

SPANISH

GROUND RULES

OF ASSOCIATIONS



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INTRODUCTION

Organic Law 2/2009, of 11 December, granted the right of association to all foreign nationals on an equal basis with Spanish nationals. This encouraged them to start their own associations and thus integrate into society as well as vindicate and defend their rights and interests.

Likewise, Organic Law 1/2002, of 22 March, allows those foreign associations established according to their national legislation to set up an office in Spain to develop their activities on a regular and continuous basis.

In both cases, associations are required to be registered with the relevant official registry office for publicity and subsidies purposes. Foreign associations with offices in Spain shall be registered in the National Registry of Associations under the Ministry of the Interior whereas associations formed by foreign nationals, regardless of their place of residence, shall register either in the National Registry of Associations or in the Registries of Associations of the Autonomous Communities depending on the geographical scope of their activities.

The registration of an association implies several legal requirements which can be clearly and directly understood by Spanish-American community, however this will not be the case for the rest of foreigners of very diverse origin living in our country.

This English guide has thus been issued to inform the foreign nationals settled in Spain about the applicable basic regulations and encourage them to form associations, which is a key element for social cohesion and for strengthening of democracy.

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MINISTRY OF THE INTERIOR

SPANISH CONSTITUTION OF 1978

(PARTIAL INCLUSION: ARTICLE 22)

1. The right of association is granted.
2. Associations which pursue ends or use means legally defined as criminal offences are illegal.
3. Associations set up on the basis of this Article must be entered in a register for the sole purpose of public knowledge.
4. Associations may only be dissolved or have their activities suspended by virtue of a court order stating the reasons for it.
5. Secret and paramilitary associations are prohibited.

ROYAL DECREE OF 24 JULY 1889, BY WHICH THE CIVIL CODE IS ESTABLISHED

(PARTIAL INCLUSION: ARTICLES 28, 35-39, 41)

Article 28

Corporations, foundations and associations recognised by the law and domiciled in Spain shall have Spanish nationality, provided that they are considered legal entities under the provisions of this Code.

Associations domiciled abroad shall have in Spain the consideration and the rights determined in treaties or special laws.

Article 35

The following are legal entities:

1. Corporations, associations and foundations of public interest recognised by the law.

Their legal status begins from the moment when, according to law, they had been validly established.

2. Associations of private interest, whether civil, mercantile or industrial and to which the law grants their own status, independent of that of each of the members.

Article 36

The associations referred to in point 2 of the foregoing article shall be governed by the provisions relating to the partnership agreement, depending on the nature thereof.

Article 37

The civil capacity of corporations shall be regulated by the laws which have created or recognised them; that of associations by their articles, and that of foundations by the

rules of their establishment, duly approved by an administrative provision, where this requirement should be necessary.

Article 38

Legal entities may acquire and possess property of all kinds, as well as contract obligations and institute civil or criminal proceedings, in accordance with the laws and rules of their establishment.

The Church shall be governed in this particular by what has been agreed upon by both powers and educational and charitable institutions by the provisions of special laws.

Article 39

If, as a result of expiration of their legal term, or as a result of the fulfilment of the purpose for which they were created, or of the impossibility of applying to the former the activity and the means available to them, corporations, associations and foundations should cease to operate, their property shall be allocated as provided in the laws, statutes of association, or foundational articles. In the absence of any prior provision, such property shall be allocated to the realisation of similar purposes, in the interests of the region, province or municipality principally entitled to receive the benefits of the extinguished institutions.

Article 41

Where neither the law which created or recognised them, nor the articles of association or foundational articles should establish the domicile of legal entities, it shall be deemed to be in the place where their legal representation is located, or where they exercise their main institutional functions.

ORGANIC LAW 10/1995, OF 23 NOVEMBER, OF THE CRIMINAL CODE

(PARTIAL INCLUSION: ARTICLES 515, 517-521)

Article 515.

Illegal associations shall be punishable and the following shall be regarded as such:

1. Those aiming at committing any offence or, after being established, encouraging thereof.
2. Those that despite their legal aim use violence, alteration or control of the personality to achieve thereof.
3. Organisations of paramilitary nature.
4. Those that encourage, promote or incite, direct or indirectly, hatred, hostility, discrimination or violence against persons, groups or associations on grounds on their ideology, religion or beliefs, or against their members or any of them due to their ethnic origin, race or nationality, gender, sexual orientation, family situation, illness or disability.

Article 517.

In the cases provided for in paragraph 1 and paragraphs 3 to 6 of Article 515 the following penalties shall apply:

1. A term of two to four year's imprisonment and a fine of twelve to twenty-four months for the founders, directors and chairpersons of the associations and disqualification from any public employment or office of six to twelve years.
2. A term of one to three years and a fine of twelve to twenty-four months for active members.

Article 518.

Those that through their financial support or of other type, in any event significant, promote the setting up, organisation or activities of the associations provided for in paragraph 1 and paragraphs 3 to 6 of Article 515 shall be liable to a term of imprisonment of one to three years, a fine of twelve to twenty-four months and disqualification from any public employment or office of one to four years.

Article 519.

Incitement, conspiracy and solicitation to commit the offence of illegal association shall be punishable by the penalty of one or two degrees below that which applies, respectively, to the acts provided for in the previous Articles.

Article 520.

Judges or courts in the cases foreseen in Article 515 shall order the dissolution of the illegal association and, when appropriate, any of the ancillary measures of Article 129 of this code.

Article 521.

For the offence of illegal association, should the accused be an authority, an authorised person or a civil servant thereof, absolute disqualification of ten to fifteen years shall be imposed on that authority or person in addition to the penalties stated.

