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Law on Associations and Foundations

Chapter I General Provisions

A. Legal Personality (Legal entity, incorporation)

Art. 1. Romanian citizens, without regard of nationality, native language, or religion, have the right to associate , according to the laws regulating the exercise of this right.

The right to associate does not imply in itself the right to create a legal person.

Art. 2 The associations and foundations with non-profit and non-patrimonial (values that cannot be bequeathed) purpose created by individuals obtain legal person status under the conditions of the present law.

The associations and foundations are legal persons subject to private law.

The political parties are not subject to the present law.

Art. 3. Legal person status (incorporation) cannot be granted to associations or foundations whose purpose is illegal or which through their activity, touch upon the principles of state of law or of the Romanian sovereignty, integrity or independence, or of the rule of law or proper moral standards (mores).

The secret associations and foundations are forbidden.

Art. 4. The associations and foundations will obtain their legal person status based on the decision of the tribunal (the tribunal is the second tier of courts; there are about 30 of them, with a heavy case load) of the circuit where the location of the aforesaid is found.

The respective tribunal is obligated to petition, in all cases, the advice of the ministry (department) under whose competency falls the purpose of the association or foundation.

The findings of the public ministry (public prosecutor, the state attorney's office) are obligatory.

Art. 5. The non-profit, (nonpatrimonial) alien legal persons may be recognized in Romania through a court decision, based on a previously granted approval of the Government, under the condition of reciprocity, if these organizations are valid under the law of the countries of their nationality, and their stated purposes are not in contradiction to the social and economic order of Romania.

Art. 6. The legal person status starts on the date of the registration of the final and conclusive court decision granting legal person status (incorporation), which takes place after the regular term allowed for appeal, in the register of legal persons to be found in the registry of the tribunal.

B. The Use of Civil Rights

Art. 7. Legal persons (corporation - I will continue to use legal person as it is nearer to Romanian meaning) embodied under the present law, are allowed to make use of only those rights necessary to fulfill the purpose for which they have been created.

These legal persons can enter into contract only for those obligations aimed to further the accomplishment of this purpose.

C. The Exercise of Civil Rights

Art. 8. The associations and foundations exercise their rights through their organs (another near translation is agency or bodies, meaning any part of the structure). The legal documents concluded by these organs, within the bounds established by the bylaws, are considered to be made by the legal person itself, thus undergoing an obligation.

The legal documents concluded by these organs, beyond the bounds with which they have been empowered, will have no effect on the legal person.

Art. 9. The legal person is liable for all deeds and actions of its officers and agencies throughout the term they exercise their mandate.

The members of the governing bodies are personally and collectively liable for the damages sustained through their fault to third parties as well as to the legal person itself.

D. Location

Art. 10. The Location of the legal person is the main office of the governing bodies.

Art. 11. The location of the legal person mentioned in art. 5 of the present law is at the offices of its branch.

Art. 12. Any change of location of the offices will be communicated to the registry of the tribunal, so that the change be mentioned in the register specified in Art. 6.

The mention regarding the change of location will be made in the register of the tribunal of the former location as well as the one of the new location.

E. Dissolution of the Legal person, Liquidation and Disposal of Assets

Art. 13. The associations and foundations cease their legal person status by their own right or by court decision in the cases and in the conditions provided for in the present law.

Art. 14. The liquidation of the assets of the legal persons of private law will be executed according to the dispositions of Art. 34 - 43.

Art. 15. The assets remaining after liquidation will be disposed according to the bylaws.

In case the bylaws do not provide dispositions concerning the destination of the assets, it will be proceeded according to art 42, paragraph. 2

F. Striking off the Register

Art. 16. The striking off the register of a legal person from the special register is performed by the recording in full in the register the document that recorded, declared or decided the dissolution.

Chapter II. The Associates

A. The Constitution of the Association

Art. 17. The association is the convention through which two or more persons make a permanent, common offering of their goods, knowledge or activity with the purpose of attaining an aim that meets the general interests of the community or only of the social category to which the associates belong and which does not pursue accumulation of material gains for its members.

Art. 18. The association, in order to obtain legal person status, must assemble at least 15 members, to present their charter (constitution act, memorandum of association) and bylaws (organization and functioning

statute) and to assemble an endowment (assets) separate (distinct) from those of individual members.

