Albania

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Foundation, Cooperative, Other: Center

Five main social issues addressed by these organizations: Health and Medical research, Youth and Family, Environment, Human rights, other: Democracy and Rule of Law

Average time established by law to register a philanthropic organization: 31-60 days

The registration procedure for POs may vary from 25 days up to two months, longer than the time period of 15 days established by the law.

Average cost for registering a philanthropic organization: US $235

The POs (Partners Albania, 2016) consider the registration cost high.

Government levels primarily regulating the incorporation of philanthropic organizations: Court of First Instance in the capital

Philanthropic Environment Scores:

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<th>Ease of Operating</th>
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<td>2018</td>
<td>4.2</td>
<td>2.4</td>
<td>2.0</td>
<td>3.5</td>
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I. Formation/Registration, Operations, Dissolution of a Philanthropic Organization (PO)

The three questions in this section pertain to the laws and regulations governing philanthropic organizations (POs). The scoring questions for this category cover three aspects of regulations: (A) formation and registration, (B) operations, and (C) dissolution.

Question 1: To what extent can individuals form and incorporate the organizations defined?

Score: 4.0

The freedom of individuals to establish and/or participate in a philanthropic organization is a constitutional right. It is regulated further in primary and secondary legislations in Albania. The registration of POs is not mandatory and individuals can operate freely without legal restriction. In cases of registration, the application shall contain explanations regarding the form and purpose, the object of its activity, the identification of founders and legal representatives, the structure of the organization, and the location of its headquarters.

The law on nonprofit organizations recognizes three forms of organizations: center, foundation, and association. The documentation package includes the request for registration, the charter, and the establishment act approved by the founders and certified by a notary. The founders authorize one or more persons to perform the registration and follow the registration process. In the case of foundations, initial capital equivalent to €715 (US $804.7) is required, even though the law does not stipulate the required amount of capital (European Foundation Center, 2014). The registration of POs is filed at Tirana First Court of Instance, an independent and apolitical body. The Court shall maintain and publish the POs’ Registry. It shall be open to the public, but currently there is no available official data on the total number of registered POs. The approval of registration is made by a judge in the commercial section within 15 days from the date the request is submitted to the court. If the judge finds the application file to be incomplete, he/she may decide to postpone the decision until his/her requests are met. In the case of rejection, a PO may appeal the decision at the Court of Appeals.

Question 2: To what extent are POs free to operate without excessive government interference?

Score: 3.7

The legal framework guarantees POs the right to regulate their internal structure and management procedures without the interference of the State. POs can freely elect their representatives without any legal restriction, and can engage in any kind of lawful activity. When POs require a license to operate, they must submit a request to the competent office, which is based on straightforward criteria established by law. POs can freely establish and/or join online and offline networks, inside and outside the country, without prior notification to state authorities, and can freely use the Internet, social media, and web-based platforms without any interference from the State. The accounting and financial rules and regulations for POs are provided by the Accounting Law, Law on Public Financial Inspection, the Directive on Supervision from Tax Authorities in Support of Prevention of Money Laundering and Financing of Terrorism, and the Directive of the National Accounting Standard (NAS) for Non-Profits. NAS has introduced clear and easy procedures for financial reporting and accounting...
procedures that are proportional to the size of the PO. POs with annual revenues less than 5 million Lek (approximately US $40,000) are required to apply cash-based accounting and to submit only a statement of cash flow with explanatory notes on the type of activity or service provided. POs are also provided with standard reporting formats, which are generally considered easy to understand and clear.

Question 3: To what extent is there government discretion in shutting down POs?

Score: 5.0

The dissolution of a non-profit organization (i.e. foundation, center, association) is regulated by law No. 8788, dated May 7, 2001, which concerns non-profit organization. Dissolution can happen by decision of the organization (self-dissolution) or by a court decision based on the request of its members or its decision-making structures, or by decision of the competent state agency. The court may decide to dissolve an organization when: (i) its activities are against the Albanian constitution; (ii) it performs illegal activity; (iii) is bankrupt; and (iv) the organization was not established in compliance with the law. When the activities of the organization constitute a serious threat to the public, the court shall inform the organization in writing about the violation of the law, and give the organization 30 days to comply.

