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Act CLVI of 1997
on public benefit organisations*

The National Assembly passes the following Act with a view of preserving the domestic traditions of non-governmental and non-profit organisations, of enhancing their social role, of making their public benefit activities and economies more transparent, of promoting their activities in the field of public services and of settling their relations with the state budget.

CHAPTER I
GENERAL REGULATIONS

The objective of the Act

Article 1.

The objective of the Act is to define the types of public benefit organisations, the conditions of acquiring and winding up the public benefit status, the order of the operation and economy of public benefit organisations, the rules of registration and reporting, and rules concerning the utilisation of wealth and legal control.

Types of public benefit organisations

Article 2.

(1) An organisation registered in Hungary may be classified as public benefit organisation if it is an

- a) association, excepting an insurance association and political party, and an interest representation of employers and employees,
- b) foundation
- c) public law foundation
- d) public benefit company
- e) public law association if the Act on its establishment allows it.

(2) An organisation specified under items a)-e) of (1) can be classified as a public benefit one also in such a case if its classification as a public benefit organisation is applied for simultaneously with the application for being registered in keeping with the relevant regulations.

* The Act was passed by Parliament at its session on December 15, 1997, published in the Official Journal on December 23, 1997.

CHAPTER II
CONDITIONS OF ACQUIRING THE PUBLIC BENEFIT LEGAL STATUS AND
ADVANTAGES ENJOYED BY PUBLIC BENEFIT ORGANISATIONS

Conditions of acquiring the public benefit legal status

Article 3.

The organisation which may be classified as a public benefit one (hereinafter: organisation) acquires the public benefit legal status by being registered as a public benefit, or eminently public benefit organisation (hereinafter: registration as public benefit).

Article 4.

(1) In order to be registered as a public benefit one the founding document of the organisation shall contain

- a) what kind of public benefit activities, defined in the present Act, are pursued and - if it has a membership - it does not exclude others to enjoy its public benefit services beside its members;
- b) it pursues business activities only in the interest of realising its public benefit goals, and not endangering the latter ones;
- c) the profits realised through its economic activities will not be distributed but spent on activities defined by its founding document;
- d) it does not carry on directly political activities, its organisation is independent of parties and it does not grant financial support to them.

(2) In addition to the conditions stipulated by section (1), the founding document of a public benefit organisation has to meet further requirements spelt out by the present Act (Article 7).

Article 5.

In addition to the conditions spelt out in Article 4, the founding document of an organisation, wishing to be registered as an eminently public benefit one, has to contain that the organisation

- a) performs such a public task during the course of its public benefit activities which has to be done by a state organ, or local government otherwise by law or by legal authorisation of a law further on
- b) the most important data of its activities and economy, as stated by its founding document, are also made public by the local, or national press.

Advantages available to public benefit organisations, to the supporters of public benefit organisations and to those using the services of public benefit organisations

Article 6.

(1) In keeping with the extent and conditions of Act LXXXI of 1996 on company tax and dividends, Act CXVII of 1995 on personal income tax, Act XCIII of 1990 on duties, Act C of 1990 on local taxes, Act C of 1995 on customs, customs procedures and customs administration, and other relevant legal norms

a) a public benefit organisation may enjoy

1. exemption from company tax after its activity in keeping with the goal spelt out in its founding document;
2. preferential treatment concerning company tax after its business activities;
3. preferential treatment concerning local tax;
4. preferential treatment duties;
5. preferential treatment customs duties;
6. other preferential treatment spelt out by legal norms,

b) the user of a service given by a public benefit organisation - as a service in keeping with its founding purposes - shall be exempted from personal income tax after the service received,

c) preferential treatment concerning company tax and personal income tax obligations for donators after support (hereinafter: donation) of the public benefit organisation for purposes spelt out in the founding document,

d) in the case of multiannual donation the supporters as spelt out in c) will be entitled a special preferential treatment from the second year onwards.

(2) A public benefit organisation is entitled to employ a person doing civilian service within the sphere of its activities pertaining to its founding purposes.

(3) The public benefit organisation which has public debt as stipulated by the Act on the order of taxation, is not entitled to avail itself of preferential treatments.

CHAPTER III
ORDER OF THE OPERATION AND ECONOMY OF PUBLIC BENEFIT
ORGANISATIONS

Rules related to public benefit operation

Article 7.

