



This document has been provided by the International Center for Not-for-Profit Law (ICNL).

ICNL is the leading source for information on the legal environment for civil society and public participation. Since 1992, ICNL has served as a resource to civil society leaders, government officials, and the donor community in over 90 countries.

Visit ICNL's **Online Library** at
<http://www.icnl.org/knowledge/library/index.php>
for further resources and research from countries all over the world.

Disclaimers

Content. The information provided herein is for general informational and educational purposes only. It is not intended and should not be construed to constitute legal advice. The information contained herein may not be applicable in all situations and may not, after the date of its presentation, even reflect the most current authority. Nothing contained herein should be relied or acted upon without the benefit of legal advice based upon the particular facts and circumstances presented, and nothing herein should be construed otherwise.

Translations. Translations by ICNL of any materials into other languages are intended solely as a convenience. Translation accuracy is not guaranteed nor implied. If any questions arise related to the accuracy of a translation, please refer to the original language official version of the document. Any discrepancies or differences created in the translation are not binding and have no legal effect for compliance or enforcement purposes.

Warranty and Limitation of Liability. Although ICNL uses reasonable efforts to include accurate and up-to-date information herein, ICNL makes no warranties or representations of any kind as to its accuracy, currency or completeness. You agree that access to and use of this document and the content thereof is at your own risk. ICNL disclaims all warranties of any kind, express or implied. Neither ICNL nor any party involved in creating, producing or delivering this document shall be liable for any damages whatsoever arising out of access to, use of or inability to use this document, or any errors or omissions in the content thereof.

THE GOVERNMENT

DECREE No. 88/2003/ND-CP OF JULY 30, 2003 PROVIDING FOR THE ORGANIZATION, OPERATION AND MANAGEMENT OF ASSOCIATIONS

THE GOVERNMENT

Pursuant to Order No. 102/SL/L004 of May 20, 1957 promulgating the Law on the Right to Set up Associations;

Pursuant to the October 28, 1995 Civil Code;

Pursuant to the December 25, 2001 Law on Organization of the Government;

At the proposal of the Minister of the Interior,

DECREES

Chapter I

GENERAL PROVISIONS

Article 1.- Regulation scope

1. This Decree provides for the organization, operation and State management of associations.

2. This Decree shall not apply to the following organizations:

a) Vietnam Fatherland Front, Vietnam Labor Confederation, the Ho Chi Minh Communist Youth Union, Vietnam Peasants' Associations, Vietnam War Veterans' Association, Vietnam Women's Union;

b) Religious organizations.

Article 2.- Associations

1. Associations prescribed in this Decree are understood as voluntary organizations of citizens, organizations of Vietnamese of the same professions, the same hobbies, the same genders for the common purposes of gathering and uniting members, regular activities, non-self-seeking, aiming to protect members'

legitimate rights and interests, to support one another for efficient activities, contribute to the country's socio-economic development, which are organized and operate according to this Decree and other relevant legal documents.

2. Associations bear different names such as union of associations, confederation, federation, society, clubs with legal-person status and different appellations according to law provisions (hereinafter referred collectively to as associations).

3. Associations shall include the following organizations classified according to the (territorial) scope of operation:

a) Associations operating nationwide or inter-provincially;

b) Associations operating within provinces or centrally-run cities (hereinafter referred collectively to as provinces);

c) Associations operating within rural districts, urban districts, provincial capitals or towns (hereinafter referred collectively to as districts);

d) Associations operating within communes, wards, district townships (hereinafter referred collectively to as communes).

Article 3.- Setting up associations and principles for organization and operation thereof

1. The establishment of associations must be permitted by the competent State bodies defined in Article 15 of this Decree.

2. Associations shall be organized and operate according to their respective charters which are approved by competent State bodies and do not contravene laws, they are organized and operate according to the principles of voluntarism, self-management, self-financing and self-responsibility before law.

Article 4.- State bodies' responsibility towards associations

1. State bodies shall, within the scope of their functions and tasks, have the responsibility to create favorable conditions for associations to operate

according to their respective charters and with efficiency.

2. Associations which are recognized as socio-political organizations or socio-political and professional organizations or which have their operations associated with the State's tasks, shall be rendered support from the State budget according to the Prime Minister's regulations.

Article 5.- Legal person status, seals, names and logos of associations

1. Associations have their own legal person status, seals and accounts.

2. Associations are entitled to choose their own names and logos under the provisions of law.

Chapter II

CONDITIONS AND PROCEDURES FOR ESTABLISHMENT OF ASSOCIATIONS

Article 6.- Conditions for establishment of associations

1. Having operation purposes not contrary to law, having names and main operation domains not identical to those of the associations which have been previously set up lawfully in the same geographical areas.

