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Lilly Family School of Philanthropy

The 2022 Global Philanthropy Environment Index Netherlands

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Cooperative, Foundation, Limited Liability Company, Religious Organizations

Five main social issues addressed by these organizations: Arts and Culture, Basic Needs, Health and Medical Research, International Causes, Religion

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

Average cost for registering a philanthropic organization: USD 60

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

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	5.00	4.75	5.00	4.75	4.50	4.50	4.75
2018 GPEI	5.00	4.50	5.00	4.50	N.A.	5.00	4.80

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: 5.0

The formation of philanthropic organization (POs) is free from governmental involvement and is considered to be an act of civil law. Registration with the trade register is compulsory only for POs if they are incorporated by notarial deed. POs that are not formed by means of a notarial deed (informal associations) are not obliged to register, but they can choose to do so. Registration is not related to obtaining legal personality; however, board members of non-registered POs are jointly and severally liable for the debts of the PO that originated prior to its registration.

POs can take part in social and economic life prior to incorporation or registration. Individuals that have acted in the name of a PO that is not (yet) incorporated are personally liable for the obligations entered. The PO can take on such obligations after its incorporation by ratification.

Registration occurs in the trade register held by the Chamber of Commerce, which is an apolitical, semi-public institution. The Chamber of Commerce provides guidance and operates in accordance with clear standard procedures and forms that are available on its website. Registration is usually implemented within a day after the application. When the PO is incorporated by means of notarial deed, the notary usually takes care of registration. The registration fee is EUR 51.30 (USD 62).

There are no prohibitions related to nationality, residency, or age with respect to the eligibility to found or join a PO or to be a member of the board. Minors can found and join an association and serve on its board. When the PO runs a business, however, prior court approval is required for a minor to serve on the board. There is no minimum capital or endowment requirement for establishing an association or foundation. An association should have at least one member at all times.

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

Score: 5.0

POs are required to have a management board that is charged with managing the PO and its representation. Associations have a membership body that is authorized to resolve issues, such as membership, annual accounts, appointments, dismissal of directors, amendment of the articles of association, mergers, demergers, and dissolution. The law allows for deviation from the provisions. In the law, within certain boundaries to guarantee that a certain level of checks and balances is maintained. Other corporate bodies can be created in the articles of association, such as a supervisory board, audit committees, and advisory boards.

There are no other restrictions with respect to the objects and activities other than that it is prohibited to have objects or activities that are against the public order. In order to be eligible for tax benefits for the PO and/or its donors, the objects and activities have to be of public benefit (ANBI-status) or of social benefit (SBBI-status). See the responses to questions 4 and 5 for more information.

There are no restrictions concerning the use of social media or other media with respect to communications with the membership, the broader public or other POs with the Netherlands or abroad. Meetings of the board of directors or of the membership can be held in real time by means of electronic communication systems.

POs are not subject to reporting requirements. Exceptions apply to POs that provide public services funded by public means (such as hospitals) and recognized public benefit organizations (*Algemeen nut beogende instellingen* or ANBIs) that enjoy a favorable tax status, hereafter referred to as public benefit organizations (PBOs). PBOs are required to make certain information available via the Internet. They may do so via their own website or via a website of another organization, such as an umbrella organization. The specifics of the information to be made public are available on the website of the Dutch Tax Service (also in English).

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

Score: 5.0

With respect to associations and cooperatives, the members' meeting is authorized to resolve to dissolution. There is no judicial review of this process unless the resolution is contested in court by a member or other party with a justified interest. General provisions concerning liquidation of legal persons are provided for by law. With respect to foundations, the board of directors is authorized to resolve the dissolution, but the articles may provide otherwise. As with associations, there is no judicial involvement or general provisions concerning the liquidation of legal persons.

Involuntary dissolution may take place by the Chamber of Commerce, but only with respect to empty-shell POs and following a certain procedure involving an attempt to correct the defects in the registration. A decision of the Chamber can be challenged in administrative court proceedings.

Involuntary dissolution in other cases can only take place by means of a court order on request of the public prosecutor or a party with a justified interest. Dissolution can be ordered if: (i) there are defects in the incorporation; (ii) the articles are not compliant with the law; (iii) the PO is not in conformity with the legal characteristics of its chosen form; or (iv) its activities are violating the public order. A foundation can also be dissolved by court order if it lacks the financial means to achieve its objectives and there is no reasonable prospect that it will be able to raise such means within a foreseeable time, or when the objects of the foundation are achieved or can no longer be achieved, and an amendment of the objects is not an option.

