

Philanthropic Freedom Pilot Study: Russia Country Report

Overall Philanthropic Freedom Score: 2.52

General Background Information on Russia

- GDP per capita: \$ 13,089¹
- Population: 142 million²
- Percent of population reporting “giving money”: 7%³
- Percent of population reporting “volunteering time”: 17%⁴
- There are a number of different types of organizations in Russia, including: associations, foundations, institutions, non-commercial partnerships, and autonomous non-commercial organizations.

Philanthropic Freedom Score Overview

| Category | Score | Key Points |
|-------------------------------|-------------|---|
| Civil Society Regulation | 2.67 | <ul style="list-style-type: none"> • The process of formation and registration is somewhat onerous. Registration procedures are overly bureaucratic, with excessive documentation requirements. • The reporting requirements are somewhat inconsistent, unclear, difficult to access, and require significant resources for completion. • Legal regulations exist to guide the involuntary dissolution of an organization, but are inconsistently implemented. |
| Domestic Tax Regulation | 2.88 | <ul style="list-style-type: none"> • Individuals may deduct up to 25% of their taxable income for monetary donations (in-kind contributions are not deductible). Corporations do not receive any deductions on donations. • Russian law exempts income derived from “donations” and “grants.” NCOs pay tax on income generated from their economic activities in the same manner as commercial entities, without any benefits. |
| Cross-Border Flows Regulation | 2.00 | <ul style="list-style-type: none"> • No additional cost in receiving funds, however the process is burdensome. Donations to foreign organizations are not tax-deductible. • Under the new Foreign Agents Law, all organizations receiving or intending to receive funding from any foreign sources that also conduct or intend to conduct political activities are to be called “NCOs performing the functions of a foreign agent”. The Russian translation of the term “foreign agent” carries a negative connotation and is usually interpreted as a synonym of a “foreign spy.” The law provides an ambiguous definition of NCOs who fall under the scope of its regulation. |
| Overall | 2.52 | <ul style="list-style-type: none"> • The policy in Russia is highly restrictive to philanthropic activity due to policies impeding civil society, onerous procedures for receiving tax incentives, and cumbersome regulations on cross-border flows. |

¹ World Bank. (2012). Data retrieved December 26, 2012, from World Bank Databank.

² Central Intelligence Agency. (2012). Data retrieved December 26, 2012, from The World Factbook 2012.

³ World Giving Index. (2012). Kent, UK: Charities Aid Foundation, 2012.

⁴ Ibid.

Socio-Cultural Background on Russia's Giving Environment
Provided by Daria Miloslavskaya
Russia Country Expert
International Center for Non-Profit Law in Moscow, Russia.

Since the early 20th century, Russian philanthropy has been mainly an act of the Russian aristocracy whose main support was for the arts and the poor. After the fall of the Soviet Union, Russian oligarchs grew in wealth and philanthropy reappeared when foundations started to form in the late 1990s. Most of the foundations were formed by high net worth individuals that ran successful corporations. Due to a few corruptions cases in the early 90's, trust in philanthropy in Russia was low. However, a few key leaders surfaced, including Vladimir Potanin, who founded the Potanin Foundation. While the philanthropic sector grew significantly since the 1990s, comparatively speaking, the Russian philanthropy is a relatively new phenomenon. Today, there are approximately 220,000 non-commercial organizations (NCOs) in Russia, about half of which are public associations.

Currently, regulations regarding Russian civil society are changing. On July 20, 2012, the Russian President signed the *Federal Law on Introducing Amendments to Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-commercial Organizations Performing the Functions of Foreign Agents* (hereinafter referred to as "the Law"). This new law came into effect on November 21, 2012. The law's provisions have the potential to significantly affect both Russian and foreign organizations carrying out activities in Russia. Many organizations are concerned that the ramifications of the law will be most damaging for Russian NCOs actively working in the areas of advocacy and human rights. The law includes a number of ambiguous provisions that may require elaboration in regulations yet to be promulgated. It is difficult to forecast at this time all of the possible ramifications of the Law, as much will depend on how its provisions are implemented. Continued monitoring of the law's implementation will be crucial to a complete assessment of its impact.

Under the law, all NCOs receiving or intending to receive funding from any foreign sources that also conduct or intend to conduct political activities are to be called "NCOs performing the functions of a foreign agent" (hereinafter referred to as "NCOs-foreign agents"). The Russian translation of the term "foreign agent" carries a negative connotation and is usually interpreted as a synonym of a "foreign spy."