When the dissolution is decided by the non-profit organization, one or more liquidators--designated according to the charter--enact the liquidation. When the court decides on the dissolution, it also designates a liquidator, vesting in him/her the competencies necessary for the completion of the liquidation procedure. The liquidators have authority and responsibility over the assets, the property, and the representation of the non-profit organization from the date of their appointment until the conclusion of the liquidation. The activity of the liquidator is clearly described in the law. The distribution of assets in favor of the members or other persons who are subjects of the charter or the establishment act of the organization and their relatives is prohibited. Currently, there is no report of involuntary dissolution by the court or other concerns related to self-dissolution.

II. Domestic Tax and Fiscal Issues

The two questions in this section pertain to laws and regulations governing the fiscal constraints of giving and receiving donations domestically.

Question 4: To what extent is the tax system favorable to making charitable donations?

Score: 2.0

Donations in the form of sponsorship are the only type of giving recognized and regulated by the Law on Sponsorship. The tax system permits donations between 3 percent and 5 percent of profit before tax (depending on the type of activities sponsored) by entities that have the qualification of merchant, being physical, juridical persons, local, foreign, or joint ventures. However, the list of deductible activities includes only those that are humanitarian, cultural, or artistic in nature, as well as organizations focusing on sports, education, environment, works of literature, and science and research activities, excluding democracy and human rights. In-kind donations and gifts given by corporations are not tax-deductible.
Donations should be supported by sponsorship contracts and proofs of execution. Due to a lack of clarity among tax inspectors on the means of verification, donations are often considered an attempt at tax evasion. In these circumstances, there are companies that do not apply tax deductions. Because donations are only recorded in a company’s books, and are not reported separately, tax authorities have no record of such activity. Individual giving does not qualify for tax deduction. The law requires that individuals with incomes above 2,000,000All (US $15,750), about 6 percent of working labor, submit annual personal incomes, which impedes application of any tax incentive.

**Question 5: To what extent is the tax system favorable to POs in receiving charitable donations?**

POs have no restrictions on raising funds from private sources, whether local or international. Their grants, donations, bank deposits, and membership fees are exempt from income taxes. There is no legal restriction on private donations in regard to volume, nature, or origin. All activities that fall under “activities for the good and in the interest of public” are exempt from Value Added Tax. The law defines such activities in a broad way, and is an improvement to the now abolished “Public Benefit Status,” which included only three areas (education, health care, and economic development).

In order for a PO to receive VAT exemption, it should fulfil three criteria: (i) the decision-making body must have no direct interest in the PO’s activity; (ii) the non–economic activity must be significantly larger than the rest of the activities of the organization; and (iii) the service and goods delivered should not compete with the profitable commercial sector. The annual turnover from profit activity must not exceed 20 percent of the total annual revenues. POs meeting these criteria should file an application to the Regional Tax Directory. The application consists of a long list of documents, which are not standard (Court Decision; Statute of the organization and establishment act; a statement listing all the products and services provided to members and/or to third parties along with prices; statement of PO’s mission, goals, and main programs; statement of persons or groups in need that the PO serves; sources of income, including percentage of income deriving or expected from economic activity). A statement on source of income is required for all newly registered POs. There are only a few POs that have applied for and been granted VAT exemption. This low number is mainly a result of the cumbersome procedures, previous negative experiences, and lack of trust in transparent decision-making within the institutions in charge of granting VAT exemption.

**III. Cross-Border Philanthropic Flows**

*The two questions in this section concern laws and regulations governing the fiscal constraints of giving and receiving cross-border donations. The scoring for these questions pertains to the donor and receiving entities.*
Question 6: To what extent is the legal regulatory environment favorable to sending cross-border donations?

