



Turkey

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QUICK FACTS

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

Five main social issues addressed by these organizations: Higher Education, Primary and High School Education, Health and Medical Research, Basic Needs, Housing and Economic Development

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

Average cost for registering a philanthropic organization: For associations US \$0. For Foundations, the cost of registration is approximately US \$15,000

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

Philanthropic Environment Score:

Year	Ease of Operating	Tax Incentives	Cross-Border Flows	Political Environment	Socio-Cultural Environment	OVERALL SCORE
2018	2.2	2.0	3.5	2.0	4.0	2.73

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: 3.0

The legal framework only recognizes the formation of associations and foundations as legal entities. Other forms of collective action (e.g. initiatives, nonprofit companies, groups, networks) are not recognized and are not provided legal entity status. In addition to associations and foundations, platforms/initiatives are also recognized by law but not accepted as legal entities. POs cannot participate in economic activities directly, and they need to establish separate economic entities for such purposes.

The registration process and the timeline for registration of associations and foundations are regulated differently by the Law on Associations and the Law on Foundations. No registration fee is required for associations and online registration is not possible. There are certain restrictions in special laws applicable to the members of the Turkish Armed Forces, the police force, and civil servants. Minors between 15-18 years of age who have the ability to discern may either found child associations or be a member of an association with the written permission given by their legal guardians. Minors between 12-15 years of age can become members of children's associations with the permission of their legal guardians, but cannot be association founders or serve on the board of directors or as auditors. The registration of foundations is a much more complicated process than that of associations. In order to establish a foundation, a minimum of approximately US \$2,000 in assets must be allocated. Foundations are set by a charter and it is verified by a notary and court. This charter contains information on the title, purpose, assets, and rights to attain its goals with organisms and applicable administrative procedures. The foundation is granted legal personality when it is approved by the court and registered by The General Directorate of Foundations. The timeline for founding a foundation varies depending on the workload of the courts.

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

Score: 2.0

The Associations Law and the Law on Foundations imposes certain constraints on the discretion and freedom to run the organization's internal affairs. The Constitution states that freedom of association may be restricted for national security, public order, prevention of crime, public health, public morality, and the protection of the freedom of others. Due to lack of clear definitions of morality, public order, and national security in the legislation, the administration holds vast discretionary powers. The Anti-Terror Law also imposes significant barriers to freedoms of association, expression, and assembly. In recent years, several PO members and human rights activists have been persecuted, and imprisoned based on the Anti-Terror Law.

Both the Law on Foundations and the Law on Associations allow authorities to inspect an organization's activities and assess if they are in line with the original statute. Associations and foundations are not prohibited from directly engaging in political activities, but oppositional and/or rights-based POs are reportedly facing more government interference in practice than others. There are examples of State interference in internal matters of associations/foundations in practice. With respect to inspections of rights-based POs, disproportionate administrative and judicial practices that lead to unequal treatment (e.g. frequency, duration, and scope of inspections being different between rights-based POs and others). POs are permitted to contact and cooperate with colleagues in civil organizations, business, and government both within and outside the country. POs are permitted to participate in networks, and use the Internet and all forms of social media. Internet censorship by the government is common and it has increased in the last couple of years. However, the Internet Law had a significant negative impact on political freedom of expression, allowing government to block websites without court authorizations and make users' browsing history available to government.

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

Score: 1.5

The governing body of an organization is able to voluntarily terminate a PO within the limits set by the laws. Associations can decide to dissolve themselves via the decision of their general assembly. Involuntary termination is subject to court trial, and a prior notice has to be provided by the authorities to the PO. Although involuntary termination is subject to judicial supervision, the process is neither apolitical nor transparent. Relevant laws state that this authority can be used at any time.

According to the law, the dissolution of foundations may occur when the original objective of the PO is impossible to fulfill and amending the original objective is also not possible. Foundations may dissolve in such circumstances or upon obtaining court decision that removes the foundation's name from the official records. Clearly, foundations can only be dissolved on grounds relating to their founding objectives or activities. However, another article of the same law describes the grounds for restricting the formation of a foundation as "[being] contrary to the characteristics of the Republic defined by the Constitution, Constitutional rules, laws, morality, national integrity, and national interest, or [aiming to] support a distinctive race or community." These prohibitions on the founding objectives of foundations are rather vague and, therefore, provide broad discretionary power to the authority to dissolve any foundation. Another problem is the provision for the sanction of dissolution where there is a prohibited objective or activity. Such a sanction may pave the way for an absolute intervention on the freedom of association. After the Military Coup attempt of 2016, with several decree laws, more than 2,000 POs were closed down without a court order under the pretext of having helped the coup attempt or being actively involved. According to the decrees, the closures cannot be appealed, and the reaction of the Court of Human Rights is still unknown.

