



STUDY

FUNDRAISING BY MOLDOVAN CIVIL SOCIETY ORGANIZATIONS FROM DOMESTIC SOURCES: OPPORTUNITIES AND PERSPECTIVES

Serghei NEICOVCEN
Daniela VIDAICU
Vasile CIOARIC

CHIȘINĂU, 2016



This publication was made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents are the responsibility of the authors and do not necessarily reflect the views of USAID or the United States Government.

CONTENTS

INTRODUCTION.....	4
METHODOLOGY.....	5
MAIN CONCLUSIONS	6
CHAPTER 1. FUNDRAISING.....	9
1.1. FUNDING SOURCES FOR CSOS	9
1.2. FUNDRAISING METHODS.....	13
1.3. DONORS' MOTIVATION.....	15
1.4. TRANSFER/PAYMENT METHODS	16
1.5. DEVELOPING FUNDRAISING FROM DOMESTIC SOURCES	16
CHAPTER 2. LEGAL REGULATION OF FORMS OF FUNDRAISING BY CIVIC ASSOCIATIONS	17
2.1. REVENUE-GENERATING ACTIVITIES	20
2.2. DONATIONS. PHILANTHROPY AND SPONSORSHIP	25
2.3. LEGAL BENEFITS AND PUBLIC FUNDS	40
CHAPTER 3. SUCCESS STORIES OF FUNDRAISING BY CSOs.....	52
CASE STUDY No. 1: Special events, procurement of goods and products for specific beneficiaries	52
CASE STUDIES No.2: Donation boxes, SMS charity campaigns, concerts and services, online fundraising	54
CASE STUDY No.3: Centralized collection of food products for beneficiaries, from store networks, non-profit activities with the involvement of volunteers, solidarity classes for high school and university students, charity fairs	58
CASE STUDY No.4: Annual charity balls, annual concert "HOSPICE Unplugged" at the National Philharmonics, table tennis and football matches. Palliative home care services. Philanthropic medical-social foundation "Angelus"	59
CASE STUDY No.5: Fundraising from individual donors, placing fundraising boxes in supermarket chains.....	61

INTRODUCTION

Financial sustainability is a key element of an efficient non-profit organization. In order to reach its objectives, any organization needs financial, material, human and time resources. Moreover, in order to ensure the permanent work of our organization, we need a stable source of funding for a longer period of time. Unlike public institutions that are funded from the budget or from for-profit business entities, non-profit organizations have to seek funds for their activities.

The Civil Society Development Strategy¹ for 2012-2015 provides as main goal *the promotion and strengthening of the financial sustainability of the civil society*, which results in establishing adequate mechanisms for assuring their financial viability. The Strategy provides as objectives: encourage the participation of citizens and of the private sector to support the civil society by establishing a tax support framework more favorable to the civil society *through percentage philanthropy and tax benefits for economic activities*; strengthen the access to *social contracting* (develop an adequate normative framework and strengthen the LPA and CPA in this sense); create mechanisms for *having the civil society supported by the state*; capitalize the national *accounting and financial reporting* standards; and enhance the efficiency of the *donation deduction* mechanism and extend this mechanism onto individuals.

The Study “Fundraising from Domestic Sources: Opportunities and Perspectives” was conducted between May and September 2015 in partnership with ECNL and included a review of the legal basis that regulates fundraising, examples of fundraising (case studies) from domestic sources, an online survey, and individual interviews.

The Study aims to determine the opportunities and perspectives on developing fundraising from domestic sources in Moldova.

The analysis of the domestic fundraising is not accidental. Most of the studies, including the online survey, conducted while developing the study, confirmed that the main source of funding for the Moldovan CSOs are foreign foundations and organizations. Eighty three percent of organizations have confirmed this.

If foreign donors cut down their funding, domestic sources may become one of the main sources for securing the financial sustainability of CSOs and may lead to developing the relations and cooperation between the associative sector and the society.

At the same time, one must note that many foreign donors make considerable efforts to encourage diversification of funding sources for CSOs; they organize various training courses and invest in strengthening their institutional capacities.

The Study provides information and practical tips on fundraising from domestic sources as well as suggestions on related advocacy.

¹ Law no. 205 of 28 Sept 2012 on approving the Civil Society Development Strategy for 2012–2015 and the Action Plan for implementing the Strategy, Official Monitor No. 1-5 of 4 Jan 2013 <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=346217&lang=1>

METHODOLOGY

The research was based on the findings of an online Google-based questionnaire, with questions asked of Moldova CSOs. The survey is based exclusively on the statements made by the respondents—leaders of Moldovan nongovernmental organizations. Structure of the questionnaire:

- The first module of questions aimed at investigating the general climate on fundraising;
- The second part of questions requested to make an assessment of the existing normative framework that regulates fundraising for CSOs;
- The third part of the questionnaire referred to the organizations fundraising capacities.

The analysis of the legal framework started with the survey results and mainly aims at describing in short the legal framework but also the possible tools to be used by CSOs for fundraising from domestic sources. To ensure a comprehensive analysis of the legal mechanisms, the authors held interviews with representatives of public institutions, civic associations, accounting specialists and persons responsible for fundraising from various CSOs.

This Study set as its goal to analyze and describe the best fundraising practices by using various forms analyzed in the first two chapters. The last chapter analyzes a range of fundraising methods to be used by the Moldovan CSOs. In order to achieve this objective, the authors discussed directly with the CSOs responsible for using various methods.

General information about the survey results.

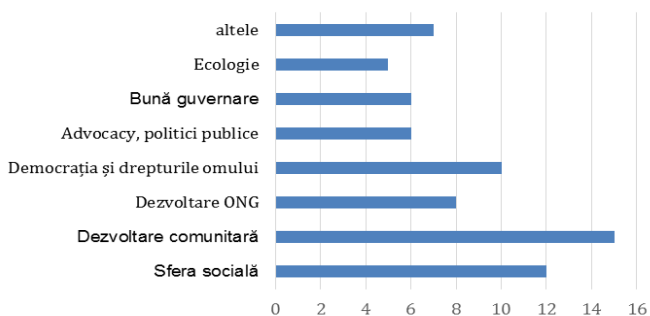
Structure of the sample

I. Thirty CSOs from various regions of Moldova participated in the opinion survey

- 15 - national
- 6 - regional
- 8 - local
- 1 – international

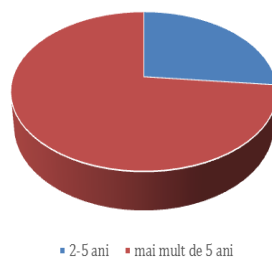


II. The participating CSOs come from various activity areas



III. The participating CSOs have various work experience

- 8 - with work experience of 2 to 5 years
- 22- with work experience of over 5 years



MAIN CONCLUSIONS

I. The Study showed a continuous trend of CSO high dependence on external funding sources (83%). However, despite their major dependence on foreign sources, CSOs increasingly focus on diversifying the funding sources. First of all, the role of the services provided by CSOs in the structure of their budgets must be noted. According to the survey, 27% of organizations indicated this source of funding as being a very important one to them.

CSOs also indicated individual donations (20%) and donations made by the private sector (20%) as important sources of funding. At the same time, potential sources of funding, such as endowment or loans are absolutely unused by and irrelevant to Moldovan CSOs.

With regard to fundraising methods, Moldovan organizations remain very conservative. The majority (70%) prefer writing projects and participating in various grant competitions. This is due to the fact that this method is the most accessible one to CSOs and does not require many resources. In general, according to the online survey, one or two persons are responsible for this in the organization. If speaking about other fundraising methods, the situation is rather predictable here, too. CSOs prefer time tested methods, such as organizing concerts, balls, charity events etc. (43%). Also, increasingly popular become economic activities that bring additional revenues to active organizations. Despite the many problems, there is a gradual increase in the use of modern fundraising techniques, such as the use of new technologies: Internet, SMS, pay terminals, and others.

Another conclusion drawn was the fact that according to the organizations participating in the online survey, it is practically impossible to cover from domestic sources the organization's administrative costs or other activities related to human rights or public policies. It is much easier to raise funds for ill children, the elderly, children from disfavored families or victims of disasters and catastrophes. Nonetheless, many organizations cannot afford raising funds from domestic funds due to the deficit of resources for the organization's administration.

One of the disappointing (less positive) conclusions of the study was the fact that most of the organizations that participated in the online survey do not have fundraising skills and knowledge. More than half of the CSOs surveyed in the past two years have not attended trainings or received consulting on fundraising. For many organizations, the fundraiser position in the organization (institution/company) is a dream. This position exists only in two of the 30 CSOs interviewed. Based on the data obtained, we can conclude that the fundraising potential and capacity of Moldovan CSOs is low, which has a negative impact on the development of the domestic fundraising.

II. The analysis of the framework regulating fundraising from domestic sources leads to a very disappointing conclusion: the Moldovan legislation in force is imperfect and to a large extent impedes developing fundraising from domestic sources, and requires serious reforms. A considerable amount of imperfect regulations, legislation gaps, negative law enforcement practices – all these determine CSOs to seek money (financial resources) for their activities not in the country but abroad. Obviously, there is a need to strengthen the efforts first of all of the noncommercial organizations and then of the authorities and of the society as a whole.

Noncommercial organizations often face financial challenges due to the fact that the fundraising methods are not properly regulated and noncommercial organizations lack the capacity to develop

alternative methods of obtaining grants from donors/development partners. The precarious financial sustainability of Moldovan noncommercial organizations is also due to the fact that CSOs most of the times work based on projects and not on institutional strategies that would set out long-term development objectives but also on the fact that there are very few financial support programs for the institutional development of CSOs. Including for this reason, in many situations, CSOs do not develop full fundraising plans and do not work strategically with other methods than the sporadically provided grants.

With regard to the national legal framework, although the legislator has provided for certain fundraising mechanisms (sponsorship, philanthropy, the 2% law, tax benefits etc.), the legislation is not clear, it is hard to apply, is not harmonized and does not provide predictability to the CSOs to use it. For instance, the legislator by law has set out sponsorship and philanthropy in a law that has gaps that lead to the lack (incapacity of) of its enforcement. The distinction between these two traditional methods is not clear. At the same time, it is not clear how to apply the alternative fundraising methods through donation boxes, telephone messages, pay terminals etc. The manner of confirmation of donations by the donor is ambiguous and therefore hard to apply, which leads to divergences between the donor and the state institutions. This inevitably discourages the obtaining of donations by CSOs.

The percentage designation concept (the 2% law) does not have an implementation mechanism and the current provisions of the Tax Code and of the Law on Civic Associations must be revised to observe the principle of equity between the beneficiaries and the principle of confidentiality when the individual designates a percentage of his income tax.

One of the main problems in Moldova is the lack of a clear approach to the support provided by the state to the associative sector. The methods of state support to CSOs are applied rarely, sporadically, there is no clear regulation thereof and transparency is not observed in contracting CSOs for providing services, receiving grants from the state etc. The legislation is obsolete regarding the provision of benefits to public benefit civic organizations because in most cases all CSOs enjoy the same benefits. The need for the existence of philanthropic organizations is not very clearly outlined when this activity is carried out even by state institutions.

With regard to personal donations, the legislation is rather liberal but at the same time has many gaps that impede developing this type of fundraising. One must especially find the lack of regulations for the collection of anonymous donations that often happens during charity events or through donation boxes. Moldovan CSOs refuse this method of fundraising, which is very widely spread in many countries.

One of the conclusions was also the fact that the existing normative framework does not encourage business organizations and individual companies to do philanthropy and charity. In practice, this leads to the fact that the business is simply 'not interested' in providing assistance to CSOs. Moreover, this does not create premises for positive interactions between the business and CSOs in resolving community's social and economic issues.

The conclusion is that the normative framework must be harmonized. It is necessary to make a general revision and have a systemic approach to the development of fundraising methods for CSOs. In such a situation, it is inherent that CSOs get involved very actively in advocacy and in monitoring public institutions, in order to assure that the aligning of the legal framework takes place.

Today, unfortunately, due to the legislation gaps, we have only a declarative attitude from the state regarding the support of nongovernmental organizations while the problem of financial sustainability of CSOs is still very topical.

III. The analysis of fundraising practices in Moldovan nongovernmental organizations has shown that their methods, types and character have varied largely in the past years. CSOs especially make use of local, regional and national strategies to raise funds, organize various fundraising events, involve a large number of persons, institutions and organizations, increase and diversify the target groups and the direct beneficiaries.

This Study has looked at the following fundraising methods: special events, procurement of goods and products for specific beneficiaries, event collection boxes, charity SMS campaigns, concerts and charity services, online collections, centralized collection of food products for the beneficiaries from store networks, non-profit volunteer activities, solidarity classes for high school and university students, annual charity balls, ping pong and football tournaments, home palliative care services, fundraising from individual donors, fundraising boxes placed in supermarket networks throughout the country etc.

The following are the main conclusions and lessons learned from the success stories of CSO fundraising:

- The organization must carry out a broad visibility campaign. The more people know about the organization's goals and activities, the higher the probability of obtaining donations and aids;
- Broad promotion campaigns must be organized for special events;
- The philanthropy and sponsorship legislation must be studied and respected despite the fact that it is difficult and creates problems to the entrepreneurs and other potential donors;
- The volunteer work must be organized in such a way that everyone knows their role and meaning in the organization;
- In collecting food products, it is necessary to pay attention to the quality and origin of the products, their storage and transportation conditions;
- Records of all donations must be well-kept in order to not raise suspicions from the donors;
- It is important to assure transparency, especially for the donors. People must know how the allocated funds are used.
- A lot of perseverance is needed for successful fundraising campaigns;
- The fundraising activities must be adapted to each country in part, taking into account its specifics and the already existing traditions;
- Due to the reporting procedures and tax deductions from the donated funds, companies are motivated to make donations;
- Few companies have well-structured and institutionalized social corporate responsibility programs;
- In the fundraising campaigns, it is important to know well the potential donors community and to propose them credible causes;
- When raising funds through individual donation boxes placed in supermarkets, it is important to make sure that the administration clearly understands the goals and designation of the funds raised. It is important that all the papers are prepared in accordance with the legislation and the accounting provisions.

CHAPTER 1. FUNDRAISING

In order to implement its mission and objectives, CSOs must support their activities by covering their costs with revenues. The fundraising has many different meanings but most often it refers to the concept of fundraising from various donors.

So, in its broadest meaning, Fundraising refers to all the activities implemented by a CSO to assure the necessary revenues to support and help the organization in achieving its mission.²

- “Fundraising” is a foreign word, hard to pronounce and difficult to translate. It includes various methods and procedures for raising funds for the activities of non-for-profit, nongovernmental organizations and for the civil society as a whole.
- Fundraising is the ‘science’ of successfully convincing others that an organization’s activity is significant. It is the ‘science’ of motivating people do good things in order to give them the opportunity to contribute with their time, interest and trust.
- Fundraising does not consist only in obtaining money. It aims at identifying and developing supporters and friends for the organization, people who believe in its mission, people who want to help and to participate in achieving its objectives.
- Fundraising also aims at developing the organization in a manner that would invite and would accept the participation of all those who share its hopes and dreams.
- Fundraising is an organic, original and creative process. One should never look for universal prescriptions or attempt to copy another’s success. Try to find inspiration in fundraising as well as the limits of the road you want to travel independently in order to identify the funds for your activities.³

1.1. FUNDING SOURCES FOR CSOS

Extract from the Survey conducted during this Study (Chapter 1)

To the question “Name the main sources of funding for CSOs?” the respondents answered as follows:

- the external funding from foreign donors is the main source.
- the 2% from the percentage designation may become one of the main sources in the future.
- the organization’s economic activity through the provision of paid services and social entrepreneurship is also an important one.
- donations, organizing of fundraising events are less relevant.

There is a very large variety of funding sources for CSOs. In principle, CSOs can create property from their own sources (membership fees, revenues from economic activities and services provided) or from external sources. According to the Moldovan legislation, CSOs have the right to create their property from the following sources:

- Entry and membership fees;
- Donations and grants;
- Collections from the organization of public lectures, exhibitions, lotteries, tenders, sport and other kind of activities;
- Income from one’s own economic activities;
- Income from civil legal acts;
- Income from external economic activities;
- Material and financial means donated by sponsors and philanthropists;

² TASCO: Fundraising and Accessing EU Funds, 2011. Available at: http://www.tasco.org/doc/doc_manual_2.pdf

³ Tănase Mihai: Guide on Fundraising for CSOs. http://www.iom.md/attachments/110_Fundraising%20Guide.pdf

- Funds from percentage designations.

Thus, we can say that the state offers broad possibilities for diversifying the funding sources and, accordingly, for improving the CSO financial sustainability.

At the same time, one finds that despite the broad range of funding possibilities, CSOs prefer raising funds from foreign sources that are provided by international donors and organizations. Bearing in mind these realities, funding sources can be divided into foreign sources and domestic sources:

- *Domestic sources* – sources whose origin is domestic (local, based in the country) and are formed from public funds, the money of individuals and legal entities who work in the country etc.
- *Foreign sources* – whose origin is outside the country and in most cases are the sources offered by foreign organizations or by organizations with local intermediaries who implement grant programs. These also include foreign donations made by foreign individuals and legal entities.

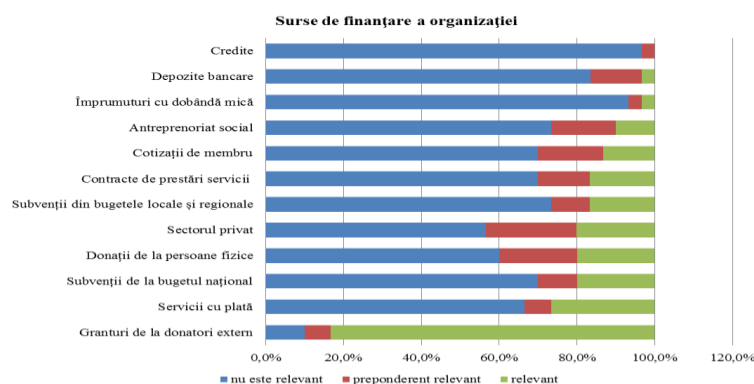
In Moldova, there are well represented various foreign organizations, donors and foundations that through their grant programs and service contracting support the functioning of the nongovernmental sector. They include such international and European organizations as the EU Delegation to Moldova, UNDP and other UN structures, USAID, SIDA, Swiss Cooperation Office in Moldova etc. The diplomatic missions of various countries are also active in funding CSOs. They include the US Embassy, British Embassy, Slovak Embassy etc. Other well-known foundations and organizations in Moldova include the Soros Foundation Moldova, East-European Foundation, SOIR, HEKS, and others.

Also, Moldovan CSOs have the opportunity to access the funding programs of many other private and government donors outside the country, the most well-known of which are NED, UNDEF, PONTIS Foundation, REC, European Endowment for Democracy, Visegrad Fund, Marshal Fund, Embassy of Canada and many, many others.

Unfortunately, the domestic funding sources are less popular but at the same time have the tendency of constantly increasing in the CSO budget structure. The data of the survey conducted during this Study confirm that the most important source for the Moldovan CSOs remain the grants and other support provided by foreign donors. Eighty three percent of the organizations that participated in the survey confirmed this. However, such funding sources as credits and bank deposits (endowment), remain irrelevant for the Moldovan noncommercial sector.

An important role in the formation of organizations budgets is played by the donations from individuals, the private sector, subsidies from the public budget and paid services (statutory economic activities).

Figure_



Considering the diversity of funding sources for CSOs, they can be divided into the following categories:

1. Public funds (from the public budget);
2. Sources from revenue-generating activities;
3. Philanthropy and sponsorship;
4. Membership fees;
5. Other sources (endowment, bank deposits etc.).

1. Public funds. This category includes **government programs** that tackle special problems at national or regional level, such as the reintegration of unemployed, the situation of children (*i*), environment issues, youth, cultural environment etc. In general, such programs are conceived to be easily accessed by nongovernmental organizations. Example: the programs of grants provide by the Ministry of Youth and Sports of Moldova, Ministry of Environment of Moldova, Ministry of Culture of Moldova.

CSOs have the possibility to access public funds by providing a whole range of services for government institutions and local public authorities. Currently, the consulting and training services for LPAs and civil servants, provided by the specialized CSOs, are very popular. Also, CSOs are entitled to provide social services according to the Law No.123 of 18 June 2010 on Social Services⁴ after accreditation according to the Law No.129 of 8 June 2012 on the Accreditation of Providers of Social Services.

2. Revenue-generating activities. Unfortunately, the revenue-generating business activities are not used to their true potential by the CSO community. Even though at first sight it may seem paradoxical that a nongovernmental organization, non-profit by definition, would use such a fundraising method, carrying out activities that would bring revenues to the organization does not affect this status at all. In other countries (be they Central European), this method is one of the main sources of revenues, in addition to individual contributions and sponsorships.

3. Philanthropy and sponsorship. Foundations. This category includes all the funds registered in Moldova according to the Law no.581 of 30 July 1999 on Foundations. A part of these funds are private or family funds that support specific activities, *e.g. the Sturza Family Fund*.

⁴ According to Article 7, point 3 (a) of Law No 123 on Social Services. The private providers of social services are:
a) civic associations, foundations, private institutions without a lucrative purpose, registered in accordance with the legislation – all working in the social sphere;

Another category is the *funds* of various corporations and companies that provide support for various social and humanitarian projects. One must note that such funds rarely offer funding for CSOs and prefer to act in a targeted manner, *e.g. Orange Foundation Moldova*.

There are funds in Moldova that represent international fund networks and provide a broad range of support to CSOs. They include *Soros Foundation Moldova, East-European Foundation, and Friedrich Ebert Foundation*.

