

Date Printed: 02/05/2009

JTS Box Number: IFES_49
Tab Number: 37
Document Title: DRAFT LAW OF THE REPUBLIC OF TAJIKISTAN
ON PUBLIC ASSOCIATIONS
Document Date: 1998
Document Country: TAJ
Document Language: ENG
IFES ID: EL00714



UNMOT Legal Section

Unofficial Translation from Tajik

**Draft Law of the Republic of Tajikistan
On Public Associations**

Chapter I General Provisions

Article 1 Citizens' Right to Association

Citizens' right to association includes the right to voluntarily establish Public Associations to defend common interests and achieve common aims; the right to join Public Associations or to abstain from joining Public Associations; as well as the right to unimpededly leave the Association.

The establishment of Public Associations contributes to the implementation of citizens' rights and legal interests.

Citizens are entitled to organize Public Associations in accordance with the Constitution and legislation of RT without advance permission by Government and local authorities as well as to join Public Associations according to the rules of their Statutes.

Article 2 Legislation on Public Associations

Citizens' right to association, the guarantees of this right, status, procedures for the establishment and activities, reorganization and liquidation of Public Associations are defined by the Constitution of RT, this Law and other legislation on Public Associations.

Article 3 The Scope of this Law

The scope of this Law includes all Public Associations which were organized at the initiative of citizens and legal persons, except political parties, religious organizations and profit and non-profit organizations.

The scope of this Law also covers the activities of non-profit, non-governmental foreign associations, organizations, committees and their sub-units and representations located on the territory of RT.

Article 4 The Concept of "Public Association"

"Public Association" means the voluntary, self-managing non-profit entity which is organized at the initiative of citizens, based on their common interests, in order to achieve the common aims stated in the Statute of the Public Association.

Political parties, mass movements, trade-unions, organizations of women, veterans, the disabled, youth and children, unions of specialists in science and technology, cultural, educational and sports institutions, unions of creative workers, funds, committees

other associations of citizens are recognized as Public Associations. The scope of this Law does not extend to political parties and organizations which serve enterprises and other entities to obtain a profit and were organized in accordance with other laws.

Article 5 The Purpose of the Establishment and Activities of Public Associations

Public Associations are established to achieve aims and defend political, economic, social, cultural, civil rights and freedoms of citizens. In accordance with the Constitution of RT, the establishment and activities of those Public Associations are prohibited which provoke racial, national, social, religious hostility or call for an overthrow of the constitutional regime or organize armed groups. The establishment and activities of Public Associations which provoke localist tendencies are also prohibited.

Article 6 The Principles of the Establishment and Activities of Public Associations

Public Associations are equal before the law regardless of their form of establishment. The activities of Public Associations are voluntary and based on the principles of equality and self-management. Public Associations are free to define their structure, aims, forms and principles of activity. Employees of Public Associations are covered by labour, social security and social insurance laws.

Article 7 The Government and Public Associations

The Government observes the rights and legal interest of Public Associations and guarantees the implementation of the rules of their Statutes in accordance with the Constitution.

The interference of Government organs and officials in the activities of Public Associations as well as the interference of Public Associations in the activities of Government organs and officials is prohibited, except in cases foreseen by the law. The Government provides material and finance assistance to youth, children, philanthropic organizations and organizations of the disabled. Children's organizations are allowed to use school buildings, pre-school institutions, clubs, palaces, and houses of culture, sports and other facilities free of charge or on preferential terms. Other arrangements of Public Associations are to be covered by their own funds.

Article 8 The Activities of Public Associations on the Territory of RT

In RT, international, national and local Public Associations may be organized and operate

National Public Associations are associations whose activities, according to their Statutes, cover all territory of RT or to most regions, cities and districts.

Local Public Associations comprise regional, municipal, district and rural Public Associations.

Chapter II The Establishment of Public Associations, their Reorganization and Liquidation

Article 9 The Establishment of Public Associations

A Public Association is established at the initiative of its founders - no less than three citizens. The founders of Public Associations may also be legal persons, i.e. Public Associations.

Decisions on the establishment of a Public Association, the approval of its Statute and appointment of its executive body are taken by the members' Congress or general meeting. Upon adoption of a corresponding decision, the Public Association is considered established.

A Public Association acquires legal capacity as a legal entity upon registration.

Article 10 The Organizations (Associations) of Public Associations

A Public Association, regardless of its legal form of establishment, is entitled to set up organizations (associations) and new Public Associations in accordance with its founding agreements and Statutes. The organizations (associations) of a Public Association acquire legal capacity as legal entities upon registration.

The establishment, activities, reorganization and liquidation of organizations (associations) of a Public Association with the participation of non-profit, non-governmental associations are executed according to the provisions of this Law.

Article 11 Requirements Regarding Founders, Members and Participants of Public Associations

Founders, members and participants of Public Associations are citizens who reached the age of 18 or legal persons (Public Associations), unless this Law or other laws stipulate otherwise. Foreign citizens and persons without citizenship may be founders, members and participants of Public Associations, except in the cases excluded by laws of RT or international norms.

