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# **The 2022 Global Philanthropy Environment Index Ecuador**

**Expert:** Daniel Barragán-Terán

**Institutional Affiliation:** Universidad Hemisferios

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## **QUICK FACTS**

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

Other national or foreign forms of social organization such as Associations Cooperative and Foreign NGO

**Five main social issues addressed by these organizations:** Arts and Culture, Basic Needs, Early Childhood Education, Food, Housing and Economic Development

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

**Average cost for registering a philanthropic organization:** USD 2,000

According to Executive Decree 193, the average registration time is around 38 business days, however it depends on the fulfillment of requirements and also, on many occasions, on the discretion of the officer in charge of the case, so the effective time can be much longer. Regarding costs, the Decree does not establish a minimum amount that must be credited (starting fund) or a cost for approval fees. In practice, the government ministry in charge of the registry may charge a fee for the approval of the legal entity (for example, in the Ministry of Environment and Water (MAAE), the cost is USD 100). Likewise, although the procedures are not required to be sponsored by a lawyer, the philanthropic organization (PO) may decide to hire one, which increases the cost.

**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
<b>2022 GPEI</b>	3.50	2.75	3.50	3.35	1.80	3.00	2.98
<b>2018 GPEI</b>	2.73	3.25	3.00	1.50	N.A.	3.00	2.70

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?

<b>Score: 4.0</b>
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In general, the law does not prohibit individuals from acting collectively without forming a legal entity (in practice many POs work in this way). However, unregistered POs are not authorized to formally receive funds or manage an account, in addition to others. The legal framework that regulates POs was modified and made more flexible in 2017, through Executive Decree 193 (October 23) that approves the regulations for POs to attain legal status.. This Decree seeks to reduce to the maximum any unnecessary administrative requirements that obstruct the management and development of organizations, and that restrict rights such as those of freedoms of expression, association, and peaceful assembly. For example, it is no longer a requirement that organizations demonstrate possession of assets in amounts between USD 400 and USD 4,000, as was previously required. For the approval of the statute and the granting of legal status, the following are required:

1. Request to the competent institution, by attaching the minutes of the constitutive general assembly of the organization, signed by all the founding members, and the proposed statutes. If the PO is an associative corporation, the minutes of the highest body of the association stating the decision to associate is required;
2. A public officer issues a report within 15 business days;
3. If the report establishes that the documentation is correct, the statute will be approved and it will grant legal status within 3 business days; and
4. If the report establishes that the documentation does not meet the requirements, an additional 20 business days will be granted to present them again and the process will restart. Foreign organizations must sign a basic operating agreement with the Ministry of Foreign Affairs and Human Mobility (MREMH). For this, they must: 1) submit a registration application (proving its legal existence and statute in Spanish), 2) sign a basic operating agreement, and 3) register the specific projects to be developed.

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

<b>Score: 3.0</b>
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Executive Decree 193 does not establish specific guidelines on the structure and governance of the PO beyond requiring a general assembly and board of directors. The Organic Law of Citizen Participation requires that internal democracy and the alternation of its leaders be guaranteed, as well as gender parity, except in the case of exclusive organizations for women or men or in the case there are not enough members of one gender to integrate the board equally. The governance

mechanism should be established in the proposed statute. In terms of restrictions and control, the Decree establishes as the main restrictions: 1) partisan political activities, and 2) illegal activities.

Regarding control, emphasis is placed on government tax, use of public funds for those POs that receive and manage them, and customs. In addition, POs must deliver documentation and information to the competent state entity in which they are registered if required, which may be at the discretion of a public official.

Accountability is focused on a POs' members and should be done by the board of directors or managers: 1) once a year, or 2) when required by one-third of the members. The law does not establish restrictions on communications or cooperation activities with other civil society organizations, business, and government sectors, both within and outside the country. Cooperatives have a special regulation called the Organic Law of Popular and Solidarity Economy (LOEPS), so the requirements of internal governance, accountability, and control are more rigorous and are under the regulation and control of the Superintendency of the Popular and Solidarity Economy (SEPS)

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

<b>Score: 3.5</b>
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The current Executive Decree 193 partially eliminated the discretion for cause of dissolution. Currently the following are cause for dissolution:

1. Deviating from the objectives and purposes for which the PO was constituted (discretionary);
2. Deducing the number of members to less than the minimum five members are required for corporations, at least one member is required for foundations;
3. Expiration of the PO term of existence as established in its statute;
4. Engaging in partisan political activities;
5. Engaging in illicit activities; and
6. Other causes as established in the statutes of the PO.

