

Public Benefit Status – International comparative perspective

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Overview

- What is the Public Benefit Organization (PBO) status? (definition)
- Why is it needed? (policy rationale)
- What is it good for? (impact)
- How does it work? (principles, practices)
- Challenges, dilemmas

Legal, Welfare and Development Models in Europe

British Isles

Legal: Common Law

Model: Liberal (Anglo-Saxon)

Sector characteristics: Highly institutionalised, independent

Nordic

Legal: Civil Law

Model: Socio-democratic

Sector characteristics: Less institutionalised, membership based

New Member States

Legal: Civil Law

Model: Emerging

Sector characteristics: weaker, dependent

Continental

Legal: Civil Law

Model: Corporatist

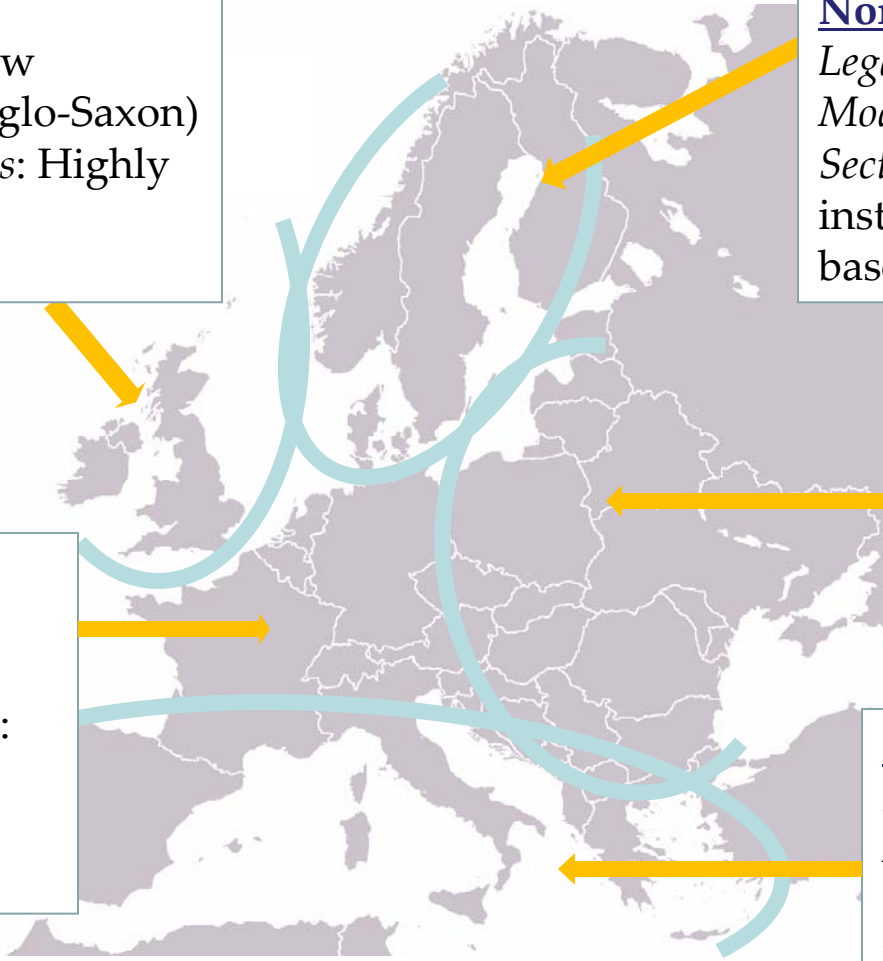
Sector characteristics: Highly institutionalized, inter-dependent

Mediterranean

Legal: Civil Law

Model: Emerging

Sector characteristics: recently institutionalized



Definition of Public Benefit

- A legal ***status***
- for ***qualifying*** nonprofit organizations
- that entitles them for tax benefits and other, usually ***indirect*** forms of support
- as a ***recognition*** of their contribution to the public good.

Common elements of a definition

- Enumeration of types of activities that benefit the public
 - A “catch-all” category (open ended list)
 - “Principal” or exclusive engagement in PB activities
- Criteria related to beneficiaries
 - Public at large
 - The needy
 - Non-exclusive services (e.g. in case of associations)
- Non-profit distribution constraint and possibly further financial restrictions (e.g. all income used for PBO purposes, unrelated economic activities not allowed)

Goals of PBO legislation

- **Basic goal: ensure consistency of tax benefits and accountability**
- Provide state benefits (indirect/direct) to public benefit purposes as part of the welfare economics – social policy goals with economic incentives
- Increase transparency and accountability in the nonprofit sector
- Strengthen & develop NGOs, channel resources to NGOs

Policy rationale

- Facilitate relationship between PBOs and the public
- Provide a basis for indirect support such as tax deductible donations, benefits for volunteers
 - „easy access” approach
- Facilitate relationship between PBOs and the state
- Provide a basis for direct support: government funding and cooperation
 - „club of excellence” approach

Impact

- Western Europe: legislating what is already there
- CEE: encouraging development of sector
 - Hungary: NGOs more professional
 - Poland: local governments contracting with NGOs
 - BUT: not all objectives achieved... yet (e.g. philanthropy, resources, public trust....)

Decision Making

- **Tax authorities** (Finland, Germany, Greece)
- **One ministry** (Slovakia, Bulgaria)
- **Several ministries** (Romania, Slovenia)
- **Courts** (Hungary, Poland)
- **Government decree** (Macedonia, Belgium, France)
- **Public Benefit Commission** (UK, Moldova)

Commission as decision-maker

- Special designated body
 - Capacity and cost issues!
- Interest of NGOs represented
 - Conflict of interest issues!
- Wide range of competences
 - Supervision *and* support functions!

Criteria and conditions

- Comply with requirements of legal definition (activities, beneficiaries, finances)
- Proper governance – collective body, protection from self-dealing, supervisory board
- Conflicts of interest properly regulated
- Audit requirements (depending on size)
- Level of salary of staff, at-cost services

Obligations

- Reporting – financial, programmatic
- Transparency, openness – make reports publicly available
- Record keeping – e.g. register of decisions
- Subject to audits and inspections – due process important

Benefits Afforded to PBOs

- Tax Benefits
 - Exemptions from income, profits, property, gift, inheritance taxes (and VAT – problem!)
 - Tax allowances on income from economic activities, investments
 - Customs duties exemptions
 - Tax-benefited donations (tax deductions for donors who give to PBOs)
 - Tax-exempt payments to beneficiaries
 - Entitlement for receiving income tax designations

Benefits Afforded to PBOs

Non-tax benefits

- Preferred status for Government funding and contracting
- Use / ownership of public property
- Free media air time
- Public employment opportunities
- Recognition and support of volunteers

Proportionality

- Differentiation according to size or function
 - Hungary: prominent PBOs
 - Supervisory body needed only above 5 M HUF
 - Audit only above certain budget size (e.g. comparable to companies)

Finding the balance



Thank you!

More information:

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