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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

LAW
ON NON-COMMERCIAL ORGANISATIONS
OF THE KYRGYZ REPUBLIC

(unofficial translation)

The Republic of Kyrgyzstan

Law on Non-Commercial Organizations

(Adopted 1 October 1999)

Chapter 1. GENERAL PROVISIONS

Article 1. Scope of Application of the Law

This Law shall regulate public relations regarding organization, activity, re-organization, and liquidation of non-commercial organizations, including foreign non-commercial organizations, functioning on the territory of the Kyrgyz Republic.

This Law shall apply to non-commercial organizations, created in a form of public associations, foundations and institutions. This Law shall not apply to political parties, trade unions, religious organizations and cooperatives, whose status, procedure of creation and principles of activities are regulated by other laws of the Kyrgyz Republic.

Article 2. Major Definitions

A non-commercial organization shall be a voluntary, self-sustained organization created by individuals and (or) legal entities on the basis of community of interests for implementing spiritual and other non-material needs in the interests of its members and (or) the whole society, where the deriving a profit is not a major objective, and the obtained profit is not distributed among members, founders and official persons.

Founders of a non-commercial organization may be legal entities and capable individuals, irrespective of a place of registration of legal entities and a place of living or citizenship of individuals.

Members of a non-commercial organization may be legal entities and individuals irrespective of a place of registration of legal entities and a place of living or citizenship of individuals.

Non-commercial activity shall be such activity carried out by legal entities and (or) individuals independently or jointly, being or not being registered as an independent legal entity, and not pursuing a purpose of deriving a profit. Every participant of a non-commercial activity, not being created as an independent legal entity, shall be liable in case of inflicting a damage to a third party as provided for by the current legislation.

A public association shall be a voluntary association of citizens who join on the basis of community of their interests for satisfying their spiritual and other non-material needs.

A Foundation shall be a non-membership organization founded by individuals and (or) legal entities on the basis of voluntary property fees, which pursues social, charitable, cultural, educational and profit-for-public goals.

An institution shall be an organization founded by its owner for implementing managerial, social, cultural and other non-commercial functions, which is fully or partially financed by this owner.

Property of a non-commercial organization shall be any property of a non-commercial organization, its property or non-property rights, its income from entrepreneurial and other activity, as well as commercial information on its activities.

Article 3. Legislation on Non-Commercial Organizations

Legal status of non-commercial organizations, procedure of their creation, activity, re-organization and liquidation shall be based on the Constitution of the Kyrgyz Republic, and shall be regulated by the Civil Code of the Kyrgyz Republic, this Law and other laws and regulation acts of the Kyrgyz Republic, as well as international acts and treaties approved and ratified by the Kyrgyz Republic.

Article 4. Principles of Creation and Activity of Non-Commercial Organizations

All non-commercial organizations shall be created and shall act on the basis of voluntarism, self-governance, lawfulness and openness.

Participation or non-participation of a citizen in the activity of a non-commercial organization shall not serve as a ground for restricting his/her rights and freedoms.

Permanent employees of an organization shall work according to the laws of the Kyrgyz Republic on Labor, Social Provision and Medical Insurance.

Article 5. Interaction between the Government and Non-Commercial Organizations

The Government shall guarantee conditions for non-commercial organizations to fulfil their Charter objectives. The Governmental bodies and officials shall provide that the rights and legal interests of non-commercial organizations are observed in accordance with the Constitution of the Kyrgyz Republic and shall support their activities.

A governmental support may have a form of purposive funding of several profit-for-public programs of non-commercial organizations, as well as other forms not prohibited by the legislation.

Interference of state bodies or officials into the activity of non-commercial organizations, as well as interference of non-commercial organizations into the activity of state bodies and officials shall not be acceptable, except for cases stipulated by the Law.

Article 6. The Legal Status and Organizational-Legal Forms of Non-Commercial Organizations

A non-commercial organization shall obtain a status of a legal entity starting from the date of its state registration.

A non-commercial organization can be created with or without registration as a legal entity in a form of a public association, foundation or institution.

Article 7. Associations (Unions) of Non-Commercial Organizations and (or) Commercial Legal Entities

In order to coordinate the activity, as well as present and protect common interests, non-commercial organizations, upon mutual agreement, may create associations in a form of non-commercial associations or unions.

