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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**KYRGYZ REPUBLIC**

**LAW No. 72**

**FROM 2 APRIL 2024**

**ON AMENDMENTS TO THE LAW OF THE KYRGYZ REPUBLIC**

**“ON NON-PROFIT ORGANIZATIONS”**

**AND**

**EXPLANATORY NOTE**

**LAW OF THE KYRGYZ REPUBLIC**

from April 2, 2024 No. 72

**On Amendments to the Law of the Kyrgyz Republic "On non-profit organizations"****Article 1**

Contribute to Law The Law of the Kyrgyz Republic “On Non-Commercial Organizations” (Bulletin of the Zhogorku Kenesh of the Kyrgyz Republic, 2000, No. 2, Art. 102) made the following changes:

Article 2 supplement with parts four to eleven of the following contents:

**«Foreign non-profit organization** -an organization that does not have as the main goal of its activities is to make a profit and not to distribute the profit received among the participants, created outside the territory of the Kyrgyz Republic in accordance with the legislation of a foreign state, the founders (participants) of which are not government agencies.

A foreign non-profit organization carries out its activities on the territory of the Kyrgyz Republic through its structural divisions - branches and representative offices.

**Structural divisions of foreign non-profit organizations** - branches and representative offices of foreign non-profit organizations subject to state registration and acquiring legal capacity on the territory of the Kyrgyz Republic from the date of entry into the register of branches and representative offices of international organizations and foreign non-profit organizations of information about the relevant structural subdivision in the manner prescribed by the legislation of the Kyrgyz Republic.

**A non-profit organization performing the functions of a foreign representative** -non-profit organization established in the Kyrgyz Republic The Republic, which receives funds and other property from foreign states, their state bodies, international and foreign organizations, foreign citizens, stateless persons or persons authorized by them, receiving funds and other property from the specified sources (with the exception of open joint-stock companies with state participation and their subsidiaries) (hereinafter referred to as foreign sources), and which participates, including in the interests of foreign sources, in political activities carried out on the territory of the Kyrgyz Republic.

A non-profit organization is recognized as participating in political activity carried out on the territory of the Kyrgyz Republic if, regardless of the goals and objectives specified in its constituent documents, it participates (including through financing) in the organization and conduct of political actions for the purpose of influencing the adoption of decisions by state bodies aimed at changing the state policy they are pursuing, as well as in the formation of public opinion for the said purposes.

**Political activity** -activities in the sphere of state the structure, protection of the foundations of the constitutional system of the Kyrgyz Republic, protection of sovereignty and ensuring territorial integrity, legality, law and order, state and public security, defense, foreign policy, socio-economic and national development.

Forms of political activity:

- participation in the organization and holding of public events in the form meetings, rallies, demonstrations, marches or pickets, or various combinations of these forms, organizing and conducting public debates, discussions, speeches;
  - participation in activities aimed at obtaining a certain results in elections, referendums, in monitoring the conduct of elections, referendums, the formation of electoral commissions, commissions for conducting referendums, in the activities of political parties;
  - public appeals to government bodies, local authorities local governments, their officials, as well as other actions that influence the activities of these bodies, including the adoption, amendment, repeal of laws or other regulatory legal acts;
  - distribution, including using modern information technologies, opinions on decisions made by government bodies and policies pursued;
  - the formation of socio-political views and beliefs, including including by conducting public opinion polls and publishing their results or conducting other sociological research;
  - involvement of citizens, including minors, in the said activity.
- Political activity does not include activities in the fields of science, culture, art, healthcare, protection of citizens' health, social support and protection of citizens, social support for the disabled, protection of motherhood and childhood, promotion of a healthy lifestyle, physical education and sports, protection of flora and fauna, as well as charitable activities.”;

2) part 2 Articles 15 set out in the following wording:

“2. Violation by a non-profit organization of the provisions of this Law shall entail liability in accordance with the legislation of the Kyrgyz Republic.”;

3) Chapter I to supplement Article 17<sup>1</sup> the following content:

«Article 17<sup>1</sup>. Openness of a non-profit organization performing the functions of a foreign representative

