

ENGLISH TRANSLATION•

REPUBLIC OF BENIN MINISTRY OF THE ENVIRONMENT, HOUSING AND TOWN PLANNING

MINISTRY OF DECENTRALISATION, LOCAL GOVERNANCE, ADMINISTRATION AND COUNTRY PLANNING

CABINETS

INTERMINISTERIAL ORDER

N°0121/MEHU/MDGLAAT/DC/SGM/DGFRN/SA

Setting the conditions for the sustainable management of sacred forests in the Republic of Benin

THE MINISTER OF ENVIRONMENT, HOUSING AND TOWN PLANNING

AND

THE MINISTER OF DECENTRALISATION, LOCAL GOVERNANCE, ADMINISTRATION AND COUNTRY
PLANNING

Having regard to Law N° 90-032 of 11 December 1990, on the Constitution of the Republic of Benin;

Having regard to Law N° 93-009 of 02 July 1993, on the regulation of forests in the Republic of Benin;

Having regard to Law N° 98-030 of 02 February 1999, on the legal framework on the environment in the Republic of Benin;

Having regard to Law N° 2002-16 of 18 October 2004, on the regulation of wildlife in the Republic of Benin;

Having regard to Law N° 97-029 of 15 January 1999, on the organization of communes in the Republic of Benin;

Having regard to the Declaration of 29 March 2011 by the Constitutional Court of the final result of the presidential election that took place on 13 March 2011;

Having regard to the Decree N° 2012-069 of 10 April 2012, on the composition of the government;

Having regard to Decree N° 2012-191 of 03 July 2012 setting the structure of the ministries;

Having regard to N° 96-271 of 02 July 1996, on the implementation measures of Law N° 93-009 on the regulation of forests in the Republic of Benin;

Having regard to Decree N° 2011-394 of 28 May 2011, setting the measures of preservation, development and sustainable management of wildlife and their habitats in the republic of Benin;

* This English translation has been prepared for GRABE-Benin by Angèle Cauchois (translator), and edited by Appolinaire Oussou Lio (President of GRABE-Benin), Carine Nadal (Gaia Foundation), Comlan Kobo (translator) and Gladys Koumolou (translator), with support from the African Biodiversity Network. For the original official version in French see: Arrêté interministériel N° 0121 / MEHU / MDGLAAT / DC / SGM / DGFRN / SA du 16/11/2012 fixant les conditions de gestion durable de la forêt sacrée en République du Bénin.

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DECIDE:

CHAPTER I: Purpose and scope of implementation

Article 1: This order lays down the conditions for the management of sacred forests in the Republic of Benin.

Article 2: Subject to these rules are any spaces considered as habitats of several gods worshipped by the people and which have followed the procedure for legal recognition or the procedure for integration into the commune's forest area.

CHAPTER II: Definitions

Article 3: For the purpose of this decree, the following terms shall mean:

Encircling perimeter: Strip of land encircling the sacred forest so as to secure it. Its width varies.

Forest of the ancestors: Any forest home to ancestors' spirits.

Burial forest: Any forest where are buried people who died in peculiar or violent circumstances, such as in a car accident, fire, childbirth, by lightning or drowning.

Forest of the gods or spirits: Any forest where one or several gods or spirits live.

Forest of secret societies: Any forest used by secret society members for initiation ceremonies or spiritual practices.

Sacred Forest: Any forest home to several gods worshipped by the local population. It can be a hunting reserve, a forest of the ancestors, a burial forest, a forest of the gods or spirits, or a forest of secret societies.

Basic development and management plan: Document describing the spatial structure and all the necessary provisions to be implemented for the rational use of the forest.

Agro-forestry zone: Strip of land generally within the sacred forest used for growing food crops, fertilizing trees and poultry farming.

Economic reforestation zone: Strip of land where wood is grown for timber and energy purposes.

Multi-species forest reinforcement zone: Strip of land around the sacred forest, where three to five tree species and medicinal plants can be found.

Village hunting area: Portion of the protected forest, managed by the local populations for hunting purposes.

CHAPTER III: Management principles of the sacred forest

Article 4: The sacred forest should be sustainably managed by the community to maintain its ecological, economic, socio-cultural, spiritual and recreational functions.

Article 5: The commune should ensure the protection and the sustainable management of the sacred forest's fauna and flora resources, by providing the management tools and by relying on the local populations, local government, dignitaries, kings and traditional leaders as members of the local committee for the management of the sacred forest.

Article 6: A sacred forest on the borderline between two or more communes should be considered as an undivided property, subject to the provisions of Law N° 97-029 on the organization of communes in the Republic of Benin.