2. Having charters.

3. Having head-offices.

4. Having adequate number of members registered for participation.

The Minister of the Interior shall prescribe the number of members registered for joining associations.

Article 7.- Boards canvassing for establishment of associations

1. To establish associations, the founding members must set up boards canvassing for the establishment thereof. The association establishment-canvassing boards shall be recognized by the agencies which perform the State management over the branches or domains where the associations are expected to operate.

The Minister of the Interior shall prescribe the number

of members of such a board.

2. After being recognized, the association establishment-canvassing boards shall perform the following tasks:

a) Mobilizing citizens and/or organizations to join the associations, finalizing the dossiers of application for permits to establish the associations;

b) The boards' heads shall send dossiers of application for the establishment permits to the competent State agencies defined in Article 15 of this Decree.

Article 8.- Dossiers of application for establishment of associations

1. The application for a permit to establish an association.

2. The draft charter.

3. The projected operation plan.

4. The list of members of the association establishment-canvassing board recognized by a competent State body.

5. The curriculum vitae of the head of the association establishment-canvassing board, with the certification by a competent agency.

6. Documents certifying the head-office and assets of the association.

Article 9.- Principal contents of the charter of an association

1. The association's name.

2. The guiding principles, purposes, domains and scope of operation of the association.

3. The association's tasks and powers.

4. The organization and operation principles.

5. The procedures to join, leave the association.

6. Members' criteria.

7. Members' rights and obligations.

8. Structure, organization, procedures for election and dismissal; tasks and powers of the association's leadership, control board, other leading posts.

9. Assets, finance and mode of management of

assets and finance of the association.

10. Conditions for dissolution and liquidation of assets, finance.

11. Commendation, handling of violations.

12. Procedures for amending, supplementing the charter.

13. Implementation effect.

Article 10.- Responsibilities of the State agencies competent to permit the establishment of associations upon the receipt of dossiers of application therefor

The competent State agencies defined in Article 15 of this Decree, when receiving the dossiers of application for establishment of associations, must issue the receipts thereof. If the application dossiers are complete and valid, the competent State agencies shall, within 60 days as from the date of receiving the complete and valid dossiers, have to reply the association establishment- canvassing boards; in case of refusal, there must be the written replies clearly stating the reasons therefor.

Article 11.- The time for holding congresses to establish associations

1. Within 90 days as from the date the decision permitting the establishment of an association takes effect, the association establishment- canvassing board must organize a congress.

2. If past the above time limit it still fails to organize the congress, the association establishment-canvassing board shall send a written request for the extension thereof to the State agency which has issued the decision permitting the establishment thereof. The extension duration shall not exceed 30 days; if past the extension duration, such congress is not held, the decision permitting the establishment of the association shall be no longer effective.

Article 12.- Principal contents in the agenda of the association-founding congress

1. Announcing the decision permitting the establishment of the association.

2. Discussing and voting on the Charter.

3. Electing the leadership and the control board as provided for by the association's Charter.

4. Adopting the association's activity program.

5. Adopting the congress' resolution.

Article 13.- Report on the congress results

Within 30 days after the congress, the association's leadership shall send the congress documents to the State agency which has issued the decision permitting the establishment of the association, including:

1. The Charter and the record on the adoption of association's Charter;

2. The record on the election of the leadership, the control board (enclosed with lists of their members) and curriculum vitae of the association's head;

3. The association's activity program;

4. The congress's resolution.

Article 14.- Approving associations' Charters and the effect thereof

1. The competent State agencies defined in Article 15 of this Decree shall decide to approve the associations' Charters when they are adopted by the congresses. In cases where the provisions of Charters are contrary to laws, the competent State agencies shall refuse to approve and request the associations to amend them.

2. The associations' Charters shall take effect as from the dates the competent State agencies decide to approve them.

Article 15.- State agencies competent to permit the establishment, division, separation, merger, consolidation and dissolution of associations and to approve the Charters thereof

1. The Minister of the Interior shall permit the establishment, division, separation, merger, consolidation and dissolution and approve the Charters of associations operating nationwide or inter-provincially.

2. The provincial-level People's Committee presidents shall permit the establishment, division, separation, merger, consolidation and dissolution and approve the Charters of associations operating within their respective provinces.

Chapter III

MEMBERS

Article 16.- Membership conditions

Vietnamese citizens and organizations fully satisfying the members' criteria prescribed by the associations' Charters and voluntarily applying to join such associations can all become members thereof.

