

ANALYSIS¹

Charity Regulation: Reforms in the Kyrgyz Republic and International Experience

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Recently, a [draft Law on Amendments to Certain Legislative Acts of the Kyrgyz Republic \(the Law of the Kyrgyz Republic on Patronage and Charitable Activities and the Criminal Code of the Kyrgyz Republic\)](#) (hereinafter, the Draft Law) was posted for public discussion. Noncommercial organizations (NCOs) asked the International Center for Not-for-Profit Law (ICNL) to assess whether the Draft Law is consistent with international good practice in charity regulation and what impact it may have on charitable organizations in the Kyrgyz Republic (KR) if adopted.

The Draft Law contains several proposals that may promote the development of charity:

- a proposal to raise the current limit on charitable organizations' expenditures on the remuneration of administrative and management personnel from 2% to 15%;
- the option to publish the annual report on donations raised and their use on the government portal or the organization's website instead of in a print publication, making this information more accessible;
- a requirement to inform donors in advance what will happen to funds that remain unspent after a fundraising campaign.

At the same time, the effect of raising the limit to 15% depends on which expenses will be included and which sources of funds the organization may use to pay them. For public fundraising, the Draft Law introduces a special account, registration on a government charity portal, and quarterly reporting, without distinguishing between a small one-time initiative and a large, long-running campaign.

This Analysis reviews the charity legislation currently in force in the KR, the amendments proposed by the Draft Law and their potential effect on charitable organizations, as well as international experience.

¹ This translation was produced with the assistance of artificial intelligence (AI).

I. EXPENDITURES OF CHARITABLE ORGANIZATIONS

Under the current [Law of the Kyrgyz Republic on Patronage and Charitable Activities](#) (hereinafter, the Charity Law), a charitable organization in the KR may allocate no more than 2% of the funds spent during the financial year² to remunerating administrative and management personnel. For example, if an organization spends KGS 5 million per year, it may allocate no more than KGS 100,000 to remunerate all administrative and management personnel (the director and accountant), or approximately KGS 8,300 per month. This limit makes it virtually impossible to pay the professionals needed to manage the organization and prepare reports.

The Draft Law sponsor's intention to raise the limit from 2% to 15%³ is positive. However, in addition to remuneration, the Draft Law also includes rent and "other expenses" within this limit. For an organization with annual expenditures of KGS 5 million, the permitted amount may be insufficient even for two employees and an office, as the illustrative calculation below shows.

Example of How the Proposed 15% Limit Would Work

An organization spends KGS 5 million per year. It pays its director KGS 45,000 per month, a part-time accountant KGS 25,000, and KGS 35,000 in office rent; another KGS 5,000 per month is spent on communications, banking services, and other general needs. It is assumed that all these expenses relate to the organization's general management.

Annual remuneration would total KGS 840,000, rent KGS 420,000, and other expenses KGS 60,000—for a total of KGS 1.32 million. Under the Draft Law, no more than KGS 750,000 (15% of annual expenditures) could be allocated to these items. After paying rent and other needs, KGS 270,000 per year, or KGS 22,500 per month, would remain for the two salaries. To remain within the limit, the organization would have to reduce its planned management expenses by KGS 570,000 per year.

The calculation is based on annual expenditures of KGS 5 million. With a smaller annual budget, the amount corresponding to 15% would be even lower.

The Draft Law does not distinguish between general management costs and the costs of implementing a charitable program. For example, rent for premises where assistance is provided directly should not automatically be treated as an administrative expense. The current Charity Law treats the material, technical, and organizational support of a charitable program, remuneration of its participants, and other program-related costs as

² Law of the Kyrgyz Republic on Patronage and Charitable Activities, Article 9, paragraph 3.

³ The wording of this amendment contains a technical error. The Draft Law proposes replacing the words "more than 2 percent" with "in an amount up to 15 percent," while retaining the beginning of the current sentence—"shall not be entitled to use." With this wording, the provision may be read as prohibiting expenditures *within the* 15% limit. At the same time, the next sentence of the Draft Law establishes 15% as the upper limit for administrative expenses, indicating the amendment's intended meaning.

program financing.⁴ If premises or an employee are used both for a program and for general management, the expenses must be allocated between these areas.

