



PARTNERSALBANIA
FOR CHANGE AND DEVELOPMENT

CONDUCTIVE
ENVIRONMENT
FOR
PHILANTHROPIC
ACTIVITY

IN ALBANIA

© PARTNERS ALBANIA FOR CHANGE AND DEVELOPMENT. ALL RIGHTS RESERVED.

TIRANA, ALBANIA, MAY 2022

This publication was produced with the financial support of WINGS and the European Union. Its contents are the sole responsibility of Partners Albania for Change and Development and do not necessarily reflect the views of WINGS or the European Union.



Funded by
the European Union



W I N G S
ELEVATING PHILANTHROPY

CONTENTS

INTRODUCTION

DEFINITIONS OF THE CONDUCIVE ENVIRONMENT ON PHILANTHROPY

REGULATION OF PHILANTHROPIC ACTIVITY IN EUROPEAN COUNTRIES

- 8** Bulgaria
- 10** Croatia
- 12** Romania
- 13** Slovenia
- 16** France
- 16** Italy
- 16** Netherlands

REGULATION OF PHILANTHROPIC ACTIVITY IN WESTERN BALKAN COUNTRIES

- 17** Bosnia and Herzegovina
- 19** Kosovo
- 23** Montenegro
- 23** North Macedonia
- 23** Serbia

LEGAL REGULATION ON PHILANTHROPY IN ALBANIA

A DESIRABLE LEGAL REGULATION ON PHILANTHROPY

INTRODUCTION

Philanthropy is growing globally, predominantly for its unique role in supporting sustainable social and economic developments. The giving behaviour is shown particularly in times of crises (natural disasters, COVID-19 pandemic, etc.). Having a conducive legal and regulatory environment, constructive dialogue, and collaboration with state institutions, apart from enhancing philanthropic culture and values, are essential to developing philanthropy in a country. In addition, there is a greater belief that institutional philanthropy can stimulate strategic investments, and have a growing impact on economic and social issues. While many countries and cultures have long traditions of philanthropy, the current global foundation sector is growing.

“Conducive Environment for Philanthropic Activity in Albania” presents the legal aspects and regulatory framework concerning the conducive environment of philanthropic activity. The intention to develop this paper is based on the current challenges and bottlenecks that companies in Albania face concerning donations. As regard, this paper focuses on the philanthropic activities eligible for tax support, and the tax incentives for companies. It doesn't focus on tax incentives for individuals, because individual giving is not yet legally regulated in Albania. Its final aim is to provide legal

examples of other countries that can be implemented or adjusted in the Albanian context by the legislators.

The paper is focused on three issues: (i) legal framework of philanthropic activity in European countries (ii) legal and regulatory framework of Western Balkan countries, and (iii) current legal and regulatory framework in Albania and scenarios that would work best in the country.

The methodology employed in this paper consists of primary and secondary data analysis.

Desk research was carried out from December 2021 to March 2022 collecting information and data based on the legal framework, regulations, information, and studies conducted by donors and international agencies. The preliminary findings from the desk research were consulted during three focus groups organised with representatives from chambers of commerce in Albania, members from the CSR network, and local business representatives.

DEFINITIONS OF THE CONDUCTIVE ENVIRONMENT ON PHILANTHROPY

Philanthropy plays an important role in mobilizing private support for the public good. It is not only a social practice but also a public policy means whose development and support by public authorities has been the subject of much controversy. Studies have shown that the institutional underpinnings of philanthropy vary depending on different non-profit regimes. At the same time, a trend towards increased public and fiscal encouragement of philanthropy has been observed in many countries[1].

But, what is understood with a conducive/ enabling environment for philanthropy? According to the "Lilly Family School of Philanthropy" *"an enabling or favourable philanthropic environment provides adequate incentives and restrictions to positively influence the capacity and propensity of individuals and organizations to freely engage in philanthropic activities in a sustained and effective manner. This enabling environment is the product of a set of interrelated conditions that are the result of the deliberate policy choices made by government actors and the historical, cultural, and socio-political traditions, resources, and legacies of a country or economy"*[2].

