



Ukraine

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QUICK FACTS

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

Five main social issues addressed by these organizations: Primary and High School Education, Arts and Culture, Health and Medical Research, Basic Needs, Youth and Family

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

Foundations and other POs shall be registered within 24 working hours or, in practical terms, within two working days; associations within three working days; representative offices of foreign POs within 20 working days, and religious organizations within 30 days (up to three months, if legal expertise of their articles or purposes' compliance with the Ukrainian law is required). Delays up to 15 working days are common for associations, as regional offices of the Ministry of Justice are in charge of their registration after closing local offices in mid-2015.

Average cost for registering a philanthropic organization: US \$75

No registration fee is required for incorporation of national POs; representative offices of foreign POs shall pay a fee of US \$20. Fee for amending POs' articles of incorporation or register data is between US \$5-\$20; but in some cases it is also free. Notarization of applications, articles or other papers or notary fees for filing the papers to the omnibus company register are the largest share of the registration cost in Ukraine. Notarization for associations and foundations is voluntary, unless their articles of incorporations require otherwise.

Government levels primarily regulating the incorporation of philanthropic organizations: Central/Federal Government (representative offices of foreign POs), Regional (oblasts and Kyiv City) government (associations and religious organizations); Local Government, notary (other types of POs)

Philanthropic Environment Scores:

Year	Ease of Operating	Tax Incentives	Cross-Border Flows	Political Environment	Socio-Cultural Environment	OVERALL SCORE
2018	4.6	3.9	3.9	3.9	3.7	3.97

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: 4.5

Ukraine is a unitary republic, and the legal procedures for POs incorporation are the same in all its jurisdictions. Associations, religious organizations and endowments that are not legal entities are allowed in Ukraine. No court decisions against informal or unregistered POs were made in 2014-2016. Moreover, even informal associations may file their data in the omnibus company register now. Any persons can be founders of POs. Foundations and institutions may have one or more founders; institutions may be founded by will. Associations shall have two founders; and minors who are 14 years or older are eligible to become founders too. The minimum number of cooperative's founders is three persons. Religious organizations shall have 10 or more founders.

POs may pursue any purposes for public benefit and/or benefit of their membership, and only a few exceptions are established in the Ukrainian constitution (e.g., national security, human rights or hate crimes). No minimum capital or permanent assets are required for POs, including foundations and endowments. Registration for national POs is free; maximum registration fee is approximately US \$20. Notarization of registration papers is optional for associations and foundations, and submitting applications via registered mail or online is allowed. Notaries also have the right to file the papers into the omnibus company register. Requirements for registration papers of associations and religious organizations, particularly personal data of members, are somewhat onerous. Registration of POs, except religious organizations, shall take two or three working days, but delays are still common. Ukrainian laws provide a finite list of causes for delays or refusals in POs registration. Registration agencies shall sum up these causes in writing, and usually they are apolitical, but somewhat inconsistent. Delays and refusals are subject to administrative court appeals, but this practice is uncommon now because of relatively high court fees (US \$25-\$75 per each specific claim in administrative proceedings). Some streamlining registration procedures is still actual for associations and religious organizations.

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

Score: 4.7

POs' articles of incorporation, which can be changed without any prior state approval, predominantly regulate internal governance structure and procedures. The Ukrainian civil code requires that all associations have general meetings and one or more directors; and institutions have their own boards. The data on final beneficiaries (25 percent or more voting rights) and directors of POs shall be disclosed in the register, except religious organizations and some associations. Changes of directors (CEO) are subject to state registration, but do not require any prior state approval. Internal disputes in POs are not subject to court review, unlike corporate ones. POs articles' shall regulate procedures of decision-making and internal disputes review. Tax-exempt POs shall submit their tax,

financial and statistical reports online once a year. Reporting requirements are clear and not onerous. Eventual exception may be the latest amendments on extensive reporting requirements for associations and other POs involved in anti-corruption activities.

