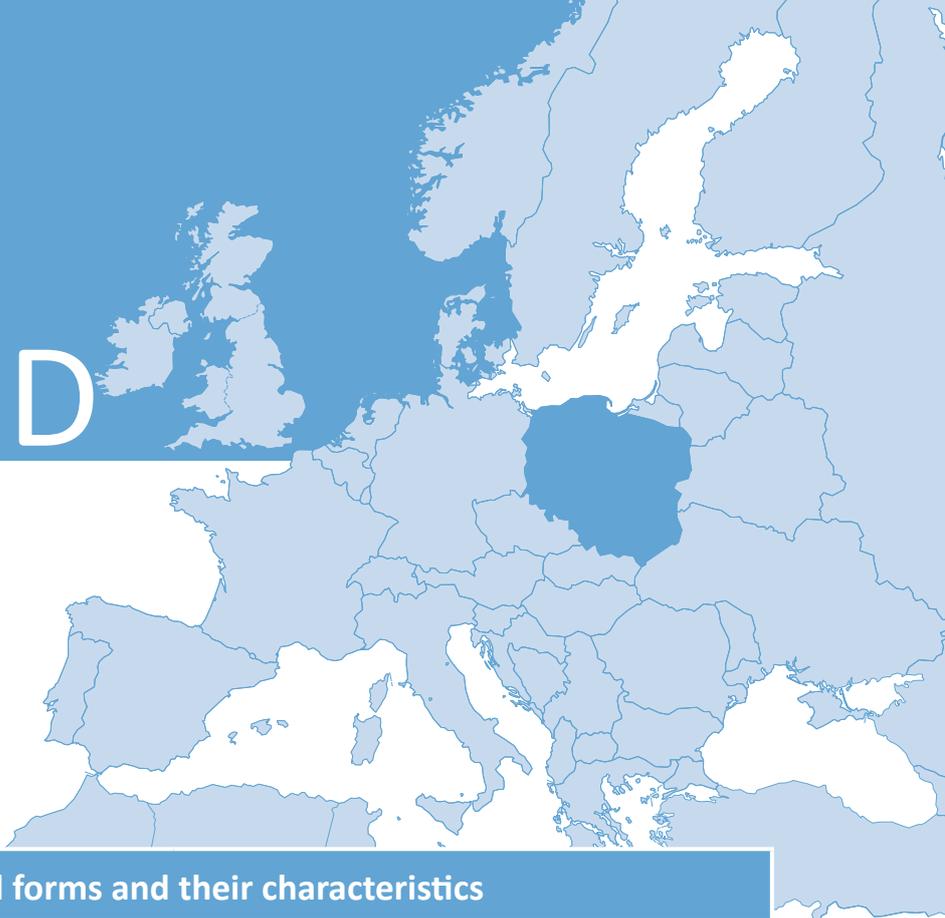


POLAND



General information*

- Capital: Warsaw
- Population: 10.52 million
- GDP: \$198.4 billion

CSO legal forms and their characteristics

Association

- General membership based organisation, which can be established by 15 Polish citizens with full legal capacity. Simple Association is a simplified membership based organisational form, established by 3 persons, but without legal personality.

Foundation

- General non-membership organisational form created to gather the financial assets. The initial capital of PLN 1,000 (EUR 248) is required only in case the foundation plans to engage in economic activities.

Key CSO laws



- Law on Associations from April 7, 1989;
- Law on Foundations from April 6, 1984;
- Law on Public Benefit and Volunteer Work from April 24, 2003;
- Law on Economic Activities from 21 August, 2004;
- Law on Corporate Income Tax;
- Law on Value Added Tax.

* Source: World Bank, 2013.

1. Existing forms of CSOs in Poland and their characteristics

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

The existing CSO forms include: **Association** (*stowarzyszenia*) with a possibility to establish “**Simple association**” and **Foundation** (*fundacja*). For the purposes of this Handbook we will provide information on basic association and foundation.