The charter and the bylaws will be notarized (authentic) under sanction of invalidation. The constitution endowment must suffice, at least partly, the pursuit of the declared purpose of the association, but not less than -----
- million lei.

Art. 19. The bylaws of the association will include the following:

1. The name of the association;
2. Objective and purpose;
3. Location of main offices and eventually, of the branches;
4. The initial endowment, its value and composition, the value of dues;
5. The governing bodies, the auditing agencies, and their authorities (attributes);
6. Provisions concerning the dissolution and liquidation.

In case the bylaws do not conform to the provisions of paragraph 1, the court will call upon the representative of the association to conform.

B. The Structure of the Association

Art. 20. The governing bodies of the association are:

- a) the general assembly;
- b) a board of directors (a directing committee)

From among the members of the board of directors, an executive committee may be constituted, to exercise the current management of the association.

Art. 21. The general assembly is the highest authority of the association and is made up of all the members.

The general assembly will be convened by the designated person according to the bylaws, the board of directors or the executive committee as well as on demand of a third of the membership.

The invitation will inform on the date and place of the meeting as well as the order of the day, unless the board of directors or the executive committee decides otherwise.

Art. 22. Only the general assembly can decide on issues relating to :

- a) exclusion of members of the association;
- b) means and ways of convening the general assembly;
- c) the voting system and the quorum necessary to adopt decisions;
- d) the number of the members in the board of directors and in the auditing committee, and their election;
- e) establishing the responsibilities of the bodies mentioned at point d.
- f) the individual or collective revocation of the mandate of members of the board of Directors as well as those of the auditing committee;
- g) passing of the budget;
- h) passing of the balance - sheet;
- I) change of the purpose of the association;
- j) dissolution of the association.

The amendments related to items I and j, have to be passed with a majority of 2/3 of the total membership of the association.

The decisions of the general assembly that violate public order, proper moral norms or are contrary to the purpose of the association, can be attacked in a court qualified to decide on the legal entity, by the ministry (department) under whose competency falls the purpose of the association, the public ministry or other interested parties, within 15 days of the date the party has been informed.

The decision of the court is final and conclusive.

Art. 23. The board of directors or its executive committee represents the association in all its legal documents.

Art. 24. The members of the board of directors and of the executive committee will be at least in majority Romanian citizens.

Art. 25. The duration of the term of office and responsibilities of the board of directors and executive committee are provided for in the bylaws.

Following the expiration of the term of office, the board of directors and the executive committee will insure the proper management of the association, up to the nomination of the new officers and directors.

Art. 26. The board of directors will design each year a budget proposal of the association which will be submitted for approval to the general assembly.

The budget will be drawn up in chapters and line-items according to the legal norms on organization and management of accounting.

Art. 27. The balance sheet will be submitted for approval of the general assembly at the end of each year. One copy each of the budget and of the balance sheet will be presented to the Departmental Public Finance Office (at each department , (judet) level there are offices of the ministry of finance), or if applicable, of the Bucharest municipium.

Art. 28. The decisions of the governing bodies which violate the public order or proper morals or are contrary to the purpose of the association, can be attacked according to the conditions stipulated in Art 22, paragraphs 3 and 4.

C. On the Members of the Association

Art. 29. The condition of associate is personal and inalienable; it cannot be inherited by successors.

Art. 30. The associate is entitled to quit the association at any time, on condition that he announces his intention to the governing bodies within the term provided for in the bylaws or, lacking such provisions, within two month of the intended date .

Art. 31. The bylaws and the constitution (charter) will provide for the exclusion procedures and reasons.

Art. 32. The associates that retire or are excluded have no rights whatever on the assets of the association. They remain in debt and obligated to pay their dues throughout the time they had the quality of associates.

D. Dissolution of the Association

Art. 33. The association will cease its legal person status in the following instances:

a) Through the decision of the association, when the general assembly decides this, in the conditions of the provisions of Art 22 paragraph 2.

b) By itself (self dissolution) :

--At the end of the term provided in the charter (constitution) or when the purpose of the association has been fulfilled;

-- when, due to bankruptcy, the association cannot continue its activity;

-- when the number of associates is under the limit established through the bylaws, or under the limit provided in the present law.

c) Through a court decision:

--when the purpose or use of the means used have become illegal or against public order and proper moral standards as well as when through their activity, they prejudice the principles of state of law or of the sovereignty, integrity, or independence of Romania.

