

Tax percentage system

Country report: ROMANIA

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Romania, a republic in Central and Eastern Europe gained independence in the late 19th century and has joined the European Union (EU) in 2007. It has a population of 19.9 million, representing thus less than 4% of the total EU population. The country has 42 counties with 54% of the population living in urban areas. Romania is the second poorest member of the EU

1. Characteristics of the not-for-profit sector

The Non-profit Registry of the Ministry of Justice mentions that more than 92.000 non-profit organizations have been registered in Romania since 1990 in the form of associations, foundations and federations¹. Most of them (more than 73,000 are associations). Main periods of growth were the mid 1990s and the period after 2005. This seems to be in contrast with the fact that Romania has one of the lowest rate of participation in civic organizations (3-4%, as compared with 20% the EU average)². However only 38% of these organizations had filed the required annual balance with the Ministry of Finance as of 2009. Out of these 26% had an annual turnover of 0 EUR and 40 an annual turnover of less than 10.000 EUR³.

Main issues faced by the Romanian non-profit sector are⁴: a lack of financial resources, especially access to public funds and lack of human resources, both in terms of staff and volunteers. Secondary, NGO leaders complain of a certain lack of "giving culture" that negatively impact donations received from private donors, be they large or small. According to studies from 2007-2008, only 10-15% of the adult population made a donation during the last year to an NGO⁵.

One of the main challenges facing the Romanian researcher of the non-profit sector is the lack of reliable, consistent, easy to access and process statistically representative data. Neither the Ministry of Finance nor the Ministry of Justice or the Romanian Statistical Institute collect data about the non-profit sector in a way that would make it easy to use. The NGO Registry is

¹ Romanian Non-profit Registry, Ministry of Justice, 2015

² USAID, FDSC 2013, Civil Society Index-Romania

³ FDSC, 2010, Romania 2010 Report-The non-governmental sector-profile, trends and challenges

⁴ FDSC, 2011, NGO leaders barometer

⁵ Association for Community Relations, 2008, Trends of philanthropic behaviour

only available as a searchable .pdf file and it contains inaccurate data (duplicates and errors). The data provided by the Ministry of Finance has severe methodological limitations (these will be discussed in the following chapters) and data provided by the Statistical Institute is, most likely, based on the above mentioned sources.

According to USAID's NGO Sustainability Index, in terms of financial sustainability a score of 4.3 placing Romania in the category of "sustainability evolving". This score has been relatively constant for the last decade.

2. Origin of the tax percentage system

The origin of Romania's tax percentage system are closely linked to the Hungarian one which has served as a model. NGOs led by members of the Hungarian minority in Romania were quite strong and popular in the late 1990s but they lacked the necessary clout to lobby for policy changes. However they have served as a link and information source toward what was happening in Hungary. Starting 2001 a coalition of support organizations, namely the Civil Society Development Foundation, Soros Foundation and CENTRAS have started to lobby the Ministry of Finance and MPs from all major parties to introduce similar legislation in Romania. At the time, in the process of EU accession, Romania was under pressure to develop mechanisms for funding its growing civil society organizations. At the time few clear, coherent and transparent mechanisms were in place besides subsidies for some social services. Given that the economy was starting to recover and the financial impact on the national budget was expected to be reduced, all parties agreed in principle and the provision was drafted in the new Fiscal Code (law 571.20013) that entered into force in 2004. The Hungarian Democratic Forum, the National Liberal Party as well as the Social Democratic Party have been supportive to the provision by being its sponsors. Ms. Mona Musca (deputy, National Liberal Party) acted as a strong supporter and de facto ambassador of the provision. The Association for Community Relations played a significant role in designing the methodological norms for the enforcement of the provision and has launched, in partnership with the initiating non-profits, the American Chamber of Commerce and the Ministry of Finance, a national campaign to promote the provision among NGOs, taxpayers and employers. Initially the provision allowed for the redirection of up to 1% of the income tax but was increased next year to 2% (Government Ordinance O.U 138/2004). In 2008 35% of the adult population knew about the provision while 15% of taxpayers made use of it.

3. Main changes and development throughout 2004-2015

In Romania the percentage tax system has only undergone a few major changes:

1. In 2004 the level of tax that could be directed to an NGO was increased from 1% to 2% (Government Ordinance O.U 138/2004). This obviously had a very significant impact on the amount that was redirected, growing from 1.2 million RON to 5.2 million RON.

2. In 2006 Law 238/2006 expanded the use of the provision from NGOs exclusively to churches (religious institutions) as well as for funding the so-called private scholarships. This new change entered into operation in 2007 as the designations are done up to the 15th or 23rd of May of the respective year.