ORGANIC LAW 1/2002, OF 22 MARCH, REGULATING THE RIGHT OF ASSOCIATION⁽¹⁾

JUAN CARLOS I

KING OF SPAIN

To all those who read and understand this Law

May you know: that the National Parliament has approved, and I come to ratify, the following Organic Law:

EXPLANATORY MEMORANDUM

I

The fundamental right of association, which is recognised in Article 22 of the Constitution, and of an old tradition in our constitutionalism, is a sociological and political phenomenon, as a natural tendency of people and an instrument of participation, over which the public authorities cannot remain unaffected.

Our Constitution is not oblivious to these ideas and, building on the principle of freedom of association, it contains rules concerning associations with constitutional significance, such as political parties (Article 6), trade unions (Articles 7 and 28), religious faiths (Article 16), consumer and user associations (Article 51) and professional organisations (Article 52), and in general terms it defines, in its Article 22, the common principles to all the associations, suppressing the preventive control

¹ Under the current Spanish Constitution of 1978, an Organic Law (*Ley Orgánica*) has an intermediate status between that of an ordinary law and of the Constitution itself. It must be passed by a majority of the Congress of Deputies. The Spanish Constitution specifies that some areas of law shall be regulated by this procedure, such as the Laws of Development of Fundamental Rights and Freedoms contained in the first section of Chapter Two of Title I of the Constitution.

system established in Law 191/1964, of 24 December, of Associations, and enabling its exercise.

Therefore, the unavoidable necessity to address the enactment of Article 22 of the Constitution, by Organic Law as it is the exercise of a fundamental right (Article 81), implies that the general regime of the right of association is compatible with the specific modalities dealt with in special laws and the rules giving effect to them, for political parties, trade unions, employers' associations, religious faiths, sports associations and professional associations of judges, magistrates and public prosecutors. With this aim, a minimum and common regime is established which is, also, the regime to which the associations for which there is no provision in the special law are subject.

It has been decided to include in a single regulating text the full and global regulation of all these aspects related to the right of association or to its free exercise, vis-à-vis to the possibility to differentiate, in legal texts, the aspects that constitute the essential core of the content of this right and can, therefore, be regulated by an Organic Law, of all those that do not require such regulating instrument since they have not this character.

This differentiation would have been unlikely to be feasible for the following reasons: first of all, in the current text, provisions of an organic and ordinary nature are interwoven, sometimes as different paragraphs of the same article, and therefore, to differentiate them would have led to a lack of technical quality of the rule, and to a greater difficulty to understand it, apply it and interpret it; and also, by consolidating in a single text the basic code regulating the right of association, always differentiating according to the organic or non-organic nature, it is favored its knowledge and management on the part of the citizens, whose perception of the right of association is basically unitary as regards its governing regulations, at least within the national scope.

It is also undeniable the importance that associations have for the preservation of democracy, as the EU Economic and Social Committee recalls in its Report of January 28, 1998.

Associations enable individuals to recognise themselves in their personal convictions to actively pursue their ideals, to fulfil useful tasks, to find their place in society, to be heard, to exercise any influence and to effect changes.

The citizens, by organising themselves, provide themselves with more efficient resources to convey to policy-makers their opinion on the different problems that society faces. Strengthening the democratic structures in society strengthens all democratic institutions and helps to preserve cultural diversity.

In this perspective, the legislator should be particularly aware, in regulating the right of association, of the mandate laid down in Article 9.2 of the Constitution, based directly in the nature of our State as a social and democratic rule of law. It is within this legislative framework where the task assigned to the public authorities of facilitating the participation of the citizens in all social scopes is called to find its true expression. This philosophy permeates this regulation, as one of the decisive tools to facilitate real and effective participation is the existence of a vigorous associative movement. This must be consistent with the respect for the freedom of association and with the non-interference in its internal functioning, so that different forms of interventionism contrary to our supreme rule are not hidden behind it on the pretext of promotion.

II

This Organic Law, following our legal tradition, limits its scope to non-profit associations, and does not extend it to civil, commercial and industrial societies and worker-owned firms, cooperatives and mutual entities, and to the jointly owned entities and communities of property owners, whose aims and nature do not respond to the essence commonly accepted of the associations, without prejudice of acknowledging that Article 22 of the Constitution may project tangentially its protective scope when this type of entities provide for rights that do not have a property-related nature.

Similarly, the corporations that exercise public functions by virtue of powers conferred on it by the State shall be excluded when they exercise them.

Also, the legal boundary protecting the right of association is set by the criminal unlawfulness of the association which is defined by the criminal law.

III

The right of association projects its protection from a dual perspective: on the one side, as the right of people within the scope of social life, and on the other side, as the capacity of the associations themselves to function.

The Law, in its various provisions, develops explicitly these two sides, systematically placed.

As regards the first one, the positive aspects like freedom and the will to constitute an association are to be found, and parallel to the observation of the entitlement to form associations, without prejudice to the conditions of its exercise established by the current legislation, and to the rights inherent to its condition of associate; and the negative ones imply that no one can be forced to join an association or to remain a member of an association.

The second one reflects the capacity of the associations to register in the corresponding registry of associations; to establish its own organisation within the legal framework; to carry out activities aimed at the accomplishment of their goals within the framework of the specific sectorial legislation; and, lastly, to not interfere with the Administrations, as is clearly stated in paragraph 4 of Article 22 of the Constitution, except the one that may be determined by the concurrence of other values, rights or constitutional liberties which should be subject of protection at the same time and level as the right of association.

IV

The increasing importance that the associations have in the legal relations suggest, as a guarantee for those participating of such relations, that the Law takes as a point of reference with regard to its regime of responsibility, the moment where the registration in the corresponding Registry of Associations takes place.

This same guarantee makes necessary to regulate important issues in the legal relations, as are the content of the minute of formation and of the articles of association, the modification, dissolution and liquidation of the associations, their documentary and accounting obligations, and the disclosure of the names of the members of the management and administrative organs.

