



Journal Website:
<https://theamericanjournals.com/index.php/tajpslc>

Copyright: Original content from this work may be used under the terms of the creative commons attributes 4.0 licence.

Research Article

SOME LEGAL ISSUES OF GRANTING SOCIALLY USEFUL STATUS TO NON-GOVERNMENT NON-PROFIT ORGANIZATIONS

Submission Date: April 20, 2023, Accepted Date: April 25, 2023,

Published Date: April 30, 2023 |

Crossref doi: <https://doi.org/10.37547/tajpslc/Volume05Issue04-21>

Bekzod Abduvalievich Narimanov

Tashkent State University Of Law, Independent Researcher, Doctor Of Philosophy (Phd) Tashkent, Uzbekistan

ABSTRACT

The development of civil society institutions around the world is facing new trends. First, new forms of "Digital Society" are emerging as a result of the introduction of information and communication technologies in many regions of the world. In a digital society, social interactions are simplified, information is more accessible, and environmental costs are reduced.

Secondly, the development trends of civil society go beyond the borders of national states and become a part of international life, and the concept of "global civil society" is increasingly entering our lives.

Thirdly, another important trend is the growing desire of business associations to influence the ideological life of the state and society by forming institutions of civil society.

KEYWORDS

Digital society, social interactions are simplified, information is more accessible, and environmental costs are reduced.

INTRODUCTION

In the words of President Sh.Mirziyoev, "We need to make our population more active and proactive in increasing the practical effectiveness of reforms and promoting new local initiatives."

The activity of civil society institutions in our country has been determined based on more than 200 documents of the President and government of the country, as well as the concept of civil society

development of the Republic of Uzbekistan in 2021-2025.

In the congratulation of President Sh.Mirziyev on the occasion of the 29th anniversary of the adoption of the Constitution of the Republic of Uzbekistan, within the framework of the noble idea "Society is the initiator of reforms", it was noted that the constitutional strengthening of the role and status of civil society institutions in our The Constitution is the demand of the times .

For many years, the concept of civil society institutions has been mentioned in the scientific literature, but regulatory legal acts did not specify the legal status of this institution, nor did legal guarantees regarding the content of their activities be established.

Civil society serves as an important guarantor of ensuring democracy, rule of law and individual freedoms in the country. Self-governing bodies of citizens (neighbourhood), parties, movements, trade unions, public associations and foundations, non-governmental non-profit organizations (NGOs) form the basis of civil society and determine its content. They are aimed at helping to increase civic activity, national self-awareness, political culture and high spirituality of the members of the society, forming their self-respect, independent thinking, realization of their potential, and the desire to build their future by their own will.

In recent years, consistent work has been carried out to support non-governmental non-commercial organizations and other institutions of civil society, and to improve the legal framework regulating this area and the concept for 2021-2025 was approved in order to determine the prospects of civil society development in the near and medium term. The development strategy of the new Uzbekistan also

defines the ideological basis for the involvement of civil society institutions in the fight against corruption. Objectives 1, 11, 12, 20, 83, 84 of the Strategy are directly or indirectly dedicated to this topic. The relevant goals are to increase the effectiveness of the activities of the neighborhood institute, make it a backbone of Public Administration and control, improve the mechanisms of dialogue with the people, improve the organizational and legal framework for the implementation of effective public control, develop an active civil society and covered the issues of forming a sense of respect and obedience to the law among citizens, identifying sectors and industries prone to corruption, increasing the effectiveness of the system for eliminating corruption factors, and forming an intolerant attitude towards corruption in society.

In order to strengthen the status of civil society institutions at the constitutional level based on the idea of turning the new Uzbekistan into a strong and fair civil society, the status of "Civil Society Institutions" was strengthened at the level of the Constitution. Articles 69-75 of the Constitution of the Republic of Uzbekistan, adopted in the national referendum held on April 30, 2023, were dedicated to the institutions of civil society. The determination of the legal status of civil society institutions in the Constitution serves to systematize legislative acts that directly regulate the activities of civil society institutions and their rights and legitimate interests.

The distinctive features of the new norms regarding civil society institutions in the Constitution are as follows.

