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The 2022 Global Philanthropy Environment Index Kazakhstan

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Cooperative, Foundation, Religious Organization, Non-Commercial Joint Stock Company, Union, Non-Commercial Institution

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

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

The state registration of philanthropic organizations (POs) requires 0-5 days and 0-30 days is necessary for political parties.

Average cost for registering a philanthropic organization: USD 40

KZT 17,231.50 or 6.50 monthly calculation index, in accordance with subitem 1.1. of item 2, article 533 Tax Code of Kazakhstan.

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

State registration of public and religious associations with republican and regional statuses, including political parties, registration of branches and representative offices of foreign and international non-profit non-governmental associations is carried out by the Ministry of Justice of the Republic of Kazakhstan.

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	3.67	3.85	3.95	3.75	3.50	4.00	3.79
2018 GPEI	3.63	3.90	4.00	3.80	N.A.	3.80	3.83

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: 3.8

The Constitution states: “Citizens of the Republic of Kazakhstan shall have the right to peacefully and without arms assemble, hold meetings, rallies and demonstrations, street processions and pickets” (Article 32). However, Kazakhstan law regulates all forms of peaceful assembly. The Code on Administrative Violations and the Criminal Code contain sanctions for violation of the laws and specify the procedures for organizing and holding peaceful assemblies, rallies, marches, strikes and demonstrations. Violation of the rules may cause administrative arrest for up to 15 days and up to one year of imprisonment.

In 2020 the President of Kazakhstan signed an amendment to the Law on Peaceful Assemblies, specifying that peaceful assemblies have a "notification character" instead of a "permitting character." According to human rights defenders, the procedures set out in the document actually require obtaining "permission" from the authorities for everything related to the holding of an assembly, while local state authorities have many reasons for refusals, and the bill contradicts international standards and is replete with restrictions. In fact, despite many experts’ opinions on this amendment, this is a major and important amendment to the Law on Peaceful Assemblies, and a step forward toward improving the rights of citizens regarding freedom of self-expression.

Forming and operating “unregistered” groups is prohibited by law. In June 2019, young activists of Kazakhstan declared a movement named “Wake Up Kazakhstan,” which has been organizing rallies, processions, and demonstrations. In response to these marches and demonstrations local police arranged very harsh arrests and beatings. In May 2020 there were changes made into the Law of Kazakhstan "On political parties." In accordance with these changes to registering a political party in Kazakhstan requires that it have at least 20,000 members instead of 40,000; and at least a third of the electoral lists should be women and youth (Astana Times, 2020).

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

Score: 3.6

In general, non-commercial organizations (NCOs) are free to operate without excessive government interference, particularly if activities of non-governmental organizations (NGOs) are related to vulnerable groups, basic needs, education, social services, etc. But POs, that have foreign sources of funding have extra reporting requirements: they have to provide information on signed agreements with international organizations, foreign legal entities, and individuals, to the banks serving them; information on all their projects and programs, indicating goals, objectives, and amounts, to the

Ministry of Information and Social Development of the Republic of Kazakhstan; all information provided by the legislation on income and expenses, as well as taxes and other obligatory payments to the budget, to the tax authorities (Statement of Independent Civil Society Organizations and Human Rights Organizations of Kazakhstan, 2020). The current Code of Administrative Offenses of the Republic of Kazakhstan provides severe administrative penalties for inaccuracies in filling out these forms. If the information in reporting forms 017.00 and 018.00 is found to be inaccurate, the NGO faces a fine of more than KZT 500,000 (approximately USD 1,200) and the suspension of activities for up to three months (Article 460-1 of the Administrative Code of the Republic of Kazakhstan).

