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Lilly Family School of Philanthropy

The 2022 Global Philanthropy Environment Index Romania

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Foundation, Federation (Association of Associations)

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

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

Average cost for registering a philanthropic organization: USD 100

Government levels primarily regulating the incorporation of philanthropic organizations: Central/Federal Government, Courts

Name availability is provided by the Ministry of Justice, while registration is processed by courts.

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	4.13	3.00	5.00	4.35	3.90	3.80	4.03

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) operation; and (C) dissolution.

Question One: To what extent can individuals form and incorporate the organizations defined?

Score: 3.9

Philanthropic organizations (POs) can be established by individuals if legal requirements are observed. Fundamental freedoms of expression, association, and peaceful assembly are to a large extent protected. POs are not required to obtain legal personality; however, the functioning of unregistered POs is significantly limited by unclear legal and fiscal status and the impossibility of opening bank accounts to receive funding. POs are free to pursue any purpose (whether for the benefit of their members or for public benefit) as long as it is not illegal. Registering POs is done by courts and may take from a few weeks to a few months. Courts carry out duties in a professional, partially consistent, independent, and apolitical manner. Rulings are transparent and include written explanations. In case of denial, the right to appeal is provided. Legal requirements for reviewing and deciding upon registration are provided; however, they are often not respected in overcrowded courts. If procedure is fulfilled and documents are complete, the court has no grounds to reject registration; however, because of vague legislation, judges may require the documents to be modified as they deem fit. The level of competence of judges regarding PO legislation varies. Registration requirements remain a relative burden and partially limit freedom of association. The entire registration process is relatively inexpensive, approximately USD 100, or USD 500 if a lawyer is needed. The law is relatively permissive with who may become a founder. There are limitations of age, the legal right to act, and for individuals who have certain illegal acts inscribed in their fiscal record or are without legal documents. Current minimum capital legal requirements for all forms of POs are reasonable. For associations and federations, no amount is specified; for foundations, the minimum amount is 100 times the minimum salary or 20 times the minimum salary for grantmaking foundations. The registration fee is around USD 20 (Constantinescu & Ștefan, 2021).

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

Score: 4.5

Current legal provisions specify the requirements for the mandate and attributions of the governing bodies of POs. While these legal requirements do not constrain the direction or activities of a PO (as long as they are legal), they do regulate internal affairs of the organization in significant ways. Current legislation includes the possibility of POs to be closed down by court at the request of public authorities or any other party when the purpose, activity, or modalities of action of the PO become “illegal or against public order”; when it works for a different purpose than the one written in its statute; or when it becomes bankrupt. There are no limits with regard to contacting and collaborating with other civil society organizations, businesses, or government sectors within or outside the country (as long as these are legal). There are no restrictions on participating in networks and using the Internet

and all forms of social and digital media. Requirements are standardized for all types of POs and are clear; requirements include the annual balance sheet and fiscal documents as well as registration in a registry for non-governmental organizations (NGOs) reported to fiscal authorities; the legal beneficiary reported to the Ministry of Justice; certain types of transactions reported to the authority focusing on preventing and deterring anti-money laundering activities; and under certain conditions, there are GDPR-related reporting requirements.

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

Score: 4.0

There is no direct government discretion in shutting down POs; however, government bodies may require the termination of POs in front of a court. As the functioning procedures are thoroughly defined by law, to the extent where it impinges on the management and functioning of POs, POs quite frequently do not have the capacity to respect key legal requirements that lead to de jure termination, making it easy to request their dissolution. POs receive notice and have the opportunity to be heard in court prior to termination; however, the court is limited to approving the request for shutting down the PO in case key legal provisions that lead to de jure termination are not respected. In such cases, and based on the current legislation, members of the POs can register a new PO.

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: 2.5

The tax system is partially favorable to making charitable donations. There are tax incentives at the national level as follows. Legal entities can deduct donations, sponsorships, etc. from their profit tax within the limit of a) 0.75 percent of their annual turnover when the fiscal code does not specify other rules or (b) 20 percent from their profit tax, whichever is lower. Individuals can direct 3.5 percent of their income tax towards POs by filling in a form and sending it to the fiscal authority (online or on paper). The fiscal authority processes the request and transfers the resources to POs. The process is clear, but no other tax incentives similar to those in place in the US exist for individuals. Furthermore, the tax incentive for companies is under-utilized, as a study by EY Romania, the Association for Community Relations, and Hospice Casa Speranței found in 2018. Despite the increased number of changes to the fiscal rules, the process appears to be predictable.

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

Score: 3.5

The fiscal system is slightly favorable to POs. All POs can receive support from private donors. All POs are eligible for tax exemption on donations, sponsorships, and income from membership fees. Other tax benefits are extremely rare—property tax is exempt only for properties donated through a

bequest, profit tax is exempt only for religious civil society organizations, and some benefits are also extended to organizations declared of public interest.

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: 5.0

There are no restrictions for cross-border donations, besides banking fees which are sometimes high. However, there are no tax incentives available unless the organization is also registered in Romania. This includes countries within the EU/EEA area.

