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Country report - Poland.

1. Legal forms of public activity of citizens.

There several legal forms which allow citizens to become active in the public domain. These are :

- Law on Associations
- Law on Foundations
- Law on trade unions
- Law on churches.

I will limit ma interest to two forms of forms : association and foundation

2. Law on Associations

Law on Association passed in 1989 as a partial result of the round table talks and political reforms.

It recognizes two forms of associations :

- association
- ordinary association.

Ordinary association does not require any legal registration and has no legal identity/ has no rights to run any economic activity, bank account etc./

Association -

- legal regulations
 - limited to physical persons/ legal persons are excluded/
 - requires 15 persons
 - registration on a local level/local court
 - unlimited forms of economic activity. but the income has to be used for statutory goals and can not be distribute among the members of association.
 - non-for profit goals

- VAT TAX

- foundation running the economic activity has to pay VAT provided goods and services.

- the statutory goals of the foundation/ non-economical/ are not covered by VAT - for the goods and services we buy foundations have to pay VAT and foundations have the possibility of reimbursement.

- the goods and services received by the foundation custom free is VAT exempted.

- goods and services used for statutory goals and bought with the PHARE money are VAT exempted/ foundations can buy without VAT or get the reimbursement/

- selling or donating used goods are VAT exempted if they are not part of economic activity of the tax payer.

- CUSTOM

customs free are :

- goods received as humanitarian aid

- goods received for statutory goals of the foundation./

but not the economic activity of the foundation/

- TAX DEDUCTION

- legal and physical person can deduct 10% or 15%/ depends on the goal of donation/ from the base of taxation./ the 90% or 85 % of the income is taxed/ That does not encourage the donors.

- the companies belonging to the foundation are taxed the same if regardless the purpose of their income/ statutory goals of the foundation or investment/. The company belonging partly or as whole to the foundation is not encourage by the tax system to give its profits to the foundation.

4.Law on local government

- art 9. In fulfilling its public goals the local self government can contract some services with other legal persons

5. Constitutional law.

There are seven projects of new constitution. Polish Foundations Forum provided the Constitutional Commission of Parliament with the evaluation of all project and its relation to the voluntary organizations.

We realized that most of proposals are very unfavorable for voluntary organizations. Some of them put into the constitution the right for the government to control the voluntary organizations and in some proposal the way of the control is described.

6. Budgetary law.

There is now budget law with new regulation in article 20 saying that the government can use and support non-governmental organizations to provide social service. The regulation is quite good but the law sends the decision on what services and organizations can be supported, to the decision of government which, at the moment is not in favor of NGOs.

7. Reporting

the new law on reporting for the foundation was announced in December 1994. It requires a very strong and deep, detailed reporting from the foundations to government .which we think in its terms and souls do harm the independence of private institutions.

8. Other laws

There are some laws which expresis verbis use the non-governmental organization/ foundations and associations/ as part of the legal system . For example : law on social welfare, Law on Mentally ill. and others. Those laws give the let include the non-governmental organization to by funded by the budget.

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□ tax regulations.

- see regulations for foundations
- Exception **FORE THE ASSOCIATIONS** : companies belonging to the association can get tax exemption if the profits are spent for statutory goals of the association.

3. Law on Foundations

Law on Foundations passed in 1984

□ legal regulations

- can be established for the purpose of public benefit and economically useful tasks. list of public goals covers " in particular" : health protection, economic development, science, education, , culture and arts, social welfare, environmental protection and protection of historical monuments.

- the funder can be physical or legal person.
- the act of will of the funder in front of the notary is needed. The will of funder has to point out the goals of the foundation and its property

- the statute is needed for the registration.

- foundation has to be registered at the court in Warsaw

- the ministry has the right to receive the annual reports of the foundation and supervise its activity.

- ministry / competent to the statutory goals of the foundation/ has to accept the statute/ in 1991 the regulation was changed and the court decides upon the registration and the statute did not have to be accepted by the ministry.

- foundation is allowed to run the economic activity due to the acceptance of the ministry - in 1991 the economic activity does not have to be accepted by the ministry. In 1994 the register court did not accept the foundations which had the economic activity in their statutes.

□ tax regulations

- **INCOME TAX** - Foundations do not have to pay the income tax for income/ donations and income received from the economic activity/ if the income is used for statutory goals and those goals fit to the list of the tax exempted activity under the paragraph 17 of tax law.

Till 1994 this exemption occurred the current tax year and the next one. Since 1995 this tax exemption has no time limits.