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

Individuals and legal persons receive a 5 percent tax deduction when they donate to tax-exempt foundations and associations with public benefit status; however, individuals and legal persons may receive a 10 percent deduction if the donation is given to priority development regions. There is no tax deduction applicable to individuals who are permanent employees who do not submit annual tax returns (payroll giving). Tax benefits are not strong enough to encourage corporations to make generous donations to philanthropic activities, but the process is clear and consistent.

In order to receive tax benefits, foundations and associations need to receive a special status (tax-exempt status for foundations and public benefit status for associations). These statuses are provided by the Council of Ministers upon recommendation/proposal of the relevant Ministry (Ministry for Finance for foundations and Ministry for Interior for associations). The process is clearly and explicitly written in the relevant legal framework, yet it is also highly political, bureaucratic, and vague. Accordingly, the number of POs that receive these statuses is low. Only 262 foundations (5%) and 390 associations (0.035%) have this privileged status.

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

Score: 2.0

Tax exemptions for POs are very limited. POs are only exempt from corporate income tax (profit tax) and are subject to all other taxes, such as Value Added Tax (VAT), stamp tax, real estate tax, and profit tax if they engage in economic activities. For foundations, tax exemption may be granted by the Council of Ministers (upon the proposal of the Ministry for Finance) if they were established with the purpose of performing a public service. Although there is a special regulation for tax-exempt foundations in the tax laws, these only confer a general exemption from corporate tax.

Foundations, tax-exempt or not, are subject to all other taxes. Those taxes include income tax applicable to their earnings, including rent, interest and dividends. Tax-exempt status of foundations grants donors the opportunity to deduct – to a certain extent – their donations from their taxable income. In order to receive tax exemption, the PO's purpose must fall within the areas of health, social aid, education, scientific research and development, cultural and environmental protection, and/or forestation.

Foundations serving only specific regions or groups cannot receive tax-exempt status. In other words, tax exemptions are only given to those foundations that serve the whole country. For associations, the tax exemption comes with the public benefit status. Similar to foundations, associations can only receive this status through the decision of the Council of Ministers. The

process is highly political and vague, which is why the number of tax-exempt POs is limited – only 5 percent of foundations have tax-exempt status, and only 0.035 percent of associations have public benefit status. Furthermore, both statuses bring limited financial benefits. Although POs in Turkey can raise funds from private donors, the range of POs that receive such support is narrow.

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: 3.5

There are no legal barriers to cross-border philanthropic activity as long as it is related with the POs' purpose and it is written in its deed. The PO will be subject to the legislation of the country where the cross-border donation has been sent. However, the PO has to notify the Turkish government about this transaction, and all transfers have to be done through a bank. There are no costs/taxes, such as customs, duties, or VAT, attached to cross-border philanthropic cash and/or in-kind donations. However, cross-border donations are not subject to any tax incentives.

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

Score: 3.5

POs can receive in-kind and cash endowments and grants from natural or legal persons abroad. It is mandatory that cash donations or grants are sent and received through bank transfers. There are no extra costs for making or receiving cross-border donations. There are no costs/taxes, such as customs, duties, or VAT, attached to cross-border philanthropic cash and/or in-kind donations. POs do not need to get permission from government to receive funds from abroad; however, a notification is necessary. POs are required to notify the government when receiving and prior to using foreign funding. However, there is no restriction on the types of activities that could be supported with foreign funding or on the source country.

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?

Score: 1.5

Turkey is signaling a trend toward restricting the civic space, especially after the Military Coup attempt of July 2016. In fact, while problems observed in legislation and practice explained in the other sections persist, very rapid, intensive, and challenging developments have occurred during the State of Emergency declared on July 21, 2016.

