

OVERVIEW

Uzbekistan: Regulation On Procedure on Coordination of Receipt of Financial and Other Assets from External Sources by Non-governmental Non-commercial Organizations and On the Procedure on Implementation of Projects Financed from External Sources, on the Territory of the Republic of Uzbekistan.

OCTOBER 11, 2023

Introduction

On October 4, 2023, the Cabinet of Ministers of the Republic of Uzbekistan (hereinafter, “the GoUz”) approved Regulation “On Procedure on Coordination of Receipt of Financial and Other Assets from External Sources by Non-governmental Non-commercial Organizations and On the Procedure on Implementation of Projects Financed from External Sources, on the Territory of the Republic of Uzbekistan” (hereinafter, “Regulation #527”¹).²

Regulation #527 sets up a procedure on the registration of foreign grants received by Uzbek non-governmental non-commercial organizations (NNOs) and on the implementation of activities funded under these foreign grants. The stated aim of Regulation # 527 is to ensure the implementation of the Law on NNOs, implementation of Recommendation eight (8) of the standards of Financial Action

¹ Approved by Decree of the Cabinet of Ministers of Uzbekistan “On Measures to Further Support Social Partnership and International Cooperation in the Implementation of Public Benefit Programs and Projects by Non-Governmental Non-Commercial Organizations” # 527 of October 4, 2023.

² ICNL used the unofficial translation of the Regulation from Uzbek into English and brings our apologies for any discrepancies in interpretation of the provisions of the regulation caused by inaccurate transliteration and/or translation.

Task Force (FATF), as well as further development of social partnership and international cooperation in public benefit programs and projects by NNOs.

Regulation #527 replaced previously existing regulations related to Uzbek NNOs in receipt of foreign grants.³ Overall, Regulation #527 is an improvement compared to the previously existing Regulations #328 and #858, as it simplifies the registration procedure for foreign grants. Specifically, Regulation #527 eliminates a contradiction between Regulations #328 and #858, which caused problems in implementation.

The adoption of Regulation #527 can be credited to the successful advocacy efforts led by Uzbek NNOs, the first success of this kind in the past 25 years of Uzbekistan's history. The GoUz and the Ministry of Justice of the Republic of Uzbekistan (MoJ), in particular, held consultations with NNOs and based on these consultations, incorporated a number of the NNOs' important recommendations into the Regulation #527.

However, certain provisions of Regulation #527 will require an additional interpretation from the GoUz to ensure that all interested stakeholders have common understanding of the legal provisions of this Regulation. Further, it is important to note that Regulation #527 still excessively restricts NNOs' access to sources of funding.⁴

The purpose of this Overview is to inform interested stakeholders on the key changes in Regulation #527, compared to the Regulations #328 and #858, and to provide an assessment on the positive or negative impact of these changes in comparison to those of previous Regulations #858 and #328.

Key Changes in Regulation #527

CHANGES IN THE PROCEDURE OF REGISTRATION OF FOREIGN GRANTS.

Regulation #527 simplifies the procedure for registering foreign grants by limiting the number of GoUz authorities required to issue their opinion and/or decision in the registration process. Specifically, under Regulation #527, the MoJ is not required to

³ Regulation #527 replaced the Regulation on Coordination Between NNOs and Public Authorities in the Implementation of International Grant Projects, approved by Decree #328 of the GoUz of June 13, 2022 (hereinafter, *Regulation #328*), and the Regulation on Procedure for Agreeing Receipt of Monetary or other Assets from Foreign States, International and Foreign Organizations, Foreign Citizens or, from their Designated Persons, by Non-governmental Non-commercial Organizations with Registration Authorities, approved by Decree #858 of the GoUz of October 9, 2019 (hereinafter, *Regulation #858*). According to Annex No. 2 of Regulation #527, Regulations #328 and #858 are "recognized as null and void".

⁴ ICNL is working on a comparative analysis of the Uzbekistan legislation relating to access to foreign funding, which we expect to be completed in 2023.

notify and solicit an opinion from the Ministry of Foreign Affairs of the GoUz before deciding on whether to approve a grant.⁵

Regulation #527 also changes the terms and timeline for the decision-making process on considering approval of a grant. Regulation #527 provides the MoJ with 15 days to consider an NNO's application to register a grant. In addition, the Regulation allows the MoJ to add up to ten days for "further examination," totaling the whole process to 25 days.

The now-void Regulation #858 also provided the MoJ with a 15-day-consideration period; however, Regulation #858 also afforded the MoJ an undefined period of time to (a) request additional information from an applicant-NNO and (b) review the reliability of the provided documentation. Therefore, the maximum time period for consideration of an application was unclear.

CLARIFYING AND, POTENTIALLY, EXPANDING THE THRESHOLD FOR THE FOREIGN GRANT AMOUNT, BELOW WHICH GRANTS' REGISTRATION IS NOT REQUIRED.

Regulation #527 clarifies that NNO-grant recipients are required to obtain an approval of a foreign grant from the MoJ if the value of a foreign grant exceeds 100 base calculation units (BCU), the equivalent of approximately \$2,800 USD. This amount, previously established in Regulation #858, was not established in Regulation #328, leading many to question if, since the adoption of Regulation #328, there was no threshold below which grants are exempt from registration with the MoJ. Despite the advocacy of NNOs to raise the threshold for the foreign grant amount, the threshold of 100 BCUs is confirmed per Regulation #527. However, a positive is that Regulation #527 clarified that the threshold for a minimal grant amount is still applicable.

Furthermore, Regulation #527 established a new, positive rule stating that the "*requirement regarding the total amount of funds and property received in a single calendar year is generally applied separately for each external source.*"⁶ This new rule potentially presents an important, positive change given that the threshold previously applied to the total sum of all foreign grants received by an NNO in a single year, irrespective of the number of external sources, presently applies for each funding source. For example, if an NNO receives ten (10) grants, it does not have to register them all as long as each grant is below \$2,800 (total \$28,000, or more if there is more such small grants.)