In addition, the Draft Law raises the maximum share of expenditures for administrative and management personnel to 15% but does not amend the fourth paragraph of Article 9 or the third paragraph of Article 10 of the Charity Law, which require at least 98% of monetary donations and at least 98% of income from non-operating transactions and entrepreneurial activities to be allocated to charitable purposes. Thus, an organization that uses the new 15% limit would violate the 98% rule.⁵

APPROACHES IN INTERNATIONAL PRACTICE

To help people, charitable organizations need funds for charitable programs and for staff who organize assistance, maintain records, and prepare reports. The current restrictions make it difficult to pay for this work. Possible approaches to regulating administrative expenses are considered below.

In a number of countries, limits on administrative expenses are established by law. Russia, for example, has a higher expenditure limit that applies *only to the remuneration of administrative and management personnel*. Russian law sets a limit of 20% of the funds spent by an organization during the year; remuneration of participants in charitable programs is excluded.⁶ For Kyrgyzstan, this would mean raising the current limit without extending it to rent and other management expenses. The 15% proposed by the Draft Law would improve the situation of organizations, but in the example above, it would not cover the salaries of the director and accountant (which require KGS 840,000 per year against a limit of KGS 750,000).

If a decision is made to raise the administrative expenditure limit to 20%, the current 98% should be reduced to 80% (Articles 9 and 10 of the Charity Law). Otherwise, raising the expenditure limit alone would not allow an organization to pay management costs from these revenues.

Example of How Changes to the Limits on Management Expenses and the Use of Donations Would Affect an Organization's Budget

An organization received KGS 5 million in monetary donations and spent them in the same financial year. Under the current rule, at least KGS 4.9 million (98%) must be allocated to charitable purposes, leaving no more than KGS 100,000 for expenses unrelated to such purposes. At an 80% share, at least KGS 4 million would have to be

⁴ Law of the Kyrgyz Republic on Patronage and Charitable Activities, Article 10, second and third paragraphs.

⁵ It is noteworthy that the Russian Law on Charitable Activities and Volunteering (Article 16) contains the same pair of restrictions and the same wording, but the figures are consistent with each other: 20% (for administrative and management personnel) and 80% (for charitable purposes).

⁶ [Federal Law of the Russian Federation on Charitable Activities and Volunteering](#), Article 16, paragraph 3; [guidance of the Russian Ministry of Justice](#).

allocated to charitable purposes, while up to KGS 1 million could be used for other expenses.

However, KGS 1 million still does not cover the KGS 1.32 million in management expenses in the example above. If the 20% limit applies to all such expenses (rent and other organizational expenses), the organization would be short by KGS 320,000. If it limits only the salaries of administrative and management personnel, the planned KGS 840,000 would fall within it.

In many countries, the administrative expenses of charitable organizations are not capped at a specific level (for example, in the United Kingdom,⁷ Germany,⁸ France,⁹ the United States,¹⁰ Ireland,¹¹ and Australia¹²). However, charitable organizations must ensure that such expenses are justified. For example, the U.S. Internal Revenue Service requires that charitable foundations' expenses be "*ordinary, necessary, and related to the charitable purpose.*" Germany applies the principle of economy and efficiency, meaning that administrative expenses must be reasonable and necessary for the purposes of the charitable organization's activities.

In the Netherlands, organizations are expected to consider how much they spend on charitable purposes, fundraising, and management, and to explain this allocation. It is considered reasonable if, over three years, an average of at least 70% of all expenditures is allocated to charitable purposes.¹³ Under this approach, organizations may cover the necessary and justified costs of their work while reporting their actual costs and results.

In Norway, organizations recognized by the Fundraising Control Board must spend no more than 35% of the amount raised on fundraising, averaged over five years. The calculation includes costs directly related to fundraising (for example, fees paid to a company that solicits donations), as well as the portion of the organization's general expenses attributable to fundraising. The Board emphasizes, however, *that reducing administrative expenses should not become an end in itself, because management and oversight help an organization achieve its objectives, while complex programs and work in high-risk areas may require additional costs.*¹⁴

⁷ [Companies Act 2006](#) and [Charities Act 2011](#).

⁸ [German Fiscal Code \(Abgabenordnung \(AO\)\)](#).

⁹ [Law No. 2003-709 of August 1, 2003 "On Philanthropy, Associations, and Foundations"](#).

¹⁰ [Internal Revenue Code](#).

¹¹ Charities Acts of 1961, 1973, and 2009.

¹² Corporations Act 2001 and Charities Act 2013.

¹³ Central Bureau on Fundraising (CBF), "[Standards for the Recognition of Charitable Organizations](#)" (Category D, effective January 1, 2026), Section 3.3 "Expenditures," Standards 3.3.2 and 3.3.4, p. 15. CBF is an independent Dutch organization that conducts [voluntary assessments of charitable organizations](#).

