

Brief guide



Let's promote... associations

Preliminary information for the constitution,
operation and financing of associations



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Let's promote... associations

Preliminary information for the constitution,
operation and financing of associations

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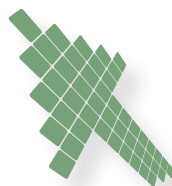
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1. Constitution



What is an association?

An association is a group of people or *entities* (**members**) that join together - for various *reasons* other than profit - in order to carry out an ongoing activity that is *social, educational, cultural* or for *sport*. The *essential elements* common to all associations are, the people (*members*) and the goals (*purpose*).

Associations are regulated:

- by the *Italian Constitution* (Co. 1, section 18 - Co. 5, section 38)
- by the *Civil Code* (sections 14 - 42)
- by *Special laws* (L. no. 266/1991, L. no. 383/2000, Legislative Decree no. 460/1997, ...)

Can an association be recognized?

An association can be **recognized** by the *Region* or the *State* if:

- its *patrimony* is adequate in order to achieve the association's objectives
- its purposes are lawful
- its *statutes* are written by a notary public



If these 3 *conditions* are met, the **legal personality** can be obtained – by starting a *recognition procedure* - by presenting a specific request (and the relevant annexes) to the *Pre-fecture* or the *Region*.

In fact, recognized associations, as opposed to non-recognized, have **full patrimonial autonomy**: that is, their patrimony is completely separated from that of the members and, is held for eventual *debts* only with the association's patrimony and not with that of the members or the administrators.

What is the minimal patrimony necessary?

The Law foresees that the **patrimony** of a *recognized association* must be of *sufficient importance* to achieve its goals, but does not envisage anything concerning its *composition*: therefore, the patrimony can be constituted by factories, cars, equipment, money in bank, ...

chapter 1. Constitution

The non-recognized association may also have no patrimony, since it is not considered essential for its constitution.

What are the forms of association contract?

Persons who intend to constitute an association must *write and sign an agreement (corporate charter and statutes)* choosing one of the 4 forms (from the most to the least expensive):

- **public act** written up by a *notary public*
- **authenticated private writing** signed in the presence of a notary public
- **private writing registered at** the Agenzia delle Entrate (Revenue Office)
- **unregistered private writing** written up and signed by the members

Which is the minimum content of the association's agreement?

The association's agreement (corporate charter and statutes) must contain norms that concern the name of the association, headquarters, patrimony, non-profit goals, operations of the association, rights and obligation of the members, admission conditions for

new members, extinction of the association and the devolution of the patrimony that remains after its dissolution.

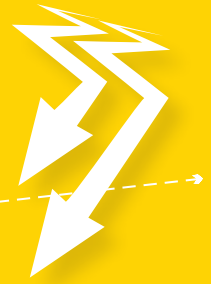


What are the documents that an association must have?

The Law does not oblige associations to maintain so-called **social registers**. It is however *opportune* to have at least the books that permit the documentation of deliberations of meetings of the most important association bodies: the assembly and the administrative board.

The obligation does not exist not even generally, to keep **bookkeeping records**:, there is a specific obligation to keep **fiscal accounting** and opening of a **VAT number** only if the association carries out important *commercial activities* in regards to taxation: (the **Tax identification number** is however necessary for all associations, even for those which only carry out an *institutional activity*).

2. Operations



What are the internal structures of an association?

The **assembly** and the **board of administration** are the necessary *bodies* of an association.

The assembly (ordinary or extraordinary) is the supreme body composed of all the members and

deliberates on important questions: nomination of administrators, approval of the balance sheet, modification of the statutes, and dissolution of the association.

The administrative body (that can have different names: Board of Directors, *Steering committee*, *Board of Administration*, *Governing Council*,...) must put into effect the **deliberations** of the assembly.

The statutes can also foresee and regulate other (*eventual*) bodies, among others, those of control (*Audit Committee*) or to guarantee of the associative nature (*Ethics and disciplinary committee*).





How does the assembly work?

In associations, the *will* of the members is expressed in **ordinary or extraordinary assembly**, according to the questions that the statutes have reserved for one or the other.

The only legal requirement imposed is that for the *validity* of the constitution of the assembly the presence of at least half of the members (**constituent quorum**) is necessary. The Law permits for practical reasons, the possibility to proceed to a *second convocation* of the assembly (both ordinary as well as extraordinary), in which valid deliberations can be made regardless of the number of participants. For deliberations (**deliberative quorum**) the *principle of simple majority* applies: a *qualified majority* is necessary only for the deliberation of *dissolution*.

How are the statutes of an association modified?

The members, meeting in a regularly constituted extraordinary assembly, can **modify the statutes** taking care to write up the *minutes*.

How does an association end?

The dissolution and liquidation of an association are usually regulated by the *statutes* that envisage norms in order to deliberate 'the closing' of the association.

In any case, the procedure to follow for dissolution of an association is free but must be deliberated in *extraordinary* assembly with the deliberative quorum of the members. It should be noted that a division of the eventual *residual* patrimony among the *members is excluded*.

How is privacy regulated in an association?

