

REGULATION OF DIGITAL FUNDRAISING METHODS IN UKRAINE



Research paper



European Center for
Not-for-Profit Law





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This document was developed as part of the 'Technical Assistance Support in Ukraine' and the 'Sustainable Frameworks for Public Fundraising' projects, managed by the European Center for Not-for-Profit Law Stichting (ECNL). The project is made possible by the International Center for

Not-for-Profit Law (ICNL) through the Civic Space Initiative. This publication is wholly financed by the Government of Sweden. The Government of Sweden does not necessarily share the opinions here within expressed. The author bears the sole responsibility for the content.

December 2021

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I. EXECUTIVE SUMMARY

Digital fundraising provides opportunities to ensure long-term sustainability and is an alternative independent source of financing for CSOs. It diversifies resources for statutory activities and demonstrates trust among the public and other donors towards CSOs. It shows that support for the CSO cause is strong, and supporters are willing to contribute financially.

With growing use of mobile phones, social media, credit cards, payment terminals (kiosks) and cryptocurrencies, a broad range of instruments provide CSOs with easy means to reach the right target groups of supporters all over the world, communicate with them about CSOs' goals and enable donors to make secure donations by electronic means, convenient to these donors. To acquire financial resources for their goals, Ukrainian CSOs effectively use various tools for fundraising such as crowdfunding, SMS, payment cards donations through mobile applications, secure payment aggregators, kiosks and other digital means. Less tech savvy donors or those who prefer to make donations in cash may use payment terminals (kiosks) all over Ukraine, providing a convenient and safe method to transfer money anonymously in several simple clicks on the payment terminal screen. Therefore, many successful CSOs use a diversified mix of fundraising methods to target different groups of donors based on their geography, demographics profile and preferences. However, there is no open data available on the amounts of donations collected via each digital fundraising method yet. According to Zagoriy Foundation research, donations to CSOs from private individuals have been decreasing recently, so grants from large donors remain the most reliable and most desired sources of funding for CSOs.¹

The Ukrainian legislation does not specifically regulate digital fundraising, but the National Bank of Ukraine (NBU) sets rules for the actors of the banking system (including donors, who are initiators of the transfer of donation through SMS, bank card or mobile application). Money can be transferred to CSOs from the intermediary banks, where funds are accumulated after fundraising activities. Also, the State Fiscal Service controls the subsequent income generation and spending of CSOs under the non-profit status regulations, after the donated funds have been transferred to CSO's account in the bank.

¹ https://zagoriy.foundation/wp-content/uploads/2021/10/blagodijnist_ochyma_ukrayincziv_2021-4.pdf

Due to the strong focus and control of the National Bank of Ukraine on Ukrainian banks, some of the digital fundraising sources remain restricted for CSO use in Ukraine (i. e. PayPal and cryptocurrencies). However, systematic legislative changes are being introduced to establish the legal environment for the use of ‘virtual assets’ (including cryptocurrencies) and introduce Open Banking concept in Ukraine in 2023, that would enable the full-scale use of PayPal and other payment systems.² Also, a new Draft Law on Virtual Assets³ would grant the legal status of virtual assets to cryptocurrencies and enable CSOs to receive such assets from donors. There are also other Draft Laws that would have new taxation implications on acquiring and using such virtual assets, which need to be monitored closely.

COVID-19 pandemic influenced all aspects of CSOs’ operations and fundraising, both positively and negatively. The lockdown provided more free time to participate in non-work-related causes, boosted the use of online collaboration and promotion tools to reach out to more donors and beneficiaries. Moreover, the society consolidation to combat the disease contributed to the increase of trust and prestige of the charity and donations, especially to healthcare related causes. For instance, more than 67% of Ukrainians donated money in 2021, +7% points increase compared to the 2019 figures.⁴ At the same time, ongoing economic downturn, loss of jobs and potential further worsening of economic situation, forces businesses to cut significantly or stop their previous support to CSOs with non-healthcare focus, while individuals cut their spending too, holding up their savings for worse times to come.

As Ukrainian CSOs use digital fundraising methods like SMS, social media, crowdfunding and even cryptocurrencies, Ukrainians were getting more comfortable with donating to CSOs before the COVID-19 breakout. With more urgent challenges like support to hospitals, sick patients, and the overall economic downturn, the levels of donations to the Army, IDPs and CSOs in general decreased during 2021, despite the fact that Ukrainians in general donated more compared to 2019. This can also be explained by the fact that the population is burned out by a new ‘digitalized’ reality and the CSOs ended up competing for donors’ attention and money with many more serious challenges to be addressed. This pandemic highlighted once again the importance of large grants as they guarantee foreseeable financing and stability, compared to unpredictable and fragmented fundraising from large number of supporters, suffering from the pandemic and economic cycles. As the result, CSOs decreased their fundraising efforts during the COVID-19 pandemic, and many of them redirected their attention to large donors

2 <https://hromadske.ua/ru/posts/zelenskij-podpisal-zakon-o-platezhnyh-uslugah-ego-soavtor-zayavlyala-cto-k-nam-nakonec-smozhet-zajti-paypal>

3 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=69110

4 https://zagoriy.foundation/wp-content/uploads/2021/10/blagodijnist_ochyma_ukrayincziv_2021-4.pdf

and grants that provide more stability. This demonstrates that the level of dependence on large grants is still high, and Ukrainian CSOs have low incentives to learn and use best practices in digital fundraising.

The use of artificial intelligence and machine learning in fundraising efforts of CSOs is still a novel (but growing) trend, as most advanced CSOs effectively use promotional instruments in social media, targeting their current and potential target audience for effective donation campaigns.

Digital fundraising is well positioned to become an effective working instrument to ensure the financial sustainability of CSOs. However, CSOs shall learn more about available digital fundraising tools and their application. In addition, the bank regulations towards CSOs and the use of payment systems and virtual assets (i. e. PayPay, cryptocurrencies) must be improved to make these tools more accessible for CSOs. Also, additional incentives for CSO supporters and donors should be introduced. Finally, CSOs shall build a better image and make their work understandable and appealing for the general public.