General provisions of this Law, as well as provisions, regulating public associations, shall apply to such associations (unions).

Article 8. Branches and Representative Offices of Non-Commercial Organizations

Non-commercial organizations, in accordance with the legislation, may establish branches and representative offices on the territory of the Kyrgyz Republic and abroad.

Branches and representative offices shall not be legal entities. They shall be invested with the property by the main office, and shall act on the basis of Provisions, approved by them. The property of a branch or a representative office shall be recorded on a separate balance-sheet and on the balance-sheet of the main office.

A head of a branch (representative office) shall be appointed by a non-commercial organization and he/she shall act on the basis of power of attorney issued by an authorized agency of this organization.

A branch (representative office) shall carry out its activity on behalf of the main office. The main office shall be responsible for activity of its branch or representative office.

Article 9. Registration of a Non-Commercial Organization

The registration of non-commercial organizations shall be carried out in accordance with the Law of the Kyrgyz Republic "On Registration of Legal Entities".

Article 10. Charter of a Non-Commercial Organization

Requirements of the Charter of a non-commercial organization shall be binding for the organization itself, its founders, members (of public associations), officials and governing bodies.

The Charter of an organization shall determine the following:

- a name and abbreviation of the organization, its legal address;
- subject and goals of activity, procedure for management of its activities;
- governing and controlling bodies, auditing bodies, their authority, procedure of electing and recalling, as well as responsibilities of appointed persons;
- rights and responsibilities, conditions and procedure of admission to the organization and resigning from it (for public associations);
- procedure of amending the founding documents of the organization, procedure of re-organization and liquidation;
- procedure of distribution of property in case of liquidation;
- for foundations and institutions -- persons (beneficiaries) who obtain assistance from the organization, except for cases, when the number of such persons is not limited;
- terms of activity of the organization, if specified.

The Charter may also contain other provisions that do not contradict the Law. If Provisions of the Charter contradict this Law, provisions of this Law shall apply.

Changes and amendments to the Charter of an organization shall be introduced at the decision of its supreme governing body.

Article 11. Legal Address, Name and Symbols of a Non-Commercial Organization

A non-commercial organization shall have a name indicating its organizational-legal form. An organization, whose name is registered according to the established procedure, has an exclusive right to use it.

The legal address of an organization shall be determined according to the whereabouts of its governing body. The legal address of an organization can be as of place of living of an individual – a head of the executive governing body.

If the legal address is changed, the supreme body of an organization shall be obliged to notify the registering agency within and not later than 10 days from the date of such change in the legal address.

A non-commercial organization may have its symbols: a flag, emblem, pennant, and other symbols. Symbols of an organization shall not copy the national symbols of the Kyrgyz Republic, symbols of foreign states, as well as symbols of previously registered legal entities.

Article 12. Activity of a Non-Commercial Organization

A non-commercial organization shall have the right to conduct any type of activity which is not prohibited by Law and do not contradict the goals and objectives established in the Charter, program documents and other acts of an organization.

A non-commercial organization shall have the right to conduct economic activities, including production, provided that the profit is not distributed among the founders, members, appointed persons and other employees and members of the governing bodies. Such activities may include production and sales of goods, performance of services, rendering of paid services, and other types of business activities, provided that such activities do not contradict goals and objectives of the organization.

Restrictions of some certain types of activities of a non-commercial organization may be established by Law only. In cases specified by the legislation, certain types of activities may be carried out with an appropriate license or a special permit.

Article 13. Conflict of Interests

Transactions between an organization and interested persons involving the organization's property disposal, suppose to have conflict of interests.

The interested persons shall be functionaries, members of the governing bodies of a non-commercial organization, as well as persons who, due to their relations with the organization, may influence the organization in property disposal, and who transact with the organization personally or through their representatives.

Conflict of interests is also anticipated, when the non-commercial organization transacts with the relatives of the interested persons or their creditors.

Article 14. Settlement of Conflict of Interests

A transaction, which, supposedly, may have conflict of interests, must be approved by the authorized body of a non-commercial organization. The interested person shall inform the authorized body of the organization on such transaction prior to its conclusion.

If transaction, which has conflict of interests, was not approved by the authorized body, the interested person shall bear responsibility for compensating the losses incurred by a non-commercial organization as a result of this transaction.

In addition to compensating losses, the interested person shall also return to a non-commercial organization all the profit obtained by him from this transaction.

