Slovakia

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QUICK FACTS

**Legal forms of philanthropic organizations included in the law:** Association, Benefit Corporation, Foundation, Society. Others: Non-Investment Fund, Interest Association of Legal Personalities

**Five main social issues addressed by these organizations:** Primary and High School Education, Basic Needs, Youth and Family, Housing and Economic Development, Religion

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

**Average cost for registering a philanthropic organization:** US $60

**Government levels primarily regulating the incorporation of philanthropic organizations:** Central/Federal Government, Other: Regional Authorities of Central Government

Nonprofit organizations providing generally beneficial services are registered by Regional Authorities of State Administration (in 8 different regions and keep records and files in different offices).

**Philanthropic Environment Scores:**

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<th>Ease of Operating</th>
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<td>2018</td>
<td>4.3</td>
<td>3.7</td>
<td>4.1</td>
<td>3.1</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?

The Constitution of the Slovak Republic guarantees the “right to associate with others in clubs, societies, or other associations” Article 29 (1) of the Constitution of the Slovak Republic, and in general, individuals can form POs without any barriers. However, organizations are required to obtain legal personality.

The kinds of purposes a philanthropic organization can have are very broad. For example, in the case of associations, the 83/1990 Law on Associations (Law on Associations) defines their purpose based on what they can not be; meaning that the law does not enumerate eligible purposes, but defines ineligible purposes; such as establishing for military purposes or for purposes contrary to the constitution or laws (Section 4 of Law on Associations). The Law on Associations (Section 5) forbids purposes that overlap the purposes or functions of state agencies. Requirements for registration are not excessive - the paperwork is not onerous and the registration fee is affordable (typically around US $60). Three citizens are required to establish an association, and least one of them must have reached the age of eighteen years (Section 6 (2) of the Law on Associations).

The 34/2002 Law on Foundations states that foundations can be established by a natural or legal person (Section 4 (1) of Law on Foundations) to support a public benefit purpose (Section 2(1) of Law on Foundations). The founders need to submit a written proposal with the Foundation Deed to the Ministry of Interior of the Slovak Republic in order to register the foundation in the Registry of Foundation (Section 2 (2) and Section 6 of the Law on Foundations). There are requirements for minimum capital in case of foundations and these are not excessive either. The minimum required capital by any founder is EUR €663 (approximately US $780). The minimum required capital for the establishment of a foundation is EUR €6,638 (approximately US $7800) (Section 3 (2) of Law on Foundations).

The 213/1997 Law on Nonprofit Organizations Providing Generally Beneficial Services (NPO Law) states that nonprofit organizations can be founded by a natural or legal person for providing public benefit services as its primary activity, such as: health care, education, or science (Section 2 and Section 5 of the NPO Law). To establish a nonprofit organization registration documents including the Founder’s Deed need to be submitted to the Regional Registration Office. Sometimes different regional state authorities show inconsistencies in assessing the by-laws submitted for registration (especially in the case of nonprofit organizations generally providing beneficial services).

Score: 4.3
Question 2: To what extent are POs free to operate without excessive government interference?

In general, there are very few restrictions in terms of the purposes an organization can pursue. As mentioned above, associations (which are the most popular type of legal form of PO) are only banned in cases when their purpose is aimed at violating and infringing personal, political or other rights of citizens due to their nationality, gender, race, origin, political or other convictions, religious beliefs and social standing or they instigate hatred (Section 4 (a) of the Law on Associations). Another restriction put on associations is that they can not form armed groups (Section 4 (c) of the Law on Associations) and can not perform functions assigned to state bodies (Section 5 of the Law on Association).

Purposes of other common legal forms - foundations, nonprofit organizations providing generally beneficial services and non-investment funds - are defined in the respective laws; however, the list is not comprehensive so it leaves room for certain flexibility.

In the case of non-profit organizations providing public benefit services, when the purpose for which they are registered is regulated by other laws or special regulations the nonprofit organization must comply with these other laws too (Section 3 of the NPO Law). That limits somewhat their choices.

The Law on Foundation regulates the expenditures of the foundations: the assets need to be used for public benefit purposes (Section 28 (1) of the Law on Foundations), and the foundation can participate only in particular entrepreneurial activities, such as running a charitable lottery, renting real estate, or organizing cultural, educational, social or sporting activities that are in compliance with the public benefit purpose of the foundation (Section 29 of the Law of Foundations).

There are no formal restrictions on contacting or cooperating with actors from other sectors, however, the practice is often that public sector institutions lack interest in and understanding of how to build effective partnerships and collaborations with POs in challenging issues such as Roma inclusion or anti-corruption.