E. Liquidation

Art. 34. In case the dissolution takes place according to the provisions of Art. 33 paragraph a, the liquidation of the assets of the association will be conducted by the board of directors or by the persons designated by the general assembly.

In case of self dissolution, the liquidators will be appointed by the tribunal respective to the location of the association, in the chambers, at the request of the public ministry, the competent ministry, or any other interested party.

If the dissolution is decided by the court, the liquidators will be appointed through the sentence of dissolution.

Art. 35. - The liquidators have the obligation to fulfill all forms provided in the present law to insure the recording and publicity (publication) of the liquidation.

The liquidation publication will contain:

- a) the name of the liquidators and the address of their offices, in case the location of the association offices is no longer available;
- b) an invitation to all creditors to present evidence relevant to their credit.

The identified creditors will be invited personally.

Art . 36. The liquidators, in conjunction with the board of directors will draw-up an inventory and a balance sheet, with clear descriptions of the assets and liabilities.

The inventory and the balance sheet will be countersigned by the liquidators and the representatives of the board of directors.

All the operations regarding the liquidation will be recorded in the liquidation register, opened for this purpose.

Art. 37. Upon the appointment of the liquidators, the mandate of the board of directors ceases.

The association ceases its existence only at the end of the liquidation.

Art. 38. The liquidators must continue the current businesses, receive the accounts receivable and pay the creditors and, if the liquid assets are insufficient for the debits incurred, they will transform the current and long-lived assets into liquidity, proceeding to sell them by public auction.

Art. 39. The amounts due to identified creditors, who can not provide proof of their credit will be earmarked for their account (???? - This article is puzzling in Romanian too. The amounts are not “paid” into an account but “put aside” for these “unusual” creditors)

Art. 40. The liquidators are collectively liable for the damages caused, through their culpability, to the creditors.

In relationship to the association and the associates, the liquidators will act according to the terms of their mandate.

Art. 41. At the end of the liquidation, the liquidators are obliged to draw-up the final financial statement (balance sheet) and present it to the registry of the tribunal, to the public finance office of the department (judet) or if applicable, of Bucharest municipium and also to publish it in the "Monitorul oficial" (the official public record publication, publishing the laws, decrees etc).

Art. 42 . If within thirty days from the date of publication in the " Monitorul Oficial" the balance -sheet is not contested (challenged), it will be considered final and the liquidators will award to the rightful persons the goods and amounts left following the liquidation.

The remaining assets, after all payments to the creditors have been disbursed, will be disposed according to the bylaws, and in absence of such provisions, the assets, following the proposal of the competent ministry , will be awarded to an association with similar purpose.

The liquidators are considered discharged of their duties only after completing the operations described in paragraphs 1 and 2.

Art. 43. The complaints regarding the balance sheet of the liquidation will be tried by the tribunal of the liquidation office location, within the same case.
(?- although it implies it is the same tribunal that appointed the liquidators, it is not certain)

The decision of the tribunal is final and conclusive.

Chapter III Public Benefit Associations

- Art. 44. Associations can be acknowledged as public benefit ones if :
- a) they have an activity of at least three years, and have accomplished part of their objectives;
 - b) their assets have a value at least equal to the initial endowment;
 - c) they number at least three hundred members;
 - d) they are active in at least five departments (judet).

Art. 45. The acknowledgment of the public benefit status of an association is the competency of the Government, upon the request of the latter.

The advice (counsel) of the competent ministry is obligatory.

Art. 46. The public benefit status acknowledgment procedure of an association will be established through a Governmental Decree within three month of the date of this law .

Chapter IV The Foundations

Art. 47. The foundation is the document (?? legal paper) through which a physical or legal person founds a distinct and autonomous endowment, separate of its own estate (assets), and wills it, generally permanently, to the fulfillment of an ideal purpose, of general interest.

Art.. 48 The foundation established by living persons will be made through an (authentic), notarized document.

The testamentary foundation will be founded through any of the forms provided for a testament.

The charter (constitution) of the foundation established through the form mentioned in paragraph 1, will be required to be made in an authentic (notarized) form.

Art. 49. The endowment of the foundation is required to ensure the fulfillment of the purpose and will not have a value of less than ----- millions lei.

The tribunal is entitled to refuse to grant legal person status (incorporation) to a foundation if it considers that the endowment will not allow the fulfillment of the purpose.

