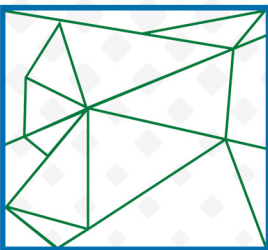


# Syria: A Draft Law for Professional Associations Strips Away their Independence and Strengthens the Power of the Executive Branch



## **Syria: A Draft Law for Professional Associations Strips Away their Independence and Strengthens the Power of the Executive Branch**

*The new unified draft law violates Article 10 of the 2012 Constitution which guarantees  
the independence of professional associations and their right to organize outside the  
control of the Executive Branch*

On 5 July 2022, the Syrian government, represented by the Presidency of the Council of Ministers, circulated a [draft](#) of a unified legislation for professional associations, which was prepared by a joint committee established under Resolution No. 1489 issued on 05 September 2021 (no more information was disclosed over the nature or the members of the committee). The Presidency of the Council of Ministers sent the draft law with an official letter to the Assistant Secretary General of the Arab Socialist Ba'ath Party, instructing them to circulate the draft to various professional associations in Syria (lawyers, physicians, pharmacists, etc.) to review the draft law and submit comments within 5 working days.

Accordingly, on 07 July 2022, the head of the Central Office of Public Organizations and Professional Associations of the Ba'ath Party, Huda al-Homsi, an engineer, sent an official letter to various associations to review the draft and submit feedback within the specified period.

In his letter, the Prime Minister stated that the need for this draft law emerged as a result of the development and growth of professional associations' work in providing support to citizens working within public services. Therefore, it is necessary to frame and organize the work of professional associations according to unified general provisions. Moreover, the purpose of the draft is to guide the work of professional associations in order to achieve flexibility and efficiency in their performance, and to remove discrepancies in the provisions that regulate their work, taking into account the unique nature of each profession. Furthermore, the prospective law unifies appealing procedures related to the decisions issued by associations and their disciplinary boards.

## **1. The Syrian Constitution No. 94 of 2012 Guarantees the Independence of Associations**

Theoretically, the Constitution in Syria is the supreme law of the land, and no law or draft law should conflict with the letter or spirit of its Articles.

[Article 154](#) of [the 2012 Constitution](#) obligates the State to amend any legislation in force before approval, in accordance with current constitutional provisions, providing that the amendment is done within a period of no more than three years.

Despite the Constitution's legal problems (especially those related to the separation of powers and the powerful influence of the Executive Branch over the Legislative and Judicial Branches), the Constitution includes several basic principles that give professional associations a fragile independence and a limited space that allow them to represent professionals before the Syrian government.

Article (10) of the Constitution, under the Title of Basic Principles, considers the independence of professional associations to be one of the basic constitutional principles of the State:



“Public organizations, professional unions and associations shall be bodies that group citizens in order to develop society and attain the interests of its members. The State shall guarantee the independence of these bodies and the right to exercise public control and participation in various sectors and councils defined in laws; in areas which achieve their objectives, and in accordance with the terms and conditions prescribed by law”.

Legally, this Article is an advanced step in allowing professional associations a margin of freedom and independence from the Executive Branch, unlike Article (9) of the previous [Constitution of 1973](#) which stated that “Public organizations and Cooperative Organizations shall be bodies that group citizens in order to develop society and attain the interests of its members”.

Thus, the current Constitution recognizes the independence of professional associations, and grants them the right to public control, as one of the basic constitutional principles of the State.

## **2. The Unified Draft Law for Associations Enshrines their Subordination to the Executive Branch**

The draft law consists of 56 articles, some of which completely contradict Article 10 of the 2012 Constitution. Importantly, the draft law undermines the independence of all professional associations, demonstrating that scientific and intellectual professions, their public bodies, and professional affiliations, have become part of the policy of the Syrian government<sup>1</sup>.

Article (48) of the draft law reflects the lack of independence of associations. It gives the Prime Minister the power to dissolve the General Assembly, the Council, or the branch councils if they fail to fulfill their duties and goals. In practice, this means that the Executive Branch can use this Article to strip associations of their independence, by controlling the decisions related to the appointment or removal of members of the associations' General Assemblies

Furthermore, based on the draft law, professional associations may become part of the Syrian government's long executive reach since they can establish branches only by a decision of the Minister (Executive Branch). Thus, members of associations who cannot independently control the mechanism for making important decisions (like establishing branches) become official employees of the government. Article 2 of the draft law stipulates that: “The association is established by law, enjoys legal personality, has a central headquarters, and has the right to own movable and immovable properties in order to fulfill its duties. Its branches may be established in the governorates by a decision of the Minister based on a proposal of the General Assembly”.