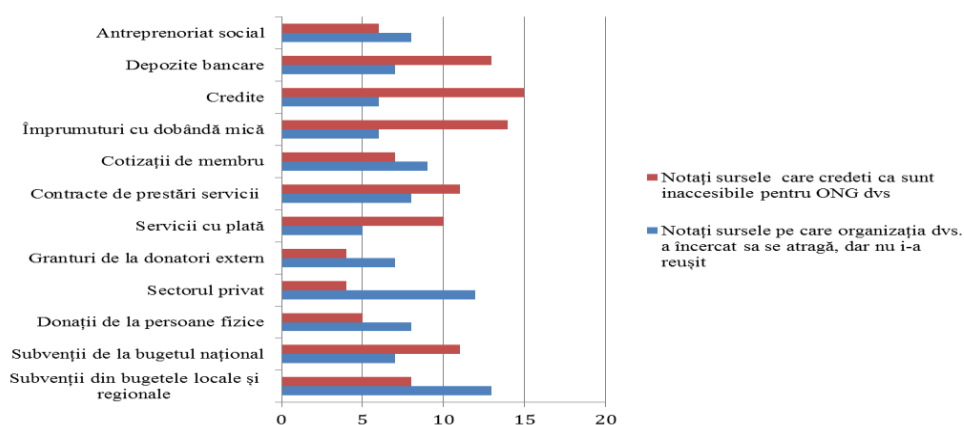
In the past years, other types of funds have also gained popularity – the community funds that are established through the contribution of numerous individuals and legal entities from a certain (geographically located) community and that limit their financial support to that community. Although funding requests are approved by the foundation's evaluation committee, many donors keep certain control over the funds they make available, *e.g. Ungheni Community Foundation and the Ialoveni Youth Fund*.

Donations. Another category of funding sources, especially important to CSOs, are the donations. The ratio of this source of funding in the CSO budget structures is still small but has potential for growth. The main donors in this category are individuals and legal entities.

Legal entities are a very important donor for nongovernmental organizations. In the US and Europe, they are a major contribution to the organizations budgets. They can assure the necessary funds for the main budget, for investments and equipment. It is much easier to obtain sponsorship from companies than from a foundation or a national or international funding program. In addition, the donations in the form of goods or services made by various companies should not be neglected.

Individuals are the donors any organization should aspire for. They are the main donor in the countries with a developed CSO community and have a share larger than that of foundations, government programs or companies. A high number of individual donors can assure substantial amounts. Also, it proves the adherence that this group enjoys in the society. Direct requests are the main method of accessing this source of funding.

Figure _



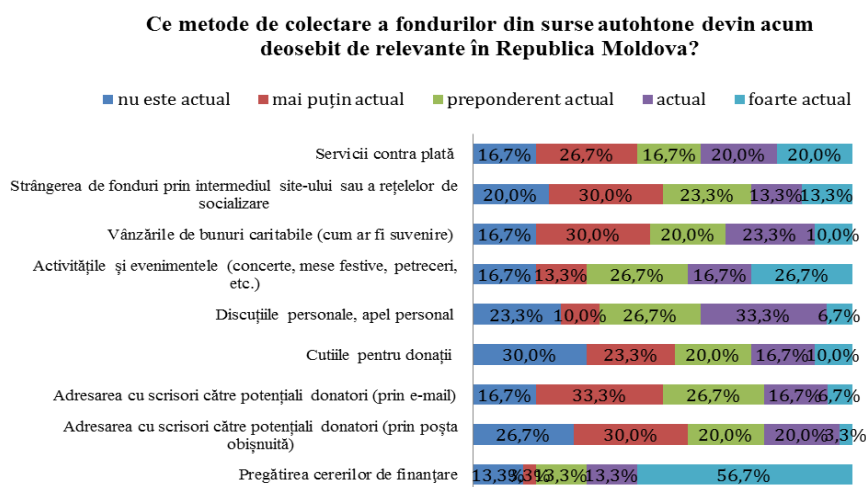
4. Membership fees. Obtaining money from those who need the organization is the basis of fundraising. It is the most viable and democratic fundraising method. The simplest variant is membership fees i.e. from the persons who need the organization or benefit the most from it. The membership fee is an amount that each member pays each year to support the organization. An alternative is monthly membership fees: even the neediest person can pay between 1 and 5 lei per month (if he has a benefit) and this means between 12 and 60 lei per year from one member.

In developed civil societies, membership fees are the most popular method of fundraising, especially for volunteer organizations. Membership fees contribute not only to funding programs but also to increasing the number of members and to strengthening the organization. Membership fees, however, are not a panacea for fundraising, especially in our country where the capacity but also the availability of the population to pay a substantial fee is lower. Even though now the amount collected through membership fees may seem insignificant, it may offer a solid basis in the future.

1.2. FUNDRAISING METHODS

Depending on the funding sources, nongovernmental organizations use a large variety of methods for attracting the necessary funds, which are limited only by the organization's fantasy. Of them, here are presented the main types of methods that currently can be applied in Moldova or could be applied in the near future.

Figure _



1. Requests for funding. At present, this is the most used method by all Moldovan organizations due to the rather low possibilities that sponsorship, business activities and individual donations were offering until recently as well as due to the bigger effort the use of this method implies.

Requests or proposals for funding are addressed to a funding organization that can be a foundation, an association, a government or international program. Most of the times, a request for funding aims at funding a program/project/activity, procuring goods, supporting current operations or developing an organization.

2. Direct mail. Direct mail is a letter addressed to a potential donor, individual or legal entity. It explains the reason why financial aid is being requested and the amount requested. It contains an answer form or other means by which the donor can make the payment. In the USA and Western Europe this is one of the most widely spread fundraising methods. It is based on the availability and possibility to donate of individuals, business sector, personalities etc.

3. Business activities. From the angle of the legal conditions for carrying out such activities, there are two main methods:

- carrying out business activities through a CSO. For this, before starting this type of activity, the organization must announce its intention to the financial administration to which it belongs. The

accounts for this branch of activity must be kept separately from the other sources of income of the organization and will be reported separately to the financial administration. Fortunately, the current legislation is extremely favorable to CSOs. The existing legislation has this activity on its basis.

- **carrying out activities through a business operator.** According to the law, nongovernmental organizations, either associations or foundations, are entitled to establish business companies. The purpose of the business companies is to make profit that can be directed to the needs of the organization.

If the organization decides to use one of the above-mentioned methods for raising funds, it must bear in mind that from that point on it will have to observe the market laws. It is very possible that, instead of gaining money, it may lose money, make wrong investments, or be unable to recover its costs. It is strictly necessary that this branch of activity be treated very seriously, as a business. In this area, amateurishness may mean creating serious conflicts within the organization, the appearance of financial crises or even the disappearance of the organization.

In order for the activities the organization carries out to not have a negative impact on its image, it would be good for them to be as directly as possible related to the activity profile of the organization, otherwise, it should be often specified that all the revenues would be used for the organization's benefit.

4. Special events. Special events are nothing but occasions to request funding. They give to people the chance to meet and have fun and to the organization – a chance for publicity. One can both make money but also have the feeling of an achievement as a result of a special event.

The ideal event is the one that allows you to raise funds, pass on a message and also offer something for the soul. The primary goal of course is to raise funds for the organization. Careful planning and good estimation of costs and revenues will enable you do this. The second goal is to pass on a message. The way you organize the event, the speeches that will be delivered, the handouts you will distribute, the manner your team will act will help you achieve this one. Types of special events: balls/ dinners/ parties; fairs/raffles/tenders; shows/concerts; stays/cruises/excursions.

5. 'Face to face' or 'door to door' campaigns. This method implies an individual contact with the people, potential beneficiaries or taxpayers. It is actively used by CSOs, including in Moldova. Most often, this method is used to raise contributions for the funding of social infrastructure projects in rural areas.

6. Anonymous fundraising. One of the most popular methods of anonymous fundraising is donation boxes. In Moldova, in supermarkets or in public places, we can see transparent donation boxes of all sizes by which CSOs or other public and private institutions raise funds for various philanthropic or charity goals. Practice shows that in Moldova private donors in most cases prefer to make anonymous donations. Such donations have a high risk of tax evasion and embezzlement in the absence of clear regulations on money collection.

7. New methods. With the extension of the new technologies, especially of the Internet, new methods have been developed that serve as useful tools for fundraising by CSOs. They include:

- Credit/debit card online donations,
- Crowd-funding;
- Phone call and SMS donations;

- Specialized fundraising websites or platforms;
- Pay terminals;
- Web money.

In addition, many CSOs use Internet channels and social networks, such as Facebook, LinkedIn, YouTube, Odnoklassniki or Twitter to promote their activities and campaigns. Social networks also make such donation possible through a ‘donate button’ posted to their profile.

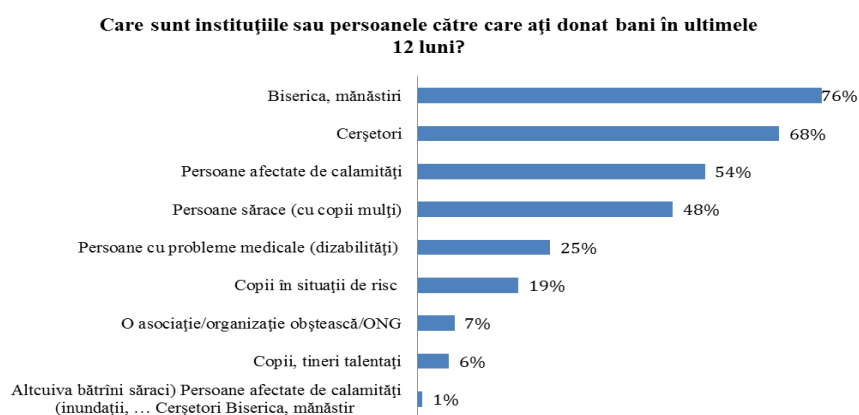
1.3. DONORS’ MOTIVATION

Regardless of the fundraising methods used, CSOs must take into account the specifics of their country, region or community and, not in the least, the motivation and needs of the potential donors both from the private sector and of those from amongst individuals.

According to the study “Philanthropic behavior,”⁵ conducted by IMAS in 2010, the donors’ preference is clear – “I prefer to give the money directly to the person, I prefer to see to whom I make my donation.”

In the same study, to the question – “Which are the institutions or persons to whom you have made donations in the past 12 months?” 76% answered ‘to the church’ and 68% - ‘to beggars’. At the same time, only 7% of respondents made donations to CSOs.

Figure _⁶

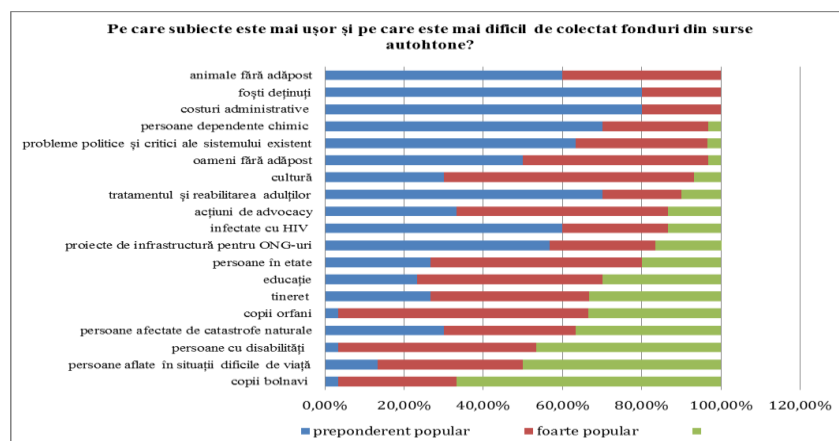


Our survey for the most part confirms these data. It is much easier to raise funds from domestic sources for social issues and for persons who represent certain social categories. CSO projects, their administrative costs, advocacy activities are not a priority.

Figure _

⁵ <http://fhi360.md/docs/23%20Studiul%20Comportamentul%20filantropic%20C3%AEEn%20Republica%20Moldova,%20EveryChild.pdf>

⁶ <http://fhi360.md/docs/23%20Studiul%20Comportamentul%20filantropic%20C3%AEEn%20Republica%20Moldova,%20EveryChild.pdf>

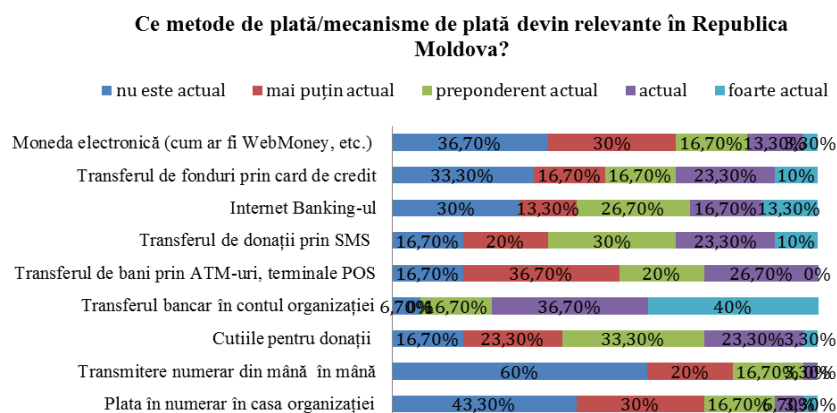


1.4. TRANSFER/PAYMENT METHODS

In order to make the fundraising success bigger and effective, CSOs use new and modern methods of money transfer from donors and sponsors. Special popularity is gained by the donations made using credit cards, which requires more transparency in the organization's financial and management operations. Cash donation methods are still used but they require special reporting and do not enjoy people's trust.

Our survey shows that CSOs prefer transparent transfer methods (using credit cards or bank transfers). The new transfer methods via SMS, POS terminals, Internet etc. are also becoming very popular with the organizations. The 'from hand to hand' collection of money is used by CSO increasingly rarely and loses popularity.

Figure _



1.5. DEVELOPING FUNDRAISING FROM DOMESTIC SOURCES

The study results show that domestic sources tend to grow constantly in the budget structures of certain CSOs and may play an important role in their financial sustainability. On the other hand, fundraising from domestic sources is not so popular and requires an additional effort from CSOs. One of the major problems is the cost-effectiveness of fundraising activities from domestic sources. Often, the investments in fundraising campaigns exceed the revenues collected. According to 80% of study participants, it is impossible to cover administrative costs and maintain the organization from

domestic sources. The lack of necessary knowledge in fundraising of CSO leaders in most cases leads to using standard or classical methods that do not bring the expected results. One must also note the low level of trust of CSO constituents and beneficiaries in them. As a result, only 7% of the respondents in a study conducted by IMAS in 2010 donated money to CSOs.

In order to enhance the share and importance of domestic sources in the fundraising by Moldovan CSOs, it is necessary to do the following (*According to the recommendations of the participants in the presentation of this draft study*⁷):

1. Publicize philanthropy among CSO constituents and beneficiaries.
2. Publicize fundraising from domestic sources among CSOs.
3. Create platforms of CSOs interested in domestic fundraising.
4. Promote good practices in domestic fundraising.
5. Increase CSO capacities in using new fundraising methods.

CHAPTER 2. LEGAL REGULATION OF FORMS OF FUNDRAISING BY CIVIC ASSOCIATIONS

The survey conducted within this Study (presented in Chapter I) revealed that one of the major problems faced by Moldovan noncommercial organizations is the legal framework on fundraising that is unclear, containing gaps, and hard to interpret. This chapter analyzes the legal provisions on fundraising methods, with the emphasis put on *philanthropic donations and sponsorship* as well as on the methods of *public fundraising or development of economic activities*.

*The Civil Society Development Strategy*⁸ for 2012-2015 provides as main goal the *promotion and strengthening of the financial sustainability of the civil society*, which results in establishing adequate mechanisms for assuring their financial viability. The Strategy provides as objectives: encourage the participation of citizens and of the private sector to support the civil society by establishing a tax support framework more favorable for the civil society through *percentage philanthropy and tax benefits for economic activities*; strengthen the access to *social contracting* (develop an adequate normative framework and strengthen the LPA and CPA in this sense); create mechanisms for *having the civil society supported by the state*; capitalize the *national accounting and financial reporting standards*; enhance the *donation deduction* mechanism and extend it onto individuals. According to the Monitoring Report of the Civil Society Development Strategy for 2012-2015⁹, these actions have been partly implemented by the authorities, which of course has a negative connotation on the rapid development of the long-term financial viability of Moldovan NGOs.

The problem of financial sustainability of Moldovan NGOs is an older one. The biggest difficulty resides in the limited capacity of NGOs to develop and apply fundraising mechanisms, insufficient human resources in this area, lack of experience and of internal fundraising strategies etc. but also in the unclear legal framework, lack of efficient mechanisms for accessing state, local or private

⁷ Presentation of draft study "Fundraising from Domestic Sources," 2 February 2016. There participated 48 persons from various Moldovan CSOs, authorities, and donor institutions.

⁸ Law no. 205 of 28 Sept 2012 on approving the Civil Society Development Strategy for 2012–2015 and the Action Plan for implementing the Strategy, Official Monitor No. 1-5 of 4 Jan 2013 <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=346217&lang=1>

⁹ Report for monitoring the Civil Society Development Strategy for 2012 – 2015 http://www.fhi360.md/docs/raport_2.pdf

funds¹⁰. The *Ombudsman's Report on Monitoring the Level of Cooperation Between the State and Public Benefit NGOs That Provide Social Services to Socially-Vulnerable Layers (2015)* confirms this: “CSOs basically carry out their activities based on donation and grants from outside.” Therefore, there are periods when, due to the lack of grants, they do not have the possibility to continue their normal activities.¹¹ The same finding is confirmed by the *Index of Development of the Civil Society for 2014*¹², according to which the main source of funding for the NGOs continues to be the external one that accounts for 80%-85% of the organizations' budgets, according to NGO and donor reports. Thus, even though the situation with the use of various fundraising mechanism by CSOs has improved, the vast majority of them in Moldova are still dependent on grant funds. It is important to note that although ‘grants’ from donors and development partners represent the most important source of revenue for Moldovan CSOs, the national legal framework does not define the concept of ‘grant’.

According to the international good practices, fundraising by CSOs is regulated by *national laws* but also by *self-regulation rules of noncommercial organizations*, such as e.g. Codes of Ethics.

National legislation. In Moldova, the Law no.837-XIII of 17 May 1996 on Civic Associations¹³ (hereinafter Law no.837) provides in Art.27 that “*the civic association may own any assets necessary for the material provision for the activities provided in the association's statute including intellectual property objects (inventions, models of utility, plant varieties, integrated circuit topographies, names of origin of products, marks of products and services, industrial drawings and models, literary works, trade secrets (know-how) etc.)*.” The same law establishes that the civic association may own enterprises, organizations, institutions (including printing houses), locales for charity activities, implemented or purchased from the association's means in accordance with its statutory goals and tasks. Owner of all assets of the civic association is the association while the individuals, members of the civic association, do not have ownership rights over the assets. Art.24 of the Law no.837 additionally stipulates the right of noncommercial organizations to participate in national and international contests in view of obtaining social orders and donations from the state as well as in view of obtaining grants and stipends from other countries, from national, foreign and international foundations and organizations and from private individuals. The Law no.581 of 30 July 1999 on Foundations¹⁴ lists in Art.9 para.(4) the sources for forming the common property of civic organizations: contributions of the founders, donations of individuals and legal entities, grants, revenues from the activities of the foundations and of the companies established thereby, the means incurred from accumulations of resources (fundraising campaigns, organizing cultural, sport, recreation etc. activities). In conclusion, Art.28 stipulates that the property formation sources are:

- *entry and membership fees*¹⁵;
- *donations and grants*;
- *collections from organizing public lectures, exhibitions, lotteries, tenders, sport and other kind of activities*;

¹⁰ http://www.csdialogue.eu/sites/default/files/civil_society_mapping_csdp_spring_2015.pdf

¹¹ http://www.ombudsman.md/sites/default/files/raport_ong.pdf

¹² http://management.md/wp-content/uploads/2015/07/Indexul-sustenabilitatii-OSC-urilor_2014.pdf

¹³ Official Gazette no. 153-156BIS din 02.10.2007 <http://lex.justice.md/index.php?action=view&view=doc&id=325424>

¹⁴ <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=311692&lang=1>

¹⁵ According to Art.28 of the Law on Civic Associations, civic associations are entitled to establish and use *entry and membership fees*. In practice, this norm interprets establishing membership fees as an obligation when the organization's statute is developed. Most of the times, the statutes of civic organizations include clauses on the entry and membership fees. Acts of incorporation may provide for the periodicity of payment of such fees, fixed or conventional amount, their use, manner of payment etc. Practice shows that such fees are symbolic and do not cover the financial needs of the noncommercial entities that from an accounting point of view are assigned to special purpose funds and so are not subject to taxation according to point 5 of the Order of Ministry of Finance no. 188 of 30 Dec 2014¹⁵.

- *income from economic activities;*
- *income from legal civil acts;*
- *income from external economic activities;*
- *material and financial means donated by sponsors and philanthropists;*
- *funds from percentage designations.*

In the analysis that follows in this chapter, the authors aimed to analyze the following forms of fundraising established in the national legislation:

Revenue generating activities	<ul style="list-style-type: none"> - Collections from activities organized by a civic association (e.g. public lectures, exhibitions, lotteries, tenders, sport and other kind of activities); - Income from one's own economic activities; - Income from external economic activities (carried out by companies founded by CSOs); - Income from civil legal acts.
Philanthropy and sponsorship	<ul style="list-style-type: none"> - Philanthropic donations and sponsorship offered by individuals and legal entities; - Non-philanthropic donations.
Public funds and benefits	<ul style="list-style-type: none"> - Donations and grants¹⁶ (state donations, social orders, services contracts etc.); - Percentage designations (the 2% mechanism),

Self-governance of CSOs and transparency norms promoted by them. The international practice proves that self-governance of the civil society environment plays a special role in fundraising and especially from individuals and legal entities. The civil society from a number of countries have established clear rules and standards that CSO observes on maintaining the society's trust in noncommercial organizations, thus having increased access to various types of funding. The rules are especially used in the fundraising area, where it is necessary for the CSO to prove credibility before the potential donors. The rules can be established in codes of ethics that the CSO commits to observe based on the reciprocity principles, either promoted by awarding prizes for transparency and accountability or through mutual monitoring mechanisms, etc.

In 2009, the National CSO Forum approved the Code of Ethics¹⁷ of Moldovan nongovernmental organizations. The management body of the nongovernmental organization decides to accept the Code of Ethics. The information about the acceptance of the Code must be sent to the Secretariat of the CSO Board and registered in the database. In reality, there is no information about the number of organizations that have accepted the Code of Ethics. It results from the discussions of NGO leaders that this adopted Code is a good and comprehensive document but unfortunately it is not relevant for many CSOs from the country. The Code provides that CSOs must observe certain very tough rules and internal policies, to be approved by internal and statutory documents, which is very difficult to achieve in reality. A simpler modality is that certain CSOs develop internal policies in preventing conflicts of interests and assuring the organization's transparency.

