

Assessment of the Impact of Legislative Changes regarding Public Benefit on Public Organizations

Introduction of additional requirements on certification for attainment of the public benefit status

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1. Introduction

Study goal

This study is aimed at assessing the impact of the changes adopted in June 2010 to the Law on public associations regarding public benefit. The study answers the following questions: What are the costs of conformation and how will they be borne by non-governmental organizations and by the industry in general? What is the interest of organizations in the public benefit status? What needs to be done to implement the adopted changes, especially to mitigate the additional administrative costs they created?

Main conclusions

The adopted changes entail the following additional costs for non-governmental organizations: elaboration of annual activity reports, including financial reports, publication and mass dissemination of annual activity reports, creation of a supervisory body and ensuring the functionality of internal organizational structures.

The public authorities will bear additional costs: ensuring transparency of their working processes, making public all organizations with the public benefit status, elaboration of instructions to regularize the activity of public benefit organizations.

A total of 670 organizations in different periods have held the public benefit status; about 40% of organizations have claimed the status permanently. The number of organizations with the status of public benefit in Chisinau municipality is around 170-190. The number of organizations outside Chisinau has increased in the last 2 years to 120-130.

The number of organizations that annually request the status of public benefit is constant and is about 50-70. The organizations' interest for the public benefit status does not increase. The ratio between organizations applying for registration and the number of registered organizations is decreasing. The most frequent period of holding the public benefit status is 3 years. Very few organizations have experience of holding the status for 9 or 12 years. A constantly large number of NGOs either apply after a certain period, or make a pause after expiry of the term when they held the public benefit status.

The institutional cost is about MDL 10,000 per year for an organization with multiple activities. Evidently, the activity of a smaller organization shall require a proportionally smaller amount. At the same time, the impact on local organizations will be different, because the goals of local organizations are different. In most cases the conformation costs of local organizations are smaller. Conformation costs per industry will be *at most MDL 3 to 3.5 million per year*. The administrative costs of the regulatory body are not clear, but they will not be higher than possibly the additional efforts of ensuring the transparency of the Certification Commission. The overall benefits for non-governmental organizations should be greater than the costs per industry for conformation to new regulatory requirements.

Main recommendations

Prompt implementation of adopted changes, especially establishment of the Certification Commission's new composition, following a transparent process of selection and appointment of Commission members.

Elaboration and adoption of specific requirements and patterns of reporting on activities and funds that shall be submitted by organizations to receive the public benefit status and used to produce annual reports; the requirements and patterns shall be recommended by the Certification Commission to be adopted by order of the Minister of Justice.

Elaboration and adoption of Operation Regulations for the Certification Commission, which will ensure its transparency and openness to public view.

Elaboration and adoption in reasonable terms of fiscal mechanisms and stimuli provided by the current law on public associations and by the Civil Society Strengthening Strategy, elaboration of instruments aimed at providing public benefit organizations' access to subventions and public tenders.

2. Legal analysis of legislative changes regarding public benefit

In this chapter we will briefly present the essence of the adopted changes and new aspects brought by the new issue of the law.

2.1 Analysis of current proposals

Changes to the Law no. 837 of 17 May 1996 on public associations ⁱ, adopted in June 2010, aimed at creating better working conditions by encouraging greater trust from society, and at implementation of policies supporting the associative sector. These changes will encourage the organizations seeking support from the state budget and from society to become more transparent and open to society. They also provide responsibility for fraudulent use of immunities, privileges and aids from the state budget ⁱⁱ.

The public benefit status is granted for a period of 3 years. The public benefit certificate serves as basis for partial or total exemption of a public association from taxes, duties and other payment obligations, and for state support in granting fiscal immunities and privileges (Article 32²)ⁱⁱⁱ. Organizations holding the public benefit status shall be eligible for mechanisms of deduction and channeling of income taxes, facilitated lease of public spaces, financing and subventions for achievement of their mission^{iv}. State support shall be materialized through financial and material support in the form of grants ^v and through public contract (services procurement)^{vi}. In all cases the granting procedure shall comply with transparency requirements.

The organizations willing to receive the public benefit status will have to comply with eligibility requirements and to submit the necessary documents.

Table. Eligibility criteria and necessary documents:

	<i>Eligibility for the public benefit status (Article 30¹)^{vii}:</i>	<i>Documents to be submitted to the Certification Commission (Article 32^{viii}):</i>
	1) one year of activity, 2) charter stipulating only public benefit activities, 3) avoiding conflict of interests in providing services to beneficiaries, 4) not supporting any electoral candidate, 5) existence of a functional supervisory body, whose members are not affiliates or employees of the organization; the control body shall perform annual audit of the organization, 6) activities open to public view, publication of annual reports in the Internet and in other media, 7) absence of debts to the state budget.	1) application accompanied by a copy of the charter and of the registration certificate, 2) annual activity report, including financial component per projects, 3) financial statement with relevant information, 4) proof of publication of annual reports, 5) certificate by the State Inspectorate regarding absence of debts.

Therefore, the adopted legislative changes entail certain requirements for organizations applying for the public benefit status in addition to those imposed on organizations that do not seek the public benefit status. These additional requirements demand additional time and resources.

At the same time, there is a need in institutional adjustments and changes in the activity of the body responsible for granting public benefit status and for supervising these organizations.

A certification commission is established, composed of 9 members, 6 of whom shall represent public benefit organizations. The commission's activity shall be made open to the public; it shall adopt annual activity reports published on the web page of the Ministry of Justice^x. The commission shall examine the submitted applications, petitions; initiate the procedure regarding the withdrawal of the certificate; produce relevant instructions^x. The Ministry of Justice shall create a sub-register of public benefit organizations that shall be open and accessible to the public^{xi}.

Consequently, the adopted changes demand from the body responsible for registration of public benefit organizations (the Ministry of Justice and the Certification Commission) additional institutional and legislative adjustments.

2.2 Comparison of initially adopted provisions with the modified legislation

In this section we will present a comparative legal analysis.

We will begin with the analysis of provisions that can have an impact on the activity of non-governmental organizations. It is briefly presented in the comparative table below.

Table 1. Comparative analysis of legislative changes and of their consequences for the civil society

Element of comparison	Changes in the Law on public associations	Old issue of the Law on public associations	Comments
1. The concept of public benefit	<p>Goal: Strengthening public associations, diversification of funds</p> <p>Criteria:</p> <ol style="list-style-type: none"> 1) charter stipulating only public benefit activities, 2) avoiding conflict of interests in providing services to beneficiaries, 3) not supporting any electoral candidate, 4) existence of a functional supervisory body, whose members are not affiliates or employees of the organization; the control body shall perform annual audit of the organization, 5) activities open to public view, publication of annual reports in the Internet and in other media, 6) absence of debts to the state budget. 	<p>Goal: state support for public associations.^{xii}</p> <p>Criteria:</p> <ol style="list-style-type: none"> 1) Conformity to public benefit areas, 2) Not-for-profit activity, 3) Non-participation in the support of political parties in electoral processes 	<p>The goal of public benefit broadens, aiming at strengthening public associations.</p> <p>The not-for-profit criterion is excluded, replaced by criteria of avoiding conflict of interests in providing services to beneficiaries and of functioning of a supervisory body. Also, there is a demand of publishing annual reports and absence of debts to the state.</p>
2. Advantages of public benefit	<p>Advantages:</p> <ol style="list-style-type: none"> 1) Eligibility for mechanisms of deduction and channeling of income taxes, 2) Facilitated lease of public spaces, financing and subventions for achievement of their 	<p>Advantages^{xiii}:</p> <ol style="list-style-type: none"> 1) Partial or full exemption from certain taxes and payments to the state, 2) Granting immunities and 	<p>Advantages for organizations are substantially broadened; immunities and privileges are specified by further</p>

	mission. 3) State support shall be materialized through financial and material support in the form of grants and through public contract	privileges	adoption of mechanisms of deduction and channeling of income taxes, facilitated lease of public spaces, implementation of programs and grants.
3. Documents required for assessment of public benefit	The assessed documents: 1) one year of activity, 2) application accompanied by a copy of the charter and of the registration certificate, 3) annual activity report, including financial component per projects, 4) financial statement with relevant information, 5) proof of publication of annual reports, 6) certificate by the State Inspectorate regarding absence of debts.	Assessed documents: ^{xiv} 1) 6 months from the date of registration, 2) documents of incorporation, 3) activity report for the respective year, 4) Notification of the Fiscal Inspectorate	Additional conditions: 1) 1 year of activity compared to 6 months, 2) the annual report shall include the financial component of activity, 3) proof of publication of annual reports

The adopted changes broaden the goal of public benefit for non-governmental organizations. The new issue of the law additionally provides for strengthening public associations, which shall be achieved by means of stimulating mechanisms, explicitly stipulated by the law and shall be adopted.

