



IUPUI

INDIANA UNIVERSITY
Lilly Family School of Philanthropy

The 2022 Global Philanthropy Environment Index Portugal

Expert: Ricardo André Mendonça da Silva de Martins Marques

Institutional Affiliation: Stone Soup Consulting; RosaJumi, Associação de Ação Social

Edited by the Indiana University Lilly Family School of Philanthropy

QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Benefit Corporation, Company Limited by Guarantee, Cooperative, Corporation, Endowment, Foundation, Society, Trust, Private Institution of Social Solidarity (IPSS)

Five main social issues addressed by these organizations: Arts and Culture, Basic Needs, Health and Medical Research, Higher Education, Human Rights

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

Average cost for registering a philanthropic organization: USD 418

In formal terms, the process of setting up an association in Portugal is quite simple, as there is a government service that allows it to be done in a few hours. However, the process involves registering with Social Security, then opening an account and registering with the Finance Department, as well as filling out and registering on a government portal, which measures the transparency of the process. Although the association is already established, the process can take more than a month (currently, this period is longer, due to social distancing rules and limitation of people in establishments in response to the COVID-19 pandemic).

The most common typology in Portugal, when referring to philanthropic organizations, are nonprofit associations, which include different areas of intervention. For example, non-governmental organizations (NGOs) are also constituted in the same way, but as they carry out activities in third countries (outside the European Union), they must be registered at *Instituto Camões* (renewable every two years) and the *Associação na Hora*. *Instituto Camões* is a public institute that outlines cooperation policies between the Portuguese State and other countries, mostly former colonies. In the case of Foundations, it is necessary to register at the Portuguese Center for Foundations. They must also fall within the scope of Article 22 of the Framework Law on Foundations, which defines different types: social solidarity foundations, development cooperation foundations, and foundations for the creation of private higher education institutions, among others. Private social solidarity

institutions (IPSSs) require an agreement with the Ministry of Social Solidarity. Overall, the process of forming a nonprofit association is relatively simple.

Government levels primarily regulating the incorporation of philanthropic organizations:
Local Government

The Central Government has to approve the incorporation of a PO. However, associations often need to register with their municipalities to integrate into the so-called "Social Networks," which allows third sector institutions and the municipality and provides the channel to share resources and work on common projects.

Philanthropic Environment Scores:

| Year | Ease of Operating a PO | Tax Incentives | Cross-Border Philanthropic Flows | Political Environment | Economic Environment | Socio-Cultural Environment | Overall Score |
|------------------|------------------------|----------------|----------------------------------|-----------------------|----------------------|----------------------------|---------------|
| 2022 GPEI | 4.00 | 3.65 | 3.30 | 4.00 | 3.00 | 3.00 | 3.49 |
| 2018 GPEI | 3.67 | 4.00 | 4.00 | 3.60 | N.A. | 3.00 | 3.65 |

Source: Indiana University Lilly Family School of Philanthropy, 2022 *Global Philanthropy Environment Index*

Key Findings

I. Formation/Registration, Operations, Dissolution of a Philanthropic Organization (PO)

The three indicator 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 One: To what extent can individuals form and incorporate the organizations defined?

| |
|-------------------|
| Score: 4.0 |
|-------------------|

Freedom of association is recognized in Article 46 of the Constitution, provided that such associations are not intended to promote violence and their objectives are not contrary to criminal law. Currently, the Ministry of Labor and Social Security regulates the training of Philanthropic Organizations (PO), although there is a close relationship with Social Security and the government revenue departments, since registration is required in these two departments for tax reasons. It is also possible for informal associations and groups to exist, although legal registration tends to be the norm.

The government service called *Associação na Hora* (ANH) allows for the creation of associations, the most common form of philanthropic organization in Portugal. There are differences when it comes to institutions that have social facilities, such as Private Institutions of Social Solidarity (IPSS) or other organizations (businesses, unions). Private foundations also require government approval. Overall, the government's role has been transparent. In Portugal, most associations work in human services or social assistance.

The Third Sector has shown some growth in terms of gross domestic product (GDP), although it is still below the European average. Currently, nonprofit activities, programs, and projects have grown due to the emergence of new forms of financing (namely through applications oriented to areas of intervention or target groups) resulting from cooperation between the private sector (foundations, banks, large companies expressing interest in social impact) and the State. There is overall greater interest in the social economy, both in terms of its importance to GDP as well as in its ability to reach marginalized communities

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

| |
|-------------------|
| Score: 4.0 |
|-------------------|

There are no substantial differences compared to 2018. In other words, a PO's ability to act is always related to its legal status, area of intervention, economic dimension, number of employees/volunteers, and beneficiary profile. Because POs can receive government funding, they must follow a set of rules that vary according to the size and the capacity of intervention.