In 2012, the CONTACT Center organized the "Best Practices Gala" to promote NGO transparency.¹⁸ Organizations from various areas and regions were awarded prizes for different categories in the Gala. The Gala aimed at awarding prizes and promoting the practices and positive examples of CSO transparency as well as at stimulating the adoption of the principles of transparency, ethics and good governance by the entire associative sector.

¹⁶ Although the concept of "grant" is not defined, in practice this term is used in the sense of "unconditioned donation"

¹⁷ <http://www.consiliulOSC.md/code-of-ethics/>

¹⁸ <http://www.contact.md/transparency/>

Even if the civil society makes efforts to establish self-governance rules, the situation does not change radically. According to the Public Opinion Barometer,¹⁹ produced by Public Policies Institute in April 2015, the CSO trust is 24%, by 1% less than in 2013 and by 2% less than in 2014. The findings presented by the *One World Trust Database* on self-governance initiatives confirm that, of the states included in the study, only Moldova and Ukraine do not have such efficient mechanisms.²⁰

Extract from the Survey conducted within this Study (Chapter 1)

<p>To the question: “Which are the biggest impediments you encounter when raising funds?”, the survey participants gave the following answers:</p>	<ul style="list-style-type: none"> - The 2% law hasn't been passed; the draft law is mimicking the process by the authorities. - Excessively bureaucratic regulations, excessive reporting requirements. Many times, businesses do not make donations or donors do not enjoy the 'benefits' they are entitled to because the accounting mechanism poses many difficulties. Businesses prefer to not provide financial support or to provide it without showing it in their accounting due to the problems that may arise in the communication with the tax authorities. - Taxation of the material aid for disfavored persons and of the pay for volunteers. - Lack of granting mechanisms at the local level. High administrative costs, analogic to the private sector. - We cannot issue a receipt for the products we sell; it is necessary to have quality and hygiene certificates for selling our food products. - Poverty, most of the population is not motivated to donate. Lack of desire to do charity, carelessness to the problems of others. Minimal level of empathy, irresponsibility for the future of disabled children, lack of trust in the empowerment and rehabilitation of persons with special needs.
<p>Survey participants' answers to the question: “What should be amended in the legal framework (including the Tax Code) to facilitate/enhance the efficiency of fundraising for CSOs?”</p>	<ul style="list-style-type: none"> - Clarify the legal mechanism on the donations granted to CSOs. Eliminate administrative impediments and simplify the reporting of donations by businesses. - Harmonize the provisions of the Tax Code and of the Law on Philanthropy and Sponsorship. Facilitate the implementation mechanism, so that the fundraising and philanthropy practice is widely known and used. - Grant tax benefits to the businesses/individuals who sponsor philanthropic organizations. Exclude the legal provisions according to which legal entities must pay the income tax on the donations made by them. Legal entities should be granted the same benefits as the individuals in order to discount the sums offered as donation. - Develop a coherent bookkeeping system. - Develop a clear procedure for supporting social entrepreneurship. - Develop the 2% mechanism.

2.1. REVENUE-GENERATING ACTIVITIES

The legal framework does not favor establishing companies by CSOs and does not facilitate their activities due to the lack of a privileged tax mechanism. The Tax Code permits tax exemption of the economic activities implemented by the CSOs; however, in 2015 state institutions have been promoting a practice that is incompliant with these provisions. Social entrepreneurship is not encouraged through supportive regulation and CSOs are not motivated to diversify their revenues using this method of activity.

The Law on Civic Associations provides that the revenue-generating sources for CSOs are:

- collections from *activities organized by the civic association* (e.g. public lectures, exhibitions, lotteries, tenders, sport and other kind of activities);
- *Income from one's own economic activities*;
- *Income from external economic activities* (carried out by companies founded by CSOs);
- *Income from civil legal acts*.

¹⁹ http://ipp.md/public/files/Barometru/BOP_04.2015_prima_parte_finale.pdf

²⁰ One World Trust: A database of civil society self-regulatory initiatives.

The general rule applied according to the Moldovan legislation is that the civic association is required by Art.8 para.(2) letter c) of the Tax Code to keep its accounts according to the forms and manner established by the legislation, to collect money in cash using the devices and systems for recording cash operations, including to carry out its activities according to the *List of types of activities* whose specifics allows collecting money in cash without using cash and control machines. According to the Civil Society Development Strategy, there have been developed and approved *accounting and financial reporting standards for CSOs*, established by the Methodical Instructions on the Specifics of Bookkeeping in Noncommercial Organizations, approved (in new version) by Order of the Ministry of Finance no.188 of 30 Dec 2014²¹ and CSOs must comply with these provisions. Thus, noncommercial organizations must use double-entry bookkeeping and submit their financial statements in accordance with the main principles and rules established in the Law on Accounting, National Accounting Standards, General Chart of Accounts and other legal acts (more details on this can be found in the *Specifics of Financial Management and Bookkeeping in Noncommercial Organizations*, paper written by Alexandru Nederița and Tatiana Prisacari)²².

Tatiana Prisacari, member of the working group under the Ministry of Finance for drafting amendments to the Methodical Instructions for CSOs, expert in financial management of noncommercial organizations, stated the following for FHI360²³: “... *there have been developed reporting forms for CSOs and instructions on how to fill them in, which is integral part of the Methodical Instructions. In addition, certain conceptual changes have been made to the Methodical Instructions on the registration of income. According to the previous version of this document, the non-designated (unconditioned) collections of CSOs (grants, donations, both financial and material) from various donors – individuals and legal entities – had to be shown as income. Now they can be shown as special means for noncommercial purposes of the organization, which it subsequently must use exclusively for its statutory purposes.*”

Economic activities carried out directly by CSOs. The Civil Code in Arts.187-188 establishes that noncommercial organizations can conduct any type of activity that is not forbidden by the law, including economic activities, *carried out for the purposes established in their statute*. According to Art.26 para.(1) of the Law on Civic Associations, the civil association is entitled to carry out *economic activities that result directly from the purposes set out in their statute for implementing their statutory tasks*. Thus, an economic activity undertaken by the CSO must result from its statute (the statute must have a clear provision on the carrying out of economic activities) and end with investing the revenues collected into its activities and tasks.

The noncommercial organization is entitled to buy property that is necessary for carrying out technical-scientific, pedagogical, cultural-educative, sport and treatment activities. The economic activities may take different forms: trainings, provision of services (including legal ones), seminars, sale of goods etc. According to the 2013 Civil Society Index²⁴, in 2013, CSOs requested higher prices for their paid services that mainly consisted in trainings, consulting, analysis of public policies etc. Few CSOs provided services that were not in accordance with their missions, such as renting out of training rooms. According to the above-quoted source, service provision improved in 2014, these are free legal services provided in isolated areas, palliative care services, education and training

²¹ Official Gazette no. 11-21 din 23.01.2015 <http://lex.justice.md/md/356357/>

²² <http://www.fhi360.md/index.php/ro/resurse/materiale-resursa.html>

²³ <http://www.fhi360.md/index.php/ro/component/content/article/417-2015-02-24-11-25-17.html>

²⁴ <http://www.fhi360.md/docs/INDEXUL%20SUSTENABILIT%C4%82%C5%A2II%20ORGANIZA%C5%A2IILOR%20SOCIET%C4%82%C5%A2II%20CIVILE%202013%20%E2%80%93%20REPUBLICA%20MOLDOVA.pdf>

services for various social groups, including efforts for informing the youth about HIV/AIDS and Roma communities about the social services available.

In order to carry out economic activities, the civic association must: have a bank account and a cash and control machine, be registered with the territorial tax office, obtain licenses (when the activity requires a license), be registered with the National Bureau of Statistics, National Social Security Company, National Health Insurance Company and have the necessary authorizations from the local public authority, Preventive Medicine Center (sanitary authorization), Emergency Situations Division (observance of anti-fire requirements) All this must be done in accordance with the Law on the State Registration of Legal Entities and Individual Entrepreneurs.²⁵

Art.28 of the Law on Civic Associations establishes that the revenues made by a civic association from economic activities cannot be distributed among the members of the association and shall be used exclusively for reaching its statutory goals and tasks. However, it is allowed to use the revenues for philanthropic purposes, even if this is not stipulated in the organization's statute. Thus, and CSO may act as a philanthropist according to the Law on philanthropy and sponsorship and make philanthropic donations from its funds/goods. For its bookkeeping, the noncommercial organization must observe the Methodical Instructions on the Specifics of Bookkeeping in Noncommercial Organizations, approved by Order no.188 of 30 Dec 2014 of the Ministry of Finance²⁶(described above).

Although according to the provisions of the Tax Code (Art.52 para.(2)), civic associations are exempted from taxes and duties if they carry out economic activities exclusively aimed at achieving their statutory goals and tasks, in 2015 there were held discussions about the possibility of amending the Tax Code and including the requirement for paying the income tax for economic activities. CSOs must comply with the Tax Code provisions that clearly stipulate the exemption from the income tax for the activities carried out in accordance with the organization's statute.

By income from legal civil acts, the legislator meant concluding various contracts, such as for leasing out land plots owned by CSOs, and any other civil contracts that can bring revenues to the CSO.

Indirect economic activities by CSOs via a legal entity having a working purpose. According to Art.24 letter g) of the Law on Civic Associations, the CSO is entitled to carry out economic activities resulting from its statutory goals, including with the help of business companies and cooperatives, created for this purpose. In Art.28, the same law sets out the possibility for CSOs to practice an economic activity that does not directly result from the goals stipulated in the statute. For this, they may found *business companies (LTD, JSC), cooperatives (entrepreneurship cooperatives, production cooperatives), limited partnerships, and general partnerships*. The companies founded by civic associations make tax payments to the public budget in the manner and size established by the legislation, having the obligation to have a cash machine or to make payments via bank transfers. Unfortunately, the tax regulations in force do not establish any differences between a company founded by a CSO and a company founded by any other legal subject (individual or legal entity). Civil society leaders claim that indirect economic activities by CSOs, via a legal entity, as a fundraising method is rather a myth than reality because it is rather difficult for the company founded by an CSO to make profit and it does not have enough capacities to 'invest' into the activities of the founder CSO.

²⁵ Official Gazette no. 184-187 of 30 Nov 2007 <http://lex.justice.md/md/326009/>

²⁶ Official Gazette no. 11-21 of 23 Jan 2015 <http://lex.justice.md/md/356357/>

Art.26 of the Law on Civic Associations stipulates that in order to carry out economic activities, civic associations and the legal entities founded by them are required to obtain *licenses* for the activities to be carried out on a license basis according to the Law on Licensing Certain Types of Activities.²⁷ Both the civic organizations and the economic entities founded by them shall respect the legal requirements on the manner of carrying out each type of activity equally to any other private economic provider. CSOs must guide themselves by the Law no.845 of 3 Jan 1992 on Entrepreneurship and Enterprises²⁸ and Law no.220 of 19 Oct 2007 on the State Registration of Legal Entities and Individual Entrepreneurs.²⁹

Unfortunately, the State Registration Chamber under the Ministry of Justice does not keep records on the companies founded by CSOs in Moldova and therefore it is difficult to calculate at present the total turnover registered by such companies and the subject matter of their activities. Nonetheless, due to the online general tool of transparency of the founders of legal entities having a working purpose that is available online – date.gov.md (launched in September 2015)³⁰, it is possible to analyze the trend of the economic activities carried out by CSOs via the companies founded by them.

From the point of view of the tax regulations, economic activities are taxed by 7% or 18%, according to Art.15 of the Tax Code. Thus, taxes are imposed on the activities that do not derive directly from the statutory goals of a CSO, the activities carried out by the companies founded by CSOs, and any other sources, except for the non-taxable income sources, regulated in Art.20, Tax Code. Exception to this rule are the *civic associations of persons with disabilities*. They are entitled to establish specialized companies in order to use the labor force of the persons with disabilities, in accordance with the Law no.821 of 24 Dec 1991 on the Social Protection of Disabled Persons.³¹ According to Art.53¹ of the Tax Code, the companies established by the associations of blind, deaf and disabled persons are exempted from the income tax if they are established to achieve the statutory goals of such associations and not less than 50% of the total number of staff are persons with disabilities (Art 26 para.(3) of the Law on Civic Associations).

The social entrepreneurship. Currently, in Moldova, there is no legal definition but specialists define this as a *“lucrative activity whose objectives are basically social and whose excess/profit are reinvested for achieving this goal into this type of lucrative activity or for the benefit of the community.”*³² The development of the social entrepreneurship is a stringent need that CSOs have been reiterating for quite some time in their dialog with the governmental authorities. In this sense in 2013, a group of CSOs prepared a draft law on the social entrepreneurship. The draft law was subject to repeated discussions in 2015 but unfortunately the promotion of this initiative has been very cumbersome. The sad finding is that the draft laws prepared on the social entrepreneurship platform evolve in Moldova only with the support of foreign donors. According to the *2014 civil society organization sustainability index*, in 2014, the East-European Foundation of Moldova allocated 300,000 US dollars for financing nine CSOs in developing the social entrepreneurship (Eco-Răzeni (Răzeni, Ialoveni), Association of Business Women of Bălți, the Habitat Agency – Rezina, the “Motivație” Association – Chișinău, the Women’s Club “Inspiratie” (Oxentea, Criuleni), the Association “Mara Women”, the Youth Resource Center “Dacia” of Soroca, the Association

²⁷ http://lex.justice.md/document_rom.php?id=88344A82:9250E886

²⁸ Parliament’s Gazette no. 2 of 28 Feb 1994 <http://lex.justice.md/viewdoc.php?id=311735&lang=1>

²⁹ Official Gazette no. 184-187 of 30 Nov 2007 <http://lex.justice.md/md/326009/>

³⁰ <http://www.date.gov.md/>

³¹ Official Gazette no.8 of 24 Dec 1991 <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=312881>

³² Report on researching the legal, accounting and fiscal aspects related to establishing social enterprises, Moldauiding, East-European Foundation

“Dorința” of Călărași, the Foundation “Keystone International Moldova”). Keystone Moldova offered small grants, of EUR 2,000, for opening businesses to a number of beneficiaries. According to the practice of the East-European Foundation, CSOs had to amend their statutes and expressly specify that they can carry out economic activities in order to develop the social entrepreneurship platform.

In September 2015, the European Center for Non-for-Profit Law (ECNL) developed a policy paper³³ on the regulation and the need to assure an enabling environment to social enterprises. One of the paper’s conclusions is that “...*social entrepreneurship has an increasing economic and social value for the national markets. Governments around Europe recognized this trend and boost the development of social entrepreneurship through supportive laws that create enabling operational conditions for social enterprises. Besides that, countries may support the development of social entrepreneurship through direct and/or indirect state benefits or adoption of other policy measures...*” To note that encouraging and stimulating social entrepreneurship is a backlog of the national authority in implementing the Civil Society Development Strategy.

Reporting and accountability. The revenues made from economic activities by CSOs and activities carried out by the companies founded by CSOs must be shown in *the balance sheet* and in *the annual financial report*. Reporting requirements are stipulated in Arts.29, 32, 33, including in case of reorganization or liquidation in Arts.34-35 of the Accounting Law 113/ 27 April 2007³⁴. The revenues are to be shown in the *annual income declaration of the civic organization*. If the CSO fails to observe the above-mentioned provisions, it may be held liable in accordance with the administrative or criminal legislation, as necessary.

**Recommendations
for the public
authorities:**

- corroborate the provisions of the national legal framework on imposing taxes and duties on noncommercial organizations;
- revise the fiscal policy for the companies founded by civic organizations and establish the incentives necessary for encouraging economic activities. Develop and publish annual statistics for the companies created by CSOs;
- improve the dialogue between CSOs and CPA/LPA;
- have the concept of social entrepreneurship finalized by working group and develop coherent and supportive measures in this area.

³³ Policy paper http://ecnl.org/wp-content/uploads/2015/10/ECNL-Comparative-analysis-on-regulation-of-SE_ROM.pdf

³⁴ Practical-methodological guide on the specific features of organization of financial management and bookkeeping in noncommercial organizations <http://www.contabil.md/media/PDF/RO/ECNL%20Anexe%20Ghid%20privind%20ONG%202.pdf>

Recommendations for the civic organizations:

- develop internal strategic plans for fundraising and develop internal resources responsible for this;
- develop efficient internal mechanisms for collecting entry fees and memberships fees and efficiently administer such resources (e.g. establish reasonable amounts for taxes and fees, establish member benefit if the fees are paid etc.);
- enhance the CSO's internal capacities in administering the economic activities, if it carries out such activities (develop internal anticorruption and conflict of interest prevention policies, market research, acquire skills and knowledge in company management etc.);
- revise the CSO Code of Ethics, approved by the CSO Forum, to make it accessible and acceptable to most Moldovan CSOs.

2.2. DONATIONS. PHILANTHROPY AND SPONSORSHIP

? *Noncommercial organizations encounter difficulties with interpreting the legal framework on philanthropy and sponsorship. The bureaucracy and insecurity of sponsorship and philanthropy acts leads to lack of CSO initiatives of requesting this kind of support and to a lack of openness from the business/individuals to accept such requests. CSOs are not informed and they invest limited resources in raising funds through the philanthropy/sponsorship mechanism; they have limited specialized fundraising human resources; most of the times, it's their executive director who is responsible for doing this.*

Survey data (Chapter 1)

% *Letters to donors:* 31.8% of respondents think that this method is less modern / 18% think it is modern;
Donation boxes: 31.8% of respondents think this method is not modern; 13.6% think it is very modern;
Payment terminals: 0% of respondents think it is modern/ 16.7 % think it is less modern.
Telephone SMS: 10% of respondents think it is very modern / 30% think it is mainly modern.

From a practical point of view, it is necessary for civic associations to clarify which are the fundraising methods from external sources, both *individuals* and *legal entities*. The most widespread forms of fundraising from individuals and legal entities are *donation* and *sponsorship*.

The *donation*, form regulated by the Civil Code, can be classified by:

1. purpose: donation with a *philanthropic purpose* and donation *without a philanthropic purpose*;
2. form: *open donations* (through a donation contract/another document that certifies the donation) or *anonymous donations* (donation boxes, donations raised through public events, via payment terminals etc.).

Sponsorship, activity regulated by the *Law on Philanthropy and Sponsorship*, can be carried out under a sponsorship contract to use the funds for the purposes stipulated by the said law.

Unfortunately, the Moldovan legislation does not clarify enough the difference between sponsorship and philanthropy. According to the international practice, philanthropy can be defined³⁵ as “private, voluntary donation made for public purposes.” So, this is a voluntary act, made with the intention of making a ‘gift’/‘donation’; a private act for granting money or time to a private person for a public cause without waiting for a compensation/reward for this.

³⁵Bullain, Nilda: Explaining Percentage Philanthropy: Legal Nature, Rationales, Impacts. 2004 http://www.icnl.org/research/journal/vol6iss4/art_3.htm.

Sponsorship can be defined as a contribution made in cash or in a different form to an organization in exchange of an act of gratitude to the sponsor. Sponsorship aims at reaching certain business objectives, e.g. promoting the sponsor. In case of Macedonia,³⁶ its law on donations and sponsorships for public activities defines sponsorship as *“a financial payment made on a voluntary basis, the giving of goods or provision of services for a certain project/activity, which allows for a benefit for the sponsor, such as promoting his name, logo, mark etc.”* The Macedonian practice proves that the donation does not create benefits for the donor or obligations for the grantee, while sponsorship creates a direct benefit for the sponsor. Art. 3 para.(9) of the above-quoted law also defines the concept of ‘promotion’ as a positive posting of the donor’s/sponsor’s name, logo or mark.³⁷

The Lithuanian Law no.I-172 of 1993 on Charity and Sponsorship³⁸ stipulates that: *“sponsorship is a voluntary and free act (except when the grantees have certain obligations stipulated in Art.8), made by sponsorship providers to the sponsorship beneficiaries for the purpose and in the form stipulated by law, including the situations when sponsorships are made anonymously or in another form in which the sponsor’s identity cannot be established.”* Art. 8 of the Law stipulates: *“when a sponsorship act is made, the beneficiary of the sponsorship can have certain obligations to the sponsor according to the procedure established by the Government or by an institution authorized thereby,”*³⁹ which can be the obligation to post the sponsor’s logo or symbolics on the webpage of the beneficiary organization.

Extract from the Survey conducted within this Study (Chapter1)

To the question:
“Which are the main challenges you have faced during fundraising from individuals and the private sector?”
the survey respondents gave the following answers:

- The amount of donations is insignificant. Minimal responsiveness from the persons we contacted. The donation culture is missing. Reluctance to settling the social cases for which funds were being raised.
- Donor’s lack of trust in the fact that the money would reach the destination. Low credibility to CSOs.
- Lack of reliable benefits from the state that would support acts of donation.
- The economic crisis. The low incomes of a very large part of the population makes it impossible to raise substantial funds; people rather accept to donate goods and groceries. It is difficult to find people that would be interested in helping CSOs.
- The absence of persons responsible for fundraising in the organization. A fundraising mechanism is not established in the organization. Lack of qualified staff to organize big events. This activity implies many human and financial resources but the results are minimal, the amounts raised are small.

DONATION. From a practical point of view, it is necessary to make distinction between *a donation without philanthropic purpose* and the *donation for a philanthropic purpose*. According to point 3 of the *Regulation on the Manner of Confirmation of Donations for Philanthropic and Sponsorship Purposes*⁴⁰, donations made for philanthropic/sponsorship purposes are made in favor of: (1) the public authorities and public institutions funded from the national public budget; (2) *noncommercial organizations* registered in accordance with the legislation in force; (3) trade unions and employers organizations and (4) in favor of family-type children’s homes. Although the definition of the

³⁶ Tax law affecting philanthropy in the countries of south Europe (2013)

<http://faktcg.org/files/TAX%20LAWS%20AFFECTING%20PHILANTHROPY%20IN%20THE%20COUNTRIES%20OF%20SOUTH%20EUROPE.pdf>

³⁷ ECNL, Konekt: Implementation Guide to the Law on Donation and Sponsorship in Public Activities, 2015, available at: http://donirajpametno.mk/wp-content/uploads/2015/06/Broshura-impl.guide_MKD.pdf.