The adopted changes exclude the criterion of not-for-profit nature of organizations. The law recognizes that non-governmental organizations can undertake activities generating income compatible with their charters and public benefit goals. It is true, organizations can generate income, but it shall be used for achievement of statutory goals and on condition of non-distribution among founders.

At the same time additions include criteria of avoiding conflict of interests in providing services to beneficiaries and of existence of a functional supervisory body. Avoidance of conflict of interests in providing services to beneficiaries involves the impossibility of providing services to relatives and founders of the organization. Organizations also need to create a supervisory body, whose members will not be remunerated for their work and who will not be part of the executive and managing structures of the organization.

The organizations wishing to obtain the public benefit status should publish their annual activity reports that would be accessible to anyone. These reports shall include a sufficiently detailed financial part of activity. Also, organizations must not have debts to the state. The changes bring additional conditions: 1) 1 year of activity compared to 6 months; 2) the annual report shall include the financial component of activity; 3) organizations shall present proof of publication of annual reports.

The proposed changes are much more specific and exact relating to the advantages for non-governmental organizations. Potential advantages shall provide for further adoption of mechanisms of deduction and channeling of income taxes, facilitated lease of public spaces, implementation of programs and grants. These advantages require adoption of new separate laws for each instrument in part.

The main conclusion of this section is that the adopted changes entail the following additional costs for non-governmental organizations:

- production of annual activity reports, including financial reports,
- publication and mass dissemination of annual activity reports of non-governmental organizations,

- creation of a supervisory body and maintenance of the functionality of internal organizational structures.

These costs shall be quantified and later monetized on the basis of statistical data presented in the following section.

Analysis of provisions that can affect the administrative costs of the regulatory body. It is briefly presented in the comparative table below.

Table 2. Comparative analysis of legislative changes and of consequences for the regulatory body – Commission and Ministry of Justice

Element of comparison	Changes in the Law on public associations	Old issue of the Law on public associations	Comments
1. Composition and structure of the Certification Commission	Composition: 1) 9 members, 3 of each the Parliament, Government, Presidency 2) of whom 6 members shall represent public benefit organizations 3) The Commission’s activity shall be open to public view by adopting annual activity reports published on the web page of the Ministry of Justice	Composition: ^{xv} 1) 9 members, 3 of each the Parliament, Government, Presidency 2) of which 3 representatives of public associations, not civil servants, appointed for 5 years, 3) Regulations approved by the Ministry of Justice	Changes stipulate that at least 6 members shall represent the civil society, public benefit organizations, the process of selection and approval shall be transparent. Another criterion is openness of Commission’s activity to public view.
2. Functions and duties	Functions 1) The Commission examines submitted applications, 2) examines petitions, 3) initiates procedure of withdrawal of certificate, 4) elaborates relevant instructions, 5) The Ministry of Justice shall create a sub-register of organizations with the public benefit status that shall be open and accessible to the public	Functions: ^{xvi} 1) Certifies public associations, 2) Examines petitions, 3) Performs control of compliance with the certificate, 4) Initiates withdrawal, 5) Publishes the list on the web page of the Ministry of Justice	The functions in principle do not change. The only additional duty is elaboration of instructions regarding the operation of public benefit organizations

The new issue of the law stipulates that at least 6 members shall represent the civil society; they shall represent public benefit organizations and the process of their selection and approval shall be transparent on the basis of the law on decisional transparency. Otherwise there are no other conformation costs for public authorities. Another criterion is openness of Commission’s activity to the public view. The Commission shall from this moment on conform to legal provisions regarding decisional transparency.

The functions of the Certification Commission in principle do not change. The only additional duty is development of instructions regarding the operation of public benefit organizations.

In conclusion, public authorities will have additional costs with regard to:

- ensuring transparency of their working processes,
- making public all organizations with the public benefit status,
- elaboration of instructions to regularize the activity of public benefit organizations.

2.3 Fiscal immunities and stimuli

The Fiscal Code contains an express norm, by which the entire income generated by a non-governmental organization must be used to attain its goals, and it shall not be used for the benefit of their founding members or for the support of a political party (Article 52(2))^{xvii}. This provision covers the greatest part of the public benefit concept.

The current issue of the Fiscal Code provides tax exemption, meaning that the final income or profit after deduction of expenses from income is not subject to taxation. This provision expands to include non-commercial organizations^{xviii}:

- Enterprises of societies of persons with visual, hearing and other disabilities (Article 53-1)^{xix},
- Savings and loans associations (Article 53-2)^{xx},
- Trade unions and employers' organizations (Article 53-3)^{xxi},
- Organizations with the status of public benefit^{xxii}.

The currently existing fiscal privileges include:

- deduction of donations from resident donors (legal entities), by which they can deduce through donations up to 10% of the taxable income (Article 36(1))^{xxiii},
- performance by public benefit organizations of auxiliary business activities^{xxiv}.

The efficiency of these methods shall be discussed separately, but the results of their implementation have not produced desired effects of diversifying incomes and strengthening the civil society.

The currently existing fiscal privileges fail to achieve the main objective of strengthening the civil society or diversifying civil society funds and incomes. The mechanisms of stimulating public benefit organizations require additions, specifically:

- Increasing the efficiency and accessibility of the mechanism of deduction of donations,
- Adopting fiscal mechanisms of channeling of taxes (channeling a certain percent of the payable taxes to a public benefit organization),
- Exemption from income tax in cases when the generated income does not reach a percentage of the budget of auxiliary business activities,
- Mechanisms of contracting and granting subventions on the basis of eligibility criteria for social services,
- Optimum lease conditions for public benefit organizations,
- Adoption of accounting standards for non-commercial organizations (specific to the sector – goal: responsibility for expenses).

3. Analysis of the current situation regarding the public benefit status

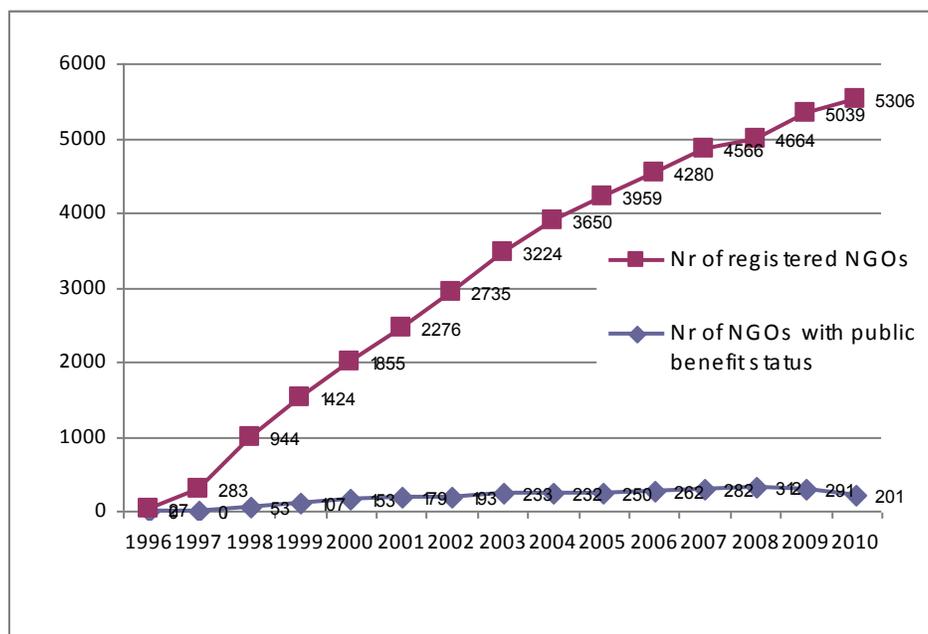
In this chapter we will present the results of processing the data and information from the registers of the Ministry of Justice.

3.1 Evolution of public benefit organizations

The evolution of the number of registered organizations and of organizations holding the public benefit status suggests conclusions regarding the awareness of organizations about the public benefit status and about its attractiveness for registered organizations.

The following graph demonstrates a constant growth of the number of registered organizations and at the same time a constant number of organizations holding the public benefit status. The number of registered organizations continually grows, with approximately 300 organizations annually, almost one organization per day. The growth tendency has continued from 1997 until now with a single substantial deviation during 2007, when the number of registered organizations was around 100.

Table 3. Comparative evolution of registered associations and of associations with public benefit status



Source: Primary data obtained by photocopying from the registers of the Ministry of Justice. Digital processing and reconstruction and analysis performed by authors.