The law introduces a number of new requirements for public associations (PAs), NCOs, and foreign nongovernmental non-commercial organizations (FNNOs). These new requirements impose new burdensome obligations on many NCOs receiving foreign funding and FNNOs, expand the supervisory powers of the state over organizations, and introduce harsh penalties for violation of provisions in the Law. The law's key provisions include a number of regulations that affect the activities of Russian organizations. For example, the law provides an ambiguous definition of NCOs who fall under the scope of its regulation by: 1) including those NCOs who intend to receive foreign funding and to carry political activities; 2) defining "political activities" in such a vague and broad manner that the definition encompasses traditional NCO advocacy activities; and 3) covering foreign funding from many sources, regardless of the amount. Furthermore, the law requires all NCOs to register with a specially authorized governmental

body (which will be the Ministry of Justice (MoJ)) prior to receipt of funding from foreign sources if they intend to conduct political activities. All materials published and/or distributed by NCOs-foreign agents must identify the publishing NCO as a “foreign agent,” regardless of whether the particular material was sponsored by foreign funding.

Changes to the criminal law have also been drafted. Under the draft, NCOs interacting with foreign organizations will be especially vulnerable to criminal penalties, specifically state treason. There is concern that the new text of the criminal law will allow the national security services to closely scrutinize interactions between Russian citizens and foreign and international organizations and will provide them with a broader base for accusing Russian citizens of passing state secrets, knowingly or not, through the provision of technical assistance and consultations.

Any transfer of money from a foreign source has to be immediately reported to a governing body, as it is potentially considered as money laundering or financing of terrorist activity. If a bank fails to report on such transactions, the bank will be penalized 200,000-400,000 rubles (approximately \$6,419- \$12,836) and the manager of the bank will also be personally penalized.

The foreign agents law’s new provisions have the potential to significantly affect both Russian and foreign organizations carrying out activities in Russia.

**Scoring of Russia’s Civil Society Regulation
Provided by Daria Miloslavskaya**

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| <p>Indicator Question 1: To what extent can individuals form and incorporate the organizations defined?</p> | <p>Score: 2.5</p> | <p>Individuals are somewhat free to form organizations. The government enacts some restriction on the types and purposes of the organizations that can be formed. The process of formation and registration is somewhat onerous. Registration procedures are overly bureaucratic, with excessive documentation requirements. The governing body is inconsistent and political.</p> |
| <p>Indicator Question 2: To what extent are CSOs free to operate without excessive government interference?</p> | <p>Score: 2.5</p> | <p>Organizations are somewhat inhibited in their internal governance due to rules and regulations, and have some limitations on the purposes of their activities. Organizations are somewhat restricted on their communication via media channels and on the cooperation with domestic and international entities. But the reporting requirements are somewhat inconsistent, unclear, difficult to access, and require significant resources for completion.</p> |
| <p>Indicator Question 3: To what extent is there government discretion in shutting down CSOs?</p> | <p>Score: 3.0</p> | <p>The organization’s governing body is able to voluntarily terminate its activities; however the process requires onerous reporting. Involuntary termination by a government entity can occur after a violation with or without opportunity to correct. Legal regulations exist to guide the involuntary dissolution of an organization, but are inconsistently implemented.</p> |
| <p>Average Score on Civil Society Regulation: 2.67</p> | | |

