

## **A Draft of the Associations Law**

Parliament,

After reviewing the August 3<sup>rd</sup> 2011 constitutional declaration and amendments, and civil law,

The following law was promulgated

### Article 1

#### The right to establish associations

Establishing, joining and withdrawing from associations and participating in their management is a human right, exercised in accordance with the provisions of this law and the relevant international conventions.

Within their main structure, and the exercise of their activities and financing, associations are expected to follow the principles of democracy, civic values, equality, human rights, transparency, anti-corruption, and good governance, in accordance with international legislation and agreements.

### Article 2

#### Defining and naming an association

1. An association is every non-profit civil and domestic entity, established voluntarily by two or more persons to achieve a goal, or objectives in any aspect of life, or to protect a constitutional, legal, or humanitarian right.
2. Minors over fifteen years of age may establish or join, with adults, associations that have objectives corresponding to their abilities and ambitions.
3. The association's name should derive from its purpose and be chosen by the founders. It is not permissible to use the same name for more than one association. In addition, names of an abstract general nature may not be used unless associated with the purpose of the association or its privacy. Flag, symbols, or emblems of the state should not be used in designing the association's logo.

### Article 3

#### The establishment of an association

The establishment of an association requires the conclusion of an agreement between the founding members, notarized by an official contract auditor.

Each association shall also have a statute that includes the following:

- The name and address of the association in Libya

- The names of the founding members, their titles, nationalities, professions, domiciles and signatures
- The organization's objectives
- Membership terms and conditions, members' rights and duties.
- Statement of the organizational structure of the association
- Mechanism of decision-making and methods of dispute settlement
- Procedures for amending the statute of association
- Rules of dissolution and liquidation of the association.

#### Article 4

##### Prohibitions on the association

The association is prohibited from conducting the following:

1. Advocating violence, hatred, intolerance, or discrimination for any reason based on religion, gender, language, race, tribal or regional affiliation.
2. Practicing business for the purpose of distributing money and profits to the association members, or exploiting the association for the purpose of tax evasion and money laundering.

#### Article 5

##### The legal framework of the association

The association acquires legal personality one month after the date of the notification's submission and the fulfilment of the conditions stipulated in Article 6, without prejudice to the right of individuals to exercise their right of peaceful assembly and freedom of expression.

#### Article 6

##### Procedures for association declaration

Declaring the association shall be in accordance with the notification system, as follows:

1. The notification for association establishment shall be submitted by its legal representative, attached with the association's statute, to the concerned administration or its branches with a delivery receipt, or sent by registered mail with delivery knowledge receipt.
2. The administration, upon receipt of the notification, must announce the declaration of the association. The administration informs the association of the announcement to the association's address mentioned in the notification, and of any observations related to the procedures for establishing the association in accordance with the provisions of this law. In this case, the association may either respond to the observations of the concerned administration, or submit a statement indicating its non-acceptance and adherence to

publicizing the association in its current state. The administration is required to announce the association immediately on the case presented in it, and the administration may submit a petition requesting the invalidation of the declaration to the judge of the district court in whose jurisdiction the association's headquarters is located, who shall issue his decision on the petition to support or reject it within ten days of its submission. This does not prejudice the right of the concerned administration to resort to the competent court to issue a ruling to dissolve the association in accordance with the provisions of this law.

This also does not prejudice the right of the association to appeal the decisions and verdicts issued against it in accordance with the law.

3. The administration has no right to object to the association's declaration or to refrain from receiving a registration certificate, except by taking the judicial path stipulated in the previous paragraph.

## Article 7

### Association rights

The association has the right to:

1. The right to obtain information related to the association's activity and the right to publish it, based on the principle of transparency and the right to obtain information.
2. The right to evaluate, discuss, express opinions, and present proposals in regards to the role of the state authorities, and official bodies and institutions.
3. The right to express opinion and the right to free and peaceful assembly, to hold peaceful demonstrations, conferences, workshops and all other civil activities.
4. The right to publish reports and information, and print publications and polls.
5. The right to open a bank account in return for submitting the statute of association and declaration/publicity certificate.

Public authorities are prohibited from directly or indirectly obstructing or disrupting the activity of the association, except by a reasoned judicial order. The competent public authorities shall take all necessary measures, providing protection to the association, its members and any person from any violence, threat, pressure or any arbitrary action, resulting from the association's exercise of its rights referred to in this law.

## Article 8

### Association bodies

The supreme authority of the association is for its members to convene in the form of an ordinary or emergency general assembly, and the statutes indicate the competencies of each of them and the method of convening and taking their decisions.

The association shall also have a board of directors, with the statute indicating the method of forming the board, functions, the method of taking decisions and delegating powers.

The chairperson of the board of directors, or their deputy in their absence, shall be the legal representative of the association before the courts and in its relations with third parties.

#### Article 9

##### The principle of non-conflict of interest

Association members or staff may not participate in or influence decisions leading to a conflict between the interests of the association, their personal or job interests, or the interests of their relatives up to the fourth degree.

#### Article 10

##### Resources, funds and budget of the association

The association is self-financed from the contributions of its members, and it may accept gifts, donations, bequests or unconditional funds, explicitly or implicitly, or funds solely conditioned on the effectiveness of the organisation and on its achievement of its objectives. The association may also have returns from its properties, projects or activities

#### Article 11

##### Accounting/finances books

The association is obligated to keep books as required by law and accounting principles. An association that accepts gifts, donations, wills, or funds, or that has returns from its properties or projects, is obligated to appoint an external auditor to review its accounts if the total value of its activity exceeds two hundred thousand dinars in one year. In addition to the above, it must keep a special record of gifts, donations, bequests and funds, and a special record of property, activities and project revenues.

