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ORDER N° 60-133

The President of the Republic , Head of the Government.
In view of the Home Minister's report,
In view of the Constitution,
In view of the decision N° 002-R of the National Assembly ,
dd January,18,1960,delegating power to the Government,
In view of Order N° 60-063 of July,22,1960, relating to the
dissolution of some associations and the placing under house
arrest of some persons judged as subversive action,
After advice of the Constitutional Commission,
In a Minister's Council,

decides the following:

Article 1 : This order determines the general conditions of
entitlement operation and dissolution of associations.

However, it does not refer to:

1°- Professional or social trade unions, to cooperative, to
companies falling under Art. 1832 of the Civil Code, to reli-
gious associations of worship or of religious nature which
are ruled by special laws.

2°- To categories of associations which needs a specific legal
frame.

Article 2 : The association is the convention whereby 2 or
several persons put together, in a permanent way, their
knowledge and activity for some aim else than to share profit.
It is ruled, as far as its validity is concerned, by the main
principles of the contracts and obligations law.

Article 3 : Without prejudice to the provisions of Chapter III
in this order, relating to the foreign associations, the
associations of persons can be freely set up without prior
authorization or declaration, but they are entitled to their
legal capacity only if they are conform with the provisions
of Art.6 here after mentionned.

Article 4 : 1°- Any association having an illicit cause or
subject, contrary to the regulation and to morality is null
and void.

2°- So are those which come under the provisions
of Order N°60-063 dd July,22,1960, previously mentionned.

Article 5 : Any association, wishing to obtain its legal capacity as stipulated in Art.6 here after, must be declared officially and publicly by its senior members, Administrators or Directors.

A prior declaration will be deposited in 3 copies at the Province Office in which the association will mention its full style. Will also be mentioned the name, the goal, the offices address and the names, profession and address of the staff members that are responsible for its administration and management. A receipt will be given at that time.

Three copies of the association's by-laws will be attached to the declaration.

The associations have to report, in the same conditions, any change occurring in their administration or management and also in their by-laws within the 3 following months.

These modifications and changes must be recorded in a special book that must be presented to the administrative or legal authorities at their request.

Within the 2 months following their deposit, the associations are declared publicly, by the governmental administration, in the official Gazette, mentioning the name of the association, its full style, goal and the date of the receipt obtention.

The modifications and changes relating to the association's name, address and activity must be published the same way. These modifications or changes can be objected by third parts only as from the day of their publication.

Article 6 : Beside the governmental, provincial or communal grants, any duly established association can, without any prior authorisation, institute legal proceedings, buy, own and administrate :

1. The subscriptions of its members or any kind of their contributions ;
2. The premises used for the association's management or meetings ;
3. The assets strictly used for the achievement of its target.

Article 7 : In the case of the nullity provided in the 1st paragraph of Art 4, the dissolution of the association is made by the Civil Court, either at the request of the concerned part, or under the proceedings of the supervising Ministry.

The latter can summon within 3 clear days and the Court decides the closing of the premises and the suspension of the association's meetings, notwithstanding the legal steps and in accordance with the penalties provided in Art 9 hereafter.

The dissolution of the associations relating to paragraph 2 of Art 4, is made within the provisions of Order 60.063 of July, 22, 1960.

If the clauses of Art6 are infringed, the dissolution is decided by the Civil Court at the request of any part concerned or of the governing Ministry.

Article 8 : Those who infringe the clauses of Art 6, are liable to a fine of 5,000 to 50,000 Fmg which is doubled in the case of relapse.

The founders or administrators who are illegally maintained or re-installed after the dissolution judgement are liable to a fine of 20,000 to 1.500,000 Fmg and an imprisonment of 10 days to one year.

The persons who have helped such illegal meetings to take place in their buildings are liable to the same penalties.

Article 9 : Whether the dissolution is voluntary, statutory or legal, the property of the association will be transmitted according to the statutory clauses, or in lack of them, according to the decisions of the general Assembly.

Article 10 : If, for some reason, no transmission clause of a voluntarily, statutorily or legally dissolved association has been settled, the Court nominates an Administrator at the request of the part concerned or of the governing Ministry. This administrator calls a general assembly's meeting, within the legal delay determined by the Court, whose sole mandate is to decide on the property transmission ; he is using the authority conferred to administrators of vacant successions.

