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Kingdom of Morocco
General Secretary of Government
Administration of Association and Organized Profession

Rebat, on 26 Jumad The Second 1426 (2 August 2005)

Circular No. 1/2005

To: Governors of Provinces

**Subject: Conditions of Recognizing Public Benefit
for Associations**

In application of the provisions of the Article 9 of the Decree No. 1.58.376 issued in 3 Jumad Al Awal 1378 (15 Nov. 1958) to regulate the right of association, and as amended by the law No. 75.00 to be implemented by the decree No. 1.02.206 dated 12 Jumad Alawal 1423 (23 July 2002), I am pleased to advise you that it has been published in the official Gazette, issue No. 5339 dated 25 Jumad The second 1426 (August 2005) the decree No. 2.04.969 dated 28 Thu Al Qeda 1425 (10 Jan. 2005) to apply the provisions of the above mentioned decree that defines the conditions of granting public benefit for the associations.

First: The content of amendments to the decree regulating the right of association relevant to the public benefit.

I would like in this respect to bring to the attention of the Governors to the substantial amendments which had been adopted according to the new legislatures related to the right of association in respect of recognizing the public benefit. Therefore, it is so important to remind that this recognition remains a privilege granted by the government to associations which seek to achieve public-benefit goals both at the national and local levels. This is attributed to the fact that the recognition of the public benefit is considered as recommendation by the State to such association toward supporting agencies at the national and international levels.

In addition to what moral advantage such associations achieve, the government's recognition of the public benefit enable donors to benefit from deducting such donated amounts from their net product they achieve or from their taxable income, either for tax fee on corporations or general tax on income according to each case. The associations also can benefit from tax exemption on values added for services provided by these associations, and commodities and works and services provided to it as gifts within the international cooperation program, and those which had been provided by legal or natural persons, Moroccan or foreigners, which take care of social and health situations for handicapped or persons who are in hard living conditions.

No wonder that the recognition of public-benefit has substantial material impacts on an association and its supporting agencies.

Within the same context, we should remind that the associations recognized for public-benefit are only allowed to receive donations and wills according to the conditions and terms stated in the provisions of the two articles 10 & 11 of the decree issued on the 5th Nov. 1958.

It is worthy to note that according to the new provisions, the association recognized for public benefit, can apply for the public support once every year, provided presenting a prior request to the Secretary General of Government, and it should be provided for in the decree which gives the association the capacity of public benefit.

For these reasons, it is so necessary to draw the attention that the capacity of the public benefit is granted only to associations which aim in actual at achieving a public benefit either at the national and local level. For the privileges given to associations, they are subject to monitoring in order to check they are in consistent with their objectives stated in their statutes, and they are in compliance with their obligations set by the law.

Therefore, the new amendments which were brought by the law, state clearly that the recognition of the public benefit should:

- On one hand, take into consideration financial and human resources received by the association or which intend to receive in order to do its tasks and duties so properly. Within this framework, it should be avoided to grant this capacity to associations with too poor financial and human resources and cannot work out its duties so properly.

Furthermore, it is not necessary that the association has presented for long to benefit from the public-benefit capacity, but they can apply for benefit of this capacity at any time. In this case, its founders or applicants for public-benefit should demonstrate to the administration what their financial resources they intend to provide in order to achieve the objectives of the association.

And it is apparent that the associations recognized for public benefit will be subject to regular monitoring which enables us recognize how well they are committed to provide the above mentioned resources. If this commitment appears not so sufficient, the administration, in this case, may withdraw the recognition of public-benefit.

- On the other hand, moral and legal obligations are to be imposed on the association, including its commitment to achieve its objectives, and its limitation to implement the obligations which result in monitoring and thus to hold the people in charge of the association accountable. Therefore, it is

related to legal situation which has some impacts on the rest of the association members. So, it is important for the association to be managed within conditions that allow its members to exercise authorities given by the law and statutes in the administration.

Second: Conditions of recognition of public-benefit for Association

Every association that seeks the recognition of the state authorities for the capacity of the public benefit should have the following conditions:

2-1-1 To be established according to the provisions of decree No. 1.58.376 issued on 3 Jumad 1378 (15 Nov. 1958) indicated above, as amended and completed, and should exercise its activities according to its statute.

It is so necessary that the association should be in consistent with the provisions of its statute and other official regulations, especially the ones related to the decision-making, and the competencies of bodies, periodic sessions of meeting, and compliance with the rules of the administrative and financial management.

The associations should have clear regulating rules, which ensure participation for all its members in management through adopting fair rules, and also that ensure participation in decision-taking and define clear roles for its members.

2-1-2 To have financial resources which enable it achieve its defined tasks in the statute, which has the characteristics of public benefit. Therefore, the associations should have financial and material resources which ensure that they can achieve its definite objectives, especially those which aim at accomplishing public benefit or contribute to achieve them.

2-1-3 The association should seek to achieve objectives that have public-benefit characteristic either at local or national level.

2-1-4 The association should hold accounting books which allow preparing statements that reflect a true profile of its accounts and its financial position and its results, according to the conditions defined by decision of the government authority assigned to finance.

2-1-5 To be committed to provision of required information and be subject to administrative monitor stated in the legislative and regulating provisions.

Moreover, each concerned association should be committed to providing all information and data required by the administration, particularly these related to the activities, programs, projects and agreements of the association. It should also be committed to be subject to monitoring which the administration and monitoring agencies, including financial court, intend to undertake in order to check on the nature of the association's activity and objectives and the way it manages its administrative and financial issues within the respect of the legislative and regulating provisions.