The dissolution can be voluntary with a resolution of the general assembly of members with the vote of two-thirds of members. The competent entity that issued the legal status can dissolve it. The Decree guarantees due process. In the case of foreign organizations, the termination of activities may occur due to the expiration of the basic operating agreement or failure to comply with the provisions established in the agreement.

## 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?

<b>Score: 1.0</b>
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The legislation does not provide tax incentives for donations. The deduction of donations is not allowed by the Law of the Internal Tax Regime; however, donations to POs do not have a value-added tax.

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

<b>Score: 4.5</b>
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According to the Law of the Internal Tax Regime, legally constituted private nonprofit institutions are exempt from income tax, provided that their assets and income are used for their specific purposes. To benefit from this exemption, the PO must be registered in the Single Taxpayers Registry and keep accounting records. Donations to PO do not charge a value added tax.

Nonprofit organizations are considered to be all legally constituted organizations, including religious; charity; promotion and development of women, children, and family; culture; art; education; investigation; health; sports; professionals; trade unions; classists; political parties; those of the communes, indigenous peoples, cooperatives, unions, federations and confederations of cooperatives, and other associations of peasants and small farmers. The only cooperatives, federations, and confederations of cooperatives and other associations whose income is exempt are those that are made up exclusively of peasants and small farmers. Other types of cooperatives, such as savings and credit, housing, or others, are subject to income tax.

All types of POs can receive donations from private parties, including contributions or bequests in money or in kind, such as goods, volunteers, non-refundable cooperation, and the consideration of services from the members, founders or others as. According to the Organic Code of Territorial Organization, Autonomy and Decentralization, "the properties that belong to charitable institutions or social assistance of a private nature, provided that they are legal persons and the buildings and their income are used exclusively for these functions," are exempt from property tax. If there is no total use of the property for nonprofit activities, the exemption will be proportional.

### 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?

<b>Score: 3.5</b>
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The law does not set costs or taxes for cross-border philanthropic monetary donations, restrictions on the sending of cross-border donations, or outline a government approval process for sending donations abroad. Only the Currency Outflow Tax is in force, as established in the Reform Law for Tax Equity in Ecuador, which mandates a tax of 5 percent of the value transferred through the financial system, including credit cards, on amounts greater than USD 5,000.

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

<b>Score: 3.5</b>
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If the POs are local, defined as not being the local office of a foreign organization that has signed a basic operational agreement with the Ecuadorian state there are no restrictions on receiving monetary donations. An approval process is not required. Foreign organizations can channel funds from abroad exclusively for activities and projects registered under the basic operating agreement. The Organic Code of Production, Commerce and Investment establishes that the following goods are exempt from taxes on foreign trade, among others: relief shipments due to natural disasters, donations destined to cover health services, food, technical assistance, charity, medical assistance, education, scientific and cultural research (the PO must have a signed cooperation contracts with public sector institutions), and vehicles for special uses such as ambulances, clinical or radiological vehicles, library cars, fire trucks and similar that are related to the activity of the PO.

#### 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?

<b>Score: 3.5</b>
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Between 2017–2020, there has been a change in the government's relationship policy with civil society organizations, including POs. The regulatory reform Executive Decree 193 is a clear example of policy opening up and reducing restrictions that affect the operation of the PO. Although the Decree does not propose promotion mechanisms such as technical assistance, capacity building, or competitive funds, it has made the processes of obtaining legal status more flexible and restricted discretionary dissolution provisions. However, several sectoral ministries have generated specific manuals or regulations to put Executive Decree 193 into practice, which often generates more complex processes. On the other hand, the government promoted a process of dialogue and reopening of workspaces and collaboration with social organizations that has allowed them to be part of public policy processes, not only in the formulation of these policies, but also in their management. Inter-institutional spaces have reopened to promote processes and policies with the participation of civil society, academia, and the business sector.

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

**Score: 3.2**

Ecuador has a long philanthropic tradition, with an emphasis on volunteer and religious organizations. However, the state and the different governments have not prioritized policies and regulations that strengthen this philanthropic culture. Public policy and the law do not restrict donor support to any cause or organization. However, they do not promote this support with incentives or tax exemption mechanisms, or with other mechanisms that support the strengthening of POs and the social fabric.

In the case of foreign organizations, the intervention logic is aimed at generating synergies with national planning. One of the main weaknesses is the absence of an organic law that regulates the functioning of social organizations such as POs that avoids the discretion of the president in any government to modify policies and regulations. Since January 2020, the draft of the Organic Law on Civil Society Organizations has been on standby in the National Assembly and is ready for debate in the plenary session of the Assembly. This law proposes support mechanisms, training, and technical assistance, as well as the establishment of competitive funds.