II. BACKGROUND OF THE RESEARCH

The present research was conducted through interviews and desk research of the current legislation by the Ukrainian Center for Independent Political Research (UCIPR) with the financial assistance of the European Center Not-for-Profit Law, to enable and support the financial sustainability of CSOs in Ukraine. It aims to map out the legal framework and the technical steps on how to perform fundraising via digital technologies to support CSOs' activities in Ukraine. It was updated by Mariya Heletiy (ISAR Ednannia) in November 2021 to ensure that it covers changes in the legislation as well as new developments related to issues such as use of cryptocurrencies, artificial intelligence (AI) and machine learning, and the impact of COVID-19 on philanthropy, among others.

The Research aims to provide:

1. Broad overview and analysis of existing legislation and environment, which regulate CSO activities and digital fundraising methods.
2. Explanation of mechanisms and legal frameworks for collection, use and reporting of funds raised by digital methods, in order to comply with tax requirements.
3. Overview on the use of Cryptocurrencies and the impact of COVID-19 on the operations and fundraising of CSOs.
4. Insight to the AI and machine learning techniques used in the fundraising efforts of CSOs.
5. Conclusions on the most efficient methods of CSO digital fundraising and recommendations for improving the environment for digital fundraising in Ukraine.

For the purpose of this research, digital fundraising is fundraising of civil society organizations (CSOs) using all digital channels in an integrated way to reach and expand CSO audience, spark engagement, and grow the numbers of donations to CSOs (unofficial definition).⁵ “Digital fundraising methods” means any solicitation of donations from the general public by a CSO to fund a specific activity or statutory activities via digital tools, including the following:

- Own website and/or social media pages (solicitation of payments via credit/debit cards, either directly or via online payment services);
- Through intermediary: payment terminals (kiosks), mobile service provider (e.g. SMS) or online crowdfunding platforms (i.e. soliciting contributions from a large number of people for a specific purpose via the Internet);
- Credit card donations (e.g., direct credit card payments or percentage of co-branded card expenses to CSOs);
- Cryptocurrencies.

5 <https://learning.candid.org/training/10-strategies-for-success-with-digital-fundraising/>

III. LEGAL FRAMEWORK FOR CSOS

Donations to CSOs in Ukraine are regulated by the [Law 4572-IV on Public Associations](#)⁶ and [Law 5073-VI on Charity and Charitable Organizations](#) and [Tax Code](#)⁷. According to the [Law on Public Associations](#), legally registered CSO in Ukraine may collect, own, and use money or other assets, acquired as membership fees, donations, income from their commercial activities or other lawful sources, from individuals, legal entities and organizations or provided by the State. The [Law on Charity and Charitable Organizations](#) further regulates the establishment, activity, management, reporting and dissolution of CSOs in Ukraine. CSOs may carry out activities (and receive donations) only to implement activities and reach their goals as defined in their Charter (Statute). Distribution of income among the CSO's founders, members, managers, employees (and persons related to them) is forbidden (except for their salary and related taxes, as necessary costs to run the CSO).

Furthermore, according to Article [133.4.1 of Tax Code](#) any CSO may apply for the non-profit status. The CSOs registered as legal entity with a non-profit status in the State Fiscal Service's database (register)⁸ is exempted from paying Income tax (18%) for the period it maintains its non-profit status. CSOs included in the Register of non-profit organizations⁹ are obliged to work within Statutory activities list only, and provide detailed annual Income and Expenses report¹⁰ to the State Fiscal Service, unavailable to the public review. In case violations have been detected in statutory documents, tax reports, employment files or cash management practices, the State Fiscal Service may withdraw the CSO's non-profit status. This may cause tax penalties for the whole period of the CSO's activity, and its management may face administrative or even criminal charges.

Moreover, the Tax Code of Ukraine allows individuals and legal entities to deduct donations to non-profit organizations from their taxable income

6 Law on Civic Associations, no. 4572-VI, art. 24 (1) (2021), <http://zakon0.rada.gov.ua/laws/show/4572-17>

7 Tax Code of Ukraine, no. 2755-VI, art. 133 (4.2) (2011), <https://zakon.rada.gov.ua/laws/show/2755-17/page26#Text>

8 <https://cabinet.sfs.gov.ua/cabinet/faces/public/reestr.jspx>

9 <https://cabinet.tax.gov.ua/registers/non-profit>

10 Decree of the Ministry of Finance of Ukraine no. 553 (2017) <http://zakon2.rada.gov.ua/laws/show/z0932-16>

([up to 4%](#)¹¹ of taxable income of the previous fiscal year¹²). In addition, the Tax Code also allows legal entities with annual income over UAH 40 mln to deduct up to 8% from the income tax if they provide support to sport non-profit organizations (Article 140.5.14 of the Tax Code of Ukraine). For this purpose, the non-profit organizations shall comply with the following requirements:

- to be registered as a legal entity;
- to contain prohibition for income distribution among co-founders, members, employees (except salaries and social tax), board members, and other affiliated persons etc. in its statutory documents;
- to be included to the register of non-profit organizations;
- statutory documents shall envisage assets' transfer to one or more non-profit organizations or State Budget in case of liquidation, merging, division, accession or transformation;

Income of such non-profit organization is used exclusively for the purposes of functioning such organization and implementation of its purpose, objectives and targets as well as activities defined by its statutory documents.¹³

Even though the Law promotes donations to non-profit CSOs and allows individuals and legal entities to deduct donations to non-profit organizations from their taxable income), a very small number of companies and individuals do benefit from these deductions (the data is not publicly available and partially may be granted upon request). According to the State Fiscal Service, in 2019, 86 individuals declared the right to this tax benefit (not clear whether the tax deduction was granted) and 205 legal entities provided over 8% to sport CSOs (no data is available about number of CSOs supported and amounts provided).

