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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

KYRGYZSTAN

DECLARATION

No. 518

Of the Cabinet of Ministers of the Kyrgyz Republic

**On measures to implement the Law of the Kyrgyz Republic
“On Non-Profit Organisations”**

27 August 2024

Unofficial translation

In accordance with the Law of the Kyrgyz Republic "On Non-Commercial Organisations", Articles 13, 17 of the Constitutional Law of the Kyrgyz Republic "On the Cabinet of Ministers of the Kyrgyz Republic", the Cabinet of Ministers of the Kyrgyz Republic decides:

1. To approve the Regulation on the procedure for keeping the Register of non-commercial organisations performing the functions of a foreign representative and for the inspection of their activities according to the Annex.
2. Establish that:
 - 1) The Ministry of Justice of the Kyrgyz Republic is the authorised state body to maintain the Register of non-commercial organisations performing the functions of a foreign representative;
 - 2) applications within the framework of implementation of part 3 of Article 17' of the Law of the Kyrgyz Republic "On Non-Profit Organisations" shall be submitted to the authorised state body for keeping the Register of Non-Profit Organisations performing functions of a foreign representative within 2 (two) months from the date of entry into force of this Decree.
3. To introduce the following amendment to the Resolution of the Government of the Kyrgyz Republic "On Issues of the Ministry of Justice of the Kyrgyz Republic" No. 78 dated 5 March 2021:

in the Regulation on the Ministry of Justice of the Kyrgyz Republic approved by the abovementioned resolution:

 - paragraph 8, subparagraph 6, shall be supplemented with the following paragraph:

"- maintains the Register of non-commercial organisations performing the functions of a foreign representative."
4. The present resolution shall come into force upon expiry of ten days from the date of its official publication.

Provisions on the procedure for maintaining the Register of non-profit organisations performing the functions of a foreign representative.

Chapter 1: General Provisions

1. The present Regulation is developed in accordance with the Law on Non-Profit Organisations of the Kyrgyz Republic (hereinafter referred to as the Law on Non-Profit Organisations) defines the procedure for maintaining the Register of Non-Profit Organisations Performing the Functions of a Foreign Representative (hereinafter referred to as the Register) and the requirements to the information contained in the Register, as well as the procedure for auditing the activities of non-profit organisations performing the functions of a foreign representative.

2. The Register is an electronic database containing information on non-profit organisations performing the functions of a foreign representative included in the Register.

3. The Register shall be maintained by an authorised body determined by the Cabinet of Ministers of the Kyrgyz Republic (hereinafter referred to as the Authorised Body).

4. The Register shall be maintained in the state and official languages in electronic form, according to the form approved by the authorised body.

Chapter 2: Procedure for inclusion in the Register (inclusion from the Register) of non-commercial organisations performing functions of a foreign representative

5. Inclusion of a non-profit organisation in the Register is carried out upon the application of the head of the non-profit organisation performing the functions of a foreign representative.

6. The head of a non-profit organisation, whose activities meet the criteria of a non-profit organisation performing the functions of a foreign representative, established by the Law "On Non-profit Organisations", from the date of commencement of such activities shall submit to the authorised body an application for inclusion of the organisation in the Register within 5 (five) working days.

7. An application for inclusion of a non-profit organisation in the Register shall be submitted in the state or official language in the form approved by the authorised body.

8. The Register shall include the following information on a non-profit organisation performing the functions of a foreign representative:

- 1) serial number;
- 2) full name;
- 3) abbreviated name (if any);
- 4) registered office;
- 5) registration number;
- 6) tax identification number (hereinafter - INN);
- 7) code of the All-Republican Classifier of Enterprises and Organisations (hereinafter - OKPO);
- 8) type of activity;
- 9) bank account details;
- 10) Full name(s)/names of the founder(s);
- 11) IBDI/INN of the founder(s);
- 12) Full name of the supervisor;
- 13) PIN supervisor;
- 14) employee information;

15) note (in the closed part).

9. The column "Order Number" shall contain the serial number of registration of the non-commercial organisation in the Register depending on the date of its inclusion in the Register.

10. The column "Full name" shall contain the full company name of the non-commercial organisation in the state, official and (or) English languages.

11. The column "Abbreviated name (if any)" shall indicate the abbreviated company name of the non-commercial organisation in the state, official and (or) English languages (if any).

12. The column "Legal address" shall indicate the legal address of the non-commercial organisation in accordance with the registration documents, relevant information contained in the Unified State Register of Legal Entities, branches (representative offices) (hereinafter - the Unified State Register of Legal Entities).

13. The column "Registration number" specifies the registration number assigned to the archival registration file drawn up for each registered (re-registered) non-commercial organisation.

14. The column "Tax Identification Number" shall contain the TIN of the non-commercial organisation.

15. The column "Code of the All-Republican Classifier of Enterprises and Organisations" shall contain the OKPO code of the non-commercial organisation.

16. The column "Type of activity" specifies the main type of activity of the non-commercial organisation in accordance with the registration documents, relevant information contained in the Unified State Register of Legal Entities.

