

Case category no**21/80: Economic affairs (until 01.01.2019); Other non-contractual non-property disputes; Another non-contractual non-property dispute.**

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Number of court proceedings: **not determined**

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**ECONOMIC COURT of the city of KYIV**

01030, Kyiv, B. Khmelnytskogo str., 44-B tel. 284-18-98 **RESOLUTION Case No. 21/80 04.11.10 On the claim** of the Kyiv Economic Institute of Management **against** 1) Enterprises with foreign investments in the form of "BI & Pi, LTD" LLC

2) Kyiv National University named after T.G. Shevchenko

**on** allocation of a share in kind

**Judge: Shevchenko E.O.**

**Representatives of the parties:**

The plaintiff did not appear

From defendant-1 Gulida I.A. -representative (add. No. 2 dated 15.01.2010)

Defendant-2 did not appear

Defendant -3 did not appear

**CIRCUMSTANCES OF THE CASE:**

The Kyiv Economic Institute of Management appealed to the commercial court with a lawsuit against the Enterprise with foreign investments in the form of "BI & Pi, LTD" LLC and Kyiv National University named after T.G. Shevchenko about the allocation of defendant-1's share in the Science-hotel complex, which is jointly owned with KNU named after T. Shevchenko, in order to preserve the solvency of the defendant to the plaintiff for obligations in accordance with the Agreement dated July 2, 2004.

By the decision of the Commercial Court of the city of Kyiv dated June 10, 2008. proceedings were initiated in case No. 21/80 and the case was scheduled for consideration at a court session on July 3, 2008, which was duly notified to the parties in the case.

Representatives of the Enterprise with foreign investments in the form of "BI & Pi, LTD" LLC filed an appeal against judge E.O. Shevchenko. and the court session was adjourned to resolve the challenge.

By the decision of the Commercial Court of the city of Kyiv dated 03.07.08. statement of the Enterprise with foreign investments in the form of LLC "BI & Pi, LTD" on the recusal of judge Shevchenko E.O. left unsatisfied.

By the decision of the Commercial Court of the city of Kyiv dated 07.15.08. the hearing of the case is scheduled for August 21, 2008. The representative of defendant-2 did not appear at the court session.

A request was received from the representative of the defendant-1 to stop the proceedings in the case until the decision of the cassation instance in case No. 32/619.

After listening to the parties and studying the petition, the court decided to grant it and suspend the proceedings in case No. 21/80 until the Supreme Commercial Court of Ukraine considers case No. 32/619, which it issued a decision dated August 21, 2008.

As of 12.10.10 no information was received from the parties in this case regarding the consideration of case No. 32/619 by the Supreme Economic Court of Ukraine.

By decision of the Commercial Court of Kyiv, the proceedings on the case were resumed and the case was scheduled for consideration on 10/28/2010.

By the decision of the Commercial Court of the city of Kyiv dated October 28, 2010. consideration of the case was postponed in accordance with the provisions of Art. 77 of the Civil Procedure Code of Ukraine , in connection with the non-appearance of the representatives of the parties at the court session.

The company with foreign investments "B&P, LTD" filed a motion to suspend the proceedings in the case, according to which the applicant requests to suspend the proceedings in case No. 21/80 until the end of consideration of case No. ARB/08/11, which is being considered by the International Center for Settlement of Investment Disputes ( ICSID). In support of the submitted petition, the applicant refers to the fact that the International Center for the Settlement of Investment Disputes in Washington has initiated proceedings in the case on the claim of the American company Bosch International Inc., which is the owner of 94.5% of the enterprise B & P, Ltd. and "B&P Ltd" LLC to the State of Ukraine regarding the scientific hotel complex.

The court satisfies the motion submitted by the defendant 1 to stop the proceedings in the case, based on the following.

In accordance with Art. 79 of the Code of Civil Procedure of Ukraine, the commercial court stops the proceedings in case of impossibility of consideration of this case until the resolution of another related case, which is being considered by another court.

In view of the fact that the subject of the lawsuit in case No. 21/80 is the allocation of a share of LLC "B&P, LTD" in the Scientific Hotel Complex, which in turn is the subject of a dispute considered by the International Center for the Settlement of Investment Disputes in Washington in case No. ARB/08/11 on the claim of Bosch International Inc. and B&P Ltd. LLC against the state of Ukraine, the court considers it expedient to stop the proceedings in this case until consideration of case No. ARB/08/11 by the International Center for settlement of investment disputes.

On the basis of the above and guided by Art. Art. 79 , 86 of the Civil Procedure Code of Ukraine , the court -

**IN H V A L I V:**

1. Stop the proceedings in case No. 21/80 until the consideration of case No. ARB/08/11, which is being considered by the International Center for Settlement of Investment Disputes.
2. To oblige the parties to inform about the occurrence of the circumstances that led to the suspension of the proceedings in the case.
3. This decision can be appealed in accordance with the procedure provided by the current legislation of Ukraine.
4. Send the decision to the parties.

**Judge E.O. Shevchenko**