Only foundations and other charities have a ceiling for their administrative costs (20 percent of their annual income) and statutory rules for conflicts of interest, though all tax-exempt POs shall comply with the non-distribution constraint, including their members, staff, directors and affiliated persons. Ukrainian POs may set up or join any national or cross-border networks or other cooperating institutions without any restrictions, except those organizations, which are under international sanctions for terrorist activities and money laundering. There are no legal impediments to use social media or the Internet; libel claims by Ukrainian government officials have become uncommon in 2014-2016. There is no national law on peaceful assemblies, but local regulations are often onerous or somewhat restrictive. However, except for entertainment (e.g., concerts or exhibitions) or outdoors mass events, no prior notices of assembly must be submitted to local governments; special administrative appeals are possible in case of refusals or other restrictions.

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

Score: 4.5

Ukrainian law allows setting up POs for a limited time, but this practice is still fairly uncommon. There are no legal sanctions against inactive POs, unless they fail to submit their annual reports for two or more consequent years. POs' members may decide on voluntary termination of their organizations anytime without prior government notices or approvals. The institutions may be terminated by court decisions only. Decisions of POs voluntary termination shall provide reasonable time for their creditor claims, if any, and it usually takes 6-12 months. Shorter procedure of liquidation is eligible for POs after getting certificates of no debts in their tax and social insurance contributions. Thus, one-time checks by the State Fiscal Service are obligatory until excluding POs from the omnibus company register.

POs shall transfer their residual assets to other tax-exempt organizations only, or if prescribed by law, to national or local governments (e.g., if administrative court bans an association, or there are no successors for PO's real estate). Currently, POs may merge, split or reorganize into other tax-exempt organizations (e.g., an association having single member left may apply to court for reorganizing into a foundation). Unless otherwise required by the special law, any decisions on termination or reorganization of POs require 75 percent of member votes. The grounds for involuntary termination of POs include the activities proscribed by the Constitution or other law (e.g., promotion of totalitarian symbols or human rights restrictions), paramilitary activities, and failure to submit tax reports for two consecutive years or longer. Each year 100 to 120 POs (of approximately 100,000 total amount) are dissolved by courts, mostly for paramilitary activities or for failure to submit tax reports. Also, any PO may be subject to regular bankruptcy procedure in commercial courts, but no cases have been yet reported.

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: 3.3

Any individuals or companies in Ukraine may make donations without minimum threshold for any legal purposes or statutory activities of POs. There are no legal regulations on net value of donations and/or deductible membership fees. Both individuals and companies have access to limited tax deductions for their donations to any tax-exempt POs, without minimum or maximum caps for separate donations.

Individual donors may deduct up to 4 percent of their annual taxable income, both for cash and in-kind donations. However, the actual deductible amount is limited to the donor's income received as wages. Thus, donations from investment income or individual businesses are not deductible, and only 361 individual donors claimed for tax deduction in their 2016 fiscal year tax returns. The Law of Ukraine on Volunteering made free services offered to POs much easier in 2015; and philanthropic beneficiaries can also go through the procedure of the State Register of Volunteers for Anti-terrorist Activities to receive additional tax deduction. No carryforward is allowed for individual tax deductions, unlike corporate donors.

Companies may deduct up to 4 percent of their taxable income in the previous fiscal year, including in-kind donations or free services (up to 8 percent are deductible for donations to some sports associations). If they buy products or services from a PO not in compliance with "arm's length principle", and the total amount is more than 25 times the minimum wage (US \$3,000) per year, the surplus is taxable or may be deductible only up to the 4 percent ceiling (Ukrainian Tax Code, Article 140.5.4). Besides, these deductions are eligible for companies with annual income up to US \$800,000, only if they choose to fulfill special tax regulations on financial transactions and transfer pricing. Thus, only few individual donors and companies claim tax deductions in Ukraine, while all refunds are commonly made after extensive and unpredictable checks by the State Fiscal Service, and well beyond the legal 30-day deadline. Therefore, actual tax deductions are negligible. Both parliament and national government are strongly opposing larger tax deductions for POs donors. They argue that donors do not claim for existing deductions, and larger ones would result in tax evasion, violations of agreements with IMF, and distortions in philanthropy and civil society. 90 banks were closed or suspended in Ukraine in 2014-2016, and many POs failed to use their donations and even technical assistance grants in those banks in 2014-2016. [Ukrainian Forum of Benefactors](#) reported that, at least, US \$3 million of donations and grants for 10 Kyiv-based charities had been lost in the failed banks as of November 2016. However, neither the National Bank nor Ukrainian government compensated these losses or changed the rules for bank bankruptcy, even though international treaties oblige them to refund the losses.

