SIMPLE MANUAL ON THE LEGAL FRAMEWORK. CREATION AND MANAGEMENT PRINCIPLES OF CIVIL SOCIETY ORGANISATIONS IN CAMEROON

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Strength of Civil Society





Supporting Agency EU Support Programme for the Structuring of Civil Society (Programme d'appui à la structuration de la sociéte civile)

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The origin of civil society in Cameroon dates back to the 1980s and 1990s with the root causes of its emergence being the deepening economic crises, rising unemployment and layoffs with the inability of the government to provide jobs, meet up provision of basic social services provision, more than 80% CFA Franc devaluation, global pressure towards a more democratic and open society and the enactment of laws of associations, cooperatives and common initiatives groups in the 90s.

It is within those dynamics that the network North West Association of Development Organizations (NWADO) was created. NWADO is made up of 27 civil society organizations working in different domains of development, effectively networking with each other to enhance development processes in general. In one of NWADO's capacity building workshops in June 2008 on advocacy, a thematic area of interest identified by the members was on the legal framework of civil society organizations in Cameroon, especially the laws on NGOs. An important raison d'être of this interest was that over the past decade many CSOs in the North West Region had applied and not had status as NGOs under the Cameroonian law especially with the release of a list of 15 as recognized NGOs by the Government of Cameroon (Cameroon Tribune, December 2008). There is therefore a need for advocacy campaigns lobbying the authorities in charge of the legal framework of CSOs in Cameroon, but before this CSOs need to understand the provisions contained in the legal framework of CSOs in Cameroon. In line with this the EU Support Programme for the Structuring of CSOs (PASOC) financed by the 9th European Development Fund offered support for the production of this pamphlet to help CSOs understand

the legal framework on CSOs in Cameroon with emphasis on the creation and management principles within the framework of NWADO's project *Enhancing Public Visibility of CSOs in the North West Region of Cameroon*. This document is to serve as a working document for CSOs in Cameroon and is dynamic in the sense that the legal framework on CSOs in Cameroon itself is dynamic.

The information contained in the pamphlet is an extract from the legal text published by the government of Cameroon and broad consultation of other pamphlets and publications on the subject. Special thanks go to the Second Assistant Senior Divisional Officer for Mezam for taking time to review this pamphlet and for the members of NWADO whose experiences contributed greatly in the production of this pamphlet

This initiative is considered an important step in the advocacy process for effective implementation of laws on CSOs in Cameroon by CSOs themselves, as we strongly believe information is power.

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COMMON INNITIATIVE GROUPS (CIGs).

INTRODUCTION

This is governed by law No 92/06 of August 1992; completed by its decree of application No 92/455/PM of 23rd November 1992.

CIGs are organizations of an economic and social nature set up voluntarily by individuals or corporate bodies having common interest and working together as a group. They can be created in any domain of activity.

Although the same law governs CIGs and cooperative societies, it must be made clear that a CIG cannot be created with the aim of having loans and savings as its principal activity. If that is the case, the members of the organization upon creation should choose the form of thrift and loans cooperative society (TLCS) for which the law has made specific provisions. This does not exclude the mobilization of savings made by the CIGs to support its activities.

Upon creation, the territorial jurisdiction of the CIG must be clearly spelled out in the article of association taking into consideration its objectives, activities and interests. It is in this territorial jurisdiction that the Headquarters and post office address is to be found.

FORMAL PROCEDURE OF CREATING A CIG

a) **REGISTRATION DOCUMENTS**;

CIGs shall be formed by a declaration in writing, done during a constituent meeting of at least five (5) members. NWADO is a network of development organisations coming together to build capacities, share information and experiences, mobilize resources and advocate on behalf of the civil society of the North West Region of Cameroon.

1. Composition of documents.

- -An application stamped at the rate in force.
- -The minutes of the constituent meeting indicating the place it was held and the venue and signed by the required number of founding members indicating;
- i. The resolutions relating to the formation of the CIG (the name and eventually its trade name or acronym, the object, main activity, area of jurisdiction, head office and postal address).
- ii. The resolutions approving the articles of association.
- iii. The resolution appointing its delegation and other officials with their complete identification (name, surname, occupation, function, residence, complete address).
 - -A copy of the article of association.

2. The Competent Service.

Complete documents for registration are deposited by the delegate of the CIG at the Ministry of Agriculture, which registers the CIG and issues an attestation.