Article II : When the general Assembly of the association decides on the property's transmission, whatever the way of transmission is, it cannot be transferred even partially to the shareholders, with exception to the recovery of their shares.

CHAPTER II

Associations recognised as of public interest

Article I2 : The recognition of the public interest nature of an officially declared association is decided in a governmental Council.

Article I3 : Public interest associations can exert all the civic rights except those forbidden by their internal regulations, but they can only own and acquire the immovables necessary for their purpose. All the moveables of the public interest associations must be placed into registered securities.

They can receive donations and legacies after a prior authorisation decided in a Ministers' Council. The property included in a donation or legacy deed that is not necessary to the functioning of the association, will be tendered under a decree which will specify the terms and conditions. The cost will be funded to the association.

cannot

They ~~can~~ receive moveable or immoveable donations with an usufruct clause profiting to the donor.

CHAPTER III

Foreign Associations

Article I4 : With exception to contrary cases mentioned in international conventions, no foreign association is accepted in Madagascar without a prior authorisation from the Home Minister.

The foreign association can have several agencies in Madagascar provided each agency is a distinct association.

Article 15 : The obtention of the authorisation can be temporary or subject to a periodical renewal.

It can depend on the compliance to certain conditions.

It can be cancelled at any time.

Article 16 : Are recognised as foreign associations, whatever their hidden form might be, the groups or corporations having associations characteristics, which have their offices abroad, or, being established in Madagascar, are obviously managed by one or several foreigners or, have, either foreign administrators or a quarter at least of foreign members.

To ensure the application of the above article, the Minister of Interior and the provincial authorities can, at any time, request the managers of a group or corporation to report any information on their headquarters, their real purpose, the nationality of their members, administrators and managing staff.

Those who do not comply with this injunction or make false declarations are liable to the penalties provided in Art 22 hereafter.

Article 18 : The applications are addressed to the provincial offices where the association is operating.

To be eligible, they must mention the name and purpose of the association, the operating area, the name, profession, address and nationality of their foreign members and those who have managing or administrative responsibilities in the association.

The foreigners who live in Madagascar and who are part of an association must have a regular identity card or resident document.

Article 19 : The foreign associations whose applications are refused or annuled must immediately stop their activity and go into the liquidation of their assets within the month following the decision's notice.

Article 20 : The foreign associations, whatever their hidden form might be, which do not apply for the previously mentioned authorisation are legally null. This nullity is decided by Decree by the Home Ministry.

Article 21 : The decrees relating to the authorisation, non-acceptance, cancellation or nullity of a foreign association must be published in the Official Gazette. They must specify the means ensuring the immediate application to such decisions and the liquidation of the association's assets.

Article 22 : Those who persist in administrating non-authorized foreign associations are liable to an imprisonment of one to five years and a fine of 5,000 to 50,000 Fmg.

The persons who participate in the activity of such non-authorized association are liable to an imprisonment of 6 months to five years and a fine of 5,000 to 250,000 Fmg.

The same penalties are applicable to managing directors and members of the associations who act without compliance to the conditions stipulated in their authorisation or beyond the period authorised.

CHAPTER IV

Miscellaneous provisions

Article 23 : Unions of Associations having a central administration or direction are subject to this Order. They must declare the name, purpose and office of their component associations. They must report within a three month's period the newmembers.

Article 24 : The associations declared or recognised as of public interest are subject to a particular control whenever they receive governmental or provincial grants.

Any hindrance to such control leads to the annulation of the grant.

Article 25 : Ministers decrees will fix the modalities of this Order's modalities whenever necessary.

Article 26 : The associations recognised as of public interest and the foreign associations authorized to operate in Madagascar before the date of this Order are ruled by these provisions and do not need to make a new application.

However, the associations of worship or of religious nature established under Law dated July, 1st, 1901 are given a 6 months' period as from the date of this Order to comply with the new effective law and regulation on the worship bodies in Madagascar.

Article 27 : This Order supersedes all prior provisions relating to this subject.

Article 28 : This Order will be published in the Official Gazette of the Republic.
It will be implemented as a state law.

Tananarive, Oct 3, 1960

The President of the Republic, Head of the Government
Philibert TSIRANANA

The Home Minister
André RESAMPA

The Minister of Justice
René RAKOTOBE