

# NONPROFIT LAW IN SLOVAKIA

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*This report describes the legal framework governing nonprofit organizations (also known as non-governmental organizations or NGOs) in Slovakia, and includes translations of legislative provisions relevant for a foundation or advisor undertaking an equivalency determination of a foreign grantee under IRS Revenue Procedure 92-94.*

*These reports have been prepared by the [International Center for Not-for-Profit Law](#) (ICNL). Please direct corrections and comments to [Lily Liu](#).*

We include hyperlinks to the following information, to the extent available:

- *Longer country reports analyzing various aspects of local legislation; and*
- *Texts of local laws that affect the decision whether or not to qualify a grantee (generally in translation, although ICNL and the Council cannot warrant the accuracy of any translation; in addition, legislative excerpts were selected by in-country contacts, and ICNL and the Council cannot warrant that all relevant provisions have been translated).*

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## I. SUMMARY

### A. TYPES OF ORGANIZATIONS

*The Slovak Republic is a civil law country with five primary forms of not-for-profit, non-governmental organizations (NGOs):*

- *Associations;*
- *Foundations;*
- *Non-Investment Funds (NI Funds);*
- *Not-for-Profit Organizations Providing Publicly Beneficial Services (NPOs); and*
- *Organizations with an International Element (OIEs)*

*Other forms of NGOs, which remain outside the focus of this Note due to their limited interactions with foreign grant makers, include religious organizations, political parties, political movements, trade unions, interest associations, and associations related to certain professions (chambers).*

### B. TAX LAWS

*An NGO's income from donations and inheritance is generally exempt from income tax. Other income from statutory activities, including membership fees, is also generally exempt. Grants covered by international agreements that are binding on the Slovak Republic are also exempt from income tax.*

*Certain NGOs are generally exempt from donations tax, including those whose statutory activities relate to health care, humanitarian assistance, social care, the operation of schools and other educational activities, science, physical fitness and sports for children and youth, and the protection of the environment.*

*Slovakia imposes a value-added tax (VAT), with a standard rate of 20 percent and a reduced rate of 10 percent for books, pharmaceuticals, medical supplies, and some other products serving handicapped persons or general health care. Certain transactions are exempt from VAT, including those related to culture, sports, educational and scientific services and goods, as well as health and social care services and goods. Also exempt from VAT are services and goods rendered to members of associations as compensation for paid membership fees. NGOs may request a return of the VAT paid for goods that are exported to countries outside the EU for the purpose of serving the NGO's statutory activities in those countries.*

*Finally, although taxpayers generally cannot deduct their donations to NGOs, natural and legal persons may assign up to 2 percent of their income tax to certain NGOs engaging in publicly beneficial activities (see Section V.A., below).*

## II. APPLICABLE LAWS

- *Act No. 460/1992 [Constitution](#) of the Slovak Republic, as amended*
- *Act No. 83/1990 on Associating of Citizens ("Law on Associations"), as amended [1]*
- *[Act No. 34/2002 on Foundations and on the Change of Civil Code \("Law on Foundations"\)](#), as amended*
- *[Act No. 147/1997 on Non-Investment Funds \("Law on NI Funds"\)](#), as amended*

- *Act No. 213/1997 on Non-Profit Organizations Providing Generally Beneficial Services, as amended*
- *Act No. 116/1985 on Conditions of Activities of Organizations with International Element in the Slovak Republic*
- *Act No. 13/2002 on Conditions of Transformation of Some Budgetary Organizations and Subsidiary Organizations to Certain Non-Profit Organizations Providing Generally Beneficial Services (“Law on Transformation”), as amended*
- *Act No. 595/2003 on Income Taxes (“Income Tax Law”), as amended*
- *Act No. 554/2003 on Tax on Transfer and Conversion of Real Estate (“Real Estate Tax Law”), as amended*
- *Act No. 582/2004 on Local Tax and Local Dues for Communal and Small Construction Garbage (“Local Tax Law”), as amended*
- *Act No. 222/2004 on the Value Added Tax (“VAT Law”), as amended*
- *Act No. 365/2004 on Equal Treatment in Certain Matters and on Protection against Discrimination, which also amends and supplements certain other Acts (“Anti-Discrimination Act”), as amended*
- *Act No. 297/2008 on Protection against Legalization of Incomes from Criminal Activities and against Financial Terrorism [2]*
- *Act No. 465/2008 on Amendments of Laws in Connection with Introduction of the Euro Currency in the Slovak Republic*
- *Act No. 448/2008 on Social Services, as amended*
- *Act No. 455/1991 on Trade Regulation, as amended*
- *Act No. 578/2004 on Providers of Health Care (“Law on Health Care Providers”), as amended*
- *Act No. 112/2018 on Social Economy and Social Enterprises and Amending or Completing Certain other Laws (“Law of Social Economy and Social Enterprises”)*
- *Act No. 346/2018 on Registration of NGOs and Amendment of Certain Laws (“Law on NGOs Registration”)*