17. The column "Bank account details" shall contain the name of the bank, bank identification code, OKPO code of the bank, bank account number of the non-commercial organisation.

18. The column "Name and surname of the founder(s)" shall contain the surname and initials of the founder - a natural person and (or) the company name of the legal entity acting as a founder of the non-commercial organisation in accordance with the registration documents, the relevant information contained in the Unified State Register of Legal Entities.

19. In the column "PIN/INN of the founder(s)" the PIN/INN of the founder(s) shall be indicated.

20. The column "Full name of the manager" shall contain the surname and name of the head of the company, initials of the head of the non-commercial organisation in accordance with the registration documents, relevant information contained in the Unified State Register of Legal Entities.

21. The PIN of the head of the non-commercial organisation shall be indicated in the "Head's PIN" column.

22. The column "Information on employees of the non-commercial organisation" shall contain the surname and initials of employees (including employees performing labour activity on the basis of a fixed-term employment contract or an employment contract) in

accordance with their identity documents.

23. The column "Note" shall contain special marks on the date of sending the notification of violation of parts 5 and 6 of article 17' of the Act "On Non-Profit Organisations", the date of the decision to suspend the activities of a non-profit organisation, the date of receipt of the audit report, the date of exclusion from the Register and other information related to the maintenance of the Register.

24. The decision on inclusion of a non-profit organisation performing the functions of a foreign representative in the Register shall be taken by the Authorised Body within 10 (ten) working days from the date of receipt by the Authorised Body of an application under Clause 7 of these Regulations.

25. A non-profit organisation performing the function of a foreign representative shall be excluded from the Register in the following cases:

- 1) termination of the non-profit organisation in accordance with the procedure established by the legislation of the Kyrgyz Republic;
- 2) at the request of the head of a non-profit organisation, if the non-profit organisation:
 - during 12 (twelve) calendar months preceding the day of submission of the application for removal of the organisation from the Register, has not received money and other property from foreign sources;
 - during the 12 (twelve) calendar months preceding the day of submission of the application for removal of the organisation from the Register, has not carried out actions falling under the forms of political activity in accordance with the Law "On Non-Profit Organisations".

26. An application for removal from the Register shall be submitted by the head of a non-commercial organisation performing the functions of a foreign representative to the authorised body in the form approved by the authorised body.

27. Within 60 (sixty) calendar days from the date of receipt of the application specified in subparagraph 2 of paragraph 25 of these Regulations, the Authorised Body shall verify the information submitted by the non-commercial organisation and the circumstances that served as grounds for its inclusion in the Register, and shall take a decision to exclude the non-commercial organisation from the Register or shall take a decision to refuse its exclusion. The authorised body shall take a decision to exclude or refuse to exclude a non-commercial organisation from the Register on the basis of the relevant conclusions received from the authorised state bodies specified in clause 37 of these Regulations.

28. A decision to refuse to exclude a non-profit organisation from the Register shall be taken by the authorised body if, based on the results of the verification of information conducted on the grounds provided for in Clause 27 of these Regulations, it is established that the non-profit organisation has submitted unreliable information on the cessation of political activities established by Article 2 of the Law "On Non-Profit Organisations" and (or) cessation of receipt of monetary funds and other property from foreign sources.

29. This decision of the authorised body may be appealed by a non-profit organisation in the manner prescribed by the Law of the Kyrgyz Republic "On the Basis of Administrative Activities and Administrative Procedures". A non-commercial organisation performing the function of a foreign representative shall be removed from the Register within the following timeframes:

- 1) in accordance with subparagraph 1 of paragraph 25 of these Regulations - within 5 (five) working days from the date of entering information on registration of termination of activity of a non-profit organisation into the Unified State Register of Legal Entities;
- 2) in accordance with subparagraph 2 of paragraph 25 of these Regulations - within 5 (five) working days from the date of confirmation of the information on the cessation of political activities established by Article 2 of the Law "On Non-Profit Organisations", and (or) cessation of receipt of funds and other property from foreign sources.

30. The Authorised Body shall, within 5 (five) working days from the day of of the decision to remove a non-commercial organisation from the Register (refusal to remove it from the Register) shall notify the non-commercial organisation of this decision in writing.

31. In case of changes in the data contained in the Register, the non-profit organisation performing the function of a foreign representative shall, within 30 (thirty) calendar days from the date of the relevant decision, notify the Authorised Body of the changes, attaching the relevant documents on the changes.

In case of hiring (dismissal) of employees (including employees performing labour activity on the basis of a fixed-term labour contract or employment contract), a non-profit organisation performing the function of a foreign representative shall, within 7 (seven) calendar days from the date of hiring (dismissal) of employees, send a relevant notification to the authorised body.

Chapter 3: Procedure for the implementation of the provisions of Article 17', Parts 6-11 of the Law "On Non-Profit Organisations"

32. A non-profit organisation performing the function of a foreign representative shall, not later than May 1 of the year following the reporting period, submit to the authorised body an audit report of an independent auditor, unless otherwise provided for by international agreements of the Kyrgyz Republic.

