

Draft Law on Associations

*The Interim Transitional National Council,
Having reviewed the Constitutional Charter issued on 03 August 2011,
And the Civil Code,
And the Law on the Supreme Council for Public Freedoms and Human Rights No. () of ()
And based on the proposal of the Prime Minister,*

Promulgates the following law:

Article (1): The right to establish associations

Establishing, joining or withdrawing from associations is a basic right of citizenship to be practiced pursuant to the provisions of this law to ensure the independence, support and development of associations.

In their articles of incorporation, activities and funding, associations shall adhere to the principles of democracy, civil values, equality, human rights, transparency, anticorruption and good governance in line with laws and international conventions.

Article (2): Definition of an association

An association is an agreement between two or more persons for purposes other than securing material gains.

An association must have a unique name, derived from its purposes, to be selected by its founders. It is impermissible to use the same name for more than one association. Moreover, names of a general nature shall not be used unless correlated with the purposes of the association, its characteristics or its geographical scope.

Article (3): Purposes of an association

The establishment of an association shall be to realize its stated purposes. These purposes may not include anything contradictory to morals or public order and shall not aim explicitly or implicitly at achieving material gains for the association or its members.

Article (4): Establishment of an association

To form an association it is necessary to conclude an agreement between the founding members and this agreement shall be notarized by an official notary public.

Every association shall have articles of incorporation containing the following items:

- Name of the association and its address in Libya.
- Names of founding members, their surnames, nationalities, professions, domiciles and signatures.
- Objectives of the association.
- Conditions for membership, the termination of membership, and the rights and duties of members.
- A statement of the organizational structure of the organization, its election method and competencies of each of its bodies.
- Mechanisms for decision making and dispute resolution.
- Procedures for amending the articles of incorporation.
- Rules for dissolution and liquidation of the association.

Article (5): Prohibitions on associations

An association is prohibited from:

- Calling for violence, hatred, bigotry or discrimination on the bases of religion, sex, language, race, or tribal or regional affiliation.
- Performing commercial activities for the purpose of distributing funds and profits to their members or utilizing the association for tax evasion purposes.

Article (6): Legal personality of an association and procedures for its declaration

An association acquires legal personality immediately upon its declaration.

The declaration request shall be presented to the nearest branch of the Supreme Council for Public Freedoms and Human Rights and a receipt shall be provided; or the request may be sent by registered mail with receipt acknowledgment.

The Council, within two weeks of receiving the application, shall register and declare the association or notify the association at the address contained in the application of its rejection of the declaration request along with the reasons for such rejection including the missing items or required amendments to the memorandum of incorporation or articles of incorporation pursuant to the law. The applicant may either complete or correct the missing items and resubmit the documents in question or submit a petition confirming that he does not accept making any amendments and that he insists on submitting his application as is. In this case, the Council may either declare the association immediately as presented or submit, within one week, a petition requesting affirmation of the rejection to a penal court judge at the court where the association is located to decide in the validity of the rejection. The judge shall issue his decision regarding the petition by affirming or rejecting it within 10 days of submission, otherwise the petition is considered null and void. In this case, the association is declared immediately and the Council, if it wishes to abolish the declaration of the association, shall have recourse to the judiciary to issue a ruling in this respect.

In all cases, if the Council fails to meet any of the deadlines provided for in this Article, the association is considered registered and declared by law. Upon declaration, the Council shall grant the association a true copy of the declaration document.

Article (7): Rights of associations

An association has the following rights:

- The right to access information related to the association activities.
- The right to evaluate the performance of state entities and submit proposals for improving performance.
- The right of assembly, free meeting, organizing marches, conferences, workshops and all other civil activities.
- The right to publish reports and information, print newsletters and conduct opinion polls.

Public entities shall not directly or indirectly hinder or impede the activities of an association except by a judicial order. Competent public entities shall take all necessary actions to provide protection for an association, its members, or any person against any violence, threat, pressure or arbitrary acts as a result of practicing rights stated in this law by the association.

Article (8): Association bodies

The supreme authority in the association is its members through their ordinary or extraordinary General Assembly. The articles of incorporation shall detail the competencies of both types of Assemblies and the methods for invitation, convocation and decision making.

The association shall have a Board of Directors and the articles of incorporation shall state the method for formation of the Board of Directors, its competencies, decision making and delegation of powers.

The chairman, or the vice-chairman in case of the former's absence, shall be the legal representative of the association before courts and in its relations with third parties.

Article (9): Conflict of Interest Principle

It is impermissible for members of the association or its staff to participate in or attempt to influence decisions that may lead to conflict between the interests of the association and [1] their personal interests, [2] their professional interests, or [3] the interests of their relatives up the fourth degree.

Article (10): Resources, revenues and budget of the association

The principal rule is that the association is self-funded from the subscriptions of its members. The association may accept grants, donations or bequests that are unconditional except if such conditions are related to its proper functioning or the achievement of its goals. The association may also have revenues from its properties, projects or activities.

