
No: 05/2012/TT-BNG

Hanoi, November 12, 2012

CIRCULAR

**Guiding the implementation of Decree No. 12/2012/ND-CP
dated March 1, 2012 of the Government on the Registration and
Management of Activities of Foreign Non-governmental Organizations
in Vietnam**

*Pursuant to the Law on the Organization of the Government issued on
December 25, 2001;*

*Pursuant to Decree No. 15/2008/ND-CP dated February 4, 2008 of the
Government regarding the functions, duties, obligations, and organizational
structure of the Ministry of Foreign Affairs;*

*Pursuant to Decree No. 12/2001/ND-CP dated March 1, 2012 of the
Government on the registration and management of activities of foreign
non-governmental organizations in Vietnam;*

*The Minister of Foreign Affairs has issued the circular guiding the
implementation of Decree No. 12/2012/ND-CP dated March 1, 2012 by the
Government on registration and management of activities of foreign
non-governmental organizations operating in Vietnam (hereunder referred to as
the Decree):*

Chapter 1

GENERAL PROVISIONS

Article 1. Scope and subjects of application (Article 1 of the Decree)

1. The Decree is applicable to all ministries, departments, People's Committees of provinces and municipalities, local offices managing non-governmental organizations, Vietnamese counterpart organs, non-governmental organizations, non-profit organizations, social funds, private foundations or other forms of social and non-profit organizations that are founded in line with foreign laws, undertaking activities supporting or assisting the development, providing humanitarian assistance not for profit-making or other purposes in Vietnam.

2. The Decree is not applicable to individuals undertaking charity or humanitarian activities in Vietnam.

Article 2. General provisions concerning the registration of foreign non-governmental organizations working in Vietnam (Article 5 to Article 15 of the Decree)

1. In accordance with the Ordinance on Signing and Implementing International Agreements issued on April 20, 2007 by the Standing Committee of the National Assembly, before undertaking any activity in Vietnam, the heads of foreign non-governmental organizations have to sign a "Framework Agreement" with Vietnamese competent authorities or organs (the Vietnamese authorities or organs referred to in Article 1 of the Ordinance), and in the Framework Agreement, there must be provisions about rights, responsibilities, commitments regarding humanitarian and development activities of these organizations in Vietnam. In case there is no Vietnamese counterpart organization to sign the "Framework Agreement", Standing Office of the Committee for Foreign Non-governmental Affairs will be the signatory to the "Framework Agreement" and before signing, the Standing Office has to obtain views in writing from the Ministry of Foreign Affairs.

2. Proper documents have to be completed and submitted to the Standing Office of the Committee for Foreign Non-governmental Organizations Affairs in order to complete necessary procedures as provided for from Article 6 to Article

14 of the Decree.

3. The Ministry of Foreign Affairs shall consider issuance, renewal, amendment, supplement and revoking of the Certificates of Registration depending on the results of the appraisal by the members of the Committee. Foreign non-governmental organizations could undertake their activities only when the Certificate of Registration have been granted, with the exceptions as provided for in Section 1, Article 8 of this Circular. In case a foreign non-governmental organization started working in Vietnam but has yet registered, the Standing Office or relevant competent organs shall request that non-governmental organization to suspend its activities within 15 days in order to complete registration procedures and only when the Certificate of Registration is issued, can the organization continue its activities.

4. The Vietnamese ministries, departments and local authorities as well as Vietnamese counterparts cannot carry out cooperative activities with non-governmental organizations that have not had Certificate of Registration as required, with the exceptions mentioned in Section 1, Article 8 of this Circular.

Article 3. Process of appraisal and issuance of the Certificate of Registration, and newal, amendment and supplement of the Certificates of Registration

a) Within 35 working days from the date when valid documents have been submitted, the Standing Office of the Committee shall have to seek views of relevant state organs and People's Committee of the province where the foreign non-governmental organization plans to register its activities. Within 20 working days, the authorities that have been requested for views shall have to respond.

b) Upon receiving the views from the relevant authorities, the Standing Office of the Committee shall have to submit to the Ministry of Foreign Affairs for consideration all the documents of the foreign non-governmental organization and the appraisal views from relevant authorities and those of the

People's Committee of the province where the non-governmental organization plans to carry out its activities.

c) Within 10 working days, starting from the date when complete documents have been received as mentioned in paragraph b, Section 1, Article 3, the Ministry of Foreign Affairs shall consider and submit to the competent authorities for decision. (Any issue beyond the mandate of the Ministry of Foreign Affairs shall be submitted to the Prime Minister of the Government for consideration and decision).

d) The Ministry of Foreign Affairs shall send results of the documents to the Standing Office of the Committee which shall inform in writing the foreign non-governmental organization concerned of the results.

