



INTERNATIONAL KNOWLEDGE AND EXPERIENCE EXCHANGE ON THE DEVELOPMENT OF NON-GOVERNMENT ORGANIZATIONS

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Not-for-Profit Organizations in Central and Eastern Europe (CEE)

Overview of Types of Organizations

In Central and Eastern Europe (CEE), the two fundamental NPO legal forms are associations and foundations. Associations are membership-based organizations whose members, or their elected representatives, constitute the highest governing body of the organization. They can be formed to serve the public benefit or the mutual interest of members. Foundations traditionally require property dedicated to a specific purpose and are governed by a self-perpetuating board of directors (e.g., the board itself nominates successive members). In some countries, they may serve private purposes, although in many they must serve the public benefit.

1. Associations

All countries in the region recognize associations, although the rules and procedures governing associations differ from country to country in relation to:

- The minimum number of founders (2-10); and
- The range of eligible founders (relating to, for example, legal entities and foreigners).

2. Foundations

Virtually all countries in the region have organizational forms called “foundations.” Countries generally take one of two approaches to the definition of a “foundation.” Some, such as the Czech Republic and Slovakia, require significant endowments, conceptualizing foundations as essentially endowed grant-making organizations. Other countries, such as Bulgaria and Estonia, define foundations more broadly, encompassing operating and grant-making foundations, whether temporary or permanent.

3. Additional Organizational Forms

Approximately half the countries in the region also allow for at least one additional organizational form, including, for example:

- Service-providing organizations, such as private hospitals, institutes, and training centers;
- A second grant-making organizational form, namely the “fund.”



- Open foundations, which are organizations that have characteristics of both associations and foundations.

4. Public Benefit Status

Public benefit status is linked to tax/fiscal benefits. In some countries, certain organizational forms (such as foundations in the Czech Republic) must, by definition, serve the public benefit and are entitled to comprehensive tax/fiscal benefits. In other situations, benefits do not derive from a distinct “organizational form,” but rather a distinct “status” available to multiple organizational forms. For example, in Bulgaria, both associations and foundations—the two underlying NPO forms—may be registered separately as public benefit organizations, assuming they meet qualifying criteria.

5. Purposes

Associations can generally pursue activities directed to the public benefit or to the mutual interest of members. In most countries in the region, foundations must be dedicated to the public benefit; in a minority of CEE countries, however, foundations may serve private purposes as well.

To qualify as a “public benefit status” organization, an association or foundation (or other NPO legal form) must be principally dedicated to public benefit purposes and activities. The list of public benefit purposes will necessarily vary from country to country to reflect the needs, values, and traditions of the particular country.

Registration or Incorporation Requirements

All of the countries in Central and Eastern Europe require NPOs to register before they can become legal persons.

1. Responsible State Organ

A key issue was whether to entrust registration to the judiciary, to a ministry, or to another administrative body. About half of CEE countries vest registration authority in a ministry or other administrative body; the concern with this approach is that these entities are often subject to political influences. Some countries give registration authority to specialized, apolitical bodies, such as the Central Register.

The second issue is whether registration should take place at the local or national level. Local-level registration eases registration burdens for community-based groups seeking to register an NPO. The disadvantage of decentralized registration is that it makes it more difficult to have consistent decision-making.

2. Registration Procedures



Registration procedures vary widely, depending on the country and the organizational form. Typically, however, NPOs applying for registration must submit the following documents to the registration authority: the act of establishment, the governing statutes, and the registration application. The documentation must of course contain the basic information (name, address, goals and activities, founders, internal governance procedures, etc.) required by law. Registration fees, if required at all, are generally nominal and are not set to discourage or prevent NPOs from seeking registration.

3. Grounds for Refusal

In many countries, the registration organ may refuse to register an NPO only if the registration documents are materially incomplete, basic requirements of the law are not satisfied, or the purpose is illegal. Previously, some countries did require a deeper inquiry into the desirability or feasibility of the potential NPO. For instance, the 1995 Law on Foundations in Croatia prohibited an NPO from registering if its activities are “immoral” or if the purpose of the foundation is “obviously lacking seriousness.” These sorts of subjective provisions have proven to be problematic, and laws have been revised to define more narrowly the grounds upon which registration can be denied.

4. Procedural Safeguards

Most countries in the region have taken steps to ensure that registration decisions are quick and in harmony with the law. Procedural safeguards may include:

- A fixed time period (10 days – 3 months) to decide on an NPO’s registration application;
- Objective grounds for refusal and written explanation in case of refusal;
- Presumption of approval in case time period expires without decision;
- Right to appeal adverse decisions on registration.

5. Public Registries

Many countries are now creating public registries, containing basic information on all registered NPOs. This helps third parties seeking to contract with NPOs, promotes organizational transparency, and provides valuable information to potential donors and other interested parties. Wherever the public registry is housed, it is critical that it be publicly accessible and easily searchable.