³⁸ http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=281044

³⁹ Law No. I-172 on Charity and Sponsorship from 4 June 1993, available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=281044

⁴⁰ Government Decision no. 489 of 4 May 1998, Official Gazette no. 62-65 of 9 July 1998
<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=296381>

donations without a philanthropic goal is not regulated, we deduce that these are any types of donations that comply with the criteria established in the Civil Code but that do not necessarily aim at supporting philanthropic activities.

Although the tax regime is different, e.g. in case of philanthropic donations the donor enjoys tax deductions, from the point of view of the legal procedures, in both cases, the civil provisions on the *donation contract* are applied. Donor can be any person, both an individual and a legal entity, who has full legal capacity (can conclude legal acts). According to the Civil Code,⁴¹ civic associations, being legal entities with full legal capacity, acquire the right to become subject of a donation contract both in the capacity of ‘grantee’ (the one who receives the donated good) and in that of ‘donor’ (the one who gives a certain good through donation).

The Civil Code establishes that the “*donation contract*” is a free act and its subject matter can be real and receivable rights (goods, real rights, exoneration of the grantee from a property obligation to the donor, the transmission of a receivable etc.⁴²). According to art.828 of the Civil Code, the donation contract is considered concluded from the moment of transmission of the asset that is the object of the donation contract. When donating goods, they must belong to the civil circuit (their movement should not be forbidden by law) and they must be part of the donor’s property (the donor should have the right to dispose of such goods).

In order for a contract to be valid, the donation contract must comply with the legal requirements regarding its *form*. Article 829 of the Civil Code establishes that if the object of donation is an asset for whose sale (alienation) a certain form of the contract is provided, the same form is required also for the donation. If the civil legislation provides, for certain categories of goods, for an authenticated form (written etc.) of the act through which the asset is alienated, then this form is used also for donations. For example, if a land plot is donated, the contract must be notarized and registered in the real estate registry within 3 months.

The Civil Code provides for the possibility to conclude a contract of *conditioned donation* (art.834). Thus, the parties may agree that the effects of the donation be conditioned on the performance of a certain task or on achieving a goal that can be of *public benefit*. The donation will be only the amount beyond the costs for performing the task or for reaching the goal. The legislation specifies that the performance of a task may be requested, in addition to the donor, by any person in whose interest the task is stipulated and if the donor does not perform the task, the donor may revoke the donation.

The Civil Code in Art.832 establishes *that a donation cannot be accepted*, except for the insignificant donation, in the following situations: in the name of incapable persons; owners, managers or workers of medical facilities, educational or social assistance and other similar institutions from the person who is in them or from the spouse or relatives thereof up to the fourth degree; in the relations among legal entities having a working goal, if the object of donation is real estate.

The Civil Code also provides for situations when the donation contract *can be declared void*: if the donor commits to transmit in the future his entire current property or a part thereof, without specifying the assets to be delivered; if the donation contract stipulates the obligation of the donor to

⁴¹ Official Gazette no. 82-86 of 2 June 2002 <http://lex.justice.md/md/325085/>

⁴² Civil law. Special contracts, Gheorghe Chibac, Aurel Băieșu, etc. Cartier 2005 pag. 84

pay debts or tasks that do not exist upon the conclusion of the contract, then the contract is void if the nature and scope of the debts or tasks are not stipulated in the contract; the contract that provides for the delivery of the asset after the death of the donor.

Art. 835 of the Civil Code provides also for situations when the donation contract *can be revoked*: if the grantee has attempted to the life of the donor or of a close relative thereof, if he is guilty of another illegal act committed by the donor or toward a close relative thereof, situations that attest serious ingratitude, or if on no grounds he refused to grant to the donor the maintenance owed. If the donation is revoked, the donor may request recovery of the donated asset. A donation can be revoked only *within one year* from the moment the one justified to revoke has learned about the reason for the revocation.

Open donation is when the donor's identity is known. He freely displays his will of donating a tangible good, an amount of money etc. Such donation acts are certified via a donation contract, cash order/payment order or another supportive document. For open donations, the donor may get a tax deduction on the donations made for holding supportive documents that can confirm his philanthropic actions. According to the national survey conducted by IMAS in November 2010 with the tile "*Philanthropic Behavior*,"⁴³ the donors' preference is clear –“I prefer to give the money directly to the person, I prefer to see to whom I make my donation;” other forms of donation, such as depositing money into a special box that is not supervised by anyone, sending SMS, buying charity products or services, phone calls etc. have a lower incidence.

Anonymous donations are not defined in the national legislation or at least the law does not explain what an anonymous donation means and the procedure for its implementation. From a practical point of view, these are any types of donations in which the donor's identity is not known. This type of donation is done through donation boxes, payment terminals, telephone SMS (when the identity of the telephone number is not known) etc. The national law does not explain how to make a donation using the above-said methods and the CSO that enjoys such donations observes certain practice established procedures:

- if *donation boxes* are used, although the law does not contain any provisions on this, in practice, CSOs observe the following procedure: a) an agreement of cooperation is concluded with the institution that 'hosts' the donation box (if it is located in a trade center, bank etc.) or the box is located in a public place, without supervision; b) when opening the donation box, a commission is set up of the members of the beneficiary CSO and minutes are prepared regarding the size of the amount raised⁴⁴; c) the amounts raised are reported in the CSO's income. Such sources are exempted from the income tax according to Art.52 of the Tax Code. Unfortunately, frauds can be committed or the exact reason that there is no mechanism in place to supervise such boxes and the CSOs themselves do not have clarity about such activities in their self-governance rules.

⁴³ <http://fhi360.md/docs/23%20Studiul%20Comportamentul%20filantropic%20%C3%AEn%20Republica%20Moldova,%20EveryChild.pdf>

⁴⁴ Sample minutes taken on the opening of a donation box can be found in the Practical-methodological guide on the specific features of organization of financial management and bookkeeping in noncommercial organizations, A. Nedeiță, T. Prisăcar, Chișinău 2013

Case Study

In Hungary, for example, at least two authorized representatives of the organization must be present to open the box. They must sign minutes about the content of the box and make sure that the funds will be registered according to the procedure.

In Slovakia, the Law on Public Collections,⁴⁵ in Art.9 provides for the use of fixed or mobile fundraising boxes. The law establishes that the fundraising institution must assure the security of the boxes against their being opened and money stolen. The institution must put on the box the name of the fundraising entity as well as the sign 'public collections,' number of registration of the collection, and the name of the administrative authority that registered the collection in the fundraising registry. If there are a number of boxes, the fundraising organizer will assign a specific number to each of them.

The fundraising entity must open the box within 15 days from the completion of fundraising according to Art.7 para.(1) letters c) and d). When opening the box, minutes shall be prepared to include the following information: name of the institution that organized the fundraising, the number of the decision of registration of the fundraising in the fundraising registry, the name of the administrative authority that approved the respective decision, the timeframe of the fundraising, the name of the locality where the fundraising took place, the total size of the contribution, the name and signatures of at least two individuals who are more than 18 years old and have full legal capacity. If there is more than one fundraising box, the minutes will include the specific number of each box. The fundraising entity is required to transfer the funds raised to a bank account within five days from the opening of the fundraising box.

In Ireland, the Charity Law (2009)⁴⁶ stipulates that, for fundraising, boxes shall be used that have a number assigned to them that is specified in the fundraising authorization and must be sealed unless the competent authority allows them to not be sealed. All the money must be dropped into the box in the presence of the donor. The fundraiser shall transmit the unopened box to the holder of the fundraising authorization or to the person authorized in this sense by the authorization holder. The box, when funds are being raised, must bear an inscription with the name and number of the charity organization in whose name the fundraising is taking place, and if the fundraising is done in the name of another institution, the box shall have its name written on it.

- when using donations *transferred via payment terminals (SMS, phone calls)*, again, there is no clear provision in place regulated by law but the following practice is observed: a) a cooperation agreement (contract) is signed between the CSO and the company that manages the payment terminal (the mobile telephone company); b) the transferred funds are collected and the company has the obligation (according to the agreement/contract) to assure the continuous transfer of the money to the CSO's accounts or to collect such funds and transfer them periodically to the CSO's account. For such service, the payment terminal managing company (the mobile phone provider) may collect a fee. The funds raised are shown by the CSO in its income. Such sources that are considered "CSO income" are exempted from the income tax according to Art.52 of the Tax Code (the person sending the SMS/calling shall pay the value added tax indicated by the mobile phone company that does the fundraising). The legislation does not set out the CSO's obligation to have a separate bank account

⁴⁵ <http://www.zakonypreludi.sk/zz/2014-162>

⁴⁶ <http://www.irishstatutebook.ie/eli/2009/act/6/section/94/enacted/en/html#sec94>

for raising such sources. It is necessary to study the international practice in this regard. For instance, the Czech law, amended in 2006, provides that the donor making a donation by SMS/phone call shall be exempted from VAT. Mobile telephone operators are required to apply this provision. When paying for the mobile/fixed telephone services, the SMS (call) by which the donation was made is excluded from the list of those incurring VAT. For prepaid services, the operator pays the VAT to the state in advance. When a donation is made by SMS, the operator will request a VAT return from the state by submitting the necessary documents.

- Donations made using the *online tools* (crowd-funding) are not expressly regulated in the national legislation either. Nonetheless, if the CSO uses this method, the funds raised on the collection bank account shall be shown as income and shall be exempted from the income tax under Art.52 of the Tax Code. As in the previous case, the legislation does not set out the CSO's obligation of having a separate bank account for raising such source.

For the donations made via bank services, it is necessary to consult the Law no.62 of 21 March 2008 on foreign exchange regulation⁴⁷ that in Art.15 provides that: "the donation is an operation of personal character." The Decision of the National Bank no.8 of 28 Jan 2010 for approving the Regulation on the Conditions and Manner of Conducting Foreign Exchange Operations⁴⁸ provides:

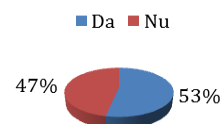
- point 45 establishes that the *resident individual* may transfer abroad, without submitting supportive documents, financial means in the form of donation that do not exceed 1,000 euros (or their equivalent): one-time transfer abroad in favor of a resident individual who is abroad; one-time transfer abroad in favor of a diplomatic mission, consular office or another official representative office of Moldova abroad; one-time transfer in favor of a non-resident individual/legal entity. Point 51 sets out that the *resident individuals* shall make payments/transfers in foreign currency in the territory of Moldova, without submitting supportive documents, in favor of residents in the form of a payment /one-time transfer in the form of donation that do not exceed 1,000 euros (or their equivalent).

- point 108 stipulates that *non-resident legal entities* can make non-cash payments/transfers abroad within foreign exchange operations without submitting supportive documents if they make one-time transfers as donations within foreign exchange operations that do not exceed 1,000 euros (or their equivalent) per transfer.

The Regulation also establishes that individuals may deposit money, including in the form of donations, that do not exceed 1,000 euros (or their equivalent), into the accounts of *resident legal entities* (point 138) and *non-resident legal entities* (point 140) for philanthropic or sponsorship purposes without submitting supportive documents.

PHILANTHROPY AND SPONSORSHIP. Donation is used both by legal entities and individuals as a tool for supporting the civil society. According to the national survey conducted by IMAS in November 2010⁴⁹, the donations to CSOs have ten times fewer donors than those who give money to the church. However, the corporate policy of certain companies with foreign capital in Moldova implies social commitments for philanthropic/sponsorship (in some cases, CSOs may file on the official websites of such companies online requests for obtaining the necessary support). According

Dvs. sunteți familiarizați cu
Legea cu privire la filantropie și
sponsorizare nr. 1420 din
31.10.2002



⁴⁷ Official Gazette no. 127-130 din 18.07.2008 <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=328534>

⁴⁸ Official Gazette no. 41-43 din 26.03.2010 <http://lex.justice.md/md/334112/>

⁴⁹ <http://fhi360.md/docs/23%20Studiul%20Comportamentul%20filantropic%20%C3%AEn%20Republica%20Moldova,%20EveryChild.pdf>

to a study of Expert-Grup, *Corporate social responsibility in Moldova: What can the Government do?*⁵⁰, philanthropy is usually done by legal entities occasionally, when funding requests come from CSOs or other social actors, or in case of a natural calamity. Unfortunately, Moldovan CSOs do not have vast experience in this area and companies prefer to create corporate foundations to carry out philanthropy/sponsorship. Thus, the area is poorly explored and CSOs have limited access to this type of funds.

In Moldova, philanthropy and sponsorship are regulated by *the Law no. 1420 of 31 Oct 2002 on Philanthropy and Sponsorship*.⁵¹ The law guarantees to all the persons the right to participate in sponsorship and philanthropy activities of their own choice, *individually or in association*. Any person is entitled to freely choose the purposes of the philanthropic and sponsorship activities as well as the forms of performing this activity but that must comply with the letter of the law. The state *guarantees and assures the protection of rights and legitimate interests* of the individuals and legal entities that participate in philanthropy and sponsorship (philanthropist, volunteer, beneficiary) and the responsible persons who impede such actions shall be held accountable accordingly. The Law no.1420, art.19 para.(3) establishes that the philanthropist and sponsor may provide support to the beneficiary in the following form:

- Disinterested assignment (free or in advantageous conditions) of possession, use and disposition rights on any goods that are objects of the ownership right, including on cash and/or objects of intellectual property;
- Disinterested execution and performance (free or in advantageous conditions) of works and services by philanthropists and sponsors—legal entities.

Unfortunately, Law no.1420 is extremely ambiguous and is not adapted to the current needs, with erroneous formulations and does not clearly regulate the manner of implementation of such activities. The difference between philanthropy and sponsorship is not clearly established; no provisions exist on the sponsorship/philanthropy contract; the goals of philanthropy/sponsorship are not adapted to the current needs; the mechanism for granting sponsorship and philanthropic support, the reporting mechanism etc. are not clearly regulated. All this leads to the fact that noncommercial organizations do not use these mechanisms, or use them very rarely (no statistics is available that would set out the number of CSOs or other beneficiaries). On the other hand, practice proves that the state institutions that according to the law can be beneficiaries of the philanthropic support use this tool e.g. for sending out letters of request for philanthropic support to small/big entrepreneurs. All this proves that the state does not have a clear policy on philanthropy and sponsorship in Moldova and displays rather a declarative attitude than sees the use of these mechanisms by CSOs.

PHILANTHROPY. Art.1 of Law no.1420 provides that “*philanthropic activity is the provision of voluntary, impartial and unconditional aid or the provision of free services by individuals or legal entities for a person (a group of persons) without asking for a compensation, payment or execution of certain obligations and without making a profit.*” It shall not be considered philanthropy the transmission of assets, money, and the provision of assistance to legal entities that *pursue a profit, support political parties* or are *social-political organizations* themselves.

⁵⁰https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=12&cad=rja&uact=8&ved=0CCQQFjABOApqFQoTCLzT5Miz9McCFcyFAod1CoBqg&url=http%3A%2F%2Fwww.expertgrup.org%2Fen%2Fbiblioteca%2Fitem%2Fdownload%2F934_41ad32e62b85871f86b4dce70db1b62a&usq=AFQjCNFktM_6eOhmV7QpkX1icyedq2caug&sig2=k9amh8UUCTKtpzm5-sTB_zw&bvm=bv.102537793,d.bGg

⁵¹ <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=312770&lang=1>

A *philanthropist*, according to the interpretation of art.5, 6 and 7 of the Law no.1420, can be any *individual* or *legal entity* (including state institutions or those created by the state), individually or by association that can make “charity donations” (the working “charity donation” is used only in this normative act, being equivalent to the concept of “philanthropic donation”). The *beneficiary* of philanthropic acts is the person or group of persons (according to art.1) who receives the “charity donation” by signing a “*philanthropic donation contract*” for achieving the philanthropic goals set out in Art.2 of Law no.1420:

- Support and social protection to people, improve the material situation of little provided-for people, social rehabilitation of unemployed, disabled and other persons incapable due to physical or intellectual specifics or other reasons, to exert independently their legitimate rights and interests;
- Prepare the population for overcoming the consequences of natural disasters, ecologic or other types of catastrophes, for preventing eventual accidents and disasters;
- Help victims of wars, natural disasters, epidemics, ecologic or other types of catastrophes, social and interethnic conflicts;
- Increase the prestige and role of the family in the society, mother and child protection;
- Grant material assistance to philanthropic organizations, social and medical institutions;
- Support other public interest actions that require financial and material assistance;
- According to Art.21 of Law no.1227 of 27 June 1997 on Publicity⁵², social publicity represents the interests of the society and of the state with regard to advocating for a healthy lifestyle, nature protection, environment protection, integrity of energy resources, and social protection of the population. It does not have a lucrative goal and pursues philanthropic and social importance goals.

The law does not provide clarity regarding the criteria for establishing the beneficiary of the philanthropic donation. From the interpretation of Law no.1420 but also of the *Regulation on the manner of confirmation of donations for philanthropic and sponsorship goals*⁵³ it results that the beneficiaries are individuals, public authorities and public institutions funded from the national public budget, non-commercial organizations (it results that *all* the noncommercial organizations, even if they are not philanthropic or public benefit organizations), trade unions and employer’s organizations, as well as family type children’s homes. The law does not directly provide for religious foundations, institutions and entities as beneficiaries but probably means them through the concept of “noncommercial organizations.”

One difficulty created by Law no.1420 is the regulation in Chapter II of “*philanthropic organizations*.” Thus, according to Art.7, Law no.1420, the philanthropic organization is “*a nongovernmental noncommercial organization, created to achieve the goals stipulated in law no.1420 by carrying out philanthropic activities in the interest of the whole society or of certain categories of persons*.” It is not clear why the legislator decided to define a new category of noncommercial organization if it offers the possibility to all noncommercial organizations to be beneficiaries of philanthropic donations, provided they achieve the goals mentioned in art. 2. Or, if the true intention was only philanthropic organizations to be beneficiaries of philanthropic donations, then this had to be clearly specified in the law and the right of any other noncommercial organization to receive philanthropic donations had to be excluded. The search engine of the State Registry of

⁵² Official Gazette no.67- 68 of 16.10.1997 <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=311557&lang=1>

⁵³ Government Decision no. 489 of 04.05.1998 , Official Gazette no. 489 of 04.05.1998
<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=296381>

Noncommercial Organizations,⁵⁴ managed by the Ministry of Justice allows searching for noncommercial organizations (foundations) by the key word ‘philanthropy’ and, thus, 164 entities are found by this search criterion (in September 2015). However, the exact number of noncommercial entities that benefit from philanthropic support/sponsorship is not clear.

Chapter 2 of the Law no.1420 that regulates the manner of establishment, functioning and liquidation of the philanthropic organization sets out norms similar to those regulating the activities of civic associations in Law no.837 on Civic Organizations. In addition, Art.16 of Law 1420 regulates *sources of formation of the property* of philanthropic organizations similar to those of civic organizations, except for the revenues from non-operational activities, including revenues from movable assets and the work of social volunteers. Hence, a civic organization regulated by Law no. 837 is not different at all from a ‘philanthropic organization,’ which makes us wonder whether the state intended to pass this law only in a declarative form and to create an erroneous situation so that the law is not applied because it cannot be interpreted correctly.

The Law no.1420 makes reference to the concept of ‘*philanthropic plan.*’ Art.18 of the Law 1420 stipulates that the philanthropic program (plan) represents a complex of measures approved by the supreme management body of the philanthropic organization and focused on fulfilling specific tasks for achieving its statutory goals. The philanthropic program includes an estimate of the eventual transfers and expenditures, including the remuneration of participants in the implementation of the philanthropic program, and establishes the stages and timeframes for the implementation of philanthropic activities. For long-term philanthropic programs, the means accumulates will be used in installments, as established in the programs.

Art.18 in para.(3) stipulates that, for the funding of philanthropic programs (including of the costs for their technical-material, organizational and other type of assurance, the philanthropic organization uses at least 80% of the revenues, accumulated in the financial year, from non-operational activities, collections from business companies established thereby and the revenues from entrepreneurial activities. Art.20 para.(4) sets out that the 80% shall be used *within one year from* the date of their receipt. According to Art.20, philanthropic organizations are entitled to use up to 20% of the means accumulated for philanthropic purposes for carrying out their activities and covering their administrative costs. From such means, the organization pays taxes and other legal obligations and makes payments to the state social security budget.

The question is if the other noncommercial organizations that benefit from philanthropic donations must observe the condition of existence of *a philanthropic plan* and *the technical conditions* for using the philanthropic conditions listed above (80% versus 20%) or only philanthropic organizations have such a responsibility. This is not clear from the Law no.1420 and it cannot be identified in practice because the law does not set out the manner for verifying the existence and implementation of such a plan. At the same time, it is not clear how to verify the use of the 20% for the support of CSOs, either from the donor or from the state bodies.

State involvement. It looks like the concept of “philanthropic organization” has some practical utility. According to Art.19 para.(3) of the Law no.1420, *local public authorities* can support the participants in philanthropic activities and, in most of the cases, as it is noticed, the beneficiary is the ‘philanthropic organization’, using the following methods:

⁵⁴ <http://rson.justice.md/organizations?hash=182c537ca4432b54d3fa260034c41cccb2e5fda6>

- Technical-material supplies and subsidizing of *philanthropic organizations* (including their total or partial exemption from the payment of services provided to state organizations and from the payment for the use of state-owned assets and publicly owned assets of administrative-territorial units) according to the decision of the central or local public administration authority;
- Contest-based funding of philanthropic programs, developed by *philanthropic organizations*;
- Placement of state social orders and of local ones on a contest basis;
- Transmission into the ownership of *philanthropic organizations*, free of charge or on a preferential basis, of state-owned assets or of publicly owned assets of administrative-territorial units in the process of privatization.

