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CIRCULAR

socialist republic of vietnam

Independence- Freedom-Happiness

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CIRCULAR No. 01/2004/TT-BNV OF JANUARY 15,2004 GUIDING THE IMPLEMENTATION OF A NUMBER OF ARTICLES OF THE GOVERNMENT'S DECREE No. 8a/2003/ND-CP OF JULY 30, 2003 PROVIDING FOR THE ORGANIZATION, OPERATION AND MANAGEMENT OF ASSOCIATIONS

In furtherance of the Government's Decree No.88/ 2003/ND-CP of July 30, 2003 providing for the organization, operation and management of associations (hereinafter called the Decree for short), the Ministry of Home Affairs hereby guides the implementation thereof as follows:

I. ON THE SCOPE OF REGULATION

The scope of regulation covers: associations, unions of associations, confederations, federations, societies, clubs and associations under other names according to law provisions (hereinafter referred collectively to as associations), which have legal person status and operate nationwide or inter-provincially; within provinces or centrally-run cities (hereinafter referred collectively to as provinces); within rural districts, urban districts, provincial capitals or towns (hereinafter referred collectively to as districts); and within communes, wards and district townships (hereinafter referred collectively to as communes).

II. THE NUMBERS OF MEMBERS OF BOARDS CANVASSING FOR ESTABLISHMENT OF ASSOCIATIONS, DOSSIERS FOR THE SETTING UP, AS WELL AS RECOGNITION AND TASKS OF BOARDS CANVASSING FOR ESTABLISHMENT OF ASSOCIATIONS

1 . To establish associations, the founding members must set up boards canvassing for the establishment thereof. The numbers of members of the association establishment-canvassing boards are prescribed as follows:

a/ For associations operating nationwide or interprovincially, such a canvassing board must comprise at least 10 members;

b/ For associations operating within provinces, it must be consist of at least 5 members;

c/ For associations operating within districts or communes, it must have at least 3 members;

d/ For unions of economic organizations operating nationwide, such a board must be composed of at

least 5 members representing various economic organizations; and for those operating within provinces, it must comprise at least 3 members representing various economic organizations in the provinces.

2. A dossier of application for setting up an association establishment-canvassing board shall include:

a/ The application for recognition of the association establishment-canvassing board, clearly stating the association's name, its guiding principles and purposes, the domains where the association is expected to operate, the scope of operation, the expected time for establishment of the association, and the temporary meeting venue;

b/ The list of those who are expected to join the association establishment-canvassing board and their curriculum vitae: their full names; dates of birth; residence places; educational qualifications; and professional qualifications.

3. Recognition of the association establishmentcanvassing boards:

a/ Boards canvassing for the establishment of associations operating nationwide or inter-provincially shall be recognized by the ministries or ministeriallevel agencies (hereinafter referred collectively to as ministries) which perform the State management over the branches or domains where the associations are expected to operate;

b/ Boards canvassing for the establishment of associations operating within provinces shall be recognized by the services or agencies under the provincial People's Committees (hereinafter referred collectively to as provincial/municipal services) which perform the State management over the branches or domains where the associations are expected to operate;

c/ Boards canvassing for the establishment of associations operating within districts or communes shall be recognized by the district People's Committees.

4. Tasks of the association establishmentcanvassing boards:

a/ To mobilize citizens and/or organizations to register for joining the associations;

b/ To prepare dossiers for the establishment of the associations according to Article 8 of the Decree.

After completing all preparations for the establishment of the associations, the association establishment-canvassing boards shall send dossiers to:

- The Ministry of Home Affairs, for associations operating nationwide or inter-provincially;

- The provincial/municipal Home Affairs Services, for associations operating within provinces, districts or communes.

The association establishment-cavassing boards shall be automatically dissolved after the associations' executive boards are elected by their congresses.

III. THE NUMBERS OF PEOPLE REGISTERING FOR PARTICIPATION IN THE ASSOCIATIONS' ESTABLISHMENT

1. For associations operating nationwide or interprovincially, there must be at least 100 signatures (applications for participation) of eligible citizens and/ or organizations in various provinces, voluntarily registering for participation in the associations' establishment.