¹⁴ Norwegian Fundraising Control Board (Innsamlingskontrollen), [information for donors](#), sections "Innsamlingsprosent" and "Administrasjon"; [explanation of key indicators](#).

In public fundraising, donors should know in advance what portion of donations may be used for management. This helps them assess the organization's results and the justification for its expenses and decide whether to support it. Organizations that cannot explain their expenses and demonstrate the results of their assistance find it harder to retain donors' trust and support.

For more detail on international experience in regulating the administrative expenses of charitable organizations, see *Appendix I*.

II. PROCEDURE FOR CONDUCTING PUBLIC CHARITABLE FUNDRAISING

The Draft Law introduces a special procedure for public charitable fundraising. The organizer would have to open a special-purpose account at a commercial bank, register on the government portal, and submit electronic reports quarterly.¹⁵ Separate accounting of the funds raised and publicly available information about the fundraising campaign may strengthen donors' trust. However, the Draft Law applies these requirements to all public fundraising campaigns, regardless of the amount raised or the campaign's duration.

For example, neighbors announce in a public social media group that they are raising KGS 100,000 for medicine for an ill resident of their building. Under the text of the Draft Law, such a one-time collection would be subject to the same requirements as a long-term campaign for a large amount. The time needed to open an account and complete other formalities may be burdensome for a small initiative, especially when assistance is urgently needed. The Draft Law also does not specify when fundraising may begin after a campaign is registered or how long quarterly reports must be filed.

The current Charity Law allows citizens to engage in charitable activities independently or jointly, without establishing an organization.¹⁶ The Draft Law does not prohibit them from conducting public fundraising, but the definition of the government portal refers to the registration of organizations and fundraising campaigns, while the Draft Law's new Article 12¹ refers to the registration of persons conducting public fundraising. The text does not make clear whether an individual must separately register themselves and each fundraising campaign, whether the individual may open the special account contemplated by the Draft Law, or whether a new account is required for each campaign.

APPROACHES IN INTERNATIONAL PRACTICE

Experience in other countries shows that fundraising transparency can be achieved in different ways. One is a self-regulation mechanism, which is widespread and effective.

¹⁵ Draft Law, Article 1, paragraph 1 (definitions of public fundraising and the government portal) and paragraph 3 (new Article 12¹ of the Law of the Kyrgyz Republic "On Patronage and Charitable Activities").

¹⁶ [Law of the Kyrgyz Republic on Patronage and Charitable Activities](#), Article 3, first and second paragraphs.

For more information on this approach, see *Appendix 2: Experience of Balanced Legislative Regulation and Self-Regulation of Charitable Organizations in Norway, the Netherlands, Ireland, and Other Countries*.

Another approach is to establish fundraising requirements according to the scale of the campaign. Specific thresholds and procedures vary by country (for example, in the Republic of Korea,¹⁷ the obligation to register a campaign arises when there is an intention to raise at least KRW 10 million). A comparison of international practice reveals two approaches to the scope of requirements:

- A simplified procedure for small, one-time fundraising campaigns, with a threshold determined based on fundraising practice in the specific country. Before the campaign begins, the initiator posts a brief notice on the government portal stating who is conducting the campaign, who is to receive the assistance, the purpose and duration of the campaign, and how the money is intended to be used. As a rule, such campaigns are not required to open a special account or file quarterly reports. When the campaign ends, the initiator reports how much money was received and what it was actually spent on, in accordance with the procedure proposed in the reporting section below.
- A more complex procedure, including the opening of a special account, may be provided for large or long-running fundraising campaigns. It helps separate donations from the fundraiser's other money and makes it possible to track the flow of those funds. Information on the progress of a large campaign and the final report are submitted at the intervals described in the next section on reporting. This procedure preserves the transparency of large fundraising campaigns while allowing small initiatives to help people without a disproportionate burden.

Regardless of the scale of the fundraising campaign, registration on the portal should be notification-based. The organizer posts the necessary information and may begin the campaign without waiting for authorization or for a government agency to assess the expediency of its lawful purpose. This approach is consistent with Article 3 of the Charity Law. That article establishes the right of individuals and legal entities to engage freely in charitable activities, independently or jointly with others, through a charitable organization or without creating one, and freely to choose the purposes and forms of assistance provided for in the Charity Law.

A notification-based procedure does not impede efforts to combat abuse. If a person obtains donations through deception or abuse of trust, and all elements of the offense are present, the conduct may be classified as fraud under Article 209 of the [Criminal](#)

¹⁷ Law of the Republic of Korea [on the Collection and Use of Donations and Promotion of a Culture of Giving](#), Article 4, paragraph 1; [implementing regulation](#), Article 2.