Some of the reasons are that the incentives are not significant and the procedure is bureaucratic. All taxes of individuals are processed by the employees (and would require more time from their accountants to prepare and process them. In addition, an individual willing to use this benefit shall complete and file tax declaration¹⁴ (not required in case of receiving income only from salary). Moreover, both businesses and CSOs realize that such

11 Letter from the State Fiscal Service of Ukraine No. 27755/10/28-10-06-11 (29.12.2015) <http://officevp.sfs.gov.ua/baner/podatkovyi-konsultatsii/konsultatsii-dlya-yuridichnih-osib/65852.html>

12 Article 140.5.9 of Tax Code, <http://zakon2.rada.gov.ua/laws/show/2755-17/page19>; <http://officevp.sfs.gov.ua/baner/podatkovyi-konsultatsii/konsultatsii-dlya-yuridichnih-osib/65852.html>

13 Article 133.4 of the Tax Code of Ukraine

14 <https://zakon.rada.gov.ua/laws/show/z0159-16#n21>

deductions will inevitably trigger additional tax audits from the State Fiscal Service. As a result, businesses don't use this opportunity to the extent possible in order to avoid potential problems with the Tax authorities.

IV. LEGISLATION ON DIGITAL FUNDRAISING

There is no definition of digital fundraising in the Ukrainian legislation. Therefore, the regulation on fundraising applies to digital fundraising. Public fundraising is regulated by the [Law 5073-VI on Charity and Charitable Organizations](#)¹⁵. It defines public fundraising as “*the voluntary collection of targeted assistance in the form of money or property from an indefinite number of persons, including the use of electronic communications, to achieve the objectives set out in the Law*”. Article 7 of Law 5073 also requires that the CSO must publicly display the report on the use of collected donations, but the extent and time requirements for such disclosure are not defined by the Law.

According to the [Law 2121-III on Banks and Banking Activities](#)¹⁶, the National Bank of Ukraine (NBU) is the main regulatory body for Ukraine's financial services sector, including banks, financial intermediaries, their agents, and clients (both legal entities and individuals). So effectively, NBU defines the rules of money transfers and monitors compliance of its regulations by all participants of money transfers. The Tax Code does not address fundraising specifically, but only regulates the general terms for receiving income (revenues) of organizations with registered non-profit status. According to this, it has to be used only for the fulfilment of statutory purposes and goals and the administrative expenses to run the organization. So CSOs usually experience no challenges to open bank accounts and process donations after they receive the formal non-profit status from the State Fiscal Service and provide it to the bank with the standard package of documents requested for opening the account. But in

15 Law on Charity and Charitable Organizations, No. 5073-VI, art. 7 (1) (2013), <http://zakon2.rada.gov.ua/laws/show/5073-17>

16 Law of Ukraine on Banks and Banking Activities, No. 2121-III, art. 4, <http://zakon2.rada.gov.ua/laws/show/2121-14>

some cases banks might require additional documents due to recognition of the CSO transactions as high risk for money laundering and financing terrorism (according to the NBU Regulation No. 65).¹⁷ The banks shall use all necessary measures to minimize the risks for CSOs being used for money laundering and terrorism financing (ML/FT) purposes. The banks shall use risk-oriented approach and focus on aspects such as CSO mission, purpose, founders, assets, major sources of income, expenditures, beneficiaries, achievements/implemented projects, transparency of fund distribution and channels for money transfer, compliance of information about organization in open sources to the scope of operation etc.

While processing CSO transactions to/from abroad, the banks shall verify whether physical and legal persons are not included to the sanctions lists of UN Security Council and list of people linked to terrorism or under sanctions (according to the article 11 of the Law on Countering Money Laundering and Financing Terrorism) and might request additional document from CSOs.¹⁸ For this purpose, the banks also check the correspondent bank that processes the payment (it is prohibited to have correspondent relations with the foreign finance institutions registered or licensed in countries listed as non-fulfilling FATF recommendations). Banks shall also consider the following:

- Availability in the country (jurisdiction) registration and licensing for company and regulation for in the area of ML/FT according to international standards;
- Information about any ML/FT proceeding against the entity during the last 7 years;
- Risks for ML/FT for the country of legal entity registration or its branches;
- Links of Politically exposed persons and member of their families to the legal entity;
- Members of governing bodies included in the list of terrorists or under sanctions etc.

Banks might review open sources of information or internal documents of the correspondent. To process a transaction with a big value (over USD 1,000), the bank will require the copy of agreement between the CSO and donor or recipient. While transferring funds from/to abroad, it might require (in addition to the agreement), the detailed budget that explains the business sense of the transaction.

¹⁷ NBU Regulation No. 65 on finance monitoring by banks. <https://zakon.rada.gov.ua/laws/show/v0065500-20#Text>

¹⁸ <https://zakon.rada.gov.ua/laws/show/361-20#Text>

Finally, all digital transactions of the CSOs are also regulated by the [Law 2346-III on Payment Systems and Money Transfers](#)¹⁹, which defines the legal requirements for digital payments and transfers in Ukraine via kiosks, third-party web sites or bank's web-page. Only NBU-licensed payment systems and banks are allowed to provide such money transfer services with the use of cash or payment cards. Besides, Agent vendors may provide payment terminals and act as intermediary on behalf of the bank that administers the terminal.²⁰

To avoid money laundering and source of income investigations, CSOs need to open a current bank account for the accumulation of donations, other income and revenues, payments for CSO's expenses and also to perform digital fundraising activities. To open the account, CSOs must apply to the bank and provide the *necessary documents*²¹, including:

- Certified copy of the Articles of Incorporation (Charter or Statute),
- Registration Certificate,
- Certified copy of the Minutes of the Initial organizational meeting, indicating CSO's appointed top executive(s),
- Originals of the passports and tax identification codes of those appointed as CSO executive(s), and
- Other documents upon the bank's request.