There are no formal or informal restrictions on the use of internet and social media. Reporting requirements depend on several factors; for instance, if the organization is tax-exempt, the amount of donations received; and the legal organizational form. In general, reporting requirements are more demanding for foundations and nonprofit organizations providing public benefit services than for associations (which have none). Foundations need to prepare an annual report. If annual income of a foundation from external sources (i.e. not from revenues from its own assets such as gifts, contributions etc.) exceeds the sum of EUR €200,000 (approximately US $235,000), its annual balance sheet needs to be verified by a licensed auditor (Section 34 and Section 35 of the Law on Foundations.). Nonprofit organizations also need to prepare annual reports (Section 34 of NPO Law), and the Annual Accounts Report needs to be authorized by an auditor if the subsidies of the state budget are more than EUR €33,193 (approximately US $39,000) or if their total income exceeds EUR €165,969 (approximately US $195,000) (Section 33 (3) of NPO Law).
Question 3: To what extent is there government discretion in shutting down POs?

The termination of associations is simple and unrestricted: they can be terminated voluntarily specifying the distribution of assets in their registered bylaws or in the resolution adopted by the body paramount of the association; or they can be terminated upon a decision of the Ministry of Interior if the association operates contrary to the laws (Section 12 of the Law on Associations). The Ministry of Interior can terminate the organization only in specific cases such as acting against lawful purposes, or in the case of associations, when membership is involuntarily forced or harmed (Section 12 (3) of the Law on Associations). The Law on Associations provides the possibility of appeal and provides time for discontinuing the causes of termination (Section 12 of the Law on Associations).

These principles in some approximation apply also to foundations and nonprofit organizations providing publicly beneficial services. In the case of nonprofit organizations and foundations, it is the court that makes the ruling, not the registration authority – like the Ministry – in the event of involuntary dissolution (Section 15 of the NPO law, and Section 15 of the Law on Foundations). In the case of nonprofit organizations providing publicly beneficial services, there is a significant regressive condition in the dissolution regulation that makes this organization automatically shut down if it fails to submit its annual report to the (electronic) registry of financial statements (Section 14 (g) of the NPO Law). This does not provide the PO a possibility of correction, which is inadequate.

In the case of the nonprofit organization providing public benefit services, there is also an ambiguity in interpretation of what are the "inappropriately high expenditures in connection to the scope of provided generally beneficial services" (Section 15 (1) (c) of the NPO Law).

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?

Tax deductions for charitable donations are limited for both individuals and corporations. Instead, there is a widely used system of the tax designation that allows any taxpayer – individual or corporate – to designate 1 percent or 2 percent (in the case of corporation) and 2 percent or 3 percent (in the case of individual) of its paid income tax towards one or more POs that are registered in a publicly available list.

This mechanism of tax designation can not be considered as private philanthropy. However, in the case of corporate taxpayers, it motivates them to donate to POs from their private resources because the system includes a condition that if they do make a private donation in the amount of at least 0.5 percent of their paid income tax, then they may designate 2 percent instead of 1 percent from their paid income tax (Section 50 (1) (b) of the 595/2003 Law on Income Tax). So if a corporation makes a donation in that level (at least 0.5 percent), the total contribution to PO consists of 0.5 percent of
charitable donation and 2 percent of tax designation. If the corporation does not make the donation in the minimum limit, it may designate only 1 percent from its paid tax. It should be noted that the corporation does not receive any tax deduction on the 0.5 percent private donation. The tax designation system is widely used (more than 50 percent of corporate and individual taxpayers use it and more than 30 percent of all POs register for it every year). In the tax deduction system, individual or corporate donors have two tax credit regimes for cash contributions that relate to 1) research and development, but not necessarily only to POs, also to other types of entities including private for-profit ones, and 2) sports. A taxpayer may use 25 percent of its investment into the R&D as tax deductible (Section 30b of the Law on Income Tax). The reporting practice for donors is unclear and ambiguous. It can be concluded that the tax system is only partly favorable to making charitable donations.

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

All POs are eligible for full tax exemptions on donations received and on revenue derived from their main activity (Section 12 (7) (a)-(b) of the Law on Income Tax). Not all POs are exempt from property and road taxes as this depends on the taxation authority which in the case of property taxes is a responsibility of the municipal government. There is no specific process for obtaining tax-exempt status – so no barriers exist in this area. A POs qualify for this status automatically by being created as an association, foundation, nonprofit organization providing generally beneficial services, non-investment fund, etc. The system is simple and clear and consistent. Any PO can benefit from it. Theoretically, POs are able to raise funds from private resources, in practical life, this does not happen because it is easier for many POs to apply for grants from public sources than to make a tedious effort of approaching many private individuals or corporations. At the same time, the amounts raised from private sources have been increasing lately.