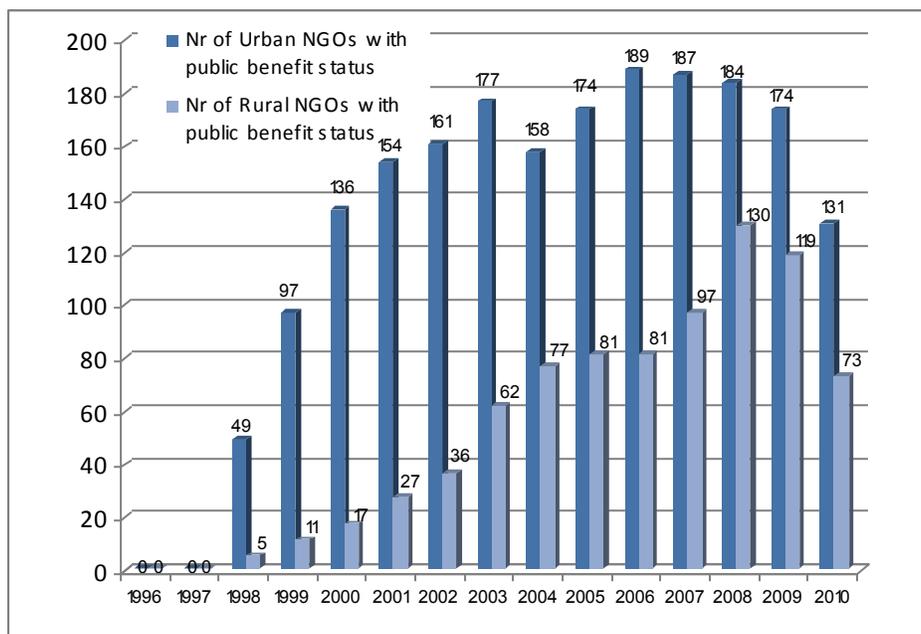
Currently, the number of organizations contained in the register of the Ministry of Justice is over 5,300. At the same time, it is known that a number of organizations are registered at the local level by the municipalities of villages and towns; thus the number of registered organizations is greater. Some sources claim the existence of up to 7,500 registered non-governmental organizations, including local organizations.

The number of organizations holding the public benefit status is relatively constant. The validity of the public benefit certificate is 3 years, so organizations need to re-apply periodically. The largest number of registered organizations holding the status of public benefit was noted in 2009 – 312 organizations. The growth tendency of the number of organizations holding the public benefit status has been slightly increasing with 10-20 organizations annually during the last 5-6 years. Therefore, we find that only the number of organizations holding the status of public benefit is not greater than 2-3% of the number of organizations registered by the Ministry of Justice. This percentage will be even lower if we consider the number of organizations registered by local authorities.

The register of the Ministry of Justice contains a total of 670 organizations which at different times held the status of public benefit. Thus, about 40% of organizations permanently claim the public benefit status. The figures shown above provide only a general image and do not explain the situation, the reasons why the number of public benefit organizations is so little. Such explanation is necessary and it will be realized on the basis of additional investigations.

The graph below indicates that the number of organizations in rural areas that hold the status of public benefit shows a continuous and constant increase, while the number of organizations in Chisinau is constant. During the last 3-4 years the increase of the number of organizations holding the status of public benefit was exclusively due to the increase outside the Chisinau municipality. While the number of organizations holding the status in Chisinau municipality is around 170-190, the number of such organizations outside Chisinau during the last 2 years (2008-2009) increased to 120-130 organizations.

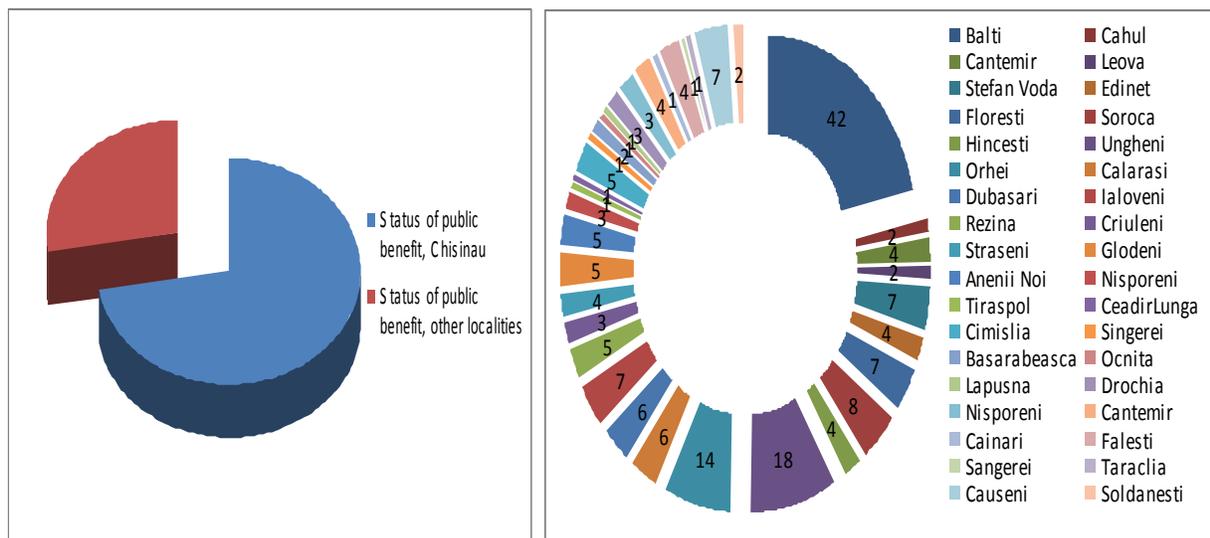
Table 4. The evolution of public benefit organizations in urban and rural communities (note: rural community – organizations in Chisinau)



Source: Primary data obtained by photocopying from the registers of the Ministry of Justice. Digital processing and reconstruction and analysis performed by authors.

Of the most representative localities outside Chisinau municipality, the status of public benefit is recorded in: Balti – 42 organizations, Ungheni – 18, Orhei – 14, Soroca – 8, Ialoveni, Floresti, Stefan-Voda – 7 each, in the remaining localities the number of organizations is less than 5.

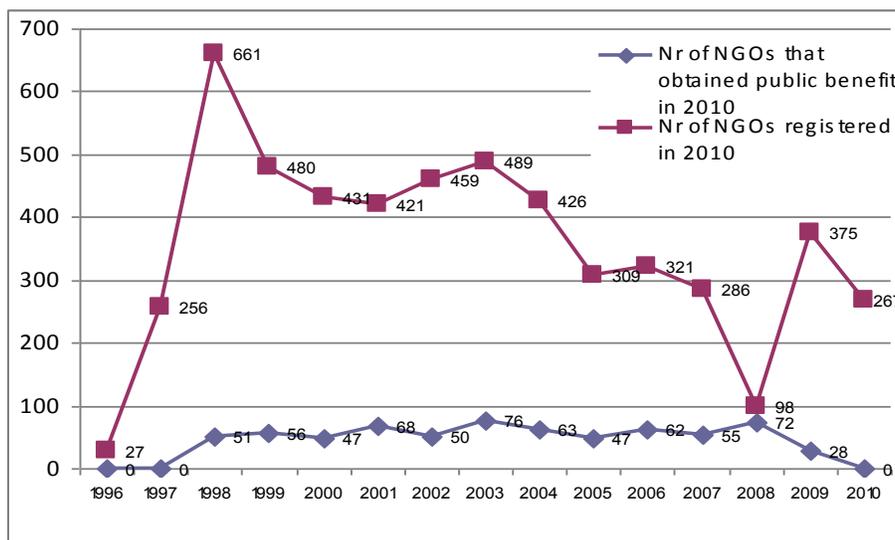
Table 5. Description of organizations in rural areas – outside Chisinau, which held the status of public benefit in 2009.



Source: Primary data obtained by photocopying from the registers of the Ministry of Justice. Digital processing and reconstruction and analysis performed by authors.

The number of organizations that annually apply for the public benefit status is constant and is about 50-70 organizations. The public benefit certificate is granted for a period of 3 years, therefore organizations must periodically reconfirm their status. The comparison between the organizations that apply for registration and for the status of public benefit shows a slight decrease from over 400 organizations registered during 2000-2004 to 300 and less during 2005-2007, with a substantial decrease to 98 organizations in 2008. In 2009, especially in the second half of the year, we found a significant growth of the number of organizations up to 375 organizations, and in the first half of 2010 – already 265 organizations.