CHAPTER IV: Procedures for legal recognition, integration and withdrawal of a sacred forest from the commune's forestry area

Article 7: Any sacred forest for which local communities or dignitaries have addressed an application to the local authorities shall be subject to the procedure for legal recognition. However, the Minister in charge of forestry and natural resources can request the submission of a sacred forest to the legal recognition procedure, for reasons of the stabilization of the water regime and climate, the preservation of the sites, and the conservation of nature and biodiversity.

Article 8: The legal recognition procedure shall include the following steps:

- Referral by village communities or by dignitaries to the communal authority;
- Public consultation and arbitration over the rights of property and use in the area concerned.

Article 9: The file for referral for legal recognition made to the communal authority shall include the following documents:

- A written request mentioning the object, motives and interests for recognition;
- A document describing the sacred forest's geographical location, its boundaries and its surface area.

Article 10: If the file is considered admissible, the communal authority shall convene the sacred forest's management bodies, the population, the communal council and all stakeholders for a public consultation on the draft for legal recognition within one (1) month.

During this meeting, arbitration shall be carried out on the rights of property and use in the area concerned.

If inadmissible, the file shall be rejected and the communal authority shall send a reasoned reply to the applicant.

Article 11: Public consultation and arbitration of rights shall be carried out under the communal authority's direction, in a participatory way, with the involvement of the population and any other stakeholders.

After the public consultation, a report shall be issued. It shall recount the stages and conclusion of the meeting.

Article 12: The communal authority shall publish the draft for legal recognition of the sacred forest within three (3) days of the public consultation, by any means and particularly by way of display for a period of one (1) month, with an indication of the boundaries of the sacred forest.

At the end of that period, the communal authority shall make a communal order of the legal recognition of the sacred forest.

Article 13: In order for the legally recognized sacred forest to be integrated into the communes' forestry area, the sacred forest shall be subject to a procedure consisting of the following:

- The referral by the Mayor to the Minister in charge of forestry and natural resources, through the Prefect of the Department;
- The completion of the topographical survey by the forestry services, with the precise geographical coordinates;
- The publication of the plan;
- The transfer of the file to the communal council for opinion.

Article 14: The file for referral submitted to the Minister in charge of forestry and natural resources shall be composed of the following documents:

- A written request specifying the object;
- A copy of the draft order for legal recognition;
- The report of the public consultation.

Article 15: If the file is considered admissible, the Minister shall instruct the Forestry Administration to prepare, within one (1) month, a draft of the integration plan consisting of:

- A topographical survey of the sacred forest;
- A statement describing the boundaries of the sacred forest;
- A report specifying the motives and goals, as well as the affected rights of use and property.

Article 16: The Minister, through the Prefect of the Department, shall transfer the draft plan to the communal committee in charge of coordinating and monitoring the sacred forest's integration and to the communal council for their reasoned opinion.

The opinion shall be given within one (1) month.

Article 17: After having received favourable reasoned opinions, the draft plan shall be published by any means by the communal authority and specifically by way of display for a period of thirty (30) days.

During that period, any claims shall be brought to the Mayor's attention. The Mayor shall convene involved organs and parties to study and resolve the claims. Enclaves may be created if need be.

Article 18: If no claim has been made, at the end of the publication period, the Mayor shall transfer the file to the Ministers in charge of forestry and of decentralization. The legally recognized sacred forest shall be integrated into the commune's forestry area, through an interministerial order by the Ministers in charge of forestry and of decentralization.

Article 19: Human-made plantations that are within the sacred forest's perimeter at the closing date of the minutes [of the publication period] shall be considered as integrated into the sacred forest.

Article 20: The withdrawal of a sacred forest from the commune's forestry area shall be made under the same conditions and procedures as its integration.

CHAPTER V: Protection of the sacred forest

Article 21: The following activities shall be prohibited in the sacred forest and in the encircling perimeter:

- Bush clearing;
- Felling, pruning, lopping, chopping, mutilation, burning, cutting of wood, plants or trees;
- Installation of food crops or industrial farming;
- Uncontrolled or late fire lighting of vegetation;
- Production of charcoal or the opening of a site to produce charcoal;
- Exploitation and draining of palm trees, bamboo and raffia;
- Debarking, collection of dead wood, nuts and essence from trees, as well as any other non-wood products from the forest for commercial purposes.

However, the local committee for the management of the sacred forest can authorize the cutting of wood and/or clearing, collection or picking up of dead wood, nuts, leaves, barks, of certain essences, as well as fire lighting for religious or spiritual ceremonies under the supervision of the spiritual leader of the sacred forest and the forestry officer.