2. For associations operating within provinces, there must be at least 50 signatures (applications for participation) of eligible citizens and/or organizations in the provinces, voluntarily registering for participation in the associations' establishment.

3. For associations operating within districts, there must be at least 20 signatures (applications for participation) of eligible citizens and/or organizations in the districts, voluntarily registering for participation in the associations' establishment.

4. For associations operating within communes, there must be at least 10 signatures (applications for participation) of eligible citizens and/or organizations in the communes, voluntarily registering for participation in the associations' establishment.

5. For unions of economic organizations having members being representatives of Vietnamese economic organizations with the legal person status and operating nationwide, there must be at least 11 eligible legal person representatives in various provinces, while for those operating within provinces, there must be at least 5 eligible legal person

representatives in the provinces, which are engaged in the same production and business lines or the same operation domains meeting the prescribed conditions and voluntarily registering for participation in the unions' establishment.

For professional associations with professional peculiarities, the numbers of citizens and/or organizations voluntarily registering for participation in their establishment shall be considered and decided on a case-by-case basis by the competent State agencies defined in Article 15 of the Decree.

IV. APPROVAL OF ASSOCIATIONS' CHARTERS

1. Within 30 days after the congresses, the associations' leaderships shall send the reports prescribed in Article 13 of the Decree and the written requests for the approval

of the associations' charters to the competent State agencies defined in Article 15 of the Decree, namely:

a/ The Ministry of Home Affairs, for associations operating nationwide or inter-provincially,

b/ The provincial People's Committees (via the provincial/municipal Home Affairs Services), for associations operating within provinces, districts or communes.

2. Within 60 days after receiving the reports prescribed in Article 13 of the Decree and the written requests for the approval of the associations' charters, the competent State agencies defined in Article 15 of the Decree shall base themselves on law provisions, the contents of the associations' draft charters and opinions of competent State management agencies to decide on the approval of the charters.

In cases where the associations' charters contain contents contrary to law provisions, the competent State agencies defined in Article 15 of the Decree shall guide the associations' leaderships to finalize the associations' charters in strict accordance with the current regulations.

V. ORGANIZATION, REGIMES AND POLICIES FOR CADRES ENGAGED IN ASSOCIATIONS' ACTIVITIES AND OPERATION FUNDING

1. The organization of associations shall be prescribed in the associations' charters.

2. The personnel working at associations' standing bodies shall be decided by the associations themselves. Wages and other regimes and policies for personnel working at the associations' standing bodies shall comply with the associations' regulations and be covered by the associations' funding. For cadres enjoying salaries from the State budget, their wages and other regimes and policies shall comply with the State's regulations.

3. Funding for the operation of associations shall comply with the principle of self-financing. In cases where the associations have their activities associated with the State's tasks, they shall be rendered with support from the State budget. The provision of support from the State budget to the associations shall comply with the Prime Minister's Decision No. 21/2003/QDTTg of January 29, 2003 on the State budget support rendered to political-social-professional organizations, social organizations and social-professional organizations for activities associated with the State's tasks.

VI. ADMISSION OF ASSOCIATED MEMBERS AND HONORARY MEMBERS

1. Unions of economic organizations may admit associated members being joint-venture enterprises and enterprises with 100% foreign capital, operating in Vietnam (hereinafter referred to as enterprises with foreign elements).

2. Associations (except for unions of economic organizations) shall only be allowed to admit associated members and honorary members being Vietnamese citizens and organizations. The rights and obligations of associated members and honorary members shall be prescribed in the associations' charters.

VIII. ON THE SETTING UP OF REPRESENTATIVE OFFICES AND CHANGE OF HEAD-OFFICES AND KEY LEADING OFFICIALS OF ASSOCIATIONS

1. On the setting up of representative offices

Associations operating nationwide, when setting up their representative offices in other localities, shall have to apply for permission of the People's Committees of the provinces where the representative offices are to be located. The applications for permission must clearly state:

- a/ The necessity to set up representative offices;
- b/ The number of the associations' members in the localities and major operations;
- c/ The office locations (addresses, telephone numbers, fax numbers ...)