Table 6. Comparative evolution of registered organizations and of those holding the status of public benefit per years

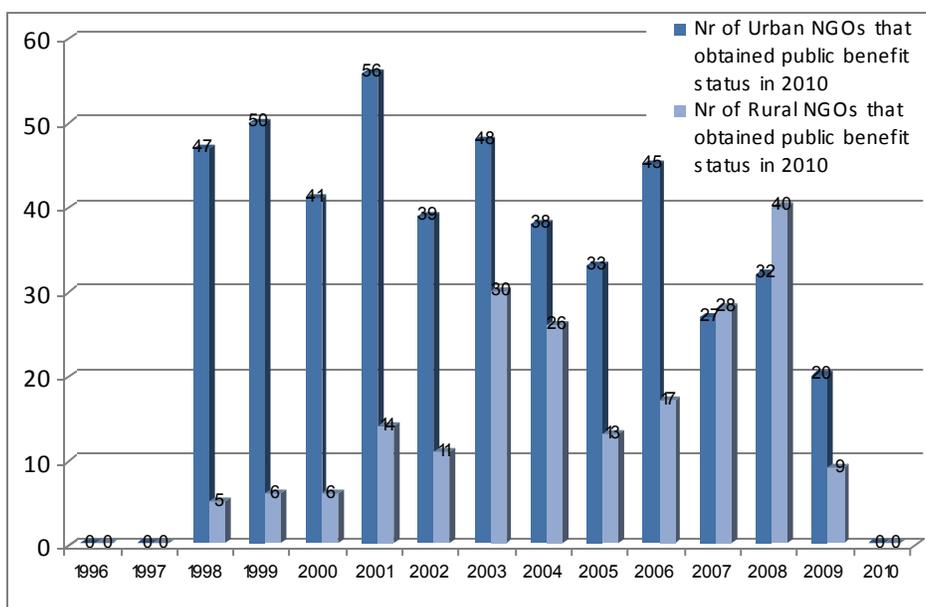


Source: Primary data obtained by photocopying from the registers of the Ministry of Justice. Digital processing and reconstruction and analysis performed by authors.

The number of organizations that obtained the status of public benefit in 2009 dropped to only 28 organizations. While in 2008 the number of organizations that received the public benefic status practically equaled the number of registered organizations (72 and 98 respectively), then in 2009 the difference between them was of over 15 times. Data for 2010 regarding organizations that received the status of public benefit are not available.

During the last 2 years organizations outside Chisinau have been as active as organizations from Chisinau with regard to claiming the status of public benefit. It is true, the graph below shows that during 2007-2008 organizations outside Chisinau applied for the public benefit status in a greater number than those from Chisinau. In the previous period, 2003-2007, the number of organizations outside Chisinau was half or even less of those in Chisinau.

Table 7. Comparative evolution of public benefit organizations per years in urban and rural areas



Source: Primary data obtained by photocopying from the registers of the Ministry of Justice. Digital processing and reconstruction and analysis performed by authors.

3.2 Analysis of public benefit organizations

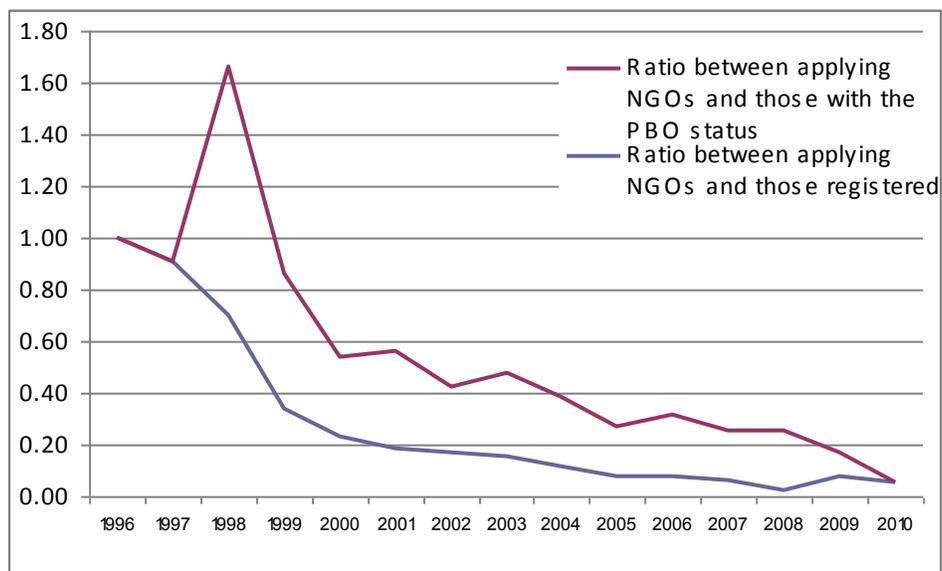
In this section we will analyze the conduct of public benefit organizations.

The organizations' interest in the public benefit status does not grow, there is even a decrease. The ratio between the NGOs that apply for the public benefit status and those who hold the status is an indicator in this regard. This indicator is shown in the Table below and continues to drop. The conclusion is that upon expiry of the public benefit certificate issued for 3 years, fewer organizations repeatedly apply for its prolongation. This is the quantifiable tendency, while its explanation is in three hypotheses that are to be

proved: 1) lack of tangible advantages for organizations holding the public benefit status, 2) administrative procedures for receiving the public benefit status.

The ratio between the number of organizations applying for registration and the number of registered organizations is decreasing. This indicator repeats the form of the curve of the above-mentioned indicator at an interval of several hundred organizations. This indicator is perfectly explainable, for since the organizations are registered they remain in the register of the Ministry of Justice, while public benefit organizations need to renew their status every 3 years. Thus, the number of organizations submitting documents for prolongation of the public benefit status is decreasing.

Table 8. Comparative evolution of organizations requesting registration and of those applying for the public benefit status as compared with organizations holding these qualities, per year

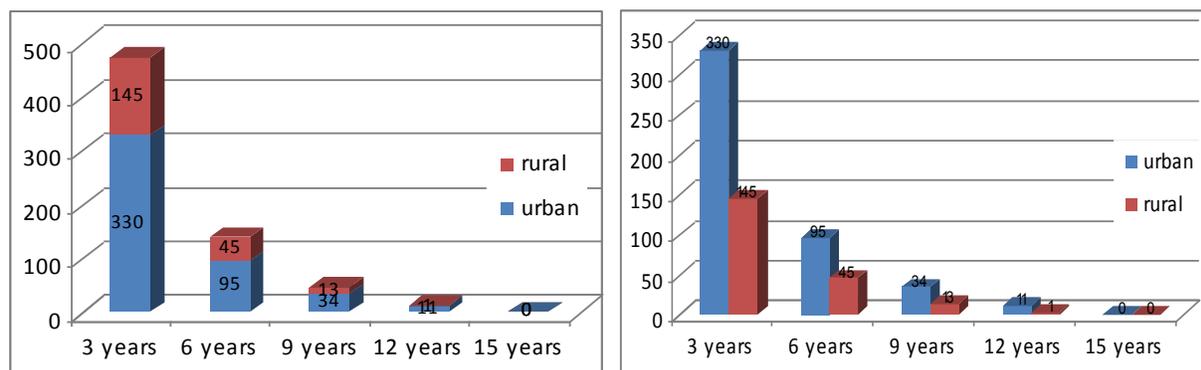


Source: Digital processing and reconstruction and analysis performed by author.

By means of the following graphs we will discuss the quality of the public benefit status.

The most frequent period of holding the public benefit status is 3 years (1 term, over 50% of cases), followed by 6 years (2 terms, over 25%). Very few organizations, only several dozen, have experience of holding the public benefit status for 12 years (4 terms) or 9 years (3 terms). The graph below shows that there are no differences in organizational conduct in this regard between organizations operating in Chisinau or outside.

Table 9-1, 9-2. Period of holding the public benefit status, including in rural (outside Chisinau) and urban areas (in Chisinau)



Source: Digital processing and reconstruction and analysis performed by author.