Code of the KR. If an organizer misappropriates or embezzles funds entrusted to them, Article 210 of the Criminal Code of the KR may apply, depending on the circumstances.

III. REPORTING ON PUBLIC CHARITABLE FUNDRAISING

The Draft Law proposes that charitable organizations publish their annual report on public fundraising campaigns on the government portal or their own website instead of in a print publication. This is a useful change. At the same time, the new Article 12¹ requires every organizer of a public fundraising campaign, including charitable organizations, to submit electronic reports quarterly, without specifying their content or filing deadlines.¹⁸

For charitable organizations, the quarterly report would be an additional obligation on top of the existing requirement to publish an annual report. Under Article 12 of the Charity Law, they already provide open access to annual reports, while under Article 13 they annually publish information on donations raised through public campaigns and their use. NCOs operating with funds provided free of charge also disclose consolidated information annually under Article 17 of the Law of the KR on Noncommercial Organizations.

In addition to potentially duplicating existing obligations, quarterly reporting is not practical for short fundraising campaigns. For example, a campaign may begin in late March and end in early April. It would span two calendar quarters, so the organizer might have to file two reports on a single campaign that lasted only a few weeks.

APPROACHES IN INTERNATIONAL PRACTICE

Other countries use more flexible methods of disclosure. In Singapore,¹⁹ a voluntary code recommends that participating online platforms show the amount of donations received during each campaign and the final total after it ends. Charitable organizations submit an annual activities report and financial statements, which are published on the government portal. Requirements for reviewing the financial statements and submitting an additional financial summary depend on the organization's annual income or expenditures.

In Australia,²⁰ the extent of a registered charity's annual reporting depends on its annual revenue. All organizations file an annual information statement with the Australian Charities and Not-for-profits Commission (ACNC). Small organizations with revenue below AUD 500,000 are generally not required to file a separate financial

¹⁸ Draft Law, Article 1, paragraphs 3–4 (proposed Article 12¹ and amendment to Article 13).

¹⁹ Singapore Commissioner of Charities, [Code of Practice for Online Charitable Fund-Raising Appeals](#), Section B, paragraphs 1–2 (voluntary standard for participating platforms); [annual reporting rules for charitable organizations](#), “Annual Submissions” section.

²⁰ Australian Charities and Not-for-profits Commission (ACNC), [annual reporting rules](#).

report, although they may do so voluntarily. Medium and large organizations with revenue above AUD 500,000 file an annual financial report.

Fundraising rules in Australia are established by the states and territories. In Victoria,²¹ for example, an organizer prepares a summary of receipts and expenses within three months after a campaign ends. If a campaign lasts more than a year, such information is prepared annually. It is not published automatically, but anyone may request it in writing. A charitable organization registered with the ACNC that has notified the Victorian authorities does not file a separate state annual fundraising *form*. *See also Appendix 2: Experience of Balanced Legislative Regulation and Self-Regulation of Charitable Organizations in Norway, the Netherlands, Ireland, and Other Countries.*

A self-regulation mechanism is the most widespread and effective approach. Where legislative regulation is necessary, good and common practice is to establish differentiated reporting proportionate to the amount and duration of the fundraising campaign. Donors primarily need to know how much money was raised, what assistance was provided with it, and what happened to the remaining funds. For short campaigns, it is therefore more useful to report on the outcome than to file periodic reports. The threshold between small and large campaigns should be determined in light of fundraising practice in the country.

As a rule, a charitable organization's report is separate from the report on a specific fundraising campaign. It is common practice for a charitable organization to publish general reports (for example, annual reports) on its activities and use of funds, including information on individual campaigns.

An individual or organization conducting a one-time fundraising campaign may be required to report on that specific campaign, but not on a recurring basis. For a small one-time campaign, the organizer reports the final amount shortly after donations stop being accepted. Within a specified period after the result is achieved, the organizer posts a report on how the money was spent, what assistance was provided, and how much remains. If the assistance has not yet been provided in full, the report explains why and sets out the next steps. The report is tied to the campaign and its outcome, not to a calendar quarter.

For a large fundraising campaign, the final report may contain a more detailed breakdown of expenses. If a campaign lasts more than a year, the organizer annually publishes interim information on receipts and the use of funds, followed by a final report when the campaign ends. This allows donors to follow a long-running campaign without receiving quarterly reports that contain no material changes.