For Philanthropy Europe Association "Philea"[3] an enabling environment for philanthropy consists in shaping the national, European, and the international legislative environment by implementing

the European Advocacy Roadmap for a Single Market for Philanthropy. In Europe, there are 147,000 public-benefit foundations with an accumulated annual expenditure of nearly 60 billion EUR. The Single Market for Philanthropy aims to unlock the potential of philanthropy in the recovery and future of Europe, mobilising complementary private resources for the public good and facilitating cross-border giving and philanthropic action. For the "WINGS" global network, the creation of an ideal enabling environment requires conditions that:

- (i) create easy processes for philanthropic entities and behaviours to exist and operate,
- (ii) enable to grow, and
- (iii) strengthen and catalyse philanthropy and impact so it can flourish.

[1] Lambelet, 2014, "La Philanthropie" [Online] <https://www.cairn.info/la-philanthropie--9782724615456.htm>

[2] Lilly Family School of Philanthropy, 2022, "The 2022 Global Philanthropy Environmental Index", [Online] <https://scholarworks.iupui.edu/bitstream/handle/1805/28098/IU2022GPEIGlobalReport.pdf>

[3] The information is retreat from the Philanthropy European Association "Philea" official webpage [Online] <https://philea.eu/philanthropy-in-europe/enabling-environment/enabling-environment/>



**REGULATION OF
PHILANTHROPIC
ACTIVITY IN
EUROPEAN
COUNTRIES**

This section focuses on the philanthropic activities eligible for tax support, and the tax incentives for companies in European countries.

BULGARIA

There are a set of activities eligible for a tax deduction in Bulgaria. According to the Corporate Income Tax Act^[4] article 31, for tax purposes, accounting expenses for donations are recognised in the total amount of up to 10% of the positive accounting result when the expenses of donations are made in favour for:

1. Health and medical facilities;
2. Social or integrated health and social services for residential care according to the Law on Social Services, as well as the Agency for Social Assistance and the "Social protection" to the Minister of Labour and Social Policy;
3. Nurseries, kindergartens, schools, universities, or academies;
4. Budget enterprises within the meaning of the Accounting Act;
5. Religions registered in the country;
6. Specialised enterprises or cooperatives of people with disabilities, entered in the register under art. 83 of the Law on Persons with Disabilities, as well as in favour of the Agency for Persons with Disabilities;
7. Person with Disabilities, as well as technical aids for them;
8. Person injured in disasters within the meaning of the Disaster Protection Act, or their families;
9. The Bulgarian Red Cross;
10. Social Weak Persons;

11. Children with disabilities or without parents;
12. Cultural institutes or for cultural, educational, or scientific exchange under the international treaty to which the Republic of Bulgaria is a party;
13. Legal Entities with a non-profit purpose with the status of public benefit, except organisations supporting culture within the meaning of Law on Patronage;
14. Funding Energy efficiency and renewable resources;
15. The children fund of the United Nations (UNICEF)
16. Social enterprises entered the register of social enterprises, to carry out their social activities and/or to achieve their social goals.

For tax purposes, accounting expenses for donations are recognised in the total amount of 50% of the accounting profit, when the expenses for donations are made in favour of the National Health Insurance Fund – for activities related to the treatment of children.

For tax purposes, gratuitous assistance is recognised under the term and conditions of the Law on Patronage in the amount of up to 15% of the accounting profit.

For tax purposes, the cost of donations of computers and devices them which were produced up to one year before the date of donations, made for the benefit of Bulgarian schools, including higher schools are recognised and cannot exceed 65% of the accounting profit.

^[4]The information is retrieved from the Balance BG website [Online] <https://balans.bg/>

CROATIA

Under the Croatian “Corporate Income Tax” Law[5], donations are considered donations in kind and monetary made in the country for cultural, scientific, educational, health, humanitarian, sport, religious, environment, and other general beneficial purposes deemed to associations and other persons which perform their activities for benefit purposes.

The tax deduction for the above activities is up to 2% of their income from the previous year. Nevertheless, this percentage can be higher pursuant to a decision of the competent ministry on the financing for special programs and actions.