The consequence of the registration in the Registry of Associations will be the separation between the assets of the association and the assets of the associates,

without prejudice of the existence, and the possibility of requirement, of the responsibility of those that, through their acts or omissions, cause damage to the association or to third parties.

V

According to Article 22.3 of the Constitution, the Government, in managing the Registries, lacks powers which may involve a material control of legalisation or recognition.

Therefore, the procedure for inclusion in the Registry of Associations is regulated within the above-mentioned constitutional limits, thereby establishing a system of positive silence consistent with the fact that it is the exercise of a fundamental right.

VI

This Law acknowledges the importance of the associative phenomenon as a tool for social integration and participation in public affairs, on which public authorities should maintain a careful balance, on the one side to guarantee the freedom of association, and on the other side, to protect the fundamental rights and liberties that may be affected by its exercise.

It is clear that associations have a key role in the different areas of social activity, contributing to an active exercise of the citizenship and to the consolidation of an advanced democracy, representing the interests of the citizens with regard to public powers and developing an essential function in, among other areas, developmental and environmental policies and those promoting human rights, youth, public health, culture, job creation and others of a similar nature, for which the Law provides the granting of aid and subsidies by the various public authorities, under the general legal and regulatory framework that provides for them, and to the specific framework that will be legally regulated in the future regarding this issue.

Therefore, it is included a chapter devoted to the promotion that incorporates, with procedural amendments, the regime of the associations of public interest, recently updated, as a dynamic tool for the carrying out of the activities of general interest, which will be a benefit for the general public.

In this sense, the important role of the volunteers cannot be forgotten. Thus, the administration shall take into account the existence and activity of the volunteers in their respective associations, and in the terms established by the Law 6/1996, of 15 January, on volunteer service.

VII

Chapter VII provides for the jurisdictional guarantees, without which the exercise of the right of association may become merely a statement of principles.

The application of the special proceedings for the protection of the fundamental rights of the individual that correspond in every jurisdictional order, do not offer any doubt, in all aspects that constitute the essential content of the right of association.

Also, paragraph 4 of Article 22 of the Constitution is object of development, establishing the causes for the judicial suspension and dissolution of the associations; and, as regards protection, in an ordinary proceeding, of the jurisdictional contentious-administrative and civil proceedings, the Law does not modify, in essence, the previous situation, referring as regards the jurisdictional competence to the Law on the Judiciary.

VIII

The new Law also provides for the possibility to create Sectoral Councils of Associations as collaboration and advisory bodies, of which representatives from the public authorities and the associations may be part, as framework for common action in the various associative sectors, considering its wide diversity, and that serve as a channel for communication, so that the role and the evolution of the associations respond to the current and future needs.

It is necessary that the associations collaborate not only with the public authorities, but also with the industry and the commerce, the business organisations and the union organisations; it is a collaboration build upon a relationship of mutual trust and of exchange of experiences, particularly as regards issues such as environment, culture, education, healthcare, social protection, the fight against unemployment, and the promotion of human rights. The creation of the Sectoral Councils of Associations aims at channeling and promoting this collaboration.

IX

This Law, by virtue of the first final disposition, is clearly respectful with the doctrine of the Constitutional Court, which is established in its judgment of 23 July 1998, concerning the reserve of organic law, and the system of distribution of competences deriving from the Constitution and from the Autonomy Statutes. Therefore, the existing autonomous legislation regarding associations has also been taken into account.

The Organic Law, ex-Article 81.1 of the Constitution, also extends, in the terms of paragraph 1 of the first final disposition, to the provisions of the Law considered as key elements of the content of the right of association, which manifests in four dimensions: in the freedom to form associations and to join the existing ones; in the freedom to not join an association and to withdraw from it; in the freedom of organisation and internal functioning without external interference; and in a set of powers of the associates considered individually vis-à-vis the associations to which they belong.

Article 149.1.1^a of the Constitution gives the State powers to regulate and to guarantee the primary content, the basic powers and the essential limits in all that is necessary to guarantee the equality for all Spanish citizens, and this Law concretises this empowerment in the exercise of the right of association, in the aspects regarding the definition of the legal concept of association, as well as in the external juridical regime of the associations, all of them aspects that require a uniform treatment.

The second of the enabling provisions which manifests in the Law is that provided for in Article 149.1.6^a of the Constitution, as regards procedural law, and meets the need to safeguard the uniformity of the judicial instruments.

The definition and regime of the associations declared to be of national public benefit aims at promoting the participation of the associations in carrying out activities of public interest, and therefore are made pursuant to the provisions of Article 149.1.14^a of the Constitution.

The remaining rules of the Law apply only to associations under the jurisdiction of the State, a jurisdiction that will extend to all other associations that are not under the exclusive jurisdiction of the Autonomous Communities and, when appropriate, to foreign associations.

In short, this Law aims at exceeding the pre-constitutional regulations in force, on the basis of essential criteria such as the democratic structure of the associations and its lack of profit-making goals, as well as at ensuring the participation of the individuals in those associations, and the participation of the associations themselves in the social and political life, in a spirit of freedom and pluralism, while acknowledging the importance of the role they have as social agents of change and social transformation, in accordance with the principle of subsidiarity.

CHAPTER I

General Dispositions

Article 1. *Purpose and Scope of Application*

1. The purpose of this Organic Law is the implementation of the right of association recognised in Article 22 of the Constitution and to establish those rules of legal regime of the associations that the State should lay down.

2. The right of association shall be governed, in general, by this Organic Law, and all non-profit associations that are not currently subject to a specific associative regime shall fall within its scope of application.

3. Political parties, trade unions and employer's associations, churches, religious faiths and religious communities, sport federations, consumer and user associations, as well as any other association regulated by specific rules shall be governed by their specific legislation.

Associations established by churches, religious faiths and religious communities for exclusively religious purposes shall be subject to the provisions of international treaties and specific legislation without prejudice to the supplementary application of this Organic Law.

