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Proclamation No. 145/2005

**A Proclamation to Determine the Administration of
Non-governmental Organizations**

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Non-governmental Organizations**

Whereas, non-governmental organizations have played a commendable role during the liberation struggle of the people of Eritrea and after independence;

Whereas, albeit significant achievements registered in all sectors of the Eritrean economy since independence, the scars of the protracted war of liberation and recurring droughts still continue to beleaguer our people;

Whereas, non-governmental organizations can still contribute in the temporary relief and rehabilitation works underway as complementary to, but by no means substitutes of, governmental agencies;

Whereas, except for minor alterations reflecting acquired experiences and changed realities, the policies underlying Proclamations No. 60 and 61 of 1994 still hold;

Whereas, non-governmental organizations are expected to play an enabling role with accountability and transparency to, inter alia, the beneficiaries of relief and rehabilitation during their temporary participation in the above-mentioned transitional endeavours;

Whereas, success in relief and rehabilitation programs should involve effective community participation, promote positive cultural work values and discard all vestiges of dependency syndrome;

Whereas, non-governmental organizations should, in order to ensure efficiency, effectiveness, fairness and cost-effectiveness in their works, inter alia, commit and secure upfront the required financial or human resources, relieve the Government from tax subsidies and recruit personnel as well as procure goods and services competitively and transparently;

Now, therefore, it is proclaimed as follows:

PART ONE

General

Article -1: Short Title

This Proclamation may be cited as the "Non-governmental Organization Administration Proclamation No.145/2005".

Article -2: Definitions

In this Proclamation, unless the context otherwise requires:

- (1) "non-governmental organizations (NGO's)" means organizations which are non-profit oriented and not part of the Government and engage in relief and/or rehabilitation work in accordance with the provisions of this Proclamation under their own budget and programs;
- (2) "international non-governmental organizations" means foreign organizations which are non-profit oriented and not part of any foreign government and which engage in relief and/or rehabilitation work in Eritrea in accordance with the provisions of this Proclamation under their own budget and programs;
- (3) "local non-governmental organizations" means local organizations which are non-profit oriented and not part of the Government and which engage in relief and/or rehabilitation work in accordance with the provisions of this Proclamation under their own budget and programs;
- (4) "Relief" includes the provision of food, water, sanitary materials, medicines, shelter and other emergency supplies to the victims of natural or man-made disaster or displaced people;
- (5) "Rehabilitation" means enabling activities carried on to restore damage caused by natural or man-made disasters and includes construction, reparation and maintenance;
- (6) "Minister" or "Ministry" means the Minister or Ministry of Labour and Human Welfare, respectively; and
- (7) "Government entity" includes ministries, administrations, commissions, authorities, governmental offices and agencies.

PART TWO

Powers and Duties of Government Entities

Article -3: Powers and Duties of the Ministry

Regarding NGO's, the Ministry shall have the powers and duties to:

- (1) receive written applications and the attached (Annex I) filled registration forms and required relevant documents of local and international NGO'S wishing to engage in relief and/or rehabilitation works and, after examining and reviewing the documents, issue within thirty (30) days, work permits or, where it rejects the applications, inform the applicants in writing its reasons therefor;
- (2) coordinate between Government entities and NGO's;
- (3) approve and coordinate programs and projects to be funded and implemented by NGO's;
- (4) authorize the importation of goods by NGO's and ascertain that taxes and duties are levied and paid on the said goods in accordance with the law by the importing NGO's;
- (5) see to it, whenever it deems it necessary, that the accounts of an NGO are audited;
- (6) ensure that foreign employees of NGO's enter into Eritrea and hold work permits in accordance with the provisions of Legal Notice No 80/2003 (Annex II);
- (7) ascertain that NGO's which terminate their activities for different reasons settle their debts and the claims of employees in accordance with the provisions of Labour Proclamation No. 118/2001 (Annex III) and deliver to the Ministry property held for program facilitation; and
- (8) suspend or terminate the activities of NGO's found working outside the ambit of their work permits.

Article -4: Powers and Duties of other Government Entities

Regarding NGO's, Government entities shall have the powers and duties to:

- (1) conclude relief and/or rehabilitation work contracts with NGO's in respect of programs approved by the Ministry;
- (2) follow up and supervise relief and rehabilitation programs to be directly operated by NGO's;
- (3) evaluate all programs carried out in cooperation with and funded by NGO's and regularly submit reports to the Ministry every six months.

PART THREE

Rights and Obligations of NGO's

Article-5: Rights of NGO's

NGO's shall have the right to:

- (1) receive information regarding their work programs from the Ministry or other concerned Government entities;
- (2) request security and protection for the safety of personnel and property at places of work;
- (3) terminate programs or activities by giving three (3) months' prior notice; and
- (5) hire and dismiss personnel in accordance with the provisions of Labour Proclamation No. 118/2001.

Article -6: Obligations of NGO's

NGO's shall have the obligation to:

- (1) register by submitting an application stating the reason/s of engagement in Eritrea with filled form of registration, memorandum and articles of association and background information;
- (2) start work with the concerned Governmental entities by concluding contracts of work, after obtaining work permits;
- (3) submit to the Ministry:

- (a) quarterly project progress reports; and
 - (b) annual progress reports by January of the coming year;
- (4) submit to the Ministry within four months after the financial year, an annual financial report drawn by an independent audit firm, showing a detailed record of money received and spent on administration and beneficiaries;
- (5) ensure, in the ever unflinching effort to maximize relief and rehabilitation support to beneficiaries, that overhead costs never exceed ten (10%) percent of the overall budget;
- (6) ensure that foreign exchange dealings and transactions are executed through the banks of Eritrea in accordance with the law;
- (7) ensure that the procurement of goods and services is effected with transparency and competitively;
- (8) regarding the recruitment of employees:
- (a) submit to the Ministry a document establishing the appointment of a person as the representative of the International NGO;
 - (b) ensure that a foreign representative or an employee or volunteer worker of an international NGO holds a work permit;
 - (c) ensure that vacant posts are filled with priority to Eritrean citizens and ascertain that the rights of recruited employees are observed pursuant to the provisions of Labour Proclamation No 118/2001;
 - (d) ensure where vacant posts are filled by Eritrean citizens that the said citizens have satisfied their national duties and hold official discharge papers;
 - (e) present to the Ministry evidence of efforts made to fill vacant posts where adequate Eritrean labour is not available; and
 - (f) ensure that a foreign professional enters Eritrea after obtaining a visa through the Ministry of foreign Affairs where the Ministry decides after verifying the level of education and experience of the said professional on whose behalf a request has been submitted;
- (9) pay taxes and/or duties on all goods which they import into Eritrea;

- (10) ascertain that an employee pays income tax on income earned from employment;
- (11) immediately report to the Ministry criminal offences such as theft or embezzlement committed against them by their employees and be responsible for liability incurred by their employees in the discharge of their duties; and
- (12) where they terminate their activities for different reasons:
 - (a) settle their debts and the claims of employees and report the same to the Ministry; and
 - (b) hand over to the Ministry programs or projects in progress and property held.

PART FOUR

Activities of NGO's

Article -7: Scope of Activities of NGO's

- (1) The activities of every NGO shall be limited to relief and/or rehabilitation works.
- (2) Any NGO wishing to change programs may do so only after applying to the Ministry in writing and obtaining approval for the same.
- (3) The permit of any NGO which violates the provisions of this Proclamation or engages in activities outside relief and/or rehabilitation work and, in particular, in political or economic sabotage or subversive activities against the State of Eritrea or Eritrean national interests shall be revoked and the representatives or employees of such NGO responsible for such illegal activities on behalf of the NGO shall be held liable under the relevant provisions of the Penal Code of Eritrea.
- (4) Notwithstanding the provisions of sub-Article (1) hereof, any NGO or other agency desiring to engage in development work as a development partner in Eritrea in any sector of the economy can do so by concluding an agreement with the concerned ministry or agency.

Article -8: Activities of Local NGO's

- (1) Local NGO's may be authorized to engage in relief and/or rehabilitation work if:
 - (a) they prove that they have been incorporated and registered as non-profit associations to engage in relief and/or rehabilitation work pursuant to the provisions of Articles 404-482 of the Transitional Civil Code of Eritrea;
 - (b) they are ready to work within the scope of relief and/or rehabilitation policies and priorities in cooperation with the Government of Eritrea; and
 - (c) they establish that they have at their disposal in Eritrea one million US Dollars or its equivalent in other convertible currency, or technical or other capacity amounting to it, in order to enable them launch small-scale work aiming towards the achievement of their objectives.
- (2) Local NGO's shall be accountable to donors, the Ministry, other Government entities and beneficiary communities.
- (3) The utilization, distribution and implementation of financial and in-kind support, collected locally or from abroad for relief and/or rehabilitation work shall satisfy programs and directives issued by the Ministry in consultation with the beneficiary communities.
- (4) A beneficiary community shall participate in the distribution of relief and rehabilitation aid or support.
- (5) No Local NGO may engage in relief and/or rehabilitation work with funds earmarked to Eritrea by the United Nations or its affiliates or through bilateral agreements.
- (6) Local NGO's shall immediately declare publicly and officially inform the Ministry on all donations made.

Article -9: Activities of International NGO's

- (1) No international NGO may engage in Eritrea in relief and/or rehabilitation work except through the Ministry or other concerned Government entity.

(2) Notwithstanding the provisions of sub-Article (1) hereof, where the Ministry or the concerned Government entity cannot carry out the task or where any other serious cause justifies it, an international NGO may directly engage in the activity by agreement.

(3) The provisions of Article 8(2) to (6) hereof shall also be applicable to, or as the case may be, in the case of international NGO's.

(4) The programs of international NGO's shall contain institutional capacity building and training components.

(5) International NGO's shall prove that they have at their disposal in Eritrea two million US Dollars or its equivalent in other convertible currency, or technical or other capacity amounting to it, in order to enable them launch small-scale work aiming towards the achievement of their objectives.

PART FIVE

Miscellaneous Provisions

Article -10: Registration

(1) NGO's shall submit the following information for registration:

- (a) legal documents pertaining to its organization and operations;
- (b) books and registers of their financial accounts and their fixed or movable assets;
- (c) documents that ascertain the availability of monetary or other capacity equivalent to it, as stipulated in Articles-8 (1) (c) and 9 (5) for initial engagement in work activities;
- (d) a written application clarifying the reasons for engaging in relief and/or rehabilitation work and the type of activity they wish to engage in and providing background information.

(2) All NGO's shall register anew on the basis of the provisions of this Proclamation. They shall also renew their registration annually.

Article -11: Appeal

(1) An NGO aggrieved by a decision of the Ministry rejecting its Application to register and engage or renew registration in relief and/or rehabilitation work in Eritrea may appeal to the High Court within thirty (30) days from the date of the rendering of the decision.

(2) The decision of the High Court shall be final.

Article -12: Transfer of Assets and Liabilities

All assets, liabilities and rights of the Eritrean Relief and Refugee Commission are hereby transferred to the Ministry of Labour and Human Welfare.

Article -13. Power to Issue Regulations

The Minister may issue regulations for the better implementation of the provisions of this Proclamation.

Article -14: Effective Date

This Proclamation shall enter into force as of the date of its publication in the Gazette of Eritrean Laws.

Done at Asmara, this 11th day of May, 2005
Government of Eritrea.