---

<sup>1</sup> In this report, STJ does not aim to analyze or refute all the Articles of the draft law. It chooses several basic Articles that affect the independence of the associations and that contradict article 10 of the current Syrian Constitution.

STJ believes that this authority must be given to the General Assembly, especially as Article 10 of the draft law gives it the power to approve the general policy of a professional association, its budget for the fiscal year, and many other decisions that are more crucial than the establishment of branches in the governorates. Nevertheless, the establishment of a new branch should be included in the budget of the fiscal year, which is the duty of the General Assembly<sup>2</sup>.

The draft law does not mention whether the decision of the Minister regarding the establishment of branches is definitive or can be appealed. It also does not state whether the Minister has the power to dissolve a branch after establishing it.

Moreover, Article 39 stipulates the formation of a Central Disciplinary Council, composed of an advisor from the State Council (chairman), at least one assistant advisor from the State Council (a member), and the head of the association or a member of the Council of the Association (a member). The same Article states that the Central Disciplinary Council has the duty to prosecute the head of the association, members of the Council, and heads of the branch councils. However, the draft law does not outline the process of what happens when the head of the association, who sits on the Council of the Association, is being prosecuted.

The independence of professional associations is also rendered suspect considering the fact that, upon the completion of the draft law, the Arab Socialist Ba'ath Party sent a letter to the heads of various professional associations asking for their feedback on the draft law. This incident confirms that Ba'ath Party is still the leader of the state and society, despite the abolition of Article 8 of the current Constitution of 2012, which stated that the Arab Socialist Ba'ath Party is the leading party in Syrian society and the state. After all, why should the Ba'ath Party be the entity to send the letter? What authority gives it the right to send instructions to professional associations, if not that the party continues to dominate Syrian social and political life?

On 26 July 1960, Syria ratified the [Freedom of Association and Protection of the Right to Organize Convention, 1948 \(No. 87\)](#) which states in Article 2 that "Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization". Moreover, Article 3(2) states that "the public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof". Also, Article 8(2) stipulates that "the law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention". Further, Article 11 emphasizes that each member of the International Labor Organization should undertake to take all necessary and appropriate measures to ensure that workers and employers may freely exercise the right to organize.

---

<sup>2</sup> The sequence of the pages of the draft law is not correct.

## Conclusion

Based on the problems within the draft law mentioned in this report, particularly the Articles that grant broad powers to the Executive Branch to control professional associations and their structure, STJ can conclude that the main purpose of the law is to impose control over the work of professional associations in Syria.

While this control was previously practiced by the Security Service and the Ba'ath Party, this draft law gives the Executive Branch the legitimacy to direct the work of the associations by the unification of their structures under one law.

STJ does not agree with the hypothesis that issuing a unified law for professional associations and putting them under the supervision of the Central Organization for Control and Auditing and the Central Authority for the Supervision and Inspection will help the Syrian government in preventing or reducing corruption, especially as the government's own practices indicate that it is not sincerely motivated to reduce corruption<sup>3</sup>.

STJ believes that it is not possible, in light of the current circumstances, to refer the draft law to the [Supreme Constitutional Court](#) because this action can only be taken by the President of the Republic<sup>4</sup>. Moreover, the Court whose members are appointed by the President are not expected to make any decision contrary to the directions of the Syrian government if the independence of the Court is stripped by the Constitution and Law No. 7 that regulates it.

---

<sup>3</sup> The Corruption Perceptions Index 2021 showed that Syria ranks 178th in a scale that has a range from 0 to 100, in which corruption raises, the higher the number is. <https://www.transparency.org/en/cpi/2021>

<sup>4</sup> Article 11 of the Supreme Constitutional Court Law No. 7 of 2014.

