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INDIANA UNIVERSITY
Lilly Family School of Philanthropy

The 2022 Global Philanthropy Environment Index Senegal

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Foundation, Non-Governmental Organization (NGO)

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

Average time established by law to register a philanthropic organization: 31-60 days

According to the Decree 96-103 on the functioning of NGOs, the time required to receive the approval document of registration is maximum two months. On the other hand, there is no information about the time required for registration as a public utility; official recognition as a public utility is a requirement for recognition as a foundation. However, in practice foundations have to deal with slow administrative procedures that can go over a year.

Average cost for registering a philanthropic organization: USD 500

There are no special fees to register aside from stamp fees for an approximate amount of USD 2 per page of statute. However, a philanthropic organization (PO) can face additional fees regarding administrative procedures and therefore the average cost can go over USD 500.

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

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	4.67	3.00	3.25	4.25	3.50	5.00	3.94
2018 GPEI	4.67	3.00	3.25	3.50	N.A.	4.00	3.68

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: 4.0

In Senegal, individuals are mostly free to form philanthropic organizations. There are some legal restrictions on the type and objectives of the organization, including those that are illegal, contrary to public order and morality, or discriminatory. On the other hand, the registration process is not sufficiently well known to the public. It is somewhat onerous and time-consuming due to administrative delays. The legal framework for the creation of POs is clearly established and the governing body is coherent and apolitical.

- **National Associations and NGOs:** An NGO is an association or private body that has been duly registered, is nonprofit making and has the aim of contributing to national economic, social, and cultural development, and has been approved in this capacity by the government. The application for approval addressed to the Ministry of the Interior is filed with the territorially competent prefect who immediately issues a receipt of filing. The approval is issued by the Minister of the Interior after the opinion of the Inter-ministerial Advisory Commission previously created to examine the filing. (Decree 2015-145)
- **International NGOs:** The establishment of an international NGO requires a Headquarters Agreement issued specifically by the Ministry of Foreign Affairs. It must first meet the conditions for accreditation and have an approved investment program. Its renewal is automatic and subject to the benefit of a new approved investment program. (Decree 2015-145)
- **Foundations:** The administrative procedures relating to foundations are carried out at the Ministry of Finance. The foundation exists and has a legal identity only after it has been granted recognition of public utility by decree, by the Head of State, after a favorable opinion from the Supreme Court. The modalities of intervention of the foundation are governed by Law 95-11 of April 7, 1995, instituting the public utility foundation in Senegal. Organizations can also raise funds from private sources. Indeed, to create a foundation it should be noted that the initial endowment must be appropriate to the purpose of the foundation. The resources must be sufficient to enable it to operate autonomously. The foundation's assets or initial endowment may be exclusively private or both private and public. It must be made available by the founders at the time of creation. The amount of the initial endowment may not be less than 30 percent of the sums required to finance the foundation's activities. The sums paid must be deposited in a bank in Senegal for the account of the foundation and must remain blocked until the foundation has legal capacity (Art. 7, Law 95).

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

Score: 5.0

POs in Senegal have very few restrictions on their internal governance, with few obstacles to the achievement of their aims or objectives. Freedom of association is provided for by Law 68-08 of March 26, 1968, and included in Article 812 of the Commercial and Civil Obligations Code (COCC). Moreover, the new Constitution, which came into force on January 22, 2001, guarantees, through Title II, the freedom of association and does not grant any possibility of interference. It clearly defines its position to guarantee the fundamental rights and freedoms of the human person. POs have the freedom to act in all sectors or areas of activity as long as they are in conformity with the legal provisions in force, public order and good morals. This condition appears in all the texts governing the modalities of operation of a PO: Article 6 Law 95-11, Art. 812 COCC, Article 2 Law 96-103. Moreover, the State has a right of control over the activities of the organization, which is thus obliged to provide an annual report on the accounts, a provisional budget and financial statements, addressed to the competent administrative authority. Furthermore, the government does not place any restrictions on the freedom of POs to communicate or collaborate with other organizations at the national or international level. On the contrary, it recommends, through article 28 of Decree 96-103, that "each NGO approved under the conditions set out in Article 8 may associate with other NGOs in order to ensure the coordination of their activities."