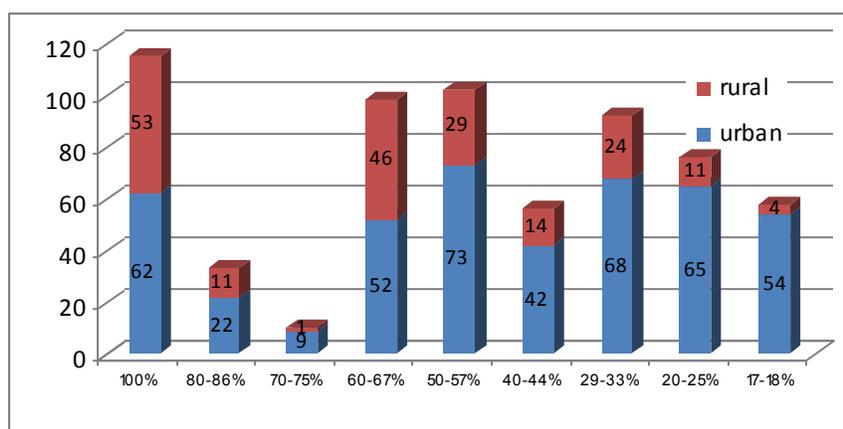
A representative selection of organizations that did not have the public benefit status for over 8-9 years, but nevertheless held it for 3-6 years (1-2 terms), most from Chisinau municipality:

Association of women "IMPERATIV", Chisinau,	Group for Investigation and Conservation of Biodiversity "Fauna", Chisinau,	Center for Development and Implementation of Economic Reforms, Chisinau,
Society "For Democracy and Humanism", Chisinau,	Association of Traditional Medicine of the Republic of Moldova, Chisinau,	Public Organization "Foundation Chernobyl Echo", Chisinau,
Association of Diabetics of the Republic of Moldova, Chisinau,	Bulgarian Society "Renaissance", Chisinau,	Biblical Interconfession Society of Moldova, Chisinau,
Christian Medical Center "Soul and Health", Chisinau,	Movement of Transnistrian Refugees, Chisinau,	Union of Writers of Moldova, Chisinau,
Taekwondo Sports Club "KWON", Chisinau,	League of Veterans of the Armed Forces of the Republic of Moldova, Chisinau,	Union of Musicians of Moldova, Chisinau,
"Soldiers' Mothers" Associations, Chisinau,	Republican Association of Pensioners and Veterans of Transport and Communications, Chisinau,	Consultancy Center "AGROASISTENȚĂ", Chisinau,
Public Association Auto Club "VIRAJ", Chisinau,	Charity Foundation "Brândușele Speranței", Chisinau,	Christian Philanthropic Society "Happy People"
Non-governmental organization "BIOS", Chisinau,	Sport Dance Club "Struguraș", Chisinau,	League for the Protection of Human Rights of the Republic of Moldova, Chisinau,
Public Association "Juvlia Romani" from Moldova, Chisinau,	International Philanthropic Foundation of Afghanistan War Invalids, Chisinau,	Association of Jewish Communities and Organizations of the Republic of Moldova, Chisinau,
Organization for the protection of Slavs' rights "VECE", Chisinau,	Republican Association of War Participants, Chisinau,	Philanthropic Society Christian Charity Mission "Muntele Eleonului"

The explanation of the lack of interest for long periods can be built on several hypotheses: 1) lack of specific advantages for organizations; 2) organizations practice no business activities.

Only 25% of organizations that eventually receive the public benefit status hold it for the entire time after registration. The graph below shows that the majority of organizations hold the public benefit status for half of the term since they exist as registered organizations. More than one third of organizations hold the status for only one third of the time since their existence. The presented figures can be explained by the following hypotheses: 1) organizations learn about the public benefit status some time after registration; 2) organizations apply for the status only after a certain period of operation and when they face the need; 3) the need in the status appears, but it is not acute, the status does not grant any serious advantages.

Table 10. Period of holding the public benefit status from the moment of registration



Source: Digital processing and reconstruction and analysis performed by author.

A representative selection of organizations that practically hold the public benefit status for the entire time after registration and for over 9 years (3 terms):

Organization of Veterans of the Republic of Moldova	Republican society for social protection of minors and young people "Island of Hopes"	Charity Foundation "MISSION WITHOUT BORDERS MOLDOVA"
Association of Veterans and Reserve Soldiers of the Moldovan Armed Forces	Cultural Society "La prispa neamului"	Public Association "Two Twin Hearts"
Public Association "Editura ARC"	International Society for Human Rights – Section of the Republic of Moldova	Center for Independent Journalism
Craftsmen Union of Moldova	Public Association Residential Home for the Elderly "Old Age With No Sorrow"	Innovative Projects in Penitentiaries
Cultural Society "PHOENIX Bird"	Association for Participative Democracy	Theatric Union of Moldova
League of Scene Veterans of the Republic of Moldova	Institute of Public Policies	International Center for Protection and Promotion of Women's Rights "LA STRADA"
Public Association "Foundation C.A. Gamov"	Movement of Women from the Republic of Moldova for Fight Against Poverty and Illiteracy	Union of Artists of the Republic of Moldova
Public Organization "ADSISTO NGO"	Charity Foundation for Children "Clipa Siderală"	International organization in Moldova "Calea Fericii - The Way of Blessing"

Center of Analysis and Investigations in Sociology, Political science and Psychology "CIVIS"

Foundation for Moldovan-Japanese Relations

Public Association Tigun from Moldova

Charity Foundation of Ukrainian Professional Artists, Craftsmen "RENASTERE-ВИДРОЖЕННЯ"

Creativity Union "Decorum"

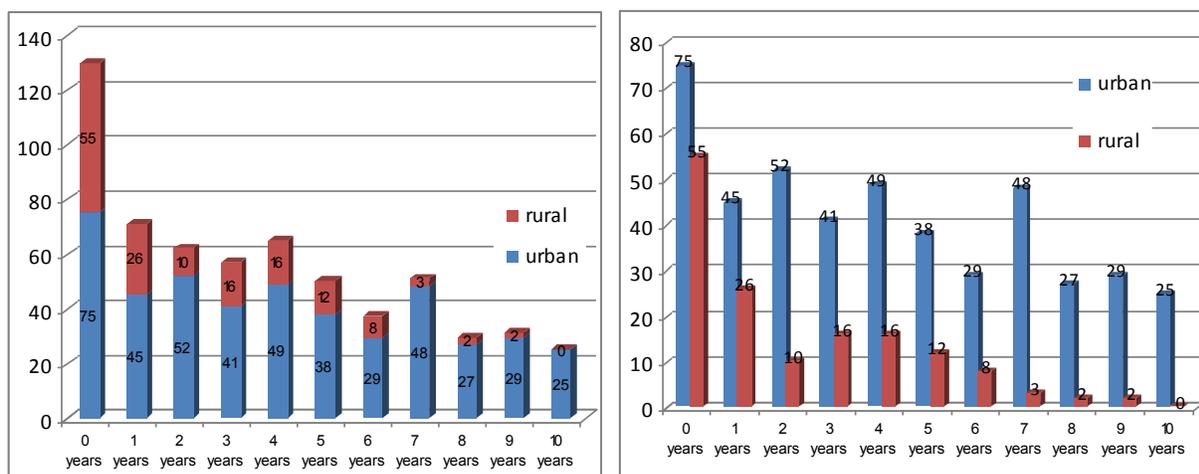
Public Organization "CENTER FOR PROTECTION OF HEARING"

Association of Veterans of financial activity of the Republic of Moldova "Veteran Financiar"

The explanation can be built on several hypotheses: 1) these organizations undertake entrepreneurial activities, and the status is necessary to provide services through sale; 2) organizations are aware of the public benefit status and undertake efforts to receive it, though they do not perform entrepreneurial activity.

Once the organizations receive the public benefit status, they do not necessarily renew it; there are periods of lack of certificate. A constantly large number of NGOs either submit documents after a certain period of time, or make a pause after expiry of the term when they held the public benefit status. The graphs below show no difference in conduct between organizations from urban and rural areas in this regard. Reasons of this conduct can be explained by several hypotheses: 1) a pause of 1-2 years is determined by procedures related to granting the status; 2) a pause of several years is determined by the fluctuation and eventually decrease in the degree of organization's activity; 3) application for public benefit status with retention is explained by the curve of learning the field.

Table 11-1, 11-2. Period of lack of public benefit status, including in rural areas (outside Chisinau) and urban areas (in Chisinau)



Source: Digital processing and reconstruction and analysis performed by author.

Overall we found that the prevailing period of pause is 3-6 years (1-2 terms).

Representative selection of organizations holding the public benefit status for the entire time after their registration and for a long period:

Society of the Visually Impaired of Moldova

Federation of University Sports of the Republic of Moldova

Society of the Disabled of the Republic of Moldova

Football club "ZIMBRU" of the Republic of Moldova

Public Organization of Children and Young People "HEIRS"

Republican Culture Center of the Deaf of Moldova

Sport Dance Federation of Moldova	Association of the Deaf of the Republic of Moldova	Sport Dance Club "Codreanca"
Culture Center "STEAUA"		
Center for Social Protection of Family and Child	United American-Jewish Distribution Committee from Moldova	

4. Impact evaluation and assessment

In this chapter we will present the quantified evaluation of efforts of conformation to the approved changes and their application to monetary costs expressed in Moldovan lei.

4.1 Institutional assessment

Quantification of the conformation efforts depends on the exact nature of new regulatory demands. The more exactly formulated are the demands, the easier it is to assess the efforts of conformation to new regulatory requirements.

The adopted changes entail the following additional costs for non-governmental organizations:

- elaboration of annual activity reports, including financial reports,
- publication and mass dissemination of annual activity reports of non-governmental organizations,
- creation of a supervisory body and ensuring the functionality of internal organizational structures.

