



Croatia

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QUICK FACTS

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

Five main social issues addressed by these organizations: Animals, Human rights, Arts and Culture, Basic Needs, and Environment

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

Average cost for registering a philanthropic organization: US \$10

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

Philanthropic Environment Scores:

Year	Ease of Operating	Tax Incentives	Cross-Border Flows	Political Environment	Socio-Cultural Environment	OVERALL SCORE
2018	4.8	3.4	3.8	3.5	3.8	3.83

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

The process of registration of POs is rather smooth and simple. Any three (3) individuals or legal person, whether native or foreign, are free to establish a PO or to be a member of one. Persons without legal capacity (14 years or less, or individuals with intellectual disabilities) can also be founders or members of a PO if they have the permission of their legal guardian.

Property is required only for the establishment of a foundation, because the law defines a foundation as “property permanently assigned to serve some generally beneficial or charitable purpose.” No property is required for the establishment of an association.

Registered POs can pursue their goals through unregistered associations, as well. An unregistered association is established by contract between founders. The major difference between registered and unregistered POs is that the latter cannot be the beneficiary of public funds.

The process of registration is quite easy and cheap—with no hidden costs—and requires a defined list of reasonable documentation. The timeline for registration is limited to 30 days. If the registration process is not finalized in that period, registration is nonetheless presumed. The administrative fee is about US \$7. There is a clear and final list of grounds on which registration may be denied. Written explanation of denial is mandatory and the applicant’s right to appeal is guaranteed.

POs are free to pursue any legal purpose indicated in their statutes, and they are free to comment on or attempt to influence legislation or public policies.

Registration is performed by 21 state administrative offices, and is fairly quick and transparent. Nonetheless, registration offices still have too much discretion in the interpretation of the permissible content of the statutes. Additionally, the registration of foundations and funds is regulated by an obsolete legislation, which needs to be updated.

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

Score: 5.0

There are only minimal requirements prescribed by law regarding the internal structure and governance of POs. Only a basic structure is mandatory—all POs must have an assembly and legal representative—while any other managing body is optional.

POs are free to pursue any activity not forbidden by law. POs cannot gain profit for their members or third parties. Any profit that POs generate must be used exclusively to advance the purposes set forth in its charter. Certain types of goals can only be pursued by certain types of POs (e.g., only trade unions are authorized for collective bargaining, etc.). POs can pursue various goals (educational, national, ecological, humanitarian, cultural, social, etc.). Economic (for-profit) activities can be pursued by a PO, but only if those activities are related to the goals set up in the statutes and are within the limited framework set up by law because POs cannot compete with for-profit companies.

POs are free to cooperate among themselves and with any entity in the country and abroad without any permission. They are also free to form networks, unions or any other form of cooperation. They are free to use the Internet and all forms of social media in any way they consider necessary and appropriate.

There is no mandatory narrative report POs must submit to the government. However, they must submit a financial report once a year, like any other legal person. Newly established POs must submit a full financial report within the first 3 years of establishment. After that, they can then use simplified accounting if their property value is at least 230,000 HRK, and their yearly income is at least 230,000 HRK (about US \$33,000). Reporting requirements are clear and consistent, and are based on a number of standardized forms, which must be sent to the relevant authority.

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

Score: 4.8

While a PO can be terminated only for the reasons prescribed by law, the governing body is free to terminate a PO voluntarily. An exception is made for foundations where the governing body can propose termination; however, the registration office is the only entity that can pass the decision due to the protection of the will of the founder or founders.

The registration office can terminate a PO for several reasons: 1) if the PO stops to operate; 2) if the number of members falls under the number which is minimum for establishment of the PO; 3) if the assembly meeting was not held in a period that is twice as long as the period prescribed by statute; and 4) if the PO was divided into two or more legal persons or attached to some other legal person. The PO can actively participate in the procedure through its legal representative or attorney. Once the decision is made, an appeal can be submitted to the ministry for reconsideration. The decision of the ministry can be challenged before Administrative Court.

One of the reasons for involuntary termination is determined by court decision. However, the law does not provide any specific guidelines to the court about the reasons to terminate a PO. Therefore, the reasons must be found in other legislation. Meaning, a PO may be terminated only for a severe violation of the system—for example, if it was established for criminal activities or if its existence was mostly used for criminal activities. Additionally, a PO may be terminated for reasons set up by the European Charter on Human Rights and Freedoms, such as if termination is necessary for the protection of the freedom and rights of others, for the protection of public health and public morality, etc. The procedure before the court is public. The representation of the PO during the process and appeal is guaranteed.

In the case of termination of a PO, the assembly can decide to give its property to another PO with similar goals. If that is not possible for any reason, the property belongs to the local government where the PO has a seat.