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

Association: Association is free to determine its goals and activities. Restrictions might be imposed by other laws, when it is necessary to protect national security or public order, or to protect public health, morality or the rights and freedoms of other persons.

Foundation: Foundations may be established for socially or economically useful purposes, which are in compliance with the general interests of the Republic of Poland. These purposes include health protection, advancement of the economy and science, education, literacy, culture, art, social services, environmental protection and protection of historical landmarks.

In addition, association and foundation may obtain **public benefit status** upon fulfilling conditions prescribed by *Law on Public Benefit and Volunteer Work*. CSOs with public benefit status have a limited scope of permissible activities. They shall perform work for the benefit of public and society within the publicly assigned tasks enumerated under Article 4 of the *Law on Public Benefit and Volunteer Work*. On the other hand, there are various benefits arising from the status.

2. Requirements on the founders of a CSO

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

Association: 15.

Foundation: 1.

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

Association: Associations can be established by individuals: Polish citizens or foreigners with domicile in Poland and with full legal capacity. Legal entity can only be a supporting member of an association.

Foundation: Any individual and/or legal entity is allowed to establish a foundation regardless of the citizenship or domicile. At least one individual shall have full legal capacity.

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

Association: No.

Foundation: No. The initial capital of PLN 1,000 (EUR 240) is required only in case a foundation plans to engage in economic activities.

3. Registration procedure

Which authority is responsible for the registration?

Association & Foundation: Department of the National Court determined by the location of the organisation's seat.

What is the registration fee?

Association: Associations are exempt from entry fees. They have to pay only for modification of the registration in the amount of PLN 150 (EUR 36) and removal from the register PLN 300 (EUR 72).

Foundation: Foundations have to pay PLN 250 (EUR 60) for entry to the register, PLN 150 (EUR 36) for modification of the registration and PLN 300 (EUR 72) for the removal from the register.

Organisations with public benefit status are exempt from paying duty stamps and court fees.

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

Association & Foundation: If an organisation wants to engage in economic activities, it has to register in the registry of companies at the National Court Register, which costs PLN 600 (EUR 144).

In addition, foundations have to pay fee for the notarial deed. The notarial fee is determined in accordance with the value of the foundation's initial capital.

How long should the registration process take?

Association & Foundation: Court has 7 days from the date of submission to process the application. In case of associations, the registration period is extended up to 3 months due to the engagement of local authorities in the registration process.

Which documents are required for the registration?

All the forms for the requested documents are available on the official website of the Ministry of Justice.

All documents submitted to the registration authority must be originals or notary verified copies.

Association:

- *Statutes* signed by the founding committee, the content is determined in Article 10 of the *Law on Associations* (two copies);
- *List of founders* containing each founder's first name, last name, date and place of birth, present address and signature (two copies);
- *Protocol of founding committee meeting* signed by the chairman and secretary of the meeting (two copies);
- *Written consent (authorization)* of a person/people appointed to the board;
- *Motion for registration* (application form).

In addition, if an association wants to engage in economic activities it has to submit also: proof of payment for the application for entry in the register of companies and proof of payment for the notification of the Economic Court.

Foundation:

- *Declaration of the establishment of a foundation* (a notarial deed) — one copy;
- *Statement indicating the competent minister for supervision*, if it has not been included in the declaration of the establishment- one copy;
- *Resolution of appointment of the governing bodies*, which establishes a board of trustees and creation of the foundation's council — one copy;
- *Statutes* signed by a founder — three copies;
- *Proof of payment of the registration fee*;
- *Written consent (authorization) of a person/people appointed to the board*;
- *Motion for registration* (application form).

Is electronic submission possible?

Association & Foundation: Yes, with a secure electronic signature.

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

Association & Foundation: There is an obligation to have a mailing address with the document proving the right to use the premises from the owner. The mailing address is precondition for obtaining the tax identification number.

? Are there additional requirements related to registration?