²¹ Consumer Affairs Victoria, [charitable organizations' fundraising obligations](#), sections "At the end of the fundraising," "Request for inspection of summary accounts," and "Charities."

If some money remains unspent after the report, the organizer reports after a specified period what happened to the balance. It is then sufficient to update the information once a year until the funds are fully used or returned. When that occurs, the organizer reports the final outcome. This procedure makes it possible to trace the donations through to their ultimate disposition.

IV. FUNDRAISING BY INDIVIDUALS FOR CHARITABLE AND PERSONAL PURPOSES

The current Charity Law permits individuals to engage in charitable activities directly and without establishing an organization.²² However, the Draft Law prohibits the use of funds raised “for personal needs.”²³ It is unclear how this rule would apply when a person raises money to help themselves, for example, for medical treatment. Paying for treatment meets the person’s own need, but that is precisely what donors are contributing toward, and such fundraising is lawful under current legislation.

The Draft Law extends the new requirements to all persons conducting public charitable fundraising. They must open a special-purpose bank account, register on the government portal, and submit quarterly reports. No exception is provided for a one-time fundraising campaign conducted by an individual.²⁴

APPROACHES IN INTERNATIONAL PRACTICE

In other countries, personal fundraising is often not regulated at all, except where it falls within the definition of an offense, such as fraud. Individuals who donate to personal fundraising campaigns should be aware of the risks and conduct their own research before transferring funds. Another factor is the state’s inability to provide systematic regulation in every case, because doing so requires costly administrative resources even if legislation is adopted.

Regulators in England and Wales explain that fundraising for a relative or friend is generally fundraising for a personal cause; the organizer must be honest about this and must not present it as fundraising for a charitable organization.²⁵ GoFundMe likewise distinguishes between personal fundraising and fundraising for NCOs. Contributions to personal fundraisers are generally treated as gifts and do not in themselves entitle the donor to a charitable tax deduction.²⁶ Preventive government efforts to inform the public about potential risks and the need to verify fundraisers, together with broad media coverage of fraud cases, are important.

²² [Law of the KR “On Patronage and Charitable Activities”](#), Articles 1, 3, and 4.

²³ [Ibid.](#)

²⁴ Draft Law, Article 1, paragraphs 1 and 3 (definition of public charitable fundraising and proposed Article 12¹).

²⁵ Charity Commission for England and Wales and the Fundraising Regulator, [guidance on fundraising for personal causes](#), section “Fundraising for a personal cause.”

²⁶ GoFundMe, [guidance on the distinction between personal fundraisers and fundraisers for nonprofit organizations](#) and [the tax status of personal donations](#).

It is common practice to allow individuals to seek assistance directly, without establishing a charitable organization. An individual should be able to announce a public fundraising campaign for any charitable purpose, including to help themselves. A campaign should not be prohibited merely because the assistance is intended for one person or because the organizer needs it personally. The purpose must, however, be stated truthfully. It should be sufficient for the organizer to state the purpose clearly so that people understand they are providing personal support and can decide for themselves whether they wish to help.

CONCLUSION

The Draft Law sponsor's effort to promote charity deserves support. The state benefits when individuals, companies, and charitable organizations can use their own resources to help people and address issues of public importance. This provides additional resources for health care, education, and other public-benefit purposes.

For Kyrgyzstan to realize these benefits, responsible organizations need clear rules and funds for staff and program implementation, while individuals need a simple way to conduct charitable fundraising, including when assistance is urgently needed. At the same time, donors should know who is raising money, for what purpose, how much has been raised, and how it has been used. Applying the same requirements to a small one-time initiative and a large, long-running campaign may make it harder to provide assistance without offering donors any additional benefit.

ICNL is available to provide further advice on any questions that may arise.

APPENDIX 1

EXAMPLES FROM INTERNATIONAL PRACTICE OF STATUTORY LIMITS ON THE ADMINISTRATIVE EXPENSES OF CHARITABLE ORGANIZATIONS

Before turning to the examples, it is necessary to define what is understood by administrative expenses in international practice.

The “administrative expenses” of charitable and noncommercial organizations generally include costs associated with managing and organizing their activities. Administrative expenses usually include:

- Remuneration of employees in administrative positions, such as managers, accountants, finance professionals, and IT specialists.
- Rent and utilities for the organization’s offices.
- IT and communications support—equipment, software, communications services, and internet access.
- General operating expenses—legal and audit services, professional advice, and office supplies.
- Staff training and development when it is aimed at improving management skills.