4. Property ownership associations and the entities governed by the provisions concerning the partnership deed, cooperatives and mutual benefit societies, as well as the temporary joint ventures and the economic interest grouping shall be excluded from the scope of application of this Law.

Article 2. *Content and Principles*

1. Every person has the right to freely associate for lawful purposes.

2. The right of association includes the right to associate or to form associations, without first obtaining authorisation.

3. No one can be forced to form an association, to integrate in it or to remain in it, nor to declare membership to a legally established association.

4. The constitution of associations and the establishment of its organisation and functioning shall be made in the framework of the Constitution, of this Organic Law and of the rest of the legal order.

5. The internal organisation and functioning of the associations shall be democratic, honoring the concept of pluralism. The pacts, statutory dispositions and agreements that fail to recognise the aspects of the fundamental right of association shall be automatically void.

6. Public entities may exercise the right of association with each other, or with individuals, as a measure both for promotion and support, providing that it is done on an equal basis with them, in order to prevent a position of dominance in the functioning of the association.

7. Associations which pursue ends or use means classified as criminal offences are illegal.

8. Secret associations and those of a paramilitary nature are prohibited.

9. The membership status of a certain association cannot be taken, under any circumstance, as grounds for favour, advantage or discrimination to any individual on the part of the public authorities.

Article 3. *Capacity*

All natural or legal persons, whether public or private, may form associations and be part of them, in accordance with the following principles:

a) All natural persons must be legally capable and not be subject to any legal condition for the exercise of the said right.

b) Non-emancipated minors over the age of fourteen with the documented consent of the persons that must act on their behalf, subject to the arrangements set out for children and youth associations and students associations in Article 7.2 of the Organic Law 1/1996, of 15 January, on Legal Protection of Children.

c) Members of the Armed Forces and the Civil Guard shall be bound to their specific rules for the exercise of the right of association as regards professional associations.

d) Judges, magistrates and public prosecutors shall also be bound to their specific rules for the exercise of the right of association as regards professional associations.

e) Legal persons of an associative nature shall require the express agreement from its competent body and those of an institutional nature, the agreement from its governing body.

f) The associations may form federations, confederations or unions, in accordance with the requirements applicable for the constitution of an association, with the express agreement of their competent bodies.

g) Public legal persons shall be entitled to the right of association, in conformity with Article 2.6 of this Law, except where otherwise specified by their constituent and regulatory provisions, to which the exercise of that right shall comply, in any case.

Article 4. *Relations with the Public Administration*

1. Public authorities will encourage the constitution and development of the associations that carry out activities of public interest, within the scope of their respective competences.

2. The Public Administration shall not take preventive or suspension measures that interfere with the internal functioning of the associations.

3. The award of public aids or subsidies and, when appropriate, the recognition of other benefits set out by law or regulations shall be conditional upon all the requirements established in every case being met.

4. The competent authority shall offer advice and the technical information available when requested by anyone developing associative projects of public interest.

5. The public authorities shall not provide any type of support to associations that discriminate on grounds such as birth, race, sex, religion, opinion, or any other personal or social condition or circumstance.

6. The public authorities shall not provide any support, whether financial or of any other type, to those associations that promote or justify through their activity hatred or violence against any legal person or individual, or support or justify terrorism crimes by any means or anyone having participated in its perpetration, or engaged in actions

involving discredit, lack of respect and humiliation for the victims of terrorism or their families.

For this purpose, it will be presumed that an association carries out the aforementioned activities when any of the members of its representative bodies, or any other active member, has been convicted by a definitive judgment, of belonging, be at the service of or collaborating with an armed group, as long as he has not served fully the sentence, if he had not publicly rejected the purpose and the means of the terrorist organisation to which he belonged or with which he collaborated or supported or praised.

Also, any activity carried out by the members of the governing and representative bodies of an association, or by any other active members, when they act in the name, on the account or on behalf of the association, shall be considered as an activity of the association, even if it does not constitute the goal or the activity of the association in the terms established in its Statutes.

This paragraph shall be without prejudice to the provisions of criminal law and of Article 30.4 of this Law.

CHAPTER II

Starting an Association

Article 5. *Set up Agreement*

1. Associations are constituted by agreement of three or more natural or legal persons legally constituted that commit themselves to share knowledge, means and activities in order to achieve legal and common goals, as well as aims of public or particular interest, having a set of Statutes governing their functioning.

2. The set up agreement, which shall include the approval of the Statutes, shall be formalised by a Founding Act on a public or private record. The Act shall grant the association its legal entity and full capacity to act, without prejudice to the need of being registered for the purposes of Article 10.

3. The provisions of this Article shall also apply to the establishment of federations, confederations and association unions.

Article 6. *Founding Act*

1. The Founding Act shall include:

a) The name and surname of the association's advocates in case of natural persons, full name or business name in case of legal persons and, in both cases, the nationality and full address.

b) The advocates' will to start an association, the agreements reached, where appropriate, and the full name thereof.

c) The approved Statutes governing the functioning of the association, the contents of which shall comply with Article 7 hereunder.

d) The place and date of the Founding Act approval, and signature of the advocates or their representatives in case of legal persons.

e) The appointment of the members of the interim governing bodies.

2. For legal persons, a certificate of the agreement legally reached by the relevant body shall be attached to the Founding Act. The certificate shall include the will to form an association and join it, and the appointment of the natural person representing it. For natural persons, proof of their identity shall be required. In the event of members having approved the Founding Act be represented by a proxy, some proof of the identity thereof shall be attached.