### 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?**

There are very limited tax credits or deductions in Slovakia – therefore cross-border charitable donations from Slovakia to recipients abroad have also no fiscal effect for donors – individuals or corporations. The existing tax benefits on investments to R&D apply only if the receiving entity conducts activity in Slovakia. Similarly, tax deductibility of the sponsorship gifts for sports activity applies only to tax entities of Slovakia. Cross-border giving to recipients outside of Slovakia does not bear any tax benefit for donors. Therefore there are no impediments to it and if an individual or corporation decides to provide a
cross-border gift, there are no barriers to it and it does not require any specific procedure. There is very little information on this type of giving – if it exists at all. It can be assumed that it is not significant.

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

Cross-border financial charitable donations can be received (by POs) without any additional cost – i.e. VAT. PO recipients of cross-border financial charitable donations may be required in these cases to prove their charitable status and pertinent tax treaty (double taxation prevention treaty) articles apply. In these cases the tax relief is provided at the source, i.e. the donor does not have to pay income tax on the cross-border gift to such entity. The proof certificate is issued by the Tax Authority within 30 days upon request of the PO receiving cross-border donations. However, to ensure that the foreign donor can benefit from the tax-exempt status of the recipient entity in Slovakia, there are also entities that facilitate the process, as a part of the donor service in Europe – see http://www.transnationalgiving.eu/en/. In Slovakia, there are partner organizations as well, such as the Carpathian Foundation Slovakia (Transnational Giving Europe, 2017).

In-kind donations (goods or services) are more problematic, as the goods and services are considered subject to VAT tax and there are no tax exceptions for in-kind donations either.

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?

There are some political tensions between the government and the philanthropic sector. For example, the prime minister has many times expressed criticism towards third sector organizations as “fifth column” undermining political stability, supporting opposition political groups, and acting mostly through foreign funding to influence the political process (ERSTE Stiftung, 2017). At the same time, government cabinet keeps the office of the Governmental Plenipotentiary for the Development of Civil Society which is an important institutional body that provides a point of contact and dialogue between POs and the government. There were several legal and fiscal improvements enacted in 2016 ensuing from that dialogue with the POs. For example, the Income Tax Law was modified so that it improved the Tax Designation system.

However, the political and economic system does not fully recognize the potential of independent groups as actors and agents of social change that can significantly contribute to address the many challenges Slovakia is facing: social inclusion, education quality or humanization of social services, human rights protection, and corruption. For example, the concept of community centers as an
effective local solution in disadvantaged areas has been formally recognized in documents and approved, but practical steps that would create the conditions and environment for their support and proliferation with local stakeholders buy-in have been taken only sporadically and existing efforts often suffer with inflexible regulations of public sector and excessive administratve and bureaucratic burdens. There have been attempts by the government to involve POs in policy development and implementation in anti-corruption efforts (European Commission, 2014), but these attempts have not been converted into practical results and the perception is that these are only a formality. The prevailing attitude of the government is that the public and commercial sectors are the key sectors in the country. Macroeconomic conditions have been improving in last two years and contributed to the autonomy and sustainability of the philanthropic sector at present.

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

**Score: 3.0**

The government does not promote or support the philanthropic culture. There are no public efforts to promote philanthropic values. There is still a lot of old-school gravity in the thinking of state and local government bureaucrats that do not appreciate the potential of POs in contributing to welfare services and good policies and prefer centralized and institutionalized solutions in areas where decentralized, self-governing and private initiative can be used.

The POs have to compete for equal access to resources and opportunities. For example in the area of social service delivery, local governments trust organizations that they can control or have founded rather than independent and self-governed POs. The end result is that clients are first directed to local public institutions, and closer, more accessible and friendlier institutions run by independent POs are not given equal funding.

There is no direct governmental pressure on donors to support specific causes. There are problems in enforcing the law to prevent fraudulent charitable activity of some entities claiming falsely to collect funds for charitable purposes. Lack of capacity and capability, as well as the complicated legal framework, contribute to the ineffective enforcement of these cases. Government does not implement effective laws and programs to prevent corruption.

**V. Socio-Cultural Environment**

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

**Score: 3.0**

Philanthropy in Slovakia is a hybrid phenomenon with two faces: a traditional face and modern one (Strečanský, 2017). The traditional “philanthropic” attitude is driven by the commonalities of “us” and reflects the culture of the society that is based on the mutual relationships (Gemeinschaft) and not on impersonal rules and regulations (Gesellschaft).