A philanthropic organization can integrate government leadership structures, especially as mandatory consultation partners. The Portuguese government provides some services and facilitates networking, mainly through Social Security, the main driver of the Third Sector. In the last

few years, there has been a greater participation of the private sector, particularly with several new programs aimed at projects of Third Sector associations. These new programs are promoted by foundations, many of them developed through the implementation of Corporate Social Responsibility (CSR) policies. Many banks and large companies have created foundations to operate in the area of the social economy, particularly as funders.

Organizations that promote violence, racism, or gender inequality, or whose purpose is not transparent, are not permitted. But in general terms, there is no associative, ideological, or multisectoral restriction on PO formation. In fact, the new financing programs are promoting networking between national and international nonprofits.

Foundations are covered by Law No. 24/2012 and must be registered with the Portuguese Center for Foundations. Foundations must comply with ethical and transparency criteria, as well having minimum share capital of EUR 250,000. Among the foundations' functions are asset management and the pursuit of social purposes. Recently, Law No. 36/2021 was approved, which redefines the statute of public utility. This law was passed due to the need for greater supervision of private foundations, particularly to assess the levels of transparency and the pursuit of the status of public utility. The law's passing implies that the State and the General Secretariat of the Presidency of the Council of Ministers recognize issues around foundation transparency. The government's position was criticized by foundation representatives, but its stance was due to the existence of bad practices by some private foundations and the difficulties in accessing information.

Please note that we are referring to foundations governed by private law and not to Public Foundations that belong to the government. Public Foundations are created to pursue social functions but in direct coordination with the Ministries (for example, the Foundation for Science and Technology, which supports research and education).

The Portuguese government always assumes the role of supervisor over nonprofits, particularly because many POs work in areas where the Welfare State has direct responsibilities. For example, foundations or other POs that work in the education or health sectors always need an interrelationship with the State, since in Portugal, the government is obliged to provide comprehensive and accessible services (public or in public/private agreements) in all these areas. Recently, many foundations have been created by commercial banks and large companies to promote social responsibility and the dynamization of social projects, such as in the areas of entrepreneurship and combating poverty, among others. For these foundations, the State also supervises, cooperates, and may also participate as an implementation partner. However, specific high-profile cases arising from harmful management (e.g. undeclared expenses; pursuit of profit; segregation of beneficiaries) by some large nonprofit sector entities (foundations and Private Institutions of Social Solidarity) have led to the need for greater state supervision. This supervision was only achieved through the change of some decree-laws. However, it is still debatable to say that this expanded supervision is interference in the social sector.

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

| |
|-------------------|
| Score: 4.0 |
|-------------------|

A PO has the autonomy to terminate its activities of its own free will, or if the nature of the activity for which it was created has ended. There is no overall impediment to dissolution, although more complex situations can arise, namely when there are agreements with Social Security and the rights of beneficiaries must be safeguarded. In legal terms, according to the Portuguese Civil Code (Article 192), a judicial decision can dissolve an organization if its insolvency is declared. This has only been used with some foundations or Private Institutions of Social Solidarity (IPSS), particularly with organizations that are dependent on government funds and have not fulfilled their purposes, or when there are suspicions of illicit behavior. However, even in these situations, a “sanction” is usually directed at individual persons, namely the PO’s managers, and not at the PO as a collective entity.

Regarding Foundation dissolution, the new legislation approved (and which will enter into force in January 2022) refers to several situations that may lead to shutting down a Foundation. Some Foundations are terminated for reasons related to internal causes, such as the purpose for which they were created no longer exists or they have not developed activities relevant to their social issue of focus. Foundations can be dissolved by court decision under an action of the Public Ministry entity for its recognition as a Foundation. In such cases, there are two reasons for termination: a) when the organization’s activities are systematically pursued by illegal or immoral means; or b) when its existence becomes contrary to public order.

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

| |
|-------------------|
| Score: 3.3 |
|-------------------|

There are no substantial changes compared to 2018. Both individuals and legally constituted organizations can deduct taxes from their revenues and donate to POs. However, there is a need for more simple, objective, and complete information around donations. Greater incentives and benefits are also needed for both individuals and organizations to donate on a more regular basis to POs.

There also needs to be more explicit communication about the investment that POs can make with donations received. Individuals and organizations should be more directly involved in the process of creating transparent social and corporate responsibility policies.

