

Philanthropic Freedom Pilot Study: Turkey Country Report

Overall Philanthropic Freedom Score: 3.08

General Background Information on Turkey

- GDP per capita: \$ 10,524¹
- Population: 79.7 million²
- Percent of population reporting “giving money”: 10%³
- Percent of population reporting “volunteering time”: 4%⁴
- There are two main forms of Civil Society Organizations in Turkey: associations and foundation. CSOs are able to apply for public benefit status, however only a small percentage of organizations receive this status. Associations and foundations are not prohibited from directly engaging in political activities, but political CSOs may face more significant government interference in practice.
- Although the number of CSOs has risen since 2000, there are still socio-cultural barriers for enabling a high rate of civic participation. The percentage of civic participation in CSOs is very low.

Key Summary Points

Philanthropic Freedom Score Overview

Category	Score	Key Points
Civil Society Regulation	3.00	<ul style="list-style-type: none">• Although the law does not require an overly complicated list of documents during registration or a registration fee, the registration process is still cumbersome due to the nature of the bureaucracy.• As of August 2012, the total number of associations holding public benefit status was 406 out of 92,081 associations. In addition, out of 4,624 foundations only 243 foundations hold a tax exempt status. Tax exemptions provided to CSOs are insignificant and narrowly available.
Domestic Tax Regulation	2.25	<ul style="list-style-type: none">• Individuals and corporations can receive tax deductions on donations. The ceiling for both is 5% of taxable income.• CSOs are exempt from only income tax and are subject to all other taxes such as VAT, stamp tax, real estate tax and profit tax if they run economic activities.
Cross-Border Flows Regulation	4.00	<ul style="list-style-type: none">• There are not extra costs to making or receiving a cross-border donation. There are no required government approval procedures or restrictions on sending cross-border charitable donations. CSOs do not need to get permission from the government to receive funds from abroad, however a notification is necessary.• Donors do not receive tax deductions on contributions made to foreign organizations.
Overall	3.08	<ul style="list-style-type: none">• The policy environment in Turkey is considerably restrictive to philanthropic activity due to cumbersome policies impeding civil society activities and lack of fiscal incentives for recipient organizations.

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 Turkey's Giving Environment
Provided by Tevfik Basak Ersen and Semanur Karaman
Turkey Country Experts
Third Sector Foundation of Turkey

The way philanthropic activity is perceived in Turkey varies according to the political context observed at different stages of modern Turkey's history. Prior to the establishment of the republic, Civil Society Organizations (CSOs) engaged in different types of organizational behavior that included charitable activities as well. However, in the early years of the Republic, CSOs were seen as an instrument to implement state-sponsored modernization projects. Interruptions in democratic governance through military coups (1960, 1971, 1980) have created a discouraging environment for engaging in CSO activities.

Although the number of CSOs has risen since 2000, there are still socio-cultural barriers for enabling a high rate of civic participation. The 2010 CIVICUS CSI report showed that the percentage of civic participation in CSOs is very low. Only 4.5% of the population is a member of a CSO with a social focus, and 5.3% are a member of a CSO with a political focus. The rate of contributing to charitable activities is also very low. Referring to the 2007 World Values Survey, the 2010 CSI report indicates that the low rate of social capital in terms of trust and tolerance is major impediment in the functioning and development of CSOs in Turkey. CSOs receive limited financial benefits in terms of tax exemptions through acquiring the public benefit status. As of August 2012, the total number of associations holding the public benefit status is 406 out of 92.081 associations. In addition, out of 4624 foundations only 243 foundations hold the tax exempt status. Public trust for CSOs is also observed to be very low and is considered a big obstacle in increasing civic engagement.

CSOs in Turkey are either registered as associations or foundations, having separate interlocutor public offices: the Department of Associations (DoA) under the Ministry of Interior and the Directorate General of Foundations (DGoF) under the Prime Ministry respectively. Also, they are governed by separate set of legislations which are the Law on Associations and the Law on Foundations respectively.

According to Article 5 of the Regulation on the Law on Associations, establishing an association is not subject to a *permission*, but it requires a *notification*. Therefore, given that all necessary documents required by the law are submitted to the relevant civilian administration and a receipt of the notification is received upon submission, an association is considered to be legally established. According to Article 6 of the Regulation of the Law on Associations, the civilian administration can take up to 60 days to overview the submitted documents, to decide whether the bylaw and other submitted documents are in line with the law. If the civilian administration decides that some required documents are missing, or the association's bylaw violates the existing legal framework, the association is given 30 days to resolve any conflict with law or complete missing documents. When the civilian administration decides that all documents required to establish an NGO are submitted and they do not violate the current legal framework, the temporary executive board is given the authority to proceed with the activities of the association. As can be observed from the course of the process, it is not possible to state an approximate estimation on the time it takes to establish an association in Turkey, since the law

itself makes no such indication.

