

LEGAL ADVISORY COLUMN

How can a foreign company operate construction projects in the Kyrgyz Republic?

*Prepared by Svetlana Lebedeva,
associate at Lorenz International
Law Firm, Bishkek.
Tel.: 00996 312 900 100;
e-mail: s.lebedeva@lorenz-law.com*

Construction projects are a significantly complicated and risky type of activity. As a result, this type of activity is closely regulated in Kyrgyzstan. Under Kyrgyz law, construction activity requires a license.

According to Kyrgyz law, a construction license can be issued to a legal entity as well as to an individual (an 'entrepreneur') by the State Agency of Architecture and Construction of the Government of the Kyrgyz Republic (or "Construction Agency"). Thus, legal entities and/or entrepreneurs wanting to carry out the construction works must obtain a license. Without the necessary license, the implementation of the construction activity is prohibited. The right to carry out the licensable type of activity starts from the date of receipt of the license by a legal entity or/and entrepreneur. A license issued to the legal entity is the only document that gives the right to engage in construction projects. It is not required that each separate department of the legal entity (representative and/or branch offices etc.) obtains a similar document.

A foreign company intending to operate construction works on the territory of the Kyrgyz Republic needs also to obtain a license. This is possible in three ways.

The first way is related to the situation where the foreign company has a construction license issued by the relevant state authority of the country where a company is registered. This license can be recognized in the territory of the Kyrgyz Republic under the terms and conditions of a relevant international agreement concluded between the Kyrgyz Republic and this foreign country.

The second way is that

the foreign company obtains a construction license on the territory of the Kyrgyz Republic under the same terms and conditions which are required for Kyrgyz companies and/or individuals. Thus the application to the Construction Agency for a license by the foreign company has to submit all relevant information and documents required by the legislation of the Kyrgyz Republic. Foreign specialists must be qualified according to Kyrgyz law. Therefore the performance of this option tends to be rather difficult in practice because all documents of the foreign company should comply with Kyrgyz law.

The last and the most appropriate way is to register a company (there are no special requirements related to the legal form of the company) in the Kyrgyz Republic and thereafter this company shall apply for a license. In practice foreign companies often intend to establish a representative office or branch office and through these try to apply for a license. However, pursuant to Kyrgyz law, representative and branch offices are not recognized as legal entities. Thus they cannot obtain a construction license.

To summarize, a foreign company can operate a construction project under a construction license only, which can be obtained or recognized by the Kyrgyz Republic. A list of works, annexed to Chapter 24 "Features of the licensing of construction activities" of the Regulation on Licensing of the Different Types of Activity, approved by the Decree of the Government of the Kyrgyz Republic # 260 dated 31.05.2001, provides different types of construction works that are the subject to licensing.