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OUTSTANDING REGULATIONS ON REGISTRATION AND OPERATION MANAGEMENT OF FOREIGN NON-GOVERNMENTAL ORGANIZATIONS IN VIET NAM

QUYNH NHUNG

On August 31, 2022, Decree 58/2022/ND-CP (**Decree 58**) was issued by the Government on the registration and operation management of foreign non-governmental organizations (Hereinafter referred to as **INGOs**) in Viet Nam. This Decree replaces Decree 12/2012/ND-CP (**Decree 12**) and will take effect from November 1, 2022. Here are some of the new highlights:

Firstly, abolishing the form of Project Office of INGOs in Viet Nam. Previously, Decree 12 provided three forms of registration for INGOs operating in Viet Nam, including: Operational Registration (i) Establishment Certificate, (ii) Project Office Registration Certificate and (iii) Representative Office Establishment Registration Certificate. However, Decree 58 has removed the Project Office Establishment Registration Certificate. Accordingly, INGOs can only choose to register in one of two forms, namely Operational Registration Certificate or Representative Office Establishment Registration Certificate, depending on their scale and needs.

INGOs that have registered to operate under the form of a Project Office under Decree 12 in the past can still continue to amend, supplement and apply for reissuance of their Registration Certificate under Decree 12 until its expiration and consider converting to one of the two forms mentioned above afterward.

Secondly, amending and supplementing a number of regulations on the order and procedures for granting, renewing, amending and supplementing Registration Certificates. For example, Decree 58 has shortened the time limit for granting a Registration Certificate from 45 business days to 30 business days from the date when the full and valid application documents of INGOs is submitted; the time limit for supplementing, amending and re-granting a

Registration Certificate is reduced from 30 business days to 25 business days. At the same time, additional documents are required in composition of the application documents for a Registration Certificate such as the detailed statistics of programs and projects expected to be implemented in Viet Nam in the next 3-5 years and the application for Representative/Head of Office approval, as specified in Article 11 and 15 of the Decree.

Thirdly, clearly regulating cases of suspension and termination of INGOs' operations. Decree 12 only provided a general provision on cases in which a INGO with an operation registration certificate is partially or completely suspended, or must terminate its operation and has its registration certificate revoked under the Ministry of Foreign Affairs' decision. This regulation makes it difficult for competent state agencies to decide which sanction to apply for violations of INGOs. At the same time, this regulation also causes confusion for INGOs in understanding legal regulations and considering decisions from competent state agencies. In order to overcome those difficulties, Articles 18 and 19 of Decree 58 have clarified the cases of suspension or termination of operation of INGOs operating in Viet Nam. Specifically, INGOs shall be suspended from operation in the following cases: (i) Continuing to operate when the Registration Certificate expires; (ii) Failing to operate in the sectors or areas specified in the Registration Certificate; (iii) Using or notifying information on transaction account that is not the registered transaction account. 3 cases where INGOs are forced to terminate their operations and have their Registration Certificate withdrawn include: (i) Committing one of the prohibited acts specified in Article 5 of Decree 58; (ii) Having no activities in 12 consecutive months after obtaining the Registration Certificate; and (iii) Failing to remedy the violations mentioned in the decision on suspension of operation within 30 business days from the date of receipt of the decision.



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Comments and recommendations

The promulgation of Decree 58 with specific regulations aims to improve the shortcomings of Decree 12 as well as to suit the current practical situation. However, the provisions of Decree 58 are also somewhat stricter in managing the activities of INGOs. Therefore, these organizations need to update and analyze new points in this Decree to ensure compliance with the law during their operation in Viet Nam.