If several interested persons inflict losses to the organization, they shall bear solidary responsibility.

Article 15. Responsibility of Governmental Bodies

The governmental bodies creating conditions for restricting activities of non-commercial organizations shall bear responsibility in accordance with the legislation.

Article 16. Reorganization and Liquidation of a Non-Commercial Organization

A non-commercial organization can be reorganized or liquidated in the procedure, stipulated by the Civil Code of the Kyrgyz Republic, this Law and other laws of the Kyrgyz Republic.

The property remained after the satisfaction of demands of creditors shall be distributed at the decision of the liquidation commission or a body who made a decision on liquidation in accordance with the Charter of the organization.

Article 17. Openness of a Non-Commercial Organization

Information on revenue return structure and the amount of property of a non-commercial organization shall be submitted to the state bodies in accordance with the current legislation.

CHAPTER II. PUBLIC ASSOCIATIONS

Article 18. General Provisions

Public associations shall have the right to conduct economic activity, including production, which should correspond to objectives of the organization.

Members of public associations shall not have rights to the property transferred to such associations by them.

Article 19. Creation of a Public Association

A public association shall be established on the initiative of at least three capable individuals for an indefinite or definite term.

Founders of a public association shall convene a constituent meeting (Conference) and adopt a decision on establishing public association, approve its Charter and form governing and controlling-auditing bodies.

Public associations may create their unions, associations and other alliances.

Article 20. General Meeting of a Public Association

General Assembly shall be a supreme body of the public association, which consists of all its members. General Assembly shall have a quorum if a decision is made not less than by one thirds of members of public association, or, if there are more than 100 members in the association, not less than by 25 members.

The following issues shall be within the exclusive authority of the General Assembly:

- introduction of amendments and additions to the Charter;
- prioritizing the directions of activity of public association and procedure of use of its property;
- admission and expulsion from the membership of the association (unless otherwise is provided for in the Charter);
- procedure of forming the governing bodies;
- approval of annual report on activity and annual balance;
- making a decision on establishing branches and representative offices;
- participation in activities of other legal entities;
- reorganization and liquidation;
- other issues except for those within the authorities of other bodies of the association, as written in the Charter.

Public association can adopt decisions by means of conducting meetings of General Assembly and by polling members of the organization in writing. The procedure of conducting meetings of General Assembly and written polls shall be regulated by the Charter.

Article 21. Other Governing Bodies of a Public Association

A public association may establish other governing bodies.

The Charter of public association shall regulate authority, procedure of creating and activity of these governing bodies.

CHAPTER III. FOUNDATIONS

Article 22. General Provisions

Property transferred to a foundation by its founders (founder) shall be the property of the foundation. Founders shall not bear responsibility for any liability of the foundation created by them, as well as the foundation shall not bear responsibility for any liability of its founders.

The foundation shall use its property for purposes determined in the Charter of the foundation.

Article 23. Creation of a Foundation

A foundation may be established by one or more capable individuals or (and) legal entities for a definite or indefinite term.

Rights of a founder (founders) can not be transferred to successors of a founder (founders). A person who transfers property to the foundation after it has been established, does not obtain the rights of a founder.

Article 24. Creation of a Foundation on the Basis of a Notarized Will

A foundation may be established on the basis of a notarized will, that should include the decision on establishing and other documentation in accordance with provisions of Article 9 of this Law.

If the will does not specify an executor who should prepare documents for the registration of the foundation and submit these documents to the authorized state registering agency, the notary office, where the will has been notarized, shall appoint an executor who has rights and duties to implement the will.

If the decision on establishing a foundation in the will does not meet the requirements of Article 25 of this Law, the executor of the will may appoint, if necessary, members of the Board and the Supervisory Council of the foundation. He also may determine other conditions for establishing the foundation, which have not been specified in the will.

Prior to the appointment of members of the Board and the Supervisory Council, the executor of the will shall have rights followed from decision on establishing a foundation and the right to administer property transferred to the foundation in accordance with the Charter of the foundation.

The executor of the will shall have the right to demand recovery of the necessary expenses followed by the execution of his (her) assignment in actual amounts of valid expenses, unless otherwise is determined in the will.

Authorities of the executor of the will shall terminate after the registration of the foundation or if such registration is impossible.