In 2016, SMS and some other online donations for charities and other POs became exempt from VAT and other taxes in amidst of anti-fraud campaigning in cash donations collection.

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

Score: 4.4

In 2015, Ukrainian POs managed to advocate key amendments to the Tax Code of Ukraine and the regulations on the State register of tax-exempt organizations. Generally, all tax-exempt POs shall not pay standard corporate income tax (18%) from any type of their income, including their statutory business activities or investment income. Subsidiaries of associations of people with disabilities are also exempt from corporate income tax under special regulations, though there is no law on social enterprise yet. All types of POs are eligible and may apply for tax-exempt status simultaneously with incorporation now, and no additional fee is required. Legal requirements are quite formal, mostly concerning the compliance of the POs articles with the Tax Code and non-distribution constraint. There are no legal regulations on periodic confirmation of POs' tax-exempt status; POs may lose it on the basis of fiscal checks only. The State Fiscal Service shall make decisions on granting or depriving tax-exempt status within 30 days, in a somewhat inconsistent manner. POs registered before 2015, had until June 30, 2017 to alter their articles in compliance. Refusals or exclusions from the register are subject to appeals in administrative courts; even if appeals are rejected, refusals or exclusions do not prevent further applications. The State register is in free online access on the official site of State fiscal service.

Representative offices of foreign POs are not eligible for tax-exempt status, but they shall not pay corporate income tax for their revenues from abroad. Humanitarian and technical assistance is exempt from Ukrainian taxes, including customs duties and value added tax (VAT), on case-to-case basis. Reduced VAT rate (7% versus 20% standard rate) is applicable to some medicines and medical equipment since 2014. Endowments, foundations and charities are exempt from VAT in case of input and output in-kind or security-related donations; licensed educational institutions are also VAT exempt. Not all POs may pay VAT, if their taxable sales and/or output in-kind donations are up to US \$40,000 per year. Local governments may exempt POs from real estate taxes. Fiscal statistics of POs and their donations is not available easily, even in aggregated form yet.

Besides, Ukrainian tax legislation does not distinguish donations to public institutions, which are also tax-exempt entities, and private owned POs.

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: 3.0

Ukrainian law and regulatory policies are not supportive to giving cross-border donations. Donations to representative offices of foreign POs or to non-resident beneficiaries are not deductible for

Ukrainian donors. Unless international tax conventions require otherwise, Ukrainian POs or other corporate donors shall withhold 15 percent tax from their cash donations, but service contracts are deductible (e.g. in health care). Financial transactions of POs with non-residents usually do not require permits from the National Bank, except for a few purposes (e.g. membership fees for cross-border network, conference fees, or health care donations). Donations to persons or entities affiliated with international terrorism or appearing on sanction lists are prohibited. All financial transactions that exceed US \$5,000 are subject to financial monitoring, and Ukrainian banks and notaries give 1 to 1.5 million reports on those quarterly. Donors are also constrained by the fact that humanitarian assistance to other countries and health care for some diseases requires routing through government channels. Ukrainian POs may not buy foreign currency for cross-border donations under provisional regulations by the National Bank, which have been in effect since mid-2014 with some amendments.

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

Score: 4.8

Ukrainian law is fairly supportive to receiving cross-border donations by POs. Donations to POs in cash are fully tax-exempt from corporate income tax and from obligatory exchange under the National Bank's official exchange rate (currently 50 percent of revenues in foreign currency, and 65-75 percent earlier in 2014-2016). No special limitations for purposes of foreign donations to POs are imposed. There are no legal regulations on foreign agents either. Donations from entities or countries under sanctions are subject to financial monitoring.