International philanthropy. According to Art.25 para.(1) of Law 1420, the participants in philanthropic activities (philanthropist, beneficiary, volunteer) are entitled to carry out *international philanthropic activities*. The law does not define very clearly how international philanthropy takes place; it only establishes that this takes place via an interaction with foreign partners or in any other form accepted by the international practice and not forbidden by the Moldovan law. Art.25 para.(3) stipulates that a philanthropic organization (registered in Moldova – author’s note) is entitled to open accounts in the banking institutions of other countries and to receive philanthropic donations from foreign citizens/stateless persons, international organizations – means that it should use according to the Law on philanthropy and sponsorship. Para.(2) of the same article provides that foreign citizens, stateless person, foreign and international organizations are entitled to participate in philanthropic and sponsorship activities, carried out in Moldova, by observing the Moldovan legislation. Unfortunately, the law does not contain other specific provisions; therefore, we may consider that one must analogously apply the rules used for national philanthropy in terms of reporting, transparency, taxation etc.

SPONSORSHIP. According to art.2 of the Law no.1420 “*sponsorship is conducted by individuals and legal entities free of charge, upon request, and consists in providing financial means or other assets for supporting public interest actions*”; however, “*the mutual granting of financial and material means between individuals or legal entities is not sponsorship.*” *Sponsor*, according to Art.6 of the Law no.1420, can be any individual and legal entity. However, unlike the philanthropist, sponsor cannot be a state institution/ or one founded by the state that uses public funds because, according to art.3 para.(2) of the Law no.1420, sponsorship cannot be conducted by using means obtained from the budget.

Beneficiary of sponsorship can be any individual or legal entity that does not pursue a profit (including CSOs) that receives sponsorship support for achieving the sponsorship goals and that according to Art.20 para.(2) is required to use the financial and material means in the manner and timeframe established by the sponsor. Art.3 of Law no.1420 sets out that the goals of sponsorship are:

- funding of programs and actions in the area of science, culture, religion, education, literature, arts, sports, healthcare, tutorship and guardianship, protection and social assistance of the population;
- funding of programs and actions in the area of environment protection, organization of streets, parks and other public places;
- funding of programs and actions in protection and restoration of monuments of history, architecture, culture and art, monuments of nature;

- financial and material support of philanthropic organizations, social and healthcare institutions, unions of creation, organizations dealing with culture issues, and other organizations involved in public interest actions;
- funding of other programs and actions of public interest.

Art.3 para.(2) of the Law no.1420 stipulates that in case of sponsorship with material goods, they will be appraised in the “*sponsorship contract*” at their real value from the moment they are transmitted to the beneficiary. Hence, the sponsor shall sign a sponsorship contract with the beneficiary for this type of assistance. The concept of “sponsorship contract” is not analyzed in the legislation and the Law no.1420 does not make any clarification in this sense. According to the general civil norms, if the contract is not directly regulated, then it must comply with the general criteria on obligations, established in the Civil Code. Practice establishes that the beneficiary of sponsorship submits to the sponsor a request for sponsorship to reflect the goal of his request and the size of the support requested. In this sense, the sponsor (if legal entity) will make a decision to provide all the conditions for granting the sponsorship, the size and nature of sponsorship, identity of the beneficiary of sponsorship and other conditions relevant for the sponsor. According to p.13 of the Regulation on the Manner of Confirmation of Donations for Philanthropic and/or Sponsorship Donation, as basis for granting donations and/or sponsorship shall serve the written request of the organization that wishes and is entitled to receive such aid.

Reporting and accountability. According to Art.6 para.(3), philanthropists and sponsors have the right to establish the *goal, timeframe and manner of use* of their donations and sponsor support means. Such elements are established in the donation or sponsorship contract, accordingly. According to Art.20 para.(2), the beneficiary is required to use the financial and material means for the purpose and in the manner established by the sponsor (this article does not specify the philanthropist as well). According to Art.20 of Law no.1420, *the philanthropic organization and the sponsors* (1) keep strict records of the beneficiaries of philanthropic aid and sponsorship support. The reports must include the following information: names of beneficiaries, the size and goals of philanthropic donations/sponsorship support. The management report must be submitted quarterly to the financial control bodies in a template approved by the tax bodies but that unfortunately is not accessible. It is not clear why it does not specify the philanthropist’s obligations in this sense in parallel to those of the sponsor but the same reporting obligations are established for the philanthropic organization.

According to Art.23 of the Law no.1420, the control over the *legitimacy of the philanthropic and sponsorship activity* is performed by *the tax bodies and the philanthropic organizations* (and not the philanthropist(?)) *and sponsors* who have granted financial/material means for concrete purposes are entitled to receive information and to exert *control over their use* (although the limits of such control and the manner of exerting it are not clear). The Law does not set out the consequences if the means received by the beneficiary are not used for philanthropic or sponsorship goals. However, sponsorship or philanthropic donation contracts may stipulate, if the goal stipulated in the law is not observed, that the philanthropic or sponsorship support be returned to the sponsor/philanthropist. If the philanthropist is a state institution, when the public money is not used as designated, the beneficiary shall be held liable according to Art.298 of the Code for Contraventions.⁵⁵ Unfortunately, the Law no.1420 does not include a clear provision in this regard and therefore enforcing these provisions is difficult.

⁵⁵ Official Gazette no. 3-6 of 16.01.2009 <http://lex.justice.md/md/330333/>

Recommendations for public authorities:	<ul style="list-style-type: none"> - Revise the national legal framework for a clearer regulation of philanthropy and sponsorship as well as of all forms of fundraising, including by using donations via boxes/fundraising terminals etc.; - Revise the legal framework on VAT payment by the donor when SMS and payment terminal donation are used; - Develop an encouraging policy for the donations made by foreign donors/sponsors (including diaspora representatives).
Recommendations for noncommercial organizations:	<ul style="list-style-type: none"> - Develop institutional capacities for developing institutional capacities for fundraising by using philanthropic/sponsorship donations (including crowd-funding donations); - Assure the transparency of the fundraising process and use of donations and support received from sponsors/donors, including through anonymous methods; - Establish partnerships with legal entities/individuals and the state for concluding donation/sponsorship contracts (file requests for support, conduct informative campaigns on activities carried out, maintain continuous dialogue with potential donors/sponsors in the locality etc.); - Organize information sessions for potential donors/sponsors (individuals/legal entities) about philanthropy, sponsorship, tax benefit for donors/sponsors.

Tax regime of donations. The regulation on the manner of confirmation of donations for philanthropic and/or sponsorship⁵⁶ stipulates in Art.4 that *“a philanthropist or sponsor can be any resident individual or legal entity, regardless of their form of ownership and administration that makes philanthropic donations or sponsorships in the form of disinterested assignments into ownership of money or goods; investing with rights of ownership, use and disposition of objects having the right to ownership; execution of works, provision of services.”* So, the object of the contract of sponsorship or philanthropic donation can be both *monetary sources* and *material assets*.

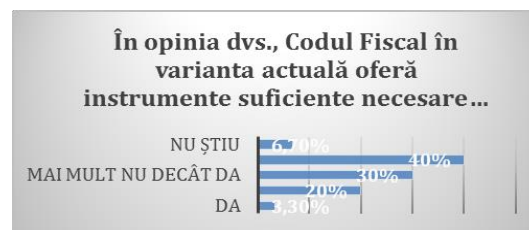


Table: Extract from the survey conducted within the study

According to Art.42 para.(1) of the Tax Code, the individual/legal entity that makes a donation of a material asset shall be considered that he has sold the donated asset at a price that represents the maximum size of its value base adjusted or its market price at the moment of donation. However, if the donor has made a donation in the form of money, he shall be treated as a person who has obtained income in the size of the amount of money donated.

⁵⁶ Government Decision no. 489 of 04.05. 1998, Official Gazette no. 62-65 of 09.07.1998
<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=296381>

Art. 36 of the Tax Code provides that the resident taxpayer (both legal entities and individuals) is entitled to *a deduction of any donations* made by him during the tax year *for philanthropic or sponsorship goals*, but not more than 2% of the taxable income (amendment made starting with 2015, since the deductions could be done up to 10% according to the previous provisions). The general rule established by the Tax Code in Art.36 provides that there can be deducted only the donations (1) made for *philanthropic or sponsorship goals* (2) made in favor of public authorities and public institutions funded from the national public budget, of noncommercial organizations registered in accordance with the legislation in force, trade unions and employer's organizations, as well as in favor of family-type children's homes.

For this purpose, the taxable income of the taxpayer is determined without taking into account other exemptions provided to him (personal etc. exemption). The donor's income subjected to taxation after donation is established according to Section 5 of the regulation on determining the tax obligations related to the income tax (Government Decision no.77 of 30 January 2008).⁵⁷ It is necessary to note that the CSO that receives donations or sponsorship support will not pay income tax on this income (since it is exempted according to Art.52 of the Tax Code). The donor, however, will declare such donations/sponsorship support in his income declaration and will benefit from a 2% deduction from his payable income tax.

If analyzing the international practice regarding the limits for making donations, then we see that in the Czech Republic, the minimum deduction is 70 euros; in Hungary, the income tax paid for donations can be reduced to 20% if the donation is made in favor of a public benefit activity. In Poland, legal entities may deduct up to 10% from the income tax, and individuals – up to 6%. In Germany, individuals may deduct maximum 20% and legal entities – maximum 20% or 0.4% from their turnover; in USA, an individual may deduct up to 30-50% and a legal entity may deduct maximum 10%⁵⁸

Donations for philanthropic or sponsorship goals by legal entities. If a CSO intends to benefit from a donation made for philanthropic/sponsorship purposes, he must submit to the donor a *written request* (that represents a sponsorship letter) and the *certificate* that justifies its compliance with Art.52 of the Tax Code, issued by the territorial fiscal body. Based on these documents, the donor – legal entity will make a *decision* on the donation. In order for the donations to be deducted, the taxpayer donor must observe the procedure of “*confirmation of the donation.*” The Government Decision no.489 of 4 May 1998⁵⁹ provides for the procedure of confirmation of donations for philanthropic/sponsorship purposes for individuals and for legal entities.

Thus, after the *donor-legal entity* has made a decision, the following is to be taken into account:

⁵⁷ Official Gazette no. 32-33 of 15.02.2008 <http://lex.justice.md/index.php?action=view&view=doc&id=326914>

⁵⁸ More information about the European practices can be found in the study of Expert-Grup: Fiscal mechanisms for stimulating philanthropy, Elena Culiuc, Chişinău 2011 <http://expert-grup.org/ro/biblioteca/item/332-mecanisme-fiscale-de-stimulare-a-philanthropiei&category=99>

⁵⁹ Official Gazette no. 62-65 of 09.07.1998 <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=296381>

Donation in a non-monetary form	<ul style="list-style-type: none"> - a <i>donation contract for philanthropic/sponsorship purposes</i> is concluded in simple form and if it is about real estate, it must be notarized. In both cases, the value of the asset (the object of donation) and its purpose must be indicated. - based on the decision of the donor and the contract concluded, the goods are transmitted to the grantee. It is necessary to issue a bill of lading with the mention "<i>Philanthropic donation/sponsorship.</i>" - <i>Confirmation of donation by the donor</i>—legal entity (individual having the status of entrepreneur) is done on a quarterly basis (with the submission of the fiscal report). The donor shall send to the territorial fiscal body the list of contracts of philanthropic donation/sponsorship and their copies and the tax body will make the deduction. The Government Decision does not have any provisions on the procedure used by the fiscal body to decide on accepting or rejecting a deduction.
Donation in a monetary form	<ul style="list-style-type: none"> - The confirmative documents of the donation are the payment order from the donor addressed to the beneficiary and the document <i>prepared in an arbitrary form</i> that confirms the receipt of these money sources (signed by the CSO's manager and chief accountant). - <i>confirmation of the donation.</i> The procedure of confirmation of the donation is not clarified in the Government Decision no.489 of 4 May 1998. If applying the analogy of the law in this situation, the donor will then respect the same rule mentioned above. The confirmation shall be done on a quarterly basis (with the submission of the tax reports). The donor shall submit the payment orders and their copies (as well as the confirmative documents and their copies) to the territorial tax body, and the latter will make the deduction.

Donations for philanthropic or sponsorship goals by individuals. According to art.36 of the Tax Code, in the case of philanthropic/sponsorship donations made by individuals, not more than 2% of the paid tax shall be deducted. Unlike the legal entity who confirms the donations on a quarterly basis, the individual shall confirm the donations made only once per year – *upon filing of the income declaration*, not later than 25 March of each calendar year. Thus, according to the Regulation indicated above:

Donation in a non-monetary form	<ul style="list-style-type: none"> - a <i>donation contract</i> shall be concluded according to the requirements described above, for the donations made by legal entities. In case of an individual (who is not subject of the entrepreneurial activity), no bill of lading is necessary when transmitting the donated asset. - <i>confirmation of donation.</i> Upon the filing of the income declaration, the individual (who is not subject of entrepreneurship) shall attach thereto a copy of the donation contract (although the regulation does not expressly provide for this, it results from the practice established).
Donation in a monetary form	<ul style="list-style-type: none"> - the individual must receive a confirmative documents of receipt of money from the beneficiary CSO. This document can be a payment order, if the donation was made via a bank transfer or by a cash order if the donation was done by direct transmission of money. Unfortunately, the regulation

named above does not clearly regulate such procedures and the CSO most of the times complies with practices accepted by the tax bodies.

- *confirmation of donation*. Upon the filing of the income declaration, the individual shall attach thereto a copy of the confirmative documents described above (although the regulation does not expressly stipulate this).

Reporting and responsibility. Point 8 of the Regulation stipulates that philanthropists/sponsors (legal entities) as well as the beneficiaries of philanthropic/sponsorship aid must keep their accounts in accordance with Art.15 of the Law on Accounting no.426-XIII of 4 April 1995 and with Art.6 of the Tax Code. According to point 10 of the Regulation, the organization that provides charity/sponsorship aid and the organizations benefiting from such support, after the expiration of the tax year is to submit reports to the tax body about (1) the amounts granted (2) the use of such money. The Regulation thus provides for reporting only for philanthropic donations/sponsorship in *monetary form*. We have a deficient formulation here and the report should reflect also the donations in non-monetary form.

Point 11 of the Regulation stipulates that if the inspections conducted by the tax bodies find use against designation (other purposes than those established in the statute) of the means received as philanthropic aid or sponsorship, the amount of means used against designation shall be taxed by the income tax on general principles, according to the provisions of Title II of the Tax Code. Although, if the sources received from philanthropy come from the state, if such funds are not used according to their designation, administrative/criminal sanctions shall be imposed according to the Administrative or Criminal Code.

Recommendations for public authorities:	<ul style="list-style-type: none"> - Go back to 10% deductions for legal entities/individuals who make the donations for philanthropic/sponsorship goals (alternative development of the tax credit concept according to the European practices as a tax credit according to the European practices as a tax mechanism for stimulating philanthropic donations); - Regulate a simplified procedure (including electronic ones) for having donations confirmed by individuals/legal entities; - Establish a transparent, online mechanism for monitoring the philanthropic and sponsorship support (including an efficient reporting system).
Recommendations for civic organizations:	<ul style="list-style-type: none"> - Develop and adopt internal financial policies, focused on fundraising from philanthropic donations and sponsorship; - Develop fundraising plans, focused on local funding sources (legal entities, businesses, individuals); - Develop an internal policy that promotes the organization's transparency and avoidance of conflicts of interest. Taking over the good practices set out in the Code of Ethics of Moldovan CSOs.

2.3. LEGAL BENEFITS AND PUBLIC FUNDS

- ? *There is lack of transparency in the conclusion of contracts or services, public procurements, social orders etc. with the participation of CSOs. There is no single and transparent system for developing grant programs by public institutions. The percentage designation mechanism has a declarative character and, due to serious gaps in regulation, cannot be applied.*

Survey data (Chapter I)

- % *Public procurements*: 40% think that this is a relevant method / 16.7% think it is not relevant.
Enabling legislative fiscal environment: 73.3% - think it is necessary / 3.3% - think it is not relevant.

To note that the international experience regarding the state support of CSOs shows that in many European countries there are special funds established for assistance to noncommercial organizations: Albania – the Agency for Supporting the Civil Society (2009); Azerbaijan – the Council for State Support of CSOs (2007); Croatia – National Foundation for Civil Society Development (2003); Estonia – National Civil Society Foundation (2008); Hungary – National Civil Fund Program /National Cooperation Fund (2003)⁶⁰. There is no such fund in Moldova, although the 2012-2015 Civil Society Development Strategy provides for the possibility of creating such a tool for supporting the civil society. The authorities have not started any discussions on this subject and no concept has been yet developed.

The law on civic organizations stipulates in Art.8 the provisions that establish the forms of cooperation between the state and civic associations. Thus, in para.(1) the Law provides that the state (local/central public administration) *can provide to civic associations for special purpose funding, upon their request, of social, scientific and cultural programs, by concluding works and services contracts as well as by placing, on a contest basis, of social orders for implementing various state programs to an unlimited number of civic associations.* At the same time, the law stipulates that the state contributes to the activities of civil associations that pursue public benefit, cooperating with them and promoting a preferential tax policy towards them.

To note that Arts.33 and 33¹ of the Law on Civic Associations sets out the principles and forms of support to *public benefit civic associations*. Most of such forms are also applicable today to the civic associations that do not have a public benefit certificate; therefore, we think it is timely to revise the law in this regard and clarify the “public benefit status”.

Extract from the Survey conducted within this Study

Main challenges/difficulties you faced when fundraising from the state

The respondents gave the following answers:

- Lack of a clear funding mechanism from the state (insufficient funds), the attitude of state representatives (lack of communication). Limited funds or lack of a mechanism for grants. The mechanism for announcing the winners of state funds is not transparent.
- Authorities' trend (National Company for Healthcare Insurance) of giving priority to public, and not private, providers/suppliers of services.
- Refusal to come as guarantor of co-financing.
- The fundraising mechanism is not created within the organization.

Granting tax benefits to CSOs. According to Art.5 point 14 of the Tax Code, *a noncommercial organization is a legal entity whose activities do not aim at making profit and that does not use a part of its property or of its income in the interests of a member of the organization, of a founder or a particular person.* Practice shows that, most of the times, *a noncommercial organization has its*

⁶⁰ Funding mechanisms of CSO by the state, Eszter Hartay European Center for Non-for-Profit Law, Chişinău, 28 Feb 2013

revenues from grants, unconditioned donations and, in some cases, from carrying out the business activities set out in its statute. Specialized literature establishes that *grants, technical assistance aids, and other similar means* received in view of implementing projects and activities do not represent revenues and are considered *means with special designation*.⁶¹

Income tax exemptions.⁶² Up to 2012, the Tax Code established tax benefits for public benefit noncommercial organizations upon the payment of income tax. Currently, Art.52 of the Tax Code establishes benefits granted to *all* civic organizations, not only those of public benefit, in the payment of income tax, so “*noncommercial organizations are exempted from the income tax if meeting the following requirements*”: *are registered in accordance with the legislation (...); their statutes set out the interdiction to distribute means with special designation, other means and income resulted from their statutory activity or of the property between the founders and the members of the organization or between its employees (...); special designation means, other means and revenues resulted from the statutory activity, the organization’s property are used or the purposes stipulated in the statute (...); do not use special designation means, other means and revenues resulted from their statutory activity or property in the interest of a founder or member of the organization, or in the interest of an employee (...); do not support political parties, election blocks or candidates for positions within the public authorities and do not use means with special designation, other means and revenues for their financing (this restriction does not extend onto parties and other social-political organizations).* At the same time, CSOs are exempted from the income tax for their business activities. The Tax Inspectorate gives relevant examples in this sense, described in the *Generalized Base of Fiscal Practice*,⁶³ available in electronic format.

The state has preferential treatment to trade unions, employers’ organizations, their associations and institutions that according to Art.53³ of the Tax Code enjoy the benefits granted by the Tax Code, being automatically exempted from the income tax (without applying the requirements of Art.52). According to Art.53¹ of the Tax Code, the companies created for achieving the statutory goals of organizations of blind, deaf and disable persons shall be exempted from the income tax, and according to Art.53,³ trade unions and employers’ organizations are exempted from the income tax. For companies created by any other CSO category, their revenues are not exempted from taxes and duties as the tax legislation treats them as legal entities with a lucrative purpose, subjects of taxation.

Procedure. According to Art.52, Tax Code, in order to benefit from an exemption from the income tax, a noncommercial organization must *meet the criteria* stipulated in this provision and submit the *sample request form*,⁶⁴ developed by the Main State Tax Inspectorate to the territorial office of the State Tax Service. The exemption period starts with the fiscal period in which the income tax exemption request was filed if it was filed by 31 Dec of the managing tax year. According to the legislative amendments in force since 2013, it is not necessary to file the request repeatedly in periods subsequent to the first fiscal period. The statute of the civic organization registered/established in accordance with the legislation shall be attached to the request.⁶⁵

⁶¹ Alexandu Nederiță, Tatiana Prisăcaru “Practical-methodological guide on the specific features of organization of financial management and bookkeeping in noncommercial organizations”, Chișinău 2013, p. 112

⁶² Unions of creation and associations of unions of creation according to art.20 of the Law on persons of creation no.21 of 01.03. 2013 shall enjoy benefits in paying taxes and customs duties according to the Law on Civic Associations. Art. 21-22 of the Law on philanthropy and sponsorship stipulates that the persons who carry out an activity that fits in the provisions of this law shall enjoy tax benefits if they prove by documents, according to the conditions established by the Tax Code that they carry out this category of activities (although if the Tax Code sets out benefits for all the CSOs, this provision is not relevant any more).

⁶³ <http://www.fisc.md/BazaGeneralizata.aspx>

⁶⁴ Order No.80 of 10.07.2012 of the Ministry of Finance for approving the request for exempting noncommercial organizations from the income tax <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=344206>

⁶⁵ <http://www.fisc.md/ShowQuestions.aspx?category=aa9e2e99-e7f2-4e07-b930-b12f8b6c6282&no.=29.5>

The nongovernmental organization is required to establish the income tax by filling in the *Income Declaration* (form VEN 12).⁶⁶ Or, according to the Tax Code, Art.83 para.(2) letter c), resident civic organizations are required to submit income declarations even if they have only special purpose funds or their accounting income equals zero. The Tax Inspectorate specifies⁶⁷ that in filling in an income declaration based on the financial accounting data, the *taxable income* and the *income tax* of the entity shall be established. The exemption from the income tax based on the request filed determines the obligation to fill in Annex 6D of the income Declaration. Also, account must be taken of the Order of the Main State Tax Inspectorate “On Approving the List of Codes Related to the Tax Benefit on the Income Tax” no.1080 of 10 Oct 2012,⁶⁸ which establishes the codes for tax benefits.⁶⁹

Art.19 of the Law on Foundations expressly establishes the need to hold a public benefit certificate for exerting the right to tax benefit and the Law on Civic Associations in Art.33 establishes that the civic organizations that hold a public benefit certificate shall enjoy tax benefits. In their case, the legislation allows submitting the *public benefit certificate*, issued by the Certification Commission under the Ministry of Justice and the *Income Declaration* to enjoy the right to tax benefits, without having to submit the *sample request*, mentioned above.