Two key laws regulate the activities of POs: “The Law on Non-commercial Organizations” and “The Law on Charity.” There is no limitation on goals and activities of POs, except the aforementioned prohibition on pursuing extremist goals and activities; military purposes and activities of political parties; and religious activities. Article 5 of the Law of Public Associations prohibits financing of political parties and trade unions by foreign legal entities and individuals, foreign countries, or international organizations. POs are permitted to participate in networks and to use the Internet and social media without restrictions, particularly due to COVID-19. Many POs shifted their activities to online using social media, online portals, and educational platforms.

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

Score: 3.6

The governing body of a philanthropic organization can voluntarily terminate the organization. Rules and regulations are clearly stated by the Law “On Non-commercial Organizations” and the Tax Code of the Republic of Kazakhstan. The rules of voluntary termination are very detailed and cover several steps, including the legal process of liquidation, forming of a liquidation committee, publishing an official announcement about the liquidation in print media, dealing with tax authorities and meeting tax requirements, getting the approval from tax authorities, etc. Implementation of the e-government system provided transparent rules on termination and liquidation of POs. The process of voluntary liquidation of a PO will start two months after the official and public announcement by the PO about voluntary liquidation.

The PO must provide the application for liquidation along with several documents, including the document confirming the destruction of the seal of the PO, receipt of the state fee for liquidation, and a copy of the official and public announcement about the liquidation. If during the verification process no violations of the liquidation procedure are revealed, the registering body, within five working days following the day of filing an application for state registration of liquidation, registers the termination of the legal entity. There are no clear written rules and procedures regarding involuntary termination except when the goals of the PO appear to be “against the constitution and laws” or support the “initiation of social discord and extremism” (Kazakhstani laws lack a clear definition of these terms). The most common cause of involuntary termination is when organizations are considered to work “against the constitution and laws.” In this case, organizations are terminated without further detailed explanation. Involuntary termination is subject to judicial supervision.

II. Domestic Tax and Fiscal Issues

The two questions in this section pertain to laws and regulations governing the fiscal constraints of giving and receiving donations domestically.

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

Score: 3.8

The Charity Council under the government of Kazakhstan created in 2018 did not accelerate the development of charitable activities. No changes were made to the “Law on Charity” since its adoption in 2015. Current legislation provides the same tax incentives: 3 percent tax exemption of profits of large businesses and 4 percent of tax exemptions of medium- and small-sized businesses. There are no tax incentives for individuals for providing charity or donations. Despite a lack of tax exemption incentives, there is a positive trend in local donations and charity activities by both local companies and individuals.

COVID-19 accelerated local charity activities. Based on information from the Ministry of Information and Community Development, the volume of charitable investments quadrupled in 2020, and the participation of the population in online charity increased three times (Панченко, 2020). There is no ceiling on donations. Activities under the Law on State-Private Partnership are accelerating; according to Kapital (Капитал, 2020), 235 projects were implemented, which amounted to KZT 151 billion (USD 358 million) in 2019, which was the largest volume of activities under this law since its amendment in 2016.

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

Score: 3.9

POs are not taxed if they receive donations in the form of state grants, admission or membership fees, charitable donations, sponsorship support, gratuitously transferred property, or any donations on a gratuitous basis. However, the income of a PO from commercial activity is subject to taxation. The process of receiving tax-exempt status is clear and straightforward, and clearly indicated in the tax code. There are no restrictions on getting support from private donors. However, political parties and trade unions are not allowed to get funding from foreign legal entities and citizens, foreign states or international organizations. There are strict rules on reporting if POs receive funding from abroad. The current Code of Administrative Offenses of Kazakhstan issues severe administrative penalties for inaccuracies in filling out these reporting forms. In 2020, tax officials notified at least 13 NGOs that they incorrectly completed reporting forms on receiving foreign grants and imposed fines on some of them.

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: 4.0

There are no taxes on sending cross-border philanthropic cash and in-kind donations. No approvals are needed, and no restrictions are applied. Costs of cross-border money transfers are related to banking fees and shipping costs. Cross-border donations are not eligible for the same tax incentives as domestic donations. There are restrictions on transferring money to extremist organizations and banks use an “extremist checklist clearance” as a rule.