3. Time Limit

A time limit of two (2) months from the date of holding the constituent meeting for the documents to be submitted to the Government service charge of keeping the register.

4. The Certificate of Registration.

This document proves the legal existence of the CIG, and has to be delivered two (2) months following the depositing of the registration documents if they were accepted upon deposition. In the case where the

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depositor does not receive any reply, the receipt of registration until the real certificate is delivered is valid.

5. The end of the CIG

A CIG can put an end to its activities either by dissolution or by change of status.

a. Dissolution:

- -Voluntary dissolution
- -Dissolution by the administration
- -Dissolution by the competent law courts.

In this case of dissolution, a liquidator is appointed.

b. Change of status or alteration.

This is either by merging or splitting.

COOPERATIVE SOCIETIES

INTRODUCTION

Cooperative societies function under the aegis of the law N° 92/006 of 14 August 1992 relating to cooperative societies and common initiative groups, and its implementation decree N° 92/455/PM of 23 November 1992

A cooperative society under this law shall mean a group of individuals corporate bodies who freely enter into partnership in order to attain common goals by setting up an enterprise which is managed in a democratic manner and to which they are bound by a contract which shall in particular lay down the rules governing their activity with the organization, the equitable distribution of its capital, profit and risk bearing in the branch of activity.

Cooperative societies are set up freely. They must however abide by the laws of the Republic. All that is registered is for its promoters to be citizens who have attained legal majority. It shall be representatives of their members, does not make commercial profits for itself, all surplus are for its members.

SECTION 1: THE BIRTH OF A COOPERATIVE

A) THE DECLARATION PROCESS

The birth of cooperative in Cameroon is subjected to the system of declaration which depends upon whether it is the creation of a new cooperative or the transformation of an already existing organization. 1: Where there was no organization among the members,

-At least seven (7) persons who have the capacity of founding members must hold a constituent general meeting during which a statement to set up a cooperative society is written; open a register for members; elect the initial board members and the supervisory authority; adopt the articles of Association; and appoint a neutral person or an external body empowered to audit accounts.

2: Where there is another organization already in existence:

In this case, all that is necessary if for the articles of association to be in conformity with law N° 92/006 of 14 August 1992.

B) REGISTRATION

- 1. Deadline: the registration of the cooperative society shall be done within a time limit of two months from the date of holding of the constituent meeting.
- 2. Composition of Documents: an application stamp at the rate in force, minutes of the constituent meeting signed by the required number of founding members, and a copy of the article of association.

C) THE PROCEDURE TO FOLLOW

The chairman of the Board of directors of the cooperative society submits to the services of the provincial delegation of agriculture in return for a receipt. The government official in charge registers the cooperative and issues a certificate of registration.

Registration is considered approved where the registration official fails to react within two (2) months from the day of receipt of the application. In this case, the receipt for the deposit of the file shall serve as a

certificate for registration until the said certificate is issued which signifies that the organization can function legally.

Any decision to refuse registration may be appealed against in keeping with the ordinary law. The promoters of the organization can in this case file a suit in the competent court if they feel that the refusal is baseless or causes them any prejudice.

ASSOCIATIONS

INTRODUCTION

This is a convention through which a number of persons pool their knowledge or activities purposes other than to share profits.

Associations in Cameroon are governed by law N° 90/053 of 19^{TH} December 1990.

There are two systems instituted for forming an association.

SECTION 1:

THE DECLARATION SYSTEM

This is for the founders of an association to make known to the authorities, the formation and the legal existence of the association under the existing laws in force. The requirements for declaration are enclosed within a given time limit and inquire the accomplishment of precise formalities.

A. CONDITIONS TO FULFIL

Associations subjected to the system of declaration shall have no legal status until they have declared their formation and finished two (2) copies of their constitution. The law does not provide any indications as to the constitution of association but it should be noted that as for other forms of organizations (notably CIGs), the constitution is freely adopted. In fact the constitution is not only a document for the declaration but also the norms of reference for all the life of the association as

well as the behavior of its members and managers or leaders.

For this purpose, there are some elements that must appear in the proposed constitution of the working group to the assembly for validation. These elements are;

- -The name of Association and its abbreviation if need be.
- -The Head Office, address and postal box.
- -The duration.
- -Area of Jurisdiction.
- -The Objectives.
- -The organization and functioning.
- -Sources of income.

The procedure for the modification of the constitution

- -Membership.
- -Dissolution.