Value Added Tax benefits. The general rule is that CSOs are no VAT payers if they do not fulfill the conditions of Art.94 of the Tax Code. The general rule established by the Tax Code in Art.94 is that VAT taxable subjects are the persons registered as VAT payers. According to Art.112 of the Tax Code, the subject who carries out *entrepreneurial activities* is required to register as VAT subject if within 12 consecutive months he has delivered goods and services that exceed a certain amount of money or imports goods and services. Thus, a CSO, in order to be liable to the VAT must: 1) practice entrepreneurial activities; 2) import goods and services. Art.95 of the Tax Code establishes the VAT taxable subjects; Art.103 indicates all types of deliveries that are exempted from the VAT, and Art.104 indicates all the types of 0% taxable deliveries. Thus, these general rules are also opposable to CSO.

However, the legislator does grant VAT benefits to certain civic organizations. The Government Decision No.246 of 8 April 2010⁷⁰ establishes the list of ongoing technical assistance projects that fall in the jurisdiction of international treaties for exemption from income tax, excise duties, customs duties, and zero share of VAT on goods and services designated for them. Thus, civic organizations that implement “technical assistance projects” in the territory of Moldova are exempted from VAT according to the *Regulation on the Manner of Application of Zero Share of VAT on the Delivery in the Country’s Territory of Goods and Services Designated for Technical Assistance and International Assistance Projects, and on the Import of Services Designated for Them*. Another category of civic organizations that expressly benefit from the VAT are organizations and companies of unions of the blind, deaf and disabled persons. According to the Government Decision no.124 of 15 Feb 2013,⁷¹ the above-listed organizations enjoy VAT exemption on the import of raw materials,

⁶⁶ Government Decision no. 596 of 13.08.2012, Official Gazette No. 170-174 din 17.08.2012 <http://lex.justice.md/md/344427/>

⁶⁷ <http://www.fisc.md/ShowQuestions.aspx?category=aa9e2e99-e7f2-4e07-b930-b12f8b6c6282&no.=29.5>

⁶⁸ Official Gazette no. 216-220 of 19.10.2012 <http://lex.justice.md/md/345103/>

⁶⁹ Amount of income tax not subject to payment, determined in annex 6D is shown in line 130 of the Income Declaration.

⁷⁰ The Government Decision no.246 of 08.04.2010 on the Manner of Application of the Zero Share of VAT on the delivery of goods and services in the country’s territory and on granting tax benefits to ongoing technical assistance and investment projects that fall under the jurisdiction of international treaties to which Moldova is a party, Official Gazette no. 52-53 of 14.04.2010 <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=334259>

⁷¹ Government Decision no. 124 of 15.02.2013 for approving the regulation on the manner of granting of certain categories of VAT benefits according to art.103 para. (7) of the Tax Code no.1163 XIII of 24 April 1997 and art. 4 para. (18) letter a) and b) of the Law no.1417-XIII of 17 Dec 1997 for enforcing Title III of the Tax Code, Official Gazette no.36-40 din 22.02.2013 <http://lex.justice.md/md/346741/>

materials, additional items and accessories necessary for their own production process and on the delivery of goods produced and provision of services.

The Tax Inspectorate sometimes makes interpretations regarding the application of certain taxes and duties. For example, according to the Letter of MSTI no.26-08/2-02/2/1219 of 9 March 2011⁷², in accordance with Art.103 para.(1) point 11) of the Tax Code no.1163-XIII of 24 April 1997, VAT shall not be applied to products of own production of cafeterias specialized in providing meals to the elderly in need paid for by charity organizations. At the same time, according to Art.103 para.(1) pnt. 9) of the Tax Code, the delivery of goods paid for by charity organizations, designated for the preparation of packages for the elderly in need and distributed to them free of charge, is VAT exempted. We suggest to CSOs that when they have unclearness regarding the application of legal provisions to address directly the Tax Inspectorates for clarity and explanations on how to apply the legal norms.

Excise duty benefits. Art.120 of the Tax Code provides that subject of taxation upon the payment of excise duties are individuals and legal entities who process and/or manufacture goods or who import such goods. Hence, civic associations can also become subjects with the obligation to pay excise duties. Art.124 establishes the benefits on the payment of excise duties that are not in case of import of personal goods or in case of import of the categories of goods specified in Art.124 para.(2) that include the goods defined as humanitarian aid designated for technical assistance projects by international organizations etc. Hence, the Tax Code treats CSOs as any other subject of taxation on payment of excise duties.

The real estate tax exemptions are not expressly established for CSOs. Art. 283 of the Tax Code establishes in general which entities can be exempted from this tax: unions of the blind, deaf and disabled persons and the companies established thereby for achieving statutory goals, religious organizations – for real estate designated for religious proceedings, CSOs in the conditions of Art.52 of the Tax Code provided social assistance institutions work within them. Art.284 sets out express conditions when the deliberative and representative authorities of the local public administration are entitled to grant to legal entities exemptions or deferrals on the payment of the real estate tax for the given tax year: in case of a natural disaster or fire as a result of which real estate, crops and multiannual plantations have been destroyed or have been considerably deteriorated, or in case land has been assigned for the evacuation of companies with negative impact on the environment.

Local tax exemptions. The Tax Code in Art.296 allows the local public authorities to grant local tax exemptions and benefits to certain subjects, including to CSOs, although this article does not expressly specify ‘civic organization’ (e.g. CSOs can be exempted from the taxes for owners of transportation means, parking tax, taxes on the street units for trade/provisions of services etc.)

The Main State Tax Inspectorate organized trainings in 2013 and 2014 for the civic organizations. Unfortunately, only 18 organizations participated in the trainings, even if it was free and publicly announced by the Tax Inspectorate on its webpage. The staff of the territorial tax inspectorates were also trained in order to assure a more efficient dialog with the noncommercial organizations at the local level. The Main State Tax Inspectorate intends to develop and publish in 2015 a comprehensive guide on tax issues related to noncommercial organizations.

⁷²<http://www.contabilsef.md/libview.php?l=ro&idc=230&id=3649&t=/Legislatia/Legislatia-fiscala/Scrisori/Scrisorile-principale-cu-privire-la-TVA-si-accize/Privind-aplicarea-TVA-pentru-produsele-de-fabricatie-proprie-ale-cantinelor-specializate-in-alimentarea-batranilor-nevoiasi-din-contul-organizatiilor-de-binefacere-Scrisoarea-IFPS-no.-26-082-0221219-din-09032011/>

Recommendations for public institutions:

- Develop a tax policy that is favorable to the work of CSOs by revising the Tax Code;
- Avoid excessive regulation of the fundraising mechanisms used by CSOs;
- Expressly establish VAT benefits for public benefit CSOs, according to the Civil Society Development Strategy.⁷³

Recommendations for civic organizations:

- Promote and permanently monitor the implementation by the state of the provisions of the Civil Society Development Strategy.

Additional benefits for CSOs. The Law no.837 on Civic Associations stipulates that the state grants to children's organizations the right to use free of charge or in preferential conditions the facilities of schools, high schools, colleges and extra-school institutions, cultural dormitories, culture palaces and houses, sport facilities. Art.8 para.(2) of the Law no.837 stipulates that civic organizations that pursue public benefits in renting publicly owned space and buildings shall enjoy preferential conditions (at national and local levels). It results that in order to be granted such a benefit the civic organizations should "pursue public benefit."

The law stipulates that this procedure takes place in the conditions set out by the Government. Until now, unfortunately, no regulation has been passed in this sense and in most situations a legislative void exists which makes applying this norm cumbersome. In some practical cases, civic organizations get such benefits not according to transparent, well-established and predictable procedures but based on certain understandings. As a result of such cases, those beneficiaries risk being called to court and losing their benefits.

In such conditions, we recommend civic organizations that in their dialog with the central/local public authorities they use the interpretation given in Decision no.77 of 18 May 2015 of the Plenum of the Supreme Court of Justice on the manner of application of the provisions of Art.77 para.5 of the Law on Local Public Administration no.436 of 28 Dec 2006.⁷⁴ Thus, according to the Decision, the general rule is that the assets managed by local public administration bodies can be rented out only by observing the public tender procedure. Point 23 of the Regulation on the Manner of Renting Out Unused Assets⁷⁵ stipulates that when renting unused assets has not been requested in a tender, when tender costs are not justified (are not covered by the six month rent), the competent authority may accept that unused goods are rented out by direct negotiations. Thus, negotiations can be held on the renting of unused assets only regarding those assets that have already been tendered and were not in demand.

Recommendations for public authorities:

- Approve the Government decision for regulating the manner of renting out publicly owned space and buildings to public benefit civic organizations according to the Law on Civic Organizations;
- Establish transparent procedures at the level of central/local bodies for renting out publicly owned space and buildings to public benefit

⁷³ <http://www.consiliulOSC.md/current-legislation/>

⁷⁴ http://jurisprudenta.csj.md/search_rec_csj.php?id=122

⁷⁵ Government Decision no.483 of 29.03.2008 for approving the Regulation on the manner of renting unused assets, Official Gazette no. 69-71 of 04.04.2008 <http://lex.justice.md/md/327534/>

	organizations and publish the information about the beneficiaries and the rented assets (timeframe, general data about the beneficiary/legal address, area of activity/programs developed and implemented). Publish annual statistics in this sense.
Recommendations for civic organizations:	<ul style="list-style-type: none"> - Use the provisions of Decision no.77 of 18 May 2015 of the Plenum of the Supreme Court of Justice on the Manner of Application of Art.77 para.5 of the Law on Local Public Administration no.436- XVI of 28 Dec 2006; - Monitor the local public authorities regarding the manner of granting benefits on renting out publicly owned facilities.

Financial or material support to civic associations. According to Art.33¹ of the Law on Civic Associations, the decision on the request for financial or material support to a public benefit civic association shall be adopted after a public tender by a commission formed of representatives of the public authority, of public benefit associations that do not participate in the funding competition and of independent experts. Public authorities assure the publicity and transparency of the organization of the contest for the financial or material support. The announcement and conditions for holding the competition shall be published by the media at least two months prior to the deadline for filing programs, projects and activity proposals (according to Art.33¹ para.(2), Law on Civic Associations).

According to Art.33¹ (4) of Law no.837, the financial or material support of programs, projects and activities of public benefit associations shall take place on the basis of a *contract* signed with the public authority that adopted the *decision on financial or material support*. The contract shall contain clauses on the sums or assets granted, timeframes for capitalizing the financial or material support, on the parties' obligations (including on the obligation to use means as designated and on the obligation to submit reports) and on the consequences of failure to execute or undue execution of contract obligations. Unfortunately, no relevant data are available on the implementation of this mechanism for supporting civic organizations and the vast majority of country's CSOs do not know about a certain practice in this sense. Therefore, we think this mechanism is only a declarative one.

Concluding works and services contracts. This right is stipulated in the Law on Civic Associations in Art. 24. According to the Index of Sustainability of Civil Society Organizations (2013, 2014)⁷⁶, public authorities conclude more and more contracts with CSOs to benefit from expertise in various areas. The Ministry of Youth and Sports has subcontracted the "Pro-Comunitate" Center for developing a youth strategy. The local public authorities have subcontracted the Cahul Contact Center and the Youth Resource Center "Dacia" for expertise in strategic planning and accessing European funds. In addition, state authorities support many CSOs that provide services to children, including to children with disabilities (e.g. the Municipality of Chişinău annually funds the "Voinicel" Center that provides early intervention services to children with development disorders). Such contracts can be concluded via the public procurement system if the value of the service exceeds the amount of 40,000 lei or via directly concluded contracts, if the value of the contract is smaller.

⁷⁶ <http://crjm.org/wp-content/uploads/2015/07/Index-OSC-2014-MD.pdf>

Grants/donations to CSOs by public institutions. In the cultural area, the Government Decision no.834 of 8 Oct 2014⁷⁷ approved the *Regulation on the Financing from the State Budget of Cultural Projects carried out by civic associations*, which establishes the manner of financial support from the state budget of Moldovan civic associations in view of supporting their creative potential. In 2013, a grant program for NGOs in the amount of 2 million lei (USD 150,000) was implemented for cultural projects⁷⁸. For such programs, the Law on the Budget for 2015⁷⁹, art. 2 (4) provides for the budget of the Ministry of Culture – 4,064.7 thousand lei for supporting cultural projects/programs of civic associations; and 112,623.7 thousand lei – for supporting the activities of theater and concert institutions.

In view of supporting youth activities, the Government Decision no.1213 of 27 Dec 2010⁸⁰ approved measures to support youth activities. The regulation establishes the manner of funding of the organization and holding of youth activities, programs and projects by the public institutions funded from the national public budget as well as the manner of use of budget means and of special allocated funds for this purpose (to guarantee the implementation of these provisions the Minister issued an Order to approve the Framework Methodology for Organizing and Holding the Competition for Funding Youth Programs and/or Projects)⁸¹. In 2013, according to the civil society development index for 2013, the Ministry of Youth and Sports provided small grants to 60 youth CSOs in the amount of 3.5 mill. lei (USD 270,000). In 2014, the Ministry of Youth and Sports further provided small grants to youth CSOs through the Youth Fund that is active in all districts of Moldova. According to the Activity Report of the Ministry of Youth and Sports for 2014⁸², in the reference year, 21 projects with funding from the grant fund were supported.

In the environmental protection area, the Government Decision no.988 of 21 Sept 1998 on Approving the Regulation on Ecologic Funds, stipulates in point 12 letter g) that the means of the national ecologic fund can be used including to provide financial support to nongovernmental ecologic organizations under a special grant program for environment protection projects. Point 15 of the Decision no.988 provides that the projects proposed for financing from ecologic funds must be submitted by nongovernmental organizations to the Ministry or its territorial structures on established forms. The Ministry of Environment and its territorial structures assess and select the projects, formulate conclusions and submit them to the administration councils for making the final decision in accordance with the Regulation on the Administration of Ecologic Funds.⁸³ If the project is accepted, the Ministry of Environment and the beneficiary coordinate the contract on the implementation and financing of the project and sign it. After completing the work, the beneficiary presents a report on the execution of the contract and the means used. The Ministry and its territorial structures exert control over the implementation of projects, being entitled to request from the beneficiary any operative information about the stage of execution of projects funded from the ecologic fund. According to the List of projects approved for funding by the National Ecologic

⁷⁷ Government Decision no.834 of 8 Oct 2014 on approving the Regulation on the Manner of Funding from the State Budget of Cultural Projects Held by Civic Associations, Official Gazette no.313 - 318/874 din 17.10.2014 <http://lex.justice.md/md/355054/>

⁷⁸ <http://www.fhi360.md/docs/INDEXUL%20SUSTENABILIT%C4%82%C5%A2II%20ORGANIZA%C5%A2IILOR%20SOCIET%C4%82%C5%A2II%20CIVILE%202013%20%E2%80%93%20REPUBLICA%20MOLDOVA.pdf>

⁷⁹ <http://lex.justice.md/index.php?action=view&view=doc&id=358190>

⁸⁰ Government Decision no.1213 of 27 Dec 2010⁸⁰ has approved measures of support for the youth activities, Official Gazette no.18-21a of 3 Feb 2011 <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=337472&lang=1>

⁸¹ Order No.656 of 7 Oct 2011 of the Ministry of Youth and Sports on the approval of the Framework Methodology for Organizing and Holding a Contest for Financing Youth Programs and/or Projects”, official Gazette no. 249-255 of 22 Aug 2014 <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=354470>

⁸² http://www.mts.gov.md/sites/default/files/document/attachments/raportul_anual_de_activitate_al_ministerului_tineretului_si_sportului_pentru_anul_2014.pdf

⁸³ Regulation on the administration of ecologic funds <http://mediu.gov.md/index.php/serviciul-de-presa/noutati/79-categorii-in-romana/despre-minister/institutii-subordonate/72-fondul-ecologic-national>

Fund⁸⁴ in 2015 only one civic association received a grant of 200,000 lei for the implementation of a project in the area of ecologic education of the population on selective collection of wastes and in 2014, 15 national CSOs implemented a project from a grant received from the ecologic fund.

In healthcare, discussions have been started for developing a Regulation on the manner of financing from the state budget of projects in public health to be implemented by civic associations, but unfortunately it was not completed and such a mechanism has not been applied. There is one relevant example to mention, the National Company for Healthcare Insurance that provides financial support to the Philanthropic Medical-Social Foundation “Angelus Moldova” to maintain its palliative care services.⁸⁵

Another form of granting support to civic organizations by public institutions is regulated in the Government Decision no.110⁸⁶ of 23 Feb 2011. According to Art.1 para.(6) of this Decision, the ministries and other central administrative authorities will promote the passing of the decision on establishing the limit of up to 5% of the net annual profit for joint-stock companies with a share of participation of the state and state companies for charity and sponsorship. In case of such decisions, the administrative council that includes state representatives will decide on the distribution of the sources mentioned. Unfortunately, no public information is available about the manner of application of this provision and the beneficiaries of charity and sponsorship.

The Law no.436 of 28 Dec 2006 on the Local Public Administration contains provisions on the cooperation of the local public administration with civic associations. Thus, Art.14 (2) letter j) stipulates that the local council decides on the cooperation with business operators and civic associations from the country and from abroad in view of implementing common interest actions or works. The same normative act provides for the duties of the mayor who, according to art. 29 (1) letter r) coordinates the social assistance for children, elderly, disabled persons, families with many children, families affected by intra-family violence as well as support the work of *public benefit civic associations* in the territory of the village (commune), city (municipality). At the local public authority level, 16 grant beneficiaries under the MCSSP program collected 8 mill. lei (USD 625,000 from local sources, including local public authorities, which is an unprecedented success in the area.⁸⁷

Placing social orders and involving CSOs. According to Art.33² (1) of the Law no. 837, the *social order* is one of the forms of implementation of *social programs organized by the public authorities*. In the social order contests there participate only those civic associations that have the proper conditions for executing the order placed, including equipment and other assets, qualified staff and experience in the area and good reputation, capable to attract volunteers and additional means. Starting with 2013, Law no.96 of 13 April 2007 on Public Procurements⁸⁸ provides for a new mechanism for contracting social services, by ensuring the right of all civic associations to participate in the procedure of public procurement of social services and not only to the public benefit CSOs. The legislator specifies that, in order to get the right to provide social services it is necessary to acquire the capacity of *provider of social services*, according to the Law no.123 of 18

⁸⁴ <http://mediu.gov.md/index.php/serviciul-de-presa/noutati/79-categorii-in-romana/despre-minister/institutii-subordonate/72-fondul-ecologic-national>

⁸⁵ USAID 2014 Civil Society Sustainability Index <http://crjm.org/wp-content/uploads/2015/07/Index-OSC-2014-MD.pdf>

⁸⁶ Government Decision no.110 of 23 Feb.2011 on certain aspects related to the distribution of the net annual profit of joint stock companies with a share of participation of the state and state companies, <http://lex.justice.md/md/337705/>

⁸⁷ <http://www.fhi360.md/docs/INDEXUL%20SUSTENABILIT%C4%82%C5%A2II%20ORGANIZA%C5%A2IILOR%20SOCIET%C4%82%C5%A2II%20CIVILE%202013%20E2%80%93%20REPUBLICA%20MOLDOVA.pdf>

⁸⁸ <http://lex.justice.md/md/324662/>

June 2010 on the Social Services.⁸⁹ The providers of social services can organize and provide social services only if they are accredited according to Law No.129 of 8 June 2012 on the accreditation of social service providers.⁹⁰ In 2013, the Ministry of Labor, Social Protection and Family established the National Council for the Accreditation of Social Service Providers and Decision No.95 was passed on 7 Feb 2014 on approving the Regulation on the Procedure of Accreditation of Social Service Providers.⁹¹

At the local level, the law also established a lever of cooperation with civic associations. According to Art.9 (1) (Law on Social Services), the local public administration authorities of the second level assure the development and provision of social services depending on the needs identified by the population in the administered territory, either autonomously, or jointly with other authorities of the local public administration, as well as in cooperation with business operators, employer's organizations, trade unions in the regions, and with local and foreign civic associations. At the same time, according to Art.10 of the Law on Social Services, authorities support *the public benefit civic associations* that work in the administered territory in the sphere of social services.

According to the Civil Society Development Index for 2014⁹², in 2014, three ministries appealed to CSOs for providing social services according to the Law on Public Procurements and the Law on Counteracting Social Services. The Ministry of Labor, Social Protection and Family has concluded a contract with the International Association "La Strada" to launch the "Child's Line". The Ministry of Economy has offered grants to environmental SCOs to promote energy efficiency and to contribute to amending the relevant legislation. The authors of the index specify that, although the amounts allocated by ministries have been rather small (approx. USD 500-1,000), this is still significant progress in the financial viability of Moldovan CSOs and creates a precedent for the future cooperation between CSOs and governmental structures.

Recommendations for public institutions:

- Develop a Framework Regulation for central/local public authorities that would establish a clear procedure on providing financial support to CSOs from public funds (grants, social service contracts etc.);
- Develop a database and an online tool for monitoring and reporting on contracts of special purpose financing of cultural, social etc. programs; contracts for execution of works and provisions of services concluded with CSOs; the list of grants provided by public institutions to CSOs; conclude social service contracts etc.;
- Regulate a single and transparent mechanism on having philanthropic support provided by state companies annually to the CSOs;
- Establish a functional partnership with CSOs in the area of service provision.

Recommendations or civic organizations:

- Participate actively within public procurement tenders for works and services;
- Develop guidelines for LPA/CPA on the legal methods and

⁸⁹Official Gazette no. 155-158 of 03.09.2010 <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=335808&lang=1>

⁹⁰ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=344610>

⁹¹ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=351555>

⁹² http://management.md/wp-content/uploads/2015/07/Indexul-sustenabilitatii-OSC-urilor_2014.pdf

mechanisms of cooperation with CSOs including by providing grants, donations etc.