First, the third section of the Constitution is called "Civil Society Institutions".

Secondly, the phrase "civil society institutions" is included in the draft constitutional law for the first time.

Thirdly, Article 69 of our The Constitution envisages further strengthening of the role and status of civil society institutions - neighborhoods, political parties, movements, mass media, trade unions, foundations and other public associations.

Fourth, the Cabinet of Ministers is tasked with implementing measures to support civil society institutions.

Fifth, civil society institutions are empowered to exercise public control over the formulation and implementation of the budget of the Republic of Uzbekistan.

The official report of the UN Human Rights Council (2017) defines civil society institutions as a means of solving problems such as protecting human rights, fighting corruption, fighting poverty, fighting global hunger.

Also, in the guidelines of the World Bank "Consultation with civil society organizations", it is recommended to use the concept of "civil society institution" instead of "public associations".

In the constitutions of Lithuania, Bulgaria, Romania, Bulgaria, the norms on creating opportunities for civil society and its institutions, their free development are enshrined.

In recent years, there have been a number of reforms aimed at improving the activities of civil society institutions, expanding their participation in public administration and supporting public control.

Ислоҳотларнинг амалий натижасида кўп йиллар давомида фуқаролик жамияти институтлари, шу жумладан нодавлат нотижорат ташкилотларини қийнаб келаётган тизимли муаммо ва камчиликлар бартараф этилди, соҳадаги айрим чекловлар бекор қилинди ва уларнинг фаолиятини қўллаб-қувватлаш бўйича янгиликлар жорий этилди.

In particular, today, support for the initiatives of non-governmental non-profit organizations in the social and economic spheres is carried out in the form of allocation of state grants, state subsidies and state social orders.

A state subsidy in the amount of 51 billion 196,600,000 soums for 45 NGOs of the republic was allocated in 2021. Moreover, the state grant in the amount of 13 billion 740,100,000 soums for 410 NGOs in 2019-2020 and a state social order in the amount of 4 billion 100 million soums for 11 NGOs in 2020.

In addition, the number of representatives of NGOs in the commissions of organizations operating in the republic in the fields of public procurement, taxation, employment, healthcare, education, and sports is 557.

There are a number of problems waiting to be solved in this regard. First, the practice of studying the results of projects and programs implemented by civil society institutions at the expense of the state budget is particularly focused on financial audit, and their social effectiveness and the level of solving social problems are not paid attention to.

Secondly, the projects implemented by the NGO at the expense of state grants and social orders are mainly focused on organizing events, preparing handouts and other "soft component" programs, which do not serve to solve the actual problems of the population.

Thirdly, the cooperation of NGOs and state bodies on the basis of social partnership in solving socio-economic issues is not sufficiently established. In addition, due to the lack of close cooperation between the non-governmental and public sectors, NGOs do not have the necessary statistical and analytical data on the problems in their field of activity.

It is advisable to consider the mechanisms of finding it socially useful in order to support NGOs, to give it certain benefits and preferences.

According to D. Moore, finding a non-governmental non-profit organization as socially beneficial consists of the following 6 organizational and legal bases: the formation of the legal framework for recognizing it as socially beneficial; procedure for recognition as socially useful; decision-making bodies in this field; registration or certification procedure; benefits guaranteed by the state in relation to a socially beneficial organization; accountability procedure of socially useful organizations .

S.N. Nemgirova believes that the effective activities of socially oriented NGOs will be an important factor in ensuring the stability of the region .

E.K. As Huseynov rightly pointed out, giving authority to non-governmental non-profit organizations to provide basic social protection services is a very dangerous and time-consuming process that requires restructuring of the entire mechanism of social policy implementation.

This "transformation" is more promising for additional social protection services, significantly improves social services and expands the number of services provided .

It is known from foreign experience that information about the activities of non-governmental non-profit

organizations engaged in sponsorship and charity activities is published in a number of independent sources. Various rating agencies analyze the activities of funds and publish their ratings. This situation also serves as a kind of report for those who carry out sponsorship and charitable activities.