2-2 Required documents

Each association with fulfilled indicated requirements, can apply for having the capacity of public benefit, after deliberations to be made by its competent body according to its internal statute, either it is related to the office of the association or general assembly or any other body qualified for deciding upon the issue of presenting this application.

For this purpose, it should deposit its application against a receipt, with the competent official by its president or any authorized person. The application form should be attached with the following documents:

1. Final receipt for depositing the file of association;
2. Statute and internal system,
3. The list of personnel and those responsible for administrating the association with indication of their nationalities, professions, residence and addresses, and when necessary, a copy of the receipt of the last renewal of the association office, and statement of their addresses.
4. A report on the activities of the association which shows their achievements since its inception and its estimated action plans for the upcoming three years;
5. The statements of the association's accounts and its financial position and its results, and also the value of movable and immovable properties of the association and the ones which it intends to own;
6. A copy of the minutes of the deliberations of the competent body in the association which gives permission of the application for the recognition of the capacity of the public benefit for the concerned association's benefit, along with the list of the present members.

Documents indicated above should be certified as duplicate

2-3- The requirements for recognition of public-benefit

After depositing the application for recognition of public benefit by a certain association, the official orders undertaking a prior investigation by his units, about the objectives of the association and its activities, and to be sent to the General Secretary of Government (Administration of associations and regulating professions) attached with documents indicated above, as well as a report containing the results of administrative investigation achieved by these units. In addition to his comments on the characteristic of the public interest which the association seeks to achieve by its activities, within three months, starting from the date of deposit of the application, in order to maintain the limit period of six month defined by the legislator.

This investigation includes the aspects of the association's activities and achievements and how well it is committed to the rules stated in its statute,

especially the regular meeting of its general assembly and the resources of the associations, the material, financial and human.

It is worth noting that the Services of the General Secretary of Government, after considering the results of administrative investigation, ensuring it has fulfilled all above mentioned requirements, and studying the documents attached to the application of the association, and consulting the Minister of Finance and the government authorities concerned with the objectives of the association, should present the results of studies to the Prime Minister in order to take the decision which is appropriate.

Also, it is worth noting in this regard that the capacity of public-benefit is granted, when necessary, by a decree that defines the total value of properties and movables which the association cannot possess.

A copy of this decree which is to be published in the official gazette to be sent the concerned association.

Third: Legal and Financial obligations of the associations recognized for the capacity of public-benefit

The associations which are recognized for the capacity of public benefit should be compliant to its legal obligations stated in the Royal Decree (الضهير الشريف) No. 1.58.376 issued in 3 Jumad Al Awal 1378 (15 Nov. 1958) as amended and completed, especially through:

- Holding accounts according to the conditions stated in the para. 2-1 of this circular.
- To raise an annual report to the Secretary General of Government, containing the aspects of utilization of the resources which it has received within a year, and this report should be certified by a chartered accountant.

Furthermore, the associations, including the ones recognized for the public benefit which receive periodic public support, is obligated to present its budget and accounts to the donating agency.

According to the provisions of the chapters 32 of the Royal Decree (الظهير الشريف) No. 1.58.376 issued in 3 Jumad Al Awal 1378 (15 Nov. 1958) indicated above, every association receives the above mentioned support, is subject automatically to the General Inspection of Finance. It is also subject to the provisions of the law No. 62.99 related to the code of financial counts, especially the two articles 86 and 154 to the monitor of Higher Council of Accounts and the Agencies Councils of Accounts.

The monitoring aims, according to the mentioned provisions, to ensure that the public funds received by the associations are in consistent with its objectives.

We should remind also that the associations which receive foreign assistances should declare that to the General Secretary of Government within full thirty days, starting from the date of receiving the above mentioned assistances, in application of the provisions of the article 32 of the decree indicated above.

Therefore, the Governors who inspect should, either initiatively or at the request of the Secretary General of Government, not respect an association recognized for the public-benefit for one of the above obligations, so he should send a warning to the concerned association demanding it to fix its position and implement above obligations with given grace of three months.

If the association is not responding to the warning of the governor, the latter should raise a report to the Secretary General of Government who in turn presents the issue to the Prime Minister to take the right decision in the subject, including the possibility of withdrawing the recognition of the public benefit.

Fourth:

I would like to seize this opportunity of these amendments which have been introduced in order to assess the situation of the association which have been previously recognized for the public benefit capacity. For this end, I would like to advise that I will send letters to these associations to bring them deposit the following documents with the official in charger,

1. A copy of the statute of the association;
2. A list of the members of the association office and the body assigned to run it according to the provisions of its statute;
3. A list of the association members who paid their contributions;
4. Result of the activities of the association over the last three years;
5. The structural statements of the properties of the association, its financial position, its results, according to what has been indicated in this circular within the third topic of the legal and financial obligations of the associations recognized for the public benefit capacity.
6. The expected program of the association and the resources of its finance

These documents are to be deposited to the concerned Governors, within a period of 30 Nov. 2005 as maximum, and to be reported to me by them, including their comments, in order that I can make sure that these associations are in compliance with the applicable legislative provisions, and according to its statute.

Therefore, all governors have to work to spread this circular at large scale among the concerned services and work to apply it in order that my services can study the requirements of recognition for the public benefit within the definite terms stated in the present legislation.

