Serbia

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Associations, Foundations, Endowment

Five main social issues addressed by these organizations: Arts and Culture, Environment, International Causes, Education and Research, Social Services

Average time established by law to register a philanthropic organization: 0-30 days

Average cost for registering a philanthropic organization: US $50

Government levels primarily regulating the incorporation of philanthropic organizations: Central/Federal Government

Philanthropic Environment Scores:

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<th>Year</th>
<th>Ease of Operating</th>
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<td>2018</td>
<td>4.7</td>
<td>3.5</td>
<td>3.5</td>
<td>3.4</td>
<td>3.0</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: 5.0](image)

The legal framework governing POs in Serbia is comprised of the Law on Associations and the Law on Endowments and Foundations. The Law on Associations permits the formation and operation of unregistered groups, but registration is required if associations wish to take part in legal or financial transactions, such as opening a bank account, having employees, etc. Foundations and endowments must be registered, as they are defined as legal entities by the law. Registration of an association requires a minimum of three founders; individuals or legal entities, domestic or foreign, and anyone over the age of 14 is permitted to be a founder. The Law on Endowments and Foundations requires only one individual or legal entity to be a founder, either domestic or foreign.

Associations and endowments/foundations are free to decide their goals, regulate their internal affairs, and operate in accordance with their statutes and by-laws. No minimum starting capital is required for registering an association or a foundation. However, registering an endowment requires starting capital of no less than 30,000 EUR (approximately US $32,000). The body in charge for registration is the Serbian Business Registry Agency (SBRA). The list of required documentation is clear, and these documents are relatively easy to create or obtain; clear information on the procedure and required documentation for registration is available online. The registration process is efficient and is conducted with due process in a timely fashion with appropriate rights of appeal or resubmission of further documentation (in some cases, further documentation is requested before registration can be completed). The Registration body is required to process registration (respond) within 5 days; otherwise, it is considered that the request is approved. The registration fee is RSD 4,900 (approximately US $45). Data from the SBRA registers are available online to the public, and online search is enabled by ID number or name of the organization.

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

![Score: 5.0](image)

Both the Law on Associations and the Law on Endowments and Foundations provide a simple framework of governance requirements; for the most part, requirements represent global best practices in POs. POs registered as associations should have a minimum of 3 founders, an assembly of members (with members defined in the statutes of the PO), and a named legal representative(s). POs registered as endowments or foundations should have a minimum of one founder, a board of trustees (with at least three members), a director, and a named legal representative. Basic responsibilities of the prescribed governance bodies are defined by the laws, but, in their statutes, POs can add other responsibilities and/or define other governance bodies. POs may not engage in activities that would work toward the violent overthrow of constitutional order, would violate the
The governing body of a PO is permitted to voluntarily dissolve/terminate the PO. The conditions and procedures for such a step are required to be a part of the PO’s statutes. The distribution of any property or assets from such a dissolution must be laid out in the statutes and the PO’s governing bodies must make a formal decision. If they fail to make such a decision, the local government decides or, in the case of associations, takes over the property. In this case, the association’s assets and properties shall become the property of the Republic of Serbia with the usufruct right going to the local self-government unit on whose territory the association had its head office (Law on Associations, Article 43).

In the case of voluntary termination of activities, POs must distribute the remaining property or assets to a nonprofit legal entity founded with a similar purpose. The registration authority does possess the authority to involuntarily terminate the registration of a PO in three situations: 1) the PO’s activities are not in accordance with their declared registered goals; 2) the PO’s activities are violating the conditions regulated by the laws (working toward the violent overthrow of constitutional order, violating the territorial integrity of the Republic of Serbia, violating the guaranteed human or minority rights, or instigating or abetting inequality, hatred, and intolerance); and, 3) the PO has become a member of a foreign or international organization whose goals or activities are in contravention on point 2. The revocation of registration does not allow for an administrative appeal process and is considered final, but the PO may start legal proceedings against such a decision. The language of the laws does provide the government with a fair amount of latitude in interpreting what activities might be working against the constitutional order or what might be considered as working against human or minority rights. In a worst-case scenario, this latitude, coupled with the lack of an administrative appeal process, could be cause for concern. However, for the time being, this latitude has been rarely used, and in only the most extreme circumstances.