1. The authorized body maintains a Register of non-profit organizations, performing the functions of a foreign representative (hereinafter referred to as the Register). The Register includes the name of the non-profit organization, information about the founders and director.
2. The procedure for maintaining the Register, including the requirements for the data contained therein information, established by the authorized body.
3. The head of a non-profit organization performing functions foreign representative, is obliged to submit to the authorized body an application for inclusion in the Register.
4. The information contained in the Register is placed in the order determined by the authorized body, on the official website of the authorized body.
5. Materials produced and/or distributed by non-commercial organizations performing the functions of a foreign representative included in the Register, including through the media and (or) using the Internet, must be accompanied by an indication that these materials (information) were produced, distributed and (or) sent by a non-profit organization performing the functions of a foreign representative.
6. A non-profit organization performing the functions of a foreign representative, annually submits to the authorized body an audit report of an independent auditor, unless otherwise provided by an international treaty of the Kyrgyz Republic.
7. In the event of a violation by a non-profit organization performing the functions foreign representative, parts 3, 5 and 6 of this article, the authorized body shall send a written notice

indicating the violations committed and the period for their elimination, which shall not exceed one month.

8. If a non-profit organization that received notification in in the manner prescribed by Part 7 of this Article, does not eliminate the violations specified in the notification, the authorized body, by its decision, shall suspend its activities for a period of no more than six months.

The decision to suspend the activities of such a non-profit organization may be appealed in the manner prescribed By law Kyrgyz Republic "On the Fundamentals of Administrative Activity and Administrative Procedures".

Filing a complaint in accordance with the procedure established by this Law does not suspend the execution of the contested decision.

9. In the event of suspension of the activities of a non-profit organization, it is prohibited from using bank deposits, with the exception of settlements for business activities, employment contracts, compensation for losses caused by its actions, payment of taxes, fees and fines.

If during the established period of suspension of activities

If the non-profit organization fails to eliminate the violations specified in the notice, the authorized body shall apply to the court with a statement on the liquidation of the legal entity in accordance with Article 96 Civil Code of the Kyrgyz Republic.

10. If during the established period of suspension of activities

If the non-profit organization corrects the violations specified in the notice, the non-profit organization will resume its activities.

11. Authorized body in the field of state registration exercises control over the compliance of the activities of a non-profit organization with the goals provided for in its constituent documents and the legislation of the Kyrgyz Republic. For these purposes, the authorized body has the right to:

- request from the governing bodies of the non-profit organization their administrative documents;
- request and receive information on financial and economic activities of non-profit organizations with state statistics bodies, tax authorities and other state supervision and control bodies, as well as credit and other financial organizations;
- send their representatives to participate in events held non-profit organization;
- conduct compliance checks on the activities of non-profit organizations organization, including the expenditure of funds and the use of other property, for the purposes provided for in its constituent documents, in the manner established by the authorized body."

## **Article 2**

This Law shall enter into force ten days after the date of its official publication.

*Published in the official state newspaper "Erkin-Too" on April 5, 2024, No. 26 (3579)*

The Cabinet of Ministers of the Kyrgyz Republic shall, within one month, bring its regulatory legal acts into compliance with this Law.

**President  
Kyrgyz Republic**

**S.N. Japarov**

**Adopted by the Zhogorku Kenesh  
Kyrgyz Republic**

**March 14, 2024**

**Reference-justification  
to the draft Law of the Kyrgyz Republic  
"On Amendments to Certain Legislative Acts of the Kyrgyz Republic (Law of the  
Kyrgyz Republic  
"On Non-Commercial Organizations" and the Criminal Code  
Kyrgyz Republic)»**

Draft Law of the Kyrgyz Republic "On Amendments to Certain Legislative Acts of the Kyrgyz Republic"(Law of the Kyrgyz Republic "On Non-Commercial Organizations" and the Criminal Code of the Kyrgyz Republic)" (hereinafter referred to as the draft law) was developed in order to ensure openness and publicity of the activities of non-profit organizations, including structural divisions of foreign non-profit organizations, as well as non-profit organizations performing the functions of a foreign representative and financed from foreign sources - foreign states, their government bodies, international and foreign organizations, foreign citizens, stateless persons or persons authorized by them, receiving funds and other property from the said sources.