### III. RELEVANT LEGAL FORMS

#### A. GENERAL LEGAL FORMS

##### *Associations*

*An association (in Slovak “zdrúženie”) is a membership organization created by citizens to pursue common interests. Three citizens are required to found an association ([Law on Associations](#) Section 6(2)), and the association’s membership may include legal entities ([Law on Associations](#) Section 2(2)). No limitations are placed on the ability of foreign natural or legal persons to participate as members of associations.*

*There is no specific provision of the law that limits an association from engaging in either mutual benefit or public benefit activities. Associations are, however, prohibited from engaging in functions reserved to the government or public administration ([Law on Associations](#) Section 5), and may not be established for military activities or for purposes that violate the human rights of others ([Law on Associations](#) Section 4).*

*The Law on Associations does not apply to: political parties and movements; churches and religious organizations; commercial associations and companies established for the purposes of generating profit or*

safeguarding the work of certain professions; or any kind of game hunting organization. Separate laws regulate these types of organizations ([Law on Associations Section 1\(3\)](#)).

### **Foundations**

A foundation (in Slovak “*nadácia*”) is an asset-based organization serving one or more public benefit purposes as defined in the law ([Law on Foundations Section 2\(3\)](#)); see also Part III.B). Any legal or natural person may establish a foundation ([Law on Foundations Section 4\(1\)](#)). Foundations must maintain an endowment of at least €6,638, and founders must contribute a minimum of €663 to the endowment. The minimum endowment and minimum endowed contributions must take the form of monetary funds or real estate ([Law on Foundations Section 3\(2\)](#)). The share of the endowment in excess of €6,638, if any, may be composed of movables, securities, and other property rights that can be assigned a monetary value. The property forming the endowment cannot be donated, used as contribution to a business company, alienated or used as guaranty of the foundation’s liabilities, nor may it be used to secure the property of other persons ([Law on Foundation Section 30\(2\)](#)).

A foundation may also create and operate a trust (in Slovak “*nadačný fond*”) as an associated fund of collected or contributed monetary resources to support a specific public benefit purpose. The trust is established by a written agreement between the foundation and a natural or juridical person or on the foundation’s own decision. The trust is formed as an entity without legal personality. It has its own name, which must include the name of the foundation. It may have a specific purpose, as well as a specific period for which it has been established. The agreement establishing the trust must define the conditions upon which trust resources will be used, as well as how trust assets will be distributed if the collection of contributions achieves its goal, if the collection fails, or if the purpose for which the trust has been established ceases to exist ([Law on Foundations Section 13](#)).

### **Non-Investment Funds (“NI Funds”)**

A non-investment (NI) fund (in Slovak “*neinvestičný fond*”) accumulates assets for publicly beneficial purposes, as defined in the law ([Law on NI Funds Section 2\(2\)](#)); see also Part III.B), or for humanitarian assistance benefiting individuals whose lives are at risk or who have suffered from a natural disaster ([Law on NI Funds Section 2\(1\)](#)). The NI fund’s governing documents must indicate the types of persons who are eligible to receive benefits from the fund or the geographic region in which benefits will be distributed ([Law on NI Funds Section 6](#)). Any legal or natural person may establish an NI fund ([Law on NI Funds Section 3](#)) with a minimum founder’s contribution of at least €66 ([Law on NI Funds Section 7](#)).

### **Not-for-Profit Organizations Providing Publicly Beneficial Services (NPO)**

An NPO (in Slovak “*nezisková organizácia*”) is a special form of NGO under Slovak law that may be established by legal or natural persons or by a government agency to provide public benefit services, as defined in the law, to the public on equal terms and conditions ([Law on NPOs Section 2\(2\)](#)); see also Part III.B). NPOs may not use any profit generated to benefit their founders, members of their governing bodies, or employees. NPOs do not have members.

Under the Law on Transformation, the ministries of the Slovak Government and other central administration bodies may select subsidiary governmental organizations to be transformed into NPOs. These authorities must submit a transformation proposal to the Ministry of Management and Privatization of State Property. If the proposal is approved, the proposing central administration body may endow property to the newly-founded NPO. The NPO can also receive property endowed by other interested parties, including: employees of the original governmental organization; medical and social care professionals; churches and other legal persons active in health care, social care, or humanitarian assistance, either on their own or through a NPO established by them. The rights, obligations, and liabilities of the original governmental organization are then transferred to the new NPO.

When the Slovak Republic establishes an NPO for health care, the state administration is entitled to appoint and recall members of the Board of Trustees of the NPO in proportion to the property endowed to the NPO by the state.