Article 7. *Statutes*

1. The Statutes shall contain the following information:

a) The business name.

b) The address and area of action where the activities will be developed.

c) The duration in the event of associations not formed for an unlimited period of time.

d) The aims and activities precisely detailed.

e) The requirements and possible forms to join the association or leave it, the sanctions and removal of its members and, if applicable, types thereof. The consequences of the non-payment of assessed contributions by members may also be included.

f) The rights and obligations of the members and, if applicable, the diverse types of membership.

g) The rules assuring the democratic functioning of the association.

h) The governing and representative bodies' details: membership, rules and procedures to appoint and replace its members, responsibilities, term of office and grounds for their dismissal. The manners to discuss, adopt and implement the agreements and the persons or positions that can certify them shall be also included, as well as the requirements to validly constitute the aforementioned bodies and the number of members required to convene sessions of the governing bodies or to propose issues for the agenda.

i) The rules governing the administration, accounting and document management, as well as the end of the association's financial period.

j) The initial capital and available financial resources.

k) The reasons for the dissolution of the association and allocation of the assets, in such a case, while preserving its non-profit nature.

2. The Statutes may also include any other legal arrangements and conditions considered necessary by the advocates, provided that they do not oppose legislation nor run counter to the founding principles of the association.

3. The content of the Statutes shall not be contrary to the legal system.

Article 8. *Business Name*

1. The business name shall not include any term or expression leading to mistake or confusion about the identity, type or nature thereof, in particular by using words, concepts or symbols, acronyms and similar word formations from other legal persons whether or not of associative nature.

2. Names with expressions contrary to legislation or that might impinge upon individuals' fundamental rights shall not be allowed.

3. In order to avoid confusion, names shall not be identical or similar to that of any other association previously registered in the same registry, any private or public legal person, any existing entity, whether Spanish or not, any natural person, except with their express consent or that of their successor, nor any well-known trademark unless so requested or allowed by the owners.

Article 9. *Registered Office Address*

1. Associations formed in accordance with this Act shall have their registered office in Spain, in the location indicated in their Statutes, which could be either the main office of their representative bodies or the place where the activity is mainly developed.

2. Associations carrying out their activities primarily in Spain shall have a registered office within the country.

3. Without prejudice to what is provided for in the EU law, in order to engage in activities in Spain on a permanent basis, foreign associations shall have one office in Spain.

Article 10. *Official Registration*

1. Associations under this Act shall register in the relevant registry for the sole purpose of public knowledge.

2. The setting up and the Statutes of an association are made public with the official registration of the association, becoming thus a guarantee for its members as well as for third parties dealing with it.

3. Advocates shall take the necessary steps for the registration; otherwise, they shall be held liable for non-compliance.

4. Without prejudice to the responsibility of the association, advocates of non-registered associations shall be jointly and severally liable for their obligations to third parties. In that event, the members shall be severally liable for the obligations to third parties assumed by any of them, provided that they declared to act on behalf of the association.

CHAPTER III

Functioning of Associations

Article 11. *Associations' Regime*

1. The associations' regime regarding their setting up and registration shall be determined by what is stated in the present Organic Law and the regulatory provisions thereof.

2. With regard to their internal regime, associations shall bring into line their functioning to what is established in their Statutes provided they are neither contrary to the present Organic Law nor to the regulatory provisions established for the enforcement thereof.

3. The General Assembly is the supreme governing body of an association composed by members reaching their agreements democratically by a majority vote and who shall meet at least once a year.

4. There shall be a representative body to manage and represent the interests of associations according to the provisions and directives of the General Assembly. Only the members of associations shall be part of the representative body.

Without prejudice to what is established in the Statutes, in order to be a member of the representatives bodies of an association, the following requirements shall be met: being over 18, enjoying full rights as a citizen and not being subject to any incompatibility laid down in the current legislation.

5. Should the members of the representative bodies be paid according to their positions, this shall be included in the Statutes and annual accounts approved by the Assembly.

Article 12. *Internal Regime*

Unless provided for otherwise in the Statutes, the internal regime of associations shall be as follows:

a) The powers of the representative body shall extend, on a general basis, to all the acts pertinent to the aims of the association, provided an express authorisation established in the Statutes is not required by the General Assembly.

b) Without prejudice to what is laid down in Article 11.3, the representative body shall convene the General Assembly in extraordinary session when requested by a number of associates of not less than 10%.

c) The General Assembly shall be legally constituted, subject to advance notice fifteen days before the meeting, if attended by a third of the members, either present in person or represented. The president and secretary shall be appointed at the beginning of the meeting.

d) Agreements of the General Assembly shall be reached by simple majority of those present in person or represented when the number of affirmative votes exceed the no' votes. However, a qualified majority of those present in person or represented, when affirmative votes exceed half of the total votes, shall be required for agreements on the association dissolution, amendments of the Statutes, use and conveyance of assets, as well as remuneration of the members of the representative body.

Article 13. *Activities Regime*

1. Associations shall carry out the activities necessary to achieve their aims while abiding by the specific provisions governing such activities.

2. Profits earned by associations through their financial activities, included through services provided, shall be only allocated to achieve their objectives and in no event may be shared among the members of the associations, spouse or cohabitants, relatives, nor be freely granted to natural or legal persons in order to make a profit.

Article 14. *Accounting and Document Obligations*

1. Associations shall have an updated list of their members, keep an account giving a true and fair view of the assets, economic performance, financial situation and activities carried out, make an asset inventory and keep a written record of the minutes of the meetings of the representative and governing bodies. Accounts shall also be kept in compliance with the specific applicable regulation.

2. Members shall be entitled to have access to all the aforementioned documents through the representative bodies under the terms of 15/1999 Organic Law, of 13 December, on Personal Data Protection Act.

3. The financial statements shall be annually approved by the General Assembly.

Article 15. *Liability of Registered Associations*

1. Registered associations shall comply with the obligations with both, their current and future assets.

2. Members shall not be severally liable for the debts of associations.

3. Members or heads of the governing and representative bodies and other individuals acting in the name of and on behalf of associations shall be accountable to them, to the members and third parties for damages and debts incurred due to wilful, fault-based or negligent acts.

