

Long Run to Civil Society Sustainability by Developing Percentage Philanthropy in Ukraine

*Sviltlana Kuts
Institute of Professional Fundraising/
Center for Philanthropy
Kyiv, Ukraine*

Preface

In 2010 Ukrainian Parliament (Verkhovna Rada of Ukraine) registered and approved in the first hearing the Draft Law “On Changes to Several Laws of Ukraine on Support Nonprofit Organizations”. This Draft provided individual taxpayers the opportunity to designate a certain percentage (up to 2%) of their income tax paid to state budget to socially important purposes realized by nonprofit organizations¹. This was seemingly the culmination point of the 5 years long campaign of Ukrainian NGOs to introduce percentage provision as a means of achieving civil society sustainability. The campaign’s leaders were the Institute of Ecumenic Studies of the Ukrainian Catholic University and Center for Philanthropy, supported by Lviv City Council. Unfortunately, new President and government of Ukraine, later called “criminal power” stopped the effort by adopting new Tax Code, which firstly and mostly focused at increasing amount of income to State Budget suppressing any freedom in economic activity, not saying about bettering life of civil society.

Background

The core idea of “percentage provision” is that taxpayers may designate a certain amount of their income tax paid to state budget to a specific civil society organization (CSO). Besides its monetary value, the percentage provision was considered valuable for Ukraine, due to the following:

- Percentage provision is a real source of funding for CSOs while being a democratic mechanism of budget redistribution among organizations.
- It helps to strengthen the independence of CSOs from the influence of government and reduces their dependency on a single source of funding.
- Raising civil participation in budget process as a taxpayer decides the allocation of public money.
- Raising citizens’ participation in community and social issues by supporting community-based NGOs
- Empowerment of citizens and distribution of power between government and civil society.
- Growth of responsibility and social value of CSOs through competition for percentage allocations.

Percentage provision furthermore could have the following effects on the public perception and attitude towards NGOs:

CSOs get more publicity because they need to inform the taxpayers about their activities.

Taxpayers are informed about CSOs twice: first, when CSOs campaigning for allocation, and for the second time, when CSOs reporting how they use the

¹ In Ukraine nonprofit organizations category is a tax category and includes different entities: public schools and hospitals, culture institutions, NGOs, charities, trade unions, church organizations, community organizations, etc.

contributions.

In 2005 when campaign has started we believed that new Ukrainian government, changing country strategy towards better governance, society democratisation and European integration had been supportive for percentage provision to become a part of the strategy of new government of Ukraine. In the following years the campaign was organized based on policy documents, advocacy strategy and number of communication activities, so three fractions of Ukrainian Parliament submitted above mentioned draft law to the Parliament hearing in 2010.

Current civil society funding structure in Ukraine

The major problem impeding development of civil society is the sustainability of citizens' organizations and initiatives, which negatively influences citizens' participation and democratic governance. NGOs possible sources of funding are the following:

- International technical assistance and foreign charitable foundations.
- Corporate Funding
- Government
- Fees for services/Income earning
- Membership fees
- Individual Donations
- Private Foundations

The sustainability of civil society depends largely on their organizational capacity to raise funding from multiple sources.

Analysis of the current legal system regulating civil society funding

Ukrainian legislation that regulates civil society funding may be recognized as progressive if the laws and provisions were not so heavily plagued with the unnecessary procedures and requirements both for NGOs and their donors.

Tax incentives do not stimulate philanthropy and citizens participation because of the following:

- Corporate tax deductions are applied to the annual profit base instead of turnover; they are not classified as a tax credit by this VAT is not deducted;
- Tax-incentives for donors do not apply in the system of the simplified taxation both for enterprises and individuals.
- Individual donation transfer and tax refund is a complicated procedure;
- Membership fees to CSOs do not qualify for tax deductions;
- Fees for services and selling goods is considered commercial activity;
- There is no specific law regulating the amounts and procedures of CSOs funding from the State Budget.