The state shall allocate necessary funds in its budgets to support and assist associations on the bases of efficiency and feasibility of projects and activities. The executive regulation of this law shall define controls and mechanisms of public funding. Associations receiving public funds shall submit annual financial reports to the Audit Bureau showing their sources of funds and the disbursement of public funds allocated to the association.

Article (11): Accounting books to be kept

The association shall keep books required by the law in accordance with the accounting principles as stated in the executive regulation of this law.

Any association accepting grants, donations or bequests or having revenues from its properties or projects shall appoint an external auditor to audit its accounts. In addition to above, the association shall keep a special register for grants, donations and bequests and a special register for revenues from its properties, activities or projects.

In all cases, the association must utilize its resources for activities achieving its objectives and shall in no case invest its funds for any commercial purposes.

Article (12): Declaration of financial resources

The association must declare the acceptance and identify the source of any donations, grants or bequests from foreign entities in a daily newspaper and on its website within one month of the date of accepting the donation, grant or bequest.

The association must also publish the annual reports of its activities and finances on its website.

The association must send official copies of the abovementioned documents to the Supreme Council for Public Freedoms and Human Rights within two weeks as of the date of accepting domestic or foreign grants, donations or bequests or from the date of preparing the report as the case may be.

Article (13): Prohibited Transactions with Foreign Entities

It is impermissible for an association to deal with countries with which Libya has no diplomatic relations. An association is also prohibited from accepting donations, grants or bequests from organizations adopting the policies of these countries or defending their interests.

Article (14): Maintenance of Association Documents and Registers

An association shall maintain its financial documents and registers for a period of ten years.

Article (15): Branches of foreign associations

Foreign associations may open branches in Libya.

It is a requirement that those managing the branch must be of Libyan citizenship without prejudice to the right of the association to send [foreign] experts and specialists to assist in its functions.

A resolution from the Council of Ministers shall define the competent entity for granting a permit to establish the branch and define the required declaration documents, duration of the permit, type of activity [which may be undertaken] and fees for the permit.

Article (16): Litigation powers for associations

Associations have the interest and capacity to appeal before the judiciary against any law or resolution directly or indirectly related to their objectives for the public interest. The provisions related to the conditions of “capacity” and “interest” in appeals in this context shall be broadly interpreted.

Article (17): Merger, dissolution and liquidation

Associations of similar objectives may merge to establish one association based on [the processes defined in] their articles of incorporation. Associations are dissolved by the will of their members as expressed by a resolution of the General Assembly or by a ruling from a competent judge at the competent court where the association is located based on a request from the Council. In case the association is dissolved, its assets shall be liquidated following accepted accounting standards. The association’s funds, following payment of all of its obligations, shall inure to an association with similar objectives or any other association as determined by the General Assembly, the liquidator, or the court.

[Note from Translator: Arabic version is missing Article 18. It is not clear if this version is improperly numbered or if an Article was accidentally omitted].

Article (19): Association networks and coalitions

Two or more associations may establish a network to cooperate in realizing their shared objectives and to mobilize their capacities for lobbying. The formation of a network shall be based on a written agreement binding on its parties. The network shall be given a unique name and may choose whether or not to register as a legal entity. In the event that that network is not declared, it does not acquire legal personality. Associations of similar objectives may also establish coalitions to implement major activities that exceed the ability of a single association or network.

Article (20): Executive regulation

The Supreme Council for Public Freedoms and Human Rights shall issue an executive regulation for this law as well as examples of declaration applications, petitions and a registration insistence form as set forth herein. It shall also issue model articles of incorporation to assist founders in developing their articles of incorporation. The executive regulation shall cover all detailed conditions for issuing a permit for a foreign association to open a branch in Libya. The non-issuance of this regulation shall not jeopardize the right of individuals to establish and declare their associations pursuant to this law.

Article (21): Transitional provisions

Associations existing at the time of issuance of this law shall adjust their status to comply with the provisions of this law within no more than one year of the date of its issuance. These associations shall notify the Supreme Council for Public Freedoms and Human Rights of the actions they have taken in this regard. The provisions of Article 7 herein shall be applicable to any objection from the declaration entity.

Article (22): Penal actions

In the event that an association violates a provision of this law, the Supreme Council for Public Freedoms and Human Rights may take the following actions in sequence:

1. Notify or inform the association and require it to resolve the violation within two weeks from the date of notification, clearly identifying the violation of the law in the notification.
2. Warn the association if it does not respond to the notification.
3. Suspend the activities of the association for a defined period. The suspension shall be issued by a competent judge upon the submission of a petition from the Council following the expiration of the two week notification period.
4. Dissolve the association based on a ruling of a competent court following the submission of a petition from the Council in the event that the association fails to remedy or repeats the violation.

In the event that an association violates Articles 5, 12, or 13 of this law, the Council need not adhere to the sequence provided from in this Article and may immediately request suspension or dissolution of the association.

Article (23): Effectiveness

This law is effective as of the date of issue and shall be published in the Official Gazette. This law repeals Law Number 19 of the Year 2001 on the Reorganization of Local Associations. It also repeals any other law contradictory to its provisions.

Issued in () on ()