

## **The EurAsEC Court judgment of April 8, 2013**

### ***Case № 1-7/1-2013***

*on the applications of the open joint stock company “Coal Company “South Kuzbass” for clarification and enforcement of the judgment of the Chamber of the Court of September 5, 2012 delivered in the case on the Coal Company’s application where it contested paragraph 1 of the decision of the Commission of the Customs Union of August 17, 2010 no. 335 “On issues of concern related to the functioning of the common customs territory, and implementation of the Customs Union’s mechanisms”*

The Court declared the contested act of the Commission of the Customs Union or of the Eurasian Economic Commission or some of its provisions not in line with the treaties concluded within the Customs Union. Such Court judgment has a direct effect, as those provisions are deemed abrogated, i.e. invalid (void) from the date of the adoption of the contested act.

### **Summary**

The Grand Chamber of the Court of the Eurasian Economic Community considered the applications of the open joint stock company “Coal Company “South Kuzbass” (Russian Federation) for clarification and enforcement of the judgment of the Chamber of the Court of September 5, 2012 delivered in the case on the Coal Company’s application where it contested paragraph 1 of the decision of the Commission of the Customs Union of August 17, 2010 no. 335 “On issues of concern related to the functioning of the common customs territory, and implementation of the Customs Union’s mechanisms”.

When executing the judgment of the Chamber of the Court of September 5, 2012 and the judgment of the Appeals Chamber of the Court of November 29, 2012 the Board of the Eurasian Economic Commission by its decision of January 22, 2013 no. 7 excluded the fourth subparagraph of paragraph 1 of the decision of the Commission of the Customs Union of August 17, 2010 no. 335. The excluded provision provided for the customs declaration of goods identified in the 27-th commodity group of the Foreign Economic Activity Commodity Nomenclature of the Customs Union (FEACN of the CU) exported from the territory of the Russian Federation into other member-states of the Customs Union. At that the Board of the Eurasian Economic Commission stated in its decision of January 22, 2013 no. 7 that it should enter into force after 30 days from the date of its publication.

In the applicant's opinion it was incorrect to state in the decision that it should enter into force after 30 days from the date of its official

publication. It speaks for the improper execution of the Court judgments that violates the rights and legitimate interests of the economic entity in the area of economic activities, provided in treaties concluded within the Customs Union. The company requested the Court of the Eurasian Economic Community for clarification and stating the date from which the fourth subparagraph of paragraph 1 of the decision of the Commission of the Customs Union of August 17, 2010 no.335 should be deemed abrogated.

In its ruling of April 8, 2013 the Grand Chamber of the EurAsEC Court defined the legal positions on the issue of the date from which the contested act (some of its provisions) of the Commission of the Customs Union or the Eurasian Economic Commission shall become void (invalid), provided the Court declared it not in line with treaties concluded within the Customs Union. The Grand Chamber of the Court came to the conclusion that the Court's decision, where the contested legal act (some of its provisions) has been held in conflict with treaties concluded within the Customs Union, shall cease its regulatory effect to any number of persons over the whole territory of the Customs Union from the date of its adoption unless otherwise provided by the Court.