### **Organizations with an International Element (OIE)**

OIEs are regulated by Act No. 116/1985, which was adopted by the former Czechoslovak Socialist Republic and remains in force in the Slovak Republic. OIEs include international NGOs, as well as organizations comprised of foreigners (Slovak Act No. 346/2018 Section 1). OIEs are rare and are not a well-defined legal form under current Slovak legislation.

## **B. PUBLIC BENEFIT STATUS**

*Associations:* The concept of public benefit does not appear in the Law on Associations, but, as discussed below, it is interwoven to an extent into the provisions of the tax laws relating to public benefit activities (See also Income Tax Law Sections 12(3) and 13(1)).

*Foundations:* Foundations by law must serve public benefit purposes. These purposes include: the development and protection of spiritual and cultural values; humanitarian objectives, including the protection of health and human rights, especially of children and youth; protection and development of the environment; preservation of natural values; the development of science, learning, and sports; and humanitarian assistance for individuals or groups who are in mortal danger or who have been affected by a natural disaster ([Law on Foundations Section 2\(3\)](#)).

*NI Funds:* A similar but somewhat shorter list of enumerated activities exists for NI funds ([Law on NI Funds Section 2\(2\)](#)). It does not include support for scientific development but does include the development of social services.

*NPOs:* NPOs must render public benefit services. Permissible activities for NPOs include: health care, social assistance, humanitarian care, development, protection and presentation of spiritual and cultural values, protection of human rights and basic freedoms, education (including physical education), science, technological and information services, environmental development and preservation, regional employment and development services, and social welfare services including providing, administering, maintaining, and reconstructing dwellings ([Law on NPOs Section 2\(2\)](#)).

### **Social Economy Subjects and Social Enterprises**

In addition to the provisions above relevant to the various legal forms, an NGO may apply to the Ministry of Interior to be registered as a “social economy subject” or a “social enterprise,” provided it still meets the requirements laid out in relevant laws to be registered an association, foundation, NI, NPO, or OIE (Law of Social Economy and Social Enterprises Sections 4 and 5). NGOs registered as “social economy subjects” are not entitled to different benefits from ordinary NGOs, but NGOs registered as “social enterprises” may be entitled to additional tax exemptions and other benefits.

To qualify as a “social economy subject,” an NGO must:

- 1) Not be managed by a governmental body or predominantly financed by the government;
- 2) Not allow a state authority to appoint a majority of the members of its statutory or supervisory body;
- 3) Engage in commercial and non-commercial activities within the framework of “social economy,” as defined under the Act (i.e. activities that are independent of the state and are aimed at achieving positive social effect); and

- 4) Only engage in entrepreneurial or profit-bearing activities within the framework set out in the Act (Law of Social Economy and Social Enterprises Section 4). [3]

To qualify as a “social enterprise,” an NGO must meet the requirements above (that is, it must satisfy the criteria to be a “social economy subject”) and it must:

- 1) Be involved in commercial activity under its own name, on its own responsibility, independently and in a systematic manner;
- 2) Have as a main objective the achievement of measurable positive social effect;
- 3) Achieve the positive social effect by producing, distributing, or providing goods or services;
- 4) Use at least 50 percent of any realized profit after taxation to support its main purpose, and distribute the remaining profits in accordance with the Code of Commerce and in a manner that does not contradict the positive social effect;
- 5) Show that at least one natural person volunteered for the enterprise for at least 150 working hours within the previous twelve months; and
- 6) Involve the following persons in its operations:
  - a. Its own full-time employees; or
  - b. Consumers of its goods; or
  - c. Residents of the community where the enterprise is located.

An NGO has a “positive social effect” if it fulfils public or community interests by providing services that are commonly beneficial to society or to an unlimited circle of persons within a community within a geographic boundary (Law of Social Economy and Social Enterprises Section 2). Examples of such services include provision of health care, social care, and humanitarian support; creation and protection of cultural and spiritual values; protection of human rights and basic freedoms; education and promotion of physical culture; research, development and provision of scientific and technical information; creation and protection of the natural environment; protection of public health; support of regional development and employment; provision, maintenance, and revival of dwellings (Law of Social Economy and Social Enterprises Section 2(4)).

The Ministry of Interior is responsible for registering NGOs as “social economy subjects” or “social enterprises.” The Ministry of Interior may cancel an NGO’s registered “social economy subject” or “social enterprise” status if the NGO does not follow the rules stipulated by the Law of Social Economy and Social Enterprises. These include rules related to organizational structure and annual reports, among other things (Law of Social Economy and Social Enterprises Sections 6, 9, and 10).