In all cases, the association is required to spend its resources on activities that achieve its goals. It is also obligated to present these accounting records whenever required by the specialized authorities.

The funds and activities of associations are exempted from all types of taxes and fees, including customs duties.

#### Article 12

##### Declaration of financial resources

The association is required to send official copies of documents representing the acceptance of gifts, donations, bequests, or national or foreign funds to the competent administration within two weeks from the date of their acceptance, as well as announcing them on its official website.

The association shall also publish its annual activity report and financial report on its official website, and deliver report copies to the administration within two weeks from the date of its preparation.

## Article 13

### Maintaining documents and records of the association

The association is obligated to keep its documents and financial records for a period of ten years.

## Article 14

### Branches of foreign associations

A mechanism for registering and declaring branches of foreign associations shall be regulated, according to a special regulation, in a manner that does not contradict the spirit and text of this law and the relevant international agreements.

In urgent cases and disasters, the branch may begin its work in Libya under a special permission granted by the administration for a maximum period of one month from the submission of the application.

## Article 15

### Accountability in associations

Associations are considered to have the capacity and interest to challenge before the judiciary any legislation or decision related directly or indirectly to their objectives, in the public interest. The texts related to the conditions of capacity and interest in appeals in this regard are interpreted according to the broadest interpretation of the rules of accountability.

## Article 16

### Popular petitions and legislative requests

The executive authority is required to issue an explanatory statement regarding any petition submitted to it signed by one thousand citizens or twenty associations. The executive authority is required to initiate an investigation and announce its results in any petition submitted and signed by ten thousand citizens or two hundred associations.

The executive authority is required to refer any legislative request submitted to it that is signed by half a million citizens or two thousand associations to the legislative authority, if the legislative request is outside the government's jurisdiction and a decision on it may require the issuance of legislation or a decision that falls within the jurisdiction of the legislature. In this case, the legislative authority is obligated to openly discuss the legislative request and take a decision on it.

The legislative authority is obligated to hold a popular referendum on any legislative request signed by one million citizens or ten thousand associations, provided that the referendum takes place within two years of the issue being raised. The result of the referendum is a moral directive from the people.

## Article 17

### Merging, dissolution, and liquidation

Associations with compatible objectives may merge with each other into a single association in accordance with their statutes of association. Associations are dissolved by the will of their members by a decision of the general assembly, or by a final judicial verdict of the competent court in which the association's headquarters is located, at the request of the specialized administration. In the event of dissolution of the association, the association's assets shall be liquidated in accordance with the accounting rules applicable in the liquidation of associations, and the proceeds of its funds after paying all financial obligations, shall be transferred to an association with similar objectives, or to any other association determined by the general assembly, liquidator or court.

## Article 18

### Network of associations and coalition

Two or more associations may establish a network between themselves, aiming to cooperate in achieving similar goals and mobilize their energies for the purpose of influence. The network is formed by a written agreement binding the parties, and the network is given a name that expresses it. The network may remain without either declaration or registration; however in that case it does not acquire a legal personality. Associations or networks with a common purpose may also establish a coalition among themselves to carry out major tasks or special works that exceed the capacity of each association or network of associations separately.

## Article 19

### The administrative body responsible for support and regulation of associations' affairs

The administrative body supporting associations, regulating their affairs, and guaranteeing the exercise of the right of association and peaceful assembly, is a commission called the "Commission for Support and Care of Civil Society Affairs," which has a legal personality, independent financial disclosure, and independently exercises its work. The commission shall have an independent budget within the state budget, separate from any executive authority.

The Commission shall have a board of directors consisting of a chairperson and four members, at least three of whom are recommended by ten existing associations, and a decision is issued for them by the legislative authority.

The Commission's board of directors issues an internal regulation for its work and the associations' activities, which includes a statement of the accounting books that the association must keep, standards and controls for public funding, and a statement of the fees to obtain permission for a foreign association to open a branch in Libya. Failure to issue the regulation does not prejudice the right of individuals to establish and declare their associations in accordance with the provisions of this law.

Any delay or non-formation of the Commission does not in any way prejudice the right to establish an association and exercise its activities.

## Article 20

### Transitional text

The associations existing at the time of the issuance of this law must correct their conditions in accordance with this law's provisions within a period not exceeding a year from the date of issuance. The associations have to notify the administration of the measures taken, and shall be applied to any objection that the declaration body deems appropriate in relation to the rules established in Article 6 of this law.

#### Article 21

It is prohibited to monitor or search the association's headquarters except by judicial order, and in the presence of a representative of the association.

#### Article 22

This law may not be interpreted or applied in a way that would prejudice the freedom or independence of associations.

#### Article 23

##### Punitive measures

In the event that the association violates the provisions of this law, the administration has the right to take the following actions, respectively:

1. Alerting and drawing attention to the removal of the violation within a period not exceeding two weeks from the date of notification, provided that the procedure includes identifying the violation.
2. Alerting the association in the event of non-reply to the warning procedure and drawing attention.
3. Suspending the activity of the association for a specified period, based on a petition issued by the administration from the competent judge, after three weeks of warning without removing the violation.
4. Dissolving the association, with a ruling from the competent court, based on a lawsuit filed by the administration in the event that the association continues to commit or repeat the same violation.

In the event of the association violating the provisions of articles 4 or 11, the administration may not abide by the order mentioned in the previous paragraph, and immediately resort to the competent court to request the suspension or dissolution of the association's activity.

This does not prejudice the association's right to challenge the punitive measures taken against it before the courts.

#### Article 24

##### Applicability of the law:

This law is effective from the date of its issuance, and law no. 19 of 2001 regarding the organization of associations is considered null as of the date of the provisional constitutional declaration on August 3rd, 2011. This law is published in the Official Gazette, and every provision that contravenes its provisions is repealed.

Issued in ..... Date .....