Foreign donations in cash to individuals shall not be exchanged under National Bank exchange rate, but are taxable at standard rate of individual income tax (18%) and subject to FATF-based regulations. However, there are court decisions on taxation of cross-border donations from relatives or to some groups of individuals (e.g., orphans or people with disabilities) at reduced rates of individual income tax (0% or 5%). Besides, from 2017 National Bank permits are not required for Ukrainian citizens to open their bank accounts abroad for receiving and managing money from other jurisdictions. Thus, as National Bank reported, while in-border donations are stable (US \$4.4 billion in 2017 vs. US \$4.2 billion in 2014), cross-border ones steadily decreased, both in receiving (US \$2.37 billion in 2017 vs. US \$3.88 billion in 2014) and in giving from Ukraine (US \$0.28 billion in 2017 vs. US \$0.43 billion in 2014). Western Union is still the leading pay system in cross-border donations, both in receiving (51.2%) and in giving from Ukraine (74.2%), but banking has become more competitive.

The law on humanitarian assistance provides exemptions from custom duties, VAT and even excises (e.g., for some vehicles for people with disabilities, or ambulances and other special transport vehicles) for in-kind donations. These exemptions are available on the basis of decisions by the Ministry of Social Policy for individual beneficiaries and the POs that filed into the State register of humanitarian assistance receivers. Religious and charitable organizations, associations of people with disabilities and some other POs are eligible to register and benefit from relevant tax exemptions. Moreover, this law stipulates that foreigners who accompany humanitarian assistance items have the right to free Ukrainian visas, priority in custom formalities, booking tickets and accommodation in Ukrainian hotels for minimum prices. Numerous procedures for control, oversight and writing off

humanitarian assistance are somewhat onerous, but clear. More than 300 international technical assistance projects were implemented in Ukraine in 2014-2016, and their grants to Ukrainian POs are exempt from corporate income tax and, under special applications, also from VAT.

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: 4.2

According to the 2016 CSO Sustainability Index for Central and Eastern Europe and Eurasia, Ukrainian POs have the highest capacity for advocacy, while also having the lowest capacity is for financial sustainability. These conclusions are applicable to collaborations with government, too. In early 2016, the National Strategy for Enabling Civil Society was approved, and the government action plans for its implementation include a number of activities to promote philanthropy, public advocacy, social enterprise and similar issues. As for political declarations, the government does recognize POs to be social change agents, and the involvement of POs in advisory bodies and public consultations is quite common at national and local levels. Online petitions became instrumental, and many law-making initiatives by POs were successful.

Practical collaboration between POs and the government is also regular, but somewhat inconsistent, as many important social projects or social services are impeded by underfinancing from national and local budgets, or by disputes concerning the use of public real estate. Again, government tends to minimize POs' access to public resources and even public grants to associations of people with disabilities dropped from US \$15 million in 2014 to US \$3 million in 2016, while public procurement of POs' services was only US \$1 million in 2016. On the other hand, the government is willing to delegate funding and oversee some important programs to POs, for instance, in the framework of Global Fund to fight AIDS, TB and malaria. Political and economic instability in Ukraine actually constrain successes of philanthropy, but they make government and POs seek for more effective instruments of cooperation, such as social procurement and participatory budgets for POs projects in some local governments (e.g., US \$4 million in Kyiv City).

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

Score: 3.5

In Ukraine, the government rarely makes intentional obstacles to philanthropy, but its promotion of philanthropic values and campaigns is weak and inconsistent. The outburst of private philanthropy and POs in 2014-2015 caused by the aftermath of the Maidan revolution, military conflicts and the influx of displaced persons did not change the general Ukrainian government attitude and policies toward philanthropy: it is neutral or slightly positive, as always. In the World Giving Index, Ukraine dropped from 89th position in 2015 to 106th in 2016, which is even lower than the 102nd position in

2013. Government agencies are relatively inactive in supporting and overseeing POs, except the State Fiscal Service of Ukraine that severely lacks qualified staff now. National and, to less extent, local government rarely impose restrictions or pressure on private donors, except for supporting some warfare/antiterrorist efforts. Generally, government policies and attitudes for philanthropic causes are inconsistent, they mostly seek for gaining short-term objectives, and public grants or social project contests rarely provide more than US \$10,000 to US \$20,000, while only qualified associations are eligible.