Article 22: Traditional hunting and village hunting shall be prohibited within the area of the sacred forest, except in case of ceremonies dedicated to the gods of the sacred forest.

Article 23: The wandering of animals, fishing, waste disposal, the use of poisoned bait and grazing shall be prohibited in the sacred forest.

Article 24: A protecting encircling perimeter, of varying width, shall be reserved around the sacred forest in accordance with the distance between the sacred forest and the closest concession.

Its width and its external perimeter shall be determined according to the forest's total surface area and the conditions of use of the surrounding habitat, by parallel lines next to the concessions.

Article 25: Any resident of the sacred forest shall make a fireguard and light prevention fires at the beginning of the dry season. Fires shall be lit in accordance with the laws in force.

Article 26: The exercise of the right of use, in regard to the soil and clearing, in the sacred forest and within the encircling perimeter shall be subject to an authorization issued two weeks after receipt of the request by the president of the local committee for the management of the sacred forest and after a favourable opinion from the Forestry Administration.

Failure to reply to a request shall not equate, in any case, to an authorization.

Article 27: By way of derogation from article 34 below, the cutting or removal of a tree may be permitted in sacred forests, with or without a management plan, in the case of windfall and standing dead trees for the needs of the community.

The request for cutting or removal shall be addressed by the president of the local committee for the management of the sacred forest to the Forestry Administration for the issuance of a permit for cutting or removal.

Article 28: The applicant for a clearing permit shall deposit a file with the following documents to the president of the local committee for the management of the sacred forest:

- A written request specifying the objectives and motives;
- Proof of holding the right of use;
- A document specifying the location, the surface area and the schedule of the area to clear.

Article 29: If the file is considered admissible, the president of the local committee for the management of the sacred forest shall issue, within five (05) days of the request, a clearing permit that comprises a schedule for the surfaces to be cleared, developed according to the planned pace of operation.

The permit shall be valid for a period of thirty (30) days and shall be suspended in case of non respect of the schedule. It shall be completely withdrawn after a formal notice remains without effect.

Article 30: An application considered inadmissible shall be rejected and the president of the local committee for the management of the sacred forest shall provide the applicant with a reasoned reply.

Article 31: Any resident owning land next to the sacred forest shall take all measures to avoid the spread of fire lit on his land.

The resident shall maintain, in a good state of cleanliness, a fireguard delimiting the two areas.

Article 32: A constitutive text developed by the local committee for the management of the sacred forest shall specify the particular conditions of entry, movement and stay in the sacred forest.

Article 33: Activities carried out in the sacred forest shall be in accordance with the management plan approved by the local committee for the management of the sacred forest after opinion of the Forestry Administration.

Article 34: The non-use of an area for a period of three (3) years or its use which is not in accordance with the forest management plan, with no evidence of the rights of property duly confirmed, shall entail the incorporation of the area into the sacred forest area, after the communal committee for the control and monitoring of the integration of sacred forests ascertains abandonment through an official statement.

CHAPTER VI: Management of the sacred forest

Article 35: A sacred forest which is legally recognized and integrated into the commune's forestry area shall have a forest management plan developed by mutual agreement by the Commune Administration and the Forestry Administration or any other competent technical body, and an annual management plan.

The plans mentioned above shall be developed with the participation of the local populations, traditional authorities and any other stakeholders. They shall specify the objectives assigned for the sacred forest and the means to achieve them.

Article 36: The forest management plan shall provide for a zone of protection as well as other zones according to the assigned objectives of the sacred forest.

Article 37: The zone of protection shall be located in the centre of the sacred forest. It can also cover the whole of the sacred forest. The other zones shall surround the zone of protection and can be for production or agro forestry.

In the zone of production, reforestation or enrichment activities which aim at the production of medicinal plants or the promotion of ecotourism shall be conducted.

In the zone of agro forestry, farming activities shall be conducted alongside reforestation activities.

Article 38: The zones of the sacred forest mentioned in the above article 37, shall be made visible by fireguards, tags, markers or any other item easily identifiable on the ground.

The Forest Administration shall elaborate a simple map and make it available for the populations.

Article 39: The forest management plan shall be implemented by the communities and local government through a forest management agreement between the Mayor and the local committee for the management of the sacred forest and other bodies.

Article 40: In the framework of the implementation of the forest management agreement:

- The commune shall provide financial support, community awareness, settlement of conflicts;
- The Forestry Administration shall facilitate the mobilization of financial resources and provide technical assistance for awareness raising, information and training activities; and
- Local communities shall ensure implementation of these activities.

