



European Center for
Not-for-Profit Law

MAPPING FUNDRAISING FOR CSOs

A Monitoring Guide to the Regulatory Environment for Philanthropy

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Amidst the multiple crises humanity is facing, the need for philanthropic support and solidarity is bigger than ever. Private giving is one of the key independent sources of income for civil society organizations (CSOs) to support people in need that has a great potential to further exploit. CSOs can use a variety of fundraising methods to collect donations. Direct response methods include direct mail, SMS and phone call donations, face-to-face fundraising, door-to-door and street collection, among others. CSOs can do peer to peer fundraising, such as crowdfunding and fundraising events. It is a fast-evolving area affected by multiple laws and policies, ranging from laws on CSOs, money collection, tax, accounting, data protection, games of chance, anti-money laundering and counter-terrorism financing (AML/CTF), telecommunications, payments systems, and many more. Besides legislation, the civil society and fundraising sector formulates its own standards in the form of self and co-regulation.

ECNL, with the support of fundraising experts, developed this Monitoring Guide to help CSOs and other interested stakeholders to

navigate in this complex web and provide them with a tool to map out the legal and policy environment for private giving at the national level. Governments have a positive obligation to provide an enabling legal environment for CSOs to exercise freedom of association, including the right to secure resources. The aim of such mapping is to identify good practices as well as gaps that need improvement and reform. It is based on the areas of the [Fundraising Principles](#) that provide a global overview of current trends in fundraising regulation and self-regulation. It also builds upon the lessons learned from ECNL's work in mapping out the environment for financial sustainability and philanthropy in several countries. It does not aim to imply that all these issues need to be regulated. It is important to provide basic legal guarantees, but at the same time it is crucial to avoid overregulation limiting fundraising efforts. For example, there are countries where the authorisation requirements seriously inhibit public collection.

We consider the Monitoring Guide a living document that is reviewed and updated to reflect new issues and emerging needs.

		LEGISLATION	SELF/CO-REGULATION (OF THE CSO/FUNDRAISING SECTOR, THE INTERMEDIARIES AND THE INDIVIDUAL CSOs)	IMPLEMENTATION/PRACTICE
FUNDAMENTAL GUARANTEES AND OVERARCHING ISSUES		<ul style="list-style-type: none"> • Does the legislation provide basic guarantees for CSOs to access resources, including income from philanthropic efforts? • Does the legislation allow CSOs to fundraise for any legitimate nonprofit purposes? • How does the Civil Code and/or the Tax Code define donation and sponsorship? 	<ul style="list-style-type: none"> • Is there a sector-wide or sub-sectoral self- or co-regulation on fundraising? 	<ul style="list-style-type: none"> • Do the state institutions actively engage CSOs and other affected stakeholders when developing primary and secondary legislation that affects fundraising activities? • Does the state have any strategy/policy to promote philanthropy? • Do the state institutions have any statistics about the CSO sector and the philanthropic efforts?
FUNDRAISING METHODS	GENERAL QUESTIONS AND QUESTIONS ON PAYMENT METHODS¹	<ul style="list-style-type: none"> • Does the legislation allow and encourage CSOs to use a broad range of fundraising methods, including through digital technologies (e.g., crowdfunding, SMS donation/charitable phone calls, credit card giving etc.)? • Are the regulations that impact fundraising methods clear, strictly necessary and proportionate to the interests protected? • Is anonymous donation allowed/ not inhibited by law? • Which laws/regulations govern donations in virtual currencies and are they recognised as an official payment system? 	<ul style="list-style-type: none"> • Does any existing self- or co-regulation on fundraising set out rules on various fundraising methods (including digital fundraising methods)? • Do CSOs and fundraising professionals provide guidance for the sector to support the use of various fundraising methods? 	<ul style="list-style-type: none"> • Do CSOs use the various fundraising methods to their full potential? • Do CSOs face any challenges with opening and maintaining bank accounts or processing the transfer of donations (e.g., inordinate delays in transfers, onerous due diligence requirements, the inability to open bank accounts, arbitrary suspension or closure of bank accounts)? • Do banks involve CSOs when addressing the risks related to anti-money laundering and countering terrorism financing (AML/CTF)?

¹ Cash, bank transfer, credit and debit cards, virtual currencies.

