

# UKRAINE



## General information\*

- Capital: Kyiv
- Population: 45.4 million
- GDP: \$177.4 billion

## CSO legal forms and their characteristics

<p><b>Public Organisation</b></p> <ul style="list-style-type: none"> <li>• General membership based organisational form established by at least 2 physical persons of legal capacity, who officially reside in Ukraine.</li> </ul>	<p><b>Charity Institution</b></p> <ul style="list-style-type: none"> <li>• Non-membership form created for charitable purposes with statutory assets, the founder does not participate in management.</li> </ul>
<p><b>Public Union</b></p> <ul style="list-style-type: none"> <li>• Membership based organisational form established by legal entities.</li> </ul>	<p><b>Charity Fund</b></p> <ul style="list-style-type: none"> <li>• Non-membership organisational form created by at least 1 founder (no initial capital requirement, possibility of involvement of participants).</li> </ul>
<p><b>Charity Union</b></p> <ul style="list-style-type: none"> <li>• Non-membership form created by at least 2 physical or legal persons for charitable purposes, which permits involvement of participants in its activities.</li> </ul>	

## Key CSO laws



- Civil Code, 2003;
- Law on Public Associations, 2013;
- Law on Charity and Charitable organisations, 2013.

\* Source: World Bank, 2013.

## 1. Existing forms of CSOs and their characteristics

### ? What forms of CSOs exist? What are their main characteristics?

*The existing CSO forms include* public associations and charity and charitable organisations. Public associations have two forms: **Public organisation** (*громадська організація*) and **Public union** (*громадська спілка*). Charity and charitable organisations can acquire the form of **Charity union** (*благодійне товариство*), **Charity institute** (*благодійна установа*) or **Charity fund** (*благодійний фонд*). For the purpose of the Handbook, we review public organisations and charity funds.

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

*Public organisation:* Public organisations can independently set their goals and define activities in accordance with statutory goals.

The Law on Public Associations Article 4 prohibits associations, which have as goals elimination of Ukraine's independence, change of the constitutional order by force, violation of the sovereignty and territorial integrity, undermining security, unlawfully seizing power, pursuing propaganda of war, violence, and incitement of ethnic, racial or religious hatred, infringement of human rights and freedoms and health.

*Charity fund:* Charity funds should promote beneficiaries' legitimate interests in the spheres of charitable activities defined by law.

Charitable organisations cannot provide charitable assistance to parties or on behalf of political parties, nor participate in political campaigning.

## 2. Requirements on the founders of a CSO

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

*Public organisation:* 2.

*Charity fund:* 1.

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

*Public organisation:* Only physical persons, including foreign citizens and stateless persons, who officially reside in Ukraine, can be founders.

*Charity fund:* Both physical persons with full legal capacity and legal entities can be founders.

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

*Public organisation:* No.

*Charity fund:* Founders are not required to transfer money or assets to the organisation, assets can be transferred by the participants of the fund and/or other benefactors.

## 3. Registration procedure

### **?** Which authority is responsible for the registration?

*Public organisation:* Territorial divisions of the Ministry of Justice.

*Charity fund:* State registrar, a local department of state registration.

### **?** What is the registration fee?

*Public organisation:* Free of charge.

*Charity fund:* 51 hryvnas (EUR 2).

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

*Public organisation & Charity fund:* The signature on the application must be verified by a notary 150 hryvnas (EUR 6).

### **?** How long should the registration process take?

*Public organisation:* 7 days (with a status of legal entity).

*Charity fund:* 3 days.

### **?** Which documents are required for the registration?

*Public organisation:* Within 60 days from creation of the organisation, the founders must submit to the registration body:

- Statute — 2 copies;
- Application form (signature verified by a notary);
- Minutes of the statutory meeting;
- Information on members of governing bodies;
- Registration card for state registration of a legal entity.

### **Charity fund:**

- Statute — 2 copies;
- Minutes of the statutory meeting;
- Information on members of governing bodies;
- Registration card for state registration of a legal entity.

### **? Is electronic submission possible?**

No, but submission by post is possible.

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

**Public organisation & Charity fund:** Yes, the legal address or registration of a legal address at the residential address is required.

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

**Public organisation & Charity fund:** No.

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

**Public organisation & Charity fund:** For carrying out financial transactions, it will be required to open a bank account.

### **? What are the legal grounds for denial of registration?**

**Public organisation:** The territorial divisions of the Ministry of Justice can deny registration for the following reasons:

- Not all required documents submitted;
- Documents are incomplete;
- Documents are submitted by a person not entitled to do so;
- Documents are submitted with violation of the deadline for notification;
- Public organisation failed to re-submit the documents at the request of the registration body.

The registration body notifies the applicant about discrepancies and the applicant can revise the application and re-submit within six months.

**Charity fund:** The state registrar can deny registration for the following reasons:

- Documents not submitted to the local registration body;
- Documents do not meet the requirement criteria;

- The court decision prohibits registration;
- Documents are incomplete;
- Documents are submitted by a person not entitled to do so.

## 4. Sources of funding

### ? What are the possible sources of funding?

#### *Public organisation:*

- State support — e.g. government grants, subsidies, local authorities' subsidies;
- Foreign grants;
- Donations from legal entities and private individuals, including crowd-funding;
- Membership fees;
- Income from statutory economic activities;
- Endowments.

#### *Charity fund:*

- Contributions from founders and participants;
- Donations;
- Charity grants;
- Endowments and interest;
- Economic activities.

