor and debtor by the registered letter with notice of delivery or personal delivery for certificate, however failure of the indicated persons to appear in court shall not be an impediment for consideration.

III. The decision shall be made on the results of hearing the petition, which shall be delivered to the execution creditor and debtor.

IV. The decision may be appealed.

Article 186. Issuance of duplicate of writ of execution

I. In the event, when the writ of execution is lost, the arbitration court, which has carried out the judicial act, may issue a duplicate by the petition of the execution creditor. The petition may be filed before expiration of the term, established for submission of the writ of execution for enforcement. The sitting of the arbitration court shall consider this petition, with notification of the execution creditor and debtor by a registered letter with notification of delivery or personal notification for certification, however, the failure of these persons to appear in the court shall not be an impediment for consideration of the petition.

II. A decision shall be carried out on the results of the consideration of the petition, which shall be mailed to the execution creditor and debtor.

III. The decision may be appealed.

Article 187. Suspension of execution and execution by installments
of judicial act, alteration of manner and procedure
for its execution

I. By the petition of the execution creditor, debtor, or marshall of the court, the arbitration court shall have the right to suspend the execution of the judicial act or permit execution of this act by installments, or alter the manner and procedure of its execution.

By suspending the execution or permitting the execution by installments, the arbitration court may take measures to provide execution of the judicial act, in accordance with the procedure, provided by Chapter 8 of this Code.

Issues of suspension of execution or execution by installments of the judicial act, or alteration of the way and procedure of its execution, shall be considered in the sitting of the arbitration court with notification of the execution creditor and debtor by registered letter with notice of delivery or personal notification for certificate.

II. A decision shall be made on the results of consideration of the petition, which shall be mailed to the execution creditor and debtor.

III. The decision may be appealed.

Article 188. Liability for failure to execute judicial act

I. If the bank or other crediting institution, where the writ of execution has been submitted, fails to execute a judicial act on collection of funds, issued by the arbitration court, the arbitration court shall impose a fine on this bank or crediting institution in the size of up to 50 per cent of the amount, subject to collection.

II. Reiterated failure by banks and other crediting institutions to execute judicial acts issued by the arbitration court shall be the grounds for recall of license to implement banking operations.

III. Failure to perform the actions, indicated in the writ of execution, by a person, who has been charged with execution of these actions, shall entail imposition of fine in the size of 100 minimal monthly labor fees.

IV. Payment of fine shall not release of the liability to execute the judicial act.

Article 189. Procedure of execution against debtor's property

- I. If the debtor does not have funds, sufficient for execution of the judicial act of the arbitration court, the collection may be exercised on the property, which belongs to the debtor, in accordance with the procedure, established by law.
- II. Execution of property, which belongs to the debtor, shall be allowed only on the grounds of the decision, issued by the arbitration court.

Article 190. Reversion of judicial act execution

- I. If executed judicial act is changed or annulled, and a new judicial act on full or partial dismissal of the claim is carried out, or the proceedings in the case are terminated, or the claim is left without hearing, the execution of the judicial act shall be reversed. In the event of reversion of the judicial act execution, all defendant's property, collected from him to the benefit of the plaintiff shall be restituted to the defendant based on the canceled or changed in the corresponding part judicial act.
- II. If the judicial act, which has not been executed, is annulled or changed, and the new judicial act on full or partial dismissal of the claim is carried out, or the proceedings in the case are terminated, or the claim is left without hearing in full or in part, the arbitration court shall carry out a judicial act on full or partial termination of the collection on annulled or changed in a corresponding part judicial act.

Article 191. Resolution of issue on reversion of judicial act execution

- I. The issue on reversion of judicial act execution shall be resolved by the arbitration court which has carried out the new judicial act.
If the ruling on annulment or alteration of the judicial act does not contain instructions on reversion of its execution, the defendant shall have the right to file a corresponding petition in the arbitration court of the first instance. A decision shall be made by the results of consideration of the petition on reversion of the judicial act execution.
- II. Arbitration court shall issue a writ of execution for restitution of collected funds, property or its value by the petition of an enterprise. A document, certifying execution of a earlier carried out judicial act shall be attached to the petition.

SECTION V PROCEEDINGS IN CASES, INVOLVING FOREIGN ENTERPRISES AND INTERNATIONAL ORGANIZATIONS

Article 192. Procedural rights of foreign enterprises

- I. Foreign enterprises, institutions, organizations and international organizations (hereinafter foreign enterprises), shall have the right to petition to arbitration courts of the Kyrgyz Republic for protection of their violated or challenged rights and lawful interests.
- II. Foreign enterprises shall enjoy procedural rights and perform procedural duties on the equal basis with enterprises of the Kyrgyz Republic.
- III. The Government of the Kyrgyz Republic may establish reciprocal limitations in relation to foreign enterprises of those countries, where the courts allow special limitations of procedural rights of enterprises of the Kyrgyz Republic.