Article 25. Decision on Creation of a Foundation

A foundation shall be established upon decision of the founder (founders), which shall include the following information:

- name and legal address of the foundation;
- list of founders – individuals, with the indication of their full names, dates of birth, address, home and work telephone numbers, as well as the list of founders – legal

entities, with the indication of their names, legal addresses, location, date and number of state registration, and contact telephone numbers;

- total cost of the property in the amount of money or (and) in other form, which is being transferred to the foundation by its founders, and the procedure for such transfer;

- approval of the Charter of the foundation;

- names and addresses of members of the Board and the Supervisory Council of the foundation.

All founders shall sign the decision on establishing the foundation and notarize their signatures.

Article 26. The Board of a Foundation

A foundation shall have the Board, which shall manage and represent the foundation. The Board may consist of one or more members - legally capable physical persons*.

When managing the foundation, the Board shall follow lawful orders of the Supervisory Council of the foundation.

The Board shall submit reports on the Charter activity and financial activity in writing to the Supervisory Council at least every six months if the foundation is involved into any production or other business activities, and every year if the foundation is not involved in such activities. The Board, upon requests of members of the Supervisory Council and founders, shall provide any information regarding management of the foundation and submit reports on activities of the foundation, unless otherwise is provided for in the Charter. The Board shall immediately inform the Supervisory Council on any threat to material or financial state of the foundation or other circumstances that may cause such threat.

Powers of the Board shall be specified in the Charter of the foundation.

The Board shall have a quorum if not less than a half of its members participate on the meeting.

Article 27. Appointment, Change and Removal of Members of the Board

Members of the Board shall be appointed upon decision of the Supervisory Council.

Any change in the membership of the Board: appointment and removal of members of the Board shall take place upon decision of the Supervisory Council in the procedure provided for in the Charter.

Members of the Board shall not transfer their rights to third persons, if it is not stipulated in the Charter or by the decision of the Supervisory Board of the foundation.

If a member of the Board cannot permanently or continuously (for more than six months) fulfil their duties, the Supervisory Council, in accordance with the Charter, may appoint a new member of the Board. A temporal member of the Board may exercise his powers until the member of the Board replaced by him may return to execution of his duties, or until the Supervisory Council appoint a permanent member of the Board.

The Supervisory Council may recall a member of the Board any time and irrespective of a reason, unless otherwise is stipulated in the Charter.

Article 28. The Supervisory Council of a Foundation

The Supervisory Council of a foundation shall control activities of the foundation, decisions of its governing bodies and enforcement of these decisions, utilization of the funds of the foundation, and observance of the legislation and its Charter by the foundation.

The Supervisory Council of the foundation shall implements its activity pro bono.

The procedure of forming and functioning of the Supervisory Council shall be determined by the Charter of the foundation approved by its founders. The Supervisory Council shall carry out the internal supervision of activities of the foundation. A meeting of the Supervisory Council shall have a quorum if a half of its members attend the meeting.

The Supervisory Council shall have the following authority:

- to control and determine the directions of activity and the policy of the foundation;
- to introduce amendments and additions to the Charter;
- to adopt a decision on reorganization of the foundation;
- to appoint and remove the members of the Board;
- to approve decisions of the Board regarding transactions in the amounts exceeding the amounts specified in the Charter, as well as transactions with certain types of the property specified by the Charter;
- to approve transactions that have conflict of interest;
- to approve annual report on activities of the foundation prepared by the Board of the foundation;
- to approve decisions of the Board regarding involvement in commercial corporations or termination of such involvement;
- to solve other issues in accordance with the Charter.

A decision on any issue related to the activity of the foundation, including issues of competence of the Supervisory Council, mentioned above in this Article, may be referred by the Charter to the competence of the founders. A founder (founders unanimously) shall have the right to veto any decision of the Supervisory Council, unless otherwise is determined by the Charter.

In case of a substantial damage caused to the foundation as a result of delay of approval of transactions, the preliminary approval of transactions by the Supervisory Council listed in paragraphs 6 and 7 of section 4 of this Article shall not be necessary.

The decision on liquidation of a foundation shall be made by court upon application of the interested legal and physical persons.

The Supervisory Council shall have the right to examine all documents of the foundation and do auditing, to check the availability of the property and consistency of activity of the foundation to the Charter and this Law. Any member of the Supervisory Council shall have the right to require any information regarding activities of the foundation from the Board. The Supervisory Council shall have the right to require from the Board any information regarding activities of the foundation, including reports on activity of the foundation and the balance report.

