

LEGAL ADVISORY COLUMN

Kyrgyz anti-corruption regulation



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Corruption has become a major threat and challenge for sustainability around the world, which is particularly true for Kyrgyzstan.

Anti-corruption regulation plays an important role in achieving political stability and economic development in a country, especially taking into account the adverse effect of corruption on the attractiveness of Kyrgyzstan for foreign investments. Since independence, the Kyrgyz Government has taken various measures against corruption, which turned out to be weak and inefficient given that over the past seven years Kyrgyzstan has experienced two revolutions mainly due to widespread corruption at all levels of government.

In 2005, Kyrgyzstan acceded the United Nations Convention against Corruption dated December 10, 2003, which was a substantial move forward in adopting international standards of transparency. National anti-corruption regulation mainly comprises of the Law on Fighting Corruption dated March 6, 2003 and laws on Public Service, Municipal Service, Public Procurement, Declaration of Income and Property of Persons Occupying Political and Public Positions and Their Close Relatives and relevant provisions of the Administrative and Criminal Codes.

The anti-corruption regulation applies to government and municipal officials, heads of state enterprises, as well as individuals (nationals and foreigners) and legal entities (domestic and foreign). Corruption offenses, among other, include bribery, negligence of

official duty, misappropriation of state property and abuse of official status and powers, which are subject to administrative or criminal liability such as fines, termination of office and restriction on serving as government/municipal official or corporate officer for a certain period of time and imprisonment. Kyrgyz anti-corruption regulation forbids government and municipal officials from engaging in entrepreneurial activities during their term of office. Furthermore, aforesaid officials are strictly prohibited from accepting any gifts, money, services incidental to performance of their official duties, except for token gifts during the protocol and other official events, the value of which shall not exceed 1,000 Kyrgyz soms (about US \$22) as prescribed under the Civil Code.

Obviously, Kyrgyz anti-corruption laws and regulations as such and their improper enforcement (or even non-enforcement) are not sufficient enough to ensure a transparent and corruption-free environment in Kyrgyzstan. As confirmed by Transparency International's Corruption Index 2011, pursuant to which Kyrgyzstan is ranked 164 out of 182 countries, implying that Kyrgyzstan is a significantly corrupt country (though being ahead of neighboring Central Asian states such as Uzbekistan and Turkmenistan). Inadequacy of the anti-corruption regulation is also admitted by the Kyrgyz Government itself in the National Strategy of Anti-Corruption Policy and Measures of Prevention of Corruption ("National Strategy") enacted by the Decree of the President in February

2012, which expressly states that current anti-corruption legislation is of a declaratory nature, it lacks effective measures to combat corruption and is rather outdated. Therefore, drafting and adoption of a new law on fighting corruption as well as building a solid legal framework related to anti-corruption measures is planned under the National Strategy.

In light of the recent corruption related scandals and investigations reported by local mass media, one may validly assume that the Kyrgyz Government has been vigorously taking actions to eliminate corrupt elements in public administration and re-establish the rule of law principle in every branch of state power. Over the past six months a number of new state authorities such as the Anti-Corruption Service under the State Committee of National Security and the State Service for Combating Economic Crimes were formed, while the former State Service of Financial Police was dissolved. Unfortunately, the lack of clear separation of responsibilities between the anti-corruption authorities is an issue, which may undermine the well-intentioned reforms in government structure.

Although the Kyrgyz Government has been constantly taking efforts in fighting and preventing corruption, corruption remains a major hindrance to the political and economic stability of Kyrgyzstan. Nevertheless, there is a ray of hope that this time all anti-corruption related reforms and actions will provide fruitful results and contribute to building a strong and efficient anti-corruption regulation and transparent Government.