How could the percentage law scheme fit into the socio-economic, political as well as legal situation of Ukraine

Ukraine does not have any provisions that allow citizens to participate in the government budget redistribution using legal provisions like 1% law. Still there is a debate about State funding of civil society as well as certain experience to pass percentage provision through

parliament.

Still percentage provision may be effective mechanism to NGOs sustainability for the countries that lack major private resources at hand. Percentage allocation provides the citizens a chance to support publicly beneficial activity without significant losses to their budget, while creating the habit of civil participation.

The following questions should be considered when potentially designing a percentage provision system for Ukraine:

- Who are entitled to designate a portion of tax?
- Who are entitled to receive the designated amounts?
- What are the criteria for entitlement for those kinds of organizations?
- Who decides on the entitlement?
- Is there a need to have a register of the potential beneficiary organizations?
- How many beneficiaries may one taxpayer designate to?
- Have minimum amounts of the designation been specified?
- What can the designated money be used for?
- What are the reporting requirements for the beneficiaries?
- How are disputes settled?

The experience of countries enjoying percentage designation provides the next conclusions important to Ukraine:

1% provision is currently feasible to lobby for social service, culture, education, delivering NGOs

Local authorities will support the initiative

The group of committed leaders is needed for lobbying the law.

Information campaign based on facts and justification of percentage philanthropy usefulness for Ukraine

Educating tax authorities, other related agencies and taxpayers how to use the provision

Technical procedure is to be the most feasible for taxpayers

Administration of tax allocation will become the other burden for tax authorities

Prevention measure to avoid conflict of interests and achieve transparency on funds usage both by NGOs and tax administration.

Percentage provision does not contradict with the current tax system in Ukraine. Moreover, the system can solve the problem of local government vulnerability in meeting the needs of community, when local citizens' are able to take upon themselves the function to decide over state fiscal issues.

State attitude to publicly beneficial activities of citizens and philanthropy

There are recent changes in government attitude towards CSOs in Ukraine that can be attributed to the EuroMaidan events and Revolution. As part of these changes, the government is working on developing the Concept for State Support to Civil Society in Ukraine. This development suggests that this may be an opportune time to address the issue of adopting a law on percentage provision. The government may feel that this would serve as concrete evidence to give proof to this new government attitude.

In addition, percentage provision further serves the alleged goals of the new government in that it does enable some public input into distribution of government funds. There is stress placed on increasing the participation of citizens in policy making on the national and local level. So, by tax allocation Ukrainian taxpayers can vote for the activity the most demanded and appreciated by them.

Adoption of a percentage provision can improve the government's image as a supporter of civil society organizations, without a great loss to the budget revenue.

Possible outcome and effects of the law, future trends

We may constitute the **policy rationales** for introducing percentage provision to Ukraine:

- International experience that comply with European integration strategy of Ukrainian government
- Social service, culture and education delivery by NGOs in force in the light of ongoing decentralization
- Taxation self-determination, link between citizens and NGOs
- Growing giving culture as people start to think about their involvement in NGOs
- Decentralization and depolitization of funds distribution

For the civil society development, percentage allocation provision is the **practical and concrete** legal tool for achieving the following tasks :

- **Raising citizens participation in public sphere: meeting nonmaterial needs and community problems.**
- **Assuring sustainability of the initiatives of citizens, esp. on the local level.**
- **Enforcing the transparency and liability (incl. professional) of NGOs.**

Future plans

Today we have a powerful volunteer movement supporting victims of the current crisis in Ukraine. Individuals have organized around the threat to Ukrainian independence and received immense financial and nonfinancial support from citizens. This "new blood" of Ukrainian civil society is formalizing in the new charities and NGOs seeking to change Ukraine on systemic basis. As the way forward they envision percentage provision as a source of sustainability and citizens' involvement. Ukrainian Institute of Professional Fundraising, which unites more than 30 Ukrainian non-profits, has discussed the issue with new and mature NGOs and received pledge to be supported in making percentage provision de jure and de facto phenomena in Ukraine. Institute as a successor of the Center for Philanthropy will conduct a special issue of its annual Congress devoted to percentage provision in 2016.