The CSO's executive(s) need to provide these documents and copies in person in the bank's office. After the identification procedure and the review of the CSO's documents, the CSO and the bank sign the Bank Service Agreement. Finally, the bank opens Current account for the CSO, along with secure codes and dedicated equipment for account access (electronic signature file, list of codes or password generating token, etc.). The Bank Services Agreement is the main document which regulates all aspects of Bank-CSO interactions, like service fees (if any), fund transfer rules and timeframes, anti-money laundering provisions, etc. After the account is opened, the Bank informs the State Fiscal Service and provides all account information in due course. All terms, conditions, regulations and limitations set out by the Laws and the NBU regulations, will apply to CSO as to any other legal entity in Ukraine.

19 Law of Ukraine on Banks and Payment Systems and Money Transfers, No. 2346-III (2021), <http://zakon0.rada.gov.ua/laws/show/2346-14?lang=en>

20 Regulation of the National Bank of Ukraine on usage of self-service terminals, no. 42 (2020) <https://zakon.rada.gov.ua/laws/show/z0372-13#Text>

21 Regulation of the National Bank of Ukraine on Current Account Opening, Use and Closing, no. 492 (12.11.2003) <http://zakon5.rada.gov.ua/laws/show/z1172-03>

According to [Regulation 210](#)²² of the National Bank of Ukraine, the maximum daily limit for money transfers for individuals is UAH 50,000 (approximately USD 1,900). Eventually, all the sources of CSO's funding are treated the same by the State Fiscal Service, and the amounts of income and expenses for the calendar year should be indicated in the annual financial reports.

The [Law on Counteracting Money Laundering and Financing Terrorism](#) requires additional finance monitoring of all transaction exceeding UAH 400,000 (approximately USD 15,400). Also, all transactions of CSOs are considered as high risk and require additional finance monitoring according to the Regulation of NBU No. 65.²³ Therefore, banks might require additional documents for processing any transactions of CSOs, including donations from individuals and legal persons as well as for crediting funds to CSO account.

Further on, CSOs need to ensure that donations collected are listed among Statutory activities indicated in the CSO's Charter of Association (Charter, Statute) – i. e. “non-refundable charitable donation for Statutory activities”. The possibility to collect donations and assets for Statutory activities from domestic and foreign donors needs to be explicitly included in the CSO's Charter.

V. DIGITAL FUNDRAISING METHODS

Despite the fact that the practice of digital fundraising is not widespread in Ukraine (as CSOs still rely on international donors), its popularity has been growing during the last years. CSOs must follow some requirements to fundraising online. In particular, they need to open a bank account and conclude agreements with a payment aggregator or platform and follow their regulations and the Tax Code requirement for spending funds for the statutory purposes only.

22 <http://zakon3.rada.gov.ua/laws/show/z1109-13>

23 <https://zakon.rada.gov.ua/laws/show/v0065500-20#Text>

Web/Payment Cards.

Fundraising with the use of plastic payment cards (credit or debit) is regulated by the [Law 2346 on Payment Systems and Money Transfers](#)²⁴ and NBU regulations.²⁵ Only licensed payment systems and banks are allowed to provide money transfer services with the use of cash or payment cards.

In order to receive donations to the CSO's current account in the bank, the CSO needs to choose a Payment aggregator (a secure service internet payment platform iPay, EasyPay, Portmone, Platon, WayforPay). Technically, the CSO receives virtual account and personalized code to be embedded in its web site, to redirect the prospective donor to the payment processing site where the authorization process is performed and money transferred to CSO's bank account. The bank may decide to place the CSO's advertisement (banner) on its own corporate web site, to generate traffic to the CSO web site, online-banking page to perform donation via payment card or bank transfer. Banks usually don't accumulate funds on their own accounts before passing through to the CSO, but rather transfer the amount received from the payment systems' clearing files immediately to the CSO's current account: usually it takes 1 to 2 banking days (according to the terms of signed Bank-CSO agreement). CSO can then withdraw money for its statutory activities or administrative expenses through cash desk at the bank or via ATM.

With use of PayPal and other payment systems still restricted in Ukraine due to protective policy of the National Bank of Ukraine,²⁶ some CSOs sign partner agreements with CSOs in other jurisdictions. This way, a foreign CSO collects donations on behalf of a Ukrainian CSO, including payment instruments unavailable in Ukraine, and later transfers all collected donations (Ukrainian CSOs covers processing fees of the partner CSO) to the bank account of the Ukrainian CSO.

The majority of the Ukrainian CSOs collects donations through their websites placing button donate or support (e.g. UCIPR, New Europe Center, Anticorruption Prevention Center, etc.).

24 Law on Payment Systems and Money Transfers, No. 2346-14 (2001), <http://zakon0.rada.gov.ua/laws/show/2346-14?lang=en>

25 <http://zakon5.rada.gov.ua/laws/show/z1172-03> , <http://zakon2.rada.gov.ua/laws/show/z0265-08> , <http://zakon3.rada.gov.ua/laws/show/z1109-13>

26 Despite PayPal is available in Ukraine since 2018, it allows only to create accounts and to pay on foreign websites and it does not allow to receive funds to bank cards or transfer funds from its PayPal account to the account in the bank.

E-wallet, card transfer through banks' mobile applications, ATMs and transactional terminals (kiosk).

Individuals may make donations via cash, e-wallet or card transfer through banks' mobile applications, ATMs and transactional terminals (kiosk) owned by banks or independent service providers (without bank license), which are technical intermediaries and perform data transfer for banks ([24NonStop](#), [IBox](#), [EasyPay](#), [Tyme](#), [CityPay](#) and nationalized [PrivatBank](#)). With more than 50,000 payment terminals in Ukraine (and growing), they have become very convenient point of interaction between individuals and financial institutions. With the [Regulation 42](#)²⁷, [NBU](#) allowed banks to sign Agent Agreements with other financial, non-financial and business entities, to install physical payment terminals, accept cash for payments under the bank's "umbrella", Bank's transaction processing and its responsibility. Ultimately, it's all the bank's responsibility to the NBU, according to the [Law 2121 on Banks and Banking Activities](#) and the [Law 2346 on Payment Systems and Money Transfers](#).