Chapter 2

REGISTRATION PROCEDURES FOR

FOREIGN NON-GOVERNMENTAL ORGANIZATIONS IN VIETNAM

Article 4. Authority issuing the Certificate of Registration and authority receiving and returning the documents of registration (stipulated from Article 5 to Article 15 and Section 3 of Article 24 of the Decree)

1. The Ministry of Foreign Affairs is the authority having the power to issue, renew, amend, supplement and revoke Certificates of Registration of different kinds from foreign non-governmental organizations in Vietnam (forms of different Certificates of Registration available in Annexes 1, 2 and 3).

2. The Standing Office of the Committee for Non-governmental Affairs (Vietnam Union of Friendship Organizations) is the organ receiving documents to request for issuance, renewal, amendment and supplement Certificates of Registration, and to end activities of foreign non-governmental organization; and chairing, coordinating with member units of the Committee to appraise the documents and return the results concerning the appraisal of the documents from foreign non-governmental organizations in Vietnam.

Article 5. Mandate to sign application form requesting for issuance, renewal, amendment and supplement of Certificate of Registration of foreign non-governmental organizations (stipulated from Article 5 to Article 15 of the Decree)

1. Application forms requesting for issuance or upgrading of the Certificate of Registration have to be signed by the head of the foreign non-governmental organization.

2. Application forms requesting for renewal, supplement and amendment of Certificate of Registration have to be signed by the representative of the foreign non-governmental organization having its name on the certificates or by the person who is mandated by the head of the foreign non-governmental organization.

Article 6. Documents regarding the representative of the foreign non-governmental organization in Vietnam when requesting for issuance, amendment and supplement of different Certificates of Registration (stipulated from Article 5 to Article 15 of the Decree)

1. In addition to required documents to be submitted, all the documents concerning the appointment of the new representative of the foreign non-governmental organization in Vietnam have to include the following: decision and introduction letter signed by the head of the non-governmental organization concerned, biography of the designated representative in Vietnam and one copy of main information page showing in his/her effective passport (the papers in foreign languages have to be accompanied with notarized Vietnamese translation).

2. The notarized documents include the following: the statute and the certificates of legal entity status of the organization, judicial resume of the designated heads of the Project Office and Representative Office or the person who is mandated by the foreign non-governmental organization to represent the organization in Vietnam, legalized by consular procedure in line with the

provisions in Decree No. 111/2011/ND-CP of the Government and Circular No. 01/2012/TT-BNG of the Ministry of Foreign Affairs guiding the implementation of Decree No. 111/2011/ND-CP of the Government. In case the designated head of Project Office or Representative Office or the person who is mandated by the foreign non-governmental organization to be its representative in Vietnam residing and working on a long-term basis in the country that he/she does not hold nationality, the judicial resume should be legalized by consular procedure in the country where he/she has been residing or working in six recent months. The documents required in line with the provisions of the Decree, when translated into Vietnamese, should be notarized by the Public Notary Offices of the country of origin or of Vietnam (List of countries and kinds of paper exempted from consular legalization in Vietnam appears in Annex 4).

3. The representative of the foreign non-governmental organization in Vietnam can commence his/her activities only when he/she receives written approval from the Committee for Foreign Non-governmental Organization Affairs.

Article 7. Location of the Project Office, Representative Office of the foreign non-governmental organizations

1. The Project Office of the foreign non-governmental organization can be located in the province or district of the localities where there are sufficient conditions to control and support the implementation of programs or projects, and which are to be agreed upon by writing by the People's Committee of provinces or municipalities.

2. The Project Office of the non-governmental organization is not allowed to be located at the offices of the local authorities.

3. The location of the Representative Office of the non-governmental organization has to be agreed upon by writing by the People's Committee of Hanoi, Da Nang and Ho Chi Minh cities, and it is not allowed to be located at

the offices of local authorities (stipulated at paragraph d, Article 12 of the Decree).