Today, according to the Ministry of Justice of the Kyrgyz Republic, 18,500 different non-profit organizations are registered in Bishkek alone. It is no secret that not all of them, in accordance with their statutory goals and objectives, carry out their activities in the field of science or culture, health care, social support for citizens, protection of motherhood and childhood, physical education and sports, protection of flora and fauna, as well as charitable activities. A significant part of them, contrary to their constituent documents, interfere in the political life of the state, participating, including through financing, in the organization and holding of political actions in the Kyrgyz Republic, striving to form public opinion for the adoption of decisions by state authorities that contradict the consistency and purposefulness of state policy for the sustainable development of the country.

The scope of regulation of the Law of the Kyrgyz Republic "On Non-Commercial Organizations" is public relations arising in connection with the creation, activities, reorganization and liquidation of non-commercial organizations, including foreign non-commercial organizations operating on the territory of the Kyrgyz Republic.

Meanwhile, the said Law does not disclose the concept of "foreign non-profit organization" and through which bodies the activities of these organizations are carried out.

In this regard, the bill introduces appropriate amendments to this Law.

Thus, a foreign non-profit organization will be an organization that does not have profit-making as the main goal of its activities and does not distribute the profit received among its participants, created outside the territory of the Kyrgyz Republic in accordance with the legislation of a foreign state, the founders (participants) of which are not government agencies.

A foreign non-profit organization carries out its activities on the territory of the Kyrgyz Republic through its structural divisions - branches and representative offices.

**Structural divisions of foreign non-profit organizations**— branches and representative offices of foreign non-profit organizations subject to state registration and acquiring legal capacity on the territory of the Kyrgyz Republic from the date of entry into the register of branches and representative offices of international organizations and foreign non-profit organizations of information about the relevant structural subdivision in the manner prescribed by the legislation of the Kyrgyz Republic.

In addition, it is proposed to introduce a legal status for a non-profit organization created in the Kyrgyz Republic and receiving funds and other property from foreign states, their state bodies, international and foreign organizations, foreign citizens, stateless persons or persons authorized by them, receiving funds and other property from the specified sources (except for open joint-stock companies with state participation and their subsidiaries) (hereinafter referred to as foreign

sources), and which participates, including in the interests of foreign sources, in political activities carried out on the territory of the Kyrgyz Republic. Such a non-profit organization will be a non-profit organization performing the functions of a foreign representative.

In this case, a non-profit organization will be recognized as participating in political activities carried out on the territory of the Kyrgyz Republic if, regardless of the goals and objectives specified in its constituent documents, it participates (including through financing) in the organization and conduct of political actions for the purpose of influencing the adoption of decisions by state bodies aimed at changing the state policy they are pursuing, as well as in the formation of public opinion for the said purposes.

Political activity does not include activities in the fields of science, culture, art, healthcare, protection of citizens' health, social support and protection of citizens, social support for the disabled, protection of motherhood and childhood, promotion of a healthy lifestyle, physical education and sports, protection of flora and fauna, as well as charitable activities.

Consequently, when receiving funds and property from foreign sources for the purpose of carrying out the above-mentioned activities, a non-profit organization cannot be recognized as a non-profit organization performing the functions of a foreign representative.

Furthermore, the draft law proposes to set out Article 17 of the Law of the Kyrgyz Republic "On Non-Commercial Organizations" in a new edition, disclosing its content more deeply and supplementing it with provisions that the subject of a commercial secret cannot be the size and structure of the income of a non-commercial organization, information on the size, composition of the property and expenses of a non-commercial organization, the number and composition of employees, their remuneration, the use of unpaid labor of citizens in the activities of a non-commercial organization; on the need for non-commercial organizations to submit to the authorized body in the field of registration documents containing a report on their activities, on the personal composition of the governing bodies, on the purposes of spending funds and using other property, including those received from foreign sources, and non-commercial organizations performing the functions of a foreign representative, also an auditor's report.

Also, Article 17 in the new version establishes scheduled inspections for a non-profit organization performing the functions of a foreign representative, which are conducted no more than once a year. The basis for conducting an unscheduled inspection of a non-profit organization performing the functions of a foreign representative is:

- expiration of the period for eliminating the violation contained in the warning of the authorized body, previously issued to the non-profit organization performing the functions of a foreign representative;
- receipt by the authorized body of information from state bodies and local government bodies on the violation by a non-profit organization performing the functions of a foreign representative of the legislation of the Kyrgyz Republic in the sphere of its activities;
- the presence of an order (instruction) from the head of the authorized body, issued on the basis of a request from the prosecutor to conduct an unscheduled inspection as part of supervision of the implementation of laws based on materials and requests received by the prosecutor's office.