In countries like Germany and the Netherlands, the issues of recognition of social benefits and the provision of tax benefits are consolidated in the Tax Code, and this model gives priority to the application of administrative law, considering the recognition of social benefits as a subject of taxation. A disadvantage of this model is the impossibility of legal regulation of a non-profit organization recognized as socially beneficial in tax law .

According to another model, recognition of a non-governmental non-profit organization as socially beneficial is regulated by certain circular laws in countries such as Bosnia, Bulgaria, and Romania. As a disadvantage of this model, the procedure for recognizing it as socially useful in individual legislation for each organizational and legal form of public associations, foundations and such a non-profit organization is brought. This situation leads to different approaches in applying the status of social benefit for different legal forms of non-governmental non-profit organizations .

Therefore, in order to provide a single legal mechanism for recognition as socially beneficial in some countries, the legal norms of recognition as socially beneficial were adopted in Hungary in 1997, in Lithuania in 2002 the Law on Charitable and Sponsorship Activities, and in Poland the Law on Socially Beneficial Activities and Volunteering .

This model is characterized by the regulation of all aspects of the recognition of a non-profit organization

as socially useful, such as the granting of this status, the application of its criteria, benefits and their application, obligations and the procedure for their implementation.

In recognizing as socially useful in all of the European countries analyzed above, amateur sports, arts, support of individuals with physical disabilities, Refugee Assistance, charity, Human Rights Protection, consumer rights protection, culture, democracy, ecology protection, education, anti-racism, health care, humanitarian assistance, Historical Monuments Protection, medical care, protection of Children, Youth and socially unprotected individuals, religious, scientific, social integration, activities such as Social Security are implied.

In our opinion, the experience of granting non-governmental non-profit organizations the status of social benefit shows that there will be an opportunity to enter the additional market for social services. It should also be said that social services provided by non-governmental non-profit organizations are cheaper than those provided by state institutions, and it is easy to attract extra-budgetary funds, grants and establish cooperation.

In addition, unlike public institutions, one of the strengths of the non-governmental sector is its flexibility, which means that they are ready to work on weekends, have more opportunities to develop innovative services, are free from bureaucratic regulations, attract people (volunteers) who do not have material interests, since many costs are limited.

Based on the above analysis, it is appropriate to develop criteria and methodologies for evaluating the activities of non-governmental non-profit organizations in the Republic of Uzbekistan, taking into

account their contribution to the solution of socio-economic issues and the development of society.

Based on foreign experience, these criteria are focused on finding a non-governmental non-profit organization socially useful and determining the level of social usefulness.

REFERENCES

1. Ўзбекистон Республикаси Президентининг Олий Мажлисга Мурожаати.Халқ сўзи. 2020 йил 21 январь.
2. Қонун ҳужжатлари маълумотлари миллий базаси, 04.03.2021 й., 06/21/6181/0182-сон
3. Президент Конституция қабул қилинганинг 29 йиллиги муносабати билан халққа табриги // URL:
<https://yuz.uz/file/newspaper/0c3e2d8ba705cf4e96abbdd06511f388.pdf>
4. Избранные положения из мировой практики о порядке предоставления организациям статуса благотворительных, общественной пользы и освобожденных от налогообложения. Сборник материалов. // Международный центр Некоммерческого права. Алматы 2008. С. -10.
5. Немирова С. Н. Потенциал развития социально ориентированных некоммерческих организаций как поставщиков общественно полезных услуг // Вестник Института комплексных исследований аридных территорий. – 2017. – Т. 1. – №. 1 (34).
6. Гусейнов Э. К. Некоммерческие организации в сфере услуг социальной защиты: перспективы развития и проблемы государственной поддержки // Дискуссия. – 2013. – №. 11 (41).
7. Сигидаева А. В., Коропец А. А., Павлова В. С. Анализ зарубежного опыта налогообложения некоммерческих организаций // Проблемы

развития предпринимательской деятельности: теория и практика. – 2019. – №. 1-3. – С. 126-130.

8. Михеева Е. М., Пешкова Н. Н. Статус благотворительной организации в структуре региона. – 2012.
9. Гончаренко Л. И. и др. Налогообложение некоммерческих организаций. – 2017.