When an NGO registers for “social enterprise” status, it is entitled to state support in the form of investments, compensation for losses, subsidies (Law of Social Economy and Social Enterprises Sections 17-21). A “social enterprise” also has permission to issue vouchers to any natural or juridical person in need, which can be used to pay for services such as housekeeping. The Ministry of Labor regulates these vouchers for social services and can impose a fine of up to €10,000 if it finds that a social enterprise has violated the terms of the Law (Law of Social Economy and Social Enterprises Section 22).

## IV. SPECIFIC QUESTIONS REGARDING LOCAL LAW

### A. INUREMENT

*Associations:* There are no legal restrictions on the ability of associations to distribute assets or income to members, employees, or others associated with an organization. However, associations may not be established for the purpose of profit generation (Law on Associations Section 1(3)(b)). There are also no provisions limiting administrative costs, reimbursement or compensation rates, or the distribution of

remaining assets upon dissolution of an association. The Law on Associations explicitly stipulates the property settlement in case of an association's dissolution (Law on Associations Section 13).

*Foundations:* The Law on Foundations requires that foundations pursue public benefit purposes through the provision of financial and material support from the foundation's property. The foundation is also entitled to administer its property and property of contracted trusts, as well as be engaged in other activities in accordance with the public benefit purpose of the foundation ([Law on Foundations Section 2\(6\) and 2\(7\)](#)). Board members of foundations may not receive any remuneration for their services, but they may be reimbursed for travel and related expenses within the limits established in separate regulations ([Law on Foundations Section 21\(4\)](#)). With the exception of assistance related to natural disasters and provided from a specific trust created by the foundation for that purpose, the assets of a foundation may not be distributed to a founder, member of the board of trustees or other body of the foundation, or any relatives thereof ([Law on Foundations Section 33\(4\)](#)).

*NI Funds:* Money or assets of NI funds may not be given to a founder or board member or any close relative thereof, or to a member of the body of a legal entity that made a donation to the NI fund ([Law on NI Funds Section 23\(4\)](#)). The administrative expenses of an NI fund may not exceed 15 percent of the fund's total expenditures, not including expenses for registration, fundraising, auditing, and verification of proper use of grants ([Law on NI Funds Section 21\(4\)](#)). Board members must perform their duties without any remuneration, except for reimbursement of travel and other expenses within limits established by separate legislation ([Law on NI Funds Section 17\(5\)](#)).

*NPOs:* The property of an NPO may be used only in accordance with the terms and limits set forth in its governing documents ([Law on NPOs Section 31\(1\)](#)). The earnings of an NPO from additional economic activities may not be used for the benefit of its founders, members of management, or employees. The only use allowed for these earnings is the furthering of development and securing of the public benefit services provided by the organization ([Law on NPOs Section 2\(1\)](#)). Participation on the board of trustees and supervisory board of an NPO may not be compensated, except for the reimbursement of travel and related expenses pursuant to limits in separate legislation ([Law on NPOs Sections 21\(5\) and 26\(3\)](#)).

*OIEs:* There are no legal restrictions on the ability of an OIE to distribute assets or income to members, employees, or others associated with the organization. There are no provisions limiting administrative costs, reimbursement or compensation rates, or the distribution of remaining assets upon dissolution of an OIE. However, the Law indicates that an OIE of foreigners must operate as if it was an organization of volunteers (Law on OIEs Section 5). [4]

## **B. PROPRIETARY INTEREST**

*Associations:* The Law on Associations does not contain any explicit conditions regarding ongoing or residual proprietary interests of members or donors. In fact, members of mutual benefit associations may claim retrieval of their non-monetary contributions and membership dues when leaving the association, if the organization's governing documents provide for this.

*Foundations, NI Funds, and NPOs:* The laws regarding foundations, NI funds, and NPOs are all generally interpreted to preclude the existence of any proprietary interests in the organization's property. In certain cases, however, donors may have the ability to supervise the use of their donations. A foundation may not use received donations which exceed €331 for purposes different from those stipulated by the donor, without the donor's consent ([Law on Foundations Section 32](#)). Similar provisions, but without any threshold limit, exist regarding donations to NI funds ([Law on NI funds Section 23\(2\)](#)) and NPOs (Law on NPOs Section 31(2)). [5] These laws do not give a donor a right of reversion to property used contrary to his wishes.

However, if there is no possibility of pursuing the original purpose of the donation, civil procedures are available to reclaim an unused or improperly used donation.

According to Act No. 578/2004 on Providers of Health Care, NPOs may also be established by the state, in which case the state endows the NPO with certain property assets, such as a building and equipment, from which the NPO is to be formed. In the case of termination of these state-established, health care-providing NPOs, all property endowed to the NPO must be returned to the state or at least compensated in proportion to its original value from the liquidation balance (Law on NPOs Section 37(b), referring to Sections 100(b) and 100(c) of the Act No. 578/2004).