B. DECLARATION

Composition of the Declaration file

- 1) The Declaration letter
- 2) Two (2) copies of the constitution signed by the founding members (the President, Secretary and Adviser may sign on behalf of the founding members)
- 3) Two legalized copies of the list of the executive bureau indicating their names, residence, addresses and National ID card Number (name, function, profession, address and signature)

- 4) The minutes of the constituent assembly.
- 5) It is finally visited by the executive president and legalized by the competent authority (police)

According to article 7 of the law of freedom of association, the declaration shall be made by one or two persons designated by the General Assembly at the divisional office where the headquarter is found.

The letter passes through the sub-divisional officer or the head of the district has to stamp at the rate in force.

Once the completed documents are submitted, an attestation of deposit is issued immediately by the competent authorities to the depositors. The receipt of declaration is issued by the Senior Divisional Officer within two months. Silence on the part of the SDO after this time shall be tantamount to acquiescence and shall imply acquisition of legal status with all what that entails.

SECTION 2:

THE SYSTEM OF AUTHORISATION

An authorization is a permission granted by the administration to a person or group of persons to accomplish a legal act, which in this case is the creation of an association. The Cameroon legislation has instituted the system of authorization for foreign association and religious congregations seeking legal existence. For them to function legally, they have to first obtain an authorization of existence, the simple declaration for the previous case being insufficient.

The officials responsible for the authorization or approval of the existence of these types of associations to operate in Cameroon are the Minister in charge of Territorial Administration and Decentralization (MINTAD) and the president of the republic (PR).

For an Association to be transformed into a CIG, it has to follow the normal registration procedure described above in this manual or guide. Once it is registered the association must be dissolved in conformity with the constitution. That is, all the movables and immovable properties of the organization shall be transferred to any charitable social centre of the state.

TRADE UNIONS

INTRODUCTION

A trade union is a group of persons exercising the same profession, similar, or connected trades, in view of protecting their interest. In other words it can be said to be a corporation.

Trade Unionism in Cameroon I governed by multiparty system. This does not pose any fundamental problem because apart from the general text, other specific texts governing trade unions exist.

The direct supporting texts of reference are;

Law No 90/53 of Dec 1990 on the freedom of association.

Law No 92/007 of 14 August 1992 on the labor code in Cameroon.

The legal force of law No 68-LF -19 of 18 Nov. 1968, is more problematic.

SECTION:

PROFESSIONAL TRADE UNIONS

These trade unions operate under the provisions of law No 92/007 of 14 August 1992 in the labor code.

CONDITIONS FOR FORMING A TRADE UNION

According to section 6 of the labor code a trade union or employer's association shall not have legal existence until the day a certificate of registration is issued to it by the registrar.

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1) The registrar of trade unions: shall be a civil servant appointed by decree. The task is conferred to the Secretary General of the Ministry of Labor, Employment and Social Insurance who is appointed by a decree of the President of the Republic.

2) Application for registration

- -for a workers' trade union, it has to be signed by at least twenty (20) members.
- -for an employers' association, it is by at least 5 members.

3) Composition of registration documents

- -An application
- -2 copies of rules of the trade union
- -A list of the names of the officers of trade union with their titles as such.
- <u>N.B</u>: Before choosing the name of a trade union it is important to ensure that it does not exist elsewhere, and should not be identical to that under which any existing union has been registered.
- 4) The registrar shall acknowledge receipt of the application, examine it and register the union and its rules within a period of one (1) month.

In case of refusal or cancellation of registration by registrar, members within thirty (30) days of the notification of such decision refer the matter to the competent court, the judgment of which shall be opened to appeal.

It must be remembered that this law subjects the creation of civil servant trade unions to approval of the Ministry of Territorial Administration and Decentralization.

NON GOVERNMENTAL ORGANISATIONS

Introduction

The legal frame work for NGOs in Cameroon is found in two texts: -Law No 99/014 of 22 Dec 1999, that specifically governs NGOs

-Law No 90/053 of 19 Dec 1990 on the freedom of association which is a general law to all forms of associations.

Within the meaning of the law of 22 Dec 1999, a Non Governmental Organisation is a declared association or foreign association authorized in accordance with the legislation in force and approved by the administration to participate in the execution of mission of general interest.

A fundamental distinction of an NGO from an Association is their legal frame works which for the association is more liberal, but for the NGO more formalized. An NGO can benefit from international spread out, but an Association's limits are confined to the national territory. The rules governing NGOs from the point of view of property, enables them to accept gifts, legacies, and subventions that any ordinary association does not receive automatically.