The laws of European countries and the United States generally do not provide a fixed limit (percentage) for the administrative expenses of charitable organizations. They provide only general approaches; for example, Germany applies the principle of economy and efficiency, meaning that administrative expenses must be reasonable and necessary for the purposes of the charitable organization’s activities.

At the same time, many countries (the United States, Germany, the Netherlands, Norway, and others) have rules or standards, including percentage limits on administrative expenses, developed and recommended for charitable organizations by self-regulatory bodies. Based on these standards, self-regulatory bodies assess charitable organizations and award a seal of approval to organizations that successfully pass the assessment.

This seal confirms that the organization is reliable and meets high quality standards, which automatically increases donors’ trust in it. In the Netherlands, an approved organization bearing the seal also receives additional benefits (it may receive donations from lotteries and foundations, has easier access to banking and payment service providers, and so on). In Germany, the seal awarded by the German Central Institute for Social Issues (DZI) confirms that the charitable organization handles donations responsibly and that the portion spent on administrative and advertising expenses is appropriate in relation to the organization’s total expenditures.

The limit on administrative expenses established in self-regulatory codes, guidelines, and regulations generally ranges from 25% to 35%. In Germany, for example, advertising and administrative expenses may amount to no more than 30% of total annual expenditures. In Norway, at least 65% of the funds raised must be directed to the purpose stated by the organization.

The explanations on the website of the self-regulatory body, the Norwegian Fundraising Control Board, state that *“it is not in itself an objective for administrative expenses to be as low as possible. Administration is an important element that helps an organization achieve its purpose. At the same time, administrative expenses can, of course, be too high. Assessing this, however, requires both a qualitative and quantitative analysis of the organization. Activities with complex objectives often require more oversight, which in turn results in higher administrative expenses. If an organization works in high-risk areas, this will also require more administration to ensure that money reaches its intended purpose and is not lost to corruption and inefficiency.”*

In the Netherlands, a charitable organization determines its own desired ratio of administrative to total expenditures, but the ratio must be reasonable and justifiable in writing. The ratio is considered reasonable if the following conditions are met:

- The share of expenditures devoted to achieving the objective(s) averages at least 70% of total expenditures over the last three years.
- This percentage does not differ significantly from comparable indicators at similar organizations.
- It is explained how expenditures on achieving the objective(s) contribute to the primary purpose.

Charitable organizations comply with such self-regulatory standards voluntarily, because they themselves are primarily interested in meeting them to demonstrate transparency, openness, and accountability to the donor community and the state. This also helps them fundraise more effectively and obtain additional benefits, as in the Netherlands.

For charitable organizations themselves, it is extremely important to maintain a balance between total and administrative expenditures so that they can operate effectively while directing most funds toward their primary mission. Donors often view the ratio of administrative to total expenditures as an indicator of a charitable organization's effectiveness and assess how reasonably the organization allocates its resources.

Organizations with high administrative expenses may attract the attention of oversight bodies, tax authorities, donors, and rating agencies. This may first damage a charitable

organization's reputation among donors and lower its ratings, and may also lead to the loss of the preferential tax status of a public-benefit organization (PBO) and other adverse consequences if the organization cannot demonstrate that such expenses are reasonable.

APPENDIX 2

EXPERIENCE OF BALANCED LEGISLATIVE REGULATION AND SELF-REGULATION OF CHARITABLE ORGANIZATIONS IN NORWAY, THE NETHERLANDS, IRELAND, AND OTHER COUNTRIES

By “self-regulation” we mean “the process by which NCOs and other organizations operating within the charitable sector (for example, national fundraising associations) create rules, norms, and ethical standards that govern fundraising. These rules, norms, and ethical standards generally also describe procedures for sanctioning organizations that violate them.”

As innovative technologies develop, fundraising is becoming increasingly diverse. The private sector is gradually playing a greater role in fundraising as an intermediary between donors and charitable organizations. Fundraising is also becoming more personal, as more people raise funds, for example, for the medical treatment of family and friends. While charity in general is an important aspect of all cultures, the charity- and fundraising-related activities subject to regulation range from encouraging donations to overseeing fundraising.

Recently, many countries have seen an imbalance in favor of greater control over fundraising in order to prevent fraud and combat terrorist financing, although it is important to maintain a balance between oversight and encouraging donations. When government regulation is established, it is essential for fundraising activities to be protected by fundamental principles²⁷ whose implementation will allow charitable organizations to access the resources they need and retain public trust.

