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12 September 2018

Welcome dear guests, colleagues. I am very pleased and grateful to the organizers and the chairman for the opportunity to indicate my vision of the consequences of the criminal and criminal proceeding legislation in Kyrgyzstan at such a significant forum.

Almost twenty years as the Criminal Proceeding Code of the Kyrgyz Republic applied and came into force. Over these years The Code was amended and supplemented for many times. As a result, there was a certain investigative, advocacy, prosecutorial and judicial practice of applying its norms in criminal proceedings. At the same time, in 2012 the President Atambayev A. signed the Decree "On measures to improve justice in Kyrgyzstan", on its basis were created expert working groups to draft laws aimed at improving procedural and other norms of law administration of justice, by order of the head of the presidential staff. As a result, a number of changes were made to the criminal procedure law passed by the Jogorku Kenesh of the Kyrgyz Republic on December 22, 2016; the changes come into play on January 1, 2019 (later were made changes to the Constitution of the KR on December 28, 2016). Without diminishing its dignity and innovations, which improve a number of norms, such as special investigative actions and mediation, I would like to highlight on certain issues of research into the norms of the Criminal Code and the Criminal Procedural Code, as well as the new Code on Misdemeanors of Kyrgyzstan, based on the protection of human rights.

I have to start by saying that there are two substantive rights in criminal proceedings - the Criminal Code and the Code of Misdemeanors. However, the theoretical positions of the Code of Misdemeanors haven't been investigated yet. Let's turn to other states, for example, Kazakhstan, they have moved away from the notion of misdemeanor, having designated in a criminal law socially dangerous acts as an offense. Probably this is correct, since the root of the «offense» comes from the Latin «**delict**» (**violation, fault**), civil, administrative, disciplinary offense, it is an unlawful act less dangerous than a criminal offense. **So here arises one question: why should the procedure for the production of misdemeanors regulated by the Criminal Proceeding Code?** What will be the law enforcement? Criminal law is the content; the criminal process is a form, **so here are two contents of the legal consequences in the criminal process.**

I would like to stop at an unclear in content, inconsistent in the system of the conceptual apparatus of the norms of the Criminal Proceeding Code, as an example - Article 5 "Definition of the basic concepts contained in this Code." Paragraph 6 - The case of misdemeanor - the proceedings conducted by an authorized official of the body of inquiry concerning one or more committed misdemeanors, i.e. if we based on paragraph 50 of this article, the prosecution is conducted in the usual way and there is certainly a violation of human rights in its constitutional rights of access the justice. In this case, criminal prosecution is incompatible with the conceptual apparatus of misdemeanor.

Practically there is a return to the Soviet criminal procedure, where was the protocol process form – there were participants as interrogators, who conducted the pre-trial preparation of the materials; there was an offender and a victim, **now there is an authorized official of the body of inquiry and there are a suspect, accused and a victim.** Once we refused such a form of criminal procedure, as this form violated the constitutional human rights.

Paragraph 36. Detective measures - measures taken by an authorized official of the body of inquiry, the investigator, as well as by the inquiry agency on the instructions of the investigator or an authorized official of the body of inquiry to identify the person suspected of committing a crime (and what about the people who hide from the investigation and the court, the missing people, a direct violation of human rights, if a person disappeared and none of the state bodies will look for him?).

Paragraph 40. Investigation - **actions to collect and investigate information** relevant to the case, carried out by an authorized official of the body of inquiry, the investigator, the prosecutor in accordance with the procedure established by this Code. What kind of **actions to collect and investigate information? And where is the evidence in fact?** Information - is a generalized concept that does not guarantee reliability, **the basis of the most sophisticated corruption schemes.**

Paragraph 44. Special investigative actions - actions conducted **without informing persons involved in criminal proceedings whose interests they affect and it's directed to clarify the circumstances**, obtain information to be proved in criminal proceedings, **when it is not possible to establish this by investigative actions. What a big cat toy? Who will answer for such a violation of constitutional human rights, who will conduct it? On the basis of what? This should be sanctioned by the court.**

Paragraph 50. Criminal prosecution - **the procedural activity carried out by the prosecution in order to expose the suspect, accused of committing a crime and (or) misdemeanor. Procedural activity is delegated only to officials of state competent bodies; the victim and its party cannot and don't have the rights to carry out procedural activities.**

Paragraph 51. Criminal proceedings - **a set of procedural actions and decisions carried out in a particular criminal case and (or) a case of misdemeanor during its pre-trial proceedings, trial and execution of the investigative judge's decision, court decision** (whose decisions in pre-trial proceedings and actions, by whom carried out, who executes the decisions of the investigating judge and the court's decisions).

