

Public Benefit Status – Considerations from New Member States

Nilda Bullain

European Center for Not-for-Profit Law
(ECNL)

Overview

- The concept of public benefit
- Policy rationale and objectives of the law
- The type and role of benefits provided
- Effects of the legislation
- Implementation issues
- Benefits and obligations – finding the balance

Who is the “public”?

- Traditional understanding of the concept in Western Europe: “public benefit” = that which is beneficial for (and supported by) the ***society, community, people, citizens.***
- Emerging understanding of the concept in Central and Eastern Europe: “public benefit” = that which is beneficial for (and supported by) the ***state, the government.***

Policy rationale?

- Facilitate relationship between PBOs and the public
- Provide a basis for indirect support such as tax deductible donations, benefits for volunteers
- Facilitate relationship between PBOs and the state
- Provide a basis for direct support: government funding and cooperation

Role of the “classic” PBO legislation

- Facilitate the relationship between CSOs and the public (people, communities):
 - Ensure legal basis for the transactions (membership, donations, volunteering, aid etc.)
 - Recognize and encourage public support through unified indirect (tax) benefits
 - Ensure/increase accountability in order to strengthen public trust
- State: “mediator” role

Role of the “statist” PBO legislation

- Facilitate the relationship between CSOs and the state and CSOs
 - Ensure legal basis for accessing direct government funding
 - Monitor and supervise organizations that receive financial support from the state
 - Ensure/increase accountability in order to determine competence to manage government funds
- State: supporting (partnership) role

Direct vs indirect benefits

Direct benefits

- Case-by-case support
- Specific criteria in every case
- Direct control of the relationship through contracting
- Immediate interventions possible

Indirect benefits

- Generic support
- General criteria for all cases
- No possibility for direct control of the relationship by the government
- Ex-post interventions -> compliance assumed



A different logic for regulation!

The role of tax benefits

Incentives or recognition?

- In Western Europe: more of a recognition of the contribution of CSOs to the welfare state objectives – philanthropic culture already there
- In CEE: tax benefits were expected to incentivize public support for PBOs – did not really happen – lost their significance and direct state support gained attention

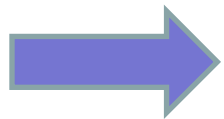
Inclusive or “exclusive” approach

- How easy or difficult it is for the typical CSO to acquire the PBO status?
 - Definition, criteria
 - Obligations
 - Procedure of acquiring the status

‘Minimum standard’  ‘Club of excellence’

Is it worth becoming a PBO?

- Most tax benefits available for all CSOs
- Lack of proportionality
- “Extra” PBO benefits not as relevant – not worth the burdens
- Government takes away benefits (e.g. due to economic crisis) as part of increasing budget revenues



PBO status becomes “empty”

Finding the balance



Implementation issues

- Formalistic, legal check of criteria
 - Courts overburdened, expertise in CSO issues develops very slowly and directions are set without public debate
 - Leads to some level of abuse
- Substantive check of criteria
 - Commission (Moldova): problems with the setup of the institution (e.g. volunteer)
 - Ministry (Bulgaria, Romania): lack of expertise, favoritism
- Lack of capacity to supervise PBOs

Dilemmas, options

- How much it will be tax oriented or state funding oriented?
- How low or high the threshold will be? (I.e. how easy or difficult it will be to become a PBO?)
- How formal or substantial it will be? (I.e. check papers only or look at what you do?)
- What will be the proper balance between benefits and obligations?

Recommendation:

For a clear match
between policy objective
and role of legislation



IMPACT STUDY!

Thank you!

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