Individuals can claim 0.5 percent of their personal income tax to a Private Institution of Social Solidarity (IPSS) costs or losses for the purposes of determining taxable profit. Tax laws state that 25 percent of individual donations made to accredited institutions that pursue charitable purposes are tax deductible, as long as the donor does not consider donations to be a business expense. The Income Tax Law in Portugal also establishes different categories of corporate tax deduction

depending on whether there is a limit on the deduction or not. In the case of unlimited donations, corporate donors can deduct between 130 and 140 percent of the donated amount. Limited donations, such as those for charities and other private institutions of social solidarity, allow deductions between 130 and 150 percent of the donated amount.

Although the number of nonprofit sector entities authorized to receive the consignment of the individual income tax has increased (4,176 entities in 2020, as compared to 148 in 2019 and 416 in 2018) there is still no coordinated tax or donation strategy on part of the nonprofit sector or the government. In addition beneficiary associations still lack efficient communication with donors so that they can effectively understand the purposes for which the donations are intended.

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

| |
|-------------------|
| Score: 4.0 |
|-------------------|

POs can have several tax benefits, namely the reduction or exemption in the payment of some taxes, such as value added tax (VAT), real estate, single circulation tax, and corporate income tax, among others. However, the degree of exemption is related to the type of intervention and the nature of the association. For example, an association that is considered to be a public benefit has a much more favorable tax framework compared to others that do not have this status. The degree of exemption is also determined by the form that the expenses are presented in—expenses are cataloged through the individual income statement and collected through the Annual Declaration of accounting and tax information. are limited due to the fact that POs are service providers and not purchasers of services, as is the case, with VAT; however part of the amount can be reimbursed. Portuguese law also allows for social patronage, as well as donations from individuals and companies. However, in regard to individual and corporate donations, is no consolidated practice, as mentioned in previous sections.

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 Six: To what extent is the legal regulatory environment favorable to sending cross-border donations?

| |
|-------------------|
| Score: 3.3 |
|-------------------|

Portugal is part of Transnational Giving Europe (TGE), which seeks to encourage a secure and tax-effective cross-border giving framework in terms of donations and fundraising at national and international level. A comprehensive cross-border giving strategy is one of the recommendations of the European Union (EU). The Portuguese representative at TGE is Fundação Oriente, which is in the process of being approved by the Portuguese tax authorities to channel donations from Portuguese entities to foreign beneficiaries. Despite some movement in this space, giving overseas is not yet a strong trend. Although there are no substantial restrictions on international donations, the law does not provide substantial tax benefits, which discourages most donors. Tax benefits are limited to domestic organizations, specific causes in Portugal, or projects in African countries or former colonies.

It should be noted that lack of overseas giving is not always related to a more favorable legal framework. As with donations to national entities, donations to entities abroad also lack communication strategies and advocacy work with the community. There is a general lack of knowledge about tax benefits and the entities to which they can be donated. There has been no significant change in mindsets in recent years. People are motivated by causes, with many of them choosing to donate ad hoc; for example, in the case of donations to the victims of Cyclone Idai in Mozambique. Many choose to donate to internationally recognized organizations such as the United Nations (UN), The United Nations Children's Fund (UNICEF) or Amnesty International. Note that organizations such as UNICEF or Amnesty International have regular recruitment processes for new donors, where the donation is made through a fixed monthly fee. In these situations, contact with the nonprofit is more frequent and the organization itself sends a summary of the amounts donated to be presented in tax terms. There is some success in this strategy, but most potential donors do not fit this giving profile. People tend to be suspicious of fundraising, and need to know details around the funding purpose and effectiveness of the programs. The pandemic has also raised skepticism around nonprofit spending activity.

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

| |
|-------------------|
| Score: 3.3 |
|-------------------|

There are no significant changes. Cross-border philanthropic flows are still considered financial flows. Although POs, associations, or Third Sector organizations may have different legal frameworks from country to country, they may receive funds from other international organizations, particularly when they are "affiliated," as is the case with Caritas, Amnesty International, and the Red Cross (The International Federation of Red Cross and Red Crescent Societies (IFRC)), for example. However, receiving cross-border donations is not customary and additional taxes and costs might emerge, despite the development of European-wide initiatives, such as Transnational Giving Europe. POs can receive European Union (EU) funds or apply for European funding programs under rules agreed by the Portuguese government with the EU, with the government always being the direct interlocutor. Despite the emergence of international programs, the agreements always include government participation. POs can also apply for funding projects organized between the Portuguese government and other countries, mainly Portuguese-speaking countries such as Angola, Timor-Leste, Mozambique, Cabo Verde (Cape Verde), or Guinea-Bissau. However, the trend has always been toward funding projects rather than donations. There is still no practice of receiving direct donations from overseas individuals or international companies.