The donations of food to prescribed persons for social, humanitarian, and other purposes, and to people affected by natural disasters, made by taxpayers that are food producers and food traders can also be considered tax-deductible[6]

ROMANIA

The employed taxation regime in Romania is based on the activities eligible for support. Private entities enjoy a reduction of their taxable base, not more than:

- (i) 10% of the taxable base in the areas of culture, arts, education, health, social assistance and services, humanitarian activities, and environment protection;
- (ii) 8% of the taxable base for sponsorship in the areas of education, human rights,

fundamental and applied science and research, philanthropy, maintenance, preservation and value enhancement of historical monuments, and sports except for soccer.

(iii) 5% of the taxable base for sponsorship in religious, social, and community areas, in the representation of the interests of professional associations, in soccer[7].

SLOVENIA

The regulation of tax in Slovenia depends on the nature and structure of the business that a company performs. According to Article 55 of the Slovenian Corporate Income Tax,[8] the taxpayer may:

(i) claim a reduction of the tax base in the amount of 100% of the amount representing investments in research and development during this period, but no more than the amount of the tax base. Investments from this paragraph are investments in:

1. the taxpayer's internal research and development activities, including the purchase of research and development equipment that is exclusively and permanently used in the implementation of the taxpayer's research and development activities;
2. purchase of research and development services (performed by other persons, including related persons, or other public or private research organizations). When determining the amount by which the taxpayer can reduce the tax base by this paragraph, the amounts for investments according to this paragraph are taken

[5] The information is retrieved from the Law Database Website [Online] <https://www.zakon.hr/z/99/Zakon-o-porezu-na-dobit>

[6] The information is retrieved from the [Online] <https://taxsummaries.pwc.com/croatia/corporate/deductions>

[7] Philea, 2021, “The 2020 Legal Environment for Philanthropy in Europe, Country Profile Romania” [Online] https://philea.eu/wp-content/uploads/2021/12/Romania_2020LegalEnvironmentPhilanthropy.pdf

[8] <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4687>

into account, by the provisions of this law on determining the tax base. Investments in research and development according to this paragraph must be defined by the taxpayer in a business plan or a special development project or program.

- (i) A deduction of 40% invested in certain equipment and intangible asset; [9]
- (ii) The taxpayer may claim a reduction of the tax base in the amount of 40% of the amount representing investments in digital transformation and green transition in this period, but no more than the amount of the tax base. Investments from this paragraph are investments in:
1. cloud computing, artificial, intelligence, and big data;
 2. environmentally friendly technologies, cleaner, cheaper, and healthier public and private transport, decarbonisation of the energy sector, energy efficiency of buildings, and introduction of other standards for climate neutrality.

FRANCE

In France, corporate donors can benefit from a tax reduction equal to 60% of the donations to public-utility foundations and endowment funds up to 10,000 EUR or up to 0.5% of their annual turnover if this amount is higher than €10,000. Should there be no profits in the following years, the deduction can be carried forward over the next five years. . The deduction may also be carried forward over the following 5 years if the donations are beyond the 0.5% limit.

The founding company can also benefit from a tax credit concerning gifts made to a corporate foundation it has set up. From 31 December 2020, the “2020 Financial Law” sets the ceiling of the gift to 20,000 EUR (or still 0.5% of the annual turnover)[10].

ITALY

Italy employs both tax credit and tax deduction regimes. In Italy, donations are made to legal entities that pursue exclusively education, recreation, social and health care, worship, and scientific research for a total amount not higher than 2% of the declared corporate income. Also, a 30% deduction from the income tax of the money donated in favour of populations affected by public calamity events or other extraordinary events made through foundations, associations, committees, and entities identified in the “Prime Ministerial Decree” of 20 June 2000. In addition, The Third Sector Code provides a deduction of 10% of the total declared income for money and in-kind donations made to support third sector non-commercial entities[11].

NETHERLANDS

The Netherland corporate income tax does provide for a possibility to deduct gifts. Gifts are deductible up to a maximum of 50% of the profit with a maximum of 100,000 EUR. Gifts to cultural entities can be taken into account for 150%. However, the maximum additional deduction is 2,500 EUR[12].

