

7 Major Highlights on Civil Society Organizations Registration Proclamation

Description

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Civil Society Organizations are administered by the Organizations of Civil Societies Proclamation No.1113/2019 (hereafter the Proclamation) done on March 12/2019 to be effective from the date of publication in the Federal Negarit Gazette. This brief article attempts to show major highlights of the Civil Society Organization Registration Proclamation. The article is divided into seven parts. Part one shall deal with definitions. Part two shall look upon types of local organization, with emphasis on two of those types. Part three and four shall deal with the requirements for registration of local and foreign civil society organizations. And part five to seven shall state the effects in terms of rights, responsibilities and income generation benefits to such registered civil organizations. A brief conclusion shall follow.

Local and Foreign Organizations

The Proclamation defines local and foreign organizations. “Local Organization” are defined as a civil society organization formed under the laws of Ethiopia by Ethiopians, foreigners resident in Ethiopia or both. Here foreigners resident in Ethiopia are granted the right to establish local organizations. On the other hand “Foreign Organization” is defined as a non-governmental organization formed under the laws of foreign countries and registered to operate in Ethiopia.

Types of Local Organizations

Two or more persons may establish Local Organization. Here on the Article 17 of the Proclamation there is a reference to ‘Indigenous Organization’. There is no definition of Indigenous Organization in the Proclamation. However, the Amharic version of Article 17, which is the prevailing one in terms of interpretation, refers indigenous organizations as ‘Local Organizations’.

There are five types of Local Organizations. These are a/ An Association b/ A Board-led Organization c/ A charitable Endowment d/ A charitable Trust and e/ A Charitable Committee. For the purpose of this article, a focus shall be made on the first two i.e. on an association and a board-led organizations.

An Association and Board-Led Organization

An Association is an organization formed by five or more members and governed by a General Assembly as the supreme decision-making body. For the purpose of this Proclamation, association shall include professional associations. The organizational chart of an association will have a General

Assembly at the top and then in hierarchy Executive Committee, Manager, Auditor and other departments as may be necessary. Details regarding the structure and governance of an Association will be determined by the associations internal rules.

On the other hand a board-led organization can be formed by two or more founders. The board is the supreme organ. The Board shall have a minimum of five and a maximum of thirteen members. The first board members shall be designated by the founders. The term of service and appointment procedures for subsequent board members shall be prescribed by the rules of the organization. Here the unique nature of Board-led organization is that persons who are related by consanguinity or affinity with the officers of the organization may not be board members. The organizational chart of a board-led organization shall have a manager accountable to the Board and necessary staff as may be necessary. The particulars shall be determined by the rules of the organization.

Documents Required for Registration of Local and Foreign Organization

An application for registration by Local Organization shall be signed by the founders and should contain the following particulars: a) the minutes of the formative meeting indicating the names, addresses and citizenship of the founders; b) copy of the identity card or passport of the founders; c) the name of the organization and its logo, if it has one; d) the objectives of the organization and its intended sector of operation; e) the Region where it intends to operate; f) the rules of the organization approved by the founders; and g) the organization's address.

On the other hand an application for registration of a foreign organization shall, in addition to the conditions mentioned from a-g above, be accompanied with the following documents: a) duly authenticated certificate of registration showing its establishment from its country of origin; b) duly authenticated resolution of its competent organ to operate in Ethiopia; c) duly authenticated power of delegation of the country representative; e) letter of recommendation from the embassy in which the charity is incorporated or in the absence of such by a competent authority in the country of origin from Ministry of Foreign Affairs of Federal Democratic Republic of Ethiopia and; f) a work plan for a minimum period of two years.

Effects in Terms of Rights

The Proclamation provides that any organization which registered upon fulfillment the registration requirements provided in the Proclamation : a/ shall have legal personality; b/ can sue, be sued and enter into contracts; c/ without prejudice to laws that require special license, can operate in the sector of its choice; d/ to own, administer and transfer movable and immovable property. However, the proceeds from the disposal of the property may not be transferred as donation for the benefit of members or to another activity which is not its mission; and the Organization which transfer property shall inform to the Agency within 15 days; e/shall have the right to engage in any lawful activity to accomplish its objectives; f/ local organizations shall have the right to operate in Ethiopia or abroad, or implement objectives having global, regional or sub regional nature; g/ can implement project activities on its own or to provide financial and technical support to other organizations; h/ may propose recommendations for the change or amendment of existing laws, policies or practices, or issuance of new laws and policies of those which have relationship with the activities they are performing. However, unless it is permitted with an other law Foreign Organizations and Local Organizations which are established by foreign citizens which are residents of Ethiopia may not engage in lobbying political

