

ESTONIA

General information*

- Capital: Tallinn
- Population: 1.325 million
- GDP: \$24.88 billion

CSO legal forms and their characteristics

Non-profit Association

- General membership organisational form, established by at least 2 persons, without any additional requirements on the eligibility of a founder.

Foundation

- General non-membership organisational form, without any initial capital requirement, but it could be dissolved if assets are clearly insufficient and no acquisition is likely in the immediate future.

Contract of Partnership

- Organisational form without the registration requirement and also without legal personality, governed by the Law on Obligations Act.
- Used usually for local or hobby groups.
- Not eligible for all kinds of funding, however sometimes allowed to apply for public funding.

Key CSO laws



- Non-profit Associations Act of June 6, 1996;
- Foundations Act of November 15, 1995;
- Law on Obligations Act of September 26, 2001.

* Source: World Bank, 2013.

1. Existing forms of CSOs in Estonia and their characteristics

? What forms of CSOs exist in Estonia? What are their main characteristics?

The existing CSO forms include: **Non-profit association** (*Mittetulundusühing*) and **Foundation** (*Sihtasutus*) and **Contract of partnership** (*Seltsing*). For the purposes of this Handbook we will provide information on non-profit associations and foundations.

? Are there any restrictions on the permissible goals and activities of CSOs?

Non-profit association: There are no particular restrictions except of those arising from the non-profit nature of the association: the objective or main activity shall not be the earning of income from the economic activities and the income may be used only to achieve the objectives specified in its statute. Additional restrictions may be provided by law.

Foundation: Similarly as for non-profit associations there are no particular restrictions, except of those arising from the non-profit nature of the foundation. Both public benefit and private purposes of the foundation are allowed.

2. Requirements on the founders of a CSO

? What is the minimum number of founders required by law?

Non-profit association: 2.

Foundation: 1.

? What are the eligibility requirements for founders? Are foreign citizens allowed to serve as founders?

There are no eligibility requirements, both natural persons and legal entities may found non-profit association or foundation. Foreigners are also allowed to be founders.

? Are there any property or cash contribution requirements for the founders?

Non-profit association: No.

Foundation: The law stipulates that the amount of contribution shall be determined by founders in the founding document (resolution). The founders may also decide not to transfer contributions.

3. Registration procedure

? Which authority is responsible for the registration?

Registration department of Tartu County Court (Registrar) maintains the register. Registration may be done online with a digital signature in case of non-profit associations and/or via notary. For foundations the registration is done via notary.

? What is the registration fee?

Non-profit association: EUR 20.

Foundation: EUR 58.

? Are there any other direct financial costs of the establishment of a CSO?

- Costs of the notarial verification of the founding documents and/or application form (*petition*);
- Costs of the notarial verification/official certification of the copies of the documents submitted to the registrar.

? How long should the registration process take?

The relevant laws do not provide any specific timeframe for registration. However, in practice, the application is generally reviewed within 5 working days.

? Which documents are required for registration?

Non-profit association:

- *Application form* (Petition), containing information specified in Article 10 of the Non-profit Associations Act, submitted and signed by all members of the management board and notarised;
- *Founding document* (Memorandum of association) the content is regulated in Article 6 of the Non-profit Associations Act signed by all founders (at the time of registration it shall not be more than 1 year old);
- *Statutes* (Articles of association) the content is regulated in Article 7 of the Non-profit Associations Act signed by all founders;
- *Telecommunication numbers* (telephone, facsimile, etc.);
- *Other documents stipulated by law.*

Foundation:

- *Application form* (Petition), containing information specified in Article 14 of the Foundations Act, submitted and signed by all members of the management board and notarised;

- *Founding document* (Resolution) the content is regulated in Article 6 of the Foundations Act, shall be signed by all founders and notarised. Foundation may be established also on the basis of a notarised testament containing foundation resolution with the same information;
- *Statutes* (Articles of association of a foundation), shall be in writing, the content is regulated in Article 8 of the Foundations Act. It shall be signed by all founders and notarised;
- *Bank confirmation about transfer of the money to the foundation stipulated in the Resolution*;
- *Telecommunication numbers* (telephone, facsimile, etc.);
- *Extract from the land register or other register* if an immovable or movable property subject to a registration is transferred to the foundation;
- Other documents stipulated by law.

All the documents submitted shall be originals, notarised copies or officially certified copies. Officially certified copies may be electronic with a digital signature of the person or a digital seal of the agency certifying the copy.

? **Is electronic submission possible?**

Yes, but foundations must always submit via notary.

? **Is there a requirement to have an office in the country?
Are there any specific requirements related to it?**

Non-profit association & Foundation: No office is required. The law expects only an address where the management board can be contacted.