After obtaining the provincial People's Committees' consent, permitting the setting up of representative offices, the associations must report thereon in writing to the Ministry of Home Affairs and the ministries performing the State management over the branches and domains where the associations operate.

2. When relocating their head-offices, changing presidents, vice-presidents, secretaries general or equivalent posts, the associations' leaderships must report thereon in writing to competent State agencies:

- a/ For associations operating nationwide or interprovincially, the associations' leaderships shall send their reports to the Ministry of Home Affairs and the ministries performing the State management over the branches and domains where the associations operate;
- b/ For associations operating within provinces, the associations' leaderships shall send their reports to the provincial/municipal Home Affairs Services and the services underprovincial People's Committees, which perform the State management over the branches and domains where the associations operate;
- c/ For associations operating within districts or communes, the associations' leaderships shall send their report to the provincial/municipal Home Affairs Services and the district People's Committees.

Reports on the relocation of head-offices must clearly state the new locations of the head-offices (addresses, telephone numbers, fax numbers).

The associations' reports on the change of their presidents, vice-presidents, secretaries general or equivalent posts shall be enclosed with resolutions on the election of people to the above-stated posts and the curricula vitae of new leaders.

VIII. UNIONS OF ECONOMIC ORGANIZATIONS

Apart from the rights prescribed in Article 22 of the Decree, unions of economic organizations shall also have the following rights and responsibilities:

1. To act as the standing bodies linking and urging the cooperation among member enterprises for common interests;
2. To assist member enterprises in technology transfer, managerial experiences and trade promotion,
3. To protect the legitimate interests of members in commercial disputes and conciliate disputes among them.

IX. DIVISION, SEPARATION; MERGER; CONSOLIDATION; DISSOLUTION AND RENAMING OF ASSOCIATIONS

1. The division, separation, merger; consolidation; dissolution and renaming of associations shall comply with the provisions of the Civil Code.
2. Under the provisions of Clause 1, Article 28 of the Decree, if the associations fail to conduct such activities as holding meetings of their executive boards or standing boards according to their charters, organizing other activities, for 12 consecutive months, the competent State agencies defined in Article 15 of the Decree shall decide to dissolve such associations.
3. The division, separation, merger or consolidation of associations must be put up for discussion in their executive boards for submission to the congresses for decision. After the congresses' resolutions on the division, separation; merger; and consolidation of associations are adopted, the associations' executive boards shall request the competent State agencies defined in Article 15 of the Decree to make decisions thereon. The establishment of new associations after the resolutions on the division, separation, merger or consolidation are adopted by the associations' congresses shall comply with Article 8 of the Decree.
4. The renaming of associations must be put up for discussion in their executive boards for submission to congresses. After the congresses' resolutions on the renaming of associations are adopted, the associations' leaderships shall send reports and resolutions on the renaming of the associations and the draft charters to the competent State agencies defined in Article 15 of the Decree for consideration and decision.

X. HANDLING OF VIOLATIONS

1. For representatives and leaderships of associations, who intentionally prolong the duration for holding term congresses prescribed in the associations' charters.

Within 12 months after the expiry of a congress term, if an association fails to hold its congress, the competent State agencies defined in Article 15 of the Decree shall send documents requesting the association to hold its congress. Within 6 months after receiving the written request for the organization of the congress, if the association's representatives or leadership still fail to hold the congress, the competent State agencies defined in Article 15 of the Decree shall decide on the handling thereof by the following methods:

a/ Suspending the administration of the associations by the associations' representatives and appoint a member of their leaderships to temporarily administer their operations until new executive boards are elected;

b/ Holding the executive boards' meetings requesting the setting up of preparatory boards for the organization of the congress. If the associations still fail to hold the executive boards' meetings, they shall be dissolved according to Clause 1, Article 28 of the Decree.

2. In case of setting up legal person organizations under associations ultra vires.

The associations' representatives must bear responsibility before law for the setting up of legal person organizations under the associations ultra vires and the competent State agencies defined in Article 15 of the Decree shall request the associations to issue decisions to dissolve such organizations and request the competent State agencies to revoke their seals.