- Monitor the allocation of public funds to noncommercial organizations.

The 2% percentage designation mechanism. The percentage designation mechanism or the so-called “2% Law” has been subjected to debates at least for the past 10 years in Moldova, being provided for in the Civil Society Development Strategy as a safeguard for supporting the financial viability of CSOs (in this sense, there have developed many studies and draft acts on the regulation of the mechanism⁹³). The mechanism is a method increasingly used in the European countries and enjoys success in the countries where civil society is very active in promoting it among the population. It is necessary to stress that the percentage designation mechanism should not be considered an alternative of fiscal deductions for philanthropic donations but as a distinct element in the national fiscal framework.

According to the international practice, the percentage designation represents the process in which the tax payers, individuals and/or legal entities, who do not have debts to the state budget, are entitled to assign a percentage calculated from their annual income paid to public benefit entities (or other beneficiaries provided for by the law). Thus, the logic of the mechanism is that the state accepts to cover a part of the money obtained from the income tax from taxpayers to civil society entities so that the latter implement public benefit goals because the state does not have sufficient expertise, services or capacities.

For instance, the Slovak legislation provides that both individuals and legal entities can participate in the percentage designation. According to this practice, individuals can contribute up to 2% and if they can certify they have executed voluntary work of over 40 hours – they can contribute by assigning up to 3% of the income tax paid to these entities. Legal entities can assign up to 1.5% but if they certify they have donated 0.5% – they can assign up to 2%. Another practice is found in Romania (2%), Lithuania (up to 2%) and Hungary (1%+1%) – where the subjects entitled to assign a percentage can be only individuals (in Lithuania – only the residents and this is expressly indicated in the law).⁹⁴

It is necessary to note that the percentage designation mechanism is a distinct tool from the deductions made in case of donations. The deduction set out in Art.36 of the Tax Code is a *benefit granted to the donor* when making a donation for philanthropic or sponsorship purposes. In practice, the deduction enables the donor reduce the income tax payable to the state. This mechanism is a tool for stimulating taxpayers to make donations for philanthropic or sponsorship purposes. On the other hand, the percentage designation mechanism enables taxpayers establish the designation of up to 2% of the tax amount paid for public benefit activities carried out by CSOs. The percentage designation is not a ‘tax benefit’ because the taxpayer will pay the full amount of his calculated income tax. We can list a few examples from the EU countries where the percentage designation is applied at the same time with donation deductions. In Poland, the donations made by individuals can be deducted up to 6% while donations by legal entities – up to 10%. At the same time, individuals can designate

⁹³ CRJM 2015: Impact of the 25 law on the financial sustainability of civil society organizations <http://crjm.org/wp-content/uploads/2015/05/CRJM-DPP-2la-suta-05-05-2015-WEB.pdf>; The Percentage designation based on the Hungarian Model: can it make a difference in Moldova?, Andrei Brighidin, 2013

http://www.fhi360.md/docs/The_Percentage_designation_based_on_the_Hungarian_Model_can_it_make_a_difference_in_Moldova.pdf; Review of key subjects on regulation of percentage designation mechanism in Moldova, developed by Daniela Vidaicu. ECNL, 2013.

⁹⁴ Analysis of key subjects on the regulation of the percentage designation mechanism in Moldova, Daniela Vidaicu, Chişinău 2013

1% of their income tax to a NGO. Hence, we conclude that both mechanisms must be developed and applied at the same time, which is possible to do and will be saluted.

In view of regulating the percentage designation mechanism there has been developed a range of studies⁹⁵ and proposals for amending the national legislation. In 2013, an official working group was created in the Ministry of Finance through the Government Disposition no.17-d/12.02.2013, responsible for preparing the respective amendments. Thus, the Tax Code was amended by the Law no.324 of 23 December 2013 in Art.88 para.(7) that for the first time introduced the concept of “percentage designation”. On 13 February 2014, the Constitutional Court issued a decision on the control of the constitutionality of Art.88 para.(7) of the Tax Code and declared the provision unconstitutional due to the failure to observe the budget procedure stipulated in art.131 of the Constitution, and without consulting the local public authorities, by violating the principle of local autonomy, stipulated in Art.109 of the Constitution.⁹⁶

On 18 July 2014, the Parliament passed new amendments to the Tax Code through the Law no.154 of 18 July 2014. According to the said law, the Government was to adopt the mechanism for the implementation of the new provisions within 3 months from the entry into effect of the law. Unfortunately, the Government has not passed any regulations in this sense and the Tax Code and the Law no. 837 of 1996 contain many gaps. Finally, starting with 1 January 2015, the Tax Code has been defining the mechanism and establishing the general principles of operation, indicating the beneficiaries, the categories of taxpayers who can designate, the manner of designation, competent institutions, and accountability in case of violation of the law. Today, a clear procedure is missing for the civic organizations to use this tool. The only provisions on the percentage designation are sporadically and deficiently regulated by the Tax Code (art. 8, 12, 15², 52, 88) and the Law no.837 of 1996 (art. 31, 33³, 33⁴).

Art. 12 of the Tax Code stipulates that the percentage designation is a process in which the taxpayers (art. 8 (1) establishes that only individuals have this right) who do not have debts to the national public budget for the previous tax periods assign up to 2% of the their income tax, annually calculated to be paid to the budget, to public benefit noncommercial organizations, religious groups and their component parts who are entitled to participate in the percentage designation. Thus,

- Only individuals can designate up to 2%;
- The individuals should not have debts to the state budget;
- Up to 2 2% of the income tax can be designated;
- The designation takes place on 25 March with the payment of the income tax;
- Beneficiaries can be: public benefit noncommercial organizations (those that have a public benefit certificate), religious groups and their component parts (established in the Law no.125 of 11 May 2007 on Freedom of Conscience, Thinking and Religion).⁹⁷

According to art.33³ para.(2) of the Law 837 of 1996, the financial means obtained by public benefit noncommercial organizations as a result of percentage designations can be used as follows:

a) To support the public benefit activities stipulated in the law on civic associations, art. 30, in a timeframe that does not exceed a tax period after the tax period in which the designation was made;

⁹⁵ Percentage designation based on Hungary’s model: can it make a difference in Moldova? Andrei Brighidin, Chişinău 2013; Analysis of key subjects on the regulation of the percentage designation mechanism in Moldova, Daniela Vidaicu, Chişinău 2013; Public policy paper. Impact of the 2% law on the financial sustainability of civil society organizations, Sorina Macrinici, Ilie Chirtoacă

⁹⁶ <http://www.constcourt.md/ccdocview.php?tip=hotariri&docid=488&l=ro>

⁹⁷ Official Gazette no. 127-130 of 17.08.2007 <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=324889&lang=1>

b) To cover the organization's administrative costs, up to 5% of the financial means obtained from the percentage designation.

As it can be seen, in addition to CSOs, the amendments made allow religious groups (and their entities) to access this financing without any eligibility or reporting criteria. As compared to CSOs, religious organizations are not required to report on how they use the resources received, they are not required to use such resources within a certain timeframe, are not liable to legal accountability if such resources are not used as designated etc. The Government did not manage to develop in 2014-2015 the mechanism for applying the 2% Law and the distribution of individuals' income tax as desired by them is planned to start only in 2016.

According to the current provisions, the Certification Commission under the Ministry of Justice is responsible for the control over the use of funds obtained from the percentage designation. The Commission is required to receive the reports on the manner of use of the means derived from 2% and to establish if they were prepared according to the public benefit purpose. At the same time, Art.33⁴ stipulates that public benefit noncommercial organizations and their responsible persons who violate the legal provisions on the use of funds obtained from the percentage designations bear responsibility in accordance with the legislation. The body that has sanctioned a public benefit noncommercial organization for using contrary to the law the funds obtained from the percentage designation is required to notify the Certification Commission about it within 15 days from the date of the sanction.

If the sanction has been challenged in court, the respective body is required to notify the Certification Commission about this within 5 days from the final court judgment. The public benefit civic association whose certificate has been withdrawn due to having misused the funds obtained through the percentage designation cannot have the public benefit status for 3 years from the date of the sanction. The current national framework has many gaps on the percentage designation and its amending and developing a transparent, clear and predictable procedure is imminent.

Recommendations for public authorities:	<ul style="list-style-type: none">- Adopt urgently amendments to the Tax Code to make the percentage designation mechanism functional (including for legal entities). Establish a mechanism based on fairness in order to benefit from the support derived from "2%" for the eligible subjects;- Establish a technical mechanism according to the principle of confidentiality by which a certain percentage will be transferred from the taxpayer to the civic organization;- Identify the authority to check the use of money received from percentage designations. Strengthen the institutional capacities of this state body;- Develop explanatory guides for the taxpayers/beneficiaries on the functioning of the percentage designation mechanism.
Recommendations for civic organizations:	<ul style="list-style-type: none">- Develop an efficient advocacy campaign to assure the good implementation of the "2% law" by the state;- Develop an internal strategy of the organization for the efficient promotion of the activities carried out and of CSO mission among the beneficiaries and other individuals for accumulating resources from the "2% mechanism";- Develop the CSO capacities to meet the eligibility criteria for benefiting from the percentage designation mechanism.

Legal accountability or the fraudulent use of the support provided by the state. According to Art.33³ of the Law on Civic Associations, if a public benefit noncommercial organizations fraudulently uses the public funds, it shall be held liable according to the administrative or criminal legislation (depending on the act committed). The body that has imposed a certain sanction on a CSO shall notify the Certification Commission within *15 days* from the date of the sanction. The Certification Commission shall be notified within *5 days* if the noncommercial organization has appealed in court the decision on the sanction. According to para.(3) of Art.33,³ the public benefit noncommercial organization whose certificate has been withdrawn due to the misuse of the support provided by the state cannot have the public benefit status for 3 years from the date of the sanction.

Art. 38 of the Law on Civic Association establishes that the control over the compliance of the activities of civic associations with their statutory goals and tasks is exerted by the body that registered the association (para.1). At the same time, the law establishes that the control of the sources of income, the share of means received, payment of taxes, and on other financial activities of the civic association is exerted by the state financial and fiscal bodies (para.2). At the same time, according to Art.52 para.(7) of the Tax Code, *noncommercial organizations that use special purpose funds contrary to their designation, or other means and revenues resulted from the statutory activities for purposes unstipulated in their statute, regulation, or in another document of incorporation, calculate and pay the income tax at the share of 12% of the amount used contrary to its designation.*

CHAPTER 3. SUCCESS STORIES OF FUNDRAISING BY CSOS

CASE STUDY NO. 1: SPECIAL EVENTS, PROCUREMENT OF GOODS AND PRODUCTS FOR SPECIFIC BENEFICIARIES

General information about the organization:

Full name: Regional Center for Assistance and Information to NGOs CONTACT-Cahul

Area of activity: social

Name of executive director: Silvia Strelciuc

Activity: Starting with 2012, the CONTACT-Cahul Center has been carrying out the charity campaign “Santa Claus exists!”

Target groups: business, public institutions, civil society organizations, individuals.

The goals and specific objectives of the activity are raising financial resources and goods for the most vulnerable and marginalized youth in the southern districts of Moldova.

In some CRAION projects, CONTACT-Cahul works with the youth from needy families, identified in cooperation with the community social workers. The Center’s team identifies the most vulnerable ones and prepares a list of the persons who are in great need of support to overcome their crisis situation. The idea of participation in the campaign is discussed individually with each person and with their family members if the youth are still juvenile.

After the idea of participation in the campaign has been agreed upon, the psycho-pedagogs work with each youth and help them write their “life story,” at the same time observing the principles of confidentiality and personal freedom. The story of their life also includes their expectations from the winter holidays, including “How would you like to celebrate Christmas?” and “What do you think

Santa Claus will bring you this year?” All the information collected is systematized and published. The information about the campaign launched is broadly disseminated by businesses, public institutions, CSOs and other structures that are open to such actions.

Two weeks before the charity ball, “Santa Clause’s Workshop” broadly opens its doors at the premises of CRAION CONTACT-Cahul. In the workshop, the Center’s volunteers, the youth of the project, the Center’s team and other stakeholders produce hand-made items, such as crocheted angels, bells, Christmas trees. They also prepare greeting cards and Christmas boots. All the items produced are promoted on the organization’s webpage, its Facebook page, in the electronic newsletter *CONTACT de Sud*, and on the websites of the partner organizations. Before the charity ball, they are put up for sale including in this event.

The Charity Party “Christmas Hope” was organized on 23 December 2014 with the participation of over 100 persons: representatives of the General Consulate of Romania in Cahul, LPAs, CSOs, businesses, project partners, friends and acquaintances of CONTACT-Cahul. Good mood and the holiday spirit were assured by groups of carol singers, dancers, and special guests: the singers Tudor and Lidia Bejenaru, Victor Sirbu, the master chef Alexandru Carapostol and the magician Andrei Andronachi. The team of CONTACT-Cahul together with the volunteers organized a flash-mob entitled “Santa Claus Exists.” Embraced by the magic of the winter holidays, those present at the party wanted to put smiles also on the faces of the five needy youth who could not enjoy the Sacred Holiday of Christmas. Thus, during the party, the guests purchased greeting cards, crocheted angels and bells, socks, made individual donations, also contributed by paying the entry fee to the charity party.



At the last stage of the campaign, the money, goods and all items collected reach the beneficiary’s home. Each beneficiary has an account opened in their name on which the money raised, proportionally distributed, is deposited. Then together with the youth, beneficiary of the campaign and his family members, a set of primary needs is prepared and the necessary purchases are done: clothes, medicine, food products etc. Each youth in addition receives other goods and products collected by the local businesses: food packages, hygienic packages, food tickets, little Christmas trees to feel the smell of the winter holidays or any other type of support identified by the sponsors. All the goods collected are transported to the beneficiary’s home, this visit being a small celebration with the family of the disadvantaged youth and his family.



Outcomes of the 2014 campaign:

- Funds raised from the sale of handmade items and donations – 20,145 lei.
- Goods, clothes and footwear, sweets, individual packages, estimated at 13,225 lei.

- Goods have been collected and distributed to 5 very vulnerable and marginalized youth, in the total amount of 33,370 lei. Additionally, CRAION CONTACT-Cahul, in the fundraising campaign, gained new friends and supporters and had the possibility to make a broad promotion campaign in the south of Moldova.

Threats and risks:

- That not all entry tickets to the charity event would be sold.

Lessons learned:

- The organization should have certain resources for the partial or full coverage of event costs, otherwise, the costs may exceed the revenues and the amount of the funds raised would be too small;
- Broad local campaigns should be held for organizing special events;
- It is very important to say “Thank you” on behalf of the beneficiaries and of the organization to the persons who got actively involved in the fundraising campaign. Here is an example: the team of CRAION CONTACT-Cahul made a wall calendar with pictures of the beneficiary youth and the list of the local sponsors.
- The funds raised are deposited on the current accounts of the beneficiaries. This facilitates the more efficient use of funds in compliance with the various types of needs: buying clothes, medicine, payment for medical diagnosis or treatment, buying food products etc.
- The stores with which we worked during the campaign wanted to make donations in goods but could not because later they would have had problems in documenting and reporting such operations. According to the law, there are restrictions that regulate the proportion of amounts declared as donations in the total income. Only 2-3% of income can be declared as donations. Therefore, business companies do not accept such operations.

CASE STUDIES NO.2: DONATION BOXES, SMS CHARITY CAMPAIGNS, CONCERTS AND SERVICES, ONLINE FUNDRAISING

General information about the organization

Full name: Civic Association “Save Life”

Area of activity: social

Name of executive director: Bercaci Aliona

Address: Chişinău, str. Sadoveanu 20/1 of. 403, telephone – 022 999 381, 079 00 38 38

Mission, goal and main activities of the organization:

- Raise and distribute voluntary donations for the treatment and medical assistance of seriously ill children and teenagers as well as for the specific assistance needed by socially vulnerable families;
- Sensitize the public opinion about the children who are fighting for their life and childhood without pain and suffering;
- Raise donations from individuals and legal entities in view of applying the said charity programs.

Main donors of the organization: Moldcell, Agenda.md, All Kids, All Fun Moldova, Moldovan Tennis Federation, Baby Boom Sore, Eva Balloons, City Quest, DAAC Hermes, Deukalion Audit, Dixi Media, Radio Europa Plus Moldova, Factura.md, Farmacia Familiei, Fotbal Club Dacia, Gis Meteo, Mama.md, Compania Mary Kay, Gold Travel, Idea.md, JurnalTV, Kinderland.md, Komsomoliskaia Pravda, Metro, Numbers, SRL OM, Piaţa de Vacanţe, Rabota.md, RuTV Moldova,

Photo school Roman Rybaliyov, Sănătate, Simpals, Radio Sport, Starnet, Radio 21, Varo Inform, Leo Grand.

In its activity, the organization uses a number of methods of fundraising for its beneficiaries. This is especially about charity campaigns on various topics, for various groups/targets but having the same goal: fundraising for the treatment and medical assistance of seriously ill children and teenagers, and also for the specific assistance necessary to socially vulnerable families. Below are described several of the charity campaigns annually held by the CA “Save Life”

1. SMS Charity Campaign “Healthy Children!” <https://www.facebook.com/>

Date: *throughout the year*

Essence: The possibility to help ill children through SMS (for the Moldcell subscribers). Starting with 1 December 2012, any subscriber of the mobile company Moldcell can help the children by sending an empty text message to the short number 0445. The cost of one text message is 20 lei, which is the donated amount. At present, this is the easiest and most convenient possibility to help: the amount is acceptable and it is not necessary to go to the bank.

2. Charity action “Children – Flowers of Life”

Date: *throughout the year*

Essence: Traditionally, to weddings, anniversaries or baptizing parties, the guests come with flower bouquets that quickly dry out and are thrown away. The proposal here is that the money that could be spent on expensive bouquets to be donated for saving a child. Only ask the guests (e.g. on the back of the invitation cards) that the money they put aside for buying flowers to be thrown into a symbolic box, installed in the room where the party is taking place. After the amount raised is transmitted to the organization, the money is immediately transferred to the account of the seriously ill children.

3. Charity action “Beauty will save a child’s life”

Date: *throughout the year*

Essence: On a day set in advance, “Save Life” invites a person to a beauty salon with stylists, hairdressers, make-up artists, cosmetologists, and manicure and pedicure masters. The person is given here the possibility to get a manicure or hairdo, to relax and enjoy the work of those with the vocation to make people more beautiful. And all the funds collected during such an action are directed to the children’s treatment.

4. Charity action “Life deserves living”

Date: *December/March*

Essence: The main goal of the action is to raise as many bani (*smaller currency after the Leu*) as possible. Donations are raised in the form of bani to show that together, collecting only bani, someone’s life can be solved. The “Life deserves living” actions are always carried out cheerfully. Each year, adults come with their children who open piggy banks with pleasure and speak like adults about how important it is to help those in need. As thanks to them and in order to entertain its young friends, “Save Life” on this day organizes entertainment programs, contests, workshops; animators and the staff of the development centers entertain the young. The program of the day is usually full and cheerful.

5. “Corporate Charity Tennis Challenge” – the best competition with the noblest goal!

Date: *April-May*

Essence: “Save Life” and the Tennis Federation of Moldova organize charity tennis tours. Legal entities and teams of organizations and companies from Moldova are invited to participate in an amateur tennis tour. The composition of the team is a man and a woman. Mandatory requirements: the participants should not be professional tennis players and their level should be amateur or beginner. The teams compete in single or double mixed games. The tour aims at raising funds to help seriously ill children. “Corporate Charity Tennis Challenge” is actively promoted in the media and in the internet-based social networks. The participation in the charity tennis tour strengthens the company’s team spirit and the unity of the staff.

6. Charity event “The March of Life”

Date: *May*

Essence: “The March of Life” is one of the biggest events of the year. The organizers are “Save Life” and Moldcell. Place: the main parks of the city. On this day, children’s groups and Moldovan singers perform on the stage; topical children’s workshops, organized by development centers, take place; photo sessions with favorite cartoon characters; dancing flash-mobs and many other activities interesting for the children and their parents. Throughout the day, the citizens have the possibility to donate by sending SMS to the number 0445 and throwing money into the boxes installed throughout the place. Colorful balloons become symbols of the action and of the fight against serious diseases.

7. The Social Project “Together We Can Do It!”

Date: *May*

Essence: Sensitizing the public regarding the problems of families with ill children. The “Save Life” team found support from famous persons of Moldova. Talented artists and TV moderators are ready to fight for the life of our young citizens. Annually, musical clips are filmed with the participation of stars who call people to unite to do good things.

8. Charity photo sessions

Date: *throughout the year*

Essence: People are invited to participate in photo sessions done by professional photographers. The participants can receive up to 20 beautiful pictures in exchange for a donation. There are invited parents with children, future parents as well as all those who like to pose and smile. Both sessions for families are held as well as fashion sessions with the support of make-up artists and professional fashion designers. Charity photo sessions usually take place in the city’s parks. The participants take away with them nice memories about this day while the organization, with the funds raised, can help the children in need.

Description of a fundraising activity: charity campaign for the child named Stiwin Moldovanu that successfully ended in July 2015.

Goal and specific objectives of the activity: raising funds for the child’s family who aims to go to the Russian clinic “N. F. Filatov” and subject the child to a complicated surgery to treat child’s esophagus atresia and spine anomaly he had had since his birth.

Target groups: businesses, public institutions, civil society organizations, individuals.

Fundraising scenario: Initially, the child’s parents took a credit for the first surgery. Unfortunately, during the first surgery, it was not possible to connect the two sides of the esophagus. When the

parents understood they could not afford the complicated and expensive treatment, they contacted “Save Life” online. After their post to the website of the civic organization, the amount necessary for the child’s treatment – 29,100 thousand lei – was raised. At present, the child is alive and perfectly healthy. The latest posts about his health conditions were made on 13 July 2015. The donations were mainly made online through the platform <http://www.globalgiving.org/>. Also, the donors can use the services of Victoriabank, Moldinonbank and Moldova-Agroindbank. Poșta Moldovei and companies owning the terminals Netto-Pro and MMPS are the organization’s partners. Many donors do this directly from their bank cards Visa or Mastercard. There were raised 10,800 lei in cash for Stiwin and other 18,300 lei through bank transfers. Some donors wish to remain anonymous. Sometimes, public persons, artists, business people or politicians come to help the children supported by “Save Life”. Here are some opinions:

Olia Tira (*singer*)

“Your soul fills with light when you see people who do not sigh with pain anymore because of being alone with the suffering of the closed one before them, because they cannot change things. Joy fills your heart when you see people who go to do something good. And nearly each charity action organized by the civic organization “Save Life” confirms this, and that our children are not alone! We bring sincere thanks to the organization for this noble thing!”