4. Persons referred to in the previous paragraph shall be made civilly and administratively accountable to third parties, the associations themselves and members thereof for acts and omissions committed while carrying out their duty as well as for agreements voted on.

5. In the event that none of the members of the associations or heads of the governing and representative bodies may be made accountable, they shall be jointly liable for the acts and omissions referred to in paragraphs 3 and 4 of this Article, unless they can prove they did not approve of them nor execute them or were specifically opposed to.

6. Criminal responsibility shall be governed in accordance with the provisions of the criminal law.

Article 16. *Amendments to the Statutes*

1. Any amendments of the Statutes affecting the content of Article 7 shall require an agreement by the General Assembly specifically convened for that end. They shall also be registered within a month and only have effect, for the members as well as for third parties, from the day of their registration in the relevant registry of associations. The effects of the absence of any notification within the established deadline as set up in Article 30.1 of this Act shall apply.

The remaining amendments shall be implemented for the members from the day of their adoption in accordance with the statutory procedures, and for third parties from the moment of their registration in the relevant registry.

2. Requirements for the register of the amendments to the Statutes shall be the same as those for the register of the Statutes.

Article 17. *Dissolution*

1. Associations shall be dissolved on the grounds set in the Statutes, and, failing this, according to a voluntary decision of the members expressed in the General Assembly convened for this purpose, or on the grounds laid down in Article 39 of the Civil Code, as well as by a final judgment.

2. In all cases of dissolution the assets shall be used as determined in the Statutes.

Article 18. *Liquidation of Associations*

1. The period of liquidation shall commence at the moment of the dissolution of an association. Associations shall be a legal entity until the end of this period.

2. Members of their representative body shall become liquidators at the time of the dissolution, unless otherwise specified in the Statutes. They shall also become liquidators by appointments made by the General Assembly or by the judge having dissolved the association, if that was the case.

3. Liquidators shall:

- a) Ensure the integrity of the assets of the associations.
- b) Complete the necessary pending transactions and conduct others in order to do the liquidation.
- c) Recover debts of the associations.
- d) Settle the assets and pay the creditors.
- e) Use the surplus assets of the associations for the aims stated in the Statutes.
- f) Request the cancellation of the registrations' entries.

4. In the event of insolvency, the representative body or, if applicable, the liquidators, shall have to initiate immediately insolvency proceedings before the relevant Court.

CHAPTER IV

Members of Associations

Article 19. *Right to Associate*

Membership of an association is a free and voluntary act that must be in accordance with the Statutes.

Article 20. *Membership by Succession*

Unless otherwise stated in the Statutes, membership cannot be inherited free of charge or due to death.

Article 21. *Membership Rights*

All members shall have the right to:

- a) Participate in the activities of the associations as well as in the representative and governing bodies, vote and attend the General Assembly, according to the Statutes.
- b) Be informed of the composition of the governing and representatives bodies of the associations, of the state of the accounts and of the development of the activities.
- c) Be heard before any disciplinary action is taken against them and be informed of the facts resulting in this action. The decision to impose a penalty shall be reasoned.
- d) Challenge the agreements of the bodies of the associations contrary to the law or the Statutes.

Article 22. *Membership Obligations*

Members shall:

- a) Share the aims of the associations and cooperate to achieve them.

b) Pay the fees, apportionment and other contributions that, according to the Statutes, must be paid by the members.

c) Fulfill the obligations arising from the provisions of the Statutes.

d) Abide and comply with the agreements properly concluded by the representative and governing bodies of the associations.

Article 23. *Intention to End Membership*

1. Members have the right to leave associations voluntarily at any time.

2. The Statutes may provide that in case of members leaving voluntarily, they shall receive the share of the initial capital or other financial contributions made by them, with membership fees paid not included, according with the conditions, scope and limits established in the Statutes. This shall not be detrimental for third parties.

CHAPTER V

Association Registries

Article 24. *Right to Register*

The right to associate includes the right to register in the relevant registry of associations. This right shall only be denied if the requirements in the present Organic Law are not fulfilled.

Article 25. *National Registry of Associations*

1. The National Registry of Associations, attached to the body determined by regulations, shall be designated to register associations and other acts subject to registration, according to Article 28, regarding:

a) Associations, federations, confederations and associations unions operating at national level or not primarily developing their activities in a particular Autonomous Community.

b) Foreign associations developing their activities in Spain on a permanent basis that shall have one office in Spain.

When the scope of their activities is primarily that of one or several Autonomous Communities, these Autonomous Communities shall be informed of their registration by the National Registry of Associations.

2. In addition to the registrations referred to in paragraph 1, the relevant Administration shall inform the National Registry of Associations about the registration and dissolution entry of the associations which are legally bound to register or submit their Statutes in ad hoc registries.

3. In order to avoid duplicity or similarity of names that can lead to mistake or confusion regarding other existing entities or bodies, including religious ones registered in the relevant registries, the National Registry of Associations shall keep a record of names.

4. The structure and functioning of the National Registry of Associations shall be established by regulations.

Article 26. *Registries of Associations of the Autonomous Communities*

1. A registry of associations shall be established in each Autonomous Community, in which associations conducting activities mainly in their territory shall be registered.

2. In any event, registries referred to in this Article shall inform the National Registry of Associations of all records relating to the registration or dissolution of associations of the Autonomous Communities.

Article 27. *Cooperation and Collaboration among Registries*

Appropriate cooperation and collaboration mechanisms among the different registries of associations shall be established.

Article 28. *Documents Subject to Compulsory Registration and Repository of Documents*

1. Registration of associations shall include all the records, as well as any modification thereof, relating to the following:

- a) Name.
- b) Address.
- c) Aims and activities included in the Statutes.
- d) Territorial scope of activities.
- e) Identity of persons in charge of the executive and representative bodies.
- f) Opening and closure of offices and establishments of the association.
- g) Date of setting up and registration.
- h) Declaration and revocation of the status of association of public interest.
- i) Associations forming or joining federations, confederations and unions.
- j) Membership in other associations, federations, confederations, unions or international bodies.
- k) Withdrawal of registration, suspension or dissolution of the association and reasons thereof.