The competence and procedures to admit members shall be prescribed in the associations' Charters.

Article 17.- Rights and obligations of members

The rights and obligations of members shall be prescribed in the associations' Charters.

Article 18.- Associated members and honorary members

1. Joint-venture enterprises and enterprises with 100% foreign investment capital (hereinafter referred to as enterprises with foreign elements) operating in Vietnam, contributing to the development of unions and agreeing to their Charters, shall be considered by unions of economic organizations for their recognition as associated members.

Associated members may participate in activities and attend congresses of unions. They shall not participate in the election of or stand for the leadership of the unions, nor vote on affairs of the unions.

The procedures to admit associated members shall be prescribed by the unions' Charters.

2. Vietnamese citizens and organizations that have no conditions to become members of associations but make contributions to the associations, can be recognized by the associations as their associated members or honorary members. The rights and obligations of associated members and honorary members shall be prescribed by

the associations' Charters.

Chapter V

ORGANIZATION, OPERATION, RIGHTS AND OBLIGATIONS OF ASSOCIATIONS

Article 19.- Term congress and extraordinary congress

1. The supreme leading body of an association is the plenary congress or the congress of deputies.

2. The office term of the congress shall be prescribed in the Charter but shall not exceed 5 years.

3. An extraordinary congress shall be convened when at least 2/3 (two thirds) of the total number of the executive members or at least 1/2 (half) of the total number of the full-fledged members so request.

Article 20.- Major contents to be decided at the congress

1. Orientations for activities of the association
2. The election of the leadership, the control board of the association.
3. Change of the association's name, amendment (if any) of the Charter.
4. Joining in Unions of associations of the same operation domains.
5. Division, separation, merger, consolidation, dissolution of the association.
6. The association's finance.

Article 21.- Principles for voting at the congress

1. The congress can vote by hand show or by secret ballots. The forms of voting shall be decided by the congress.

2. The voting to adopt decisions of the congress must be approved by more than 1/2 (half) of the present full-fledged members.

Article 22.- Rights of associations

1. To propagate their purposes.
2. To represent their members in internal and external relations related to the functions and tasks of associations.
3. To protect the legitimate rights and interests of the associations and their members.
4. To organize, coordinate activities among members for the common interests of the associations; to reconcile disputes within the associations.
5. To disseminate and train in knowledge to members; to supply necessary information to members according to law provisions.
6. To provide consultancy and criticism on matters within the scope of operation of the associations at requests of organizations and/or individuals.
7. To contribute opinions on legal documents relating to the contents of operations of the associations under the provisions of law. To propose to competent State agencies matters related to the development of the associations and domains where the associations have operated in.
8. To coordinate with the concerned agencies and/or organizations in performing the tasks of the associations.
9. To raise funds for the associations on the basis of their membership fees and sources of revenue from business and/or service activities under the provisions of law in order to ensure their operation funding.
10. To receive lawful financial supports of domestic and foreign organizations and/or individuals under the provisions of law.
11. Associations with national or inter-provincial scope of operation may join to be members of international and regional associations as provided for in the Government's Decree No.20/2002/ND-CP of February 20, 2002 on the conclusion and implementation of international agreements by provinces or centrally-run cities, socio-political organizations, social organizations and socio-professional organizations of the Socialist Republic of Vietnam.

Article 23.- Obligations of associations

1. The associations' operations must comply with their approved Charters.
2. An association operating in a certain domain must submit to the State management by the agency which performs the State management over such domain, field.
3. Thirty days before holding a term congress, the leadership of an association must send its report to the competent State management agency defined in Article 15 of this Decree and the ministry which manages the branch or domain where it operates.
4. The setting up of associations' representative offices in other localities must be permitted by the provincial-level People's Committees of the localities where the representative offices are to be located and be reported in writing to the competent State agencies defined in Article 15 of this Article.
5. When changing their presidents, vice-presidents, secretaries general, head-offices or amending, supplementing their Charters, the associations must report thereon to the competent State agencies defined in Article 15 of this Decree.
6. The setting up of legal persons under associations must comply with law provisions and be reported to the competent State agencies defined in Article 15 of this Decree.
7. Annually, associations must report on their organization and operation situation to competent State agencies and the agencies performing the State management over the branches, domains where the associations operate no later than December 1 of that year.
8. They must submit to the guidance, examination and inspection by competent State bodies in the observance of law.
9. The lists of members, chapters and attached units of associations, the vouchers on their finance, the minutes of meetings of their leaderships shall be made into dossiers and archived at their head-offices.
10. Revenues collected under the provisions in Clauses 9 and 10 of Article 22 of this Decree must be

reserved for the associations' activities according to the provisions of their Charters, and must not be divided to their members.