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: 4.5

The personal income tax distinguishes between periodic gifts and other gifts. Periodic gifts are gifts which the donor is, by notarial or private gift deed, obliged to pay annually during at least five years while they are alive. These gifts are fully deductible without a threshold and up to 100 percent of the income of a certain year. If the periodic gift exceeds the income of a certain year, the remainder can be deducted in a following year. All other gifts taken together in a year are deductible up to 10 percent of the gross income. Deduction is only possible if the total of the other (non-periodical) gifts exceeds 1 percent of the gross income (with a minimum of EUR 60, or USD 73). Gifts to cultural entities can be taken into account up to 125 percent. For example, if a person gives EUR 1,000 (USD 1,215) to a cultural entity, they can deduct EUR 1,250 (USD 1,519). If they are in the top tax bracket of 52 percent (which is already reached at an income of over EUR 56,000, or USD 68,043), the tax benefit is EUR 650 (USD 790). The person only pays 35 percent of the gift. The maximum additional deduction is EUR 1,250 (USD 1,520). This means that the maximum effect of the multiplier is reached if the total amount of gifts to cultural PBOs is EUR 5,000 per year (USD 6,075), resulting in a deduction of EUR 6,250 (USD 7,594). This multiplier was introduced to help cultural PBOs. With respect to corporations: Expenditures with a business reason are, as a basic principle, fully deductible in the Netherlands. In general, sponsoring and corporate patronage should be deductible as regular business costs. Companies will almost always have a business reason for supporting PBOs; this can just be improving the corporate image both internally and externally. In addition, the Dutch corporate income tax does provide for a possibility to deduct gifts. Gifts are deductible up to a maximum of 50 percent of the profit with a maximum of EUR 100,000 (USD 121,505). Gifts to cultural entities can be taken into account up to 150 percent. However, the maximum additional deduction is EUR 2,500 (USD 3,038).

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

Score: 5.0

Full exemptions for gift tax and inheritance tax (which in the Netherlands is due by the recipient) apply only to organizations with PBO status. PBOs also have a 50 percent discount for energy tax. These tax breaks also apply to organizations of social benefit (*Sociaal Belang Beogende Instellingen* or SBBIs). In order to qualify as a PBO, the organization has to be registered as such by the Dutch internal revenue service. This registration, therefore, is a formal requirement. Entities have to apply for registration through a simple, publicly available administrative procedure. The tax authorities decide on the request by a formal decision against which an objection may be lodged. If the tax authorities decide negatively on the objection, the entity can go to court. Once an entity has been registered, it only has to provide information to the tax authorities on request. There is no yearly obligation to spontaneously send information, such as accounts, to the tax authorities. However, as of January 1, 2014, the PBO is obliged to post certain information on a website (see below) and to

report this website to the tax authorities. This website is stated on the public website of the tax authorities for all PBOs. Renewal of the registration is not necessary. As long as the tax authorities do not decide to deregister the PBO on grounds that it no longer meets the requirements, the entity keeps its registration.

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: 5.0

There are no taxes or similar costs related to cross-border donations in cash or in kind. There is no governmental involvement regarding making donations abroad or any other procedure pertaining thereto. Donations to foreign public benefit organizations are deductible on the same footing as donations to domestic PBOs and (from a Dutch perspective) are free from gift tax. In order to be deductible, the foreign PBO has to be recognized by the Dutch tax authorities as a PBO. Charitable organizations can apply for a refund of value added tax (VAT) when exporting goods. This is relevant with respect to donations in kind to support an initiative abroad in pursuit of the objectives of the organization. VAT administration is, however, a burden.

Organizations that export goods on a regular basis (Médecins Sans Frontières for example) can make special arrangements with Customs to facilitate the process. There is a requirement to report information to the Central Bureau of Statistics regarding the aforementioned VAT refunds for statistical purposes concerning foreign trading by for-profits and nonprofits. With respect to foreign donations, national legislation based on the Financial Action Task Force's commitments prohibits support to terrorist organizations and movements. Such support would also be considered against the public order and, therefore, could result in a dissolution of the organization.

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

Score: 5.0

There is no governmental involvement with the acceptance of donations by PBOs, nor any other procedure pertaining thereto. This is also true for donations from abroad, be it in cash or in kind. Donations to PBOs and SBBIs are free from gift taxes, including when they are received from abroad. PBOs can make donations to a destination abroad. Provided that these donations occur in pursuit of its objectives, these donations are not taxed from a Dutch perspective. There is no prior governmental involvement with making donations abroad. Donations to foreign public-benefit organizations are deductible on the same footing as donations to domestic PBOs and (from a Dutch perspective) are free from gift taxes. In order to be deductible, the foreign PBO has to be recognized by the Dutch tax authorities as a PBO.

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: 5.0

There is a long-standing tradition in the Netherlands where public services, such as health care, education, and housing, are provided by the nonprofit sector. The Netherlands is famous for its “polder model”, which stands for a society in which government, the for-profit sector, and the nonprofit sector cooperate to further social interests.

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

Score: 4.5

See also answer to Q8. Information on funding opportunities (subsidies or grants) is well-publicized. Central government has developed policies to promote volunteering.