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: 3.0  

For-profit legal entities may deduct up to 5 percent of their gross income for healthcare, educational, scientific, humanitarian, religious, and sport-related purposes and environmental protection, paid to institutions and social care service providers registered in accordance with the law regulating social care provision. Deductions are recognized as tax deductible only if the contributions have been given to nonprofit legal entities registered as working in one of these thematic areas, and the donated funds were used directly for those goals and purposes. Legal entities may deduct up to 5 percent of their gross income for investments in cultural purposes and cinematography, with the Minister of Culture possessing the jurisdiction to determine which investments might be deemed as deductible. In reports to Tax Authorities, giving to public benefit purposes is recorded only if the amount given is over 5 percent of gross income. Organizations are not required to provide proof that these expenditures were used as stated, a list of beneficiaries, or the purposes or amounts given. Should the Tax Administration decide to conduct a random ‘field check,’ then the legal entity is obliged to provide documentation to prove that their report was correct. In practice, legal entities are often not certain what exactly falls into the categories described by the law, while local tax administration offices, when asked, often give an incorrect interpretation of the law. Companies, therefore, often choose not to ask for tax-deduction, lest they be fined for false reporting. Therefore, it is not possible to have records of giving by companies for the public good. The legal framework does not specifically reference in-kind donations and companies are not able to include such donations in tax-deductible costs. Companies donating goods or services are obliged to pay the value-added tax (VAT), which creates a disincentive to in-kind or pro bono donations. There is no tax benefit or incentive for giving for individuals in Serbia.

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

Score: 4.0  

All POs are generally exempt from income tax if they pursue public or mutual benefit activities, as defined in their statutes. Gifts less than RSD 100,000 (approximately US $900) by a single donor in a calendar year are automatically exempt from income taxes. For gifts that exceed the prescribed threshold, the tax authorities require POs to apply for tax exemptions. In practice, the local tax authorities’ departments decide if they will pursue this provision or not. Similarly, some POs have been required to pay income tax on income used for administrative or overhead purposes, as the local tax authority determined that such costs were not considered to be in the public benefit. The concept of public benefit status is not developed in tax law; the laws instead address the notion of public benefit activities. However, they are narrowly construed in the Legal Entity tax law, and there is discrepancy in the list of such activities between the Legal Entity Profit Tax Law (Law) and the laws regulating PO work. POs are obligated to pay the value-added tax on all goods and services they purchase—except in cases where the purchases are paid using donations that come from a foreign government as part of the international development assistance programming and fall under the bilateral agreements between the donor country and Serbia. POs are also often obliged to pay the VAT on the value of in-kind donations since in-kind donations are not recognized under the legal framework as having a tax benefit. In practice, while most POs do not have problems with tax
exemptions, the process is under the discretion of local tax authorities and can easily be misused. All POs are free to receive donations and raise funds from any public or private source, company or individual, within Serbia or abroad, without any fear of interference from the government. All donations (individual and corporate) must be documented through a donation agreement/contract between the donor and the recipient.

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: 4.0

The corporate tax deduction applies only to domestic donations and cannot be applied to donations out of country. Cash donations across borders need to be documented via a donation contract/agreement. Such donations, if made by a PO, should be made for similar purposes as what the PO has registered as its area of work. There are no restrictions on the movement of capital across borders, except those that relate to anti-money laundering. This issue is mitigated through the presence of the donation agreement. No government approval or reporting is required for such cross-border cash donations. In-kind donations are treated just like any other export of goods. Depending on the size and content of the shipment, proper export documentation is required. As such, VAT and other fees are assessed on donations just as they would be with any other export.

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

Score: 3.0

There are few restrictions to receiving cross-border charitable donations, and documenting such donations is similar to receiving in-country donations. In general, the tax treatment for cross-border donations is the same as for in-country donations. In some cases, though POs are freed from paying VAT for purchases paid from donations that come from a foreign government as part of the international development assistance programming and falls under the bilateral agreements between the donor country and Serbia. Regarding in-kind cross-border donations, the procedures are more complex and the application of taxation and customs charges are inconsistent. In principle, most donations should be considered free of customs duties, but that is relevant to the decision-making of the individual customs office where the donation passes through. In these cases, there is an appeal process up through the Customs Authority, but this can be a time-consuming and byzantine process. To complicate matters, for items like medicines or second-hand clothing, there can be difficulty in demonstrating the declared value of the goods. Medicine coming from the United States, where it is much more expensive, will have a declared value many times higher than what the value of the same medicine is in Serbia. This discrepancy in value can result in long delays, even when the final decision is that no customs duty is charged.
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?