4. Upon request, the foreign non-governmental organization possessing the Certificate of Registration of Operation shall be facilitated to have working place.

Article 8. Conditions for issuing the Certificate of Registration of Operation, the Certificate of Registration of Project Office Establishment and the Certificate of Registration of Representative Office Establishment

1. Under special conditions, such as emergency relief due to natural disasters, epidemics, and wartime, the Ministry of Foreign Affairs shall issue documents allowing foreign non-governmental organizations to carry out a number of specific charity and humanitarian activities before the formal Certificate of Registration is issued.

2. Regarding the conditions for issuing the Certificate of Registration of Representative Office Establishment, Section c, Item 1 of Article 12 of Decree No. 12/2012/ND-CP further guides as follows: the foreign non-governmental organization has undertaken effective activities in Vietnam for at least two consecutive years before the time of submitting documents for the Certificate of Registration of Representative Office Establishment.

Article 9. Duration for different Certificates of Registration (stipulated at Articles 6, 7, 9, 10, 12, and 13 of the Decree)

The duration for Certificates of Registration requesting for issuance, renewal, amendment and supplement shall be guided as follows:

1. The duration for the Certificate of Registration of Operation is 3 (three) years maximum; the duration for the Certificate of Registration of Project Office Establishment or Certificate of Registration of Representative Office Establishment is 5 (five) years maximum. The actual duration shown in the Certificate of Registration can be shorter than the above-mentioned duration in

line with the duration of the programs or projects approved by Vietnamese competent authorities, the financial capability of the foreign non-governmental organization and the duration of operation of the foreign non-governmental organization registered in the country where the non-governmental organization was established or where it has their headquarters offices in cases the national law of the country has provisions concerning the duration of operation of non-governmental organizations.

2. The duration of the Certificate of Registration transferred from the previously issued Licence means the remaining time of the previously issue Licence provided that the applying foreign non-governmental organization has different requests in line with its financial resources and programs, projects that have been approved by the Vietnamese competent authorities.

3. The duration of the Certificate of Registration shall be proposed by the foreign non-governmental organization, and considered and decided by the Ministry of Foreign Affairs.

Article 10. Temporary Certificate of Registration

In a number of special cases (for instance when the appraisal procedures have not yet been completed due to incomplete or inappropriate documents for reasons of force majeure), when the Certificate of Registration of foreign non-governmental organizations has not yet been renewed, supplemented or amended in time, the Committee for Foreign Non-governmental Organization Affairs shall issue Temporary Certificate of Registration with certain time limit to such foreign non-governmental organization in which it shall make clear that the Certificate of Registration is under consideration in order to facilitate normal activities of the organization while waiting for their renewed, supplemented and amended Certificate of Registration. (using the Form in Annex 3.1).

Article 11. In line with Article 15 of the Decree, the conditions for partly or fully suspending or terminating activities of the foreign non-governmental organizations are guided for implementation as follows:

1. Suspending part of activities takes place when the organization fails to respect commitments, lacks financial capability, and is not able to implement many approved projects.

2. Suspending all activities takes place when the organization fails to go in line with the committed sector and location of operation, or to carry out activities for a long time (one year).

3. Terminating activities takes place when the organization violates Article 4 of the Decree after being reprimanded for many times.

Article 12. Work Permit

1. Pursuant to the provisions of Article 20 of the Decree, foreign staff members working for foreign non-governmental organizations shall have to obtain Work Permit from the Department of Labor - Invalids and Social Affairs in the localities where the foreign non-government organizations have their offices as provided for by the existing Vietnamese law, except the Head of Office.

2. The issuance of Work Permit shall be based on the provisions included in the following legal documents: i) Decree No. 34/2008/ND-CP dated March 25, 2008 regarding the recruitment and management of foreigners working in Vietnam; ii) Decree No. 46/2011/ND-CP dated June 17, 2011 amending, supplementing a number of articles of Decree No. 34/2008/ND-CP; and iii) Circular No. 31/2011/TT-BLDTBXH dated November 3, 2011 of the Ministry of Labor - Invalids and Social Affairs guiding the implementation of Decrees No. 34 and No.46.