3. The organization of the associations' term congresses must be reported to:

a/ The Ministry of Home Affairs and the ministries performing the State management over the branches and domains where the associations operate, for associations operating nationwide or interprovincially;

b/ The provincial/municipal Home Affairs Services and the services under the provincial People's Committees, which perform the State management over the branches and domains where the associations operate, for associations operating within provinces,

c/ The provincial/municipal Home Affairs Services and the district People's Committees, for associations operating within districts or communes.

If the organization of congresses is not reported, according to regulations, the competent State agencies defined in Article 15 of the Decree shall request the associations to stop the organization of the congresses or shall not approve the charters adopted by such congresses.

4. The discipline of associations' representatives and leaderships shall be decided by the associations according to their charters and law provisions, then reported to the Ministry of Home Affairs and the ministries managing the branches and domains where the associations operate, for associations operating nationwide or inter-provincially; to the provincial/municipal Home Affairs Services and the services under the provincial People's Committees, which perform the State management over the domains where the associations operate, for associations operating within provinces; and the provincial/municipal Home Affairs Services or to the district People's Committees, for associations operating within districts or communes.

XI. RESPONSIBILITIES OF THE STATE MANAGEMENT AGENCIES TOWARDS ASSOCIATIONS

1. The Ministry of Home Affairs shall assist the Government in unifying the State management over associations, coordinate with the ministries and provincial People's Committees in performing the State management over associations according to Article 32 of the Decree, and have the responsibilities:

a/ To coordinate with the concerned agencies in managing the signing and implementation of international agreements by associations according to the Government's Decree No. 2012002/ND-CP of February 20, 2002 on the signing and implementation of international agreements by provinces, centrally run cities, socio-political organizations, social organizations and socio-professional organizations;

b/ To gather written opinions of the ministries performing the State management over the branches and domains where the associations operate when permitting the establishment; division, separation, merger, consolidation, renaming, dissolution of associations, and approving their charters, for associations operating nationwide or interprovincially.

2. The ministries and ministerial -level agencies defined in Article 33 of the Decree shall have the responsibilities:

a/ To create conditions for associations to be established in strict accordance with laws;

b/ To create conditions for associations to participate in activities within the domains under their respective management, according to their conditions and capabilities;

c/ To guide associations to operate in strict accordance with their regulations;

d/ To guide the provincial/municipal services, departments and branches to manage associations' activities in the branches and domains under their respective management.

3. The provincial People's Committees shall have the responsibilities:

a/ To create conditions for associations to operate with efficiency and encourage associations' activities which are associated with the performance of socioeconomic development tasks of the localities.

b/ To create conditions for associations to participate in the socialization of medical, cultural, educational, scientific and technological, and physical training and sports activities in the localities, consider and create conditions for associations to participate in some public services which they have conditions and capability to perform.

c/ For newly-established or difficulty-hit associations, the People's Committees of various levels shall create conditions and help them to stabilize their operations.

4. The provincial/municipal Home Affairs Services shall have the responsibilities:

a/ To advise and assist the provincial People's Committees in monitoring and managing associations in their respective localities; settle problems arising in the organization and operation of associations; and coordinate with the concerned branches in creating conditions for associations to operate with efficiency;

b/ To gather written opinions of the provincial/ municipal services performing the State management over the branches and domains where associations operate, for associations operating within provinces, or the district People's Committees, for associations operating within districts or communes, which shall serve as basis for expertising and submitting to the provincial People's Committees for decision the establishment, division, separation, merger; consolidation, renaming or dissolution of associations and approval of their charters.

- To sum up and report on the organization, operation and management of associations in their provinces to the Ministry of Home Affairs.

XII. IMPLEMENTATION ORGANIZATION

This Circular takes effect 15 days after its publication in the Official Gazette.

The ministries, the ministerial-level agencies, the agencies attached to the Government, the provincial level People's Committees and associations shall have to implement this Circular. Any problems arising in the course of implementation should be reported to the Ministry of Home Affairs for study, amendment and supplementation.

Minister of Home Affairs

DO QUANG TRUNG