## V. Economic Environment

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

**Score: 1.8**

The current economic crisis, exacerbated by the COVID-19 pandemic, is a weakening factor in the philanthropic sector. Although the health crisis motivated citizens to donate to various POs to meet initial needs, which generated important initiatives in which companies contributed significant sums, such as the Por Todos citizen fund, the growth of unemployment and the reduction of working hours in a large percentage of jobs it has caused a decrease in local donations.

On the other hand, in May 2021, Ecuador will have a new government, which will have to face a fiscal deficit of around 14 percent of the government budget. Ecuador is ranked 92 (of 180) in Transparency International's Corruption Perception Index. This is not surprising since the estimates of the previous government (2007–2017) indicate a loss of around USD 30–70 billion. To fight against corruption, various measures have been promoted without success. The most recent is the approval by the National Assembly (January 19, 2021) of the Domain Extinction Law, which allows the recovery of assets resulting from corruption and other crimes; the presidential veto is still pending.

## VI. Socio-Cultural Environment

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

**Score: 3.0**



The philanthropic culture in the country was developed as part of the social policies evolution, including charity, philanthropy, and the social state. Between the late 19th century and 1970, private actors took charge of social problems through charitable and philanthropic institutions (Espinosa, 2011). At the beginning of the 20th century, a process of formalization of POs was evident, mainly for charitable organizations linked to the Catholic Church and economic elites (Barragán, 2011). Although there is no broad philanthropic citizen culture today, citizens are willing to support causes with which they generate empathy, such as childcare, education, or animal protection. From the business sector there is evidence of an evolution in the way of intervening in society, moving from a philanthropic approach to one of social responsibility (Silva, 2000) that seeks to generate strategic and sustainable investments. Currently less than 10 percent of companies invest in the community through philanthropic actions (Barragán, 2011). The little research on philanthropy does not allow us to have evidence on perception, forms of intervention, contribution to society, culture, limitations, and other approaches that help to understand them.

## 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 philanthropic sector faces significant challenges not only as a result of the economic crisis that has been exacerbated by the COVID-19 pandemic, but also due to the weakening of the philanthropic culture. The redefinition of mechanisms for the intervention of companies in the community, as part of their social responsibility, shows the loss of interest in philanthropic activities. Although regulation of POs has improved in terms of restrictions, policies are required that allow for their strengthening and sustainability, including tax incentives.

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

- 1) 2020: COVID-19 pandemic;
- 2) 2018–2020: Economic crisis; and
- 3) 2018: the National Assembly started reviewing a draft of the Law of Nonprofit Organizations.

### Future development trends in the philanthropic landscape

Global technological developments present a window of opportunity for POs in Ecuador. Although its use is still limited to collecting local donations, crowdfunding is gaining more and more relevance, such as Green Crowds and HazVaca. Platforms such as GlobalGiving are helping to raise funds for 36 projects in Ecuador in a collaborative effort.

### Three key recommendations to improve the environment for philanthropy

- It is necessary to have a clear regulatory framework that promotes social organizations, such as the Draft of the Organic Law on Civil Society Organizations. A reform of the tax laws is also required to generate tax incentives for donations.



- As the business sector is increasingly reducing its contributions to philanthropic activities, POs must generate changes in their intervention strategies to maintain relationships with companies. Companies that seek social investments aligned with their core business need philanthropy as a strategic tool to advance in their contribution to the Sustainable Development Goals (SDGs), but also to have market growth.
- Generate data and information on the philanthropic sector from academia, research centers, and think tanks that allow understanding the reality of the sector as a basis for proposing strengthening actions and future projection.

## 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

*Philanthropy responded* in areas of attention to disadvantaged populations in terms of providing food, education, health, connectivity, and protection tools against COVID-19. Nonprofits were also active in the support of doctors and front-line personnel by providing protective equipment.

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

The use of crowdfunding and donor loyalty strategies has made possible the support to vulnerable sectors during the pandemic, such as the *Invitados a Colaborar SJ*, an initiative of the *Compañía de Jesús*, *TECHO Ecuador*, and *Aldeas Infantiles SOS Ecuador*.

Impact of COVID-19 on the philanthropic environment

The COVID-19 crisis initially motivated citizens to donate to various POs to address the needs of the most vulnerable groups; this trend of support through donations has been maintained. Digital channels have made it possible to disseminate information about POs and the actions they promote, and online donation systems have also increased, several through crowdfunding platforms.

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

The growth of the economic crisis in 2021 and at least the following two years will influence the decrease in local donations. Reactivation policies will be key, however it is too soon to know which sectors will be prioritized. Strategies to promote the most disadvantaged sectors will be considered.

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