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: 3.7

Both individuals and legal persons (corporations) are free to donate to POs.

Personal income tax-payers can deduct donations--by raising the personal allowance--made within the country, in money or in-kind, for cultural, educational, scientific, health, humanitarian, sports or religious purposes, up to 2 percent of their income reported to the tax administration. Personal allowance can be additionally increased if the donation is made based on the decision of the relevant ministry for the pursuit of specific programs and actions, but not for common activities of the donee. There is no ceiling for donations based on net income.

Businesses and other legal entities may deduct donations to POs for a broad range of public benefit activities (including cultural, scientific, educational, health, humanitarian, sport, religious, ecological, and other activities) up to 2 percent of gross income from the previous year. The threshold may be even higher if the donation is made on the basis of the decision of the relevant ministry for the pursuit specific programs and actions. A donation that exceeds 2 percent of the gross income is not deductible.

The process of receiving tax benefits is based on accounting records and is fairly simple, but it requires credible documentation that must clearly state the receiver, present the bank statement of transaction, and proof that it is up to 2 percent of the payer's gross income from the previous year.

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

Score: 3.0

POs are exempt from profit tax, including foreign grants and donations. However, the PO may have to pay tax if it engages in for-profit activity and if tax exemption would give it an "unjustified privileged position in the market." The law does not explain what constitutes an "unjustified privileged position," so the Tax Administration has discretion on this matter. If the PO crosses the "unjustified privileged position" threshold, that particular for-profit activity is taxed at the rate of 12 percent or 18 percent, depending on the amount of the income.

Donations received from individuals or legal persons for medical treatment or medications that are not covered by health insurance are not considered income and are tax-free. VAT is required to be collected by POs whose turnover exceeds 230,000 HKR (approximately US \$33,000) in a given year. The general Value Added Tax (VAT) rate is 25 percent. VAT is not paid for goods and services provided by charity and other public benefit organizations to their members, so long as the members are paying membership fees or real expenses for the service and the tax exemption would not give the PO an “unjustified privileged position” in the market.

A very short number of POs (funds, foundations, Red Cross and humanitarian organizations) are exempt from Real estate transfer tax. These POs are also exempt from taxes on inheritance and donations. The process of receiving tax benefits is based on accounting data and is fairly simple. The facts must be supported by credible documents (proof of payment, original documents, etc.).

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: 4.0

There are no specific costs set up by Croatian authorities for private donors (individual or corporate) who are donating cash or in-kind donations abroad. Neither are there specific limitations for cross-board donations (i.e. the target country, the amount, etc.). However, there are no tax benefits whatsoever for those who are donating abroad; benefits apply only for donations made to local organizations.

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

Score: 3.5

There is no approval process to receive charitable contributions from abroad. Therefore, POs are free to receive monetary or in-kind donations from abroad without any limitation in terms of the amount, country of origin, type of activity, etc. Even though foreign monetary donations are not subject to tax or custom duty, goods and services paid for out of foreign monetary donations are subject to VAT and 25 percent of a monetary donation is taken by the State.

In the case of in-kind donations, only goods (such as food, medicine, and clothes) imported by the State or a charity organizations to cover basic human needs and goods donated to charity do not pay VAT; this does not apply to alcohol, tobacco, coffee, tea or motor vehicles (except ambulances). Imported goods specially designed and used for education, employment, and the social rehabilitation of individuals who are blind or who have physical or intellectual disabilities are also exempt 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: 3.5

In the past few years, the philanthropic sector has been affected by the country's economic crisis. According to the World Bank, "before the return of growth in 2015, Croatia had witnessed six years of recession, with GDP declining by 13 percent." These economic conditions reflected on fewer funds for POs. The government did nothing during the crisis to additionally support the philanthropic sector or to help it survive through the rainy days. Now that the crisis is over and things are returning to normal, these are promising times for POs, due mainly to the general recovery of the society, and not because of specific government policies that support the sector.

There are no open conflicts between the government and the philanthropic sector. However, that might be because citizens of Croatia, generally speaking, are not used to public or organized protesting, and they have learned to accommodate to the mandate of the administration who won the elections.

Even though the government provides funds to support some social and charity programs implemented by POs, systematic and consistent efforts of cooperation between the government and POs are rare. Government support to POs depends not only on the nature of their activities, but also on the ideology that the organization (or their founders or members) defends. However, the position of organizations like the Red Cross is traditionally better than other POs, because of a specific law (The Law on the Red Cross) that protects the status, funding, and operations of the Red Cross.