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

Score: 5.0

The legal regulatory environment is favorable to receiving cross-border donations. Foreign foundations that operate in Romania can receive tax-free donations and certain non-taxable income if it relates to their mission, but up to a maximum of 10 percent of total income.

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: 4.5

In the indicated period, there has been significant improvement in regards to the political environment's openness towards philanthropy. Until mid-2019, government agencies have mostly excluded POs and often stopped funding civil society. Since mid-2019 and the transition from the Social Democrats to the National Liberal Party after the Social Democrat government lost a vote of no confidence, the governmental approach towards POs transformed and is now in good standing as the space for POs is expanding. The political system recognizes independent groups as actors for social change. Tensions may arise between government and POs, but it is likely that they will be resolved without negative consequences for POs. Also, the government creates some opportunities for POs to contribute to policy development and implementation. Despite these developments, the government and political actors, in general, do not treat the nonprofit sector as an equal partner. For example, consultations are often formal and have little consequence on policies. The current political

climate comes across as stable; however, the COVID-19 pandemic may affect the allocation of resources.

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

Score: 4.2

Public policies and practices favor philanthropy, though there is still space for improvement. Through the fiscal benefits presented above, the government promotes a cultural philanthropic tradition; however, more can be done. POs broadly have equal access to resources and opportunities (with improvements needed on all accounts—access to donors, services, training, networking opportunities, and sources of funding). Donors and funders of POs are free to support any cause and organization without government intervention. Some coordination exists between government agencies to support PO registration and reporting; however, there is no consistent national policy, White Paper, or political roadmap for the development of philanthropy and the nonprofit sector. This is largely due to both lack of political support and vision on the topic and limited government strategic thinking in this field.

V. Economic Environment

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

Score: 3.9

The economic context is relatively favorable for philanthropy. While current economic conditions enhance the autonomy and sustainability of the philanthropic sector, this is a relatively incipient level. Romania's economy was centralized until the early 1990s, and a market economy and the accumulation of wealth—two important preconditions for philanthropy—are slowly emerging. Therefore, while the current system made progress, more is needed in order to ensure and enhance the autonomy and sustainability of the philanthropic sector. As Romania is going through a period of relatively constant economic growth (with the exception of the periods of global economic crisis and the pandemic) leading to an increased standard of living for many and increased development of the business and corporate sectors, economic conditions nurture increased giving. At the same time, the government and courts struggle to mitigate corruption with slow but increasing success. Overall, for Romania, during the analyzed period, there has been economic growth and increasing support for POs. In the future, there is an unpredictable and mixed economic outlook that depends on the impact of the COVID-19 pandemic on global and European economies.

VI. Socio-Cultural Environment

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

Score: 3.8

Socio-cultural values and practices are increasingly favorable for philanthropy. That is supported by social norms related to helping those in need and supporting religious establishments. Romania had a philanthropic tradition prior to communism, as monasteries, hospitals, and schools were established through philanthropic means. After the communist regime, norms related to rebuilding dysfunctional communities emerged. Giving increased with the development of community foundations and mechanisms for online and SMS giving. With stronger donor care and volunteer management practices, trust in the nonprofit sector and recognition for its impact in society increased. A culture of volunteering is well established. The pandemic offered the occasion for the sector to show its utility and to reposition itself nationally.

Areas to improve include knowledge about and trust in POs, transparency, access for vulnerable groups to form associations, fight against discrimination, and spaces for community activities.

Norms that impede development include a generalized perception of poverty and reluctance towards civic action in generations socialized during communism.

The number of philanthropy infrastructure organizations is growing, especially community foundations. The Association for Community Relations and the Romanian Federation of Community Foundations are national infrastructure organizations for philanthropy, fundraising, and grantmaking—and ProVobis and VOLUM for volunteering—are all well-connected internationally. Research and advocacy initiatives are limited. The Association for Community Relations established a research department and a national network for research on philanthropy. Other organizations include the Center for the Study of Democracy at Babeş-Bolyai University and the Făgăraş Research Institute's Center on Global Affairs and Postdevelopment. Individual researchers on philanthropy are based at the University of Bucharest and the West University of Timisoara. Certain foundations (e.g., FDSC) commission studies.

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 philanthropic sector in Romania can be seen as consolidating. It already exposes key characteristics of a consolidated sector—an increasing number of infrastructure organizations in the field, a growing number of mechanisms for stimulating giving and generosity, increased funds attracted through the sector, increased impact in local communities through grantmaking and the implementation of philanthropic mechanisms, a permissive and relatively stable legal framework, and incipient but relatively stable fiscal incentives for philanthropy. Above all, the most important achievement to date is a growing culture of philanthropy, giving, and volunteering within local

communities and at the national level. Key drawbacks include the need for further consolidated and improved legislation for POs in all regards, enhanced fiscal incentives for giving, and a move towards a more strategic and impactful governmental approach toward supporting and developing the philanthropic ecosystem and sector. Further improvements are also needed in how the private sector supports POs in order to achieve more autonomy, capacity, sustainability, and impact.