Article 193. Proceedings in cases involving foreign enterprises

Proceedings in arbitration courts of the Kyrgyz Republic in cases, involving foreign enterprises, shall be exercised in accordance with this Code and other laws of the Kyrgyz Republic.

Article 194. Competence of arbitration courts of Kyrgyz Republic in cases involving foreign enterprises

- I. Arbitration courts of the Kyrgyz Republic shall hear cases involving foreign enterprises, if the defendant is located on the territory of the Kyrgyz Republic.
- II. Arbitration courts of the Kyrgyz Republic shall have the right to hear cases involving foreign enterprises:
 - A. if the affiliate or mission of the foreign enterprise is located in the Kyrgyz Republic;
 - B. if the defendant has property on the territory of the Kyrgyz Republic;

C. if the claim comes out from the contract, by which execution must take place, or has taken place on the territory of the Kyrgyz Republic;

D. if by the case on indemnification of losses, incurred to the property, the action or other circumstance, which served the grounds for filing a petition on indemnification of damage has taken place on the territory of the Kyrgyz Republic;

E. if the claim comes out from ungrounded enrichment, which has taken place on the territory of the Kyrgyz Republic;

F. if there is an agreement about that, between the enterprises of the Kyrgyz Republic and a foreign enterprise.

III. Cases, dealing with recognition of property rights for buildings, constructions, confiscation of buildings from other person's illegal ownership, with elimination of violations of rights of the proprietor or lawful owner, shall be heard at the place of location of buildings or constructions, unless they deal with dispossession.

IV. Cases dealing with claims against carriers, which come out from carriage contracts, including cases, when the carrier is one of defendants, shall be heard at the place of location of the transportation agency.

V. The arbitration court which initiated proceedings on a case with observation of rules, provided by this Article, shall resolve this case on merits, although in the course of proceedings, it has become subject to jurisdiction of other state, due to change of location of persons, participating in the case, or other circumstances.

Article 195. Legal immunity

I. Filing a claim in the arbitration court against a foreign state, involving this state as the third party in the case, imposition of arrest on the property, which belongs to the foreign state and is located on the territory of the Kyrgyz Republic, and taking other measures related to this state for the purpose of securing the claim, execution of this property in accordance with the procedure of enforcement of the decision of the arbitration court shall be allowed with permission of the authorized agencies of the corresponding state, unless otherwise provided by laws or international treaties of the Kyrgyz Republic.

II. Legal immunity of the international organizations shall be determined by laws and international treaties of the Kyrgyz Republic.

Article 196. Application of foreign law

I. In the events of application of foreign law, the arbitration court shall establish existence and contents of its norms in accordance with interpretation and application practice in a corresponding foreign state.

II. By the motion of the party or by its own initiative, the arbitration court may apply the authorized agencies and organizations in the Kyrgyz Republic and abroad, or involve specialists for assistance and explanation, for the purpose of establishment of existence and contents of norms of foreign law.

III. If, despite all measures taken, existence or contents of the norm of foreign law is not established, the arbitration court shall apply corresponding norms of law of the Kyrgyz Republic.

Article 197. Procedural consequences for hearing by court of foreign state of case on dispute between same parties, on same subject and on same grounds

I. Arbitration court of the Kyrgyz Republic shall leave the claim without consideration or terminate proceedings on the case, if the authorized court of the foreign state, which initiated proceedings on this case before the claim is filed to the arbitration court of the Kyrgyz Republic, hears the case on the dispute between the same parties, on the same subject and on the same grounds, or made a judgement, which has come into effect.

II. Such circumstances shall not occur, if the judgement to be adopted by the arbitration court, is not subject to recognition or execution on the territory of the Kyrgyz Republic, or the corresponding case is related to an exclusive competence of the arbitration court of the Kyrgyz Republic.

Articles 198. Judicial commissions

I. The arbitration court shall exercise judicial commissions of the foreign states on exercise of specific procedural actions (delivery of subpoenas and other documents, receiving of written evidence, exercise of expertise, on-site inspection, and others), which have been sent over in accordance with the procedure, established by law and international treaties of the Kyrgyz Republic.

II. Commission shall not be subject to exercise:

A. if exercise of the commission contradicts to sovereignty of the Kyrgyz Republic or threatens the security of the Kyrgyz Republic;

B. if exercise of the commission is not a part of the competence of the arbitration court.

III. The arbitration court shall exercise the commissions on performance of specific procedural actions in accordance with procedure, established by this Code, unless otherwise established by the international treaties of the Kyrgyz Republic.

IV. Arbitration courts of the Kyrgyz Republic may apply to courts of foreign states with commissions on performance of specific procedural actions, as provided by the established procedure.

Article 199. Judicial commissions

If international treaties of the Kyrgyz Republic establish rules, other than those provided by this Code, or by other laws, rules of international treaty shall apply.

President of the Kyrgyz Republic A.Akaev