Money transfer can be made either by inserting cash into the terminal or by money transfer by the bank card. After cash is inserted into the terminal or bank card transfer confirmed with correct PIN code, data is captured, encrypted and processed by the payment system processing center. Transaction receipt, with indication of major transaction details (date and time, amount, fee, transaction ID and status) is provided to the individual as confirmation of transfer. Transaction amount is deducted from the individual's card account. Afterwards, clearing payments are made through the payment system (operated by the bank and licensed by NBU), so the transaction amount is sent to the CSO's bank, which then credits the CSO's account by the transaction amount. Eventually, the amounts of Income and Expenses for the calendar year should be indicated in the annual financial report to the State Fiscal Service. Usually it is the transfer initiator who pays all the fees so the recipient of transfer receives the full original amount from the Payment system's clearing bank. The operator of the payment terminal usually retains a small transaction fee (up to 0.5%) from the amount.

SMS donations.

Mobile donation is arguably the easiest and nationally available source of fundraising. Since 2016, the SMS donations are exempted from taxes, including VAT. With the Law No. 1664-VIII on Favorable conditions for

27 Regulation of the National Bank of Ukraine on accepting cash for further transferring, no. 42 <https://zakon.rada.gov.ua/laws/show/z0372-13#Text>

charitable text messages²⁸, Law [1665](#)²⁹ on Changes to the Tax Code on beneficial condition for charitable messages (both adopted in 2016) and [Decree of the Cabinet of Ministers No. 703](#)³⁰ (adopted on September 20, 2017), sending charitable SMS became free of charge for the donor and tax exempted for the mobile communications provider.

In order to capture this vast opportunity for SMS fundraising, the CSO needs to sign the Service contract with a national mobile service provider, which indicates the short number assigned for fundraising purposes. During the transaction, the mobile service provider sends its client an SMS about the name of the CSO and project that will become the recipient of the charitable SMS amount, and the amount that will be deducted from the client's mobile account. After the donor has sent the SMS, she or he will receive a confirmation from the mobile service provider with amount sent to the CSO and the mobile account's balance.

Later, the mobile communications provider makes the money transfer of the collected funds from its bank account to the CSO's bank account. There are no specific Laws regulating such kind of cooperation on SMS charity between the Mobile service operator and CSO, so frequency of payments to the CSO and other conditions regarding charitable SMS are decided on case-by-case basis and regulated by the Agreement between the Mobile service provider and CSO. The CSO's income received from the mobile services provider's bank account will be credited to the CSO's bank current account and should be indicated by the CSO in the annual financial report to the State Fiscal Service. In 2016, Ukraine's leading mobile service providers have signed the Unified Charitable Platform memorandum, which envisages the development of a convenient platform for all involved participants of charity giving (individuals, corporate donors, charitable organizations and CSOs and mobile service providers), with all associated costs covered by mobile service operators.³¹

While once it was considered as the easiest source of fundraising, mobile / SMS donations account only for 2% of fundraising, unchanged since 2019.³² Currently only 7 charitable CSOs are raising funds using SMS charity. One CSO collects between UAH 100 000 or USD 3,700 and UAH 3 mln. or USD 110,000 per year (the highest amount was collected by the Ukrainian Philanthropic Marketplace for 2.5 years – UAH 7.3 mln. or USD 270,000³³).

28 <https://zakon.rada.gov.ua/laws/show/1664-19#Text>

29 Law 1665 on Changes to the Tax Code on beneficial condition for charitable messages <http://zakon0.rada.gov.ua/laws/show/1665-viii>

30 <http://zakon2.rada.gov.ua/laws/show/703-2017-%D0%BF>

31 <https://kyivstar.ua/uk/mm/news-and-promotions/v-ukrayini-bude-stvoreno-platformu-telekom-blagodijnisti>

32 https://zagorij.foundation/wp-content/uploads/2021/10/blagodijnist_ochyma_ukrayincziv_2021-4.pdf

33 <https://ua.interfax.com.ua/news/press-release/743065.html>

With all associated costs covered by mobile service operators³⁴, sending SMS with fixed amount to the CSO is not convenient. So smartphones are used for sending a flexible amount (with own money, credit card money or total/part of accumulated ‘cash back’ amount) to the charity for free, using the mobile application of the bank.

Crowdfunding.

Crowdfunding is gathering small donations from a large number of supporters for funding CSOs and their projects. It has become very popular in Ukraine since 2012. Local crowdfunding platforms like [Spilnokosht](#) have already proved their effectiveness. [Spilnokosht](#) was created in 2012 as “Big Idea” project, and facilitated funding worth of UAH 3.8 million (USD 150,000) just in 2 years of activities. CSOs also fundraise on international crowdfunding platforms such as Kickstarter, Indiegogo, Patreon etc.³⁵ The [Law 2346 on Payment Systems and Money Transfers](#) and the Tax Code do not specifically regulate crowdfunding. Therefore, Crowdfunding platforms usually act as non-profit facilitators – intermediary service providers and aggregators of funds for CSOs for further transfer of donations for the goal they were collected for.

Following the [Law 2346 on Payment Systems and Money Transfers](#) and current provisions of the Tax Code, the platform acts as a non-profit organization, and no license is needed to perform fundraising activities on behalf of a CSO. Charitable non-profit status of both the crowdfunding platform and applying CSOs, secure payment gateways provided by licensed third-party providers and charitable financial support status of bank transfers make the scheme untaxable for the State Fiscal Service.

CSOs that are eager to use the crowdfunding platform need to apply for participation and provide requested documents for the Platform’s review. The crowdfunding platform has the right to refuse the applicant in case it lacks non-profit status or its activity is not transparent. Successful applicants sign the Confidentiality Agreement, Preliminary Agreement on Joint Activities and/or Grant Agreement.