Reasons for these trends are mirrored in the previous section. There has been no substantial change in international giving mentality and there is an absence of a concerted overseas giving strategy. The lack of strategy was most visible during the successive quarantines caused by the pandemic. For example, the social sector failed to diagnose the social effects of the COVID-19 pandemic and establish policies to overcome them (such as impacts on employment, social security, and health). Better collaboration would have led to faster action on the part of national and international nonprofit organizations. POs had to restructure themselves to be able to continue their activities.

At present, the scenario is more positive than at the beginning of 2021. Once again, it should be stressed that the funding strategy of philanthropic entities has been geared toward submitting applications for financing programs and projects. POs can apply for an international program or projects and obtain funding from international organizations and programs. This is a very positive aspect that should be highlighted. However, the trend has been towards project applications since they often provide both funding and training for the PO, rather than receiving international donations.

IV. Political Environment

The four indicator questions in the next three sections concern the political context, economic conditions, and socio-cultural characteristics that influence the environment for philanthropy.

Question Eight: To what extent is the political environment favorable for philanthropy?

| |
|-------------------|
| Score: 4.0 |
|-------------------|

The relationship between the government and the Third Sector is transparent and there are not many tensions. This is due to the Portuguese government always assuming the role of regulator, especially when organizations receive public funds or have an agreement with Social Security, which often includes activities in the area of social assistance, health, or others in which government services also participate. Many organizations assume the role of social partners and can participate in defining social policies. However, there is a lack of greater support and involvement opportunities for smaller organizations, due to an absence of help from both the central government and municipal administrations.

The positive impact of government programs such as "*Portugal Inovação Social*," "Active Citizens—of the Gulbenkian Foundation," or Partnerships for Impact (Government) is noteworthy. In recent years, there has been a greater dynamism in the sector, specifically in the following aspects: assessment of the project impact on beneficiaries, training of nonprofit entities, and diversification of funding sources, areas of activity, and beneficiary groups through the concerted work of public entities and the nonprofit sector. The role of social consultants is also noteworthy, as well as greater dynamism in promoting social entrepreneurship.

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

| |
|-------------------|
| Score: 4.0 |
|-------------------|

The government, particularly through partnerships with social organizations, has sought to create a more favorable scenario for POs. Overall there are no tensions or ideological conflicts. Recent years have seen an increase in programs, projects, and calls for funding, many of them through foundations, which were formed within the scope of social responsibility policies. These trends have the support of different government ministries, as well as greater involvement of the Third Sector in developing social policies such as combating poverty, social exclusion, gender violence, and youth issues.

There are several documents, such as the Social Charter (which maps social services, including those in the Third Sector), the 2013 Basic Law of the Social Economy, and different governmental structuring documents that promote the participation of civil society. However, historically and compared to the overall European average, involvement in Portuguese civil society is low, namely because the government has always been seen as the main provider of social services.

V. Economic Environment

Question Ten: To what extent is the economic context favorable for philanthropy?

| |
|-------------------|
| Score: 3.0 |
|-------------------|

The current economic context has to be understood through the lens of the pandemic scenario. Responses in combating the pandemic, namely restrictions on social distancing and quarantines, have made the Portuguese social fabric precarious, despite having been logical solutions to a complex situation.. As a result, the economy has been heavily penalized. There is great uncertainty regarding socio-economic developments and all social problems have worsened. Philanthropy, POs, and the Third Sector will have to play a central role in this ongoing fight. However, the pandemic not only worsened social weaknesses, but also limited the response capacity of POs. Government policies have been defined according to the pandemic's evolution. Under pre-pandemic conditions, the economic scenario would be more favorable; but at present, the situation is very unstable and unpredictable.

VI. Socio-Cultural Environment

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

| |
|-------------------|
| Score: 3.0 |
|-------------------|

The Third Sector and philanthropy in Portugal have always been influenced by the determining role of two actors: government and private entities, particularly the organizations of the Catholic Church. Currently, there is a greater tendency to promote activities that bring a benefit to the community or social responses to different problems. The government has promoted partnerships and networking with different organizations. For many years, the norm is that it should be the main player in addressing social policies, which is why most Third Sector organizations have always worked in the area of social assistance as complementary actors to the government. Other countries, there are few cultural or volunteer associations. Currently, the situation has been reversed—although the tendency is to encourage programs and projects rather than individual donations. The Portuguese give charitably when dealing with major social causes, for example, to help victims of forest fires, which killed more than 100 people in June and October 2017. Recent cases of corruption and lack of transparency by Third Sector organizations have garnered heavy media attention, which has contributed to an increase in distrust levels.