2. The following documents, whether in their original form or by means of certificates, shall be presented in the registries of associations:

- a) The founding Act and documents including any agreement to amend details registered or implying the registration of new elements.
- b) The Statutes and amendments.
- c) Documents relating to the opening, relocation or closure of offices and establishments.
- d) Documents relating to the membership or withdrawal from federations, confederations and unions. In the registry where associations are registered, documents relating to memberships or withdrawals shall be also submitted.
- e) Documents relating to the dissolution and use given to the remaining assets of the association.

3. Foreign associations, validly founded according to their law and the present Act, shall register the data referred to under a), b), c), d), e), f) of paragraph 1, as well as the

definitive cessation of activities in Spain; they shall also present documents referred to under b), c) and e) of paragraph 2, as well as documents certifying their legal founding.

4. Any substantial modification of the data or documents registered shall be updated, upon request from the association concerned, within one month from the moment when the above-mentioned change occurs.

Article 29. *Publicity*

1. Registries of associations are public.

2. Publicity shall be ensured by certifying the content of the records through uncertified extracts, copy of such records and registered documents or by electronic means, according to the legislation in force as regards the protection of personal data.

Article 30. *Legal Regime Applying to the Registration*

1. The deadline for registration is three months from the reception of the corresponding application by the competent body.

After expiry of the given period and in the absence of any notification, the applicant may consider its request for registration as accepted.

The Administration shall register the association, verifying that both the Founding Act and Statutes meet the legal requirements.

2. Should mistakes be noted in the application or documents attached, or should the name of the association be identical to that of any other previously registered or may lead to mistake or confusion, or coincide with a well-known registered trademark, unless so requested or allowed by the owners, the deadline for registration shall be suspended and a period for correction of errors opened.

3. In the event that the applicant body is not included in the scope of the present Act or cannot be considered as an association, the Administration, after hearing the body concerned, shall always communicate reasoned refusal to the registration, indicating the competent registry or administrative body to do so.

4. Where prima facie evidence of criminal unlawfulness regarding the founding of the association is disclosed, the competent body shall issue reasoned order, transferring the corresponding documents to the Public Prosecutor's Office or the competent judicial

body and informing the association concerned of its decision. The administrative procedure for registration shall be suspended until a final judgement is pronounced.

Where prima facie evidence of criminal unlawfulness regarding the activity of the association is disclosed, the competent body shall issue reasoned order, forwarding the corresponding documents to the Public Prosecutor's Office or the competent judicial body and informing the association concerned of its decision.

5. In the cases referred to in paragraphs 2 and 3 of this Article, provision shall be made for appeal to the competent Contentious-Administrative Court; in the event of paragraph 4, provision shall be made for appeal to the competent Criminal Court.

CHAPTER VI

Encouragement Actions

Article 31. *Encouragement Actions*

1. Public Administration, within the scope of its competence, shall encourage and promote the starting up of associations, federations, confederations and unions pursuing goals of general interest, fully respecting their freedom and independence from public powers. They shall also provide the appropriate collaboration to those willing to undertake associative projects.

2. The General State Administration, within the scope of its competence, shall promote the establishment of assistance mechanisms, information services, outreach campaigns, as well as of means of recognition of the activities of the associations pursuing goals of general interest.

3. Associations pursuing goals of general interest shall benefit from financial assistance and subsidies for concrete activities in accordance with the terms and conditions set out by the competent Ministry or Ministries.

Public subsidies granted to carry out specific activities and projects shall be used only for the identified specific purposes and shall be subject to the general legislation applying to public subsidies.

4. Unregistered associations shall not be entitled to the guaranties and rights referred to in this Article.

5. Public Administration, within the scope of its competence, may establish collaboration agreements for programmes of social interest with associations pursuing goals of general interest.

Article 32. *Associations of Public Interest*

1. Upon request of the associations concerned, those meeting the following requirements may be declared associations of public interest:

a) Associations pursuing, according to their Statutes, goals of general interest, as established by Article 31.3 of the present Act, and of civic educational, scientific, cultural, sporting and health nature, as well as those promoting values related to the Spanish Constitution, promoting human rights, victims of terrorism, social assistance, development cooperation, women empowerment, family and family protection, child protection, equal opportunities and tolerance, environmental protection, social economy and research, voluntary community service, consumers and users protection, protection of people at risk of social exclusion due to physical, social, financial or cultural circumstances, and any other of similar nature.

b) Associations whose activities are not limited to the sole benefit of their members but are also open for other potential persons meeting the requirements of the association.

c) Associations in which remunerations of the members of their representative bodies are not paid from public funds and subsidies.

Notwithstanding the above, under the terms and conditions established by the Statutes, the members of the representative bodies of associations may receive an appropriate remuneration for doing work other than their regular one as members of the representative body.

d) Associations with the appropriate equipment, management and number of members to ensure the fulfilment of their statutory aims.

e) Associations established and entered in the corresponding registry, that have been operational and fulfilling their statutory aims ceaselessly at request during at least the two years prior to the submission of the application.

2. Federations, confederations and unions of associations under this Act may be declared of public interest provided that the requirements set in the previous paragraph are met both by the federations, confederations and unions and each member of these entities.

Article 33. *Rights of Associations of Public Interest*

Associations of public interest shall be entitled to the following rights:

- a) Using the statement 'declared of public interest' in all documents after the name of the association.
- b) Benefiting from the exemptions and tax benefits recognised by law, under the terms and conditions of its regulations.
- c) Obtaining financial benefits as established by law.
- d) Enjoying free legal aid, under the terms established by the specific legislation.