The top of cynicism or deliberate actions to completely destroy the legal norms in my country is Article 7. **The principle of the rule of law and legitimacy** if the Criminal Proceeding Code of the Kyrgyz Republic is law, then where should be the **principle** of the rule of law and why **legitimacy**?

The authors proceeded from the concept of absolute priority of the principle of the implementation of criminal justice on the basis of equality and adversarial nature of the parties, this principle is regulated by Article 18. **The principle of the implementation of criminal proceedings on the basis of equality and adversarial nature of the parties, the following principle contained in Article 19. The principle of providing the suspect**, accused with the right to defense, contradicts the equality and adversarial nature of the parties, **because the same principle is not fixed in relation to the victim.**

Particular attention should be paid to paragraph 8 of Article 153 Investigative Jurisdiction, considering that there are currently no drug control authorities, what to do with articles 268, 269, 271, 272, 273, 274, 275, 276 - eight articles that remain orphaned, then

Article 535. The organization of the execution of punishment in relation to the convicted persons (most likely this is the criminal executive law) **as it is possible in the criminal process to organize the execution.**

Especially I want to underline the contradictions of the **Criminal Proceeding Code and the Constitution of the KR (Article 104 paragraph 6)**, where the **prosecutor's office is charged with instituting criminal**

proceedings against officials, whereas there is no such thing as criminal prosecution in the Criminal Proceeding Code?

The new Criminal Proceeding Code marks the beginning of pre-trial proceedings from the moment of registration in a single registry. To date, there is no single register, there is very little time left before the entry. In such a short time, it is almost impossible to equip all law enforcement units with a single register.

No sectoral laws have been adopted to date, such as the Law on Operatively Search Activities, most of appeared Operational Search Activities already acquired a procedural form as special investigative actions. Reform of the law enforcement system requires time and considerable financial investments.

On the Criminal Code of the Kyrgyz Republic

In relation to the Criminal Code, it is necessary to note the decriminalization of such socially dangerous acts as: **"Unauthorized use of credit"**, this is the basis of corruption in state structures, the constant strikes on the economic, social, international security of Kyrgyzstan, the exclusion of the concept of **"Diversion" – is a crime**, because Kyrgyzstan borders with four states and is in relative proximity with Afghanistan, at the junction of possible geopolitical shocks. According to statistics, only from the beginning of the year the national security services prevented more than 10 diversions, these socially dangerous acts are actual for Kyrgyzstan today. Especially, there have already been examples of diversion campaigns with penetration into our territory in Batken, a few years ago; Pickertik a couple of years, and the example of Heat Electro Central is an open economic diversion that led to the death of our citizens in the winter due to a sharp cold snap.

Also, work on these documents is equated with diversion, there is a deliberate destruction of the constitutional rights of citizens; and legal casuistry is created with the destruction of constitutional and internationally guaranteed protective mechanisms for the citizens of the republic, under the guise of international organizations, into which KR is entered. This diversion is prepared by the corrupt employees who are being corrupted, the citizens of the country, who permanently work in these organizations. **Look at whose emblems are printed on government documents in the form of a new Criminal Code of the KR and Criminal Proceeding Code of the KR.** At the same time, there was almost no open discussion with the participation of practitioners and the staff of the state bodies. We cannot talk about rights, when such institutions turn the hands of state structures to fully destroy the constitutional legal security of citizens.

At the same time, in the new criminal law, the incomprehensible direct mockery of my country by the article **«Apartheid»**, with a view to demonstrating to the world community the insolvency of Kyrgyzstan, as a state, which also negates the activities of all international institutions into which my Kyrgyzstan entered! !!!! **When we became someone's colony? Maybe we are colony for international institutions?**

To date, law enforcement agencies are not equipped with a Single legal Register, and pre-trial proceedings starts from the time of registration of an offense in the Single Register, how can a person exercise his constitutional rights in such conditions? How can you enact a law that directly contradicts the Constitution and this law is a set of different concepts, it is enough to analyze a couple of articles here to understand what will happen with respect for human rights. And there is more than one such contradiction.