Score: 2.0

There are no restrictions in moving capital or cash across borders, except those related to money laundering, which require contract of funding and/or proof of payment. As corporate tax deduction and any other exemptions given to POs are applied only for in-country donations, cross-border donations do not qualify. In-kind donations are treated like any other exported good. So, VAT and custom duties are applied just like to any other export. Exemption from custom VAT is applied only for certain goods imported by POs, but not on export.

Question 7: To what extent is the legal regulatory environment favorable to receiving cross-border donations?

Score: 2.0

The Law on Sponsorship provides corporate tax deduction for corporations, either local or foreign, but only for those registered and donating within the country. One impediment is the lack of double tax treaties in place with many European countries. Even in such cases, where treaties exist, the problem is not solved as they do not generally cover this issue. Requirements in documenting donations received from abroad are the same as donations received within the country—there must be a funding contract or agreement that stipulates the purpose of the funding, the amount, and a timeline in which the donation will be utilized. The transaction of cash has to be implemented via bank transfers. POs are eligible and free to receive donations from abroad with no prior approval from any government institution and no reporting requirement.

In cases of international development assistance programs that support POs in Albania, the donations may be exempt from value-added tax (VAT), which is considered a contribution of the Albanian government as part of the bilateral assistance agreement. Still, even in the case of POs benefiting from external funding (i.e. EU funding schemes) they can claim VAT reimbursement with the tax authorities. However, the procedure for reimbursement is cumbersome and has proven inefficient. Until now, Albania is the only country that has never reimbursed VAT on EU grants for national POs. Organizations that are exempt from import tax include those that offer humanitarian aid or equipment that supports education and training, organizations that employ people with disabilities, and entities that provide goods for people affected by natural disasters or wars. Regardless, procedures are unclear and POs report failing to receive the VAT exemption. Other private, foreign foundations with or without offices in the country are generally not excluded from VAT.

IV. Political and Governance Environment

The three indicator questions in the next two sections concern the political and governance context, socio-cultural characteristics, and economic conditions that influence the environment for philanthropy.
Question 8: To what extent is the political and governance environment favorable for philanthropy?

The structures and mechanisms for dialogue and cooperation between POs and public institutions are established at a national scale, and have improved notably in the last four years. The National Council for Civil Society, an initiative of the nonprofit sector, was established in 2016 as a consultative body to guarantee the institutional dialogue between POs and the government. Public consultation is regulated by law and requires public authorities to consult on draft laws, national and local strategies, and policies with high public interest. Sub-legal acts are excluded from this requirement, which is considered as a maneuver to avoid public consultation on important implementation mechanisms. Each public authority should appoint a coordinator on notification and public consultation processes. Despite that, there are still public institutions that have failed to put such structures in place.

At the local government level, there are increased opportunities for cooperation with POs in the provision of social services. Still, any law development has to pass the test of implementation. The quality of consultations remains superficial. Processes are not timely and do not provide enough time for meaningful feedback. Often, institutions disregard a PO’s opinion and fail to provide arguments for disregarding their opinion, which is in violation of the law. 2017 marks the Parliament Election in Albania and the political situation is tense. The opposition parties demand a technocratic government for the upcoming elections on June 18th. Until then, they are boycotting the Parliament. In the last two years, Albania has started a major judicial reform, which is considered vital in fighting corruption and enabling the country to open the negotiations for EU membership. The boycott of the parliament by the opposition has put a halt to the reform, and has created a serious constitutional crisis. It still remains to be seen the impact this crisis will have on the nonprofit sector and economic developments in the short run.

Question 9: To what extent are public policies and practices favorable for philanthropy?

The nonprofit sector is becoming a legitimate actor in policy development in the country, enhanced also by legal and institutional mechanisms in place regarding consultation and access to information. There are structures in place for cooperation with POs. For example, entities such as the Department for Development and Foreign Aid at Prime Minister’s Office, the National Council for European Integration, have units/contact persons in charge of spearheading cooperation with POs at ministerial and municipal level. The attitude of the government toward the sector is positive, although there is much to be improved in the quality of cooperation. Public agencies lack the knowledge and skills on how to engage with the sector. The Albanian School of Public Administration (ASPA), as the public institution responsible to enhance professional capacities of public administration, does not include trainings on POs–government cooperation issues.

