

University of Salvador, Argentina
University of Pisa, Italy
Vice rector of Research and Development
International Institute for Study and Formation in Government and Society
Office of Director
Legal Opinion

Briefly, we will do two analyses: one in reference to wording –what is known in science as drafting- and the other, in reference to the quality of legislation. There is a third element that has to do with political content, to which we will not refer due to a lack of sufficient information in the proposed context.

In regards to drafting:

In reference to the Project Law on International Cooperation proposed by the Venezuelan Republic in October 2006, it is worth to mention that, it does not present objectionable aspects as far as the legal technical viewpoint is concerned.

It is pacifically acceptable that a national state organize legislative-wise, the matters of conduction, funding and its handling, the registering of those organizations participating in projects, the obligation to inform and the inspection of said entities, among others.

Now then, on the other hand, it is worth to raise the question about, if the requirements asked to NGO's may affect their generic and acceptable activities, as it is written in the National Constitution, in its article 132, where it is encouraged the human rights defense and the solidaristic participation in the country's political civil and community affairs.

In any case, the requirements asked to NGO's should be politically reconciled, both in quality and quantity, but this exceeds the scope of its commission.

To synthesize, being under the premise that the State is qualified to regulate the legal person's activities, the project does not present technical misstatements.

The quality of legislation:

As it is known there exists a project PUMA (in Spanish), part of the European Economic Development Organization (EEDO) which contains a sub-project ARI (in Spanish) on impact over legislation by means of which it allows us to do follow-up, afterwards, to them. To do this, it is required to build a grill to measure the sought-after objectives and the means to obtain them. And it should be done, at the same time, with the Project-Law ((ex ante) and later using the same criteria during the lifespan of the Law. This may be done in an easy mode through the use of a Check List (see Argentina Juridical Digest, <http://exwww.dsp.unipi.it/didactica/Digesto/manualhtml>). Then the just question, the legislator has to ask: “The objective you are after, should it, be necessarily, obtained through a law?.”

If there is another way to solve it, then, a law is the last step you must resort to. Once it is established that this is the way, and in this case there is an interesting discussion between the political power who it is convinced it should apply a sticky – and at times

looking like persecutory- a series of conditions to NGO's and their vision then, it is better not to have to legislate.

Without a doubt, it is a delicate subject, for in the State's side it may result in arbitrary actions to have to enforce some articles. But in the other side, to leave it without legislation, it may look like an specter from the Italian experience, where unions, by negating to a legislation in reference to the right to strike, have sunk the country, and themselves, in a void of necessary criteria to be used when a corrective action (legal) or not has to be taken.

In brief, if a grill is built with open objectives and means for the regulation, then the theme becomes more technical, more manageable from the scientific viewpoint and, therefore more withdrawn from political tempting use in the management -sense- of arbitration.

Professor Antonio A. Martino, Director
Professor Ricardo Klass, Academician.

Gral J D Peron 1818 C1020ADP, Buenos Aires, Argentina, tel. +5411 4373 5733.
Via Serafín, 3 56126, Pisa Italy, tel. +39 050 22 12 413, fax +39 050 22 12 400.
<http://www.iiefgs.org>, and info@iiefgs.org

(Note: This document has been translated for this site)