FUNDRAISING METHODS (continued)		<ul style="list-style-type: none"> • Is the transfer of donations through a virtual currency subject to VAT or other tax? 		<ul style="list-style-type: none"> • Is there any interface that can process payments?
	SMS AND PHONE CALL DONATIONS²	<ul style="list-style-type: none"> • Are there any laws and/or regulations that describe the rules on SMS and phone call giving and assigning numbers for charitable causes? • Are there any phone numbers assigned by law/regulation to specific organizations (e.g., humanitarian organisations etc.)? • Is the SMS/phone call exempt from VAT? 	<ul style="list-style-type: none"> • Is there a sector-wide self- or co-regulation on fundraising that includes rules on SMS and phone call giving? • Are there any intermediary organisations that facilitate the access of CSOs to designated donation numbers (i.e., signed contract with a mobile operator and can give sub-numbers to CSOs)? • If yes, how does it regulate the following elements (e.g., as part of the General Terms and Conditions): <ul style="list-style-type: none"> ○ What are the conditions for CSOs to apply for a phone number? ○ Based on what criteria are applicant CSOs selected to receive an assigned number? ○ Who is making the decision (e.g., is it a committee)? ○ What fee does the intermediary charge and based on what criteria (e.g., number of calls)? ○ For what period do they sign contracts with CSOs? ○ What is regulated in the contract? 	<ul style="list-style-type: none"> • Is there a centralised system to obtain a designated number or do CSOs need to sign a separate contract with a telecommunication company in case they want to benefit from SMS/phone call donations? • Which telecommunication companies provide such services to CSOs? • What are the terms and conditions of the telecommunication companies to assign a number? • Can users of other networks donate to a number provided by another telecommunication company? • Is there any centralised phone number that is used to collect donations for CSOs/designated causes? • How much money is charged after a single call/SMS? • Can donors instruct the telecommunication company to make a regular deduction from their phone bill for charitable purposes? • What fees do the telecommunication companies charge after the call/SMS?

² SMS and phone call giving is a digital marketing method that provides relevant marketing communications that are addressable to a specific individual with a mobile phone number. This fundraising appeal by phone is made directly to potential, current or past donors.

FUNDRAISING METHODS (continued)			<ul style="list-style-type: none"> ○ Does the CSO have a reporting obligation on the amount collected? ○ Under what conditions can they terminate the contract? 	<ul style="list-style-type: none"> ● Is it possible to issue a statement for tax deduction purposes after SMS/phone call donation? ● How do the telecommunication companies report to CSOs?
	DONATION-BASED CROWDFUNDING³	<ul style="list-style-type: none"> ● Are there any laws/regulations on donation-based crowdfunding? 	<ul style="list-style-type: none"> ● Does the platform operator have General Terms and Conditions? ● If yes, how does it regulate the following elements (e.g., as part of a General Terms and Conditions): <ul style="list-style-type: none"> ○ How much is the service fee of the platform operator? Is it a flat rate or does the platform provider offer different packages (e.g., for new or recurring clients)? ○ How long does the collection period last (i.e., is there a minimum and/or maximum days) and is it possible to extend it? ○ Does the CSO have reporting obligation on the utilisation of the collected amount and what are the consequences of the failure to report? ○ Under what conditions (% of the target amount collected) is the fundraising campaign considered unsuccessful? ○ What are the rules in case the collected amount does not exceed or exceeds the target amount? 	<ul style="list-style-type: none"> ● Are there platforms for donation-based crowdfunding in the country? ● Do CSOs and donors find it easy to use or do they face any challenges in practice? ● Do platform operators check the CSOs that apply to use the platform and what are the conditions?

³ Donation-based crowdfunding is a practice of raising funds from friends, colleagues, social network and beyond, who each contribute to the appeal, typically via the internet/ digital platforms. Crowdfunding platforms are websites that give space for different CSOs to launch their campaigns and solicit donations for a specific cause.

FUNDRAISING METHODS (continued)	WEBSITE COLLECTIONS	<ul style="list-style-type: none"> Which laws and/or regulations govern payment systems, payment services and card-based instruments? 	<ul style="list-style-type: none"> Are there any technical obstacles of setting up recurring donations? Which payment gateways or payment service providers can be used (PayPal, Stripe or Square) to process the payments? Are their fees reasonable or considered high by CSOs?
	GAMING AND LOTTERY⁴	<ul style="list-style-type: none"> Which laws/regulations govern lotteries and are CSOs allowed to organise such activities (or does the state have exclusive rights)? Are there specific rules and exceptions for charitable lotteries and fundraising events? 	<ul style="list-style-type: none"> Can CSOs organise charitable lotteries, or do they face any challenges in practice?
	CASH BOXES, STREET COLLECTIONS AND OTHER CASH SOLICITATION	<ul style="list-style-type: none"> Is there a law regulating conditions for organising cash collections, e.g., through collection boxes? Are there any rules on the street or door-to-door collections? What are the rules on handing cash receipts and does this apply to cash donations? Is there any limitation to the amount of cash that a CSO can receive from a single recipient? 	<ul style="list-style-type: none"> Is there a rounding up method for cash payments? If yes, is it possible to donate the rounded-up amount to a CSO? Where does the money go first? If it goes to the company's account, how does it report to CSO and transfer the collected money? Is it easy to put the money collected through collection box and street collection in the CSO's bank account?
	FUNDRAISING EVENTS⁵	<ul style="list-style-type: none"> Are there specific rules applicable to fundraising events? Are entertainment costs or "representative expenses" subject to tax? 	<ul style="list-style-type: none"> Can CSOs organise fundraising events, or do they face any challenges in practice?