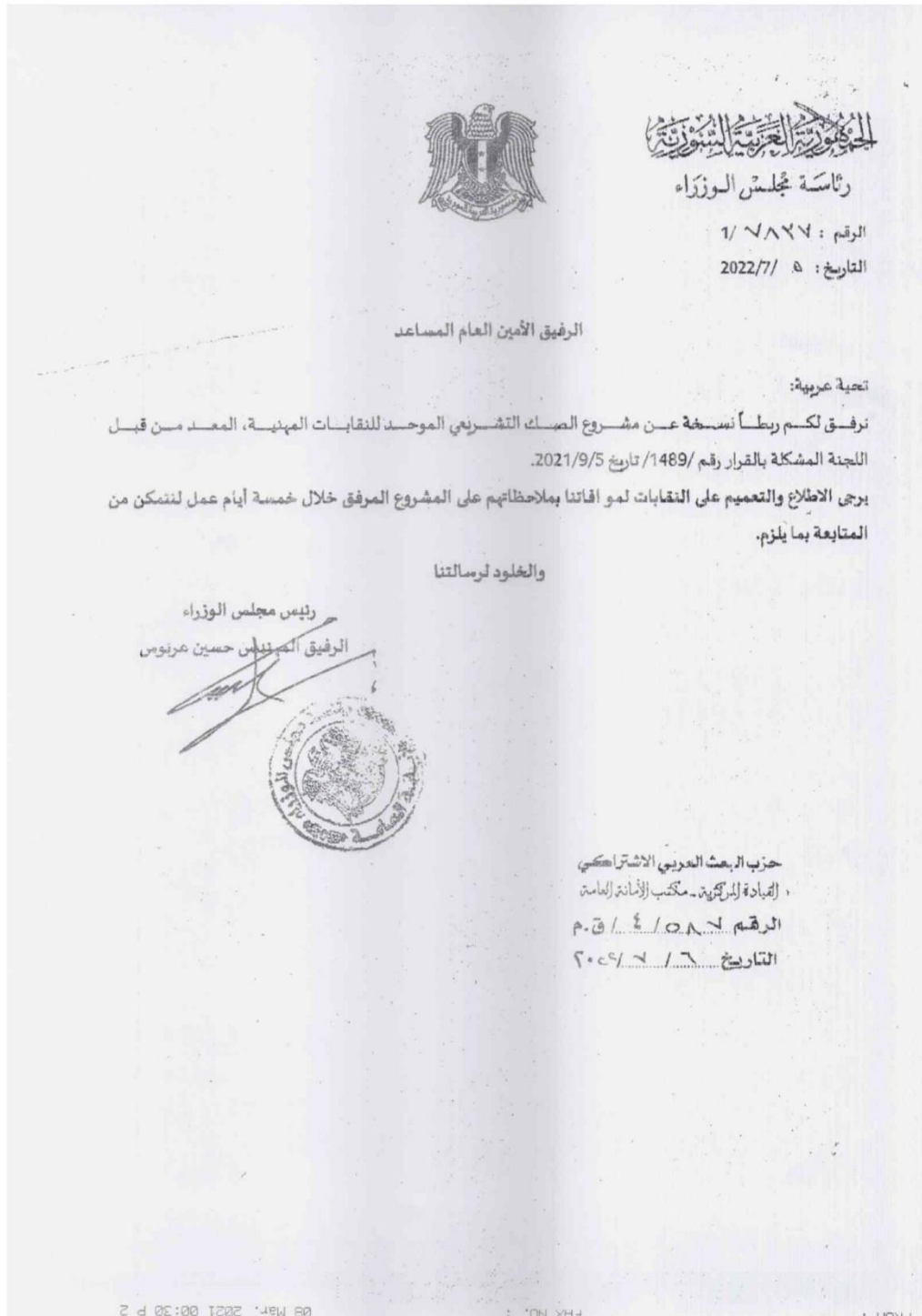


Image (1) - The letter addressed by the Syrian Council of Ministers to the Assistant General Secretary of the Arab Socialist Ba'ath Party, that is attached to the draft of the unified legislation for professional associations





## About Us:

Syrians for Truth and Justice (STJ) is a nonprofit, nongovernmental organization monitoring human rights violations in Syria. Founded in 2015, STJ has been based in France since 2019.

STJ is an impartial and independent Syrian human rights organization operating across Syria. Our network of field researchers monitor and report human rights violations occurring on the ground in Syria, while our international team of human rights experts, lawyers, and journalists gather evidence, examine emerging patterns of violations, and analyze how violations break domestic Syrian and international law.

We are committed to documenting violations of human rights committed by all parties in the Syrian conflict and elevating the voices of all Syrians victimized by human rights violations, regardless of their ethnicity, religion, political affiliation, class, and/or gender. Our commitment to human rights monitoring is founded on the idea that professional human rights documentation meeting international standards is the first step to uncovering the truth and achieving justice in Syria.



[WWW.STJ-SY.ORG](http://WWW.STJ-SY.ORG)



[STJ\\_SYRIA\\_ENG](https://twitter.com/STJ_SYRIA_ENG)



[EDITOR@STJ-SY.ORG](mailto:EDITOR@STJ-SY.ORG)