Taking into account that the above facts directly infringe on the human rights and citizens' rights, which are enshrined in international documents, encroach on the integrity, internal and external

security of Kyrgyzstan. I consider it my duty to address from such a high rostrum to the head of the state - "the personification of the unity of power and the people" under the Constitution:

As the President of the Kyrgyz Republic, the imposed moratorium on its introduction for an indefinite period - is obliged to extend it. To bring officials to justice and exclude initiators of such innovations from the expert and working groups, and also to involve such persons in legal responsibility

1. To conduct an extended discussion at the level of specialists and lawyers of practitioners of all state structures.
2. Completely rework criminal, criminal procedural legislation, as well as the Code of Misdemeanors, in the version that is now infringed upon human rights in terms of access to justice, and this is the constitutional right of every citizen.
3. Find the primary source of the Constitution of the Kyrgyz Republic, where the norm of a permanent change in the structure of executive power with the resignation of premiers on the basis of an unconstitutional coalition agreement is excluded. To complete the reform of law enforcement agencies, to pass a law on "Internal Affairs Bodies", to clearly define at least the structure of law enforcement bodies for the next five years, and again if any structure is disbanded, and the articles of the Criminal Code functional for them will remain ownerless unnecessary ballast and tools or the use of negligent officials and judges as the drug control body is now disbanded and eight articles have remained so.
4. Quite a serious buffer period must pass, to prepare a subordinate regulatory framework that determines the organizational basis for the functioning of criminal proceedings; it takes time for retraining law enforcement officers, time for equipping units with a Single Registry.

I hope that I will find support at this meeting and will be heard by the leaders of the country in order to bring the newly adopted criminal and criminal proceeding legislation in line, as well as the Code on Misdemeanors, which I hope will serve to improve the effectiveness of law enforcement activities, promote respect for law, as well as strengthening the rule of law in the field of disclosure and investigation, the examination of criminal cases and the prevention of crimes, strictly observing international human rights covenants. Otherwise, all responsibility for the collapse of the reform will fall on the international organization, whose personal emblem is printed on these state documents of the country, published and distributed throughout the country.

Proceeding from this example, in order to avoid conflicts, accusations of interference in internal affairs and distrust of international institutions that proclaimed the protection of human rights, I ask you to recommend from the position of the OSCE:

Strictly monitor the publication of the emblems of any international and other organizations on government documents that automatically must be recognized as invalid.

No representative of an international organization, private or public, should be part of the expert and working groups set up by the state.

The management of such organizations should instruct their security services to monitor public messages about such actions. Publications about financial and project support are enough to hold in the media, as well as print on handouts. Without imposing their ideas, being part of the state-formed commissions.

Involve only those professionals who know the rules of the law of a particular region while attracting consultants at the international level. Today, we have a rough promotion of the norms of Anglo-Saxon law into the Romano-Germanic law, its becomes the basis for the destruction and growth of corruption in state institutions and the cause of the destruction of the immunities of the governments of the developing and poor countries of the UN, OSCE, European Union, and so on. As a result of this kind of corruption, at the level of the international court have been set up precedents with regard to Kyrgyzstan, which have legal consequences for other countries. The Kyrgyz government due to the deliberate inaction, the corrupt interest of a number of exclusives, at the international level through the

ICSID, in the case of Akkeme-System Myühendislik, the Turkish private company, is losing, leading the page on the use of a precedent of such character at the international level, especially in subsoil issues, mining industry.

I recommend to the country's leadership, for the time until all errors have been corrected, refrain from introducing changes only on the basis of developed and adopted comprehensive measures to introduce a new version of the Criminal Proceeding Code and the Criminal Code to avoid the destruction of mechanisms for protecting the rights of ordinary citizens and reducing corruption risks.

I deliberately don't call an international solid organization in order to avoid accusing me of pro - Easternism, pro-Westernism and all sorts of pro...

Thank you for attention