11. The use of fundings of the associations must comply with law provisions. Annually, the associations must make reports on financial settlement according to the State's regulations and send them to the finance bodies of the same levels.

Chapter V

DIVISION, SEPARATION; MERGER, CONSOLIDATION AND DISSOLUTION OF ASSOCIATIONS

Article 24.- Division, separation, merger, consolidation, dissolution

1. Depending on operation requirements and capabilities of associations, their leaderships shall propose the competent State agencies defined in Article 15 of this Decree to permit the division, separation, merger, consolidation or dissolution of the associations. The division, separation, merger, consolidation and dissolution of associations must comply with the provisions of law.

2. Associations shall dissolve in the following cases:

- a) They dissolve by themselves;
- b) They are dissolved under decisions of the competent State agencies defined in Article 15 of this Decree.

Article 25.- Associations dissolve by themselves

Associations shall dissolve by themselves in the following cases:

1. Upon the expiry of their operation duration;
2. At the request of more than 1/2 of the total number of their full-fledged members;
3. Their objectives have been already attained.

Article 26.- Responsibilities of the leaderships of associations when the latter dissolve by themselves

1. To send to the competent State agencies defined in Article 15 of this Decree the following documents:

- a) The application for dissolution of the association;
- b) The resolution on the dissolution of the association;
- c) The property, finance statement;
- d) The projected mode of handling the property and finance and the time limit for repayment of debts.

2. To notify the debt repayment (if any) time limits to the concerned organizations and individuals according to law provisions on central newspapers, for associations with national or inter-provincial scope of operation, or local newspapers, for associations with provincial scope of operation, for five consecutive issues.

Article 27.- Deciding on the dissolution of associations

The competent State agencies defined in Article 15 of this Decree shall decide to dissolve associations 15 days after the expiry of the time limits for debt repayment and property and finance liquidation, inscribed in the associations' notices when applying for the dissolution without written complaints.

Associations shall terminate their operation as from the dates the decisions of the State agencies competent to dissolve the associations take effect.

Article 28.- Associations being dissolved

Associations shall be dissolved under decisions of the competent State agencies defined in Article 15 of this Decree in the following cases:

1. They fail to operate for 12 months in a row;
2. When the congresses adopt resolutions on dissolution but their leaderships decline to obey;
3. Their operations seriously violate laws.

Article 29.- Responsibilities of the competent State agencies when associations are dissolved

When associations are dissolved, the competent State agencies defined in Article 15 of this Decree must:

- a) Issue decisions to dissolve the associations;
- b) Announce the decisions on dissolution of the

associations on the mass media.

Article 30.- Settling property, finance when associations are dissolved, consolidated, merged, divided or separated

1. When associations dissolve by themselves, are dissolved, their properties shall be settled as follows:

a) Properties, finance donated by domestic and/or foreign organizations; properties, finance given by the State as its support, after the associations have fulfilled their property obligations and repay all debts, shall be decided by competent State agencies;

b) The properties and finance acquired by the associations themselves, after they have fulfilled their property obligations and repaid all debts, shall be decided by the associations according to their Charters before their dissolution.

2. Settling properties and finance of associations when they are consolidated:

a) When being consolidated into new associations, the old ones shall terminate their existence and the new associations shall enjoy all legitimate rights and interests of the old associations and take responsibility for all unpaid debt amounts as well as the service contracts being performed by the old associations;

b) The properties and finance of the consolidated associations must not be divided, changed hand but must be fully transferred to the new associations.

3. Settling properties and finance of associations when they are merged:

a) When an association is merged into another association, the properties and finance of the merged association shall be transferred to the merging association;

b) The merging associations shall enjoy the legitimate rights and interests over the available properties and finance of the merged associations, and take responsibility for unpaid property and finance debts as well as uncompleted service contracts.

4. Settling property and finance of associations when they are divided, separated:

a) After the division of an association, the divided association shall terminate its operation and its property and finance rights and interests shall be transferred to the new association under the decision on division of the association;

b) After being separated, associations shall perform their respective property and finance rights and obligations in accordance with the purposes of their operations.

Article 31.- Right to complain

Where the dissolved associations disagree with the dissolution decisions, they may lodge their complaints according to law provisions. Pending the settlement of their complaints, the associations must not operate.

Chapter VI

STATE MANAGEMENT OVER ASSOCIATIONS

Article 32.- State management over associations

1. To elaborate for submission or promulgate legal documents on associations.

2. To guide the ministries, branches, localities, associations and citizens in observing the legislation on associations.