[9] The information is retrieved from the Deloitte webpage [Online] <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-sloveniahighlights-2020.pdf>

[10] Philea, 2021, “The 2020 Legal Environment for Philanthropy in Europe, Country Profile France” [Online] https://philea.eu/wp-content/uploads/2021/12/France_2020LegalEnvironmentPhilanthropy.pdf

[11] Philea, 2021, “The 2020 Legal Environment for Philanthropy in Europe, Country Profile Italy” [Online] https://philea.eu/wp-content/uploads/2021/12/Italy_2020LegalEnvironmentPhilanthropy.pdf

[12] Philea, 2021, “The 2020 Legal Environment for Philanthropy in Europe, Country Profile Netherlands” [Online] https://philea.eu/wp-content/uploads/2021/12/Netherlands_2020LegalEnvironmentPhilanthropy-1.pdf



**REGULATION OF
PHILANTHROPIC
ACTIVITY IN
WESTERN
BALKANS
COUNTRIES**

This section focuses on the philanthropic activities eligible for tax support, and the tax incentives for companies in Western Balkans countries.

BOSNIA AND HERZEGOVINA

According to the Corporate Income Tax Law[13] expenditures based on donations for donations for humanitarian, cultural, educational, scientific, and sports purposes which are given to legal entities that are not liable for income tax, or natural persons that have no other income are recognized as tax – deductible expenses up to 3% of total income in the period for which the tax is determined.

In addition, up to 3% in Federation Bosnia and Hercegovina, and up to 2% in Republika Srpska for expenditures in support of social events or projects that are not directly related to their business activities, with or without reciprocity in advertising.

KOSOVO

In Kosovo, the donations made for humanitarian, health, education, religious, scientific, cultural, environmental protection and sports purposes are considered as contribution given for public interest and are allowed as a deduction up to a maximum of 10% of taxable income, computed before these contributions are deducted. Taxpayers making contributions to sports have the right to deduct up to 30% of Corporate Income

Tax; meanwhile, those contributing to youth and culture will be granted a deduction of up to 20%[14].

MONTENEGRO

In December 2021, the Parliament in Montenegro passed a series of laws that are part of the “Europe Now programme”[15]. Donations from companies that are carried out for social purposes, reduction of poverty, protecting persons with disabilities, child and youth social care, elderly care, protection and promotion of human and minority rights, the rule of law, civil society and volunteerism, Montenegro’s Euro-Atlantic and European integration, art, technical culture, promotion of agriculture and rural development, sustainable development, consumer protection, gender equality, the fight against corruption and organized crime, and the fight against addictions are recognized up to a threshold of 3.5% of total revenue[16]. Expenses incurred in this regard will be deductible for corporate personal tax purposes only if they are made to legal entities, which are engaged in the provision of the aforementioned services in accordance with specific regulations, and if received funds are used by such entities exclusively for the above-mentioned purposes.

[13] The information is retrieved from the Paragraf Company official webpage [Online] <https://www.paragraf.ba/propisi/fbih/zakon-o-porezu-na-dobit.html>

[14] The information is retrieved from the PWC official webpage [Online] <https://taxsummaries.pwc.com/kosovo/corporate/deductions>

[15] The information is retrieved from the legal firm Karanovic & Partners website [Online] <https://www.karanovicpartners.com/news/montenegro-assembly-passes-laws-from-programme-europe-now/>

[16] The information is retrieved from the PWC official webpage [Online] <https://taxsummaries.pwc.com/montenegro/corporate/deductions>

NORTH MACEDONIA

According to the legal framework of North Macedonia, donation expenses are taxable if not pursuant to the manner, the conditions, and the procedure set forth in the “Law on Donations and Sponsorships in Public Activities and Sports Law”. If compliant with the law requirements as per above, donations in public activities are taxable if the annual amount borne by the taxpayer exceeds 5% of its overall revenue, whereas sponsorship expenses are taxable if above 3% of the overall revenue of the taxpayer.

Subject to fulfilment of certain conditions, donations to the national sports federations, sports clubs, and active athletes, that have gained such status in accordance with statutorily prescribed conditions in the “Sports Law”, could decrease the Corporate Income Tax liability for the year, up to 50% of assessed Corporate Income Tax.