(1) The founding document of a public benefit organisation shall contain rules concerning

- a) the supreme organ's and - if it is not identical - the managing and representative organ's (hereinafter: leading organ's)
 - 1. frequency of sessions, which cannot be less than one occasion per year,
 - 2. the order of calling the sessions and the manner the agenda is communicated,
 - 3. the publicity of its sessions, the ability and manner of its resolution-making,
- b) the conflict of interest of the leading officials of a public benefit organisation,
- c) if it is compulsory to set up, or appoint an organ supervising the operation and economy of the public benefit organisation (hereinafter: supervising board) separate from its leading organ, then concerning its setting up, its competency and operation, further on
- d) the manner of approving the annual report of the public benefit organisation.

(2) The founding document of a public benefit organisation, or, its internal rules based on that document, shall stipulate

- a) the keeping of a register out of which the content, date and force of the decision of the leading organ, and the proportion of the supporters and opponents (if possible, person) can be identified,
- b) the manner the decisions of the leading organ are communicated to those concerned, and their publication,
- c) the order of right of inspection to the documents related to the operation of the public benefit organisation and
- d) the publicity of the operation, of the conditions for availing the services and of the reports of the public benefit organisation.

Article 8.

(1) No person can participate in the decision-making of the leading organ whose close relative (Civil Code Article 685, Item b).), consort (hereinafter jointly: relative) is

- a) exempted from obligation or responsibility on the basis of the resolution, or
- b) enjoys any other advantage, or is otherwise interested in any kind of legal action to be concluded. It is not considered an advantage to use the non-monetary founding purpose services of the public benefit organisation if available by everybody without limitation, or, if it is a benefit given to its member by an association on the basis of membership, in keeping with the purposes spelt out in the founding document.

(2) No such person can be the president or member of the supervising board, or organ,

who is

- a) president or member of the leading organ,
- b) besides this position is in an other employment relationship, or other legal relationship concerning work with the public benefit organisation, if a legal regulation does not stipulate otherwise,
- c) enjoys the founding purpose service of the public benefit organisation - excepting non-monetary services available by all without restriction and founding purpose services given by the association to its member on the basis of membership relations, or
- d) if the person concerned is a relative of persons defined in points a)-c).

Article 9.

(1) For two years no person can be a leading official of another public benefit organisation who had a leading post in a public benefit organisation at least for one year of two years prior to the winding up of that organisation which did not settle its public duties in keeping with the law on the order of taxation.

(2) A leading official, or a person nominated for such a post shall inform all public benefit organisations concerned in advance that he/she simultaneously has a similar office at another public benefit organisation.

Article 10.

(1) If the annual income of the public benefit organisation is above five million forints, then the setting up of a supervisory board, separate from the leading one, is compulsory even if such an obligation is not stipulated by another legal norm.

(2) The order of its procedure is outlined by the supervisory board itself.

Article 11.

(1) The supervisory board shall supervise the operation and economy of the public benefit organisation. During its activity it may ask for a report from the leading officials, and information or elucidation from the employers of the organisation, further on, it may have a look into and may inspect the books and documents of the public benefit organisation.

(2) A member of the supervisory board may participate in the sessions of the leading organ of the public benefit organisation with consultant's rights, or shall participate in them if a legal norm, or the founding document so stipulates.

(3) The supervisory board shall inform the leading organ authorised to take steps, and to initiate its calling in session, if it is learned that

- a) such a violation of legal norm, or an event (omission), otherwise gravely violating the interests of the organisation occurred, the elimination of which, or averting, or mitigating the consequences of which require the decision of the organ authorised to take steps;

- b) if a fact has emerged which is the basis of the liability of the leading officials.

(4) The leading organ, entitled to take steps, shall be called in session within thirty days of the initiative of the supervisory board. In case this time limit expires without

effect, the leading organ can be called into session by the supervisory board as well.
(5) If the organ concerned does not take the necessary measures in order to restore lawful operation, the supervisory board shall inform the organ performing the supervision of legality without delay.

Rules of collecting donations for public benefit purposes

Article 12.

(1) The collection of donations on behalf of, and for the purposes of the public benefit organisation shall not be accompanied by the harassment of donators and other persons, by the violation of personality rights and human dignity.