The Supervisory Council shall represent the foundations in disputes and transactions of the foundation with members of the Board.

The Supervisory Council may have other rights specified by this Law and the Charter of the foundation.

Article 29. Appointment, Change and Removal of Members of the Supervisory Council

The Supervisory Council shall consist of three members, unless the Charter determines the greater number of members. Legally capable physical persons can be members of the Supervisory Council.

The Board of the foundation shall submit to the registering agency a list of members of the Supervisory Council. In the event of any changes in the membership of the Supervisory Council, the Board shall notify the registering agency about such changes within seven days.

The procedure of appointment and recall of the members of the Supervisory Council shall be determined by the Charter.

If a member of the Supervisory Council is physically disable to fulfill the work in the Supervisory Council, or he/she causes, in any form, a substantial damage to the foundation, such member can be recalled from the Supervisory Council upon request of a founder (s) and other members of the Supervisory Council, or at his own initiative.

CHAPER IV. INSTITUTION

Article 30. General Provisions

The property of an institution shall belong to it on the basis of the right of efficient control of property, in accordance with the Civil Code of the Kyrgyz Republic.

An institution shall bear responsibility for its liabilities by means of paying out its funds. In the event of lack of such funds, the owner of the institution shall take on subsidiary liability for the debts of such.

Article 31. Creation of an Institution

An institution may be created by one or more legally capable physical or (and) legal entities for a definite or indefinite term.

Article 32. Decision on Creating an Institution

An institution can be established at the decision of the owner (owners). Such decision shall include the following information:

- name and legal address of the institution;
- the list of owners – physical persons, with the indication of their full names, dates of birth, address, home and work telephone numbers, as well as the list of founders – legal entities, with the indication of their names, legal addresses, location, date and number of official registration, and contact telephone numbers;
- total cost of the property in the monetary and (or) other form, which is being transferred to the institution by its owner (owners), and the procedure for such transfer;
- approval of the Charter of the institution;
- names and addresses of members of the Board and the Supervisory Council of the institution.

All owners shall sign the decision on organization of the institution and their signatures shall be notarized.

Article 33. Governing Bodies

The structure, procedure of forming and activity, as well as authority of governing bodies shall be specified by the owner (owners) in the Charter of the institution.

Article 34. Relations Between the Institution and its Owner (Owners)

An institution shall perform its activities in accordance with its Charter and the Civil Code of the Kyrgyz Republic.

Rights of the owner can be transferred to successors of the owner. A person, who transfers property to the institution after it has been established, does not obtain the rights of the owner.

CHAPTER V. CONCLUDING PROVISION

Article 35. International Conventions and Treaties

In case if provisions of this Law are otherwise regulated by international conventions, international and bilateral treaties, provisions of the appropriate international conventions and international and bilateral treaties shall apply.

Article 36. Making Regulatory Legal Acts Consistent with This Law

The Government of the Kyrgyz Republic shall make regulatory normative legal acts consistent with this Law.

Article 37. Entering Into Force of This Law

This Law shall enter into force from the moment of its publication.

Article 38. Accepting the Earlier Adopted Legal Regulations as Invalid

From the date of this Law enters into force, the following documents accept as invalid:

The Law of the Kyrgyz Republic "On Public Associations" (Newsletter of the Supreme Council of the Kyrgyz Republic, #3, page 111, 1991);

Resolution of the Zhogorku Kenesh of the Kyrgyz Republic "On entering the Law of the Kyrgyz Republic "On Public Associations" into force (Newsletter of the Supreme Council of the Kyrgyz Republic, #3, page 112, 1991).

Article 39. Re-registration of Non-Commercial Organization Due to the Entering This Law Into Force

Non-commercial organizations registered before this Law has entered into force, can re-register in accordance with this Law within one year from the moment of this Law enters into force.

Article 40. Payment for the re-Registration of Non-Commercial Organizations

The re-registration of non-commercial organizations, in accordance with this Law, shall be done free of charge.

President

of the Kyrgyz Republic

A. Akaev

Bishkek,

House of Government,

October 15, 1999.

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* "legally capable physical persons" are physical individuals who have legal capacity.
Translator's note