



Kazakhstan

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Foundation, Cooperative, Others: Non Commercial Joint Stock Company, Religious Organizations

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

Average cost for registering a philanthropic organization: US \$14

There are three types of costs for registering PO: 1 MRP (Minimum Index Rate, if the PO is initiated and established by state sources); 2 MRP (Minimum Index Rate for regular POs, for example those established to support child and youth, vulnerable groups, disabled people etc.); 6.5 MRP (for mostly political parties). The Minimum Index Rate is fixed at 1: US \$7.2 as of January 2017.

Government levels primarily regulating the incorporation of philanthropic organizations: Central/Federal Government, Local Government, State Government.

The Registration and Legal Assistance Committee of the Ministry of Justice of the Republic of Kazakhstan carries out state registration (including re-registration and registration of liquidation) of both POs with national status and subordinate structures (branches and representative offices) of foreign and international nonprofit non-governmental associations. Departments of Justice of oblasts (regions or states), cities of old and new capitals carry out state registration (re-registration and registration of liquidation) of POs with state (regional) status. Department of Justice of districts (local level) carry out state registration (re-registration and registration of liquidation) of POs with local status.

Philanthropic Freedom Scores:

Year	Ease of Operating	Tax Incentives	Cross-Border Flows	Political Environment	Socio-Cultural Environment	OVERALL SCORE
2018	3.6	3.9	4.0	3.8	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: 3.6

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, the Kazakhstan Law regulates all forms of peaceful assembly. In order to have peaceful gatherings or demonstrations any group must be granted government permission. Rules and procedures are quite strict and their enforcement makes peaceful meetings almost impossible. The Code on Administrative Violations and the Criminal Code contain sanctions for violation of the law and specify the procedures for organizing and holding peaceful assemblies, rallies, marches, strikes and demonstrations. Violation to the rules may cause administrative arrest for up to 15 days and up to one year of imprisonment.

Forming and operating “unregistered” groups is prohibited by law. POs are not restricted from pursuing any legal purposes, excluding pursuing of extremist goals; any purpose based on some type of paramilitary groups and structures; parties with religious purposes, and purposes and activities that infringe upon the health and moral standards of citizens. There is no clear written definition of the term of “fringe upon the health and moral standards.”

There is an online state registration system. Registration rules are clear and consistent and the activities of registration authorities are transparent. Some POs (human rights, political parties, religion groups, LGBT) are considered to be “unsuitable” by authorities, and their registration may be denied due to “technical reasons.” The Ministry of Justice provides written notice of denial without any explanation of reason. There is a right to appeal the denial via the court system. Stateless persons, foreigners and minors under the age of 18 are not allowed to be founders. The minimum number of people required to form a public association is 10 citizens of Kazakhstan, 5000 people for national level religious organizations. There are no capital or assets requirements needed to establish a PO.

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

Score: 3.8

In general, Non-commercial Organizations (NCOs) are free to operate without excessive government interference. Two key laws regulate the activities of POs: “The Law on Non-commercial Organization” and “The Law on Charity”. There is no limitation on goals and activities of POs, except the aforementioned prohibition to pursue extremist goals and activities; military purposes and activities; political party religious activities and purposes and activities that infringe upon the health and moral standards of citizens. POs have no limitation to contact and cooperate with colleagues in

the civil society, business and government sectors, both within and outside the country. There are no restrictions on travels or conferences, and advanced notice of international cooperation is not required. However, Article 5 of the Law of Public Associations prohibits financing of political parties and trade unions by foreign legal persons and individuals, foreign countries, or international organizations. POs are permitted to participate in networks and use the Internet and social media without restrictions. Reporting requirements are clear, but not always predictable.

On December 2, 2015, the Law "On Amendments and Additions on NCO Activities" was adopted. By this amendment all POs, including representatives and branches of foreign and international organizations have to annually (by March 31) submit information about their activities including their founders, assets, properties, sources of funding and the use of allocated funds to the authorized state body (Committee on Civil Society Affairs of the Ministry of Religious Affairs and Civil Society). On March 15, 2017, the Committee presented and implemented the Internet portal of the NGO database (www.infonpo.kz) where POs must provide the requested information. State registration of POs may lead to state pressure on POs, or a non-transparent distribution of grant funds. In fact, the Civic Freedom Monitor (2017) reports that in 2015 the government considered several legal measures that "threatened to introduce new restrictions on grant distribution and increased control over the receipt of donations by CSOs." These regulations were revised following advocacy efforts by CSOs.

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

Score: 3.5

The governing body of a philanthropic organization can voluntarily terminate the organization. Rules and regulations are clearly stated by the Law "On Noncommercial 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. In fact, the process of voluntary liquidation may take years.

There are no clear written rules and procedures regarding involuntary termination except if the goals of the PO appear 'against constitution and laws', and to support the "initiation of social discord and extremism" (Kazakhstan laws lack a clear definition of these terms). The most common cause of involuntary termination is when organizations are considered to work "against constitution and laws." Under this case, organizations are terminated without further detailed explanation. The reason for the liquidation of a political party may be non-participating in two consecutive election cycles. 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 4: To what extent is the tax system favorable to making charitable donations?