parties, engage in voters education or election observations; i/ foreign organizations may implement project activities or work in partnership with Local Organizations by providing financial, technical or in kind support; j/ to the extent possible, Foreign Organizations by working in partnership with local and Governmental Organizations, can give support to build the capacity of Local Organizations; o) shall have the right to move its properties from one region to another region or city administration, unless the Project Agreement states that such properties may not be transferred because they are necessary for the sustainability of a specific project it is implementing; p) have the right to engage in any lawful business and investment activity in accordance with the relevant trade and investment laws in order to raise funds for the fulfillment its objectives. However, the profit to be obtained from such activities may not be transferred for the benefit of members; q) shall have the right to solicit, receive and utilize funds from any legal source to attain its objective; r/shall get a written approval of the Agency to open a bank account. The Agency shall respond to requests for such approval within five days from receipt of the request; s/ all financial transactions shall be performed through a bank account opened by an Organization in its name; t/ all banks have the obligation to provide the bank statement of accounts held by any Organization to the Agency when requested. w/ the Bank Account transaction can be done in the context of the Organization rules; x/ no organization may employ a foreign national who is not given work permit under the relevant laws. Notwithstanding the stipulation above, a foreign organization shall not be barred from appointing a foreign national as its country representative; y/ foreign nationals other than the country representative may only be hired if the office granting work permit verifies that the work cannot be performed by Ethiopians. z/ some provisions of the law will not apply to foreign nationals who are not salaried employees but come to Ethiopia to professionally contribute by working as volunteers for a period not exceeding one year.

The Responsibilities

As there are rights and benefits, corresponding responsibilities are laid down on the Proclamation. The responsibilities include a/ an organization shall make the necessary efforts to ensure that its activities help to bring about sustainable development, contribute to the democratization process, promote the rights and interests of its members or enhance the profession they are engaged in; b/ an organization which is established for the benefit of the general public or third parties shall ensure that its activities take into account the interests of women, Children, persons with disabilities, the elderly and others exposed to threat or vulnerable groups of the society; c/ an organization cannot engage in sectors which require additional permit by law without getting the necessary permit from the relevant government bodies; d/ in performing their duties all members, officers and employees of the Organization have the responsibility to give primacy to the Organization's interest and take the necessary precaution to avoid conflict of interest; e/the Administrative cost of an Organization established for the benefit of the general public or that of third Parties may not exceed twenty percent of its total income. For the purpose of this provision, "Administrative Expense" shall mean expenses which are not related to the project activities of an organization but are necessary to ensure the continuity of an Organization and related to administrative activities, and shall include: salaries and benefits of administrative employees; purchase of consumables and fixed assets and repair and maintenance expenses related to administrative matters; office rent, parking fees, audit fees, advertisement expenses, bank service fees, fees for electricity, fax, water and internet services; postal and printing expenses; tax, purchase and repair of vehicles for administrative purposes, and procurement of oil and lubricants for the same; insurance costs, penalties and attorney fees. However the Agency may issue Directives regarding organizations exempted from the application of 20% administrative expense rule.

Income Generation Related Benefits

Though civil organizations are established for non-profit making endeavor, in exceptional circumstances such organizations are granted the right to generate income. The income generating activities are granted and operated in the following situations: a/ an organization which engages in income generating activities in may do so by establishing a separate business organization (company), acquiring shares in an existing company, collect public collections or operating its business as a sole proprietorship; b/shall open a separate bank account and keep separate books of account for its business in accordance with the relevant commercial and tax laws; c/ the relevant tax, commercial registration and business licensing, and investment laws shall be applicable to income generation activities under this provision; e/ the income that is generated from income generating activities will be used to cover administrative and program costs of the organization; f/ the income and resources that are acquired from income generating activities shall not be transferred or shared for the benefit of members or workers of the organization; g/ when the organizations collect public collections, they shall inform to the Agency; and h/ an organizations engaged in income generating activities based on this Article shall inform to the Agency within fifteen days.

Conclusion

The Civil Society Proclamation has made registration of civil society organizations easier. The Proclamation incorporated several benefits of registration. Income generation benefit is one of the major benefits. Employment of foreigners shall follow work permit procedures. However foreign citizens are allowed to occupy the position of country representatives. Other foreign nationals can serve up to one year non-salaried professional volunteer position. The Proclamation is a game changer for civil society organisations in a positive way.

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