CHAPTER VII: Management bodies of the sacred forest

Article 41: The sacred forest is managed by the following bodies:

- The local committee for the management of the sacred forest, called CLFS;
- The communal committee for the coordination and monitoring of the integration of the sacred forest, called CCSI
- The CLFS and the CCSI are established through a decree of the Mayor.

Article 42: The CLFS is the organ for the management and monitoring of the implementation of planning activities for the sacred forest. It is composed of:

- One (01) representative from each managing community committee of the sacred forest, elected by his peers;
- Two (02) representatives of the land owners, elected by their peers;
- Village chiefs.

Article 43: The CLFS shall be led by a board organized as follows:

- President: in charge of monitoring the implementation of activities of worship in the sacred forest;
- Secretary: in charge of monitoring activities of awareness raising, information and training;
- Treasurer: manager of resources;
- Person in charge of monitoring forest management activities;
- Person in charge of cultural and spiritual activities.

The positions shall be filled after an election by a simple majority among the committee members. The constitutive text of the sacred forest shall specify the detailed responsibilities of the members of the board.

Article 44: The CLFS is in charge of:

- Developing the annual work plan;
- Acting on behalf of the sacred forest;
- Examining the whole file for the legal recognition of the sacred forest;
- Developing annual management plans and monitoring their implementation;

- Examining and suggesting strategic planning options or orientations to the CCSI;
- Facilitating the collaboration between the CLFS, the commune and the Forestry Administration;
- Monitoring the implementation of forest management works, and issuing permits;
- Raising awareness of the populations and facilitating the organization of public consultations;
- Disseminating laws and regulations;
- Taking part in the detection and verification of infractions, in liaison with the forestry officer;
- Writing reports on activities and the fiscal balance;
- Reporting back once (01) every semester to the extended CCSI and to the committee of the elders;
- Facilitating the implementation of site visits of monitoring-assessment, surveillance and support, of the Ministry in charge of forestry and natural resources, or of the communal council;
- Monitoring the implementation of the recommendations and decisions resulting from the site visits of monitoring-assessment, audit or surveillance of the commune and of the Ministry in charge of forestry and natural resources;
- Managing conflicts amicably.

Article 45: The CLFS, in monitoring the implementation of management activities, shall request the services of the Forestry Administration's representative in the area concerned.

Article 46: The CCSI is the body for the coordination and regulation of the implementation of activities at the commune level.

Article 47: The CCSI is composed as follows:

- President: Mayor or his representative;
- Vice president: representative of the dignitaries of the commune's sacred forest;
- Secretary: representative of the Forestry Administration of the commune;
- Reporter: Person in charge of monitoring and evaluation in the commune;
- Members:
 - Representative of the local committee for the management of each sacred forest;
 - Person in charge of the commune's environmental and domain affairs;
 - President of the commission in charge of the social and cultural affairs of the Town Hall;
 - Chiefs of the concerned districts.

Article 48: The CCSI is in charge of:

- Coordinating and monitoring the procedure for the integration of the sacred forest into the system of protected areas;
- Approving the annual work plan;
- Validating the boundaries of the sacred forest which have been subject to a topographical survey;
- Validating minutes and solving conflicts submitted by the CLFS;
- Organizing public consultations, arbitrating and recognizing the rights of property and use concerning the areas of sacred forests.
- Organizing the monitoring, auditing and regulation of the management of the CLFS;
- Supporting the external site visits for monitoring, audit and regulation;
- Developing reports for the monitoring, audit and regulation of management;

- Returning the results of the monitoring, audit and regulation of management to the extended communal council and the elders of the community committees.

CHAPTER VIII: Transitory and final provisions

Article 49: Food crops established within the sacred forest's encircling perimeter shall be tolerated for a period of one year from the date of signature of the document for legal recognition.

Article 50: The detection, verification and punishment of infringements of the provisions of this order shall be made in accordance with the legal and regulatory provisions in force in Benin.

Article 51: Offences committed by followers of the sacred forest's divinities, and on behalf of those divinities, which do not all fall under the jurisdiction of the laws on the regulation of forests and of wildlife, shall be brought before the competent courts.

Article 52: The Mayor, the Director-General of Forests and Natural Resources, the Presidents of the executive bodies of the Territorial Communities, shall be in charge, each in his area, of the implementation of the provisions of this order.

Article 53: This order which shall take effect from the date of its signature shall repeal all previous contrary provisions and will be published in the official journal.

Made in Cotonou on November 16th, 2012.

The Minister of Environment, Housing and Urbanism, Blaise Onésiphore AHANHANZO-GLELE

The Minister of Decentralisation, Local Governance, Administration and Territorial Planning, Raphael EDOU.

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