Article 13. Import of goods (stipulated at Article 22 of the Decree)

The import of goods shall be subjected to the guidance at Joint Circular No. 03/2007/TTLT-BCT-BTC-BNG among the Ministry of Industry and Commerce, the Ministry of Finance and the Ministry of Foreign Affairs and on the basis of Decree No. 73/CP dated July 30, 1994 and the existing legal documents guiding the temporary import and import and duty-free purchase in Vietnam, export and re-export, transfer and termination of articles necessary for the work and life of diplomatic and consular missions, representative offices of international organizations that enjoy diplomatic immunities and privileges in Vietnam.

Article 14. Personal income tax of foreigners (stipulated at Article 23 of the Decree)

Personal income taxes for foreigners shall be applied in line with the guidance included the following legal documents: i) Law on personal income tax; ii) Decree No. 100/2008/ND-CP dated September 8, 2008 with detail provisions concerning the Law on personal income tax; iii) Circular No. 500/2007-TT-BTC dated May 29, 2007 of the Ministry of Finance guiding the exemption of personal income tax for foreign experts working for programs, projects funded by foreign non-governmental organizations in Vietnam; iv) Circular No. 12/2011/TT-BTC dated January 26, 2011 amending Circular No. 84/2008/TT-BTC dated September 30, 2008 of the Ministry of Finance, guiding the implementation of a number of articles in the Law on personal income tax and amending Circular No. 02/2010/TT-BTC dated January 11, 2010 of the Ministry of Finance.

Article 15. Seal and bank account of foreign non-governmental organizations (stipulated at Article 21 of the Decree)

1. In accordance with Article 21 of the Decree, the foreign non-governmental organizations which have been granted the Certificate of Registration shall be allowed to register and use their seal and open accounts at

the banks that are established and operating in line with the existing Vietnamese law.

2. The registration of the seal is applied according to Circular No. 07/2010/TT-BCA dated February 5, 2010 of the Ministry of Public Security, Decree No. 58/2001/ND-CP dated August 24, 2001 of the Government concerning the management and use of seals, and Decree No. 31/2009/ND-CP amending and supplementing Decree No. 58.

Chapter 3

RESPONSIBILITIES OF FOREIGN NON-GOVERNMENTAL ORGANIZATIONS AND VIETNAMESE AUTHORITIES

Article 16. Notification of activities (stipulated at Article 17 of the Decree)

The activities of foreign non-governmental organizations shall be notified by writing to local State organs in charge of external relations (Departments, Sections of External Relations, or Offices of the provincial, municipal People's Committee) in the provinces or municipalities where foreign non-governmental organizations have offices or activities or programs and projects to be implemented.

Article 17. Reporting responsibility of foreign non-governmental organizations (stipulated at Article 18 of the Decree)

Biannually and annually, Heads of Representative Offices or Project Offices or the persons mandated by foreign non-governmental organizations to represent them in Vietnam are responsible for coordinating with the Ministry of Finance, the banks the non-governmental organization having accounts to conduct annual audits and to submit written reports on activities, implementation of assistance programs and projects (using Format in Annex 5 together with Vietnamese

translation) to the Ministry of Foreign Affairs and the Committee for Foreign Non-governmental Government Affairs as well as the People's Committees of the provinces or municipalities in the working locations identified in their Certificates of Registration by July 15 every year for biannual reports and by January 15 of the subsequent year for annual reports.

Article 18. Reporting responsibility of Vietnamese authorities (stipulated from Article 25 to Article 28 of the Decree)

On the biannual and annual basis, ministries, ministerial-level departments, organs under the Government, central organs of central mass organizations, People's Committees of the provinces and municipalities, the Ministry of Planning and Investment are responsible for reporting activities and use of aid items from foreign non-governmental organizations (using Format in Annex 6) to the Ministry of Foreign Affairs not later than July 20 for biannual reports, and not later than February 20 of the subsequent year for annual reports or upon request, so that comprehensive reports can be made for the submission to the Prime Minister of the Government.