Under the Open Government Partnership initiative and EU-related reforms for the opening of accession negotiations, Albania has taken several actions to fight corruption. Although the Corruption Perception Index shows improved ranking from 88th place in 2015 to 83rd in 2016,
corruption remains a top priority. Issues of transparency in public institutions, especially with regard to conflict of interest, remain vital to strengthening the integrity of the philanthropic organizations.

There are no restrictions for POs to access any type of funding, and donors are exposed to no interference in the type of support they provide to POs. Still, the sector relies heavily on foreign funding, with the government playing a minor role in funding. The main government funding mechanism is the Agency for Support of Civil Society (ASCS), which is continuously criticized for its lack of transparency, accountability, and its dominant role in decision-making structures. The Agency is also responsible for providing training and information and for promoting a culture of voluntarism, but has not done much in this regard, and has not demonstrated a clear strategy to address the issue.

V. Socio-Cultural Environment

Question 10: To what extent are socio-cultural values and practices favorable for philanthropy?

Score: 3.5

Albania has a diverse religious population of Orthodox Christians, Roman Catholics, and Muslims--both secular Sunnis and a significant Bektashi Shia minority comprising about 59 percent of the population. The climate of respect and mutual trust between these three main religions has positively impacted the strong sense of solidarity and social responsibility within society.

The first traces of philanthropy in the form of mutual help and support among people originate in medieval times, with the church at the core of the charitable activity and a strong emphasis towards nationalism. During the communist era, charity and philanthropy were replaced with the concept of voluntarism and solidarity. The political transformation of 1990 was accompanied by important political and economic developments toward a democratic society and open market. The establishment of POs and the development of the civil society were other factors that contributed to economic and social development. These developments established the conditions for revival of the charitable and philanthropic activity.

Corporate philanthropy has grown in volume and popularity in the last four years, although it is still in the first steps to becoming a formal and strategic sub-sector. Their main focus is on economic aid and poverty alleviation. The Corporate Social Responsibility (CSR) network brings together some major corporations and is in its first stages to promote and support CSR in the corporate sector.

During the last few years, POs have adopted a more open approach toward the media. Still, public trust in POs is low. Greater transparency and accountability from POs is imperative to improve credibility and trust. There are no legal and social barriers to participate in philanthropic activity, and POs are considered as a woman's domain, with the majority of POs led by women. The sector is diverse and encompasses religious organizations of all faiths, ethnic base and gender, including LGBTI, which register and operate freely.
VI. Future of Philanthropy

These questions are used to provide a general picture of the future of philanthropy in this country as well as recommendations to improve the philanthropic environment.

Current state of the philanthropic sector

Corporate philanthropy is mainly led by the owner or CEO. Only a small percentage of businesses—mainly large tax payers and foreign capital organizations—have strategies in place and designated staff to manage the corporate philanthropy organization. Predominantly, the owner or CEO is the first entry point to discuss about any philanthropic donation, regardless of size and scope. However, there are some corporations that have started setting up philanthropic foundations. Because corporate philanthropy is not strategic, it suffers from inconsistency in areas/issues supported and the volume of donations it provides. The opposite happens with large business taxpayers with foreign capital who inherit from their headquarters a strong business culture of public responsibility.

The main areas supported by philanthropic activity are poverty alleviation, education, and health—with the biggest contributors being banking and the insurance sector. Children comprise the largest beneficiary group, followed by those who are economically disadvantaged and youth. POs primarily rely on grants from foreign donors or from the government, and the main source of funding is the Agency for Support of Civil Society. However, they do not provide institutional support; rather, they provide short-term project-based funding that never exceeds 18 months. These donors are at the same time, through their programs, the main training providers that focus on improving project implementation capacity rather than institutional strengthening and sustainability. The Non-Profit Organization Academy, started in 2015 by Partners Albania, is one of the very few opportunities for PO specific informal education.