An important cultural factor that informs the culture of the traditional expression of solidarity is the Christian ethics that creates moral pressure for offering help to those that are in need and also calls
for humbleness in these actions, so they do not become a source of formal recognition. These two are in a contradiction. On the top of that as a former Soviet satellite, Slovakia carries a historical burden of four decades of a social utopia experiment with the ambition to achieve common good through coercion and ideological obedience. The experience with a closed totalitarian welfare state destroyed the country’s social fabric that had been built for centuries and was so important to the level of trust in society, as well as moral decision-making and charitable behavior. The process of ambivalent modernization in a paternalistic state taught generations of Slovakian citizens that individual initiative is punished and that passively waiting for the state to deliver is rewarded. POs are today slowly gaining trust. Intermediaries are less trusted. Individual donations are on the rise, also thanks to the emergence of new technologies and online spaces and tools for giving (European Fundraising Association, 2013).

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 Slovakia is in a better place than it was 10-15 years ago; but it is far from meeting its real potential. Charitable behavior has become more common in part due to the improved socio-economic conditions, which increase the financial capacity for giving, and partly due to the intensified activity of POs approaching donors for support both off- and online. Public fundraising activities and online giving to nonprofit organizations show a steady increase in the number of donors, donations and amounts donated.

The segment of institutionalized philanthropy also shows uneven development. The biggest growth and development can be observed among corporate foundations that have grown a lot in the last 10-15 years thanks to the tax designation mechanism. However, corporations remain still too much entrenched in corporate communication and mainly attend to corporate-driven issues. A positive development is visible in the number of POs founded by high net worth individuals that invest in larger and riskier projects in education, anti-corruption or community services. There are also several infrastructure organizations that have a collective impact in the improvement of capacity and capability of the philanthropic sector in Slovakia, such as the Slovak Fundraising Center or the Center for Philanthropy, the Association of Corporate Foundations, Pontis Foundation, Association of Community Foundations, and Slovak Donors Forum. The cooperation between philanthropic organizations and the corporate sector is intense and developed (Pontis Foundation). There is also intra-sectoral cooperation in the form or coordination of policy initiatives towards the improvements in the legal and fiscal environment that include key PO actors.

However, Slovakia still has a long way to go in overcoming the challenges that the lingering and pervasive idea of “otherness” has on charitable behavior in the region. Despite the traditional Christian heritage that is important in Slovakia and emphasizes solidarity with those who are needy, many people struggle to overcome their mistrust of other cultures and religions — the “strangers”. There are encouraging examples, such as initiatives organizing material assistance and volunteer efforts to help refugees, but these do not get to the news.
Western neighbors including the Czech Republic’s generosity and vibrancy of the civil society outperform Slovakia’s in many aspects. But even with lower levels of generosity, philanthropy in Slovakia manifests more intensively today than it did 15-20 years ago. It is not yet a major social changing force, but it is contributing to addressing challenges in society — and, more importantly, in building broader participation of citizens and becoming less of an elitest activity.

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

- Adoption of the Amendment on the Income Tax Law in December 2016 that increased the motivation of corporate taxpayers for making a donation worth of 0.5 percent of their paid income tax, which in turn allows them to designate 2 percent of their paid income tax to a PO. This stimulates corporate giving;

- Debate over the European refugee crisis. In 2015 while “extremist groups mobilized anti-immigrant sentiment and strengthened collaboration between right-wing groups from other countries, a loose coalition of citizens came together to form the Výzva k ňudskosti (Plea for Humanity) initiative in support of humane treatment for refugees, while other nonprofit groups began collecting donations and organizing volunteers” (Freedom House 2016); and

- Growing polarization in Slovak society. “One of the major polarizing themes, in which the CSO sector was also significantly involved, was the discourse on human rights, family values and LGBTI rights” (Erste Stiftung 2017, p. 95) where POs created coalitions to promote the so-called life partnership concepts.

Future development trends in the philanthropic landscape

1. There will be a continued increase of online giving through existing charitable portals and crowdfunding platforms;

2. More POs will be using a combination of offline and online tools for building a community of supporters and sympathizers and making them regular donors;

3. It can be expected that with the growth of giving also potential frauds will be discovered and publicizing these cases may put more pressure on accountability and transparency and reporting requirements to POs; and

4. The rising challenges in the socio-economic disparities and tensions resulting from inefficient government policies will force the government (central and local) to cooperate more with non-state actors.

Three key recommendations to improve the environment for philanthropy

- Establishment of independent charity/philanthropy watchdog to provide an impartial and qualitative assessment of the quality, reliability, and effectiveness of POs and orientation for donors;
• More publicity and public recognition for philanthropy. This includes effort in publicizing examples of various individuals who invested their resources for common good and what did this journey bring to them and to the society. More intensive efforts of POs to increase citizens’ engagement, volunteering, and inclusion. Also, this includes investments into the fundraising positions and profession of fundraisers and fund developers; and

• Adoption of legislation that will allow individual taxpayers to increase their tax designation from 2 to 3 percent in case they make a gift from their other income that is at least 2 percent of their income tax. Basically, the similar mechanism – gift matching – as exists among the corporate taxpayers in the tax designation mechanism.