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

Score: 5.0

Any PO may be dissolved by a unanimous decision of its members or in accordance with the provisions of its statutes (Art. 816 COCC). A foundation may voluntarily cease its activities (Chap. 4 Art. 41 part 4 of the 95 law) upon a voluntary decision of the founders and provided that they have shown evidence that the functioning of the organization can no longer be ensured or that its objective can no longer be achieved. An NGO that wishes to cease its intervention is obliged to communicate its decision to the Ministry of the Interior, three months in advance (Art. 57 Decree 2015-145). However, involuntary termination by a governmental entity is possible and occurs when the purpose of the PO has ceased; in case of nullity; or in case of serious violation of the law such as when its purpose becomes lucrative, illicit or contrary to public order and morality. Termination is always preceded by a notification. The withdrawal of the recognition of public utility puts an end to the activities of the foundation and to its legal identity.

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: 3.0

The Tax Law n°2012-31 of December 31, 2012, as amended, and bearing the General Tax Code (CGI) provides, in Articles 9.3 and 55.5 of tax reductions through deductible expenses from the overall income of companies and individuals subject to income tax (corporate income tax or “impôt sur les sociétés” (IS) and income tax on individuals or “impôt sur le revenu” (IR)). The Ministerial order n°09389 MEFP/DGID/DLEC/BLC of July 1, 2016, on Organizations that Can Benefit from Donations Deductible from the Income Tax Base recognizes eight organizations that can benefit from donations deductible from the donors’ income tax base. Indeed, individuals’ payments made to organizations, foundations, Waqf (Muslim endowment) or associations recognized as being of public utility, designated by order of the Minister of Finance, are tax deductible up to a limit of 0.5 percent of their income. The law of 1995 on public utility foundations is more specific and limits deductible expenses to 0.2 percent of turnover for payments made by companies to works or organizations of general interest, of a philanthropic, educational, scientific, social, or family nature, designated by decree. Apart from the regulations of the general tax code, sponsorship does not benefit from any specific law concerning tax deduction. The implementation of such a law would constitute a great advance in the field of philanthropy and would encourage more donations.

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

Score: 3.0

According to the COCC article 820 and article 5.7 of the General Taxes Code, duly registered POs such as NGOs, Foundations, Waqf and Associations are exempted from taxes and duties within the scope of their registration. Very often, registration and stamp duties are not included. However, the process is not very clear for other types of organizations and this is the reason why many associations want to become foundations, to benefit from certain privileges even if these are yet to be extended.

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: 3.0

Cross-border charitable donations can be sent with minimal additional cost. The process of sending charitable donations abroad is clear but subject to some restrictions due to national and regional anti-money-laundering and anti-terrorist-financing mechanisms. Indeed, there are a number of texts and institutions expressly set up to fight against illicit money transfers. We have the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), an institution set up by the Economic Community of West African States (ECOWAS) to facilitate the adoption and implementation of the fight against money laundering and terrorist financing in West Africa. There is also Directive n°02/2015/CM/UEMOA on the fight against money laundering and terrorism in the West African Economic and Monetary Union (UEMOA) countries (i.e., the eight countries of West Africa sharing the CFA currency), or the legal instruments of the Central Bank of West African States (BCEAO) that exercise strict control over cross-border donations. Senegal has made a lot of progress in its fight against illicit money transfers. Among other progress, we have the Court of Repression of Illicit Enrichment (CREI) created in 1981 and reactivated in 2012, as well as the National Financial Intelligence Processing Unit (CENTIF), created by law n°2004-09 in the fight against money laundering as a central institution in charge of facilitating and coordinating the implementation at the national level of state policies on the fight against money laundering and terrorist financing, transposing the Directive n°07/2002 / cm / UEMOA of the West African economic and monetary union, UEMOA. There is also the implementation of the National Office for the Fight against Fraud and Corruption (OFNAC) by Law n°2012-30 of December 28, 2012, authorized to receive declarations of assets from taxable persons as another indicator of the country's commitment to improving its governance.