V. Economic Environment

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

Score: 4.5

The impact of COVID-19 on the economy has been quite negative in 2020. Preliminary evidence indicates that the crisis has not negatively affected charitable giving. Due to COVID-19 restrictions, fundraising organizations have had trouble organizing in-person events and campaigns, but other fundraising income has compensated these declines. This assessment is in line with evidence from previous economic crises, which have had little or only a delayed impact on charitable giving. The most robust time series predictor of amounts donated is the average sales price of residential homes, which has continued to increase in the past year despite the crisis. Generally speaking, the economic impact of COVID-19 on corporations and their employees has been dampened by means of income subsidies by the government. Foreign trade flows have increased in the past year. Consumer confidence dipped below zero in Spring 2020 but has risen again since October 2020.

VI. Socio-Cultural Environment

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

Score: 4.5

There definitively is a tradition of philanthropic activity in the Netherlands. Important facilities, such as schools, hospitals, elderly care, treatment of people with mental illness, etc., are primarily provided by civil society organizations that receive government funding. Most scholars explain the positive relationship between the state and the nonprofit sector through the fact that the Netherlands in the past did not have a strong, dominant central government—not even during the feudal era—and that public safety could only be successful thanks to joint efforts by the government and the citizenry/landowners. Thus, a sense of mutual trust developed between the government and civil society. Civil society organizations are involved in developing public policy at both a national and local level through consultation procedures or on their own initiative. Now that government funding is reduced, the government has strongly promoted private initiatives as a matter of good citizenship and has set up several programs to promote public-private partnerships, entrepreneurship in nonprofit organizations, and volunteering. A less positive development is that data from the Giving in the Netherlands Panel Survey, the Eurobarometer, and the World Values Survey show that the public's confidence in nonprofit organizations has declined in the past decade. The decline in charitable confidence is surprising because trust in other institutions has not systematically declined. It is also worrisome that a substantial minority of the Dutch population doubts the effectiveness of fundraising organizations. Few people are aware of the current regulatory system for fundraising organizations.

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

The Dutch philanthropic sector is quite diverse. In past years, the level of organization of the sector's national umbrella organizations has continued to increase. At the same time, there are grassroots initiatives to address a concrete need. Recent trends that indicate the vitality of private philanthropy includes the growth of crowdfunding for unorganized initiatives through new online platforms.

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

1. COVID-19 has made in-person fundraising virtually impossible since March 2020. At the same time, online giving has increased, as well as income from bequests.
2. Introduction of a new voluntary accreditation for tax-registered nonprofit organizations: *de Erkenning*. The new accreditation was formally announced on July 1, 2016, but the number of accredited organizations has increased only in the past few years.
3. In 2018, the fiscal multiplier for gifts to cultural nonprofits that was intended to be temporary has been continued for an indefinite period. Coordinated lobbying by philanthropic sector umbrella organizations has averted the threat of an elimination of the charitable deduction.

Future development trends in the philanthropic landscape

“Current concerns among politicians and members of parliament focus on foreign financing of religious organizations, money laundering, and the concentration of power among philanthro-capitalists. It is hard to predict what their concerns will be after the March 2021 election. There were

37 political parties running this year, with 17 being elected, but the nonprofit sector did not feature in the various party manifestos. Within the sector, concerns among organizations reliant on donations include:

- the public's growing irritation around fundraising;
- declining level of confidence (i.e., trust in the charitable sector);
- limitations imposed on fundraising by telephone ("do not call me" policies);
- lower levels of giving among younger generations;
- increased competition tied to the entrance of new organizations; and
- increases in mutual aid and crowdfunding.

Concerns among foundations are about impact measurement, organizational effectiveness, and the lack of regulation of hybrid forms of philanthropic investments, such as impact investing. A concern of the auditor of fundraising organizations is the low level of confidence or trust in the sector and the lack of awareness among the general public of the new certification system (*Erkenning*) under which charitable organizations must disclose information about themselves on their websites. Few people have mentioned the lack of standards for legacy or bequest fundraising, the lack of a payout rule for foundations, the failure to provide global open access to COVID-19 vaccine technology, or the looming cuts in government funding for nonprofit organizations that may be imposed in new austerity measures when the worst part of the COVID-19 pandemic is over" (Bekkers, 2021).

Three key recommendations to improve the environment for philanthropy

1. Basic data on POs should be made comparable and publicly available. The register of 43,000 POs recognized by the tax authorities does not contain financial information or data from annual reports. The Central Bureau of Fundraising provides basic data only about 642 accredited fundraising organizations.
2. The awareness among the general public of the current regulation policy for POs should be increased. Few people know what the voluntary accreditation (*Erkenning*) is about.
3. Fundraising organizations should invest in new generations of donors. Current investments are targeting older generations.

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 sector has responded by covering the needs of those who are not reached by government programs, such as by establishing foodbanks for low-income households and shelters for the people experiencing homelessness.

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

Online giving has increased, particularly to local initiatives, but national fundraising charities have also increased their online presence.

Impact of COVID-19 on the philanthropic environment

No clear effect as it is too early to tell the impact of the pandemic on the philanthropic environment.

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

No clear effect. Income from bequests will continue to increase.

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