These additional regulatory requirements on the one hand are clear and not new for the non-governmental sector; on the other hand they are not specific enough. If there was a pattern for the production of annual activity reports (though there are sufficient examples of organizations in Moldova)¹, conformation to these requirements would be easier and more predictable.

Requirements regarding creation and operation of the supervisory body result from the creation of a more clear and transparent internal organizational environment. Usually, apart from establishment, the supervisory body must convene regularly at least 3-4 times per year in its supervisory sessions. These sessions are the source of the most significant expenses relating to the operation of the supervisory body. Another aspect is recruitment of members of the supervisory body who could voluntarily contribute their time for the organization. The latter efforts cannot be assessed directly.

Table 12. Example of minimum expenses with a view of conforming to new public benefit requirements (organization with experience, a report of 50 pages, 5-6 members of the supervisory body)²

¹ See for example: <http://www.soros.md/about/reports>, http://www.ijc.md/index.php?option=com_content&task=view&id=32&Itemid=57, <http://www.viitorul.org/lib.php?l=ro&idc=291>,

² Based on the experience of elaboration and dissemination of the published reports <http://www.credo.md/pagini/rapoarte.php?limba=rom>

	Time, days	Price per item, MDL	Total, MDL
elaboration of the narrative activity report	15	100	1,500
elaboration of the financial report	15	100	1,500
editing, electronic dissemination	10	100	1,000
printing reports	100	30	3,000
Sub-total			7,000
quarterly sessions of supervisory body	24	100	2,400
direct participation costs	4	300	1,200
Sub-total			3,600

The total amount of expenses is estimated at approximately MDL 10,000 per year for an organization with multiple activities. It is evident that the activity of a smaller organization shall require a proportionally smaller amount. At the same time, the impact on local organizations will be different, because the goals of local organizations are different. In most cases the conformation costs of local organizations will be smaller. Once an organization establishes certain procedures for elaboration of reports, production costs decrease, because the information is collected regularly during activities.

The public authorities will have additional costs relating to:

- ensuring transparency of their working processes,
- making public all the organizations with the public benefit status,
- elaboration of instructions to regularize the activity of public benefit organizations.

These costs cannot be clearly identified. At the same time, it is evident that these costs rather relate to the establishment of functioning procedures and creation of spaces necessary for adequate operation of the Commission.

4.2 Global assessment

The global assessment of the impact presumes the integral effect of regulatory measures on the non-governmental sector and sector's readiness to comply with new regulatory requirements.

The willingness and readiness for conformation greatly depend on the benefits and profits that the organization will achieve after conformation. Although the additional requirements are not disproportionately higher than the previous requirements, they still entail the discussed additional effort. The changes in the law on public associations provide that the state will adopt a series of benefits, listed in 2.3:

- 1) Eligibility for mechanisms of deduction and channeling of income taxes,
- 2) Facilitated lease of public spaces, financing and subventions for achievement of the mission,
- 3) State support materialized through financial and material aid in the form of grants and through public contract.

The presence of these stimuli can be a convincing argument for many organizations to decide on attaining the public benefit status. At the same time, in the absence of these stimuli, the probability that the number of organizations willing to receive the public benefit status will increase might be the same as it is now. Therefore, we can speak about 300-350 organizations (to be seen Table 3) that hold or intend to hold the public benefit status in the future.

Using the data in Table 3 and the maximum cost of conformation of MDL 10,000, we find that the maximum cost of conformation per industry will be *at most MDL 3 to 3.5 million per year*. The administrative costs of the supervisory body are not clear, but they will not be higher than possibly the additional efforts of ensuring the transparency of the Certification Commission.

The advantages for non-governmental organizations should overall outweigh the costs per industry for conformation to new regulatory requirements.

An additional view on the possible advantages is in the greater transparency of non-governmental organizations and therefore a greater trust in their activity. These advantages must and will be evaluated within an analysis of the costs and benefits of measures encouraging the development of civil society on the basis of the new issue of the law on public associations and the Strategy for the Strengthening of Civil Society³.

³ Parliament Decision no.267 of 11 December 2008 on approval of the Strategy for the strengthening of civil society for 2009-2011, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=330319>

5. Conclusions and recommendations

Data on the dynamics of public benefit organizations reveal a decrease of the interest for the public benefit status, especially among organizations within the Chisinau municipality. Only 2 categories of organizations, in the small number of only several dozen organizations, persist in maintaining the public benefit status. These are organizations that intensively practice entrepreneurial activities and are aware of public benefit as an aspect of the status. A large number of organizations, though initially held the public benefit status, later, after expiry of the term, failed to reapply. The reasons are lack of definite advantages for organizations.

Evidently, the costs of conforming to old requirements for receiving and maintaining the public benefit status are considered to have been a burden. However, the unclear objectives of the public benefit status in the old issue of the law resulted in the loss of its importance for non-governmental organizations and for the entire civil society. The public benefit status was supported only by exemption from the payment of VAT for provided services. A small number of organizations, nevertheless, practice entrepreneurial activities. For other organizations, which do not practice entrepreneurial activities, the public benefit status brings no stimuli and advantages. The gravest matter is that the current arrangements fail to contribute to ensuring the transparency of non-governmental organizations and, therefore, the increased trust from society.

Main recommendations:

- Prompt implementation of the adopted changes, especially establishment of the Certification Commission's new composition, following a transparent process of selection and appointment of Commission members;

The implementation of this recommendation is necessary in order to apply the recently adopted changes. There is need in a new composition of the Certification Commission, which will guarantee adequate application of these provisions. It is the new composition that will be able to ensure the adoption of new regulations, instructions and requirements and of adequate reporting patterns.

- Elaboration and adoption of exact requirements and patterns of activity and financial reports that shall be submitted by organizations in order to receive the public benefit status and used to produce annual reports; the requirements and patterns shall be recommended by the Certification Commission to be adopted by order of the Ministry of Justice;

New requirements and patterns are necessary to reduce the uncertainty in the process of conforming to the newly adopted changes and, at the same time, to ensure their adequate implementation for the benefit of non-governmental organizations.

- Elaboration and adoption of Operation Regulations for the Certification Commission, which will ensure its transparency and openness to public view;
- Elaboration and adoption in reasonable terms of mechanisms and fiscal stimuli provided by the current law on public associations and by the Civil Society Strengthening Strategy 2013, elaboration of instruments aimed at providing public benefit organizations' access to subventions and public tenders.

Adoption of the discussed mechanisms and stimuli in a reasonable term is necessary in order to apply the advantages of public benefit and compensate the costs of conformation to regulatory provisions per industry. In case these advantages are not adopted in a reasonable term, conformation costs will gradually outweigh the existing advantages, and will reduce the number of organizations that will apply for the public benefit status. Therefore, the goal of diversifying incomes, strengthening civil society will be jeopardized.

6. References

1. Database with registered organizations and organizations holding the public benefit status:: http://credo.md/arhiva/documente/lista_ao_&_pbo_august_2010.xls

End-of-paper notes:

ⁱ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=325424>

ⁱⁱ **Article 33**³. Responsibility for fraudulent use of state-provided support

(1) Public benefit associations and their responsible persons that violate legislation when using the support provided by the state shall be held accountable according to the law.

(2) The body that penalized a public benefit association for fraudulent use of support provided by public authorities must notify about this fact the Certification Commission within 15 days from the date of the penalization. If the penalization was contested in court, the respective body must notify about this fact the Certification Commission within 5 days from the pronouncement of final court decision.

(3) The public benefit association whose certificate has been withdrawn for the reason of misappropriation of the support provided by public authorities cannot hold the public benefit status for 3 years from the date of penalization.

ⁱⁱⁱ **Article 32**². The public benefit certificate

(1) The certificate granting the status of public benefit (hereinafter 'certificate') is an official act attesting the status of public benefit and the public interest nature of a public association's activity. The pattern of the certificate shall be approved by the Government.

(2) The certificate shall be issued for a term of 3 years.

(3) The certificate shall serve as basis for partial or total exemption of a public association from taxes, duties and other payment obligations, and for state support under this law in granting fiscal immunities and privileges according to the legislative and normative acts in force.

^{iv} **Article 33**. Principles and forms of support to public benefit associations

(1) The state policy on support to public benefit associations shall be based on the following principles:

- a) securing the right of public benefit associations to participate in formation and implementation of public policies;
- b) ensuring efficient implementation of public programs and projects by active engagement of public benefit associations;
- c) transparency and openness to public view of procedures providing any forms of support, especially by organizing open, transparent and public contests, and in equal conditions of participation in such procedures;
- d) granting fiscal advantages to public benefit associations under conditions of the law;
- e) budget planning of expenses aimed at supporting public benefit associations;
- f) control by public authorities over the intended use of budget resources allotted to public benefit associations.