The principles that are important to observe if a mandatory procedure for registering fundraising activities is established include the following:

1. States ensure that any authorization, licensing, or notification requirements related to fundraising activities are necessary and constitute the least intrusive means of achieving the desired objective.
2. States ensure that any authorization, licensing, or notification requirements related to fundraising activities are proportionate.
3. States and fundraisers determine, together with other stakeholders, whether self-regulatory mechanisms can supplement or replace existing requirements.

To ensure compliance with these principles and enable the state to take a comprehensive approach to regulating the charitable sector that takes into account the

²⁷ ICNL and ECNL jointly developed the Fundraising Principles based on a review of current global trends in the regulation and self-regulation of fundraising activities: <https://www.icnl.org/wp-content/uploads/fundraising-principles-paper-RU.pdf>. The Principles are based in part on the international standards enshrined in Article 22 of the International Covenant on Civil and Political Rights.

specific features of how charity has developed and is regulated in the country, it is advisable first to conduct a full, comprehensive study of the country's charity landscape, including: (1) an analysis of current legislation affecting the development of the charitable sector; and (2) an analysis of enforcement practice, including a review of offenses recorded by government bodies in the charitable sphere. Representatives of all stakeholders (NCOs, charitable organizations, fundraisers, recipients of donations, individual and corporate donors, financial-sector organizations, and representatives of various government bodies) should be actively involved both when information is gathered for the study and when its findings and recommendations are discussed.

Examples of countries where self-regulation operates successfully are presented below.

EXPERIENCE OF THE NETHERLANDS

The charity self-regulation system in the Netherlands is an example of a balanced approach combining government oversight, transparency, and organizational independence. A distinctive feature of this approach is that, since 1925, self-regulation of the entire charitable sector in the Netherlands has been carried out by a nonprofit foundation, the Dutch Fundraising Regulator (Centraal Bureau Fondsenwervende Instellingen) (hereinafter, CBF), which is completely independent of the state.

LEGISLATIVE REGULATION

The state exercises oversight in the charitable sector through the Dutch Revenue and Customs Service. This service regulates the taxation of charitable organizations, ensuring that they use their tax benefits properly. To this end, the Dutch Revenue and Customs Service may initiate inspections of charitable organizations.

SELF-REGULATION

The principal regulator in the charitable sector is CBF, a nonprofit foundation independent of the state, whose main task is to oversee fundraising by charitable organizations,²⁸ including by reviewing organizations engaged in fundraising. CBF checks whether organizations meet standards of transparency, effectiveness, and legal compliance. CBF also provides government institutions and the public with information and advice on charitable matters.

The self-regulatory system in the Netherlands also includes Goede Doelen Nederland (hereinafter, GDN), an umbrella NCO registered as an industry association of recognized charitable organizations that seek solutions to various social problems. GDN develops a code of conduct and ethical rules for its members, thereby promoting

²⁸ The Netherlands does not use the term "charitable organization"; it uses the term "organization with ANBI status" (PBO), which an NCO (association or foundation) may obtain from the Dutch Revenue and Customs Service. For convenience, however, we will use the term "charitable organization."

compliance with standards for fundraising, donor relations, and reporting. Today, it includes more than 680 recognized charitable organizations.

Since January 1, 2016, the sector has had a unified standard of quality, accountability, and oversight in the form of a recognition scheme, a joint initiative of the Dutch Fundraising Regulator (CBF) and Goede Doelen Nederland (GDN). The standards are set by an independent Standards Committee (Commissie Normstelling), whose members represent various stakeholders as well as donors/the public. Some of the codes developed by GDN are incorporated into the standards adopted by the Standards Committee, such as the standard on directors' remuneration. The recognition scheme addresses not only the costs and expenses of a charitable organization, but also good governance, integrity, and impact. After successfully completing the assessment, charitable organizations receive the CBF seal, which confirms that the organization is reliable, meets high quality standards, automatically meets the ANBI criteria, may receive donations from lotteries and foundations, has easier access to banking and payment service providers, and may belong to GDN, the industry association of recognized organizations. A recognized organization usually displays the CBF seal on its website and fundraising materials, confirming its reliability in the eyes of donors.

PBOs do not submit reports on their charitable activities directly to the state, but publish them on their own websites or joint websites (for example, the website of the GDN umbrella organization) in accordance with the law. Large PBOs are required to use standard forms to publish information on the website.²⁹

Endowment funds and corporate foundations, as well as churches, have their own industry organizations, FIN and CIO respectively. Both organizations have developed a self-regulatory system with a Good Governance Code, a Code of Conduct, and quality standards.