(2) Collection of donations on behalf of and for a public benefit organisation can be done only on the basis of a written authorisation of the public benefit organisation.

Article 13.

Donations granted to a public benefit organisation shall be accounted on the price as in the books, or, if not available, then on the usual market price.

General rules of economic activities

Article 14.

(1) During the course of its economic activities the public benefit company shall not distribute its gains which have to be spent on activity spelt out by its founding document.

(2) With the exception of normative support, the public benefit organisation can receive support from the sub-systems of state finance only on the basis of a written contract. The contract shall stipulate the conditions and manner of giving an account of the utilisation of the support.

(3) The possibilities of support, their amount and conditions spelt out by Item (2) shall be published in the press. Anybody may get acquainted with the founding purpose services given by a public benefit organisation.

(4) A public benefit organisation cannot give founding purpose service to a responsible person, a supporter, and a relative of these persons - with the exception of those services available to everybody without limitation, or of those given to the member of an association on the basis of membership, in keeping with the purposes spelt out in the founding document.

Article 15.

(1) The public benefit organisation may link its allocations as set by its goals to a call for proposals - in keeping with its rules spelt out by the founding document. In this case the call cannot contain conditions about which - after having considered all the circumstances of the case - it can be stated that the call for proposal has a premeditated winner (imitated competition).

(2) An imitated competition cannot serve as the basis of a founding purpose service/allocation.

Article 16.

- (1) A public benefit organisation shall not issue a bill of exchange, or other securities embodying other kinds of credit relations.
- (2) With the exception of a public benefit company, a public benefit organisation
 - a) shall not draw a loan to the development of its business activities to an extent endangering its public benefit activities;
 - b) shall not use support received from the sub-systems of state finance as cover for drawing a loan, or for the repayment of a loan.

Article 17.

A public benefit organisation carrying on investment activities shall draw up investment regulations to be approved by the supreme organ.

Rules of recording

Article 18.

- (1) A public benefit organisation shall record its incomes and expenditures deriving from its founding purpose activities and those deriving from its business activities shall be recorded separately.
- (2) The revenues of a public benefit organisation are the following:
 - a) support, or donation given by the founder, by the sub-systems of state finance, or from another donator for public benefit purposes, or for the cost of operation;
 - b) revenue deriving from the performance of public benefit activity, or directly linked to it;
 - c) revenue deriving from other founding purpose activities, or directly linked to it;
 - d) revenue deriving from the investment of the assets of the organisation;
 - e) membership fees;
 - f) other revenue defined by legal norms;
 - g) revenue deriving from business activity.
- (3) Expenditures of public benefit organisation:
 - a) direct expenses occurring in the interest of public benefit activities (cost and expenditures);
 - b) direct expenses occurring in the interest of other founding purpose activities (cost and expenditures);
 - c) direct expenses occurring in the interest of business activities (cost and expenditures);
 - d) indirect expenses occurring in the interest of public benefit and other business activities (cost and expenditures), which should be distributed in proportion to the revenue.
- (4) Otherwise the records of the public benefit organisation should be kept by the relevant rules of book-keeping.

Rules of reporting

Article 19.

- (1) The public benefit organisation shall prepare its annual public benefit report simultaneously to the approval of its annual financial report.
- (2) The acceptance of the public benefit report is within the exclusive competency of the supreme organ.
- (3) The public benefit report shall contain:
 - a) the financial report;
 - b) the utilisation of budgetary support;
 - c) a presentation related to the utilisation of property;
 - d) a presentation of the founding purpose allocations;
 - e) the amount of support received from a central budgetary organ, from the earmarked state financial funds, from local government, from a minority local government, from the association of local governments, from the local government of health insurance and from the organs of all these;
 - f) the value or sum of allocations given to the leading officials of public benefit organisations;
 - g) a short report of content on public benefit activity.
- (4) Anybody may read the annual public benefit report of a public benefit organisation, and, may make a copy at his/her cost.
- (5) The stipulation included in Item a) of section (3) does not affect the implementation of accountancy regulations concerning the obligation to prepare, deposit and publish the annual financial report.

Article 20.

A public benefit organisation, when its public benefit legal status is terminated, shall settle its outstanding public debt and perform its obligations deriving from contracts to perform public service proportionately to time.