SERBIA

According to the Law on Corporate Profit Tax, deductible donations are allowed for medical, educational, scientific, humanitarian, religious, environmental protection, and sports purposes, as well as for donations to social protection institutions. CSOs are treated no differently than public institutions when it comes to funds donated to them being recognized as deductible expenditures. Up to 5% of the total revenue is stipulated for tax deduction.

LEGAL REGULATION ON PHILANTHROPY IN ALBANIA

The legal and regulatory framework concerning donations in Albania is regulated by Law no. 7892/1994 "On Sponsorship", as amended, and Law 8438/1998 "On Income Tax", as amended.

The Law on Sponsorship^[17] regulates the support given in monetary and in kind, named as "sponsorship" for social and public activities that include humanitarian, cultural, artistic activities, sports, educational, ecological and literacy, scientific, encyclopaedia, as well as press publishers. Article 5 of the Law on Sponsorship recognises as a deductible expense up to 5 percent for publishers and publication of literature, scientific works and, encyclopaedia; as well as cultural, artistic and sport-related activities and up to 3 percent for all other corporate entities. Excluded from this regulation are businesses that generate an annual taxable above 100 million ALL (approx. 878,000 EUR), and sponsor sports team activities, as part of sports federations. According to article 21 of the Law on Income Tax^[18], these businesses can deduct as much as three times the amount of the sponsorship but are not allowed to carry it forward in the upcoming tax periods. To benefit from this incentive, businesses and the recipient of sponsorship must follow special procedures to obtain the "Sponsorship Authorization" from the director of the General Directory of Taxation.

The documentation that the business submits to the General Directory of Taxation in order to be provided with the "Sponsorship Authorisation" is as follows:

1. For the beneficiary of the sponsorship presents that:
 - a) participates or has the right to compete at the amateur or professional level according to the definition made in law no. 79/2017 dated 27.04.2017 "For sports" and is part of sports federations;
 - b) performs the activity according to the legislation in force for sports, for at least 1 (one) year;
 - c) there are no unpaid tax liabilities
 - d) has not been convicted by a final court decision for criminal offenses in the field of fiscal evasion, failure to, pay tax obligations, or falsification of documents;
 - e) has fulfilled all the obligations arising from the legislation on social and health insurance;
 - f) is not subject to bankruptcy and/or liquidation procedures or any other similar procedure; and
 - g) has not been suspended by a court decision.
2. The business itself presents
 - a) A statement in which the company commits to provide sponsorship for the sports team that is part of the sports federation that requires financial support;
 - b) The sponsorship contract between the sponsor and the beneficiary;
 - c) bank documentation certifying the sponsorship amount transferred to the bank account of the sponsored person;
 - d) in any case, should notify the tax authorities of the amounts that he transfers in future in the frame of the "Sponsorship Authorization".

[17]https://jetimet.org/wp-content/uploads/2020/01/Ligji_7892_1994_Per_Sponsorizimet.pdf

[18]<https://www.tatime.gov.al/shkarko.php?id=12027>

3. Additional statements that should be included in the request for “Sponsorship Authorisation:

- a) The business that is a sponsor and the beneficiary presents a program on the development of sports in which are stipulated: the needs for sponsorship, the use of sponsorship funds during the year (identifying the funds that will be used for the development, improvement, and renewal of the sports infrastructure, the identification of talents and training needs, covering the expenses arising from the organization of sports competitions), as well as the benefits expected to come from this sponsorship.
- b) Declaration of the sponsored and the sponsor, by which they guarantee the authenticity of the data of the documents and declarations presented in the application;
- c) The written authorization from the sponsor and the beneficiary, which consents the tax authorities to carry out all necessary verifications and controls and at any time in order to guarantee the applicability of the law and the rules defined in the tax legislation and that on sponsorships;
- d) Self-declaration that the sponsor and the sponsored are not in a situation or circumstance of conflict of interest.

The Law on Tax Income (Art. 21, point p, Law on Income Tax, amended 79/2019) also stipulates that the assets that qualify for tax deduction are monetary and immovable properties up to 5 percent of profit before tax in cases when a “natural disaster” emergency situation is declared. In any case, these donations qualify for deduction only when disbursed to the state treasury.

