



WORLD MOVEMENT *for* DEMOCRACY

Confronting the Challenges to Democracy in the 21st Century

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Defending Civil Society

Paraguay Country Report Summary

(*This summary was prepared by World Movement Secretariat staff.)

According to the national constitution, the State of Paraguay is a unitary and decentralized state. Fundamental rights identified in the constitution include: freedom of association, assembly, and manifestation; freedom of speech and expression; freedom of information, including access to state records, among others.

The legal framework establishes different types of non-profit organizations with and without legal capacity. The types of organizations with legal capacity are: public utility associations, associations with restricted capacity, and foundations. The regulation of these entities is mainly identified in the Civil Code. Other organizations without legal capacity include communal meetings of neighbors and the commissions of urban promotion, whose creation and operation are outlined in the Statutory Municipal law N° 1294/87. This law identifies organizations as supplementary and dependent organs of municipalities, rather than independent spaces of organization.

The legal system allows these local organizations to form as associations with legal capacity or simply work as non-regulated organizations on the basis of the freedom of association. The only restriction for organizations is the prohibition of secret associations, paramilitary associations, and organizations that pursue illicit activities.

There is no legal structure that prohibits collective action through groups or non-registered organizations, but there is a Public Records General Directorate, which falls under the judicial branch. Enrollment in these records is mandatory only if the organization intends to undertake one of the organizational forms identified in the Civil Code (associations or foundations), and intends to have a legal entity. To register, associations and foundations must be established by a deed and have a declaration of executive power authorizing its operation. If any state authority declines to recognize the rights of an organization, the organization has the recourse to take legal action to obtain protection and recognition of its rights.

There is no established entity to regulate or supervise associations. These organizations are, however, subject to general regulations applicable to individuals in various areas (i.e. tax regulations issued by the tax authority and regulations to prevent money laundering). Regarding internal regulation, the Civil Code indicates that the general assembly of an organization is the ultimate authority for associations and that the purpose of the organization should be constructed by one or more designated members. In the case of foundations, the founding document must establish the different organs of administration and standards of operation. If the document lacks any of these items, the organizations executive power will identify them, considering the purpose of the organization and the intentions of the founder.

For organizations without official recognition, non-governmental organizations (NGOs) and civil society organizations (CSOs), the legal framework is not sufficiently clear. For that reason, it is highly recommended that these concepts be clarified. It is also recommended that the legal framework regarding local organizations without legal capacity (communal meetings of neighbors and the commissions of urban promotion) be reformed to make them independent of the Municipal projects on which they currently depend.

Despite the lack of an identified entity to regulate them, foundations and NGOs are generally subject to common obligations to prevent money laundering, to report suspicious transactions related to the crime of laundering money or property, and generally obligated to provide all information that is required by a relevant enforcement authority. Tax authorities may also require reports on donations received from publically funded organizations. If an organization does not properly provide these reports, it could face administrative penalties such as suspension of government disbursements.

A number of strategic responses to strengthen CSOs in Paraguay are suggested, including: (i) support the reform of the municipal statutory law institutionalizing spaces of citizen participation; (ii) promote the expansion and approval of the administrative procedures law to improve the protection of CSOs for administrative purposes; (iii) drive the study of the Access to Information Bill to make the right to access public sources of information effective; (iv) endorse legislation that regulates contributions from the public budget of the nation to the non-profit organizations with greater clarity and objectivity; and (v) define the concept of “non-governmental organization” and evaluate the possibility of establishing legislation to address alternative forms of organizations, without excluding the current ones.