According to the Terms and Conditions of the Platform, CSO must prepare informational materials to promote its project among its supporters and interested audience: it should have a catchy name and concept, interesting description, a CSO implementation team and other appropriate materials (presentations, video clips and text descriptions), to persuade potential

34 <https://kyivstar.ua/uk/mm/news-and-promotions/v-ukrayini-bude-stvoreno-platformu-telekom-blagodiyniki>

35 <https://uaspectr.com/2020/05/18/20-kraudfandyngovyh-platform/>

donors and support the project. The CSO should also provide some “in-kind” compensation for the donation: it may be free photo session with CSO team, branded merchandise (pens, bags, etc.) or free participation in the crowdfunding platform’s networking events and trainings.³⁶

The CSO sets its fundraising goals (planned amount and target period for fundraising) on its own and promotes the project among its supporters and interested audience. Unlike Kickstarter in the US, [Spilnokosht](#) transfers collected money to the CSO’s bank account even if the fundraising goal wasn’t met (the full amount was achieved).

The CSO is fully responsible for the content of the fundraising campaign, amount to be collected and all campaign visuals and the description of the project can’t be changed. CSO will receive the collected donations in case at least 50% of the planned amount is collected. If more than 100% of the goal is collected, the amount is paid to the CSO in tranches after the review of supporting documents demonstrating the activities, costs and goals as described in the fundraising campaign and Grant Agreement or the ‘Collective Activity Agreement’ signed between the CSO and the Crowdfunding platform. In case the CSO doesn’t meet 50% of the fundraising goal, all donations are returned to the donors³⁷ within 30 days, reduced with the bank fee/commissions. In cases where such funds can’t be returned to the donor, she or he can donate to other campaigns seeking funds.

The Platform retains contractually predefined percentage (5%-10%) of the amount collected, as administrative fee to promote the Platform and fund its operational expenses. No taxes are paid on this fee as it is a target financing to sustain the Platform. The amounts of Income received by the CSO from the Crowdfunding platform for the calendar year would be later indicated in the annual Income and Expenses report³⁸ submitted by the CSO to the State Fiscal Service, in order to keep the CSO’s non-profit status.

36 <https://bigggidea.com/projects/>

37 <https://bigggidea.com/pages/spilnokosht/>

38 Decree of the Ministry of Finance of Ukraine no. 553 (17.06.2016) <http://zakon2.rada.gov.ua/laws/show/z0932-16>

VI. NEW TRENDS IN DIGITAL FUNDRAISING

Cryptocurrencies.

Donations to CSOs with cryptocurrencies or NFC tokens is not yet a common practice in Ukraine. It has been actively used in other areas and some CSOs already provide this option for donations.³⁹ Also, new legislative changes are being introduced to establish the legal environment for the use of ‘virtual assets’ (including cryptocurrencies). In particular, the Draft Law No. [3637](#) on Virtual Assets was adopted by the Parliament on September 8, 2021, but the President of Ukraine returned it to the Parliament with his proposals on October 5, 2021 (he proposed that the National Securities and Stock Market Commission should be responsible for regulating the circulation of virtual assets). This Draft Law regulates the legal status of virtual assets, issues of ownership rights and the procedures for conducting transactions with virtual assets. The Draft Law does not legalize cryptocurrency as a means of payment (it may not be exchanged for goods (works, services, property) since the only legal means of payment in Ukraine is hryvnia. At the same time, granting of legal status to virtual assets will enable CSOs to receive such assets from donors. In addition, there is a [Draft Law No. 4328](#) on tokenized assets and cryptocurrencies to regulate the use of virtual assets. It will supplement the Civil Code with chapter 15-1 “Virtual Assets”, where the types of virtual assets and grounds for obtaining ownership over them will be enshrined. In addition, new Amendments to the Tax Code on taxation of transactions with virtual assets [has been announced](#). The Draft Law is generally positive for CSOs but related Draft Laws on Amendments to the Tax and Civil Codes will require additional analysis once they are registered. In particular, whether taxation of virtual assets donated to CSOs would not be applied.

COVID-19.

The COVID-19 pandemic influenced all aspects of the CSOs’ operations and fundraising, both positively and negatively. Lockdown provided more free time to participate in non-work-related causes, boosted use of online collaboration and promotion tools to reach out to more donors and beneficiaries. The society consolidation to combat the disease contributed to the increase of trust and prestige of the charity and donations, especially to healthcare related causes. For instance, more than 67% of Ukrainians

³⁹ <https://case-ukraine.com.ua/en/support/>

donated money in 2021, +7% points increase compared to 2019 figures.⁴⁰ At the same time, we don't witness an increase of the use of digital fundraising tools for collecting donations. For example, according to Spilnokosht, there is even a decrease in projects seeking for funding in 2021 and 2020 in comparison to 2019 (191 projects in 2019, 98 projects in 2020, and 152 projects in 2021). There is also not significant increase in donations to CSOs through websites (e.g. Anticorruption Prevention Center launched its fundraising through the website 2019 and increased the share of donation from individual and business in 2020 by 1.4%.⁴¹)

Moreover, ongoing economic downturn, loss of jobs and potential further worsening of economic situation forces businesses to cut significantly or stop their previous support to CSOs with non-healthcare focus. Individuals cut their spending too, holding up their savings for worse times to come.⁴² Companies with longtime social corporate responsibility reallocated part of their funds for fight against COVID-19. For instance, Watsons provided disinfection to hospitals⁴³, Ciklum (partner of Tabletochky Charitable Foundation) provided UAH 2.5 mln. or USD 93,000 for kids cancer and COVID-19 treatment (only UAH 1.5 mln. or USD 56,000 for individual protective equipment for doctors and kids), IDS Borjomi Ukraine provided UAH 1 mln. or USD 37,000 for machine for artificial lung ventilation for Stryy Central Hospital, MasterCard provided UAH 5 mln. or USD 185,000 for different medical support projects.⁴⁴

Local CSOs became also drivers of the efforts for counteracting COVID-19. Charitable Foundation Podillia Hromada in Vinnytsya oblasts was one of the most successful CSO in this area. It established special fund "Stop Virus", which collected over UAH 5 mln. to support medical system in Ukraine during pandemic.⁴⁵

Use of artificial intelligence and machine learning techniques.