3. To permit the establishment, division, separation, merger, consolidation, dissolution of associations, and to approve their Charters as provided for in Article 15 of this Decree.

4. To provide professional guidance for State officials and/or employees performing the work of managing associations.

5. To propagate and disseminate legislation on associations.

6. To inspect and examine the observance of legislation on associations; to examine the implementation of Charters by associations.

7. To manage the signing of international cooperation documents on associations under the provisions of law.

8. To settle complaints and denunciations, handle the

violations of legislation on associations.

9. To sum up reports on organization, operation and management of associations.

The Ministry of the Interior shall assist the Government in exercising the uniform State management over associations throughout the country.

Article 33.- The State management tasks of the ministries, ministerial-level agencies over the associations' operations in the domains under their respective management nationwide

1. To join competent State agencies defined in Article 15 of this Decree in permitting in writing the establishment, division, separation, merger, consolidation and dissolution of associations and in approving their Charters; to recognize the association establishment-cavassing boards.

2. To guide and create conditions for associations to participate in activities within the branches or domains under their respective management according to law provisions; to gather opinions of associations in order to finalize the provisions on the State management over the branches or domains.

3. To examine the implementation of the regulations on State management over the branches, domains by associations; to handle or propose competent State bodies to handle violations according to law.

Article 34.- The provincial-level People's Committees' tasks of State management over the associations' operations within their respective provinces

1. To exercise their competence under the provisions in Clause 2, Article 15 of this Decree and perform the State management over organization and operation of associations.

2. To inspect and examine the observance of legislation on associations.

3. To settle complaints and denunciations and handle violations of legislation on associations.

4. To consider the support for associations operating in their respective localities.

5. To consider and permit associations operating in their respective localities to receive financial assistance from domestic and foreign organizations and individuals according to law provisions.

6. To direct provincial/municipal Services, Departments, branches, the district and commune People's Committees in the management of associations.

7. To annually send sum-up reports on the organization, operation and management of associations in the localities to the Ministry of the Interior.

Chapter VII

COMMENDATION AND HANDLING OF VIOLATIONS

Article 35.- Commendation

1. Those associations which operate and make many contributions to socio-economic development shall be commended and/or rewarded according the regulations of the State.

2. Those association members who record achievements shall be commended and/or rewarded according to the regulations of their associations and of the State.

Article 36.- Handling of violations

1. Those who violate the rights to establish associations, abuse associations' name to conduct activities in contravention of laws shall, depending on the nature and seriousness of their violations, be disciplined, administratively sanctioned or examined for penal liability according to law provisions; if causing material damage, have to compensate therefor according to law provisions.

2. Those who abuse their positions and powers and permit the establishment of associations in contravention of the provisions of this Decree shall, depending on the nature and seriousness of their violations, be disciplined, administratively sanctioned or examined for penal liability according to law provisions; if causing material damage, have to

compensate therefor according to law provisions.

3. Associations' leaderships or representatives who deliberately prolong the term congresses prescribed in the associations' Charters or fail to observe the regulations on associations' obligations shall, depending on the nature and seriousness of their violations, be handled according to law provisions.

agencies, the Government-attached agencies and the provincial/municipal People's Committee presidents shall have to implement this Decree.

On behalf of the Government
Prime Minister
PHAN VAN KHAI

Chapter VIII

IMPLEMENTATION PROVISIONS

Article 37.- Implementation effect

1. This Decree takes implementation effect 15 days after its publication in the Official Gazette.

2. This Decree shall replace Decree No.258/TTg of June 14, 1957 of the Prime Minister detailing the implementation of Law No.102/SL/L004 of May 20, 1957 on the Right to Set up Associations.

3. Associations which were permitted by the former Minister of the Interior and the provincial Administrative Committees for establishment under Order No.102/SL/L004 of May 20, 1957 and were permitted by the Council of Ministers Chairman (now the Prime Minister) or the Minister-Head of the Government Commission for Organization and Personnel (now the Minister of the Interior), the provincial/municipal People's Committee presidents for establishment under Directive No.01/CT of January 5, 1989 on management, organization and operation of mass associations shall not have to apply for re-establishment.

4. Unions of economic organizations, which were set up under Decision No.38/HDBT of April 10, 1989 of the Council of Ministers (now the Government) on economic alignment in production, circulation, services, shall not have to apply for re-establishment.

Article 38.- Implementation organization

The Minister of the Interior shall guide the implementation of this Decree

The ministers, the heads of the ministerial-level