Art. 50. A foundation will be granted legal personality according to the conditions of Art. 4 of the present law.

Legal personality will be granted only if governing bodies have been constituted.

Art. 51. The heirs and creditors of the founder have, in their relationship with the foundation, the same rights as with any other liberality (philanthropic donation, charity).

Art. 52 . After the registration of the foundation in the special register of legal persons located at the registry of the tribunal, neither the founder, nor his heirs cannot revoke the foundation.

Art. 53. If the foundation is granted legal person status after the death of the founder, the effects of the liberality (donations, grants, etc.) made in favor of the foundation before its legal status decision will start with the date of the authentic document, for the foundation established by living persons, and from the date of death of the testator for the testamentary foundations.

The same effect will have the liberality (donations) made during the life of the founder made before the decision granting legal person status . (???)

B. The Structure

Art. 54. The foundation document will be void and legal status will not be granted, if the purpose will not be clearly defined, the endowment constituted, or the conditions of the present law will not be met.

In the charter (constitution) or separately, in the bylaws, provisions will be made concerning the governing and auditing bodies, their structure, composition, responsibilities and functions.

Art. 55. When the foundation document or the bylaws do not provide for governing and auditing bodies, the tribunal appropriate to grant legal person status, will appoint them, on the demand of the competent ministry, of the public ministry, or any other interested party.

The tribunal has the ability to appoint one or more administrators in case the governing bodies can not or will not continue their tasks. In this case, the demand can be made by the public ministry.

Art. 56. The governing bodies have the rights and obligations provided for in the art. 24- 28 of the present law.

C. Organizational Changes

Art. 57. The tribunal, on the demand of the governing bodies, will be able to decide on changes to be brought to the organization (structure) established by the founder, if this is deemed necessary for the conservation of the assets and accomplishment of the foundation's purpose.

Art. 58. The tribunal, on counsel (advice) of the competent ministry, and on the demand of the governing bodies, will be able to modify the purpose of the foundation, only partly accomplishable, when it is found that this purpose does not comply with the social needs or the intentions expressed by the founder at the time of the inception of the foundation.

Art. 59. The modification cannot touch upon the specialty of the foundation.

No modification can be decided when it is found that the purpose of the foundation cannot be accomplished any more.

Art. 60. In all modification cases, the case will be heard with the hearing of the founder or his direct heirs, as well as the competent ministry.

D. The Dissolution

Art. 61. The foundation will cease its legal person status in the following instances:

a) By itself :

- when its purpose has been accomplished;
- when its purpose cannot be accomplished;
- when the foundation has become bankrupt.

b) through a court order (decision): in the cases provided by art. 33 paragraph c.

E. Liquidation

Art. 62. The liquidation of the assets of the foundation will be made according to the dispositions of art. 33 paragraph 2, art. 42 of the present law.

Chapter V Public Benefit Foundations

Art. 63. Foundations can be acknowledged as public benefit ones if:

- a) they have been active at least three years;
- b) they have accomplished, at least in part, the objectives stated;
- c) the value of the endowment has been , each year, at least equal to the initial value.
- d) the foundation is active in at least 5 departments.

Art. 64. The dispositions of art. 45 - 46 are applicable accordingly.

Chapter VI - Registration of Legal Persons (associations and foundations)

Art. 65. The associations and foundations constituted according to the present law, will be registered in special registers to be opened in the registry of the main offices of the tribunal.

The registers will be opened separately for associations and for foundations.

In the case of foundations, if in the charter (constitution) or in the bylaws, the location has not been specified, the registration will be made at the registry of the tribunal of the home address or last address of the founder.

The registration application will contain:

- a) the name of the legal person;
- b) objective and purpose;
- c) location of main offices and branches, if applicable;
- d) name, profession, and home address of the persons part of the governing bodies;
- e) the dates of the constitution (charter) and bylaws.

Art. 67. For the associations, the application will be made by the board of directors or by a person empowered for this purpose.

For the foundations established by living persons, the application will be made by a founder while after his death, as well as for the testamentary foundations, by the: legal heirs, the liquidators, or the governing body, if it has been appointed.

Art. 68. With the application will be attached the following:

- a) legalized copy of the charter (constitution);
- b) copies of the bylaws and nomination documents of the governing bodies, if these have been decided later;
- c) if the bylaws and the nomination documents have been passed in a general assembly a copy of the minutes will be presented.