*OIEs:* There are no provisions specifically related to proprietary interest in the Law on OIEs.

## C. DISSOLUTION

An NGO may be dissolved if a court finds that its activities were wholly or partly pursued for the commission of a crime, or if the NGO is found guilty of a criminal act for which a natural person would be sentenced to more than twenty-five years in prison or life imprisonment (Act No. 61/2015 on the Penal Responsibility of Legal Entities). Such penalties are filed in the special Register of Penalties, which is publicly accessible.

*Associations:* There are few rules governing the dissolution of associations. In general, an association can include in its registered bylaws a provision specifying which entity will determine the distribution of assets remaining in the liquidation balance, whether to association members or any other persons, upon dissolution. The Ministry of Interior or a court may order the dissolution of an association if either body finds that the association's activities violate the law, and the association does not remedy the violation despite being notified of it (Law on Associations Section 12). In a court-ordered dissolution, the court would determine the distribution of remaining assets.

*Foundations:* The endowment of a dissolving foundation must be transferred to another foundation registered according to the Law on Foundations. Remaining assets of the liquidation balance can be transferred to another foundation or to the municipality where the foundation is located. If the municipality accepts the assets, it must use them for a public benefit purpose ([Law on Foundations Sections 17 and 18](#)).

*NI Funds:* The assets of a liquidated NI fund may only be transferred to another NI fund or to a foundation ([Law on NI Funds Section 14\(3\)](#)).

*NPOs:* The assets of a dissolving NPO must be distributed to another NPO or to a foundation ([Law on NPOs Section 17\(3\)](#)). For NPOs established by the state and providing health care, termination may occur only with written consent of the Ministry of Healthcare, and all property endowed to the NPOs must be returned to the state or at least compensated in proportion to its original value from the liquidation balance.

*OIEs:* There are no limitations on the manner of distribution of an OIE's assets after dissolution and liquidation.

## D. ACTIVITIES

### 1. GENERAL ACTIVITIES

There are no provisions requiring or otherwise regarding associations' engagement in mutual benefit or public benefit activities. In contrast, foundations, NI funds, and NPOs are statutorily required to pursue public benefit activities.



NGOs in general may not be established for the purpose of undertaking economic activities, but they may engage in economic activities to supplement their statutory activities, subject to limitations depending on the legal form.

## **2. Public Benefit Activities**

All forms of NGOs, including associations, may engage in public benefit activities.

As noted above, some NGOs may register as social economy subjects or social enterprises, which must pursue activities that have a positive social effect on the general public or a community. Activities that have a positive social effect include the provision of health care, social care, and humanitarian support; creation and protection of cultural and spiritual values; protection of human rights and basic freedoms; education and promotion of physical culture; research, development and provision of scientific and technical information; creation and protection of the natural environment; protection of public health; support of regional development and employment; and provision, maintenance, and revival of dwellings.

Foundations, NI funds, and NPOs, however, by law must engage primarily in public benefit activities. Each of the applicable laws describes public benefit activities somewhat differently, although there is significant overlap in the enumerated activities ([Law of Foundations Section 2\(3\)](#); [Law on NI Funds Section 2\(2\)](#); [Law on NPOs Section 2\(2\)](#)).

The Law on Foundations lists the following as public benefit purposes: development and protection of spiritual and cultural values; implementation and protection of human rights or other humanitarian goals; protection of the environment, preservation of natural values; protection of health; protection of the rights of children and youth; development of science, education, and physical education; and individually targeted humanitarian aid to natural persons or groups who are in mortal danger or who need immediate help after a natural disaster.

The Law on NI Funds adds to this list the provision of social care services as well as the protection and creation of the living environment. It does not include the development of science. (See also Part III.B)

Finally, the definition in the Law on NPOs combines the two lists mentioned above and adds two public benefit categories: services promoting regional development and employment policies; and services ensuring the development of housing, including administration, management, and reconstruction of existing accommodation facilities.

Slightly different definitions of public benefit purposes are used for the tax treatment of donors and beneficiaries of donations (see [Income Tax Law Section 50\(5\)](#)).

## **3. ECONOMIC ACTIVITIES**

An NGO may not be established for the primary purpose of carrying out economic activities.

*Associations:* Although there is no explicit language to this effect in the Law on Associations, an association is considered to have the right to engage in economic activities, as long as economic activities are not its primary purpose.

*Foundations:* Foundations may not engage in economic activities except for administering a special trust given to their custody, renting real estate constituting a part of their endowments, and organizing cultural, educational, social and sporting events – provided that these activities support the public benefit purposes for which the foundation or trust were created ([Law on Foundations Sections 13\(4c\) and 29\(1\)](#)). The law also explicitly prohibits foundations from financing political parties and political movements, and providing financial support to a candidate for a public position ([Law on Foundations Section 29\(3\)](#)).