Concerning the private sector experience and based on the research to date[19] telecommunications and financial institutions are the most prevalent sectors that donate to different causes. And one reason particularly is because these entities have strategies and structures in place related to corporate social responsibility (CSR).

In terms of CSR, in 2013, a number of companies established the CSR network. It was a network mainly with businesses and civil society organizations aiming to promote the creation of a business-led network for CSR. The need was evident even more in Albania, due to the fact that there was no such a Network, and where several aspects of CSR, including health and safety, human rights and environmental standards, were in need of improvement[20]. Nevertheless, the Network has not been very effective in creating public discussions around CSR role and possible ways to encourage it as well as to design programs that would develop CSR strategies among private entities[21]

From a business lens, the legal and regulatory framework on donations in Albania does not enable this activity. The activities carried out in the frame of corporate social responsibility and community development are wider than those stipulated in the law on sponsorship. The regulatory framework hinders their CSR activity, because even if a business wants to invest in long-term projects with a considerable amount of funding, they cannot claim tax relief above those stipulated in the law on sponsorship.

[19] The information is retrieved from the <http://partnersalbania.org/monthly-reports-monitoring-of-the-monitoring-of-philanthropic-activity-in-albania/>

[20] <https://www.anteacement.com/csr/albanian-csr-network/>

[21] <https://partnersalbania.org/publication/enabling-environment-for-philanthropic-activity-in-albania/>

Based on the last years developments there is a need to have legal definitions on terminologies about “donations”, “sponsorships”, “philanthropy”, “crowdfunding”, etc. Also the procedures in place to claim tax relief should be more detailed and not burdensome for companies.

During the discussions with business representatives, three main challenges were faced from the companies:

- (i) The bands of tax incentives are low. They serve more as “educational” purposes rather than /incentives for companies to donate.
- (ii) The “Law on Sponsorship” needs to be amended, because it does not reflect the changes and developments in society.
- (iii) Activities stipulated to benefit from tax incentives are very narrow. They should include more areas of public interest rather those stipulated in the law.

In addition, in cases of crisis (pandemic, floods, earthquakes etc.) the legal framework should have more incentives for corporate donations to the sector affected by the crisis (i.e. health sector, etc.)

A DESIRABLE LEGAL REGULATION ON PHILANTHROPY

As prescribed above there is a need to change and amend the legal framework on philanthropy with a mentality of treating this activity, not as a charity activity, but as a more strategic process and intervention with long-term impact. Bearing that the existing Albanian Law on Sponsorship is approved in 1994, and its last amendment happened in the year 2007, there is a need to amend this law that reflects the socio-economic needs and development of the country. An enabling environment that stipulates a wide range of areas and activities, reflecting the recent developments would be the desired scenario for Albania. Based on the observation of the legal framework of other countries in this paper, areas such as research and developments, social enterprises, fundamental human rights, applied science, and research, as well as philanthropy (as Romanian legal framework), but not limited, are important to address in the legal regulations. The legal framework also should address the creation of a register or a system to gather data on philanthropy activity in the country. In addition, since crowdfunding's are becoming an important vehicle that supports community actions through live and online platforms, it is important to have in place a legal and regulatory

framework that addresses such developments.

Concerning the percentages for tax incentives, the desired scenario would be an increase in the percentages for companies of the tax deduction for the eligible activities. The procedures concerning tax relief should be easy and straightforward without penalizing the donor or the recipient of the donation.

Three potential triggers for enterprises to conduct philanthropic activity are:

- *more fiscal incentives,*
- *reliable partners* for the implementation of philanthropic programs, and
- *more information* on the programs to which to contribute[22].

[22]<https://partnersalbania.org/publication/philanthropic-activity-of-enterprises-in-albania-second-survey-2016/>

CONTACT

Partners Albania for Change and Development

Elbasani Street, Park Gate Building,
10th floor, App. 71 / 73,
PO BOX 2418/1, Tirana, Albania

www.partnersalbania.org
partners@partnersalbania.org