Thus, for an association in or out of Cameroon to become an NGO, it must be declared under the aegis of the 1990 law which enables it to get an approval from the administration for it to benefit from the status of an NGO.

SECTION 1:

REQUIREMENTS FOR CREATING AN NGO UNDER CAMEROON LAW

Organisations that wish to have NGO status have to comply with certain criteria that are related to the activities to be carried out by the organisation and group or the co-operation bodies seeking the status. Thus the Cameroonian public authorities have through legal text provided the priority domains or areas of activities for NGOs which cover the legal, economic, social, health, education, culture, humanitarian, sports, environment and human right sectors. Though extensive, activities in these sectors are non profit generating. They are always actions undertaken in the light of poverty reduction to which the beneficiaries must be closely associated.

REQUIREMENTS RELATING TO PERSONS

Criteria on the eligibility of the persons who wants to get the articles of association for the NGO. Within the meaning of the law, there must be:

- -Any association that is duly declared
- -Any authorized foreign or religious association
- -In all the cases, there must be backed at least three (3) years of effective contribution in any of the sectors outlined by the law.

SECTION 2:

THE PROCEDURE FOR APPLICATION FOR APPROVAL

In order to be approved as an NGO, an application for approval must be written and submitted to the commission for approval by the law. It is first of all deposited before the Prefect of social seat who checks and channels same via the Governor to the Minister of Territorial Administration and Decentralization. The mixed commission in a session then recommends for approval or reject to the minister.

COMPOSITION OF APPLICATION DOCUMENTS FOR APPROVAL

- 1. An application stamped at the rate in force.
- 2. A copy of the declaration receipt or the authorization or a foreign or religious association.
- 3. An evaluation report of activities for the last three (3) years and the programme of activities (pictures included).
- 4. The minutes of the extra-ordinary general assembly serving as a constituent assembly of the NGO
- 5. Four (4) copies of the articles of association of the NGO.
- 6. The name, goals, and headquarters of the NGO as well as the names, professions and residence of those who are in charge of the administration or management.
- 7. The curriculum vitae of the principal promoter for a better understanding of the quality of the promoters,

THE COMPETENT AUTHORITIES AND SERVICES THE PROCEDURAL DEADLINE

- a) Governor -The first recipient of compiled documents c/o the S.D.O. of Social seat.
- -Issue receipt bearing the file's office registration number and date to the depositor.

- -Have a maximum of 15 days to forward file to the technical commission in the ministry of Territorial Administration and Decentralization, Yaoundé.
- b) The Commission for approval Studies application files, ensures a follow up and control of the activities of the NGO and gives its opinion.
- -It has a maximum of 30 days from the date of reception to forward to the Ministry of Territorial Administration and Decentralization together with a reasoned opinion.
- c) The MINTAD -Within a maximum of 75 days as from the date of deposition at the Governor's office makes his decision known. After this time limit of 75 days and failure by Minister to notify of rejection of the application and the reasons, then the approval shall be deemed granted. The approval is granted for a renewable period of five (5) years.

SECTION 3:

DISSOLUTION OF THE NGO

The law provides for two types of initiatives:

- -By decision of their members in accordance with the articles of association.
- -By court decision at the behest of the legal department or at the request of anyone concerned in the case of nullity provided for by the law on freedom of association. The MINTAD may by order dissolve any NGO for undermining public order and state security.

ETHICS IN CSOS MANAGEMENT IN CAMEROON

CSOs in Cameroon recently have sought to have an identity that best defend their national, regional and international recognition. In the past, efforts had been concentrated on identifying who the real civil society is, and has now evolved to issues of establishing a self regulating civil society framework. Brainstorming sessions held at regional levels by CSOs in October 2008, working on a code of Ethics for Cameroon CSOs reveals that CSOs need to look both at their internal an external environment, respect some basic principles to harmonize their actions and enhance management for results in general. Some of the identified principles which were recognized as fundamental in the development process and consolidation of relationships with partners, marginalized and vulnerable communities include principles of partnerships, management, communication with the public, human resources and organizational integrity.

These CSOs have identified key areas in Code of Ethics document made public in January 2009 which they considered if respected by Cameroon civil society will enhance the legitimacy, credibility and visibility of civil society. These include;

- · Aspirations and principles of development.
- · Governance.
- · Organizational integrity and independence.
- · Management and Human Resources.
- · Financial Management and accountability.
- · Communication and networking

Conflict of interest.

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