The shutdown of POs are disproportionate under the State of Emergency and violate the right to freedom of association. The statutory decrees passed under the State of Emergency included restricting measures affecting the civil society sector, in general. A total of 1401 associations, 122 foundations, and 19 unions were shut down and their assets were transferred to public institutions without any right to object. The political polarization also affects POs directly. POs that criticize and/or are accused by the government of having done so may face direct intervention in the form of closures, government audits, or penalties. The political environment directly feeds techno-economic instability, which affects POs significantly. The amount of donations from individuals and corporations is clearly decreasing, whereas public funding is harder to receive due to its political nature.

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

Score: 2.5

There is neither a binding legislative framework nor a national level institution/mechanism that governs the relationships between POs and public institutions. There is no designated body, institution, or contact point for maintaining and coordinating dialogue between POs and the government. In general, traditional philanthropy may be seen as promoted and supported by the government. However, due to the internal political climate, and the polarization within society, the priority of the government is perceived to be limiting, due to security reasons, rather than supporting philanthropic organizations. The same situation is also true for government funding. It is perceived that pro-government POs or government-oriented POs (GONGOs) have more access to government funds. This government's position is likely to influence donor behavior. Most donors either have stopped donating to POs or have begun supporting pro-government organizations, even sometimes against their will.

V. Socio-Cultural Environment

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

Score: 4.0

Philanthropy in Turkey, both as a concept and as a practice, is perceived as doing charity and doing good. There is a cultural and religious heritage of individual giving that dates back to the Ottoman period, on which modern philanthropy is grounded in Turkey. People in Turkey are religious and practice religious tradition of giving. According to a Pew Research survey 72 percent people in Turkey pay zakat; there are have been foundations (as well as waqf) providing education and health services without much social or political restrictions. Socio-cultural values and practices have shaped the understanding of philanthropy as helping the poor and those in need. Traditional charitable POs – mostly foundations and associations – have been present in Turkey for a long time but their mission has transformed from meeting basic needs to taking a more active role in supporting social change.

Philanthropic giving mostly involves awarding scholarships, establishing schools, building hospitals, and providing social services. Most work of POs is concentrated in social solidarity and delivering social services. There is a general understanding of civil society on what POs do; however, there remains a certain lack of knowledge on the notion and the role of philanthropy. The desired conditions for the development of philanthropy are not fully met, as there is low level of trust between individuals and toward organizations. In line with philanthropy, giving traditions, and socio-cultural values and practices in Turkey, 20.5 percent of the individuals prefer POs that help the poor and the needy.

The fact, that POs are not understood as influential actors for social change, is part of the social and cultural heritage that acts as a restriction to foster philanthropic development and philanthropic freedom in Turkey. Thus, socio-cultural values and practices are only favorable for philanthropic freedom to a limited extent. Although core societal and religious values implicate an altruistic heritage of a traditional understanding of doing good and a mistrust toward POs, modern approaches toward philanthropic development are rising. The philanthropic sector is developing new practices and policies that offer a favorable environment for philanthropic freedom.

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 plays an important role in Turkey's democratization process. In 2016, there are more than 109,000 associations and 5,075 new foundations, which were established after the Republic, operating along with many informal organizations such as platforms, initiatives, and groups. The philanthropic sector has experienced growth in terms of both the number of POs that operate and the level of participation. Therefore, philanthropy is mainly an institutionalized and professionalized sector. The activities of these POs in Turkey are significant in terms of designing

immediate and long-term social change programs addressing a number of issues, such as education, environment, health services, human rights, empowering disadvantaged individuals, natural disaster response, and so on.

The private sector shows interest in forming a collaborative relationship with POs via different models of cooperation. Public sector organizations recognize the major role played by POs, and they show support through implementing grant making programs and providing sponsorship. However, in terms of legal regulations, there are no strong state mechanisms involving POs or their representatives in the policymaking processes. POs mostly operate in their own sphere of influence, either by themselves or via sectoral collaborations. Funding opportunities are still limited since grant making is a comparatively new phenomenon. Most POs are dependent on external and foreign funding, and the European Union is by far the largest donor of the sector. Individual giving in the country is mostly, determined by religious motivations. The recent TUSEV report shows that only 13 percent of the voting population donated to a PO in 2015 (Türkiye Üçüncü Sektör Vakfı -TUSEV, 2016).