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

Score: 3.5

There are no existing legal obstacles to receiving foreign funding, but NGOs are required by the Ministry of Finance and Budget under Decree n°2015-145 to verify their sources of funding. However, the adoption of a law on sponsorship, which is still pending, could better facilitate and frame these initiatives. In addition to the initial endowment, the foundation's resources may come from individual donations (gifts and bequests from any individual); public fundraising campaigns approved by the competent administrative authority; paid lotteries and raffles; contributions from individuals and businesses; income from the management of the initial endowment; grants from the State or public entities; private grants from other national or foreign foundations, similar organisms,

and various donors. The conditional granting of private or public subsidies may not infringe on the laws and regulations in force in Senegal, nor on the principle of independence of foundations.

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: 4.0

There is good collaboration between the government and the philanthropic sector in Senegal. The government acknowledges the role of philanthropic organizations and even encourages them. Articles 1 of decrees 96-103 and 2015-145 stipulate that the purpose of NGOs must be to contribute to the country’s national economic, social and cultural development policy. It accompanies them in setting up their action and advocacy programs and monitors and evaluates their activities. In the case of foreign NGOs, the renewal of their headquarters agreement is automatically subject to the benefit of a new approved investment plan. The government encourages them to give priority to the employment of local human resources, their training and development with a view toward the appropriation and sustainability of projects and programs. However, the procedures for the approval of the ‘investment programs’ of international NGOs and the reporting requirements are cumbersome and time consuming, as the government is keen on fighting money laundering and the financing of terrorism. The association of international NGOs (ONGIS) has therefore expressed concerns about the additional pressure that the investment program approval processes and reporting requirements puts on foundations and international NGOs.

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

Score: 4.5

The government promotes philanthropic values and generally facilitates equal access to national resources and opportunities. The exemption applied to certain categories of taxes in favor of POs is a way for the government to facilitate the implementation and achievement of their objectives. Moreover, certain categories of associations (for popular education and sports purposes, of a cultural nature, as well as those that participate in public health efforts), even when they are not recognized as being of public utility, are entitled to receive subsidies from the State or other public authorities (Art. 821 COCC). However, government agencies demonstrate that they do not have sufficient capacity to support and/or supervise POs. Philanthropy is very regulated according to the legal texts, but in practice the area suffers from a severe lack of support from government authorities.

V. Economic Environment

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

Score: 3.5

Economic conditions have become very unfavorable for philanthropy due to the COVID-19 impact, which has put the country's economy in crisis. Most activities have been at a standstill since March 2020. Businesses have gone bankrupt, and individuals have lost their jobs, according to the National Agency of Statistics and Demography (ANSD) report on the Impact of COVID-19 on the Workplace (ANSD, 2020). In addition, the curfew imposed on the population has affected certain sectors that often operate beyond the hours imposed, such as the restaurant, hotel, nightclub and transport sectors. The current economic climate affects the current conditions of individual and institutional philanthropy. The economic regulations aimed at cultivating the openness of the country's economy and the foundations of economic growth are clear and consistently implemented. Indeed, we have the General Tax Code that is well structured and detailed to avoid ambiguity in interpretation. Still, in the context of COVID-19, an enabling law was voted on by the National Assembly regulating the expenditure related to the COVID-19 response fund, called FORCE COVID-19 FUND, with an approximate budget of Fr CFA 1,000 billion (USD 1.8 billion). A national fundraising campaign was also organized, through which a strong expression of national solidarity was felt. Individuals, companies and other organizations made donations in kind and in cash to mitigate the negative impact of the crisis on the most disadvantaged populations. There are no restrictions on donations from abroad as long as they comply with the procedures in force regarding legality and transparency. But even if corruption is not mentioned by name, the origin of some funds is still questionable. The context impacts not only at the national level, but also at the international level. Indeed, as a developing country, we used to receive donations from foreign countries, but the flows from the diaspora, which represented more than development aid, have been significantly reduced due to the pandemic restrictions in the host countries.

VI. Socio-Cultural Environment

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

Score: 5.0

There are strong philanthropic traditions and societal values that encourage giving. Indeed, Senegal is an essentially philanthropic society. Traditional as well as religious values favor the culture of giving, hence the term "country of teranga" (meaning 'hospitality' in the Wolof language). People have full confidence in POs and recognize their positive impact on society. Senegal has hundreds of philanthropic organizations. However, we are increasingly seeing the emergence of faith-based foundations that have a greater capacity to collect donations from all sections of society, regardless of the means at their disposal. Corporate foundations, on the other hand, work more alongside the basic state in the field of education, health, social works, culture or in the construction of infrastructure such as hospitals, and schools. Individuals are free to engage in philanthropic activities as donors and the principle of equal opportunity is guaranteed for all beneficiaries. The accumulated social and human capital provides a very beneficial context for the development of the sector,

including the participation of young people, and there are strong philanthropic infrastructure organizations.