The second change created a far more competitive environment, as churches are perceived to have a better outreach and a more committed constituency as compared to the NGOs. Since 2008 many NGOs complain of a stagnation of their income from the provision and personal communications from fundraisers or campaign coordinators indicate that many taxpayers mention that they use their provision to support their church.

The tax percentage system is credited as being a strong catalyst for promoting and encouraging private fundraising in Romania as it has offered a mechanism for the involvement of private donors in a cost-effective way and thus offered an incentive to Romanian NGOs to start coherently engaging private citizens as financial supports of their organizations.

4. Notes on the process of allocation

The beneficiaries of the tax percentage system in Romania can be non-profit organizations, religious institutions or individual beneficiaries of private scholarships. Besides legal registration there are no other eligibility requirements for the beneficiaries, neither for receiving the designation nor for reporting on its use. This flexibility is on one hand very much appreciated by recipients as it basically provides them with general support funding but on the other hand it creates an un-transparent and un-accountable environment, especially as the funds are basically public funds where more transparency and accountability should be required.

The allocation is done by using either a special form (Form 230 by the National Fiscal Administration Agency) for taxpayers that only have income from salary or by using the Form 200 for income reporting when the taxpayer has incomes from more than one source. In both forms the taxpayer must mention the name of the beneficiary, the fiscal code, and the bank account in IBAN format. The designated amount can be mentioned but is not compulsory as the fiscal authorities can calculate it. The forms must be submitted to the fiscal authorities directly or by mail by a deadline in May for the previous fiscal year (identical to the calendar year in Romania). In this process of submitting the forms lies one of the major challenges of the system: given that most taxpayers (75% according to the Ministry of Finance) do not have to submit an income statement as their income is pre-taxed filling and submitting the form is seen as a hassle by many potential users of the provision. Thus NGOs have started to assist taxpayers in submitting their forms. This submission by proxy is a rather grey area from the legal point of view. One of the principles when the legislation was designed was the confidentiality of the taxpayer. Right now some NGOs have large databases (sometimes exceeding 40,000 names) for which they have no explicit agreement for the taxpayer. Fortunately until now there were no issues associated with this except the fact that some Fiscal authority offices do not accept the submission by proxy (usually in bulk) or accept it only from what they would consider reputable NGOs.

The information from the designation forms is collected by the local fiscal offices (usually one per city with the exception of major cities and the capital where there are several), centralized at local level. The payments towards the NGOs are made starting September, with a peak in November and December, but, contrary to the methodological norms (which set a December deadline) payments continue well within the next year (sometimes up to March or even April). Payments are not being centralized at national level but are being made from the local level. The information is then centralized at national level but the number of beneficiary organizations is simply summed up not taking into account the estimated huge number of duplicates.

The taxpayers are, in most cases, not informed if there was any problem with their designation (usually wrong or missing information). However, exceptions, where the fiscal authorities have contacted the taxpayer are known to happen. In the first years of the provision the error rate was, based on information from the Ministry of Finance as high as 25%.

On the other hand the NGOs have neither the way to predict the amount they can raise nor the moment when they will receive the amounts.

Some NGOs and taxpayers have reported abuses, especially at the level of their employers which sometimes offers to collect and submit the designation forms but sometimes also exerts some undue pressure on the employee to direct the percentage to an NGO that is somehow linked or liked by the employer.

5. Conclusions and recommendations

The tax percentage system has proved to be a major success in Romania despite of its shortcomings. It has allowed thousands of non-profits to interact with hundreds of thousands of supporter and collect 190 million Euro since the provision was introduced.

It has spurred a dialogue between non-profits and individual citizens that has most likely played a major role in developing the fundraising practice in Romania.

There are however signs, mostly from anecdotal information coming from fundraisers and campaign coordinators that many taxpayers consider the designation a real donation and have thus the feeling "they have done their part" which has, according to some NGO leaders, a negative impact on other fundraising campaigns.

Several issues, mainly related to transparency, accountability affect the system but with improved methodological norms and data management those could be tackled:

- improve reporting at national level by reporting the real number of beneficiaries (based on unique fiscal codes) and, based on the same information, create a searchable database (even in spreadsheet format) with the amounts received.
- amend the designation forms (200 and 230) by allowing the taxpayer to explicitly state that they allow the NGO to submit their form and separately to process their data. This might have a negative impact on the amounts designated but it would be in line with current data protection provision in national legislation and would allow NGOs to establish a formal communication channel with the taxpayers that desire that.

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