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

- Civil Society in Turkey is going through a repressive stage. Turkey's commitment to civil rights has been diminishing within the highly fragile context that the country is in. The restrictions toward rights to free speech and free press have contributed to the rising crisis situation in the country. The major events related to the shrinking civic space in the country in the past two years can be summarized as the dismissals of journalists, writers, media figures, members of the military, and academics, as well as multiple arrests, detentions, and imprisonments. The philanthropic landscape of the country is, therefore, influenced by the deterioration of the social and political climate in Turkey;
- The influx of Syrian refugees into Turkey since the start of the Syrian Civil War has rendered Turkey the largest host country in the world. According to the data collected by UNHCR, within Turkey, as of the end of March 2017, there are 2,969,669 Syrian people registered under the title of "temporary protection." Considering that not all Syrian refugees are registered under this title, the number may be even higher. The situation of Syrian refugees in Turkey has remained of high importance to POs in Turkey, especially in terms of providing both short-term and long-term solutions to major problems that require immediate response related to employment, education, health, and access to aid. Although the philanthropic landscape in Turkey provides a space for a sustainable dialogue and relationship building between the philanthropic sector, in particular, and civil society organizations, in general, working in the field over the issue, the lack of a comprehensive state policy addressing the basic needs and integration of refugees still remains unresolved; and
- The political turbulence within the domestic and foreign affairs of Turkey, as a whole, has been challenging for the philanthropic sector and civil society actors. Turkey has long been in a period of high tension, politically and militarily backed turmoil, and security threats posed by extremist terrorist actors. Multiple deadly bombings and gun attacks have occurred in the past few years. This state of political and military chaos was further intensified through the failed coup attempt on July 15, 2016. In the wake of the attempted coup d'état in 2016, Amnesty International estimated that 10,000 individuals, who were alleged to have been

involved in the coup attempt, were detained and subjected to beatings and torture. In an environment in which the fundamental human and civil rights of people are ignored, POs cannot operate freely. The philanthropic landscape of Turkey is very much related to the enjoyment of the rights to free speech, peaceful assembly, and association; therefore, it shrinks under the above circumstances and points to political uncertainty.

Future development trends in the philanthropic landscape

Future development trends in the philanthropic landscape are seen in both positive developments and various challenges. The philanthropic sector in Turkey has the means and the capacity to develop new practices and policies, promote multi-sectoral partnerships, and take an active role in influencing policymaking in the country. The institutional and professional profile of POs in Turkey opens up spaces for future developments and innovative ways of advocating for philanthropy. The size of POs and the level of participation in the philanthropic sector seem promising for the future. However, the development trajectory of the philanthropic landscape in Turkey is being derailed by the unfavorable legal and fiscal regulations binding POs and their fundraising practices, and the political turmoil in the country poses a severe threat to the openness of the civic space.

The philanthropic sector's challenges for the future remain within the conflicting social and political climate of the country, but there are emerging forms of philanthropy to take into account. New ways of engagement and participation are emerging, such as the strengthening of individual giving practice in the country through the use of various innovative online and offline models. The effective use of social media channels in order to reach larger masses, the widespread use of storytelling as a mode of engagement, the rise of social impact assessment within POs, and so on, are emerging. The philanthropic landscape in Turkey is, therefore, promising, but this promising future requires improvements in the social and political climate of the country and in the perception of the society toward philanthropy.

Three key recommendations to improve the environment for philanthropy

- The unfavorable tax regulations in the country should be reformed in order to create a more welcoming environment for the philanthropic sector and to facilitate fundraising. In order to qualify for tax exemptions today, POs need to fulfill several criteria followed by a long bureaucratic process. It is of critical importance to ensure POs' financial viability, to make a difference in society, and to contribute to social change through their activities and work;
- A recommendation for the POs in Turkey would be to strengthen their relationships with donors and society in general. Building trust is of critical importance in order to enhance the society's support, and to foster the impact of POs on social change. Therefore, stronger communication would be effective for POs to better explain themselves and their causes to society so that the perception of the philanthropic sector improves; and
- In order to improve the environment for philanthropy in Turkey, there is a need to revive the enjoyment of fundamental freedoms and civic rights of society. Actors in the philanthropic sector should further promote advocacy activities for the fulfillment of civic rights in the country.