Score: 3.8

Kazakhstan adopted the new “Law On Charity” in November of 2015; accordingly, amendments were made to the Tax Code. By this Law and amendment in the tax code, individuals and organizations making donations in the form of charity and sponsorships have 4 percent income tax reduction. It is a good sign for Kazakhstan’s philanthropic causes. The new law and tax code amendment have slightly accelerated donations by individuals, and there is already a trend for establishing private charity foundations and implementing large scale, national-level charity initiatives like “Mothers’ House,” ‘Precious Child” and others. There is no ceiling on donations. The process for receiving tax benefits when making donations are clear and consistent.

The new tax reduction does not seem to have influenced donations from corporations. Local authorities still tend to consider corporations as “dairy cows” for reconstruction of roads, construction of local kindergarten and school buildings, purchasing medical equipment, etc. Particular state pressure has been accelerated by the new “Law on State-Private Partnership” adopted in October 2015 and amended in April 2016.

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

Score: 4.0

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.

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

Score: 4.0

There are not taxes and restrictions on receiving cross-border philanthropic cash and in-kind donations. However, in case of in-kind donations, custom clearance is needed and there is a custom fee. If the organization receives charitable support from international organizations under bilateral agreements signed by the Government of Kazakhstan no tax is applied. POs can receive donations from abroad without limitation except that it is 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 are several tax code amendments made in 2016. For example, individuals and POs receiving funding from foreign sources have to report to tax authorities. The process is quite straight forwards and only a certain type of organizations are required to do that. Within 10 days after the signed agreement they have to provide written notice to tax authorities, and on or before the 15th day of the second month following the reporting quarter, they have to provide information on money received and other properties.

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: 3.8

The collaboration between the state and the POs has increased substantially in the last year. Although the government does not recognize the POs as agents of social change, there is no conflict between the government and the philanthropic sector. Moreover, the government has become the main funding source for POs. In 2015, the government established a non-commercial joint stock company (“Civil Initiative Support Center”) to improve the relations between the state and NGOs. The main activity of the Company is grant distribution among POs in 11 program areas. The maximum size of grants is \$100k, which is a big amount for local POs. While the source of funding is the state, implementation is carried out by non-commercial agents. The other key player in the philanthropic landscape and main donor of POs is the Samruk-Kazyna Trust Foundation, which was also established by the state. The foundation is a grant distributing organization that uses mostly state funds. The maximum size of grants is US \$5 million, which is huge amount for local POs. In many cases state oriented “GONGOs” receive funding from the Foundation. The rules of the Foundation for awarding grants are not clear or transparent.

Besides the two aforementioned sources, other state social funds implemented by several ministries such as health, social development, culture and information, defense, and economy are also available. There are several individuals engaged in philanthropic activities via establishing charitable foundations and providing donations, but the size of their donations is limited in comparison with state funding via its non-commercial agents.

The economic condition of the country is not favorable for companies and individuals to regularly make donations. In August 2015, the foreign exchange rate dropped almost twice, from 0.053 to 0.039.

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

Score: 3.8

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 be always equal. Donors are generally free to support any philanthropic cause without government pressure. Government agencies demonstrate enough capacity to support and oversee POs. In addition to the Law on charity, the new Law on Volunteer activity was adopted on 30 December 2016. 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 the main state interests, such as patriotism, national identity, national language, interethnic peace and coexistence, and so on.

In 2017, the Sumruk Kazyna Trust Foundation initiated and organized the first Kazakhstan Corporate Charity Forum with participation of leading businesses, POs and government institutions. One of the main goals of the Forum was the creation of the Kazakhstan Association of Charity. While a sign of movement in the right direction, results are still to be seen. There are still lack of opportunities in terms of capacity building of POs, including training, forums, information exchange and the like. The Assembly of People of the Republic of Kazakhstan is the main coordinating agency of philanthropic activities in Kazakhstan. The organization is totally pro-government and a “political agent” rather than an independent actor with strong capacity, clear procedures and rules. Another government-supported organization created in 2016 is the Coordination Council, consisting of national-level officials and representatives of seven NCOs. The main goal of the Council is the coordination of government and philanthropic organization activities in grant funding.

V. Socio-Cultural Environment

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

Score: 3.8

Philanthropy as an institutionalized activity is new for Kazakhstan and fundamental philanthropic approaches and good practices are not well known. Traditionally, people have tended to help each other in the form of voluntary joint support named ASAR. ASAR is well known and is mostly used among members in shared communities. There is also a religious tradition to provide for the poor.

The faith of people on POs is good and in general, they recognize that POs play an important role in society. There are NO any social and cultural restrictions to engage in philanthropic activities as donors and/or recipients. Accumulated social and human capital provide the necessary conditions for the development of the sector. In addition to the crowdfunding platform (baribirge), the culture of corporate social responsibility has developed enormously in the last couple of years.