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 state of Senegalese philanthropy is formal and institutionalized. It is indeed mainly a well-organized and institutionalized sector. The system therefore faces some administrative issues, mostly about the creation of foundations. We are lucky to have a dedicated institution specially created to serve all the administrative processes of creating a PO. It is easier for associations, even for an international organization, but for foundations, the first difficulty is people do not know where to go and who to ask for procedure. The other main issue regarding the creation of a foundation is the duration of the process. Many organizations, in order to avoid that duration issue, actually prefer to register as an association but keep the name “Foundation,” which is illegal.

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

- 1) The outbreak of the COVID-19 pandemic, impacting negatively on all social and economic sectors: deep, multiples crises—economic, social, and other crises affecting the diaspora, a major source of philanthropic support—and the people in Senegal.
- 2) COVID-19 response: lockdowns, curfews, increasing the numbers of people needing support; we had to cancel all events due to the pandemic; Reorientation of all activities toward COVID-19 priorities.
- 3) COVID-10 also created opportunities for philanthropic solidarity, and revival of ubuntu (African humanism); and working in new ways—virtually connecting people all over the world.
- 4) The development of Islamic philanthropy in Senegal can be mentioned as one of the major recent events in the philanthropic landscape. The outstanding example of Islamic philanthropy is the Touba ca kanam Foundation that recently raised 500 million FrCFA dedicated to charitable works in the holy city of Touba.
- 5) There are also the high net worth individuals who give a lot of money to help people of their community such as the international football player Sadio Mane. He built a school and a hospital in his village. Singers, artists and some very wealthy people are also donating to their communities. Sometimes, they don't want people to know what they are giving for their community so we can not quantify the amount or even identify those people. We also have singer and entrepreneur Akon who is doing a lot for his country. He has launched many initiatives to help build the country, among them the project AKON City.

Future development trends in the philanthropic landscape

Major future development trends in the philanthropic landscape in Senegal include the emerging Islamic forms of philanthropy, crowdfunding through money transfer services, new financial tools such as social impact bonds and development impact bonds, and the digitalization of philanthropy.

Three key recommendations to improve the environment for philanthropy

- Improve the legal environment for philanthropy, starting with the adoption of the law on sponsorship.
- Create an umbrella body in order to create synergies and to improve the dialogue with State authorities.
- Establish a barometer of financial flows from the activities of philanthropic organizations to better quantify their impact on social and economic development. A barometer would enable statistical data on philanthropic activities that would make people aware of all information regarding the philanthropic sector.

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

The nonprofit sector has responded to the pandemic in the health and social sectors. There were contributions to the COVID-19 fund initiative set up by the government. POs also made individual donations in these same areas.

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

Donations were digitalized through mobile banking and money transfers. Innovation was mainly marked by the use of social media to make donation appeals, distribution of donations, making donations via monetary applications, and sending donations via delivery services.

Impact of COVID-19 on the philanthropic environment

POs have played and are still playing an important role in responding to COVID-19, because many of them initiated specific programs to fight against the spread of COVID-19 and to support populations impacted by the economic crisis resulting from the pandemic. Others have also allocated financial contributions to the government's initiative for the fight against COVID-19, such as TrustAfrica, which has participated by donating XOF 6 million as support to the FORCE COVID-19 Funds.

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

The COVID-19 pandemic has, in some respects, positively impacted the environment of philanthropy in Senegal. Indeed, despite the economic crisis, the concept of giving has increased from both individual and philanthropic organization sides. The main trends we can anticipate for 2021 are mostly the redirection of resources and efforts as well as the creation of specific programs to face the pandemic. Also, the debates will mainly be focused on the vaccine and related issues, and programs about economic recovery, as well.