V. Socio-Cultural Environment

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

Score: 3.7

Ukrainian society faced dramatic changes in philanthropic practices in 2014-2016 due to the warfare and numerous displacements. The national poll by Democratic Initiatives Fund in December 2016 shown that 14 percent adults were involved in volunteering (10% in 2012), mostly to support the military, displaced and disabled people, and 37 percent made philanthropic donations (21% in 2012). However, societal values are still ambivalent or somewhat restrictive for philanthropic progress in Ukraine; 35 percent just do not consider themselves philanthropists. Cash donations (in boxes, churches, or hand-to-hand) still heavily prevail, and only 12 percent adults made donations via banking, text message or online. The general public still tends to rely on governmental or quasi-governmental social services, while media coverage tends to focus on the “dark side” of cash donations. Lack of transparency in many POs supports this trend, even though Ukraine has some well-established and accountable POs (e.g., top 100 foundations spent US \$250 million in 2016, while 5,500 foundations submitted blank or no tax reports). Average individual donations are between US \$5 and US \$10 (77% less than US \$10). On the other hand, there are no religious, gender or cultural barriers for giving or volunteering in Ukraine; neither employers nor the government impose any limitations on such activities. General trust in POs and, especially, volunteers is still higher on average, than for any government institutions except the army (37% non-government organizations; and 53% armed forces, and 53.5% volunteers) (Kiev International Institute of Sociology respectively, December 2016).

Ageing population and the needs of numerous veterans and displaced populations, as well as structural problems with public health care and social services are general factors for higher demand of philanthropic activities. Ukrainians are relatively well educated, have access to the Internet and other communications, and they traditionally support civic activism in smaller communities. Human capital for philanthropy seems to be quite adequate now. On the other hand, economic conditions for middle class donors and non-effective tax incentives for big businesses are not favorable in Ukraine now. Therefore, cross-border donations, technical assistance and migrants' wires are vital for keeping the philanthropic sector sustainable in the next years.

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

In 2014-2016, both informal and institutional philanthropy in Ukraine were growing due to a variety of social challenges caused by post-revolutionary conflicts, warfare, extensive displacement, health care crisis and general economic deterioration (near -15.6% GDP). Simultaneously, cross-border donations to POs and technical assistance increased dramatically. Estimated POs' expenditures for public benefit purposes grew up to US \$1 billion, but government support has been insufficient. A number of service providers and PO networks provide professional services – including organizational capacity, fundraising techniques, legal and tax advocacy – to individual and institutional philanthropists. Advocacy groups have successfully advocated important amendments to legal and tax regulations. The National Strategy for Enabling Civil Society (2016-2020) sets forth a number of activities for promoting philanthropy, including social enterprise as one of the most promising instruments for the Ukrainian philanthropy.

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

- Post-revolutionary military conflicts and influx of displaced persons in 2014-2015, which involved up to 77 percent of Ukrainians in volunteering and joining philanthropic activities for some period;
- Extensive tax reform in 2015, which provides tax exemptions for all revenues of POs and allows them to perform regular economic activities, including social enterprises; and
- Development of crowdfunding and soliciting donations via telecommunication (exempt these donations from VAT and setting up the joint platform of mobile communication providers for charity in December 2016).

Future development trends in the philanthropic landscape

1. Quick growth of informal philanthropy via crowdfunding instruments, online donations and social networks;
2. Steady growth of registered foundations and charitable organizations (from 15,000 in 2014 to 18,500 in 2017), which are getting more efficient, accountable and professional;
3. Extensive training for POs in financial management, fundraising skills and transparency/accountability;
4. Non-favorable economic and political conditions for earning investment income and/or endowments of POs because of financial instability and restrictive banking regulations; and

5. Seeking effective alternatives to tax deductions for donors, including corporate volunteering.

Three key recommendations to improve the environment for philanthropy

- Provide effective tax designations for public benefit purposes (e.g., health care, education, culture) up to 2-3 percent of individual and corporate income tax contributions (tax designations) as alternatives to non-effective tax deductions;
- Provide an official website or information portal for publicizing operational and financial reports of POs (at least, for those that collected or spent more than the threshold for financial monitoring, which is US \$5,000 per month); and
- Make the list of VAT exempt goods and services for POs and/or goods and services subject to reduced VAT rates in compliance with EU Directive 112/2006/EC, as required by the Association Agreement between European Union and Ukraine by 2019.