The use of artificial intelligence (AI) and machine learning (ML) techniques in fundraising efforts of CSOs is still a novel trend, as CSOs mostly use existing online promotional tools in social media to reach out to their current and potential target audience for donations. In the same time, several established IT companies and start-ups in Ukraine develop AI

40 https://zagoriy.foundation/wp-content/uploads/2021/10/blagodijnist_ochyma_ukrayincziv_2021-4.pdf

41 <https://antac.org.ua/en/support/#chart-section>

42 <https://zagoriy.foundation/wp-content/uploads/2020/05/blagodijnist-v-umovah-koronavirusu.pdf>

43 <https://www.watsons.ua/covid-19>

44 <https://www.epravda.com.ua/news/2020/04/21/659600/>

45 <http://ednannia.ua/inspiration/12235-pid-chas-pandemiji-fg-podilska-gromada-utrimav-medichnu-sistemu-vinnichchini-poki-derzhavna-mashina-nalashtovuvala-zakupivli>

and ML solutions for businesses that can be adapted for CSOs fundraising campaigns (pattern analysis, profiling, voice-based automation,⁴⁶ and chat bots to streamline communication and get higher conversion rates). For example, Ukrainian IT companies already develop solutions that utilize machine learning algorithms to analyze patterns in the entire history of interaction with clients in real businesses, including telephone conversations, emails, and actual transactions, to define a precise profile of paying donor. These IT solutions allow to grant each prospective donor a predictive score reflecting their probability of providing donation to CSO. Such scores help managers/fundraisers to choose the right campaign tool, pitching strategy and the message to be used in the fundraising campaign. Such tech-savvy approach will help CSOs to better utilize their resources, improve fundraising efforts and achieve common goals that are important to the CSO and/or individual donors.

46 <https://outloud.ai/>

VII. SELF-REGULATORY INITIATIVES AND ORGANIZATIONAL PRACTICES

CSOs in Ukraine (but only big ones which have enough resources) started to develop different types of self-regulation, including public reporting, information sharing about CSO activities, participation in the working group and coalitions, policies and procedures and Ethic Declaration.

Public reporting.

Public reporting is used by many organizations, particularly charitable ones, as it is important for their donors and future donations.⁴⁷ Such information sharing is vitally important for their target audience and citizens as it gives them understanding about the role of the organization in solving particular problems. Also, annual public reporting became a good tradition for CSOs caring to maintain/strengthen their reputation, to show donors their capacity, and in the same way – to attract new grants or donations. Some CSOs have started the practice of weekly updates to share information about their activities.

Usually, annual reports contain information about CSO history, mission, vision, its governing bodies, management, programs/project implemented in the reporting period, donors, annual revenue and expenditures.⁴⁸

People donating through digital means (websites, crowdfunding platforms, SMS charity etc.) would be eager to know for what purposes the organization is collecting funds, how much donations it raised from individuals and private sector, and what particular issue was resolved with the support of donations.

At the same time, public reporting of CSOs is not widespread through the country. Only CSOs with clear understanding of the importance of public reporting prepare and display their annual reports on the CSO website (approximately 5 – 10% of CSOs in Ukraine).

47 <https://www.prostir.ua/?news=vydy-finansovoji-zvitnosti-blahodijnyh-orhanizatsij-ta-aspekty-publichnoho-zvituvannya-koshtorys-bo>

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Information sharing about CSO activities.

Some CSOs have developed and used the system of policy or weekly updates to share information about its activities conducted during a certain period. Moreover, the majority of those organizations have own website and page in social media.⁴⁹ Such information sharing is vitally important for their target audience and citizens as it gives them understanding about the role of the organization in solving particular problems. Moreover, citizens are eager to know about CSO activities. ISAR Ednannia Study shows that 44% desire to know more about CSO activities, 23% of citizens claim they would like to receive news from CSOs about their work via e-mails, about 20% - via mail correspondence. Almost 17% would like to receive invitations to public events and about 10% would like to know more about opportunities to get engaged in CSOs activities).⁵⁰

Working groups and coalitions.

Peer organizations establish or join working groups and coalitions that come together on a regular basis to communicate, discuss, share and define the best practices on a particular issue. To encourage the adoption of the best practice, they often develop an assessment of the problem and provide guidelines and best practices for their members. Working groups and coalitions can be formal and informal. Formal coalitions have the structure, compliance mechanisms, procedures etc. (e.g. Reanimation Package of Reforms Coalition⁵¹). Informal coalitions generally do not have a formal structure and policies and procedures but use informal rules.

To collect funds with the digital tools the coalition shall be formally registered as the Reanimation Package of Reforms Coalition or one or more members of the coalition or working group shall collect funds for particular purposes. At the same time, it is easier for a coalition or group of CSOs to develop fundraising strategy and promote it, as they have more resources and better visibility. Moreover, formal or informal coalition unites organization with good reputation and it increases the trust of potential donors to one of the coalition or working group member.

Policies and Ethical Declaration.

Most big organizations or those who actively fundraise, have policies and procedures which are followed by the CSO in order to ensure proper spending of the donated money. Recently, CSOs started to discuss the

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50 http://ednannia.ua/images/Percentage_Mechanism_Study_Report_Eng_1.pdf

51 <https://rpr.org.ua/en/about-us/who-we-are/>

possibility of re-signing the Ethical Declaration from 2017, or to jointly develop new Ethical Declaration or Code of Conduct to be followed by all CSOs. Such Code or Declaration must include basic principles of civil society organizations, CSOs' commitment to follow ethical rules (transparency, accountability, integrity, proper use of funds received from donors, not using the CSO platforms for political or commercial gains), as well as to introduce effective internal monitoring mechanisms and consistently provide activity and financial reports to the public. In particular, to encourage donations, CSO shall be transparent and provide information about its activities, donors, partners as well as donations received. It shall be also accountable towards their donors and constituencies and properly use the funds received from donors. Finally, integrity must be central point of CSO operation and it shall not use platforms for political or commercial gains.

The biggest challenge of signing or developing a new Ethical Declaration is that it would be difficult to reach an agreement of the majority of CSOs as they would feel that it may impose additional burden on them. Moreover, the development of the new Ethical Declaration will require long consultations and the potential involvement of international consultants. This would necessitate financial resources that CSOs may not have.