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

Score: 3.9

There are no taxes and restrictions on receiving cross-border philanthropic cash and in-kind donations. However, in the case of in-kind donations, customs clearance is needed and there is a customs fee. If the organization receives charitable support from international organizations under bilateral agreements signed by the government of Kazakhstan, no tax is applied. However, established local tax procedures do not provide the possibility of implementing tax deductions, namely VAT, by local organizations; it requires extra reporting by international organizations to the government of Kazakhstan. POs can receive donations from abroad without limitation except that they are not allowed to receive foreign money to fund political parties and trade unions. There is no need for approval to receive charitable contributions; however, there is a strict rule on reporting to state authorities of grants received from abroad, including reporting to tax authorities, to the Ministry of Information and Social Development, and to local banks serving POs.

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: 3.8

The political and governance environment is favorable for philanthropy in theory, mostly by declaration of support and interest. However, there were no major actual changes in the political and governance environment. No changes were made into the Law on Philanthropy. In a speech in December 2020, the President of Kazakhstan tasked the government of Kazakhstan to develop a bill to improve philanthropy and charity. This bill is currently under development. The year 2020 was declared by Kazakhstan as the Volunteer Year, indicating seven main priority areas. At the same time, there was no special funding, or special programs implemented, partially due to COVID-19. Philanthropic and charitable activities are accelerated mostly by leaders of local companies, individuals, and youth activities via online platforms with crowdfunding and social media, particularly during the COVID-19 lockdown. One of the key players in the philanthropic landscape and a main

donor to POs is the Samruk-Kazyna Trust Foundation, which was established by the state, and in 2019 disbursed a KZT 150 million (USD 360,000) state grant to POs in the field of social entrepreneurs. The government established a non-commercial joint stock company, “Civil Initiative Support Center,” which provided grants to POs during 2018–2020 in the amount of USD 3.5 million. Although the government does not recognize the POs as agents of social change, there is no conflict between the government and the philanthropic sector. Besides the two above-mentioned sources, other state social funds implemented by several ministries such as health, social development, culture and information, defense, and economy are also available.

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

Score: 3.7

Although rules, procedures and practices need strengthening, the government of Kazakhstan promotes philanthropic values and seems to facilitate access to national and international resources and opportunities. It may not always be equal. Donors are generally free to support any philanthropic cause without government pressure. Government agencies demonstrate enough capacity to support and oversee POs. Several sources of funding are available, including two main donors: the Civil Initiative Support Center and the Samruk-Kazyna Trust Foundation. Many projects supported by the Civil Initiative Support Center are related to top state interests, such as patriotism, national identity, national language, inter-ethnic peace and coexistence, etc. While a sign of movement in the right direction, results are still to be seen. For the last two years, the Philanthropy Council under the government of Kazakhstan, headed by the Prime Minister, met on a quarterly basis with the main POs, but unfortunately did not accelerate any policy improvements.

V. Economic Environment

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

Score: 3.5

The GDP growth rate was 4.1 percent in 2018; 4.5 percent in 2019; and negative in 2020 due to the effects of COVID-19. Overall, philanthropy in Kazakhstan is growing year by year, not determined by economic conditions. Most likely, the 2018 and 2019 philanthropy growth could be correlated with economic growth and stability, but philanthropy acceleration in 2020 is mostly related to COVID-19, which united people during the crisis. There were many local wealthy individuals’ donations to the health sector, and to support vulnerable groups of people. Young people actively were involved in direct and indirect philanthropic/volunteering activities. Unfortunately, there were no major changes in terms of policy development, amendments to laws, and tax regulations, among other areas related to philanthropy, but actual philanthropy was increased substantially. Kazakhstan’s trade balance was decreased from USD 25.6 billion in 2018 to USD 7.2 billion in 2020, which may have affected a decreasing philanthropic flow to Kazakhstan. Corruption is a major obstacle in economic development, particularly corruption among high-level state decision makers.

