



Does the criminal investigation of PT Duta Graha Indah herald a change of focus for the KPK?

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The KPK (Komisi Pemberantasan Korupsi), Indonesia's Corruption Eradication Commission, has recently named publicly listed construction company PT Duta Graha Indah in a corruption related criminal investigation. The investigation relates to allegations of graft connected to the construction in 2009 and 2010 of the Udayana University hospital in Bali.

Since its establishment pursuant to Law No.30/2002 on the Corruption Eradication Commission, the KPK has focused its efforts on investigating and prosecuting corrupt acts in government authorities. Nearly all previous prosecutions have stemmed from public sector recipients of bribes. While there were other investigations, the prosecution of individuals from the private sector has been extremely limited and private sector employees were often interviewed as witnesses only, rather than suspects.

A Broadening of Powers

Last year, the KPK's powers were broadened by virtue of a Supreme Court Regulation 13/2016 on Procedures for the Handling of Corporate Crime Cases. These powers enabled law enforcement agencies including the KPK to name any company in criminal cases, such as those relating to corruption, the environment or fisheries. PT Duta Graha Indah (which has changed its name to PT Nusantara Konstruksi Enjiniring) has had the misfortune of becoming the first ever corporate to be named as a suspect. If the case proceeds, it will achieve the infamy of being something of a test case under the new regulations which address previous procedural hurdles in a criminal context such as how a

corporate may be summonsed and who may represent it.

KPK's Future Strategy

PT Duta Graha Indah is unlikely to be the final corporate coming under scrutiny as the KPK flexes the muscles given to it by the new powers, which themselves reflect the government's public commitment to crack down on improper and corrupt behaviour throughout the country.

Clients in the Indonesian private sector are advised (and should be additionally incentivised) to review their internal anti-bribery and corruption policies and update them where necessary to avoid criminal acts - for which they may now be more easily punished - being carried out in their name.

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