*NI Funds:* NI funds are prohibited from engaging in economic activities and must not finance activities of political parties and political movements ([Law on NI Funds Section 23\(1\)](#)).

*NPOs:* An NPO may engage in economic activities to the extent that these activities enable better utilization of its property and do not diminish the scope, quality, or accessibility of the public benefit services it provides. NPOs may not invest in the economic activities of other persons or serve as partners in any for-profit ventures (Law on NPOs Section 30(1) and (2)). Income from NPOs' entrepreneurial activities is taxed in the same manner as that of commercial companies (Law on NPOs Section 30(3)).

*OIEs:* The Ministry of Interior may issue permission and set conditions for OIEs to pursue economic activities.

## E. POLITICAL ACTIVITIES

*Associations:* Associations may not be established for purposes for which political parties and political movements are organized (Law on Associations Section 1(3a)). Otherwise, associations are not forbidden from supporting or opposing political activities, ideas, or candidates.

*Foundations, NI Funds, and NPOs:* Foundations, NI funds, and NPOs are expressly forbidden from using their assets to support political parties or political movements. Foundations and NPOs are also explicitly prohibited from financially supporting a candidate running for a public position (Law on Foundations Section 29(3); Law on NI Funds Section 23(1); Law on NPOs Section 30(4)). However, these prohibitions do not limit the general right of any NGO as a legal entity to engage in general political or lobbying activities if these activities are compatible with the public benefit purposes for which the NGO has been established.

*OIEs:* OIEs are not prohibited from engaging in political activities.

## F. DISCRIMINATION

Section 12 of the Slovak Constitution expressly guarantees equal rights to all individuals without regard to sex, race, color of skin, language, faith, religious affiliation, political or other persuasion, ethnicity, or national or social origin. Ethnic minorities have the right to disseminate information in their mother language, form associations and educational and cultural institutions, obtain education in their mother language and use their mother language in official dealings, and participate in decision-making concerning matters of their ethnicity or national minority ([Constitution Section 34](#)). Associations are explicitly prohibited from engaging in any activity that denies or restricts the civil rights of individuals on the basis of their nationality, sex, race, origin, political opinions, or religious affiliation ([Law on Associations Section 4\(a\)](#)).

Act No. 365/2004 of May 20, 2004 on Equal Treatment and on Prevention against Discrimination (Anti-discrimination Law), effective from July 1, 2004, amended by Act. No. 85/2008, is the general anti-discrimination law covering discrimination as mentioned in EU Council directives 2000/43/EC, 2000/78/EC, and 76/207EEC. Its amendment by Act No. 32/2013 allows for "positive discrimination" in actions of public authorities that aim to eliminate social and economic handicaps and create more equal employment opportunities for socially and economically disadvantaged persons.

Act No. 307/2014 prevents discrimination against individuals who report criminal activities or other illegal activities. Act 378/2015 Part VIII enacts some protections for soldiers and army volunteers, so that such individuals who may not satisfy certain age or health criteria can still access services and gain employment.

According to leading local experts, the provisions of the Anti-discrimination Law preclude a private school or other educational institution from discriminating based on race or ethnicity. Any discrimination of this kind can be challenged through a civil court.

## G. CONTROL OF ORGANIZATION

Legal entities may not establish citizens' associations (as defined by the Law on Associations), but they may join them as members. The Constitution grants all foreigners the same rights and privileges under Slovak law as Slovak citizens, except in limited circumstances such as political parties ([Constitution Sections 12\(2\), 52, and 54](#)). Thus, foreigners could theoretically establish an association. However, in practice it is recommended to do so together with local citizens or EU residents.

Foreign legal and natural persons are expressly permitted to establish foundations ([Law on Foundations Section 4\(1\)](#)), NI funds ([Law on NI Funds Section 3\(1\)](#)), and NPOs ([Law on NPOs Section 5](#)). When a foreign legal entity acts as a foundation founder, it is required to present at registration proof of its legal existence in the form of an excerpt from the relevant national registry of legal entities.

It is possible that a Slovak foundation, NI fund, or NPO could be controlled to some degree by a representative of a for-profit entity who might be a member of the organization's board of trustees. However, all these legal entities may not distribute their profit to members of the board nor to its statutory body (an administrator in the case of a foundation or an NI fund, or a director in the case of an NPO). Provisions in the law also prohibit any profit-oriented misuse of the membership by the board of trustees.

The Ministry of the Interior is authorized to oversee the performance of a foundation in accordance with the public benefit purpose for which it has been established ([Law on Foundations Section 37](#)). As per this authority, the Ministry can evaluate a foundation's annual report and, if it identifies defects that are not remedied within a specific term, the Ministry may fine the foundation (up to €3319) or submit a motion to the court for its termination ([Law on Foundations Sections 15\(1\), 36, and 37](#)).