Article 19. Reporting responsibility of the Vietnamese counterpart organs (stipulated at Section 3, Article 29 of the Decree)

On the biannual and annual basis, Vietnamese counterpart organs have to submit written reports on activities and implementation of assistance programs and projects (using Format in Annex...) to the Ministry of Foreign Affairs as well as the People's Committees of the provinces and municipalities where the activities of foreign non-governmental organizations are mentioned in the Certificates of Registration not later than 15 July for biannual reports, and not later than January 15 of the subsequent year for annual reports.

Article 20. Responsibility for management, control and supervision by Vietnamese organs (stipulated from Article 25 to Article 28 of the Decree)

1. The Committee for Foreign Non-governmental Organization Affairs is responsible to the Prime Minister for the appraisal, control, supervision and handling of the violations committed by foreign non-governmental organizations.

2. Regarding the appointment of a local State organ serving as focal point for overall management of foreign non-governmental organizations (Section 4, Article 28 of the Decree): pursuant to Decision No. 67/2011/QĐ-TTg dated December 12, 2011 by the Prime Minister promulgating regulations concerning comprehensive management of external activities undertaken by the People's Committees of the provinces and municipalities and Joint Circular No. 02/2009/TTLT-BNG-BNV dated May 27, 2009 between the Ministry of Foreign Affairs and the Ministry of Home Affairs concerning the management of external activities at the local level and amended legal documents (if any), the People's Committees of the provinces and municipalities shall appoint an external management body as focal point (Departments, Sections of External Relations or the Office of the People's Committee) headed by a Vice-chairman of the provincial People's Committee to coordinate the management among departments and sectors in the locality and to support the Ministry of Foreign Affairs in managing activities of foreign non-governmental organizations throughout the country.

3. The departments and sectors concerned under the People's Committees of provinces or cities are obliged to coordinate with the local external management bodies (Departments, Sections of External Relations or the Office of the People's Committee) in managing, inspecting and supervising activities of foreign non-governmental organizations and reporting to the Ministry of Foreign Affairs and the Committee for Foreign Non-governmental Organization Affairs.

4. State organs managing external relations (Departments, Sections of External Relations or Offices of the People's Committees) in provinces or municipalities hold the responsibility for State management concerning the work

of foreign non-governmental organizations in the locality, and coordinate with the local departments, sectors in managing the activities of these non-governmental organizations; provide advisory support to the People's Committees of provinces or cities regarding the work of non-governmental organizations; and are responsible to the provincial or municipal People's Committees for the management of foreign non-governmental organizations.

Chapter 4

ORGANIZATION OF IMPLEMENTATION

Article 21. Reward, handling of violations (stipulated at Article 31 of the Decree)

1. Foreign non-governmental organizations can be rewarded on the basis of evaluation reports and recommendations by the localities where the foreign non-governmental organizations concerned are operating or those of Vietnamese counterpart organs.

2. In addition to the provisions at Section 2, Article 31 of the Decree, the Committee for Foreign Non-governmental Organization Affairs shall be the organ responsible for receiving appeal documents from foreign non-governmental organizations (if any).

Article 22.

1. This Circular shall enter into force after 45 (forty-five) days since the signing date.

2. In the process of implementation, if any difficulty arises, that should be reported to the Ministry of Foreign Affairs for consideration and further and timely guidance or addition.

To:

MINISTER OF FOREIGN

- The Secretariat of the Central Committee of the Party;
- Prime Ministers, Deputies Prime Minister of the Government;
- Ministries, ministerial-level departments and organs under the Government;
- Office of the Central Steering Committee for Anti-Corruption;
- People's Councils, People's Committees of provinces and municipalities;
- Office of the Party Central Committee and Party Departments;
- Office of the President;
- Office of the Government;
- Council for Ethnic Affairs and Committees of the National Assembly;
- Office of the National Assembly;
- Supreme People's Court;
- Supreme People's Procuracy;
- State Audit;
- National Financial Monitoring Committee;
- Bank for Social Policies;
- Development Bank of Vietnam;
- Central Committee of the Vietnam Fatherland Front;
- State-owned Corporations;
- Central organs of mass organizations;
- External Relations Departments/Sections of provinces or municipalities;
- Planning and Investment Departments of provinces or municipalities;
- Department of legal document examination (Ministry of Justice);
- Website of the Government;
- Gazette;
- Departments, Office, Inspector of the Ministry, website and units attached to the Ministry.
- Archives: Foreign Organization.

AFFAIRS

PHAM BINH MINH