Mc Mike (*TV and radio anchor, singer, composer*)

“As a father and a human being I will probably make a statement that is universally accepted and namely that children should not suffer. Health is the biggest value. Hence, it is my duty to support these young people of our country. I am grateful to all those who do not remain careless to their suffering.”

Threats and risks:

It is not always possible to raise big amounts of money or to raise money fast in case of need. The project coverage improves with each year but it is not at the republican level. The good side is that “Save Life”, together with Moldcell organized in 2015 the information campaign “The March of Life”, which enlarged the circle of aware persons and had a greater impact both on the ordinary citizens and on businesses, public persons etc. A negative side is that very few parents have access to the internet and therefore do not know about such organizations. Not all children with serious health issues endure the treatment. The association’s website has a column “In Memoriam” dedicated to those children who are not alive anymore, despite all the efforts made.

Lessons learned

- The organization must carry out a broad visibility campaign for itself. The more people know about its goals and activities, the higher the probability to get donations and aids;
- Broad local promotion campaigns must be implemented for organizing special events;
- One must study and respect exactly the legislation on philanthropy and sponsorship that, although is difficult and creates problems to the entrepreneurs and other potential donors, must be observed.



CASE STUDY NO.3: CENTRALIZED COLLECTION OF FOOD PRODUCTS FOR BENEFICIARIES, FROM STORE NETWORKS, NON-PROFIT ACTIVITIES WITH THE INVOLVEMENT OF VOLUNTEERS, SOLIDARITY CLASSES FOR HIGH SCHOOL AND UNIVERSITY STUDENTS, CHARITY FAIRS

General information about the organization:

“Diaconia” is a social structure of the Bessarabian Metropolitan Church that has been active in the entire territory of Moldova since 2001, registered in October 2003. The organization is member of the Federation “Philanthropy” (Romanian Patriarchy) and of the Alliance of CSOs active in the area of social protection of the child and family. “Diaconia” acts on a volunteer basis and focuses on such areas as child protection, combating poverty, prevention of dependence on various types. In addition to its premise in Chişinău – the mobile cafeteria and warehouse – the organization has coordination centers in the entire country. The most eloquent examples are: the Center “Sf. Stelian” in Feteşti, Edineţ; the Center “St. Vasile the Great” in Cania, Cantemir; the Center “St. Maria Magdalena” in Roşu, Cahul; “Mafredi” in Cahul; “Misericordia” in Caşcalia, Căuşeni.

Christmas Campaign “From Mothers to Mothers”

Purpose: promote solidarity in view of supporting the mother-child couples in difficulty;

Beneficiaries: mother-child couples accommodated at the Maternal Center “In the mother’s arms”;

Description: mothers from Chişinău, of various ages and professions, participated in creation workshops in which they created X-mas tree toys. The “entry ticket” to the workshops was dressing items (for children aged between 0 and 3) that completed the wardrobe of the Center. On 17 and 18 December, the manufactured toys were sold at a charity fair.

Results

- **2011:** 100 mothers and 7 volunteers from Chişinău participated in creation workshops; the wardrobe of the Maternity Center was completed with about 300 clothing items and toys; as a result of the charity fair – 17,043 lei and from private donations — 11,200.
- **2012:** there were collected 52,000 lei, and from campaign activities, including private donations and those offered through payment terminals, the wardrobe of the Maternity Center “In the mother’s arms” was completed with 3,500 children’s products.
- **2013:** As a result of the charity event and fair, there were raised 26,710 lei; from private donations – 26 850 lei and food products in the amount of over 35,000 lei; the wardrobe of the Maternity

Center “In the mother’s arms” was completed with clothes, toys and other products for children; 28 volunteers and 17 partners were beside the Diaconia team for organizing campaign activities.

The campaign “The table of joy”

Purpose: improve the situation of lonely elderly;

Description: food products and funds were raised in store chains and solidarity classes were held for high school and university students;

Impact: In 2015, as part of the campaign, there were donated 22 tons of food products. The donations will become lunches to be distributed daily to social cafeterias and over 800 elderly and socially-vulnerable families will receive social packages on the eve of the sacred Easter holidays.

The first ones show that as a result of the persons who did not remain careless to their close ones, only in Chişinău there were collected 19 tons of food products. In those over 23 stores in the territory there were collected three thousand kg of food products. Thus, this year, the Easter campaign “The table of joy” collected 22 tons of food products that will be used to cook warm lunches to be distributed to the needy. The funds raised in the campaign will become warm lunches for the beneficiaries of the social mobile cafeteria “Close to Your Close One” that daily provides meals to over 180 needy persons from Chişinău and to over 100 elderly in the territory. The donations will arrive in the form of food packages to the lonely elderly and to the persons with a precarious material situation that are assisted by the parochial centers.

Lessons learned

- The volunteer work is to be organized in such a way that each person knows their role and meaning in the organization;
- In collecting food products, it is necessary to take care of the quality and origin of products, conditions of their storage and transportation;
- All donations must be tracked well to not raise suspicions with the donors.

CASE STUDY NO.4: ANNUAL CHARITY BALLS, ANNUAL CONCERT “HOSPICE UNPLUGGED” AT THE NATIONAL PHILHARMONICS, TABLE TENNIS AND FOOTBALL MATCHES. PALLIATIVE HOME CARE SERVICES. PHILANTHROPIC MEDICAL-SOCIAL FOUNDATION “ANGELUS”

General information about the organization:

Full name: The Philanthropic Medical-Social Foundation “Angelus Moldova”

Area of activity: social assistance. The philanthropic medical-social foundation “Angelus Moldova” is a nongovernmental organization, apolitical, non-profit and was registered legally with the Ministry of Justice in 2000, aiming at creating a new medical-social assistance system, aimed at untreatable cancer patients in advanced and terminal stages as well as their families. The organization’s view is that all the persons suffering from incurable diseases in advanced stages must enjoy free specialized palliative care services and their families must have access to support and counseling services. The goal is to assure comfort and dignity to persons with incurable maladies in order to improve the quality of their life in advanced and terminal stages of the disease.

Beneficiaries:

- Persons (patients) who need palliative care;
- Relatives (families, friends) of such patients;

- Medical doctors who supervise the cancer patients at the terminal stage and children with non-oncologic incurable maladies;
- Any other persons who have questions in the palliative care area.

The persons with an advanced, progressive oncologic malady, with a limited life forecast (under 12 months) and children with incurable maladies (oncologic and non-oncologic), regardless of their age, race and social and religious affiliation can benefit from the services of the HOSPICE “Angelus”.

In 2011, Hospice Angelus had 942 patients in its care (186 new patients), adults and children, including stomatized patients, 3530 home visits during the year, 55,270 bags for stomas and 106 breast prostheses were donated. This was possible due to the continuous financial involvement of the strategic partner, Hospices of Hope Foundation of Great Britain and the Soros Foundation Moldova, plus donations from individuals.

In 2011, fundraising was continued in the local community and abroad. The first Hospice pool cup was organized in March, followed by the Hospice Angelus Football Cup that was attended by 16 teams, representatives of the local business community, diplomats and nongovernmental organizations. Also, the monthly contest “Trivia Quiz Night” was organized starting with June 2011 and attracted hundreds of residents and persons from abroad, willing not only to test their general knowledge but also to provide their support with this unique event that brings together persons of all social categories into supporting the activities of Hospice Angelus. In such campaigns, 866,000 thousand lei were raised.

Leograd Hotel & Convention Center was the locale that hosted the third edition of the Hospice Angelus Annual Charity Ball in May 2011, the biggest charity fundraising event. The evening included a reception with champagne and 3 types of food, accompanied by an entertainment program with FURIOSnails, Trigon, Serghei Varsanov and Moldovan folk dancing performed by the “Joc” group. The climax of the evening was the speech held by Her Highness, the Princess Marina Sturdza, owner of Hospice Angelus, followed by an exclusive tender that raised 10,000 euro. The stars of the evening were Nata Albot and Andrei Bolocan who previously had visited the patients in the care of Hospice Angelus and helped raise an impressive amount ever collected at a charity event in Moldova. The total amount calculated at the end of the evening was 25,000 euros.

In 2012, 787 new patients with incurable diseases, including cancer, benefited from the services of Angelus. The total number of patients during the entire year is 1481 persons. There were conducted 4766 home visits, 101 children were registered for care, 630 patients were stomatized, 79,000 bags for stomas were distributed free of charge, 53 families received rights after the interventions of the social workers, 220 interventions to protect the rights of patients, 130 new patients registered for breast prostheses, 85 breast prostheses were distributed, and 28 wigs.

“Angelus Moldova” participated in the 2012 Health Awards Gala and received an award for Community and Palliative Care, given to the medical team that provides the highest number of home-based palliative care services. As a result of the events organized in Moldova and of the new supporters, the fundraising team raised 64,000 euros. As a result of such an achievement, HOSPICE Angelus manages to replicate the impact caused by granting palliative care services.

During 2012, the fundraising activities increased and new ones were introduced. In view of maintaining and increasing the support, the fundraising team worked hard to come up with innovative ideas and dynamic events to attract the public. The new events organized during 2012 were such as the Dinner in the honor of Robert Burns, celebrating the life of the famous Scottish poet; the ping pong tournament HOSPICE Angelus and HOSPICE Angelus City Quest, and also Trivia Quiz Night; the football match HOSPICE Angelus and the Charity Ball HOSPICE Angelus.

In October, on the occasion of the International HOSPICE Day, there was organized the third annual concert “HOSPICE Unplugged” at the National Philharmonics together with the singers Cristofor Aldea-Teodorovici, Dorel Burlacu Band, Elena Carafizi, Andy Oncea, Irish band KISS-U-NOW and Pasha Parfeni who represented Moldova at the Eurovision Contest in Baku in 2012. In total, in 2012, the amount of 1,284,000 was collected in 2012. Leograd Hotel & Convention Center was the locale that hosted the third edition of the annual Charity Ball HOSPICE Angelus in May 2012, the biggest charity fundraising event. The evening was entitled “A cinema evening,” and the guests were introduced into the atmosphere of movies through the singing of FURIOSnails, UNIVOX and Dara of the known musical topics, while the bands StudioCLASS and Antaris relaxed the atmosphere with well-known choreography. The honorable owner of HOSPICE Angelus, Princess Marina Sturza, moderated an extraordinary auction that generated 11,000 euros. The evening was hosted by Nata Albot and Andrei Bolocan and raised the biggest amount of money ever raised at charity events in Moldova. The total amount raised after the event was 28,000 euros.

Lessons learned

- It is important to assure very good transparency, especially for the donors. The people must know how the funds allocated are used.
- It is necessary to have a lot of perseverance in order to succeed in fundraising campaigns;
- Fundraising activities must be adapted to each country in part, taking into account its specifics and the already existent traditions;
- Due to the reporting procedures and tax deductions from the amounts donated, companies are not motivated to make donations.

CASE STUDY NO.5: FUNDRAISING FROM INDIVIDUAL DONORS, PLACING FUNDRAISING BOXES IN SUPERMARKET CHAINS

General information about the organization

Full name: Partnerships for every child

Area of activity: social

Name of executive director: Stela Grigoraș

Mission, goal and activities of the organization: The organization’s goal is to assure a reliable and protected future to the children who are or risk to be separated from their families and the communities. The organization empowers the children, their families, communities and the authorities to create opportunities for a better life:

- Gives to children the chance to grow in caring families and communities, strengthening their family and preventing the separation of children from parents;
- Reunites families, helping children to come home and when this is not possible, makes sure that the alternative care offered to each child is of family type;
- Protects children against abuse, negligence and exploitation both in the family and in alternative care;
- Assures that the children's voice is heard, helping them express their opinions, take part in making decisions that affects their life and together with their family and community find sustainable solutions to their problems.

Target groups: Youth of 16 years old; women from 21, married and who have at least one child.

Purpose and specific objectives of fundraising activities:

- Fundraising to support the work of the social hostel designated for mother-child couples;
- Collecting products for the families and children reintegrated from boarding schools to help them in difficult periods.

Fundraising methods:

Fundraising from individual and corporate donors. “Partnerships for Every Child” launched fundraising activities back in 2008, when it was working as the organization “EveryChild,” by launching a fundraising campaign for procuring a place to live for the children of the Ciornea family who remained orphans after a terrible fire that burned out their house well. Back then, we all together managed to raise 162,000 lei. Seventy thousand lei was collected on the accounts opened at Mobiasbanca by EveryChild Moldova (now “Partnerships for Every Child”), 32,000 lei – on the accounts opened by the Mayor's Office of Sărata-Galbenă. 60,000 lei were donated by the Adventist Church. The main contributors were Moldova Agroindbank, Moldovan Airlines, InvestPrivatBank, International Institute of Management, Confort, the stores “Elefant” and “Bosch,” and EuroCreditBank.

The house was bought for 123,000 lei and the rest of money was used for its current repair and connection to natural gas pipeline. Until recently, these three children formed a family and grew together under their grandfather's care. At present, Ion and Marina, the elder children have got married and have their families, the youngest child remained in the care of his sister in the house that was purchased back then. It is a big household, with 50 ares near the house, with a strawberry plot and a well looked after vineyard plantation. This is an example of accountability, when all together we managed to prevent placing those children in residential institutions, giving them the opportunity to grow in a family, in harmony, and at their own home.

Since the procurement of the house for the Ciornea children and until now, “Partnerships for Every Child” increased the range of good acts. We raised funds for reorganizing the Cahul boarding school with which we reconstructed the old bedrooms with ten children sleeping in each into social apartments designated for orphan graduates who do not have where to go after graduating from the boarding school. The reorganization of the boarding school had as basis the idea of creating conditions as close to the family ones as possible for those children who cannot live with their families. Due to such actions, we reduced the number of institutionalized children from 200 to 30. The children went to the community school to create their social capital and enjoy fully all the rights and possibilities given to them by the community. Now the children live 2 or 3 in one room, have conditions to study, to cook and to prepare independently for an adult life. All these processes lasted and were funded including from foreign funds but we think we should encourage each citizen to

contribute to the beautiful changes that happen in our society. Thus, in years, we will be able to proudly say that we also contributed to making good changes.

Placing fundraising boxes in supermarket chains for individual donations. In various supermarket chains transparent boxes were placed for raising funds from individual donors. For this purpose, we sign a special contract with the management of the store chains in which we stipulate the placement conditions and the responsibilities of parties. Thus, assuring the integrity of the boxes is the obligation of the organization, they being manufactured from resistant material and fixed in such a way, so that to prevent eventual stealing. When the money is extracted, the representatives of the store are present, an act is prepared and all those present sign it, thus confirming the amount raised. The funds raised are distributed within the organization according to the organization's current needs according to its projects.

A fundraising campaign through this method was entitled "Help me to remain with my mother!" The campaign aimed to support the Social Hostel designated to mother-child couples, created with the organization's support. For several years, this service was maintained only from the money raised from the boxes located in the country's stores. Mother-child couples are placed in the social hostel to exclude the risk that, for one reason or another, the mother may abandon her child in the maternity hospital, immediately after giving birth. Thus, the mother-child couples are placed in the hostel for maximum 6 months, during which the hostel's team, in cooperation with the beneficiary's community of origin looks for reintegration solutions. Organized based on the family model, the services of social, psychological and legal assistance, care and education, provided within the social hostel aim at reintegrating the parent-child couple in the family and community. This type of service was a premiere for Moldova through the semi-independent character of their status. The organization cares about the independence status granted to the family placed in the Hostel because it trusts the parents' capacity to take care of its own children. We strive to offer them an environment as close to the family one as possible, insisting on strengthening the parental abilities and mediating the relations with the biological family.

These are some of the examples of cases or projects we support from the money raised from the boxes located in the country's stores. To mention that in the fundraising process transparency is guaranteed as the funds are directed exclusively to concrete cases. The organization's administrative costs are covered from the projects implemented by the organization.

The organization's main donors: in general, the organization implements its work based on projects funded by foreign donors, including all the administrative costs and the staff salaries are paid within projects. We maintain the fundraising activity in order to give a chance to the persons from our country to contribute to the positive changes that happen in this area. In this way, we amplify the positive effect of the outcomes obtained as a result of the projects.

Threats and risks: voluntary fundraising from individuals is sporadic; it is not a reliable and permanent source of supporting the CSO budget.

Lessons learned

- Few companies have implemented programs of corporate social responsibility well-structured and institutionalized;
- In fundraising campaigns, it is important to know well the community of potential donors and to propose credible cases to them;

- When fundraising by using fundraising boxes placed in supermarket chains for individual donations it is important to make sure that the administration of the business companies clearly understands the goals and destination of the funds raised; it is important that all acts are prepared in accordance with the legislation and the accounting provisions.

ANNEX 1: List of national normative acts relevant for CSO fundraising

Type of activity	Legal regulation applied
Revenue-generating activities	
<i>Revenues from the economic activities carried out by CSOs</i>	<ul style="list-style-type: none"> • Civil Code: art. 187, 188 • Tax Code: art. 52 para. (2) • Law no. 837 of 17.05.1996 on Civic Associations: art. 24, 26 para. (1), 28 • Law no. 451 of 30.07.2001 on Licensing Some Types of Activity • Law no. 845 of 03.01.1992 on Entrepreneurship and Enterprises • Law no. 220 of 19.10.2007 on the State Registration of Legal Entities and Individual Entrepreneurs • Law no. 113 of 27.04.2007 on Accounting • Order of the Minister of Finance no. 188 of 30.12.2014 on approving the Methodological Instructions on the Specifics of Bookkeeping in Noncommercial Organizations
<i>Revenues from economic activities carried out by companies founded by CSOs</i>	<ul style="list-style-type: none"> • Law no. 837 of 17.05.1996 on Civic Organizations: art. 24, 26 para. (3),(7), 28 • Tax Code: art. 15, 53¹ • Law no. 821 of 24.12.1991 on the Social protection of Invalids • Law no. 845 of 03.01.1992 on Entrepreneurship and Enterprises • Law no. 220 of 19.10.2007 on the State Registration of Legal Entities and Individual Entrepreneurs • Law no. 113 of 27.04.2007 on Accounting
<i>Social entrepreneurship</i>	There is no separate regulation of this activity
Donations. Philanthropic donations and sponsorship	
<i>Donations (general regulation)</i>	<ul style="list-style-type: none"> ▪ Civil Code: art. 828, 829, 832, 834, 835 ▪ Tax Code: art. 36, 42, 52 ▪ Government Decision no. 489 of 04.05.1998 on Approving the Regulation on the Manner of Confirmation of Donations for Philanthropic and Sponsorship Purposes ▪ Government Decision no. 77 of 30.01.2008 for approving the Regulation on determining the Tax Obligations Related to the Income Tax ▪ Law no. 62 of 21.03.2008 on Currency Regulation: art. 15, 16, 23
<i>Philanthropic donations</i>	<ul style="list-style-type: none"> ▪ Law no. 1420 of 31.10.202 on Philanthropy and Sponsorship ▪ Law no. 837 of 17.05.1996 on Civic Associations
<i>International philanthropy</i>	<ul style="list-style-type: none"> ▪ Law no. 837 of 17.05.1996 on Civic Associations: art. 25 ▪ Law no. 62 of 21.03.2008 on Currency Regulation: art. 15, 16, 23
<i>Sponsorship acts</i>	<ul style="list-style-type: none"> ▪ Law no. 1420 of 31.10.202 on Philanthropy and Sponsorship ▪ Law no. 837 of 17.05.1996 on Civic Associations
<i>Anonymous donations</i> <i>Fundraising box donations</i> <i>SMS donations</i> <i>Payment terminal donations</i>	There is no separate regulation of these types of donations
Public funds and benefits	
<i>Tax benefits (exemption from the income tax)</i>	<ul style="list-style-type: none"> ▪ Tax Code: art. 52, 53, 53¹, 53³, 83 ▪ Law no. 837 of 17.05.1996 on Civic Associations
<i>Right to use public space in preferential conditions</i>	<ul style="list-style-type: none"> ▪ Law no. 837 of 17.05.1996 on Civic Associations ▪ Decision no. 77 of 18.05.2015 of the Plenum of the Supreme Court of Justice on Enforcing art. 77 para. 5 of the Law on Local Public Administration no. 436-XVI of 28.12.2006

<i>Financial or material support to civic associations</i>	<ul style="list-style-type: none"> ▪ Law no. 837 of 17.05.1996 on Civic Associations: art. 24, 33¹, 33³
<i>Grants/donations from the state</i>	<ul style="list-style-type: none"> ▪ Law no. 837 of 17.05.1996 on Civic Organizations ▪ Law no. 436 of 28.12.2006 on Local Public Administration ▪ Government Decision no. 843 of 08.10.2014 for Approving the Regulation on the Financing from the State Budget of Cultural Projects Carried Out By Civic Associations ▪ Government Decision no. 1213 of 27.12.2010 on the Measures for supporting Youth Activities ▪ Government Decision no. 988 of 21.09.1998 for Approving the Regulation on Ecologic Funds ▪ Government Decision no. 110 of 23.02.2011 on Certain Aspects Related to the Distribution of the Annual Net Profit of Joint Stock Companies with Participation of the State and State Companies
<i>Social orders</i>	<ul style="list-style-type: none"> ▪ Law no. 837 of 17.05.1996 on Civic Organizations: art. 24, 33², 33³ ▪ Law no. 96 of 13.04.2007 on Public Procurements ▪ Law no. 123 of 18.06.2010 on Social Services ▪ Government Decision no. 95 of 07.02.2014 on approving the Regulation on the Procedure of Accreditation of Social Service Providers
<i>Percentage designation mechanism (2%)</i>	<ul style="list-style-type: none"> ▪ Tax Code: art. 8,12,15¹, 52, 88 ▪ Law no. 837 of 17.05.1996 on Civic Associations: art. 31,33³,33⁴