Unfortunately, there are no institutions that systematically promote charity or are engaged in policy development. Neither is there trusted information and statistics about the philanthropic sector in the country. According to the results of recent national study by Kursiv newspaper, more than 50 percent of respondents believe that charity in Kazakhstan is not sufficiently developed, 26 percent believe that it does not exist at all and 21 percent found it difficult to answer the question. In the same survey, experts found that around 9 percent of citizens of Kazakhstan regularly engage in charity and the main discouragement to engage is the lack of trust that funds will be used appropriately (63% of respondents).

In 2015 the Institute for Public Policy and Analytical Group KIPR, organized a meeting to discuss the Law “On Charity” with participation of representatives of charitable foundations, government agencies, experts, public leaders and business representatives. According to the meeting experts’ estimation, only 0.5 percent of citizens are engaged in charity. Different sources provide contradictory information on the proportion of people engaged in charity, but what it shows, at the end, is that very few people in Kazakhstan give to charity. Several efforts have been made to accelerate the development of the philanthropic sector, including the new Law “On Charity” and the amendments to the tax code. In 2016, March 1st was officially approved as Thanksgiving Day by Presidential decree, - the day of formation of Kazakhstan Peoples’ Assembly. In 2016, a new crowdfunding platform started to function, although previously there were four attempts to accelerate crowdfunding platforms without success.

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

The current state of the philanthropic sector may be described as “state owned sector” with weak policy and procedures of grant making, not always transparent in forming grant selection committees, lack of independence from state, and excessive control from state side. Lately, it is possible to observe increasing donations by individuals, mostly rich businessmen, to support the implementation of large scaled national programs. Corporate charity is still not active due to their “unofficial responsibilities” to the local authorities in construction of road, buildings, purchasing medical equipment, etc. Tax incentives are still not attractive enough, although it was increased to 4 percent by the amendment into tax code in 2016. The Assembly of People of the Republic of Kazakhstan approved as the main coordination agency of philanthropic activities in Kazakhstan is totally pro-government. It has no capacity to accelerate and promote charity in Kazakhstan in general, including charity researches, networking, capacity building, policies and practices, and so on.

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

- Kazakhstan adopted the new Law "On Charity" dated November 16, 2015. Accordingly, amendments were made to Tax Code. By this Law and amendment in Tax Code, individuals and organizations making donations in the form of charity and sponsorships have 4 percent income tax reduction. The Law "On Charity" implemented several key terms and norms as grant, endowment, charity, philanthropy, sponsorship, and so on, which are new in Kazakhstan. Almost 15 years were spent in developing and adopting this Law and six Parliamentary hearings were conducted. At the same time, this law has some limitations on the objectives of charitable support in the form of grants. For example, grants are not allowed to support activities like human rights, advocacy or research. This Law established the Board of Trustees as the high governance body of POs, which was not always the case for previously registered POs. Some POs may be considered "unsuitable" for "not meeting state rules and regulations."
- December 2, 2015, the Law of the Republic of Kazakhstan "On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on NGO Activities" was adopted. By this amendment all POs, including representatives and branches of foreign and international organizations have to annually (by March 31) inform of their activities, including their founders, assets, properties, sources of funding and the use of allocated funds to the authorized body (Committee on Civil Society Affairs of the Ministry of Religious Affairs and Civil Society). POs may use electronic portal www.infonpo.kz.
- The new "Law On State-Private Partnership" adopted in October 2015 and amended in April 2016 may accelerate, both positively and negatively, the involvement of businesses in making voluntary and obligatory contributions to the social sector.
- Law on Voluntary activity was adopted on 30 December 2016.

Future development trends in the philanthropic landscape

In the coming 2-3 years there will likely be two trends in the field of philanthropy: a government-dominated trend of growth of individual giving and donations by local rich businessmen to the two state-established noncommercial institutions: Civic Initiative Support Center and Samruk-Kazyna Trust Foundation. The approved concept of corporate social responsibility in 2016 may facilitate the acceleration of corporate giving in some regions of Kazakhstan rich in oil, gas and minerals. The "Law on Charity" will provide opportunities for implementing endowments, a philanthropic body totally new in Kazakhstan. The new "Law on State-Private Partnership" may accelerate voluntary and obligatory contributions to social sector.

Three key recommendations to improve the environment for philanthropy

- Development of philanthropic policy and research institutions and public awareness of philanthropy to create a more comprehensive and systematic view of philanthropy, increase the number and quality of research, and implement evidence-based approaches for promoting and accelerating philanthropic practices and results.

- Development of a solid infrastructure for the sector. Build capacity and implement principles, procedures, policies, and tools to improve the functioning of philanthropic organizations, including public monitoring systems that would increase the transparency and accountability of the sector.
- Increase the level of independence from the state, support a strong voluntary sector and philanthropic culture, as well as the development of modern philanthropic channels such as crowdfunding and crowdsourcing, networks, endowments, etc.