The Registration Office at the regional government level oversees the obligation of NI funds and NPOs to provide public benefit services ([Act on NI Funds Section 26](#); [Law on NPOs Sections 35 and 36](#)). It does so by reviewing annual reports of the NI funds and NPOs and, if defects are identified and not remedied within a proscribed term, it can submit a motion to the court for the entity's termination.

The amended law on NPOs provides the state with the means to control any health care-providing NPO that was established by the Slovak Republic, through members of the organization's board of trustees or of the supervisory board, who are appointed by the Ministry of Health Care. If established together with other founders, who might be foreign persons, the proportion of the originally endowed property to the established NPO is decisive in determining the number of members of the board of trustees appointed by the state. In case of majority, the state can appoint the chairperson of the board of trustees ([Law on NPOs Section 37\(b\)](#); [Law on Health Care Providers Section 100\(b\)](#)). Until 2009, NPOs established by the Ministry of Health were also entitled to financial subsidies that had to be returned within 15 years ([Law on NPOs Section 37\(b\)](#); [Law on Health Care Providers Section 100\(a\)](#)).

## V. TAX LAWS

The following section discusses relevant tax legislation, recognizing that taxes may affect the amount of the grant that flows to the grantee.

### A. TAX EXEMPTIONS

The income of NGOs from donations and inheritance is generally not taxable (Income Tax Law Section 12(7b)). This includes the income generated from natural and juridical persons who redirect up to 2 percent of their income tax to a given NGO (Income Tax Law Section 12(7a) and 50). Moreover, voluntary membership fees paid by members of associations to protect their personal interests—in an amount not exceeding 5 percent of the tax base or €66,388, whichever is lower—are recognized as legitimate, deductible expenditures (Income Tax Law Section 19(3n)).

Associations, foundations, NI funds, and NPOs, as well as other NGOs, are generally exempt from taxation on income from their statutory activities (Income Tax Law Sections 12(3) and 13(1a)). In addition, associations are expressly exempt from income tax on income from regular membership fees (Income Tax Law Section 13(2b)).

The non-statutory economic activities of NGOs are taxed at the general income tax rate of 21 percent of the tax base after subtracting the tax loss—that is, income minus legitimate income-related expenditures (Income Tax Law Section 15b). There is a special tax rate of 15 percent for income resulting from dividends and a tax of 35 percent for income resulting from a profit share received from a foreign country which has no special trade agreement with the Slovak Republic. In addition, any real estate transfer is taxed at 3 percent of the property value as estimated by a licensed expert after subtracting the cost of the expert's fee (Real Estate Tax Law Section 5).

The Slovak Republic generally does not tax income from donations and inheritance (Income Tax Law Section 12(7b)).

## **B. DEDUCTIBILITY OF CHARITABLE CONTRIBUTIONS**

As mentioned above, the Income Tax Law provides donors with deductions for donations to qualifying NGOs, through a special procedure set forth in Section 50 of the Law. The special procedure allows every natural or legal person resident in Slovakia to allocate part of their paid income tax directly to one (in the case of a natural person) or more (in the case of a legal person) NGOs of their choice. The allocation may be directed to the following: associations, foundations, NI funds, NPOs, churches or church-run organizations, international organizations, the Slovak Red Cross, research and development organizations, or the Slovak Training and Education Development Fund (Income Tax Law Section 50(4)). The beneficiaries of these allocated funds and donations are required to spend the money for the following purposes: a) the support and protection of health care (specifically to provide medical prevention and to rehabilitate drug-addicted persons); b) the support and development of physical culture; c) the provision of social services; d) the preservation of cultural values; e) the support of education; f) the protection of human rights; g) the protection of the environment; h) the support of science and research; and i) the organization or mediation of voluntary activities (Income Tax Law Section 50(5)). [6] Both the beneficiary of the donation and the donor must have no outstanding debts relating to tax and dues payments. The NGOs that can benefit from the allocations must appear on a public list available on the Internet and submit to the financial office documents proving that they have fulfilled all of their obligations, which includes obtaining certification from a notary public (Income Tax Law Section 50(6)).

For natural persons, the allocation to an NGO as specified above (Income Tax Law Section 50(4) and Section 50(5)) is in general allowed up to 2 percent of the paid tax, but it may be increased to up to 3 percent if he or she can prove that he or she has been involved in voluntary work for more than 40 hours during the tax period (Income Tax Law Section 50(1a)). Similarly, a legal person is generally limited to allocating 1.5 percent of its paid tax, but may allocate up to 2 percent, if it can prove that it donated to NGOs an amount equal to or more than 0.5 percent of its paid tax to NGOs during the tax period (Income Tax Law Section 50(1b)).