Article 34. *Obligations of Associations of Public Interest*

1. Associations of public interest shall present in the National Registry of Associations both financial statements of the previous financial year within six months from its closure and a report describing the activities carried out. The annual accounts shall give a true and fair view of the association's assets, results and financial position, as well as of the source, amount, and use of the government assistance.

Regulations shall establish under which circumstances such accounts shall be audited.

2. In addition, associations of public interest shall present all reports required by the Public Administration relating to the activities undertaken to meet their objectives.

Article 35. *Procedure for Designation as Association of Public Interest*

1. The designation as association of public interest shall be approved by a ministerial order established by regulation, on the basis of a favourable report from the Public Administration with powers in the corresponding area, as well as from the Ministry of Finance.

2. The designation shall be revoked, after hearing the association concerned and on the basis of a report from the competent Public Administration, when the circumstances or activities of the association do not meet the requirements set by Article 32 or the persons responsible for its management do not comply with the content of the above-mentioned Article.

3. The procedure for designation and revocation shall be established by regulation. In the case of designation, if a decision on the application is not adopted within the period established for that purpose, this shall result in the rejection of the application.

4. Designations and revocations shall be published in the State Official Gazette.

Article 36. *Other Benefits*

Regulations set out in this Chapter are without prejudice to the powers of the Autonomous Communities to declare those associations mainly developing their activities within a single Community as associations of public interest, with a view at granting them the benefits established in the legislation of the Community according to the procedure laid down by the corresponding Autonomous Community, respecting their powers.

CHAPTER VII

Judicial Protection

Article 37. *Judicial Protection*

Freedom of association regulated in this Act shall be ensured through the special judicial proceedings established to protect fundamental rights before Courts and, if necessary, before the Constitutional Court, according to its regulation.

Article 38. *Suspension and Judicial Dissolution*

1. Except in the case of dissolution by virtue of the will of the members, associations shall only be suspended or dissolved by court order.

2. The dissolution shall be only ordered in the following cases:

a) If they are considered to be illegal according to criminal law.

b) If there are causes established in this Act or in special regulations, or if the associations are declared null or dissolved according to civil law.

3. In the aforementioned judicial proceedings, the competent Court may order, at its own initiative or at the request of a party, the provisional suspension of an association until a final judgment is delivered.

Article 39. *Administrative Courts*

Administrative Courts shall be competent to deal with the disputes relating to the administrative proceedings followed as a result of this Act, according to the rules established in the Organic Law of the Judiciary and the Act regulating the Administrative Justice System.

Article 40. *Civil Courts*

1. According to the Organic Law of the Judiciary, Civil Courts shall be competent to deal with claims relating to civil legal relations of the associations and their internal functioning.

2. Should agreements and actions of associations be considered contrary to the legal system by members or persons who have legitimate interest, they may be challenged, following the proceedings legally established.

3. Members shall be entitled to contest agreements and actions of the association that they consider as breaching the Statutes within a period of 40 days from the date of their approval requesting either their rectification or invalidation and, if necessary, their provisional suspension or both claims, according to the rules laid down in the Civil Proceedings Act.

4. Until potential internal strife is solved requests to register contentious issues of associations shall result in provisional annotations.

Article 41. *Communications*

Courts shall order the inclusion in the corresponding registries of associations of judicial decisions relating to:

- a) Registration of the associations.
- b) Suspension or dissolution of the associations registered.
- c) Modification of all elements relating to their Statutes.
- d) Closure of all their establishments.
- e) Any other decision relating to acts that may be included in the abovementioned Registries.

CHAPTER VIII

Sectoral Councils of Associations

Article 42. *Sectoral Councils of Associations*

1. With the aim at ensuring collaboration among Public Administration and associations and establishing a way to facilitate participation of citizens in public life, Sectoral Councils of Associations may be established as consultation, information and advisory bodies for specific fields.

2. Sectoral Councils of Associations shall be composed of representatives of the Public Administration, of the associations and of other members appointed on the basis of their particular experience and knowledge, in full observance of distribution of powers.

3. Their establishment, composition, powers, functioning and administrative dependence shall be established by regulation for each concrete sector.

ROYAL DECREE 949/2015, OF 23 OCTOBER, ADOPTING THE IMPLEMENTING REGULATIONS FOR THE NATIONAL REGISTRY OF ASSOCIATIONS

(PARTIAL INCLUSION: ARTICLES 63-66)

Section 10 Registration of Offices of Foreign Associations in Spain

Article 63. *Application*

Foreign associations operating in Spain on a regular and permanent basis shall inform the National Registry of Associations of the opening, relocation or closure of their offices on the national territory.

Article 64. *Documents to be submitted along with the application*

1. For the opening of offices:

a) Supporting documents issued by the competent authorities of the country of origin certifying that the association is legally set up according to the regulations of that country and that it has been registered, authorised, legalised or recognised.

b) The Statutes or any similar document regulating the organisation and the functioning of the association.

c) Agreement by the competent body of the association on the opening of an office in Spain and data thereof.

d) Documents certifying both, the identity of the representatives in Spain and that they are empowered to represent the association.

e) Address of the office in Spain.

Documents referred to under a) and b) shall be submitted duly validated according to the regulations on legalisation for foreign public documents.

2. For the relocation of offices within Spain, the agreement of the competent body on the decision to relocate the office shall be submitted along with the application, indicating the new address.

3. For the closure of offices, the agreement of the competent body on the decision to close the office in Spain shall be submitted along with the application, indicating the date thereof.

Article 65. *Obligations of Foreign Associations*

Foreign associations conducting their activities in Spain through offices must request their data be updated according to Article 28.4 of Organic Law 1/2002, of 22 March.

Article 66. *Language of proceedings*

Applications and documents accompanying thereof shall be presented in Spanish.