The Regulation on the Law on Foundations foresees two possible ways of establishing a foundation. The first way is to establish a foundation with a formal deed acquired from the notary. According to Article 5 of the Regulation on the Law on Foundations, the notary sends the formal deed to the DGoF within 7 days. After the formal deed is delivered to the DGoF, the person(s) who is endowing his/her property/capital applies to the court to officially establish the foundation. Although it is not possible to definitely indicate the time it takes to establish a foundation, it is fair to state that it approximately takes up to 3 months to get the court date. The second way of establishing a foundation is by will. Once the appointed judge provides the original document regarding the establishment of a foundation upon will to the DGoF in 7 days, the DGoF starts the court process to officially establish the foundation. As can also be observed from the process described above, the Law on Foundations indicates no definite time frame regarding the establishment of a foundation. As a last note, it would be inaccurate to provide any estimation on the time it takes to register an association or a foundation in Turkey since the laws regulating the process indicates no definite time frame.

**Scoring of Turkey’s Civil Society Regulation
 Provided by Tevfik Basak Ersen and Semanur Karaman**

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Indicator Question 1: To what extent can individuals form and incorporate the organizations defined?</p>	<p style="text-align: center;">Score: 3.0</p> <p>The law does not permit individuals to act collectively through unregistered groups or organizations. The only non-legal entity acknowledged by the Associations Law is the “platform” which refers to “interim societies formed by associations themselves or with the foundations, unions and similar other civil organizations under the title venture, movement or any other similar name to realize a common objective.” Platforms do not hold the right to apply to funds or pursue any legal purposes.</p> <p>The 2004 reform in the Law of Associations removed some legal impediments and onerous requirements while establishing associations and foundations. However, some problems remain especially in implementation. The law also puts restrictions for foreigners. Foreigners can establish a foundation however in order to be a member of the board the majority of the board should reside in Turkey. For associations only persons with legal residency permit can establish or become members of an association.</p> <p>Children from the age of 15 can establish children’s associations. Stateless persons can neither act as a founder nor serve in the executive board of a CSO. While establishing an association no minimum amount is required, the establishment of a foundation requires a minimum capital of 50,000 TRY (approx. \$35,000). Although the law does not require an overly complicated list of documents during registration or a registration fee, the registration process is still cumbersome due to nature of the bureaucracy.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Indicator Question 2: To what extent are CSOs free to operate without excessive government interference?</p>	<p style="text-align: center;">Score: 3.0</p> <p>The Associations Law and the Law on Foundations imposes certain constraints on the discretion and freedom to run the organization’s internal affairs. Associations and foundations are not prohibited from directly engaging in political activities, but political CSOs may face more government interference in practice. Associations are not allowed to serve purposes expressly restricted by the Constitution which bans any activities that may be considered as a threat to the national security, morality or the public good. In the recent past, numerous rights based CSOs, especially CSOs with minority rights focus, and their websites were banned based on this principle. The Anti-Terror law also imposes significant barriers on freedom expression and assembly. In recent years, several CSO members and human rights activists have been persecuted and imprisoned based on the Anti-Terror Law. CSOs are permitted to contact and cooperate with colleagues in civil society, business and government both within and outside the country. However, CSOs are required to notify the government when receiving grants from international organizations, and before using foreign funding. CSOs are permitted to participate in networks, and use the Internet and all forms of social media. However, websites of CSOs, as was in the case of an LGBTT organization in 2011, can be banned based on the morality and other relevant clauses of the Constitution. Recent legal changes eased reporting requirements, however standard annual reporting forms are still considered cumbersome and time consuming. From a legal point of view, reporting requirements do not vary among CSOs but there are problems in implementation. CSOs often complain that the government is using inspections disproportionately among different CSOs, in a way which impedes rights based activities and imposes intimidation. Right-based CSOs and CSOs that are located in Southeastern Turkey receive more inspection than other CSOs.</p>

<p>Indicator Question 3: To what extent is there government discretion in shutting down CSOs?</p>	<p>Score: 3.0</p>	<p>The governing body is able to voluntarily terminate a CSO within the limits set in the laws. Involuntary termination is subject to court trial and a notice is provided. Although involuntary termination is subject to judicial supervision the process is not apolitical and transparent.</p>
<p>Average Score on Civil Society Regulation: 3.0</p>		