## C. VALUE ADDED TAX

The tax reform that took effect in 2003 introduced two levels of the value added tax. Currently, the standard VAT rate is set to 21 percent of the base, with a reduced VAT rate of 10 percent for specified goods (VAT Law Section 27(1), Appendix 7).

The VAT is also applied to certain services, such as a) the transfer of titles to intangible property including transfer of authors and patent rights; b) provision of the right to use tangible property; and c) provision of services upon the authorization or decision of a state administration of law, unless provided free of charge to the beneficiary of a voluntary activity (VAT Law Section 9(1), 9(3)).

However, there is a broad range of services that are VAT-exempt, including: postal services (VAT Law Sections 28 and 40); health and social assistance services (VAT Law Section 29 and 30); educational services (VAT Law Section 31); services provided to members of associations, political parties, trade unions, and professional chambers as compensation for paid membership fees (VAT Law Section 32); services related to sport and physical fitness (VAT Law Section 33); cultural services (VAT Law Section 34); collection of financial means when it does not jeopardize competition (VAT Law Section 35); public television and radio broadcasting services (VAT Law Section 36); insurance services (VAT Law Section 37); provision and renting of real estate for first five years or when used for accommodation or parking, as well as fixed machinery or security box renting (VAT Law Section 38); financial services (VAT Law Section 39); licensed lotteries and games (VAT Law Section 41); and transportation services (VAT Law Section 46). Specific VAT exemptions related to the import and export of goods and services are managed in accordance with the law (VAT Law Sections 42, 44, 45, and 47).

An NGO, like any other legal entity, is required to register as a VAT taxpayer if its gross turnover for the past twelve calendar months exceeds €49,790 (VAT Law Section 4(1)). Legal entities that do not meet this threshold may apply to the Finance Administration to enter the VAT system and thereby be able to recover input VAT. Registration for VAT payment is required when a) the legal entity that is not a VAT payer obtains goods from a foreign country, and b) the total value of goods obtained within the calendar year exceeds €14,000 (VAT Law Section 7).

## D. IMPORT DUTIES

Only items imported from countries not belonging to the European Economic Area are subject to import duties. All goods and services exempt from income tax are also exempt from import duties (see Part V.C). The European Commission is charged with determining and regulating import duties in case of imports from countries not belonging to the European Economic Area.

## E. DOUBLE TAX TREATIES

A double tax treaty was signed between the United States and the Slovak Republic in 1993.

## VI. KNOWLEDGEABLE CONTACTS

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## FOOTNOTES

[1] The ability to appeal a decision of the Ministry of Interior not to register an association has been eliminated by the amendment to Article 8, Paragraphs 2-4. Under this provision, an association cannot

*appeal the Ministry's decision to reject its registration application if the Ministry makes its decision within ten days and informs the association's representative of that decision. However, if the Ministry does not inform the association representative of any decision within forty days, the association is considered registered on the forty-first day, and the Ministry must provide a sealed copy of the bylaws confirming the registration upon request.*

*[2] Act No. 52/2018 is an amendment of the Act No. 297/2008 on Protection against Legalization of Incomes from Criminal Activities and against Financial Terrorism. The new provisions affect all financial transactions and accounting procedures of legal entities, including foundations, NI funds and NPOs, which are considered associations of assets. The law requires the identification of all persons to whom support exceeding €1000 is provided, and reporting of cases where the client is suspected of using financial resources illegally as defined by law.*

*[3] For example, social enterprises must abide by certain caps on the sums of salaries and expenditures. For more details on these rules, please refer to Section 24 of Act No. 112/2018.*

*[4] For guidance on operating as a voluntary organization, Section 5 of the Law on OIEs references Act No. 68/1951 on Voluntary Organizations and Gatherings and the Regulation of the Ministry of Interior No. 348/1951 on Voluntary Organizations and Gatherings.*

*[5] Act No. 8/2010 introduced into Section 31 of Act No. 213/1997 on NPOs a new subsection 3, which requires previous consent of the state for manipulations of property endowed by the State to an NPO. The Constitutional Court proclaimed in its decision No. 11/2010 of November 2011 that this provision conflicted with the Constitution of the Slovak Republic and would be considered invalid if the Slovak National Council (Parliament) did not amend it within six months. This should be considered when applying the Law on NPOs, as the provision invalidated by the Constitutional Court has not been removed.*

*[6] If the total income of an NGO from these tax allocation contributions exceeds €3,320, the NGO is obliged within sixteen months to publish an overview of how the amount has been spent in the Official Journal of the Slovak Republic. Moreover, when the amount of tax paid from such incomes exceeds €33,000, the NGO is obliged to open a special bank account for all operations with this money, and to report on this special account to a notary public every year (Income Tax Law Section 50(13)).*