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

1. Legislative changes—negative before mid-2019 and positive afterward, especially with the latest changes in December 2020.
2. The pandemic brought a well-utilized opportunity to show the relevance, impact, and resilience of the sector, but at the same time, it is undermining its sustainability if an economic crisis is ensuing.
3. A growing number of community foundations established in Romania.

Future development trends in the philanthropic landscape

The future of the philanthropic sector in Romania is likely to be significantly affected by a potential COVID-19-derived economic crisis. If such a crisis emerges, it is likely that many relevant POs and CSOs are going to be limited in their activities or dismantled. Were that to happen, the progress registered in the last years is likely to be reversed. In case an economic crisis is averted, then we can expect that the philanthropic ecosystem will develop further and that the various and rather recent fundraising, donation, crowdfunding, and grantmaking mechanisms may consolidate. Recent years have seen a growing number of community foundations, charitable sports events, crowdfunding platforms and apps, and new initiatives addressing social challenges, including the pandemic. All of these are generating wonderful energy that brings back to life communities affected by totalitarianism and communism for decades. Advances in technology, digitalization, and AI bring a significant impact on the philanthropic sector. Romania benefits from a developed tech sector, and POs and CSOs are early adopters of tech. In consequence, we already see more capacity in the nonprofit sector when compared to state institutions and universities. POs and CSOs are also spaces of innovation and are likely to lead in understanding, managing, and mitigating the impacts of technology on society. A growing trend is represented by a transformation in the nature of POs and CSOs. Social entrepreneurship emerges as a growing approach that can lead to sustainability, especially so in environments where fiscal rules do not support the development of the nonprofit sector enough. Additionally, we can see a growing number of co-working and co-living spaces, hubs, incubators, and makers spaces that bring innovation and new perspectives in many directions as well as lay the ground for the transformation of work and social structures.

Three key recommendations to improve the environment for philanthropy

- 1) Invest in consolidating and growing the number of infrastructure organizations and associations.
- 2) Support the government to articulate a more strategic approach to developing the philanthropic and nonprofit sector, including sector strategies, research, improvements in legislation for the registration and functioning of NGOs, and fiscal incentives for ensuring a sustainable philanthropic and nonprofit sector.
- 3) Allocate particular attention to the impact of the COVID-19 pandemic on the economic wellbeing of philanthropic and civil society organizations and implement adequate mitigation policies.

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

In Romania, the nonprofit sector's mobilization in reaction to the COVID-19 pandemic was exemplary. The nonprofit sector focused in the first instance on the medical sector. According to a survey of approximately 80 organizations conducted by the Association for Community Relations, nonprofits mobilized more than EUR 14 million (USD 17.03 million) invested in medical equipment and supplies. Furthermore, nonprofits played a key role in mobilizing volunteers for supporting public authorities during the pandemic. They also supported educational institutions and vulnerable groups.

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

COVID-19 brought immense pressure in local communities and in the Romanian society overall. The nonprofit sector and philanthropy played a key role in addressing the challenges brought upon by the pandemic. In the Romanian context, a wide array of innovative actions is visible. The first set of innovative activities are related to identifying ways to mobilize both people and resources in the context of a health crisis—producing equipment by 3D printers, philanthropic mechanisms for collecting financial resources, and building volunteer networks. These actions together represent innovative approaches to disaster response. In the field of education, nonprofits adapted their activities to the online environment. Also, we could see a rapid reaction from some think tanks and institutes in regard to producing analysis on COVID-19-related phenomena.

Impact of COVID-19 on the philanthropic environment

The COVID-19 pandemic brought a mixed impact on the philanthropic environment in Romania. From a positive perspective, the pandemic created a context where the sector proved its utility and proved that several philanthropic and donation mechanisms produce results. The positive perception and the level of trust in the philanthropic and civil society sector increased. Importantly, the number of new individual, business, and corporate donors increased significantly. Negative consequences include a significant impact on the functioning and sustainability of some organizations. In more specific detail the following aspects have been affected: the ability to pursue the organization's mission during the pandemic; the financial stability of organizations; the composition of teams and capacity to maintain employees; the ability to continue planned activities and the necessity to migrate activities online; the capacity to adapt to online activities and have access to online tools; and the ability to maintain physical contact with donors, beneficiaries, employees, and board members.

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

The COVID-19 pandemic brings long-term effects at the social, economic, and organizational levels. From a social perspective, community and social life are transformed with consequences to be seen in the medium term. 2021 is still a pandemic year, an exceptional year, with limits on the freedom of movement and action. The impact of technology is significant—it enables us to pursue activities without exposing us to danger, but it also triggers changes in social and organizational behavior and puts pressure, especially in the context of lockdown, on mental health and new health consequences

related to the time we spend at the desk and in front of computer and phone screens. These aspects increase the types of social challenges and augment the prevalence of such challenges, which the philanthropic sector has to address. Economic consequences for 2021 are yet unclear. A downward trend and contraction of the national economy are evident; however, the level of the contraction is not yet certain. If the pandemic continues and lockdown measures are kept in place, the economy is going to be further negatively affected. That puts pressure on donors to be generous and on the budgets of philanthropic organizations. From an organizational perspective, the pandemic affected POs and brings in a different way of working, mainly driven by technology.

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