Citizens who reached the age of 14 may be members and participants of youth Public Associations.

Citizens who reached the age of 10 may be members and participants of children Public Associations.

Government and local government organs (hukumats and village councils), institutions and organizations of a different kind of ownership cannot be founders, member participants of Public Associations.

Article 12

The Statute of Public Associations

The Statute of a Public Association must include the following:

1. Name, aims and tasks of the Public Association
2. Structure of the Public Association; executive body; supervision and audit of the Public Association is effected on the territory of activities of the Public Association
3. Terms and procedures of acquisition and loss of membership; rights and obligations of members
4. Competences and procedures of appointment of the executive body of the Public Association; mandate and location of its permanent organ
5. Procedures for changing and amending the Statute
6. Sources of funds and other property of the Public Association; the right of the Public Association and its organizations to manage the property of the Public Association
7. Procedures for the reorganization and liquidation of the Public Association

It is possible to include further regulations in the Statute of a Public Association, if they do not violate legislation.

Article 13

Registration of Public Associations

The registration of national and international Public Associations is effected by the Ministry of Justice of RT.

The registration of local Public Associations is effected by departments of Gorno-Badakhshan and other regions.

The registration of Public Associations operating in Dushanbe and cities and districts of national subordination is effected by the Ministry of Justice of RT.

For the registration of Public Associations the following documents are to be submitted:

- an application including the addresses of the members of the permanent executive body
- two copies of the Statute
- the minutes of the Public Association's Founding Congress, including information about the establishment of the Public Association; approval of its Statute and appointment of its executive body
- information about the founders
- document proving payment of registration fees
- document stating the legal address of the Public Association.

The documents for registration are to be submitted within three months after the Founding Congress.

Registration will come into effect within 30 days after submitting the above-mentioned documents. This term is completed after correction of faulty documents.

Changes and amendments to the Statute of a Public Association are registered following the same order and time-frame as the Public Association itself and enter into legal force upon registration.

Changes and amendments to the Statute of Public Associations for registration purposes are subject to dues according to the regulations fixed by the Government of RT.

Article 14 Refusal of Registration of a Public Association

The reasons for refusal of registration are the following.

- if the Statute of a Public Association is contradictory to the Constitution of RT, to Articles 7,8,11,12 of this Law or other legislation of RT
- if another Public Association was registered under the same name at the same place
- if the name of the Public Association offends moral, national or religious sentiments.

In case registration is refused, a written explanation, stating the reasons, is forwarded to the Public Association.

This a decision can be appealed to the Supreme Court of RT, the court of Gorno-Badakhshan and other regional courts.

An application for registration is not considered for the following reasons:

- if the proper documents for establishment were not submitted
- if the registration bodies find incorrect information about the Public Association in the submitted documents.

Article 15 The Insignia of Public Associations

Public Associations may use banners, badges, pins and other insignia.

The insignia of Public Associations must not resemble the insignia of the Government of RT or foreign countries.

Article 16 Cessation of Public Associations' Activities

The activities of a Public Association may be ceased in accordance with Article 28 of this Law.

- Cessation of the activities of a Public Association means ceasing the following: use of the status of legal entity; unhindered dissemination of information about its activities; promotion of the Statute's ideas and aims; participation in the establishment of Government organs; organization of meetings, street marches, demonstrations and gatherings, except meetings of the Public Association's executive body provided for in the Public Association's Statute.

Article 17 Reorganization of Public Associations

- The reorganization of Public Associations is effected according to the decision of the Congress or general meeting of the Public Association. The registration of a newly established Public Association is effected in accordance with this Law.

Article 18 Liquidation of Public Associations

A Public Association is liquidated by decision of its Congress or general meeting in accordance with the Public Association's Statute and Article 29 of this Law.

After liquidation, the property of the Public Association must be used for the payment of its debts and implementation of the Statute's aims or for other purposes determined by the Public Association's Congress or general meeting.

The decision about the liquidation of the Public Association as a legal entity is sent to the registration bodies to have the Public Association removed from the state register.

Chapter III The Rights and Obligations of Public Associations

Article 19 The Rights of Public Associations

With a view to achieving the aims of its Statute, a Public Association has the right to:

- freely disseminate information about its activities
- participate in elaborating decisions of Government bodies in accordance with the provisions of this Law and other legislation of RT
- conduct meetings, demonstrations and street marches
- organize its press and mass media and exercise publishing activities
- defend its members' and other citizens' rights during court procedures;
- take initiative to discuss pending social problems and bring these issues to the attention of Government bodies
- take part in election campaigns
- exercise its competences as stated in this Law and other legislation on Public Associations

Article 20 The Obligations of Public Associations

A Public Association is obliged to:

- observe and implement the Constitution and other laws of RT, international norms recognized by RT, as well as regulations contained in its Statute or founding documents
- submit annually information to registration bodies about its activities and location of its executive organ
- submit to registration bodies the decisions of its executive organs, following the stipulated order
- allow representatives of registration bodies to attend events organized by the Public Association.