⁴ An incentivized fundraising method that gives donors the chance to win cash or prizes.

⁵ Event designed to raise awareness, support and funds for a charity, such as concerts, dinners etc.

FUNDRAISING METHODS (continued)		<ul style="list-style-type: none"> • Are there different regulations or taxation (VAT) if the CSO outsources the ticket sales? • Is the sale of objects considered as charitable or income from economic activity and therefore subject to any tax? • Is the sale of donated goods considered as charitable or income from economic activities? • Which consumer protection rules are relevant and shall be respected when CSOs organise a fundraising event? 		
	PAYROLL GIVING⁶	<ul style="list-style-type: none"> • Do the laws/regulations allow employers to process payroll giving? Is there a formal requirement for employers to fulfil such requests of employees? 		<ul style="list-style-type: none"> • Can employees support CSOs through payroll giving, or do they face any challenges in practice? • Do employees have to submit tax declarations if they donate through their employer (and they would normally not be required to submit tax declarations otherwise)?
	LEGACY GIVING	<ul style="list-style-type: none"> • Are CSOs allowed to receive property in the form of inheritance by will? • Are CSOs exempt from tax after such income? 		<ul style="list-style-type: none"> • Can CSOs receive inheritance, or do they face any challenges in practice? • Is it possible for donors to do the last will online?
	SPONSORSHIP	<ul style="list-style-type: none"> • Does legislation define sponsorship? • Are CSOs exempt from tax after such income? 	<ul style="list-style-type: none"> • Do the CSOs have a partnership policy to make sure that the sponsors' values are aligned with the mission of the organization? 	

⁶ Payroll giving is giving a donation regularly to a charity by the employer deducting it directly from the salary every month.

FUNDRAISING METHODS (continued)	CAUSE-RELATED MARKETING	<ul style="list-style-type: none"> • Are there rules or guidelines for consumer protection related to direct-marketing? 	<ul style="list-style-type: none"> • Do the CSOs have a partnership policy to make sure that the companies' values are aligned with the mission of the organization? 	
	SOCIAL ADVERTISEMENT	<ul style="list-style-type: none"> • Are broadcasters required by law to provide free space for social advertisement? 		<ul style="list-style-type: none"> • Is the place for social advertisement provided without discrimination? • Is there sufficient guidance on how organizations can benefit from this opportunity?
	DIRECT MAIL	<ul style="list-style-type: none"> • What are the principles and requirements of storing and using personal data for the purpose of direct marketing? 		
DATA PROTECTION AND RIGHT TO PRIVACY		<ul style="list-style-type: none"> • Do the laws/regulations recognise and protect the right to privacy of CSOs, their donors and beneficiaries? • Is there an obligation for CSOs to report names and/or other identification/contact details of their donors and beneficiaries to state authorities? • Is there an obligation for CSOs to publish names and/or other identification/contact details of their donors or beneficiaries? • If reporting/publishing obligations apply to CSOs, what is the scope of personal data required to be reported/published? • What are the rules for storing personal data (e.g., is there a legally prescribed timeframe)? • Do donors and beneficiaries have the right to access information 	<ul style="list-style-type: none"> • Is there any sector-wide guidance/self-regulation on personal data protection of donors and beneficiaries of donations? 	<ul style="list-style-type: none"> • If CSOs are not legally required to publish information on their donors and beneficiaries, is this information requested in practice by financial institutions or public authorities? • Is it possible for donors to provide their donations anonymously? • Who/how does collect, use, store the data if the CSO uses any service provider?