Association & Foundation: Both organisations need a bank account for carrying out any economic transaction, although it is not expressly stipulated by law. In addition, opening a bank account is required when applying for a tax identification number.

? Are there additional administrative procedures related to registration?

- After the registration the organisation automatically receives *REGON identification number (Numer identyfikacyjny REGON)* and *tax identification number (Numer identyfikacji podatkowej NIP)*;
- Within 21 days from the registration, the organisation has to submit an application form with supplementary data to the fiscal authorities;
- If an association or a foundation wants to engage in economic activities, it is obliged to register in the Registry of companies and notify the National Court Register;
- Both organisations may need bank account for carrying out any economic transaction, although it is not expressly stipulated by law.

? What are the legal grounds for denial of registration?

Association & Foundation: The registration authority denies registration if the statutes or the purpose of the organisation are not in compliance with the law.

4. Sources of funding

? What are the possible sources of funding?

Association: Article 33, 34 and 35 of the *Law on Associations* list the possible sources of income:

- Membership fees;
- Donations;
- Legacies;

- Income generating activities;
- Income from rent of association's property;
- Income from public generosity;
- Economic activities;
- Grants.

Foundation: Available sources of income include:

- State funding (on both national and local level);
- Donations from citizens and foreign individuals and legal entities;
- Funding from corporate foundations and/or endowment fund;
- Income from economic activities;
- International and EU funding mechanisms;
- Income from service charges and legacies.

Additionally, **CSOs with public benefit status** can receive funding from *1% tax designation mechanism*; (1% income tax designated by individual taxpayers).



What are the restrictions on the possible sources of funding?

Association: Association is allowed to engage in economic activities, but proceeds must be directed to its statutory purposes and may not be shared among its members.

Foundation: Foundation is allowed to engage in economic activities to the extent serving to accomplish its purposes.

5. Tax treatment of CSOs



What is the income tax treatment of CSOs?

The income tax treatment is decided based on the destination of income/utilisation purpose of the assets. Tax exempt are the profits devoted for the objectives listed under Article 24 (1) of the *Law on Public Benefit and Volunteer Work*. In addition, there is an income tax exemption for organisations with the statutory objectives listed under Article 17 (1), (4), (5) of the *Corporate Income Tax Law*. Other income is taxed at a general rate of 19%. CSOs are not subject to inheritance and donation taxes.



What is the VAT treatment of CSOs?

Certain goods and services are exempt from VAT. The full list is included in Article 43 of the *Law on Value Added Tax*. Goods/services which are not part of the list are subject to VAT. Grants provided to a CSO to pursue its statutory activities are exempt. General VAT rate is 23%.

? Are there any tax benefits for donors in place?

Both individuals and legal entities can deduct certain donations to **an organisation conducting public benefit activities** in accordance to the *Law on Public Benefit and Volunteer work*, regardless of whether the organisation holds a public benefit status. Individuals may deduct up to 6% and legal entities up to 10% of their taxable income from their tax base.

6. Obligations of a registered CSO

? What are the reporting requirements of a registered CSO?

Association: Annual financial report has to be submitted to the National Court Register.

Foundation: Obligation to submit an annual activity and financial report to the appropriate minister, as designated by the registry court, typically minister whose competencies are close to the foundation's purpose. The scope of the report is determined by the Minister of Justice. The annual activity report of a foundation shall be public.

? Are there additional obligations of a registered CSO?

Additional reporting requirements:

- Annual financial statement has to be submitted together with the annual tax report to the fiscal authorities;
- When conducting economic activities, an organisation has to submit annual financial report to the Register of companies;
- If **an organisation has a public benefit status**, it must submit a separate report to the Ministry of Social Policy in accordance with the ministry's requirements (Article 23 of the *Law on Public Benefit and Volunteer Work*) – both financial and activity report;

In addition, organisations engaged in economic activities are obliged to undergo an audit if two or three of the following provisions are met: (1) more than 50 employees; (2) total assets in the balance sheet at the end of the fiscal year is more than PLN 2.5 million (EUR 603,000); (3) net revenues from the sale of goods and services for the fiscal year exceeds PLN 5 million (EUR 1.2 million). The audit opinion shall be attached to the reports submitted to the fiscal authorities and National Court Register. Also, **an organisation with public benefit status** must undergo an audit if it is contracted by the state to perform public tasks, receives from the state at least PLN 50,000 (EUR 12,000) for this purpose and its annual revenue exceeds PLN 3 million (EUR 724,000).