In the last five years, Serbia has seen the rise of a right-oriented government, causing a gradual increase in political tensions between the government and POs engaged in human rights, civic activism, media freedom, and similar causes. However, POs focusing on what is generally considered ‘humanitarian causes’ or socio-economic rights of marginalized groups (children, women, persons with disability, economically disadvantaged etc.) meet less resistance from the side of government, which recognizes that their activities are sometimes lessening the potential of social unrest. POs are rarely publicly recognized as agents of change; even when the government benefits from their involvement, it tends to take credit for any change. While it sometimes pays lip service to POs activities and involvement, in practice the government does not actively support POs. The government only formally allows their involvement in policy development and implementation and often only when pressured by the requirements of the EU integration process or by international stakeholders. Nevertheless, due to persistent engagement and occasional allies in the government, POs have been able to influence some of the policies and their implementation. At this point, Serbia cannot be considered a politically stable country; the current regime has significantly diminished media freedom and has weakened the already fragile institutions and the independence of the judiciary. While this situation has, in some respects, impeded the development of philanthropy, in other cases, it has attracted philanthropic support to certain causes. With a decade-long economic crisis continuing, a similar scenario is seen. The crisis has lowered the contribution levels--especially from corporations--while also catalyzing support to particular causes like healthcare, marginalized groups, and the economically disadvantaged.

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

While the government publicly supports philanthropy, i.e. philanthropic contributions, which in effect subsidize the State (support to medical treatments, education, social services, economically disadvantaged), it generally refuses to support changes in the legal and fiscal framework that would improve conditions for its development. Thus, POs involved in philanthropic development have been, for years, unsuccessfully advocating to introduce tax benefits for in-kind donations, for exemption from paying VAT on in-kind donations for donors and recipients, for tax deductions for individuals, for widening the list of causes that are eligible for tax benefits, etc. POs engaged in philanthropy are, nevertheless continuing to advocate for improving the legal and fiscal environment; they are also developing various forms of support to other POs, especially smaller, community-based organizations, such as trainings, opportunities for networking, increasing access to potential sources.
of funding, etc. At the same time, they are developing and offering services to potential donors, particularly corporations. However, while the government allows such engagement it does not actively promote or support it. Moreover, government often uses its power to access donors itself, while at the same time investing very little effort to implement laws or prevent increasing corruption. Until recently, donors and funders were free to support any philanthropic cause and/or organization. However, there were cases where politicians used their power to promote and initiate support from local companies/wealthy individuals to certain philanthropic causes (e.g. giving to the foundation founded by the wife of the President). Further, with political tensions rising, there are signs that support for media freedom, human and civil rights, an independent judiciary, monitoring the work of the government, preventing corruption and similar causes, are not welcome and even that they may be actively suppressed in the future.

V. Socio-Cultural Environment

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

Score: 3.0

Serbia has a cultural heritage of philanthropy and solidarity that reached its historical apex in the first half of the 20th century. While this heritage became somewhat muted during the socialist Yugoslavia period, over the past 10 years, a resurgence in giving has taken place. This process is slowed down by the widespread lack of trust among citizens, which, among other values, has been severely diminished during wars in former Yugoslavia. Still, some of the core values, such as solidarity and altruism, have survived. Philanthropy in Serbia is, however, still perceived as a way to help those in need, rather than a tool/vehicle for solving important societal issues that demand a longer-term approach, such as the environment. Citizens most often support individuals (be those in need of economic support or medical treatments) by donating money, goods or supplies and consumables. This attitude is very slowly changing among citizens while the business sector invests its charitable contributions more strategically. There is still little understanding of POs and what they do, especially those engaged in causes that can be understood as ‘political’ (e.g. human rights). POs that engage in direct humanitarian activities or support marginalized groups enjoy greater understanding and support. POs bear part of the responsibility; while they respect the legal minimum in terms of transparency and accountability, they rarely invest additional efforts to increase transparency or communicate their results. They are not generally perceived as effective and confidence in POs among the public, while slowly increasing, is still low. There are no social barriers to participate in philanthropic activities on the donor side; however, prejudices make it more difficult for some groups to become recipients, such as Roma people. POs pursuing financial sustainability, businesses implementing CSR practices, and the failure of the State to provide basic needs are positive factors that encourage philanthropy, while a lack of trust remains an obstacle.