**Scoring of Turkey’s Domestic Tax Regulation
Provided by Tevfik Basak Ersen and Semanur Karaman**

<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>There are no exemptions on donations made to foundations which do not have tax exemption. There are exemptions on the donations made by individuals to foundations with tax exempt status. The value of donations that can be deducted as expenditure is limited to 5% (10% for the development priority regions) of the donor’s income within that fiscal year. In reality this is not the case for those individuals who do not submit annual tax returns.</p> <p><i>(The country expert was not required to provide a score on this question; CGP applied a score of 3.0. On the positive side, deductions are available. On the negative side, the ceiling on deductions is low. Furthermore, the pool of organizations that can receive such donation is small due to the difficulty in obtaining a public benefit status, which limits a donor’s ability to make donations.)</i></p>
<p>Indicator Question 5: To what extent is the tax system favorable to making charitable donations?</p>	<p>Score: 2.0</p>	<p>The tax incentives outlined the Law on Collection of Aid are not broadly available. Although tax benefits are not strong enough to encourage corporations to make generous donations to philanthropic activities, the process of receiving tax benefits when making donations is clear and predictable.</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: 2.0</p>	<p>Tax incentives for CSOs are very limited. CSOs are exempt from only income tax and are subject to all other taxes such as VAT, stamp tax, real estate tax and profit tax if they run economic activities. Tax exemption may be granted to foundations established with the purpose of performing a public service or services by the Council of Ministers upon the proposal of the Ministry of Finance. Although there is a special regulation on tax exempt foundations in the tax laws, these only confer a general exemption from corporate tax. Foundations, tax-exempt or not, are subject to all other taxes. Those taxes include income tax are applicable to their earnings including rent, interest and dividends. The tax exempt status grants donors the opportunity to deduct their donations to tax exempt foundations, to an extent, from their taxable income. In order to receive tax exemption, the activity’s purpose must fall within the areas of health, social aid, education, scientific research and development, culture and environmental protection and/or forestation. Foundations serving a specific region or group cannot get tax exemptions. In other words, tax exemptions are only given to those foundations that cover the whole country.</p> <p><i>(The country expert was not required to provide a score on this question; CGP applied a score of 2.0 due to the limited deductions available for CSOs.)</i></p>
<p>Indicator Question 7: To what extent is the tax system favorable to CSOs in receiving charitable donations?</p>	<p>Score: 2.0</p>	<p>CSOs receive limited financial benefits in terms of tax exemptions through acquiring the public benefit status. As of August 2012, the total number of associations holding the public benefit status is 406 out of 92,081 associations. In addition, out of 4624 foundations only 243 foundations hold the tax exempt status. As can be observed from these numbers, the tax exemptions provided to CSOs are insignificant and narrowly available. The process of receiving the tax exemption status is subject to the Council of Ministers decision. Therefore, the process is highly political, unclear and unpredictable. Although CSOs in Turkey can raise funds from private donors, the range of CSOs that receive such support is narrow.</p>
<p>Average Score on Domestic Tax Regulation: 2.25</p>		

**Scoring of Turkey’s Cross-Border Flows Regulation
Provided by Tevfik Basak Ersen and Semanur Karaman**

<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: 4.0</p> <p>There aren't any costs/taxes such as customs, duties, or VAT, attached to cross border philanthropic cash and/or in-kind donations. Donors do not receive tax deductions on contributions made to foreign organizations.</p> <p><i>(The country expert was not required to provide a score on this question; CGP applied a score of 4.0. On the positive side, there are low costs to receiving donations from abroad. On the negative side, donors do not receive tax benefits on cross-border contributions.)</i></p>
<p>Indicator Question 9: To what extent is the legal regulatory environment favorable to cross-border flows impeded?</p>	<p>Score: 4.0</p> <p>CSOs can receive in-kind and cash endowments and grants from natural or legal persons abroad. CSOs may make donations to those foundations and organizations based abroad that are established with similar purposes. It is mandatory that cash donations or grants shall be sent and received through bank transfers. There are not extra costs to making or receiving a cross-border donation. There are no required government approval procedures and restrictions on sending cross-border charitable donations. CSOs do not need to get permission from the government to receive funds from abroad, however a notification is necessary. CSOs are required to notify the government when receiving and prior to using foreign funding. However, there is no restriction on the types of activities that could be supported with foreign funding or on the source country.</p>
<p align="center">Average Score on Cross-Border Flows Regulation: 4.0</p>	

Overall Philanthropic Freedom Score*: 3.08

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