7. Internal governance of the organisation

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

Association: The supreme decision making authority is the *general assembly of the association's members*. General assembly decides upon all matters except those that are vested in other bodies by the statutes. The statutes may also provide for *delegate assembly* instead of a general assembly. Other compulsory bodies of an association are: *board* and *internal auditing body*. The manner of the decision-making and the rights and duties of the bodies shall be specified in the statutes.

Foundation: The only compulsory body is a *governing body* that manages and represents a foundation. The rights and duties of this body and the manner of how its members are elected is at the discretion of the founder and must be described in the foundation's statutes. The supervisory body is optional.

In addition, **CSOs with public benefit status** shall have a statutory collegiate audit or supervision body, separate from the management body and not reporting thereto within the scope of internal audit or supervision.

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

Association: Majority of board members must be persons with a full legal capacity.

Foundation: No special requirements prescribed by law.

In case of **organisations with public benefit status**: they must have a statutory collegiate audit or a supervision body whose members must be separate from those in the managing body, they shall not be relations, next of kin, or employment subordinates of members of the managing body. They also shall not have been convicted by virtue of a final court judgement for any crime involving intentional fault (Article 20 par. 6 of the *Law on Public Benefit and Volunteer Work*).

Are foreign citizens allowed to serve on the board?

Association & Foundation: Yes, provided that the statutes do not prohibit it.

Are founders and members financially liable by law?

Association & Foundation: There is a financial liability of board members if a CSO does not pay taxes.

8. Staff and members of the organisation

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

Association: Foreigners with domicile in Poland may be members according to the same rules as citizens. Foreigners who do not have domicile in Poland may become members if the statutes provide for such a possibility.

Minors from 16 to 18 years of age without full legal capacity may be members of association and have both active and passive election rights. Minors below the age of 16 may become members of an association if this is allowed by the association's statutes and provided they obtain consent from their legal guardians. However, they have no election rights (both active and passive), they may have only election rights of an association's branch if the branch consist only of minors.

Foundation: No special requirements prescribed by law for the members.

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

No.

? Is there a requirement to have an accountant?

There is no obligation to have an accountant, but there is a requirement to keep the books. The book keeping can be contracted to an external accountant or an accounting company.

9. Voluntary dissolution and liquidation

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

Association: The liquidation procedure is described in Chapter 5 of the *Law on Associations*. When an association adopts a resolution about the dissolution, members of the board become liquidators, unless the statutes or the resolution of the last general assembly provide otherwise. The liquidator is obliged to carry out liquidation in the shortest possible time and in such a way that association's property is not unnecessarily decreased. In particular, the liquidator shall:

- 1) Inform the court about the commencement of the liquidation and that the liquidator has been appointed, give his/her first name, last name and address;
- 2) Carry out legal proceedings necessary to complete the liquidation and publicly announce the liquidation;
- 3) When liquidation is complete, file a motion to erase the association from the registry.

If the liquidation is not completed within one year from the commencement, the liquidator informs the court about the reasons for delay and the court may extend the time limit for liquidation or change the liquidator.

The remaining property of the liquidated association is used for the purposes given in the association's statutes or in the resolution about the dissolution taken by the general assembly. If neither of this applies, the court rules about the use of the property for a given social purpose. The costs of the liquidation are covered by the association's property or by the State Treasury if it has no property.

Foundation: The allocation of the remaining assets of a dissolved foundation shall be regulated by the statutes. If the statutes do not specify this, then the court decides, taking into account the statutory purposes of a foundation.