### ? What are the restrictions on possible sources of funding?

**Public organisation:** Direct economic activity cannot be the main statutory activity and must comply with aims and goals of the organisation. In case public organisation carries out economic activities, it may not receive the status of a non-profit organisation (see Tax treatment section).

**Charity fund:** Donations and charity grants must be used within the timeframe prescribed by the donor and not later than within 12 months after the receipt.

The recipient can only use the interest from the endowment and requires permission from the donor to use the whole amount.

## 5. Tax treatment of CSOs

### ? What is the income tax treatment of CSOs?

CSOs can choose to obtain the status of a non-profit organisation with fiscal authorities. In this case, they will be exempt of income tax without any limitations on the amounts.

The recipient of charitable donations must use the amounts within the timeframe set by the donor and not longer than within 12 months from the receipt.

Organisations can choose simplified taxation with the rate of 2–4%, but will have no other fiscal benefits. General income tax rate is 18%.

### ? What is the VAT treatment of CSOs?

In case of pro bono services and gratuitous donation of goods and services, there is no VAT tax (Article 197 of Fiscal Code). Otherwise, a general VAT tax rate of 20% is applied. In case the total amount of services/goods in a year exceeds 1,000,000 hryvnas (EUR 40,000) CSOs must register as VAT taxpayers at the respective tax authority. Charity funds are VAT exempt and do not have a requirement to register.

Organisations can choose simplified taxation of 2–4%, but will have no other fiscal benefits.

### ? Are there any tax benefits for donors in place?

Resident legal entities and physical persons are eligible for up to 4% tax deduction.

## 6. Obligations of a registered CSO

### ? What are the reporting requirements of a registered CSO?

**Public organisation:** Public organisations must prepare annual statistical and financial reports with detailed information on income and spending. All reporting documentation must be retained for 5 years and provided at the request of the controlling authority.

**Charity fund:** Charity funds must prepare and submit annual financial and statistical reports. As part of the annual financial report, charity funds must keep financial records/statements of economic activities. The statutes may provide for additional reports to the donors regarding the use of the assets they provided.

### ? Are there additional obligations of a registered CSO?

In case the total amount of services/goods in a year exceeds 1,000,000 hryvnas (EUR 40,000) CSOs (except for charity funds) must register as VAT taxpayers at the respective tax authority.

## 7. Internal governance of the organisation

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

**Public organisation:** The law provides discretion in determining internal governance of public organisations. The governing structure must be defined in the statute. Usually two mandatory bodies include:

- *Supreme governing body* — a general assembly of members;
- *Executive body* — e.g. an executive director, a chairperson;

Controlling body, e.g. control and revision commission, is not compulsory.

**Charity fund:** The governing structure is defined by the statute.

The mandatory bodies include:

- *Supreme governing body* — a general assembly of participants;
- *Executive body* — e.g. an executive director, a chairperson;
- *Supervisory council* — in charity funds with fewer than 10 participants, the supervisory council may not be formed. In this case its functions are taken over by the general assembly.

*The governing body* is in charge of decision making as relates to activities of the charity fund. The governing body possesses the competences on:

- amendment of the statute;
- appointment or elections or removal of the members of the executive body and supervisory council;
- making decisions on liquidation or reorganisation;
- any other competences as defined by the statute of the charity fund.

In case the charity fund consists of one participant, the decisions are made single-handedly and kept by written records.

*The controlling council* controls and regulates activities of the executive body. The members of the executive body cannot be members of the controlling council. The controlling council approves charity programs and controls correspondence of activities and use of assets. They have competence to suspend any member of the executive body until the decision by the supreme governing body, unless otherwise prescribed by the statute.

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

Any physical person with full legal capacity without restrictions on the place of residence or citizenship can be a member of the governing body.

**?** Are foreign citizens allowed to serve on the board?

Yes.

**?** Are founders and members financially liable by law?

No.

## 8. Staff and members of the organisation

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

No requirements for a full-time employee.

**?** Is there a requirement to have an accountant?

Yes.

## 9. Voluntary dissolution and liquidation

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

**Public organisation:** The process of voluntary dissolution is prescribed by the statute. The founders or authorised governing body that decided on liquidation must create a liquidation commission. The liquidation commission is in charge of all further proceedings by CSO and can represent its interests in court. The commission must notify the state registrar about the intent to liquidate. For this purpose the following documents are submitted:

- *Decision* about liquidation;
- *Registration certificate* in original (or its authorised copy);
- *Statute* in original (or its authorised copy);
- *Registration card* on registration of dissolution.

The registry authority notifies about the administrative decision to start the process of liquidation within 10 working days.

Public organisation can be dissolved by a court decision based on the following grounds:

- Failure to submit during 1 year the financial report and other reporting documents to the fiscal authorities;

- Absence of the legal entity at the registered address;
- Bankruptcy.

**Charity fund:** The governing body makes a decision on dissolution and assigns a liquidation commission.

Upon submission of creditors' claims, the liquidation commission submits or posts to the local office of the state registrar the documents:

- *Registration card* on registration of dissolution;
- *Official note* of absence of debt from the fiscal authorities;
- *Official note* from the Pension Fund on absence of debt in payment of social payments and pension contributions;
- *Official note* from the archives on receipt of the documents for obligatory archiving.

Upon submission of complete documents the state registrar makes a decision on dissolution. The balance assets of the charity funds are transferred to the beneficiary organisations prescribed by the statute. If not mentioned in the statute, the funds are directed to the state.