VI. Socio-Cultural Environment

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

Score: 4.0

Philanthropy as an institutionalized activity is still new for Kazakhstan, and fundamental philanthropic approaches and good practices are not well known. Despite the lack of a good philanthropic environment policy, actual philanthropy by wealthy and not wealthy individuals and companies, particularly among middle-aged people and youth, is growing substantially. State-run grantmaking institutions remain the same on their policies and practices by providing assistance to mostly the same political and patriotic POs. Wealthy local individuals started making more charitable contributions, particularly to the healthcare sector, as well as providing direct support to elderly people and vulnerable groups. Young people use mostly social media, Internet-based platforms, and crowdfunding activities, allocating small amounts for more creative philanthropic activities. Youth activists are becoming more active and creative in their philanthropic, democratic and public engagement.

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 current state of the philanthropic sector may be described as a “shift from state-owned sector” with weak state policy and procedures to “individual philanthropy” with positive and quick-growing trends and with no clear goals and objectives—close to a stochastic process. An Amendment to the Law on Philanthropy is in progress. The President of Kazakhstan indicated in his message at the end of 2020 that there is a need for close attention to the philanthropic sector, a need for policy and philanthropy environment improvement, and for providing actual rules on tax incentives. There is a need for capacity building on philanthropy, policy development, and research development.

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

1. “Wake Up, Kazakhstan” movement declared in June 2019
2. In 2020, amendment made to the Law on Peaceful Assemblies, in which peaceful assemblies have a “notification character”
3. Amendment made to Law on Political Parties: 20,000 members instead of 40,000 required for registration of a political party

Future development trends in the philanthropic landscape

Crowdfunding has a tendency to grow, particularly among young people. Philanthropy through social media platforms is/will be a driving force for the future of local philanthropy. There is a small chance that the President of Kazakhstan will support philanthropic law, policy, and environment. Middle-

aged wealthy individuals will try to institutionalize their philanthropic activities in different forms, including establishing foundations and charity organizations. With successful consolidation, these newly established POs will be pushing for developing new policy and national philanthropic strategy. There is a probability of the development and promotion of endowments by local educational institutions. Digitalization of philanthropic activities will be accelerated. The process of forming political parties, and youth collaboratives and movements, will also be accelerated. Ecological and environmental activist groups will increase their activities across the country. State-private partnerships will be improving, as well. Social contracting systems and state grantmaking have to be transformed into more a progressive state system; otherwise, they will be faced with more corruption and discreditation of their activities. POs will be improving their public transparency, reporting quality, public accountability, and efficiency.

Three key recommendations to improve the environment for philanthropy

- Need for policy improvements and capacity building;
- Institutionalize individual philanthropy and provide tax incentives for individuals making donations; and
- Accelerate public awareness; promote digitalization.

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

There were two major areas where NGOs and philanthropy played key roles in responding to COVID-19: 1) The health care system; provided hospitals with rapid testing systems, installed new testing labs, provided training to the medical staff of testing labs on using the new testing systems, provided hospitals with artificial lung ventilation apparatuses, face masks, personal protection systems, disinfectants, etc.; and 2) Support to those who lost jobs and vulnerable groups of people, providing food and basic needs.

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

Installation of mobile testing labs and providing training to medical staff of hospitals. Adaptation of educational programs to online service delivery platforms. Very quick learning tools for online education systems used by upper-middle-age schoolteachers. New culture on wearing face masks, using hand sanitizers, and washing hands. Online medical consultations for the general population. Sirens during the disinfection of streets and sidewalks.

Impact of COVID-19 on the philanthropic environment

COVID-19 tremendously impacted individual philanthropy, digitalization of philanthropy, and the development and implementation of online education programs. In some cases COVID-19 led to the rise of aggression among young people due to lockdowns and isolation.

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

More support to vulnerable groups including elderly people, implementation of innovations in online education systems, and new tools and devices for health care.

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