Privacy is regulated by the *Code in matters regarding the protection of data of 2003* that dictates a series of *measures for protecting personal data dealt with* (and, in particular, **sensitive data**).

It is necessary, therefore, for an association, to identify the people who must manage *privacy measures* and arrange for related *letters of assignment*. *Minimal measures of safety* must also be respected as prescribed by the norm for dealing with data electronically. In particular, it is obligatory *to write up*, and annually *update*, the **Document Safety Programme (DPS)**, for dealing with sensitive data by computer.

3. Financing and support



What are the main sources of 'public financing' for associations?

Public subsidies for associations can come from the European Union, the State, the Region and local authorities.

European Union

- Contributions *directly* distributed by the European Commission (*direct contributions*)
- *Indirectly* distributed Contributions - through the Region - by the European Commission (structural funds)

State

- *Ministerial* Contributions
- Income from the “5 thousandths” declaration
- General and sector tax concessions (*indirect transfers*)

Region

- *Regional* Contributions
- Tax concessions (*indirect transfers*)





Local authorities

- Contributions of the *Province*
- Contributions of the *socio-health Zones* (ex: contributions of *Health Societies*)
- Contributions (in money or nature) of the *Municipalities*
- Specific Contributions, reimbursements of expenses or considerations for *contract* activities with local authorities, ASL, public service agencies (*direct awards or competitive bids*)

What are the main sources of 'private financing' for associations?

By *contributions* from *private* persons (city, businesses, foundations and business associations, bank foundations,...) it is meant the financial resources conferred voluntarily through *fund raising* activities.

Substantial contributions for the support of the association's activities can also come from *business foundations* and from *bank foundations*.



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chapter 3. Financing and support

Cesvot: who is it and what does it do?

Cesvot - Centro Servizi Volontariato Toscana is in operation since 1997, in accordance with national legislation (Dm 8/10/97), with the goal “*to support and to train volunteer service activity*”. To such ends it gives in the form of services aide to volunteer organizations registered and not registered in the regional registries”. Currently it is managed by *26 volunteer associations of regional valence* and is present in the regional territory with *11 territorial Delegations*. Cesvot has chosen to divide itself into Delegations in order to establish a more direct contact with the associations and encourage a greater participation in the activities of the Centre.

Through regional headquarters and territorial headquarters, it offers *training services, advice, information and assistance* to more than 3 thousand Tuscan volunteer associations. Cesvot moreover encourages, *working in network*

and the synergy between voluntary service and institutions and, thanks to ad hoc calls for bids and services, *supports intervention projects and training courses* promoted by volunteer associations.



4. The members



What are members' rights and duties?

The rights and the *duties* of members are regulated by the association's agreement.

Among the **rights of members** we find: participation in assemblies, voting in assemblies, carrying out voluntary work as agreed, resigning from the association.

Among the **duties of the members** we find: respecting the statutory norms, respecting the assembly and board deliberations, paying association dues.

How can new members join?

The association's contract must indicate the *conditions* for **admission** of members; in particular, *personal qualities* must be determined, on which the evaluation of membership requests are based.



When does a member end the relation with the association?

The member can end its relation with the association in the following the 3 cases: **resignation**, **exclusion** and **death**.

The member can resign from the association at any time, on condition that the member has not committed to be part of it for a determined period.

The association can *exclude the* member for *serious reasons* corresponding to a serious default.

The member's relation with the association ends with death, except when the transmission is permitted by the association's contract.

What are the responsibilities of members and administrators?

The types of **responsibility** are **civil, fiscal - administrative** and **penal**.

Persons who represent non-recognized associations, answer with the *common funds* and, personally and jointly, when acting *on behalf and in the name* of the association for the

debts (*obligations*) contracted by them.

In non-recognized associations, the *administrative sanctions* relating to *fiscal reports* are opposable to the person who has committed the violation.

There is no *criminal responsibility* of the association (recognized and not), but only of the person who commits the crime.

5. Volunteer Organization (Odv)

What is a volunteer organization?

A volunteer organization is regulated by the *Law of 11 August 1991, no. 266*.

It exclusively pursues objectives of social *solidarity* and, therefore, does not have a profit goal.

The members must be **volunteers**, that is, they must carry out their activity in the association in a way that is *personal, spontaneous and free*.

Volunteer organizations can hire **employees** or *self employed workers only in order to be able to carry out their activities*.

What are the benefits for a volunteer organization?

Volunteer organizations can be *registered* in the **regional registry of volunteer service**. *The registration request, with the related annexes, must be presented to the President of the Province after 6 months from its constitution.*



The main *benefits* for *registered* volunteer organizations are the following:

- access to *public subsidies*
- financing for *pilot projects* with the 'fund for voluntary service'
- *conventions* with public bodies (ASL, Hospitals, Local authorities,...)
- participation in *regional consultations* of the voluntary service
- *flexibility in working hours* for its volunteers
- *tax concessions*





What are the duties for a volunteer organization?