References

- Agence Nationale des Statistiques et de la Démographie (ANSD). (2019). Rapport d'Activités ANSD, 2019.
- Agence Nationale des Statistiques et de la Démographie (ANSD). (2021). Rapport ANSD sur l'Impact de la COVID-19 sur le milieu du travail.
- Agence Nationale de la Statistique et de la Démographie (ANSD), & Agence Belge de Coopération (ENABEL). (2020). Enquête Covid-19 Industrie (ECI) Rapport Novembre 2020 Ministère de l'Economie, du Plan et de la Coopération, Recueil des Principaux Textes Emis depuis le Début de la Crise Sanitaire Liée au Covid-19 – Exposé des Textes.
- Arrêté Ministériel No 09389 du 01 Juillet 2016 sur l'Organisation Peut Bénéficier de Dons Déductibles de l'Assiette Fiscale de l'Impôt sur le Revenu.
- Décret No. 95-415 du 15 Mai 1995 Portant Application de la Loi Précitée.
- Décrets No. 96-103 et 2015-145 sur les Modalités d'Exercice des ONG au Sénégal.
- Décret No. 2015-145 Fixant les Modalités d'Interventions des Organisations Non Gouvernementales.
- Décret No. 2020-878 Ordonnant la Présentation à l'Assemblée Nationale du Projet de Loi d'Habilitation Encadrant les Dépenses Liées au Fond Force COVID 19 Budgétisé à 1000 Milliards.
- Décret No. 2020-977 du 22 Avril 2020 Portant Nomination des Membres du Comité de Suivi de la Mise en Œuvre des Opérations du Fonds Force COVID-19.
- Directive No 02/2015/CM/UEMOA Relative à la Lutte contre le Blanchiment d'Argent et le Terrorisme dans les Pays de l'UEMOA.
- Loi No. 68-08 du 26 Mars 1968 et Reprise à l'Article 812 du Code des Obligations Civiles et Commerciales du Sénégal (COCC).
- Loi No. 95 du 7 Avril 1995 Instituant la Fondation d'Utilité Publique au Sénégal.
- Loi No. 1976-60 du 12 Juin 1976 Portant Code des Obligations Civiles et Commerciales du Sénégal.
- Loi No. 2004-09 du 06 Février 2004, relative à la Lutte contre le Blanchiment de Capitaux (IBC), en tant qu'Instrument de Transposition de la Directive n°07/2002/CM/UEMOA Relative à la Lutte contre le Blanchiment de Capitaux dans les Etats Membres de l'Union Economique et Monétaire Ouest Africaine (UEMOA).
- Loi No. 2012-30 du 28 Décembre 2012, Relative à la Création de l'OFNAC.
- Loi No. 2014 Relative à la Déclaration de Patrimoine, Article 2.
- Loi Uniforme No. 2009-16 du 02 Mars 2009, Relative à la Lutte contre le Financement du Terrorisme (IFT), en tant qu'Instrument de Transposition de la Directive n 04/2015/CM/UEMOA Relative à la Lutte contre le Financement du Terrorisme dans les Etats Membres de l'Union Economique et Monétaire Ouest Africaine (UEMOA).
- Loi Fiscale No. 2012-31 du 31 Décembre 2012 Modifiée et Portant Code Générale des Impôts (CGI).
- Groupe Intergouvernemental d'Action contre le Blanchiment d'Argent en Afrique de l'Ouest (GIABA). (2018). Mesures de Lutte contre le Blanchiment de Capitaux et le Financement du Terrorisme (IBC/FT) au Sénégal - Deuxième Cycle des Evaluations Mutuelles.
- Dakar Fondation Heinrich Böll Sénégal. (2020). Rapport de l'Etude-bilan sur les Projets et Programmes Migratoires au Sénégal de 2005 à 2019.
- Ministère des Finances et du Budget du Sénégal. (2019). Rapport d'Activité Année 2019.

- Ministère des Finances et du Budget du Sénégal. (2020). Liste Donateurs du Fonds Force COVID-19. Available at: <https://www.sentresor.org/app/uploads/DETAIL-FONDS-COVID-19-10-04-2020-BON.pdf>
- Orozco, M., & Borgess, E., & Massardier, C. (2010). Transferts des Migrants au Sénégal: Résultats Préliminaires, Leçons et Recommandations quant à l'Organisation du Marché et aux Opportunités d'Accès au Marché Financier. Cahiers des migrations Internationales N° 109 F.
- Sander, C., & Barro, I. (2003). Études sur le Transfert d'Argent des Emigres au Sénégal et les Services de Transfert en Microfinance.