(2) The central and local public authorities shall support the activity of public benefit associations by:

- a) implementing mechanisms of exemption and channeling of income taxes;
- b) leasing spaces for activities under privileged conditions or granting them for free use;
- c) financing and granting subventions for programs, projects and activities proposed by public benefit associations;
- d) providing public contracts.

(3) Public authorities can perform, together with public benefit associations, activities of public interest in the social and other fields on the basis of collaboration agreements. This form of support does not necessarily entail transfer of financial resources to associations.

^v **Article 33**¹. Procedure of granting financial or material support to public benefit associations

(1) Decision regarding a public benefit association's application for financial or material support shall be adopted after a public contest by a commission formed of public authority representatives, representatives of public benefit associations not participating in the contest for financing and independent experts.

(2) Public authorities shall ensure openness to public view and transparency of processes in organizing contests for financial or material support. The announcement and conditions of contests shall be published in mass media at least 2 months prior to the deadline for submission of programs, projects and proposals of activities.

(3) General criteria of assessment of applications for financial or material support are as follows:

- a) the nature and degree of public benefit of the goals and objectives declared in the application for financial or material support;
- b) the importance and efficiency of actions proposed by the public benefit association for the attainment of goals presented in contest organization conditions;

c) sufficiency of human, technical and financial capacities of the public benefit organization to realize the proposed actions.

(4) The financial or material support of programs, projects and activities of public benefit associations shall be granted on basis of a contract signed with the public authority that adopted the decision on financial or material support. The contract shall contain clauses regarding the offered amounts or goods, the terms of utilization of financial or material support, the parties' obligations (including the obligation to use resources for their intended purpose and the obligation to submit reports) and the consequences in the event of failure to execute or inappropriate execution of contractual obligations.

^{vi} **Article 33²**. Public contract

(1) Public contract is one of the forms for the realization of social programs organized by public authorities. It is a totality of contracts regarding execution of works and/or provision of services for community benefit.

(2) Public authorities shall prepare the list and plan the volume of works and services that shall be executed/provided through public contract. The contract shall be funded from the budget of the initiating public authority.

(3) The public contract shall be done through public contest, according to the legislation on public procurement, with peculiarities set by this law. Participants in contests for public contract can be only public benefit organizations.

(4) The public benefit associations participating in contests for public contract must provide conditions necessary for the execution of the contract, including equipment and other goods, qualified personnel and experience in the field and good reputation, able to attract volunteers and additional resources.

(5) The placement of public contracts does not require guarantees for offers and contract insurance measures.

^{vii} **Article 30¹**. Conditions to receive the public benefit status:

(1) The public benefit status shall be granted to a public association that complies with the following conditions:

a) has the status of public association and has been functional for at least one year;

b) the public association's charter stipulates exclusively goals regarding public benefit activities;

c) beneficiaries of public benefit activities of the association that was granted the public benefit status cannot be persons that are founders, members or employees of this association, as well as persons that are in relations of kinship up to 3rd degree inclusively or affinity up to 2nd degree inclusively with one of the named persons, except for members of associations founded on the basis of mutual interest that fall under the category of socially vulnerable persons in case the Certification Commission issues a decision in this regard.

(2) The charter of a public association applying for the public benefit status must contain clauses stipulating:

a) the impossibility to distribute the property and income among its members and founders, inclusively in case of reorganization or liquidation, and use of property and income for statutory purposes exclusively;

b) the impossibility to support during elections of public authorities an electoral competitor or candidate to positions within public authorities, as well as impossibility to use its income or assets to finance them.

(3) The organizational structure of a public association applying for the public benefit status must comply with legal requirements and meet the following conditions:

a) to be ensured the public association's supervision by the council and audit by the control and revision body;

b) the supervisory body (council) of the public association applying for the public benefit status must be formed of at least 3 persons that are not affiliated (in relations of kinship and affinity up to 3rd degree inclusively) and must observe the rules regarding avoidance of the conflict of interests; members of the supervisory body (council) must not be simultaneously members of the same association's executive body;

c) the control and revision body must verify the association's activity when necessary, but at least once per year.

(4) The public association applying for the public benefit status must perform its activities in a transparent manner, which shall specifically be expressed by publishing in the mass media (including the association's web page) of its annual reports and by submitting them to the registration body not later than 3 months after end of year. The annual report must include:

a) an activity report according to the pattern approved by the Certification Commission, which shall contain, among others, the categories of beneficiaries of public benefit activities;

b) a financial statement, which shall include the financial report for the last year of activity, compiled according to accounting standards, information about the sources of public association's funds, including the received financial and/or material resources, as well as data about the usage of these resources, including general and administrative costs.

(5) The public association applying for the public benefit status must not have debts to the national public budget.

(6) Conditions stipulated in paragraphs (1)-(5) must be met jointly.

^{viii} **Article 32**. Documents necessary to apply for the public benefit status:

A public association applying for the public benefit status shall submit to the Certification Commission the following documents:

a) application;

b) copies of the charter and the registration certificate;

c) an activity report for the previous year (in case of a first application for the public benefit status) or for the last three years (in case of associations that have held the public benefit status), which shall contain information regarding the implemented projects and performed activities, the value of financial and/or material resources obtained and used during the reported period, categories of beneficiaries, resources used to cover administrative costs;

d) a financial statement, which shall include:

– a financial report for the previous year of activity, prepared according to accounting standards;

– information about the association's funding sources, including grants received for the period prior to application, but not

longer than 3 years;

- data about the use of the received financial and/or material resources, including about general and administrative costs;
- e) proof of publication in the mass media (including on the association's web page) of its annual reports on statutory activity;
- f) certificate from the State Fiscal Service on the absence of debts to the national public budget.

^{ix} **Article 31.** Certification Commission

(1) The Certification Commission is the body entitled to grant and certify the public benefit status. The Commission operates under the Ministry of Justice on the basis of regulations approved by the Government.

(2) The Certification Commission shall be composed of 9 members, of whom 3 shall be appointed by the President of the Republic of Moldova, 3 by the Parliament, and 3 by the Government. The members of the Certification Commission shall be appointed following an open and transparent selection process. At least 2 of the 3 members appointed by each of the mentioned bodies must be representatives of public benefit associations that have held the status for at least 3 years. The members of the Certification Commission acting as representatives of public benefit associations shall be selected for appointment from a common list of candidates proposed by at least 3 public benefit associations.

(3) Candidate for the Certification Commission membership can be a person that:

- a) speaks the state language;
- b) is resident of the Republic of Moldova;
- c) has an irreproachable reputation;
- d) is not civil servant;
- e) is supported by recommendation of at least two public benefit associations.

(4) The Certification Commission membership mandate ends in case of:

- a) expiry of mandate term;
- b) revocation;
- c) resignation;
- d) decease.

(5) A member of the Certification Commission shall be revoked in case of:

- a) conviction for a crime on the basis of a final and irrevocable court decision;
- b) impossibility, for health reasons, to perform their duties for more than 4 consecutive months;
- c) declaration of the person missing, according to the law;
- d) activity within a political party or a social-political organization.

(6) Members of the Certification Commission are appointed for 5 years and perform their duties until new members take their positions.

(7) The President of the Certification Commission shall be elected by secret vote from its members, with majority of votes.

(8) The Certification Commission Members can hold two mandates at most.

(9) Secretarial works of the Certification Commission are ensured by the Ministry of Justice.

(10) The Certification Commission shall meet in sessions not less than once per month. The Commission's sessions shall be open to public view. The date and hour of sessions shall be fixed by the President of the Commission after consultation with members. This information shall be brought to the knowledge of Commission members and the public, specifically by publicizing it by the Commission secretary (officer of the Ministry of Justice) in visible places and on the website of the Ministry of Justice at least 15 days prior to the date fixed for the session.

(11) Within 3 months after the end of every year the Certification Commission shall publish in the Official Monitor of the Republic of Moldova and on the website of the Ministry of Justice its activity report for the expired year, as well as the updated list of public benefit associations.

(12) The Certification Commission's decisions on granting and withdrawal of the public benefit status shall be published in the Official Monitor of the Republic of Moldova and on the website of the Ministry of Justice.

^x **Article 31¹.** Duties of the Certification Commission

(1) The Certification Commission shall be independent in decision making and it shall have the following duties:

- a) to examine reports and documents of public associations applying for the public benefit status and to grant the status;
- b) to receive and examine claims on issues in its competence;
- c) to issue warnings to public benefit associations in case they violate the legislation;
- d) to initiate the procedure for withdrawing the public benefit certificate if the association does not comply with conditions for the public benefit status or if the submitted documents contain false information;
- e) to inform the Ministry of Justice and other competent authorities about the public associations that have been granted or withdrawn the public benefit status;
- f) to elaborate rules, forms, instructions, recommendations and patterns of documents related to granting the public benefit status and to submit them for approval to the Ministry of Justice, which makes them public;
- g) to elaborate and present to subjects of law with the right of legislative initiative proposals regarding the development of legislation;
- h) to establish consultative councils and groups of experts for analysis and debate of problems relating to the activity of public benefit associations;
- i) to publish in the Official Monitor of the Republic of Moldova and on the website of the Ministry of Justice, within 3 months after the end of every year, its activity report for the expired year, as well as an updated list of public benefit associations.