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

The philanthropic sector in the country is in the stage of maturing. The larger organizations are, for the most part, professionalized and, while still heavily dependent on foreign support, they are making efforts to widen local constituency and learn how to attract their support. At the same time, there is a rise in the number of community-based organizations, which are not professionalized, but are actively turned to attracting local support. There is an increasing number of local private or community foundations, which are acting as intermediaries. On one hand, they are supporting the development of smaller community-based organizations and encouraging them to attract local philanthropic contributions. On the other hand, they are offering services to local donors, particularly corporations. POs increasingly use various methods of fundraising to garner donations from the business sector, citizens, and, occasionally, wealthy individuals. Collaboration, both inter- and intra-sectoral, is also increasing, although effective and efficient networks are still relatively rare. Nevertheless, the range and number of actors and stakeholders is increasing. Media also plays important role; as opposed to other countries in the region, where media still mainly engage only in promoting/informing on philanthropy, in Serbia they often actively engage by acting as informal intermediaries or by founding their own foundations. Overall, while there is still significant work to be done in improving the legal and fiscal environment, in encouraging strategic philanthropy, in supporting POs to be more persistent and effective in attracting local donors, and in creating effective and efficient networks, it can be said that philanthropic sector is making slow, but steady progress in the development of the sector itself and of philanthropy in Serbia.

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

- In May 2014, severe flooding in Serbia created one of the largest natural disasters in its history and mobilized hundreds of thousands of Serbian citizens to give. In only two months, more than 45 million EUR in giving was recorded, some of which came from more than 2 million SMS messages, each of which donated 1 EUR; this is significant considering the population is just under 7 million people.

- Failure of the State to provide resources for adequate healthcare, especially for persons/children that need medical treatment outside of the country, continuously mobilizes citizens and other actors. In the last three years, at least 12 million EUR (with the true amount likely significantly higher) has been donated to improve conditions in the healthcare system and to support the medical treatment of children and youth and adults abroad.

- The continuation of the withdrawal of foreign donors has influenced the increase in PO efforts to become financially sustainable. There is an increased understanding of the importance of building a constituency, as well as the need to learn to approach, attract, and nurture local donors. In the last three years, there is a continuous increase of support to POs, as they learn to better communicate to the public. In 2016 alone, four POs raised a combined nearly US $2 million through public campaigns.
Future development trends in the philanthropic landscape

Donors: Mass individual giving (through campaigns) will continue to increase, making citizens the most ‘active’ donor type, while the business sector will continue to strategically invest larger amounts.

Purpose of giving: Four primary purposes for which contributions are made will remain healthcare, support to marginalized groups, poverty reduction, and education. However, environment, economic development, culture and arts, as well as other less supported causes will slowly become more attractive to donors.

Beneficiary institutions/primary recipients: Philanthropic organizations will increase their ‘share’ both in the number of donations as well as amounts received. However, the State will, for some time in the future, remain the most prominent recipient (both State institutions—health, social, educational—and local/national governments).

Final beneficiaries: Key beneficiaries will remain persons with health issues, economically disadvantaged, people with disabilities, and local communities. However, the ‘share’ to other final beneficiary groups, such as children without parental care, elderly, youth at risk, gifted youth, etc., will slowly increase.

What is donated: While donors will continue to donate money in the majority of instances, in-kind donations, pro bono services, and donating time (volunteering) will see a slow increase. On-line giving is also likely to increase.

Ways of donating/fundraising: Campaigns, crowdfunding, and cause-related marketing will be increasingly used.

Legal & fiscal environment: No major improvements are likely to be achieved in the next year or two, although smaller steps might be made.

Infrastructure: Intermediary organizations will grow, both in number and in strength and capacity; more organizations (both nonprofit and for-profit) that offer services to POs to help them increase their income from local philanthropy will emerge. Existing networks will become stronger and some new ones might emerge.

Three key recommendations to improve the environment for philanthropy

- Increase pressure on the government for improving the legal and fiscal framework, as well as for enabling the efficient use of already existing mechanisms (e.g. tax-deductions for business sector) and improving conditions for easier giving.

- Increase support to develop the infrastructure for philanthropy by supporting intermediaries that support POs in attracting local contributions and organizations that educate and support donors, by offering services to both POs and donors, and helping to strengthen networks with clear goals.
• Invest in efforts to increase the transparency and availability of data related to giving, increase the accessibility/availability of government and tax authority data, create better reporting by media, increase transparency of donors, beneficiaries, and amounts donated, as well as transparency of recipients, both in terms of amounts as well as the results achieved.