VIII. IMPLEMENTATION: CHALLENGES AND OPPORTUNITIES

With the preference to support a specific need or a specific person in need (rather than supporting a CSO), personalized campaigns describing how each donation will address a specific need⁵² are the most effective in Ukraine. Despite some decrease in donations to CSOs, people are still willing to support civil society organizations. The Ednannia Study shows that 21% of Ukrainians were donating to CSOs in 2019 (average one-time donation is 300 UAH or USD 11) as compared to 37% in 2016 when the average one-time donation was UAH 100 or USD 4 (data of Razumkov Center / Democratic Initiatives Fund research).⁵³ Donations of money and food, campaigns for the sick children or reputable CSOs supporting them (e.g. Tabletochki⁵⁴) or volunteers supporting the Army or regional hospitals during COVID-19 are the most successful causes in fundraising. People are more willing to support individuals rather than CSOs. According to Zahoriy Foundation, people still provide donations in cash, through charitable boxes or to personal ATM cards.⁵⁵ ISAR Ednannia study shows that in 2019, 21% of citizens have provided charitable financial or material assistance to people or civil society organizations that solve certain social problems (the majority of those who would like to provide charitable assistance would prefer to do so personally to specific people in need (41%) and only about 8% are willing to make donations through foundations or intermediary organizations). The reasons for preference to support individuals rather than CSOs are lack of awareness about the activities of CSOs, willingness to support socially vulnerable people (seriously ill, orphaned children, the elderly), relatives and people whom they know.⁵⁶

Moreover, CSOs still face challenges in attracting donations because of the complexity of the tax return system and the lack of functional incentives for donors, particularly private ones. Also, many CSOs have a conservative approach and lack of awareness towards new fundraising methods. For example, despite of many people donating on a regular basis, they do not file it for tax return as it must be done via accountant and comes with additional burden. Moreover, in case of introducing additional public CSO

52 Providing funds to personal bank cards or accounts.

53 Anna Gulevska-Chernysh Charities in Ukraine: Aftertaste of 2016, <https://dt.ua/SOCIUM/blagodijnist-v-ukrayini-pislyasmak-2016-go-.html>

54 <http://tabletochki.org/en>

55 https://zagoriy.foundation/wp-content/uploads/2021/10/blagodijnist_ochyma_ukrayincziv_2021-4.pdf

56 http://ednannia.ua/images/Percentage_Mechanism_Study_Report_Eng_1.pdf

tax reporting, the number of donors may decrease as they will be hesitant to disclose their names and amounts donated publicly.

With only handful of crowdfunding platforms working in Ukraine, only small percentage of CSOs use them. Moreover, the analysis of the donor list of big civil society organizations shows that in the majority cases they raised money from international donors and business entities.

Despite civil society in Ukraine permanently works on improving legislations for charity, non-profit CSOs, and civil society in general, CSOs do not particular focus on digital fundraising or legal frameworks for it. On the one hand, existing legal frameworks allow CSOs to use digital fundraising efficiently in Ukraine. On the other hand, the majority of CSOs still lack knowledge about the use of digital fundraising tools and it is difficult to identify potential challenges or issues to be resolved. Therefore, civil society does not see room for the improvement of the legal environment for digital fundraising as well as its practical implementation.

IX. RECOMMENDATIONS

Improve bank regulation toward CSO transactions.

To reduce negative impact on the legislation on countering money laundering and financing terrorism on CSO operation, it is necessary to improve the regulation on finance monitoring of banks and to exclude CSOs from the list of entities whose transactions are treated as high risk. This would simplify the procedure for CSOs to receive donations and transfer funds to their beneficiaries.

Introduce better incentives and tax return practice.

On one hand, the legislation (income tax exemption of the CSOs) encourages fundraising, but the complex tax return system and the tax authorities' approach towards CSOs negatively affect the willingness of people to donate to CSOs rather than directly to individuals. Also, tax incentives/benefits for national donors don't work. It is necessary to simplify the tax return system for the national donors, to make it easy to use and introduce better incentives for corporate donors and private charity givers. It is also important to train the State Fiscal Service officials, CSO representatives and donors through trainings and webinars about the use of tax benefits related to charitable giving and develop information materials for distribution to potential donors.

Allow use of Pay Pal, other currently non-approved by NBU payment systems and cryptocurrencies.

The Government can further encourage CSOs, businesses and individuals to use digital fundraising methods for their donations, including donations from abroad. For this purpose, it shall allow to use non-approved by NBU payment systems and cryptocurrencies to extend CSOs' access to donations and to improve their financial sustainability.

Protect personal data of donors. It is also important to respect the privacy rights of donors, beneficiaries, and staff, and protect the confidentiality of the donor (when it is requested). CSOs shall develop data protection policies, which would ensure proper personal data management and protection.

Promote and develop digital fundraising tools.

Due to the limited knowledge of CSOs about digital fundraising tools, it is necessary to promote available digital fundraising tools among CSOs and improve their skills in using crowdfunding platforms, payment systems and cryptocurrencies for raising donations for their missions. In addition, it is necessary to support the development of the new mechanisms or improving existing one (e.g. SMS charity).

Improve CSO ecosystem for fundraising. Crowdfunding platforms and donations through websites, itemized donations, buying goods (e.g. coffee) for somebody in need and even cryptocurrencies have become an integral part of our life. People are ready to help others and donate more, but the ecosystem of CSO operation (transparency, public image and relationships with the State) must be improved so that donors believe that their funding will be used for specific purposes.

To increase donations from individuals and private sector, CSOs shall improve their public image and develop self-regulation system to ensure their transparency and accountability. CSOs may develop and agree on general Ethics Declaration or Ethical Code of Conduct, to be displayed publicly in their web site. For example, such Ethics Declaration or Ethical Code of Conduct might include CSO's commitment not to misuse funds received from donors, not to use the CSO platforms for political or commercial gains, introduce effective internal monitoring mechanisms and consistently provide activity and financial reports to the public.



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