

Annex 3:**Advisory Note No. 1****Dissolution of National Societies by law**

Several Statutes provide that the National Society in question may be “dissolved by law”. As this provision may be detrimental to the independence of National Societies, the Joint ICRC/International Federation for National Society Statutes (Joint Statutes Commission) has considered the matter within the frame of the minimum requirements and the current *Guidance for National Societies Statutes (Guidance document)* and the options for handling the question in its review of National Society Statutes. A summary of the issues considered and the final position adopted by the Joint Statutes Commission are provided below.

DISCUSSION**Arguments in favour of the Joint Statutes Commission recommending the amendment of such a provision:**

- Potentially, this provision may be harmful to the independence of a National Society. It means that a governmental body could dissolve the National Society by adopting a law or other instruments of government decisions.
- The possibility to dissolve the National Society (like any other association), as well as the conditions upon which this dissolution can be pronounced, is probably already included somewhere in the national legislation. Therefore, there is no need to include this provision in the Statutes.
- A National Society has no reason to give the authorities such power (or to remind them of such power) in its Statutes.
- If this provision were included in the Statutes, it would be very important, in order to avoid potential abuse, to have, at least, the conditions required for the dissolution of the National Society by law to be spelled out in the Statutes as well (e.g. mentioning precisely in the Statutes the specific law or body of law according to which the dissolution may be decided).

Arguments against the Joint Statutes Commission recommending the amendment of such provision:

- According to current estimates of the Joint Statutes Commission, such a provision is included in approximately 40% of National Society Statutes. This means that it would require a large effort to revert back and request amendment of all of these Statutes.
- The Joint Statutes Commission has already commented on numerous Statutes containing this specific provision without necessarily underlining this potential problem. It would be difficult to say now that this is actually a very important issue in the Statutes of the National Society in question while the Joint Statutes Commission did not mention it in the first place.
- Since the possibility to dissolve the National Society is also included in the national legislation, it should not do much harm to have this possibility restated in the Statutes.

CONCLUSION

After careful consideration, the Joint Statutes Commission decides that the time and effort it would require to raise this issue retroactively and to re-review and recommend revisions of

the Statutes of numerous National Societies for this specific purpose are disproportionate to the potential harm that a “dissolution by law” provision can create.

However, from this moment forward, the Joint Statutes Commission will make a recommendation that a “dissolution by law” provision not be included in the Statutes of a National Society.

Furthermore, the inclusion of this provision should not be sufficient for determining that the minimum requirements of the *Guidance document* are not met (the *Guidance document* does not actually mention this issue).

If a National Society decides to keep such a provision in the Statutes, the Joint Statutes Commission recommends mentioning the specific law or body of law according to which the National Society is to be dissolved.

Nevertheless, if the Statutes entitle the government itself (executive power) to dissolve the National Society only by adopting a decision, then the independence of the National Society might be seriously jeopardised. In such circumstances, the Joint Statutes Commission will urge this provision to be deleted from the Statutes in order for them to be recognised as complying with the minimum requirements of the *Guidance document*.

STANDARD FORMULATION OF THE RECOMMENDATION

Although the exact wording of the specific recommendation is to be determined on a case by case basis, it will be inspired by the following:

“Article [number] provides that the [name] Red Cross/Crescent Society may be dissolved «by law». Thus, the National Parliament (or even the executive power, depending upon how the term «law» is interpreted) has the power to dissolve the National Society. The Joint Statutes Commission sees this as a potential risk for the independence, freedom of action and integrity of the [name] Red Cross/Crescent Society. The Statutes should provide that the dissolution is reserved solely for the National Society General Assembly which democratically created the Society. The Joint Statutes Commission therefore suggests to adopt the following wording:

The [name] Red Cross/Crescent Society can only be dissolved by a decision of the General Assembly taken with a quorum of two thirds (2/3) of its members and by the majority of those present and voting.

If the «dissolution by law» is kept in the Statutes, it is strongly recommended to make reference to the specific law or body of law according to which the National Society can be dissolved, in order to avoid potential abuses. The Joint Statutes Commission suggests the following wording:

The [name] Red Cross/Crescent Society can only be dissolved in accordance with the law on associations [or any other relevant law or body of law] or by a decision of the General Assembly taken with a quorum of two thirds (2/3) of its members and by the majority of those present and voting.”