

Client Alert: Egyptian Parliament Approves New NGO Law

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On 15th July 2019, the Egyptian House of Representatives approved a new law governing non-governmental organizations (“NGO”). The new law (the “NGO Law”) replaces the controversial Law No. 70/2017, which subjected civil society organizations to strict government control. Though civic activity remains tightly controlled, the new NGO Law relaxes some key restrictions. This alert discusses some of the new law’s most important features from the perspective of international organizations, development agencies and foreign NGOs that are active in Egypt.

The New NGO Law

On 15th July 2019, a two-thirds majority of the Egyptian House of Representatives approved the new draft NGO Law, which will be sent to President Abdel Fattah Al-Sisi to be signed into law and enter into force one day after its publication in the official gazette.

The NGO Law replaces Law No. 70/2017, which, since its inception, has been criticized as overly harsh and restrictive regarding civic activity in Egypt and incompatible with Article 75 of the Egyptian Constitution.¹ In recent years, many international and regional NGOs migrated to other countries with Tunis, Tunisia and Amman, Jordan emerging as new regional hubs. In addition, many NGOs reorganized into commercial companies, such as LLCs, in an attempt to escape tight financial regulations.

The new NGO Law addresses these issues under three broad categories. First, governmental control is, to a certain degree, relaxed, especially regarding funding, making compliance with financial reporting regulations less cumbersome. Second, the NGO Law’s application now extends to commercial companies engaged in civic activities, which will discourage organizations from reorganizing as commercial entities. And third, foreign NGOs are encouraged to obtain a license and register in Egypt.

The Ministry of Social Solidarity (“MoSS”) is now the competent supervisory authority for NGO activities, and the concept of a specialized regulator for foreign NGOs, introduced by Law 70/2017, has been abandoned (though it was never fully implemented).

The law grants existing NGOs a one year grace period in order to bring their affairs in line with the new legal requirements. The grace period is calculated as from issuance of the executive regulations.

¹ For more information on Law No. 70/2017, see <http://amereller.com/wp-content/uploads/2016/12/Client-Alert-Egypt-NGO-Law-2-Dec-2016.pdf>.

Cooperating with Egyptian NGOs

Law No. 70/2017 contained a number of restrictions for foreign companies and institutions that cooperated with Egyptian NGOs. Under the NGO Law, cooperation with Egyptian NGOs remains tightly regulated.

Foreign companies who cooperate with Egyptian NGOs for CSR activities, or international development and cultural associations who are active in Egypt, should be aware of the following:

- Any cooperation between an Egyptian NGO and an international organization, development agency or foreign company requires the prior authorization from MoSS (Article 19 [2] NGO Law). This approval requirement, first introduced through Law 70/2017, remains in place under the new NGO Law.
- Foreign funding is subject to MoSS approval. Egyptian NGOs that receive funds from Egyptian and non-Egyptian natural and juristic persons outside Egypt, and non-Egyptian natural and juristic persons inside Egypt, must notify MoSS of these transactions within 30 business days. Unless MoSS objects within 60 business days, the funding is deemed approved (Article 27 NGO Law). In addition, funding from foreign NGOs who are registered in Egypt no longer qualifies as “foreign funding” (Article 24 NGO Law). By contrast, Law 70/2017 made foreign funding subject to explicit approval.
- The “1%-charge” is abolished. Under Law 70/2017, 1% of any donation to local NGOs was deducted and transferred to the Fund for Supporting Civic Associations and Civic Foundations. Many foreign development agencies criticized this requirement, and it has been abolished by the new NGO Law.
- The NGO Law applies to all entities engaging in “civic activities” (Article 4 [2] Introduction to the NGO Law). In effect, the provisions of the NGO Law, including those regarding cooperation and funding, apply to LLCs or other commercial companies that effectively operate as NGOs.
- Non-Egyptians holding temporary or permanent residency may participate in local NGOs as members or managers to a limit not exceeding 25% of the total number of members/managers of the respective NGO (Article 5 NGO Law). Under Law 70/2017, the limit for foreign participation in local NGOs was set at 10%.
- NGOs may engage in microfinance operations, after obtaining a license (Article 35 NGO Law). This new clarification confirms the status of microfinance NGOs, which co-exist with commercial microfinance companies established under the Microfinance Law (Law no. 141/ 2014). Microfinance in Egypt is a growing market and has attracted attention from international development agencies and investors.

International NGOs Activities in Egypt

The new NGO Law further modifies the regulatory framework for foreign NGOs active in Egypt. A foreign NGO is defined as:

[A] foreign juristic person, not pursuing profit, having its main headquarters in or outside Egypt and that is licensed to exercise one or more activities of civic associations' and civic foundations' activities subjected to this law and in accordance with the regulations therein.” (Article 1[5] NGO Law)

As a general rule, foreign NGOs may only be active in Egypt after obtaining a license. However, licensing and reporting requirements have, to a certain degree, been relaxed. Foreign NGOs that are active in Egypt should be aware of the following:

- Foreign NGOs require a license. The application must be submitted to the Ministry of Foreign Affairs, and the license will be issued by MoSS for a specific area of activity (Article 65 and 66 NGO Law). A foreign NGO's activities must conform to the national development plan, and it may not engage in political activities (in particular the funding of political parties), religious activities, or any activity that conflicts with national security or public morals (Article 68 NGO Law).
- License fees have been significantly lowered and shall not in any case exceed EPG 200,000 (approximately USD 12,000).
- Many international NGOs active in Egypt operate under specific international treaties (*e.g.*, a cultural agreement, or development co-operation agreement). Under Law 70/2017, the status vested in these organizations by virtue of the international treaty was considered conclusive, thus overriding the provisions of local law. Article 1 of the Introduction to the NGO Law maintains this principle; however, it also emphasizes that foreign NGOs are bound by the Egyptian Constitution and Egyptian laws.
- All funding received from outside Egypt must be deposited into the NGO's bank account. Funding received from other sources not listed in the license requires MoSS approval (Article 70 NGO Law). This mechanism relaxes the previous strict financial controls and grants a general authorization under the NGO's license. This change is particularly relevant where a foreign NGO establishes an Egyptian branch that is predominantly funded from the parent organization.
- Foreign NGOs are required to provide MoSS with periodic financial and activity reports (Article 71 NGO Law).

Outlook

The new NGO Law has evoked mixed reactions with some commentators dismissing the amendments as superficial and purely cosmetic, whilst others have emphasized that “75% to 80% of the civil society's demands have been met,” as one seasoned Egyptian civil society representative stated.

Without a doubt, NGOs working in Egypt remain tightly regulated and controlled under the new NGO Law, which cannot be described as a comprehensive liberalization of civic activity. However, the new NGO Law's approach seems to be better thought through, at least from the perspective of international organizations, donors and development agencies. The key advantages may be that the new law provides more predictability and transparency, especially regarding foreign funding, which had been a frustrating issue for many years.

In conclusion, international development and cultural organizations, foreign companies, and development agencies are well advised to pay careful attention to applicable laws and regulations when cooperating with NGOs in Egypt or establishing an in-country branch.

If you would like more information about this topic, please contact us.

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