However, this rule's language is vague, and the GoUz and the MoJ are urged to clarify the meaning of "*generally applied*". Elsewhere in Regulation #527, it states that "*A non-governmental non-profit organization does not need approval from the registering body to receive funds and property from external sources in the following cases: when the total amount of funds*

⁵ As provided in Regulation #328.

⁶ Paragraph 2 of Section 3 of Regulation #527.

and assets received from external sources does not exceed 100 times the amount of the [BCU] for one calendar year.”⁷

Although exemptions to the registration requirement must be clarified, this change is an improvement compared to previous legislation.

IMPOSING (POTENTIALLY) A NEW RESTRICTION RELATING TO REGISTRATION OF FUNDS RECEIVED BY FOREIGN ORGANIZATIONS OPERATING IN UZBEKISTAN.

Regulation #527 establishes that an NNO does not need approval from the MoJ to receive funds and property from external sources “*when funds and property are allocated to representative offices and branches of international and foreign non-governmental non-profit organizations by their parent organizations to cover administrative expenses.*”⁸ Meanwhile, Regulation #858 states that it is not necessary to register funds and other assets with the MoJ departments when: “*assets and property [are] provided to representative offices and affiliates of international and foreign non-commercial organizations by their headquarters.*”⁹ Compared to Regulation #858, this new requirement under Regulation #527 could limit exempt-from-registration funds to cover only “*administrative expenses*” rather than to fund program activities.¹⁰ This rule will be an issue, and a negative, to foreign NNOs operating in Uzbekistan, if funds received to issue grants and/or contacts to local actors cannot be considered as “*administrative expenses.*”

It is important to note that even if funds received from foreign sources fall under one of the exemptions, an NNO-recipient is still required to notify the MoJ “*of the funds and property at least three working days in advance [before receiving the funds].*”¹¹ A similar requirement is included in the previous Regulation #858.

REQUIREMENT FOR NNOS TO HAVE A “STATE ORGANIZATION” AS A PARTNER.

As opposed to the “*national partner*” requirement per Regulation #328, Regulation #527 requires NNOs to have a “*state organization*” providing them with “*organizational and methodological support*”. Such “*state organization*” is assigned to each NNO by the MoJ for the purpose of participation in and support of an NNO with activities in the implementation of a foreign grant, if the value of a received grant is above 1000 BCUs,

⁷ Paragraph 2 of Section 10 of Regulation #527.

⁸ Paragraph 7 of Section 10 of Regulation #527.

⁹ Paragraph 6 of Section 7 of Regulation # 858.

¹⁰ According to Paragraph 6 of Section 7 of Regulation # 858 “*It is not necessary for NNOs to agree on received funds and assets with the justice bodies, when received from foreign persons in the following instances: ...:- assets and property provided to representative offices and affiliates of international and foreign non-commercial organizations by their headquarters.*”

¹¹ Paragraphs 9 of Section 10 of Regulation #527. Paragraph 10 of the same section further states: “*The notification shall contain information on the external source providing funds and property (for individuals – full name, citizenship, place of residence, date and place of birth, place of work and position; for legal entities – full name, location, location of the main governing body, full name of the head), monetary unit (currency) and amount of funds received, type and value of property, purposes of their use, as well as copies of the agreement, contract, decision and other documents on the allocation of funds shall be attached thereto.*”

equivalent of approximately \$28,000.¹² An NNO may submit its proposal to the MoJ on which government body may be assigned as its partner “*state organization*.” It is our understanding that if a grant’s value is below 1000 BCUs, an NNO may decide on whether it will have a partnering “*state organization*.” Should an NNO decide to partner with a “*state organization*,” it has the discretion to select such a “*state organization*.” Relevant provisions of Regulation #527 are positive compared to those in Regulation #328, which required all NNO-grant recipients to have an MoJ-chosen “*national partner*” (the equivalent to the “*state organization*”).

Regulation #527 defines the competence of a “*state organization*” as a partner to an NNO-grant recipient as the following: “*providing organizational and methodological support for the project shall provide assistance to the non-governmental non-profit organization in the following forms:*

- *organization of meetings, negotiations and other events within the framework of the project;*
- *involvement of field experts and specialists in the project;*
- *exchange of necessary statistical and analytical data to ensure the effectiveness of the project, except for information constituting a state secret or other secret protected by law, causing harm to the rights, freedoms and legitimate interests of individuals and legal entities, the interests of society and the state;*
- *giving practical suggestions and recommendations aimed at solving the problems encountered during the project implementation.*¹³

While the powers outlined in Regulation #527 remain to be excessive, the Regulation does provide limitations compared to Regulation #328, at least, by prohibiting “*state organizations*” from being able to

- *“hinder the activities of a non-governmental non-profit organization as defined in its Charter;*
- *give instructions and assignments to a non-governmental non-profit organization, set tasks and demand additional information from it that is not related to the project;*
- *make changes and additions to the approved project documents (estimates, plan, etc.);*
- *request financial incentives for participation in the project.*¹⁴”

Regulation #328, which introduced the notion of a “*national partner*”, included no such limitations on the authority of a “*national partner*”(equivalent of a “*state body*”) to interfere in the activities of an NNO-grant recipient. Therefore, this change is an improvement compared to previous regulations.

¹² Section 23 of Regulation #527.

¹³ Paragraph 27, “Chapter 4. Procedure for implementation of projects on the territory of the Republic of Uzbekistan at the expense of external sources,” of Regulation #527.

¹⁴ Section 28 of the Regulation #527.