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

Score: 3.5

There are no limitations for donors in terms of which PO they choose to support. Even though it can basically be said that all POs are equal, it is also true that some traditional POs receive fairer treatment than others (i.e. Red Cross and Caritas, a Catholic organization).

The government does not have a systematic approach to the promotion of philanthropy. There is no specific policy about it, nor are there consistent measures implemented to support the sector. The development of philanthropy has depended mostly on the persistence of some individuals and legal entities who understand the value of philanthropy for society. Government has implemented some isolated measures to support the sector. For example, beginning two years ago, companies are not required to pay tax on donated food with passed expiration dates; however, this came after an

extensive public debate, which has shown the lack of willingness on the government side to make changes.

Lately, the government invested a lot of energy and resources to fight corruption through systemically implemented policies and measures. Some results are already visible, but there is a long way ahead. The perception of corruption in the public is still relatively high (55th place on Transparency International's Corruption Perceptions Index for 2016).

V. Socio-Cultural Environment

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

Score: 3.8

Croatian society seems to be more responsive to provide humanitarian support in cases of emergency than to understand philanthropy as a long-term practice. While reaction to humanitarian crises is usually quick and plentiful, there have been less than 200 foundations registered in 25 years. Natural disasters or individual tragedies often mobilize the whole society, stimulating a very short-term response from numerous individuals and companies to participate in humanitarian efforts. However, long-term philanthropic initiatives are not as popular. Also, the Croatian legal framework is not encouraging for philanthropy, especially considering the very modest incentives for donors.

The present state of philanthropy is a consequence of history and lack of tradition. Before 1990, for almost 50 years, philanthropic initiatives were mostly occasional humanitarian help. Caritas, a humanitarian organization of the Catholic Church, was active during that time but had a smaller scope of operations and significantly less visibility than today. The major philanthropic organization was the Red Cross. The State used to take care of citizens' basic needs (i.e. housing, employment, and health care) and only very rarely were members of the community formally asked to contribute to provide additional humanitarian support. For that reason, there was no adequate legal framework for philanthropy or organizations (e.g. foundations and associations) as we know them today.

Public perception of civil society, in general, has developed significantly in the last 20 years. Beginning with a poor legal framework for the establishment and operation of POs, through POs being perceived as State enemies in the nineties, we are now in the presence of a legal framework that enables the easy establishment and operation of various POs, a significant number of registered organizations, and a much better public perception of POs. However, occasional public scandals involving POs undermine the intentions to build a more positive image.

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

It is realistic to say that the philanthropic sector is still weak and fragile in Croatia. The legal and institutional framework is more or less in place but it still requires some improvements (the Law on Foundations and Funds has not been updated in 20 years, incentives for donors are weak, etc.). What has been achieved so far is not enough to be considered a significant development of the sector.

The lack of tradition of philanthropy requires educating citizens about the benefits and beauty of philanthropy. The systematic education of citizens is a task for civil society organizations, which some organizations are already doing, as well as the government. Tax benefits to donors, although not encouraging enough, must become familiar to a wider audience. We need to change public mistrust of philanthropic organizations and the public's reluctance to donate (because, as they usually say, "who knows where will my donation go?").

As Croatia is a small country with limited philanthropic potential and resources, it is unlikely that philanthropy will survive by relying on private initiatives and money alone. It is important to create a sustainable and transparent system of support from public policies and funds. Even though some support is already in place (e.g. National Foundation for the Development of Civil Society and alike), the access to resources is too dependent on daily politics.

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

- Suspension of the VAT for donations of food with passed expiration date (late 2015);
- Reduction of funds from lottery to civil society organizations in mid-2016 (few funds for the National Foundation for Civil Society Development and many other CSOs); and
- First Croatian "Week of Philanthropy," organized in seven cities (September 2016).

Future development trends in the philanthropic landscape

Because it has a huge heart, Croatia is a country with great philanthropic potential. However, the growth and institutionalization of the sector has been limited by the amount of resources that can be invested in charity and other common good causes. If future economic and social development strengthen the differences between rich and poor, it is likely that philanthropy will become a domain of rich people. Taking into consideration that the Croatian political and legal systems are stable, we do not expect major changes—either positive or negative—to affect philanthropy in the next few years. Given that the government has never developed consistent and strong policies to promote philanthropy, it is very likely that in the near future (up to 5 years), the state of philanthropy in Croatia will not change significantly.

Three key recommendations to improve the environment for philanthropy

- Continuous promotion of philanthropy among the general public. Public presentation of philanthropic achievements, promotion of philanthropy by leading national personalities (politicians, artists, athletes, etc.).
- Fewer expenses for donees (goods and services paid for with donations should be excluded from VAT).
- More benefits for donors.