? **Are there additional requirements related to registration?**

Non-profit association: There are requirements related to the name of the association: (1) it shall have only one name; (2) it shall be written in Estonian, with Latin alphabet; (3) it shall have an appendix in Estonian referring to the fact that it is an association of persons; (4) it shall not be contrary to good morals.

Foundation: Requirements with regard to the name of the foundation are following: (1) it shall have only one name; (2) it shall be written in Estonian, with Latin alphabet; (3) it shall not be contrary to good morals.

? **Are there additional administrative procedures related to registration?**

Non-profit Association: No.

Foundation: Opening a bank account, if founders transfer money to the foundation.



What are the legal grounds for denial of registration?

The registrar shall refuse the registration if the founding document (resolution), articles of association (statutes) or other documents do not comply with the requirements set by laws or if the petition for entry in the register is submitted after more than one year from the effective date of a founding document. Upon rejection, the registrar shall indicate the reason for it.

4. Sources of funding



What are the possible sources of funding?

Available sources of income include:

- State funding (on both national and local level);
- Donations from domestic and foreign individuals and legal entities;
- Income from lotteries, charity events or collections;
- Membership fees;
- Funding from corporate foundations and/or endowment fund;
- Income from economic activities;
- International and EU funding mechanisms;
- Income from service charges and legacies.



What are the restrictions on the possible sources of funding?

Non-profit association: Economic activities cannot be main statutory activities of the association and the income earned from them may be used only to achieve objectives specified in the organisation's statutes (articles of association). If this is not respected, an association may be dissolved by a court ruling.

Foundation: Restrictions are described under Article 2 of the Foundations Act. Restrictions on economic activities may be provided by law. Foundation may not grant loans or secure loans of founders or members of the management board or supervisory board or other persons with economic interest. The income may be used only to achieve statutory goals.

5. Tax treatment of CSOs



What is the income tax treatment of CSOs?

CSOs as well as other legal entities do not pay the income tax if the profit is not shared but used for the organisations' statutory purposes.



What is the VAT treatment of CSOs?

VAT exempt from the general 20% VAT rate if the annual turnover from the supply of non-exempt goods or services does not exceed EUR 16,000. VAT shall not be imposed on the supply of services provided by a non-profit association to its members free of charge or for a membership fee and services provided by a non-profit association or foundation to natural persons relating to the use of sports facilities or sports equipment.



Are there any tax benefits for donors in place?

Yes, for donations to non-profit association or foundation with public benefit status. For *individual donors* donations of the value up to the 5% of the donor's total income but not more than EUR 1,920 in total can be deducted. For *corporate donors* the total amount of donations may not exceed either 3% of the payments made during the year to the salary fund or 10% of the calculated profit of the latest fiscal year.

6. Obligations of a registered CSO



What are the reporting requirements of a registered CSO?

Non-profit association: Obligation to submit an annual report after the end of the financial year, even if the association did not conduct any economic activities. The report shall be audited if the non-profit association has an auditor or audit committee. The report shall be approved by the general meeting and submitted electronically to registrar. If the association fails to submit the report within 6 months and the additional time period given by the registrar it may be liquidated and deleted from the register (Article 36 of the Non-profit Associations Act).

Foundation: Obligation to submit an annual report after the end of the financial year. The report shall be audited if the audit is obligatory according to the law (if revenue or assets exceed EUR 15,000), statutes or resolution of the supervisory board. The report shall be approved by the supervisory board within 4 months and submitted electronically to registrar. If the foundation fails to submit the report within 6 months and the additional time period given by the registrar it may be liquidated and deleted from the register (Article 3 of the Foundations Act).



Are there additional obligations of a registered CSO?

- Obligation to register as a VAT taxpayer if the annual turnover from the supply of non-exempt goods or services exceeds EUR 16,000.
- Non-profit associations and foundations that have public-benefit status must also submit a report on their public-benefit activities to the Tax and Customs Board.

7. Internal governance of the organisation



What are the basic requirements related to the governance and internal structure as provided by law?

Non-profit association: The bodies of a non-profit associations include:

- General meeting* of association's members: Supreme body, which supervises other bodies of the association; adopts resolutions on all management matters except of those designated to management board or other bodies of the association. Its competences include: amending the statutes, appointing and removing from the office members of the management board, approving annual reports, adopting decisions about dissolution, merger or division of the non-profit association and other competences. The resolutions are adopted with standard majority vote or absolute-majority when the statutes are being amended. The 9/10 vote majority is required for changing the statutory purpose of the association (Articles 18 to 25 of the Non-profit Associations Act).
- Management board:* manages and represents the association, could be one member (director) or be a collegial body. A member shall be appointed for 3 years, statutes may prescribe the term of max. 5 years. Every member of the management board has a right to conclude transactions on behalf of the association, unless otherwise provided by law. Management board may adopt a resolution, when one half of the members is present at the meeting unless otherwise prescribed by statutes (Articles 26 to 30 and Article 32 of the Non-profit Associations Act).
- Other bodies designated by statutes to perform specific tasks (Article 31 of the Non-profit Associations Act).