The audit report of the independent auditor shall be submitted in paper form, which shall be signed by the head, sealed with the seal of the non-commercial organisation, numbered and stapled page by page.

33. When a non-commercial organisation performing the function of a foreign representative submits an audit report of an independent auditor, the authorised body shall, within 10 (ten) working days, send a copy of the audit report of the independent auditor to the authorised state body in the field of taxation for control over compliance with the requirements of tax legislation, legislation in the field of state social insurance and non-tax revenues.

34. Control over the compliance of the activities of non-profit organisations performing the functions of a foreign representative with the objectives stipulated in their constituent documents, and Article 17¹ of the Law "On Non-Profit Organisations" in accordance with the procedure defined in these Regulations.

35. To establish that the exercise of the control referred to in paragraph 34 of this Regulation shall be limited to the following areas:

1. financial transparency and tax compliance;
2. accompanying materials produced and (or) distributed by organisations, including through mass media and (or) using the Internet, with an indication that these materials are produced, distributed and (or) sent by a non-profit organisation performing the functions of a foreign representative;
3. participation in political activities in the territory of the Kyrgyz Republic, regardless of the goals and objectives stated in the founding documents of the organisation;

4. compliance of the organisation's activities with its statutory objectives.

36. Grounds for carrying out inspections in the framework of the implementation of the following controls are:

1. appeal of state bodies, local authorities and mass media about violation by a non-profit organisation of the requirements of Article 17' of the Law 'On Non-Profit Organisations';
2. appeal of state bodies, local self-government bodies and mass media about non-compliance of the activities of a non-profit organisation performing the function of a foreign representative with its statutory objectives.

37. In case of receipt by the authorised body of appeals about violation by a non-commercial organisation of the requirements of the legislation and about non-compliance of the organisation's activity with the objectives stipulated by its constituent documents, the authorised body has the right to direct this appeal to the authorised state bodies, based on the sphere of their activity and competence.

Questions on compliance with the requirements of financial transparency and tax legislation requirements are sent to the authorised state body in the field of taxation for giving an appropriate opinion.

Questions on the non-profit organisation's compliance with Article 17' (5) of the Law "On Non-Profit Organisations" shall be referred to the authorised state information authority for a relevant opinion. Issues related to participation in political activities carried out in the territory of the Kyrgyz Republic, regardless of the goals and objectives specified in the constituent documents of a non-profit organisation. The organisation's compliance with the requirements of compliance of the organisation's activities with its statutory objectives, as well as assessment of compliance with other requirements of the legislation of the Kyrgyz Republic are sent to the prosecutor's office of the Kyrgyz Republic for a relevant opinion.

Questions on compliance with activity compliance requirements organisation to its statutory objectives are sent to the relevant authorised state bodies, whose scope of activities and competence relate to the main activities of the non-profit organisation arising from its statutory objectives.

38. Authorised state bodies may request from a non-profit organisation directly or through an authorised body only the information and documents that are relevant to the subject of the audit.

39. Upon receipt of relevant conclusions from the authorised state bodies confirming violations of parts 3, 5 and 6 of Article 17' of the Law 'On Non-Profit Organisations', the authorised body shall, within ten (10) working days, send to the non-profit organisation a written notification specifying the violations committed and the deadline for their elimination, which shall not exceed one month.

40. The non-profit organisation is obliged to eliminate the violations within the time limits specified in the notification of the authorised body.

Violations made in accordance with Article 17', paragraphs 3 and 6 of the Law "On Non-Profit Organisations" shall be deemed to have been eliminated from the date of submission of an application for inclusion of a non-profit organisation in the Register and submission of an audit report by an independent auditor, respectively.

Violations committed in accordance with part 5 of Article 17¹ of the Law "On Non-Commercial Organisations" shall be deemed eliminated from the moment of submission by the authorised state body in the field of information to the authorised body of the conclusion confirming their elimination.

41. In case of failure to eliminate the violations specified in the notification within the established terms, the authorised body shall issue a decision to suspend the activities of the non-profit organisation for a period not exceeding 6 (six) months, with notification of the non-profit organisation.

42. A decision to suspend the activities of a non-profit organisation may be appealed in the manner prescribed by the Law of the Kyrgyz Republic "On the Basis of Administrative Activities and Administrative Procedures".

43. If, within the established period of time for which the activities of a non-profit organisation have been suspended, the non-profit organisation eliminates the violations specified in the non-commercial organisation resumes its activity in accordance with the procedure specified in paragraph 40 of these Regulations.

44. If within the established period of suspension the non-commercial organisation fails to eliminate the violations specified in the notification, the authorised body shall apply to the court for liquidation of the non-commercial organisation in accordance with the requirements of Article 96 of the Civil Code of the Kyrgyz Republic.

Representatives of authorised state bodies, the conclusions (information) of which served as a basis for sending relevant notifications, may be involved by the authorised body for preparation of statements (petitions and other documents) necessary for application to the court.

45. Copies of notifications, conclusions (information) of the authorised state bodies, letters of non-commercial organisations and other materials shall be filed by the authorised bodies in the archive file of the non-commercial organisation.