The authorized body in the sphere of state registration exercises control over the compliance of the activities of a non-profit organization with the goals provided for in its constituent documents and the legislation of the Kyrgyz Republic.

In relation to a non-profit organization, the authorized body in the sphere of state registration has the right to:

- request administrative documents from the governing bodies of a non-profit organization;
- request and receive information on the financial and economic activities of non-profit organizations from state statistics agencies, tax authorities, and other state supervision and control agencies, as well as from credit and other financial organizations;
- send their representatives to participate in events held by the non-profit organization;

- conduct checks on the compliance of the activities of a non-profit organization, including the expenditure of funds and the use of other property, with the purposes stipulated by its constituent documents, in the manner established by the authorized body;

- in the event of detection of a violation of the legislation of the Kyrgyz Republic or the commission by a non-profit organization or its structural subdivision of actions that contradict the goals provided for in its constituent documents, issue it a written warning indicating the violation committed and the period for its elimination, which shall be no less than one month. A warning issued to a non-profit organization may be appealed to a higher authority or to a court.

- suspend by its decision for a period of no more than six months the activities of a non-profit organization performing the functions of a foreign representative that has not submitted an application for inclusion in the register of non-profit organizations performing the functions of a foreign representative, in accordance with the legislation of the Kyrgyz Republic. The decision to suspend the activities of such a non-profit organization may be appealed in court.

In the event of suspension of the activities of a non-profit organization, it is prohibited from using bank deposits, with the exception of settlements for business activities and employment contracts, compensation for losses caused by its actions, payment of taxes, fees and fines.

If, within the established period of suspension of the activities of a non-profit organization, it submits to the authorized body an application for inclusion in the register of non-profit organizations performing the functions of a foreign representative in accordance with the legislation of the Kyrgyz Republic, such non-profit organization shall resume its activities from the date of its inclusion in the said register.

In the event that a structural division of a foreign non-profit organization fails to submit the information stipulated by this article within the established period, and also in the event that the activities of a structural division of a foreign non-profit organization do not correspond to the goals stated in the notification, as well as the information submitted in accordance with this article, the relevant structural division of a foreign non-profit organization may be excluded from the register of branches and representative offices of international organizations and foreign non-profit organizations by decision of the authorized body.

In addition, in order to protect the foundations of the constitutional order, ensure the defense and security of the state, morality, health, rights and freedoms of other persons, the authorized body has the right to issue a reasoned decision to a structural subdivision of a foreign non-profit organization to prohibit the transfer of funds and other property to certain recipients of said funds and other property.

For structural divisions of foreign non-profit organizations, non-profit organizations receiving funds and other property from foreign sources and performing the functions of a foreign representative, the amendments introduced will ensure increased transparency of activities, including in the following areas:

- creation of a register of branches and representative offices of international organizations and foreign non-profit organizations, a register of non-profit organizations performing the functions of a foreign representative, and a declarative procedure for inclusion in this register when a non-profit organization carries out political activities, including at the expense of funds and other property received from foreign sources;

- mandatory audit of the annual financial statements of a non-profit organization performing the functions of a foreign representative, as well as the annual financial statements of a structural subdivision of a foreign non-profit organization;

- maintenance by a non-profit organization of separate records of income (expenses) received (incurred) within the framework of receipts from foreign sources, and income (expenses) received (incurred) within the framework of other receipts;

- regular submission to the authorized body of a report on the personnel composition of the governing bodies, documents on the purposes of spending funds and using other property,

including those received from foreign sources, and for a non-profit organization performing the functions of a foreign representative, also an auditor's report.

The bill also proposes introducing corresponding accompanying amendments to the Criminal Code of the Kyrgyz Republic (new article 200-1).

The draft law complies with the legislation of the Kyrgyz Republic, its adoption will not entail social, legal, human rights, economic, gender, environmental, or corruption consequences.

The draft law was posted on the official website of the Zhogorku Kenesh of the Kyrgyz Republic for the public discussion procedure. Following the public discussion, the proposals were not taken into account and no comments were received.

The allocation of funding sources from the state budget for the implementation of the provisions of the law is not required.

This bill does not address issues of entrepreneurial activity and does not require a regulatory impact analysis.

**Deputy**

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