The main *duties* of a volunteer organization are the following:

- prohibition to *remunerate volunteers*: they can only receive reimbursement for documented expenses incurred (travel, living expenses, telephone,...)
- obligation to keep a book of members, called the *membership registry*
- obligation to *insure* volunteers against *accidents* and *illness* and for *civil liability*
- obligation to conserve the *documentation* relative to economic resources received

6. Social promotion associations (APS)

What is a social promotion association?

A social promotion association is regulated by the Law of 7 December 2000, no. 383.

It carries out an activity of *social utility*, destined both for *third parties as well as its own members*, *non-profit* and in the total respect of the freedoms and dignity of the *members*.

The Law permits some *members* and/or some *association charges* (for example, the administrators) to be *remunerated* by the association as employees or independent workers.

A social promotion association is a form of association *similar* – in structure, operation and benefits granted – to volunteer associations.

They are distinguished above all from the latter in the following 3 aspects:

- the need to insert *volunteers* is more attenuated since the members can also be *remunerated*
- in social promotion associations the Law envisages more *tax concessions* and *financial institutions*
- only in social promotion associations is there the possibility to register in the *national register*



What are the benefits for a social promotion association?

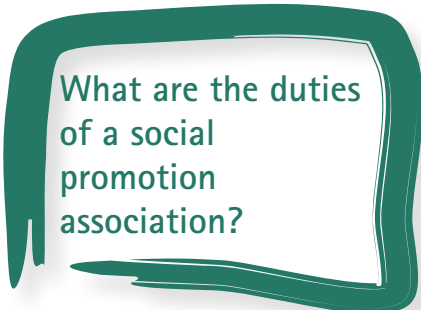
Social promotion associations can *register* in the **regional registry of social promotion associations**. *The registration request*, with the related annexes, must be *presented* to the President of the *Province* in whose territory the association has its headquarters, after 1 year from the constitution.

Social promotion associations once *enrolled* can have the following *benefits*:

- receive *contributions* from public bodies, the European union and international bodies
- carry out the provision of services by *convention* with public bodies (municipalities, province, ASL, ...)

chapter 6. Social promotion associations (APS)

- obtain *financing* for pilot projects of the Ministry of Welfare
- obtain *flexibility in working* of job for its volunteers
- obtain, from public bodies, the *free use of movable and immoveable assets*
- be authorized, temporarily to dispense *drink and food* (ex: management of a bar) and the exercise of *tourist and reception activities* (ex: vacation homes)
- have use of further *tax concessions*



What are the duties of a social promotion association?

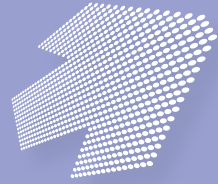
The main *duties* of a social promotion association are the following:

- drafting, in *writing*, of the association's agreement
- obligation to avail itself *mostly of voluntary work*

(compared to remunerated) of its members

- special clauses to insert in the *corporate charter* and *statutes*

7. The other forms of association



What is a circolo (circle)?

The “**circolo**” (**circle**) is an association (often of *social promotion*) constituted among citizens, with *recreational, cultural or sport purposes*.

It must carry out its *non-profit* activity, for the benefit of its members, in *spaces not opened to the public*.

There are “**affiliated**” or “un-affiliated” to a *national body* among the “**circoli**” (circles), it is possible to **dispense food and drinks** only to members (management of the *bar*).

What is a non-governmental Organization (NGO)?

The Non-Governmental Organization works in the field of cooperation for *development* and *international solidarity*. *The recognition* and appropriate entry in a register kept by the Ministry Foreign Affairs, occurs if the NGO:

- carries out short and medium term *programs* in underdeveloped nations

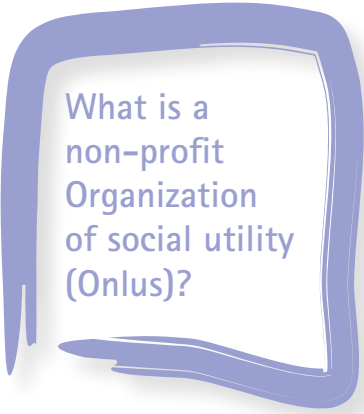


- selects, trains and employs *volunteers* in civil service
- carries out training activities on site in developing countries

What is an amateur Sports association (ASA)?

Sport can be practiced alone or in groups, *without competition* or in competition with other athletes: in this last case the sport is called *competitive*.

An amateur sports association is an association that promotes, in organized and *non-profit* form, the practice of sport, making available to its members the structures, equipment and trainers for their development.



What is a non-profit Organization of social utility (Onlus)?

The Onlus (non-profit Organization of social utility) is a *qualification* that is only found for tax purposes. It can be acquired by all forms of *association* that we have seen previously, in order to obtain *exemptions or tax reductions*, or *simplification of book-keeping* or fiscal procedures.

The activity of the Onlus is aimed essentially at “disadvantaged” persons (in relation to physical, psychological, economic, social or family conditions,), or to members of *foreign communities* limited to humanitarian aid.

Some agencies are considered **Onlus of right** (ex. registered *volunteer organizations* and recognized *non-governmental organizations*), independently of the respect of requirements envisaged by the Law in general for the Onlus.

Other Onlus are instead ‘by choice’ since they must *communicate with* the competent Regional Revenue Office.



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