CHAPTER IV
SUPERVISION AND REGISTRATION OF PUBLIC BENEFIT ORGANISATIONS
AND THE PROCEDURE OF LAW COURTS PERTAINING TO THEM

Supervision of public benefit organisations

Article 21.

Tax supervision of the public benefit organisations is performed by the revenue authorities competent at the place where the headquarters of those organisations are, supervision over the utilisation of budgetary support shall be performed by the State Audit, and supervision over legality - in respect of public benefit operation - will be performed by public prosecution, in keeping with the relevant regulations.

Rules of procedure of registering as public benefit organisation, reclassification and abolition from the public benefit register

Article 22.

- (1) The application for public benefit registration, for a reclassification within public benefit grades and for the abolition of public benefit status shall be submitted at the competent law court.
- (2) It shall be indicated in the application for public benefit registration in which grade of public benefit the applicant wishes to be registered. Only one grade of public benefit can be indicated in the application.
- (3) The law court shall rule in a non-litigious, extraordinary procedure about registration in, reclassification at, or abolition from the public benefit register. The law court shall send its ruling to the public prosecution too.
- (4) The public benefit organisation is obliged to apply for the abolition of public benefit legal status within sixty days, or its reclassification into a lower public benefit grade if its activities do not meet the conditions stipulated by Articles 4 and 5 of the present Act.

Article 23.

Public Prosecution may initiate the abolition of public benefit legal status or a reclassification into a lower public benefit grade at the relevant law court if the operation of the public benefit organisation, or the utilisation of its property does not meet the provisions of the present Act, or of the founding document or the provisions of the internal regulations drawn up on that basis and the organisation does not render modifications even after a call of the public prosecution to do so.

Register of public benefit organisations at a law court

Article 24.

- (1) The registration data of the organisation shall be supplemented by its grade of public benefit status, by the date of the acquisition, modification and abolition of public benefit status when it is registered as a public benefit one.
- (2) The data of the register of public benefit organisations at the law court mentioned under (1) are public.

Article 25.

Data handled on the basis of the present Act can be used for statistical purposes and statistical data can be supplied from them in a way unsuited to the identification of persons.

CHAPTER V

CLOSING PROVISIONS

Explanatory provisions

Article 26.

At the implementation of the present Act:

- a) founding purpose allocation: a monetary, or non-monetary service given by the public benefit organisation within the framework of its founding purpose activities;
- b) founding purpose activity: every activity which directly serves the achievement of the goal indicated in the founding document;
- c) public benefit activity: the following founding purpose activities oriented towards the satisfaction of the common interests of society and individual and included in the founding document of the organisation, such as:
 1. the protection of health, prevention of illness, healing and health rehabilitation activities;
 2. social activity, family help, care for the elderly;
 3. scientific activities, research;
 4. education and teaching, the development of abilities, dissemination of knowledge;
 5. cultural activities;
 6. the protection of cultural heritage;
 7. protection of monuments;
 8. protection of nature and animals;
 9. protection of the environment;
 10. protection of children and youth, representation of the interests of children and youth;
 11. promotion of the equality of social opportunities of groups in a disadvantaged position;
 12. protection of human and civic rights;
 13. activities related to the national and ethnic minorities of Hungary and to the Hungarians living beyond the borders;
 14. sports, with the exception of sports activities done in employment and within the framework of a civil legal contract;
 15. the protection of public order and the safety of traffic, voluntary fire-fighting, ambulance, averting catastrophe;
 16. consumer protection;