**Scoring of Russia’s Domestic Tax Regulation
Provided by Daria Miloslavskaya**

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| <p>Indicator Question 4: Are there income tax incentives (at national, state, or provincial levels) in the form of credits or deductions for individuals and/or corporations to donate money or charitable gifts?</p> | <p>Score: 3.0</p> | <p>Only individuals are eligible for tax deductions/credits. The ceiling on such incentives is somewhat restrictive, limiting the size of donations. When determining the size of the tax base the taxpayer shall be entitled to social tax deductions in the sum of the incomes remitted by the taxpayer as donations: to charitable organizations; socially-oriented not-for-profit organizations for the purpose of their pursuing the activities envisaged by the legislation of the Russian Federation on not-for-profit organizations; the not-for-profit organizations pursuing their activities in the area of science, culture, physical education and sports (except for professional sport), education, enlightenment, public health, protection of human and citizens' rights and freedoms, social and legal support and protection for citizens, assistance in the protection of citizens in emergencies, environmental protection and protection of animals; religious organizations for their pursuance the activities stated in their charters; not-for-profit organizations for the purpose of forming or replenishing an earmarked capital. The deduction specified is granted in the amount of expenses actually incurred but not exceeding 25% of the sum of income which is received in the tax period and is taxable. Corporations are not eligible of tax deductions.</p> <p><i>(The country expert was not required to score this question; CGP applied a score of 3.0. On the positive side, tax exemptions are available for individuals. On the negative, there is a ceiling on individual donations and no tax incentives for corporations. Furthermore, the pool of organizations that can receive such donation is small due to limitations placed on non-profits.)</i></p> |
| <p>Indicator Question 5: To what extent is the tax system favorable to making charitable donations?</p> | <p>Score: 2.5</p> | <p>Only individuals are eligible for tax deductions/credits. The ceiling on such incentives is somewhat restrictive, limiting the size of donations. The process of receiving a tax benefit is clear and consistent, but somewhat onerous, requiring moderate time and resources.</p> |
| <p>Indicator Question 6: Do CSOs receive tax exemptions in the form of property tax exemptions, income tax exemptions, or others? If so, what are these exemptions?</p> | <p>Score: 3.0</p> | <p>The Tax Code of the Russian Federation provides that certain types of income shall not be included in an NCO’s tax base for the purpose of calculating its “tax on profits” (hereinafter referred to as income tax). Russian law exempts, for example, income derived from “donations” and “grants.” Criteria for transactions to be recognized as such are defined in both tax and civil legislation. NCOs pay tax on income generated from their economic activities in the same manner as commercial entities, without any benefits. Gratuitous transfer of property to NCOs for the purposes of implementation of their primary statutory activity, and which does not relate to economic activity, is not subject to VAT. Goods and services provided on a gratuitous basis as part of charitable activities in compliance with applicable laws are exempt from VAT.</p> <p><i>(The country expert was not required to score this question; CGP applied a score of 3.0. On the positive side, tax exemptions on donations exist. On the negative side, organizations are required to pay all other income taxes.)</i></p> |
| <p>Indicator Question 7: To what extent is the tax system favorable to CSOs in receiving charitable donations?</p> | <p>Score: 3.0</p> | <p>Organizations receive moderate tax exemptions. The process to obtain the tax exemption status is somewhat onerous and inconsistent. There are limitations on the types of organizations that qualify for tax benefits. Organizations are able to raise some funds from private sources.</p> |
| <p>Average Score on Domestic Tax Regulation: 2.88</p> | | |

**Scoring of Russia’s Cross-Border Flows Regulation
Provided by Daria Miloslavskaya**

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| <p>Indicator Question 8: Are there costs/taxes on cross-border philanthropic cash and/or in-kind donations (e.g. customs, duties, VAT, etc)? If so, what are these costs?</p> | <p>Score: 1.5</p> | <p>No additional cost in receiving funds, however the process is burdensome. Donations to foreign organizations are not tax-deductible.</p> <p>Under the new foreign agents law, all organizations receiving or intending to receive funding from any foreign sources that also conduct or intend to conduct political activities are to be called “NCOs performing the functions of a foreign agent” (“NCOs-foreign agents”). The Russian translation of the term “foreign agent” carries a negative connotation and is usually interpreted as a synonym of a “foreign spy.” The foreign agents law’s new provisions have the potential to significantly affect both Russian and foreign organizations carrying out activities in Russia. They include a number of ambiguous provisions that may require elaboration in regulations yet to be promulgated, some of these regulations have been already drafted.</p> <p><i>(The country expert was not required to score this question; CGP applied a score of 1.5 due to the severe restrictions in receiving foreign funding and the lack of tax benefits on cross-border donations..)</i></p> |
| <p>Indicator Question 9: To what extent is the legal regulatory environment favorable to cross-border flows impeded?</p> | <p>Score: 2.5</p> | <p>Cross-border charitable donations can be sent or received without additional cost. There are significant, but unclear limitations on the types of activities that can be supported through received or donated cross-border contributions. Any transfer of money from a foreign source has to be immediately reported to a governing body, as it is potentially considered as money laundering or financing of terrorist activity.</p> |
| <p align="center">Average Score on Cross-Border Flows Regulation: 2.0</p> | | |

Overall Philanthropic Freedom*: 2.52

* This score reflects equal weighting of the three categories described above.