In 2023, approximately 350,000 NCOs were registered in the Netherlands, including 45,000 NCOs with ANBI (public-benefit) status. Of these 45,000 organizations, 4,500 have the CBF seal.³⁰

The charitable system in the Netherlands is highly organized and transparent, with clear standards and effective self-regulation. The state provides the necessary legal framework and minimal oversight, leaving organizations and individuals free to initiate fundraising while ensuring that donors' interests are protected and fraud is prevented.

EXPERIENCE OF NORWAY

²⁹ Large PBOs are organizations that actively solicit money or goods from third parties (fundraising organizations) and whose total income for the relevant financial year exceeds EUR 50,000, or non-fundraising organizations whose total expenditures for the relevant financial year exceed EUR 100,000. [Publishing ANBI information on a website.](#)

³⁰ Information taken from the CBF presentation "Self-Regulation of the Philanthropic Sector," 2023.

Norway has no legislation directly regulating fundraising procedures. The Norwegian Fundraising Control Board (Innsamlingskontrollen)³¹ is a nonprofit foundation that monitors the quality of fundraising activities and provides assurance that fundraising is conducted responsibly and that the money goes to the stated purpose. The Approval Register is a voluntary registration scheme for organizations raising funds for charitable purposes.

The Norwegian Fundraising Control Board was established in September 1991 and is a member of the [International Committee on Fundraising Organizations \(ICFO\)](#).³² It ensures the quality of fundraising activities through its Fundraising Register. The Register is a voluntary registration system for organizations that raise funds for charitable purposes. Approved organizations must, among other things, submit an annual report, financial statements, a board report, and key fundraising data providing a clear picture of the organization's activities.

Organizations that voluntarily apply for approval assume additional obligations. Averaged over five years, they must spend no more than 35% of the amount raised on soliciting donations. In other words, at least 65% must remain after fundraising expenses. This does not mean that all 65% must be spent directly on charitable programs. Organizations also disclose information about their finances and comply with ethical fundraising rules.

This openness provides greater oversight and transparency and gives approved organizations an advantage over those that have not obtained approval. It also helps increase trust in the fundraising sector as a whole.

EXPERIENCE OF IRELAND

In Ireland, the Charities Regulator³³ developed the Guidelines for Charitable Organisations on Fundraising from the Public, and Charities Institute Ireland (CII)³⁴ proposed practical “entry-level” steps for charitable and nonprofit organizations to comply with them.³⁵ CII also provides charitable and nonprofit organizations with resources for implementing those steps, including a model donor charter, a compliance

³¹ <https://www.innsamlingskontrollen.no/about-us/>.

³² ICFO is a supranational organization that brings national foundations and fundraising monitoring bodies together under one umbrella. ICFO was established with headquarters in Amsterdam in 1989 as a body for monitoring fundraising organizations in the EU. It quickly expanded to include national oversight foundations and monitoring bodies from around the world. [Charity Monitoring Worldwide | Homepage](#), [About us: Innsamlingskontrollen](#).

³³ The Charities Regulator was established in October 2014 as Ireland's independent body for regulating and protecting charitable trusts and organizations (charities). The Authority currently consists of 13 members, each appointed by the Minister for Rural and Community Development.

³⁴ Charities Institute Ireland (CII) is the representative body for Ireland's leading fundraising charities. The Institute has 280 members employing approximately 25,000 people. <https://charitiesinstitute.ie/pages/about>.

³⁵ Charities Institute Ireland. “Guidelines for Charitable Organisations on Fundraising from the Public,” available at: www.charitiesregulator.ie/media/o5ul004d/guidance-for-fundraising-english.pdf.

checklist for the Guidelines, a trustee resolution, a compliance statement, and procedures for feedback and complaint handling.

The Guidelines are intended to help charity trustees manage charitable activities effectively, avoid problems associated with fundraising activities, and comply with their legal duties. They were developed with the participation of a charitable fundraising advisory panel that included CII.

OTHER EXAMPLES

Self-regulatory initiatives often complement the rules and provisions of current legislation and may form the basis for developing practical fundraising methods or regulating activities in this area, while helping to avoid excessive regulatory initiatives by the state. Self-regulatory initiatives may address specific working methods and help improve understanding of how to ensure compliance with legal requirements.

For example, in the United Kingdom, the Institute of Fundraising publishes rules incorporating all standards in the Code of Fundraising Practice that apply to door-to-door fundraising, fundraising through private websites, and street fundraising. In Singapore, four online platforms adopted a Code of Practice for Online Charitable Fund-Raising Appeals, under which fundraisers using participating crowdfunding platforms undertake to comply with the Charities Act, make accurate representations to donors, maintain proper records of donations, and use them for their intended purpose.