Chapter IV The Property and Management of Property of Public Associations

Article 21 The Property of Public Associations

A Public Association, as a legal entity, may own the following property: buildings and constructions sites, housing funds, means of transport, equipment, means for cultural, educational and health protection activities, financial means and other property for the material support of the Public Association's activities.

The institutions, printing houses and mass media which are established with a public

association's funds may also be its property.

The legislation of RT may define other forms of property which, because of national and public security reasons or according to international agreements, cannot be the property of a Public Association. The property of a Public Association is protected by law.

Article 22 Mass Media and Public Associations' Publishing Activities

Public Associations have the right to establish their own mass media and exercise publishing activities in accordance with the Press Law of RT and other legislation on mass media.

Article 23 Sources of Funding of Public Associations' Property

The property of Public Associations is funded by membership fees, if foreseen in the Statute; by voluntary contributions; profits from production, economic, entrepreneurial and publishing activities; by profits from lectures, performances, lotteries, auctions, sports and other activities not forbidden by law.

A Public Association may exercise entrepreneurial activities necessary to achieve the statutory aims for which it was set up. A Public Association's entrepreneurial activities are regulated by the legislation of RT.

Profits from production, economic, entrepreneurial and publishing activities of a Public Association are not to be divided among members and must be used only for the achievement of its Statute's aims. It is possible to use these means for charity.

Article 24 The Legal Subjects of Public Associations' Property

The legal subjects of a Public Association's property may be Public Associations which have the status of legal entity. Individual components of a Public Association are not entitled to the property of the Public Association.

In a Public Associations, in which all components are acting as one in accordance with the Statute, the Public Association has the property right. The components of a Public Association have the right to manage their own property.

Chapter V Monitoring of Public Associations' Activities; Responsibility for Violation of Legislation

Article 25 Observation and Monitoring of Public Associations' Activities

A Public Association's compliance with laws on the territory of RT is monitored by the Prosecutor-General and subordinated prosecutors on their respective territories.

Finance and taxation bodies check the sources of Public Associations' profits and levy taxes in accordance with the legislation of RT.

Registration bodies monitor adherence to the aims stated in the Public Association's Statute. Registration bodies are entitled to demand from the executive organ of a Public Association to submit adopted decisions of the Public Association, send their representatives to participate in events organized by the Public Association as well as to demand from members and other citizens explanations regarding the implementation of the Public Association's Statute.

Compliance with existing norms and standards may also be checked by ecological, fire-prevention, epidemiological and other state entities.

Article 26 Responsibility for Violation of Legislation on Public Associations

State and Government bodies and officials who caused damage to Public Associations by violating this or other Laws on Public Associations are held responsible according to the legislation in force.

Public Associations and citizens whose rights, according to this and other Laws on Public Associations, were violated may appeal to court.

Article 27 Responsibility of Public Associations for Violation of Legislation of RT

A Public Association violating legislation of RT is held responsible in accordance with this and other Laws of RT.

In case of violation of legislation of RT by a Public Association, the Public Association's executive body is held accountable.

Article 28 Grounds and Procedures for Suspending Public Associations' Activities

At the Prosecutor's suggestion or the initiative of registration bodies, a court may suspend the activities of a Public Association for six months in the following cases:

- violation of the Public Association's Statute for the first time
- violation of the legislation in force
- violation of rights and interests of legal persons by the Public Association.

An appeal against the decision to suspend a Public Association's activities is possible.

If the Public Association removes the violation during the term fixed by court, its activities may continue after this period.

Article 29 Liquidation of Public Associations Violating Requirements Stated in its Statute and the Law

A Public Association may be liquidated in the case of violation of Article 5, second part, or Article 28, third part, of this Law.

International and national Public Associations as well as Public Associations located in Dushanbe and cities and districts of national subordination are liquidated by decision

of the Supreme Court of RT, at the suggestion of the Ministry of Justice. Local Public Associations are liquidated by the courts of Gorno-Badakhshan and other regions at the suggestion of justice offices or the prosecutor of Gorno-Badakhshan. The property of liquidated Public Associations is transferred to state property according to the court's decision.

Chapter VI International Relations of Public Associations; International Public Associations

Article 30 International Relations of Public Associations

A Public Association of RT, joining an international Public Association in accordance with its Statute, obtains the rights and status of this Association, may establish relations and conclude agreements with the foreign non-profit, non-governmental Public Association.

A Public Association, in accordance with international principles and laws adopted by RT as well as other legislation of foreign countries, may establish organizations, committees and representations abroad.

Article 31 International Public Associations

A Public Association established in RT is considered an international association if its activities cover all territory of RT, or the territory of one or more foreign countries, or if at least one of its organizations, committees, sub-units or representations is established abroad.

A Public Association operating on the territory of a foreign country is to submit its Statute, including changes and amendments, to the Ministry of Justice of RT.

Organizations, committees, sub-units and representations of an international Public Association are established and operate in accordance with this Law and other legislation of RT.

Organizations, committees, sub-units and representations of foreign non-profit, non-governmental associations are established and operate according to this Law and other legislation of RT.

The President
of the Republic of Tajikistan