Three major recent events affecting the philanthropic landscape between January 2014 and December 2016

- The Philanthropy Award Ceremony: the Philanthropy Award is an annual public event organized by Partners Albania since 2011, and is the only one of this kind in the country. It aims to express gratitude and public recognition to individuals and corporations who contribute to improve the quality of life in our society. Three Award categories are given, based on public nominations for largest contribution at the national and local level, as well as the best contribution to individuals. The “Pioneer Award” is given to families and/or individuals who started this tradition in Albania during the nineteenth and twentieth centuries.

- Adopt a nursery: the initiative was launched by the Municipality of Tirana in 2014 as a public invitation to corporations to “adopt a nursery” and to invest in the physical infrastructure and the furbishing of nurseries. By the end of the process, 31 private businesses and individuals contributed to the reconstruction of 31 nurseries in Tirana, and will continue to take care of their needs for the years to come.

- Fundjave Ndryshe Fondacioni (Different Weekend Foundation): the initiative started in 2015 by a group of young adults who aim to support vulnerable families in Albania. It is one of the initiatives that have become very “popular,” and it is embraced by many individuals and
entities who are willing to donate for these families. In the process, families in need of assistance are identified, then, the some type of assistance or charity is planned to aid the family. These efforts are organized under the motto, “Donating does not make you poor.” Such a journey and initiative is modest and based on the goodwill of citizens coming together in their spirit of solidarity and of increasing public awareness.

Future development trends in the philanthropic landscape

There is an increasing trend of private businesses engaging in philanthropic activity, which is expected to continue. The volume of donations directly linked to the financial performance of the private sector, and the optimistic growth forecast, creates room for optimism in an environment of increased total value of donations. Individual philanthropy is expected to grow as more initiatives are put into place to support people in need, health issues, and extreme poverty.

Social media will become the main platform for promoting good causes and generating individual support. Traditional media is going to play a more proactive role in identifying issues and promoting good practices of philanthropy, especially individual philanthropy. Unfortunately, corporate philanthropy is not well covered by media because of marketing restrictions. With more happening between State institutions and private businesses in terms of private-public-partnerships, awareness from the State side on philanthropic activity will increase. Greater fiscal incentives for the corporate philanthropy are also expected. In the near future, it is expected for everyone to be enrolled in the income tax system, enabling individual donations to be part of incentive schemes. The future also seems to show an increase in cooperation between POs and the private sector, following the existing successful cases of cooperation between these two sectors.

Three key recommendations to improve the environment for philanthropy

- Create an enabling environment for companies and individuals to carry out philanthropic activities. The recognition of philanthropic activity in the legal framework is needed in order to promote the sector as a distinct activity apart from sponsorship. In this context, it is important to increase the fiscal incentives for corporations and to include individual donations, too. Using local models and international experience, Albanian POs should become more pro-active in collaborating with private businesses on the design and implementation of their philanthropic programs. For this reason, the government should develop policies or incentives that encourage partnership between the two sectors, as they are two important agents of social change in the country. On a practical level, it is vital to increase awareness and to educate tax authorities on the importance of the philanthropic activity in order to avoid possible barriers that may hinder any further development of philanthropy.

- Creating platforms of cooperation between civil society organizations and the business sector. To boost cooperation between the private sector and philanthropic organizations, easy and informative channels of communication are needed. Clear and publicly available documents on CSR and corporate philanthropy will help POs to effectively reach out to corporations to collaborate on common areas of interest. The same would work on the philanthropic side. POs are important partners that facilitate businesses to realize their ethical obligation to customers and the community. In order to boost businesses’ confidence to
cooperate with and to view POs as reliable partners to channel their donations to, higher transparency standards are required from POs.

- Developing corporate philanthropy and CSR strategies to be implemented by corporative internal and/or external structures. This is very important for increasing businesses potential for philanthropy. Although, there is the CSR network in Albania, the number of companies with CSR strategies in place remain very limited and out of the reach of the network.