VII. 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

Portuguese society has always been characterized by the formal and legal framework defining social and philanthropic activities and the need for this formalization to be defined by the government. Despite the fact that informal organizations are allowed, the benefits and need for financing encourages organizations to formalize. In recent years, there have been a greater number of projects and finance lines that have fostered networking, impact assessment, and a greater level of project effectiveness. Many Third Sector organizations participate with the government in the policymaking process.

Another important role for POs has been that of social consultants. However, the motivation of philanthropy has always been the investment of funds and, subsequently, the execution of projects (monitored and evaluated). There is a greater dynamism in the sector, although the participation levels of Portuguese society in philanthropy are still substantially less when compared to other European countries.

Three major recent events affecting the philanthropic landscape between January 2018 and December 2020

- 1) Measures to combat the pandemic beginning March 2020;
- 2) Increase in program funding along with an increase in the number of projects and beneficiaries; and
- 3) Overall economic growth from 2017–2020.

Future development trends in the philanthropic landscape

Two major trends today are network collaboration and the growth of impact assessment. Network collaboration refers to cooperation between civil society organizations, companies (through CSR programs or social entrepreneurship) and the government to implement projects. Impact assessment of programs and projects for beneficiaries involves analyzing the effectiveness and efficiency of social programs. Knowing the real impact of social programs and spreading these benefits to communities is important to boost philanthropy and donations.

Three key recommendations to improve the environment for philanthropy

- Provide technical and financial support to smaller organizations because they face the biggest challenges in continuing their work.
- Greater transparency and more fluid communication regarding the objectives and results of social projects.
- More in-depth diagnosis regarding the impact of the pandemic crisis on different social factors, such as health, employment, and socialization. It is also necessary to foster greater solidarity on the part of civil society.

VIII. Philanthropic Response to COVID-19

These questions are used to provide a general picture of the philanthropic response to the COVID-19 pandemic in this country and recommendations for improving cross-sectoral collaboration.

Areas where the nonprofit sector and philanthropy are playing a role in responding to COVID-19

The responses to COVID-19 have been somewhat insufficient and scattered. However, impactful projects have emerged in the areas of combating hunger, economic aid, and health for isolated elderly people or those in care homes. Overall, there is still insufficient collective philanthropic structure.

Innovation and new trends in the nonprofit sector and philanthropy related to COVID-19 responses

A highlight is an initiative in the Alentejo Region that brings together companies, nonprofits, and public institutes to deal with unemployment.

Another highlight is the REN Award, which seeks to catalog the good practices that Third Sector organizations have applied in response to COVID-19.

Impact of COVID-19 on the philanthropic environment

COVID-19 has impacted all sectors of society, and philanthropy and the Third Sector were not exceptions. The fight against COVID-19 started in the spring 2020 and this period has been marked by instability and uncertainty. All Third Sector organizations have had to readapt, but there is still no coherent diagnosis of their resilience. POs have also been affected by the same changes as society: teleworking, precarious working conditions, inability to work with some beneficiaries, or take on new programs. The pandemic has worsened adverse socio-economic conditions, poverty, unemployment, and social exclusion. At the moment, there is still no effective response, either by the government or by civil society organizations.

Anticipated impact of COVID-19 on the philanthropic environment in 2021

This year will still be marked by uncertainty and unstable responses. Right now, social are still being impacted by the evolution of the pandemic scenario and measures to contain it. It is necessary to facilitate immediate responses that guarantee the most basic needs: food, housing, and reducing social inequality, among others. Philanthropy has to take a more proactive role in this scenario, as it can address some of these issues. But the greatest challenge is to fight against the hopelessness, despair, and impatience that is growing in our societies.

References

- INE. (2018). *Inquérito ao Setor da Economia Social*. Available at:
[https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_publicacoes&PUBLICACOESpub_bo
ui=451607836&PUBLICACOESmodo=2](https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_publicacoes&PUBLICACOESpub_boui=451607836&PUBLICACOESmodo=2)
- dos Reis Fransisco, M. S. (2018). *Instituições Não Lucrativas e Benefícios Fiscais*. Universidade do Algarve. Available at:
[https://sapientia.ualg.pt/bitstream/10400.1/12629/1/Projeto%20ESNL%20isen%C3%A7%C
3%B5es%20e%20beneficios%20fiscais.pdf](https://sapientia.ualg.pt/bitstream/10400.1/12629/1/Projeto%20ESNL%20isen%C3%A7%C3%B5es%20e%20beneficios%20fiscais.pdf)