

LEGAL ENTITIES FOR VIPASSANA ACTIVITIES IN EUROPE

Vipassana activities in a country are generally organized through a legal organization of some kind. In India and other countries with an Anglo-American legal system, this generally means establishing a trust. In continental Europe, the concept of a legal trust generally doesn't exist and the options are instead establishing a foundation or an association. The legal possibilities and restrictions vary a lot from country to country and often it's a matter of finding a workable solution within these legal circumstances while maintaining some basic Dhamma principles and guidelines. The key points are formulated in the statutes, which will govern how the legal entity is administrated.

The official guideline documents that are most relevant in this context are "Establishing a legal trust" and "Guidelines for trustees". What is mentioned below should not be taken as guidelines but as practical advice based on experience with advising Vipassana groups in Europe that are in the process of establishing a legal entity. Always consult the Coordinator Area Teacher (CAT) before establishing a legal entity for Vipassana activities in a country.

1. Foundations

It has been decided by the European assistant teachers (AT:s) that foundations are generally the preferred legal entity for Vipassana organizations in Europe. A foundation is based on a founding document drafted by one or more founders. This document outlines the purpose and activities of the foundation and how it is administrated. A founding document can generally not be changed, or only changed marginally, which gives a foundation a high degree of stability. It also means less flexibility to adapt to changing circumstances, which is why the founding document must be worded carefully. Foundations generally enjoy more respect than associations in relation to authorities.

2. Associations

An association is typically a democratic organization governed by its members. This is how most smaller, non-profit organizations are organized. Associations are less stable than foundations since the members can generally change the purpose of the association and how it's administrated by changing the statutes. Many Vipassana organizations in Europe are associations anyway, but this has meant that safeguards of various kinds have been put in place in the statutes, to provide as much protection as possible in case something goes wrong. Some of these safeguards are questionable.

3. When to establish a legal entity

Often this question arises when courses are arranged on a regular basis. It's practical to have a legal entity when renting a course site for example. Also the legal entity can have a bank account for dana, which is a lot better than dana being handled at the private account of an old student. For old students it will look odd that dana is to be transferred to a private bank account.

4. Local legal advise

The available guidelines as well as this document only give some general points. Since the legal requirements vary significantly from country to country, the advice of local lawyer is necessary. Try to find an old student who can help with this.

5. Aim, purpose and activities

All statutes must state what is the aim, purpose and activities of the legal entity. This can be formulated in different ways. It must be clear that the main purpose is to arrange courses in Vipassana meditation but also that related activities are included, so that the purpose is not formulated too narrowly. Vipassana can be defined in short terms, such as the practice of morality, concentration and wisdom. It should contain a reference to Sayagyi U Ba Khin and Goenkaji, to make clear that the entity belongs to this tradition of Vipassana.

6. The board

The statutes must state how the legal entity is administrated, which is mainly through a board of old students. The number of board members can vary according to what's needed but will typically consist of at least a chairperson, a secretary and a treasurer.

The statutes should state that decisions are taken by consensus and may include a short definition of that concept (mainly to clarify that consensus is different from majority voting and taking decisions by unanimity, since this is often misunderstood).

The statutes also need to state which quorum (minimum amount of board members) that is needed for a decision to be taken and how the board is to be summoned to meetings. It may also mention to what extent the board can meet and take decisions over phone or Skype.

7. The local assistant teachers

The statutes may state what role the local AT:s shall have in the legal entity. Typically the local AT:s shall take part in or at least be consulted about major decisions that involve considerable use of dana and should always be consulted if it's unclear whether a decision is according to Dhamma. The role of the area teacher is discussed below, p. 9.

8. Qualifications for board members

It must follow from the statutes what qualifications that apply for board members. The requirements are outlined in "Guidelines for Trustees".

9. Appointment and dismissal of the board

According to Goenkajis guidelines, the area teacher should at any time be able to dismiss and replace the board members, as a precaution in the extreme case of the board members not working according to Dhamma.

The statutes need to state how the board is appointed and dismissed. In a foundation this generally means that the area teacher (meaning the Coordinator Area Teacher or whoever he or she may appoint for non-centre countries and the Centre Teacher for centre countries) has this role. This should be straightforward.

For associations, the members appoint and dismiss the board at the general assembly meeting of the association. This means that the area teacher needs to be empowered to at least approve the proposed board members and be given power to dismiss them in emergency situations, and/or that all members of the association or at least most of them are AT:s which should mean that the area teacher can act with their support. Another option is to have a separate council as part of the association structure, which is given powers to appoint and dismiss. In most countries this is not possible. The area teacher must always be able to summon to an extra association assembly meeting.

This illustrates that associations often are a far from ideal legal entity for a Dhamma organization.

10. Legal representation

The statutes need to state how the entity is legally represented, for example with regard to signing contracts in the entity's name and in relation to banks. It also need to state in what matters the entity can give a board member or someone else power of attorney to represent the organization.

11. Committees

The statutes should state that the legal entity can establish committees or similar entities for achieve its purposes. The statutes shouldn't state in detail which committees that are to be established. Avoid putting too much practical details into the statutes since these things are likely to change and you want to avoid having to change the statutes often.

12. Making changes in the statutes

The statutes need to state how they are changed. In an association this should only be possible with a large majority of members approving.

13. Dissolution of the legal entity

The statutes need to state what to do in case the legal entity shall be dissolved. It must be clear that no board members, AT:s etc shall receive any financial advantages in case this happens.

14. Internal guidelines

In some countries internal guidelines are drafted, in addition to the statutes, to regulate how the legal entity is administrated. This is fine, but if they contradict the statutes, the statutes will always be given priority. So don't rely too much on internal guidelines.

15. General points

It's advisable to read the statutes of the Vipassana organizations of some other European countries to get some ideas on possible wordings. But be aware that many provisions are far from ideal and have been formulated based on that no better options were available in that specific country.

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It's important that the statutes are worded with the long term perspective in mind. Even if things are running well at the moment, the statutes are there to give some degree of protection in case something goes wrong in the future and against the risk of unfriendly takeover.