Foundation: The bodies of a foundation include:

- Management board:* manages and represents the foundation, may be composed of one or several members. Management board shall perform its tasks in compliance with the lawful orders of the supervisory board. Every member of the management board has a right to conclude transactions on behalf of the foundation, unless otherwise provided by law. Transactions beyond the scope of everyday economic activities require the consent of the supervisory board (Articles 17 to 23 of the Foundation Act).
- Supervisory board:* composed of min. 3 members, supervisory board shall plan the activities of the foundation, organise the management of the foundation and su-

pervise the activities of the foundation. It shall approve transactions which are beyond the scope of everyday economic activities- described under Article 25 par. 1 of the Foundations Act. It has a right to obtain and demand information about the activities of the foundation from management board. The meetings of the supervisory board shall be held as necessary, not less frequently than once a year, called by the chairman, with at least one half of the members present for the decision making (Articles 24 to 32 of the Foundations Act).



Are there any eligibility requirements to the members of the governing bodies?

Non-profit association: Members of the management board shall be natural persons with full legal capacity. A person prohibited by a Court decision to act as a member of the management board, person prohibited to engage in the same area as the non-profit association, or a person who is prohibited to act as a member of the management board on the basis of law or a court decision shall not be a member of the management board. Member of the management board shall not be a controller (or member of the audit committee if there are several controllers). The residence of at least one-half of the members of the management board must be in Estonia or other Member State of the European Economic Area or in Switzerland.

Foundation: In addition to what has been said for associations, a member of the management board cannot be at the same time member of the supervisory board. Also, the statutes may prescribe additional eligibility requirements.



Are foreign citizens allowed to serve on the board?

Non-profit association & Foundation: Yes, eligibility requirements with regard to the residency are applied only to the management board members of both CSO forms. Management board of a CSO in Estonia is an executive/managing body of the organisation and not the supervisory body as usually understood under the term “board”.



Are founders and members financially liable by law?

Non-profit association: Different liability rules apply to the persons acting on behalf of the association according to the status of the association- prior the establishment/before entering to the register/after entering the register: (1) Liability of founders and members of the management board upon establishment of a Non-profit Associations — *Article 10 of the Non-profit Associations Act*; (2) Liability of persons that entered into transaction before the registration of an association — *Article 11 of the Non-profit Associations Act*; (3) Liability of a member of the management board or other body — *Article 32 of the Non-profit Associations Act*.

Foundation: (1) Liability of founders and members of the management board and supervisory board upon establishment of a foundation — *Article 13 of the Foundations Act*; (2) Liability of a member of the management board — *Article 23 of the Foundations Act*; (3) Liability of a member of the supervisory board — *Article 32 of the Foundations Act*.

Members of the management board and supervisory board shall perform their obligations with the due diligence, in accordance with what is normally expected from persons in their position. They are solidary liable for damages caused to the organisation.

8. Staff and members of the organisation

Are there any eligibility requirements of the staff and members of a CSO?

Non-profit Association: Requirements for the members should be prescribed by the statutes (articles of association).

Foundation: No.

Is there a requirement to have a full-time employee?

No.

Is there a requirement to have an accountant?

The management board shall organise the accounting in compliance with the Accounting Act, however there is no obligation to have an employee- accountant to perform this task.

9. Voluntary dissolution and liquidation

What is the liquidation procedure in case of voluntary dissolution of a CSO?

Non-profit association & Foundation: A non-profit association and foundation are liquidated upon dissolution unless otherwise provided by law. During the liquidation procedure “*likvideerimisel*” (in liquidation) should be appended to the organisation’s name. The liquidators are members of the management board unless otherwise prescribed by the statutes or resolution of the general meeting in case of non-profit association. At least half of the liquidators should be residents of Estonia. The management board shall submit a petition for entry of the first liquidators in the register.

Liquidation procedure:

- Liquidators shall publish a notice of the liquidation proceeding in the official publication *Ametlikud Teadaanded* and send a notice of liquidation to the known creditors.
- Creditors may submit their claims within a two months period.

- If the assets of a non-profit association/foundation are insufficient the liquidators shall submit a bankruptcy petition.
- If all the claims are satisfied the remaining assets shall be distributed among the persons entitled by the statutes and liquidators shall submit a petition for deletion of the non-profit association/foundation from the register.

The liquidation procedure for non-profit associations is described under Articles 42 to 54 of the Non-profit Associations Act and for foundations under Articles 48 to 59 of the Foundations Act.

In case of CSOs with public benefit status the assets remaining after satisfaction of the claims of the creditors must be transferred to an association entered in the *list of non-profit associations and foundations benefiting from income tax incentives* or to a legal person in public law.