17. rehabilitating employment;
 18. the promotion of the training and employment of strata in a disadvantageous position in the labour market and related services;
 19. the promotion of Euro-Atlantic integration;
 20. services for public benefit organisations - which can only be accessible by public benefit organisations;
- d) direct political activity: party political activity, further on, sending out candidates for the election of MPs and representatives of county (including greater Budapest) governments;
 - e) responsible person: person indicated in the founding document and internal regulations of the organisation as leading official, or otherwise possessing authority to decide and the person who is entitled to represent the organisation or dispose over the bank account of the organisation upon the authorisation of the founding document, the resolution of the supreme organ or a contract;
 - f) supreme organ: the managing organ (organisation) of the foundation and public law foundation; the supreme organ of the association as stated by its constitution, and the meeting of the members of the public benefit company;
 - g) founding document: the constitution of a association, the founding document of a foundation and public law foundation, the articles of inco of a public benefit company, or its founding document;
 - h) non-monetary support: the partial or total, final or temporal transfer or cession of a thing of market value, intellectual product, or right of property value partially or completely free of charge, or guaranteeing a service;
 - i) call for proposal: an announcement made public, or publicised in a circle given in advance which indicates the conditions suited for comparing the applicants, and the allocation for the purpose available by the winner, the essential conditions of the assessment of the competition (including the deadlines of submission and assessment, and the circle of people authorised to do the assessment);
 - j) support: financial and non-monetary allocation;
 - k) investment activity: activity aiming at the acquisition of securities out of the assets of the public benefit organisation, a right of property value deriving from the legal relationship of company membership, or at the acquisition of other objects of value serving long-term investment;
 - l) business activity: economic activity aiming at, or resulting in the acquisition of revenue and property, not including activities in keeping with the objective and accompanied by income, and support given to public benefit activity;
 - m) leading official: person managing the foundation and the public law foundation, or the president and member of its managing organ (organisation) and supervisory board, further on - if the managing organ (organisation) of the foundation is a separate legal entity, an organisation with no legal entity, or a state organ - the leader responsible in person of the managing organ (organisation), or a member of

the body acting within this competency; president and member of the managing and representative, or supervisory organ of the association; the manager of the public benefit company, and the president and member of the supervising board, further on, a person employed by the organisation registered as a public benefit one, or is in another contractual relationship of work, performing managerial task and taking sole liability by the founding document;

- n) multiannual donation: financial support given by private donating individual to a public benefit organisation on the basis of a contract valid at least for four years, regularly each year, the same amount, or an increasing one, or, in the case of not a private donating individual, a fixed proportion of the before tax earnings, without reconsideration, or, the transfer of securities without payment. It is not considered as reconsideration at the implementation of the present provision if the public benefit organisation refers to the name and activities of the donator within the framework of its services, provided a certificate is issued to the supporter about the sum of the donation reduced by 5 per cent to the implementation of the provisions of Article 6. It is not considered a multiannual donation if the act of giving is suspended in any of the years during the scope of the contract.

Article 27.

(1) The present Act shall enter into force on January 1, 1998. When the Act enters into force, the organisation already registered and those which have been set up to carry on some kind of public benefit activity as listed under Item c) of Article 26, and their application for registration was submitted before June 1, 1998, are regarded as of public benefit grade indicated in their application up to the date of the resolution mentioned in section (3) of Article 22 enters into force from January 1, 1998, or until their application is not turned down by a law court.

(2) An organisation formed after January 1, 1998 is entitled to avail itself of the preferential tax treatments and tax exemptions related to the public benefit legal status from the day of its registration, provided it is also recorded as a public benefit one as latest on the last day of the year when it is registered.

(3) An organisation founded by the utilisation of wealth deriving from the sub-systems of state finance, or receives regular budgetary support as indicated by its founding document, shall apply for registration as of public benefit status up to the time limit indicated in section (1). In case it is omitted, its support shall be suspended and even the winding up of the organisation - in keeping with the relevant regulations - may be applied for.

(4) The Government is authorised to define the special rules for the making of contracts directed to the performance of services under the Act on public procurements concerning the public benefit organisations.

(5) Act CXXVI of 1996 on a certain part of the personal income tax to be used as the taxpayer disposes, has

a) Article 4 of section (1), Item b), to be replaced by the following provision:
"such an association - which is in keeping with Act II of 1989 on the right to association - (with the exception of party, and interest representation organisations of employers and employees), such a foundation, which was registered by the law court

at least three years before the first day of the declaration of a private individual, and it actually deals with activities defined by Item c) of Article 26 of the Act on public benefit organisations at least one year before the first day of the above-mentioned declaration taking into consideration what is included under section (2);"

b) Item c) of section (2) of Article 4 is replaced by the following provision:
" declares that it meets the requirements of Item d) of section (1) of Article 4 of the Act on public benefit organisations - and also of Item d) of Article 26 - and consequently it has amended its constitution, founding document and"

Árpád Göncz
President of the Republic

Dr Zoltán Gál
Speaker of the National Assembly

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