		<p>about their data held by CSOs and can they ask for their removal?</p> <ul style="list-style-type: none"> • Did the Supervisory DP Authority in your country issue a guidance on personal data processing of donors and recipients of donations (e.g. Information Commissioner’s Office (“ICO”) Guidance on Fundraising and data protection)? 		
CROSS-BORDER FUNDRAISING		<ul style="list-style-type: none"> • Do the laws/regulations allow CSOs to receive, use and disburse funding across borders freely? • If not, how does the legislation restrict cross-border giving?⁷ • Do the laws/regulations guarantee equitable tax treatment for cross-border and domestic donations? 	<ul style="list-style-type: none"> • Is there any intermediary organisation that helps to facilitate cross-border fundraising (e.g., Transnational Giving Europe)? 	<ul style="list-style-type: none"> • Did the state, through its tax agencies, develop transparent equivalency procedures for tax effective CSO cross-border transactions? • Do the state authorities provide appropriate and easily understandable information to donors and CSOs about the tax rules and procedures to obtain tax benefits? • Are CSOs receiving international funding stigmatised, labeled as foreign agents, or attacked in public media, by the government, or by third parties? • Do CSOs face any challenges with processing bank transfers across borders?
TAXATION	TAXATION OF DONATIONS	<ul style="list-style-type: none"> • Are monetary and in-kind donations exempt from corporate income tax? • What is the VAT treatment of the supply of in-kind donations (e.g., food donations)? 		<ul style="list-style-type: none"> • Can CSOs take advantage of the available tax benefits without administrative hurdles? Are these applied in an impartial, non-partisan, transparent, and consistent manner?

⁷ Examples include, among others, bans on international funding, limitations on international funding for certain activities, prohibitions on receiving international funds from specific donors, requirements to inform the relevant state bodies about the receipt of international funds, requirements to be declared eligible to receive international funds via a special procedure, the requirement to receive international funds via special bank accounts or channel them via a centralized government fund, bank or state body etc.

		<ul style="list-style-type: none"> • What is the VAT treatment of sale of goods/services financed by the proceeds from donations? • What is the VAT treatment of purchase of goods/services financed by the proceeds from donations? 		<ul style="list-style-type: none"> • Do the state authorities make data, statistics and research available annually regarding the tax treatment of fundraising and philanthropy?
	TAX INCENTIVES FOR DONORS	<ul style="list-style-type: none"> • Are there any tax benefits for corporate and individual donors? If yes, what types of tax benefits are available for donors (e.g., tax credit, tax deduction etc.)? • Does the legislation clearly define qualifying CSOs, the percentage of the donation that is eligible for the incentive, any minimum amounts, and any other limits or caps? 		<ul style="list-style-type: none"> • Can donors take advantage of the available tax benefits without administrative hurdles? Are these applied in an impartial, non-partisan, transparent, and consistent manner? • Do the state authorities take steps to ensure that donors are aware of their right to claim a deduction and understand the process for claiming a deduction?
TRANSPARENCY, ACCOUNTABILITY AND OVERSIGHT		<ul style="list-style-type: none"> • What are the reporting requirements of CSOs on income from fundraising activities? Are there any special requirements or is it part of the general reporting requirements of CSOs? • Are there any reporting requirements for donors (individuals or companies) for the donations they have made to CSOs? • Does the oversight and supervision of fundraising activities have a clear legal basis and is it proportionate? • Which authority is responsible for the supervision of fundraising activities? What is the scope of its mandate and what sanctions does the legislation foresee in case of non-compliance with the legal requirements on fundraising? 	<ul style="list-style-type: none"> • Does any existing self- and co-regulations have a mechanism to monitor compliance with fundraising standards? 	<ul style="list-style-type: none"> • Are the reporting requirements clear and simple? • Do the reporting requirements respect the rights of donors, beneficiaries, and staff, as well as the right to protect legitimate business confidentiality? • Do the reporting requirements in any way stigmatize CSOs based on their sources of income? • Is the reporting facilitated through information technology tools and avoid the duplication of reporting requirements? • Does any financial institution (e.g., banks) provide the service of transparent accounts?

		<ul style="list-style-type: none"> • Are financial institutions (e.g., banks) legally required to provide information/reports on CSOs' financial operations to state authorities? If yes, under what conditions? 		
REGISTRATION, LICENSING AND PERMISSION		<ul style="list-style-type: none"> • Are there any authorisation, licensing, or notification requirements for fundraising activities? • If yes, are the existing authorisation, licensing, or notification requirements necessary and proportionate? For example, is small-scale fundraising exempted? • Does the legislation provide an explicit and limited number of justifiable grounds for rejecting requests for permits? Is it possible to appeal against the decision? 	<ul style="list-style-type: none"> • Is there any self- and co-regulation on fundraising that includes some type of certification or accreditation for CSOs engaged in fundraising? 	<ul style="list-style-type: none"> • In case there is such a registration, licensing or permission procedure in place, is it simple, quick, inexpensive, and easily performed by all CSOs wishing to organise a fundraising activity?

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