(2) Members of the Certification Commission shall have free access to the files of public associations applying for the public benefit status.

^{xi} **Article 32³.** The sub-register of public benefit associations

(1) The sub-register of public benefit associations (hereinafter ‘the sub-register’) shall be an integral part of the State Register of Non-commercial Organizations, containing all public benefit associations of the Republic of Moldova.

(2) The sub-register shall be held by the Ministry of Justice of the Republic of Moldova.

(3) The following data shall be introduced into the sub-register:

- a) the name of the public benefit association;
- b) date of issue of the certificate and its number;
- c) address and contact information of the public benefit association;
- d) the first and last name of the leader of the public benefit association;
- e) identification data of the members of the supervisory body (council) of the public benefit association;
- f) the date of prolongation of the public benefit status term, of expiry of such term, or, as appropriate, of withdrawal of the public benefit status.

(4) The sub-register shall be compiled in the state language.

(5) The sub-register and the data in it shall be public.

(6) The Ministry of Justice shall keep all the files of associations that applied for the public benefit status. The files shall contain all documents relating to the association, including those submitted with the application for the public benefit status, those produced by the Certification Commission and those submitted by associations later, during activity.

^{xii} **Article 30.** The concept of public associations’ certification

(1) For the purpose of this law, certification of public associations shall mean the procedure of verification and attesting of the public benefit and not-for-profit nature of their activity, as well as of non-participation both of associations and legal entities created by them in supporting political parties, social-political organizations, alliances and individual candidates during elections of public authorities. The goal of certification is state support of public associations in their activity.

^{xiii} **Article 32.** State Certificate

(2) The State Certificate shall be issued for a 3-year term.

(3) The State Certificate shall be basis for partial or total exemption of a public association from certain taxes, duties and other state payments, as well as for granting immunities and privileges to it according to this law and to other legislative acts.

(4) A public association that does not have a State Certificate cannot be granted fiscal and other immunities.

^{xiv} **Article 30.** The concept of public associations’ certification

(2) The Certification Commission shall perform certification at least six months after the registration of a public association, on the basis of the association’s incorporation documents, of its activity report and notification of the bodies of the State Fiscal Inspectorate.

^{xv} **Article 31.** Certification Commission

(1) The Certification Commission shall be composed of 9 members, of whom 3 members shall be appointed by the President of the Republic of Moldova, 3 by the Parliament and 3 by the Government. At the same time, at least one of the 3 appointed members must be representative of a public association and not be a civil servant.

(2) The Certification Commission shall be established under the Ministry of Justice for a 5-year term and operate on the basis of this law and of the regulations approved by the Ministry of Justice.

^{xvi} **Article 31.** Certification Commission

(3) The President of the Certification Commission shall be elected from its members.

(4) The Certification Commission shall have the following duties:

a) to perform certification of republican, local and international public associations that have been registered and operate in the Republic of Moldova;

b) to receive and examine petitions on issues that are in the Commission’s competence, submitted by individuals and legal entities;

c) to issue state certificates or refuse to issue such certificates;

d) to perform, according to regulations, the control over the activity of certified public associations and, in the event of violations of the law, withdraw the state certificate after examining the materials of the control and the association’s file;

e) to publish the list of certified public associations on the website of the Ministry of Justice.

^{xvii} **Article 52.** Non-commercial organizations exempt from tax

(2) The non-commercial organizations specified in paragraph (1) shall be exempt from tax in case they comply with the following requirements:

a) are registered or created according to the legislation, and the charter, regulations or another document specifies the types of activities performed by the non-commercial organization and its status of non-commercial organization, as well as an interdiction regarding the distribution of its income or property among members of the organization, founders or private persons, including in the process of reorganization and liquidation of the non-commercial organization;

b) the entire income from the activities stipulated by the charter, regulations or another document is used for the purposes stipulated by the charter, regulations or another document;

c) no part of property or income is used for the benefit of a member of the organization, a founder or a private person;

d) does not support a political party, electoral alliance or candidate to a position within public authorities and does not use any part of the income or property to finance them.

^{xviii} **Article 52.** Non-commercial organizations exempt from tax

(1) The non-commercial organizations exempt from tax can include:

- a) institutions operating in the fields of health protection, education, science and culture;
- b) societies of persons with visual, hearing and other disabilities, societies of veterans and other public associations, foundations, charities that deal exclusively with:
 - provision of material support and free services to persons with disabilities, illnesses, lonely persons, orphans or children without parental care, families with many children, unemployed persons, persons that suffered from wars, natural calamities, environmental catastrophes, epidemics;
 - activities related to human rights protection, education, gathering and promoting knowledge, health protection, provision of social aid to the population, culture, arts, amateur sports, liquidation of consequences of natural calamities, environmental protection and other fields for social benefit, according to the legislation on public associations and on foundations;
- c) religious organizations, associations of entrepreneurs and farmers and other societies organized for the purpose of creating favorable conditions for realization and protection of interests related to production, technical, scientific, social and other common interests of business entities;
- d) bars and unions of lawyers, unions and associations of notaries and notary chambers;
- e) parties and other social-political organizations.

^{xix} **Article 53¹.** Enterprises established by societies of persons with visual, hearing and other disabilities

Exemption from tax shall be granted to enterprises established for realization of statutory goals of societies of persons with visual, hearing and other disabilities.

^{xx} **Article 53².** Savings and loans associations

Tax exemption shall be granted to savings and loans associations.

^{xxi} **Article 53³.** Trade unions and employers' organizations

Trade unions and employers' organizations shall be exempt from income tax.

^{xxii} **Article 52.** Non-commercial organizations exempt from tax

(3) Restrictions stipulated by paragraph (2) letter d) do not include organizations mentioned in paragraph (1) letter e).

(4) Organizations specified in paragraph (1) letter a), c), d) and e) shall be recognized as non-commercial and exempt from tax, if they comply with the provisions of this article, by decision of territorial fiscal bodies. The decision shall be issued on the basis of an application by authorized persons of the organization in question. The application shall enclose the charter, regulations or another document that includes provisions regarding obligations to comply with the requirements of this article, as well as the state registration certificate in case provided for by legislation. The authorized persons of the organizations in question, except for those newly established, shall also present the declaration stipulated by Article 83 paragraph (2) for previous periods of activity, but not more than for the last two fiscal years. Reason for refusal to recognize the organization as non-commercial and to grant exemption from tax shall be non-inclusion in the charter, regulations or another document of clauses regarding obligations to comply with the provisions of this Article or existence of fiscal obligations. Decision on recognition of the organization as non-commercial and on granting it exemption from tax shall be adopted within 30 days from the date of presentation of documents specified by this paragraph. A copy of the decision shall be handed to the applicant within 3 days.

(5) Organizations specified in paragraph (1) letter b) can be provisionally exempt from tax, in the modality stipulated in paragraph (4), upon decision of territorial fiscal bodies, until receipt of the state certificate according to the legislation on public associations and on foundations. The decision of the fiscal body on provisional exemption from tax cannot be adopted for a term longer than one year from the registration of organizations specified in paragraph (1) letter b). In case of refusal to grant the state certificate, the above-mentioned organizations, for the period of provisional exemption, shall pay the tax in the generally established order. After receipt of the state certificate, basis for exemption from tax shall be the presence of the certificate in question and the decision of the Certification Commission, which shall submit to the General State Fiscal Inspectorate under the Ministry of Finance the list of non-commercial organizations upon which it adopted decisions on exemption from tax.

^{xxiii} Procedure established by the Government (Article 36(3) of the Fiscal Code) is not accessible to individuals, limited use of the practice, Government Decision no. 489 of 04 May 1998 confirmation of donation in monetary and non-monetary form

^{xxiv} **Article 53.** Auxiliary business activities

(1) An auxiliary business activity is any entrepreneurial activity of non-commercial organizations which does not entail exemption from tax according to Article 52.

(2) Auxiliary business activities of the organizations mentioned in Article 52 paragraph (1) shall be deemed separate object

of taxation, whose income shall be subject to tax payment at the rate stipulated by Article 15 letter b).

(3) The income subject to tax payment from auxiliary business activities shall represent the gross income obtained by the organization from auxiliary business activities performed by it regularly, reduced by the amount of deductions allowed according to Chapter 3, which directly relate to the business activities in question.