The documents from paragraph b and c will be presented in an authentic (notarized) form.

Art. 69. The court is required to petition for advice (counsel) the ministry whose activity more closely approaches that of the foundation or the association.

In case several ministries are competent, the main objective will be taken into consideration.

In case the objectives falls into none of the domains (fields of activity covered by) of the ministries, the counsel will be asked of the Ministry of Interior .

Art. 70. The court, in the process of examining the application for legal person status will be able to decide, based on the examination of the bylaws and the constitution documents and other pertaining evidence presented, to grant legal person status even if the advice (counsel) of the competent ministry is not favorable, or has not been issued in the period petitioned.

In all cases the participation of the Public Ministry (written in lower case until now) in solving legal person status applications is compulsory.

Art. 71. Against the sentence of the tribunal, appeal can be made by any interested party, by the Public Ministry and by the ministry competent to issue the advice (counsel) provided in art 4. paragraph 2.

Art. 72. The registration will record all mentions provided for in art. 54. as well as the date and number of the decision.

The original copy of the constitution document and of the bylaws will bear the mention the registration. (a stamp imprinted on the paper itself)

An add notice on the registration will be published in the Monitorul Oficial on the demand and expense of the interested parties.

Art. 73. A copy of the final decision will be forwarded by the tribunal to the competent ministry , in order to be recorded in the legal persons register (it is a different register, it seems, located at the ministry, not mentioned up to now).

Art. 74 . Any modification in the composition of the governing bodies, or regarding their responsibilities, change of office location, any changes in the bylaws and generally of the organization or of the purpose of the legal person, as well as those regarding the dissolution or liquidation, nomination and replacement of liquidators will be immediately declared at the registry of the tribunal to be recorded and published.

In case of change of location, all recordings will be made in the legal persons register of the tribunal from the old location as well as the one from the new location.

Chapter VI Assemblies of Legal Persons

Art. 75. Two or more legal persons can assemble in unions or federations, if the purpose or objectives are common.

Legal person status will be granted to unions or federations only if this union is necessary for the attainment of the goal pursued.

Art. 76. The court competent to grant legal status is the Court of Appeal within whose circuit (radius) the union or federation have established their location.

The procedure for application for legal person status is the one provided in Art. 4. of the present law.

The representatives of the union or of the federation are obliged to add, on their registration and recognition application, the number, name and location of the legal person that form it, to present copies of all sentences granting legal person status to each of them.

Art. 78. The bylaws of the unions or federations must include the provisions according to which the legal persons joining will be represented in the governing body of the union or of the federation.

The bylaws (statutes) will have to provide the conditions for joining the assembly.

The registration application will not be admitted if the dispositions of paragraph 1 and 2 are not respected.

Chapter VII - Relationships with the Public Authorities

Art. 79. The public authorities will support the legal persons constituted on basis of this law by providing them - within the possibilities - with office space, providing them or allowing them access to information and data necessary to their purposes.

Art. 80. The authorities of the public administration can subsidize - within their allocated budget - the public benefit associations and foundations or can collaborate with them in the design and management of common projects.

Art. 81. The public benefit associations and foundations will receive from the national budget, a yearly subsidy of at least % of the value of the total assets of the year preceding the subsidy.

The amounts will be disbursed in several allotments and will be used only for providing social, cultural, scientific, religious activities, in common projects with the competent ministry.

Art. 82. The government, as well as other authorities and public institutions, can allocate subsidies to foundations and associations if they have available such funds, within the norms of financial regulations.

Art. 83. The amounts received as subsidies from the public authorities can have no other destination but the one marked at the time of the grant.

The associations and foundations will present documents justifying the way the amounts constituting the subsidies have been spent.

Translator's Note

The comments or different versions between parentheses are mine, in an attempt to make the significance of the Romanian term clear. Some provisions are unclear even in Romanian, and a translation didn't help. I marked those with (??).

The terms “non-patrimonial” and “liquidate” were troublesome. The first refers to the fact that the contribution or assets or activities and qualities brought in or obtained by a member of an association or part of a foundation, cannot be bequeathed or inherited, cannot be part of an estate. The second, I didn't find in a dictionary but I was told it exists. In this law, the term expresses a liquidation trustee.