

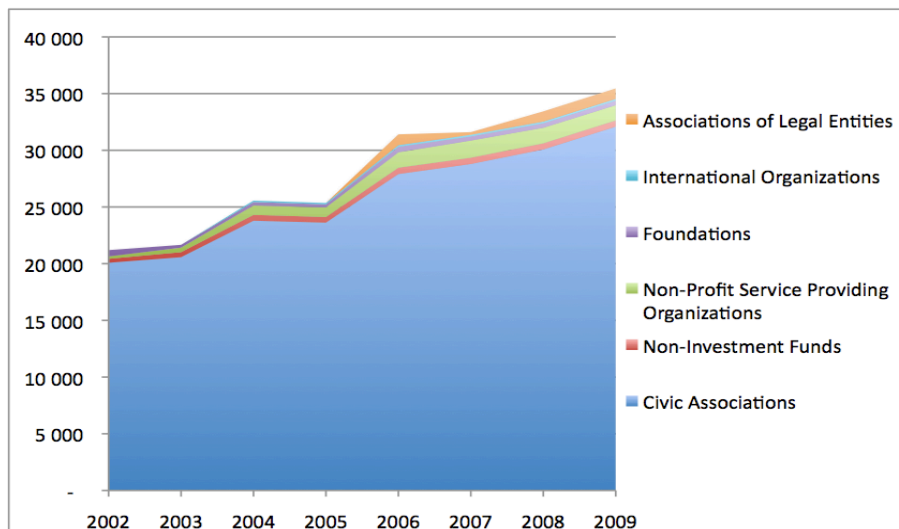
CONTEXT AND EVOLUTION OF SLOVAK CF MOVEMENT¹

I. LEGAL FRAMEWORK

1.1. Legal context

The legal framework for foundations is in place since 2002 without major changes. The Law on Foundations is together with the Law on Non-Profit Organizations providing Generally Beneficial Services and the Law on Non-Investment Funds a specific law that defines the purpose, functions and operations of a foundation and differentiates it from other legal forms of non-profit organizations – for example the non-profit organization providing generally beneficial services. The main difference is in the allowed ways how public benefit purposes can be achieved. In the case of foundation it's the accumulation of resources and their subsequent distribution for other recipients in pursuit of public benefit purposes.

Foundation is defined as a collection of assets – to the contrary of association – which is defined as a collection of persons. Civic associations – which are the most popular legal form of non-profit organizations – over 40,000 of them exists at present – are defined by a law from early 1990s and compared to foundation law the law on associations is very general and provides a much looser framework (no compulsory reporting for example).



¹ This document was prepared by Boris Strečanský as a part of the materials of the cfpracticelab.org for the participants of the Community Foundation Study Trip 2014 to Slovakia. In preparation of this document were used following sources: Global Institutional Philanthropy: Country Reports - Slovakia, WINGS, 2010, website on legacies for charitable purposes www.zavety.sk, data from Slovstat – database of Statistical Office of Slovak Republic and previous research and publications of the Center for Philanthropy and the author.

There are also other laws in the context of the non-profit sector – Law on Volunteering or Law on Public Collections, which were adopted recently.

The legal framework in general can be assessed as stable and optimal.

1.2. Setting-up a foundation

Registration of foundations is relatively easy and the only financial requirement is a down-payment of €6,638 into a registered endowment. The minimum contribution of each co-founder is €639. The foundation is registered at the Ministry of interior, which also maintains a registry of foundations. The Foundation is established when its file is entered into the Registry of Foundations. For setting up a foundation is required a founding charter and the By-Laws of the foundation. Foundation can be set up by a legal person or natural person.

1.3. Governance

The law defines minimum requirements for governance of foundations. The foundation is governed by the Board of Directors, which has to have at least 3 members. It is the highest body of the foundation. It is a non-remuneration function. Member of the board can not be a recipient of resources of the foundation.

The Board decides on the budget of the foundation and on the allocation of the resources (grants).

The Administrator is another body of the foundation. It is appointed by the founder and later on he or she is elected by the Board. The Administrator is in charge of the day-to-day operations of the foundation and acts as its statutory representative.

Foundation has to have a supervisory board (in case of turnover higher than €166,000) or the Controller who are in charge of overseeing the financial management, accounting and financial closure.

1.4. Legal grant-making requirements

The law defines that a “foundation activity” is a) provision of financial and non-financial means from the ownership of the foundation to third parties and b) management of its assets.

1.5. Endowments and reserves

The law binds foundations to invest funds in their registered endowment in a highly conservative investment instrument, so therefore many foundations keep their assets outside of the registered endowment as other assets and invest them in a more flexible investment regime. The minimum endowment that is required by the law is €6,638.

1.6. Foundations and public benefit

Foundations are required to act as institutions that operate for public benefit. Any foundation that is registered in Slovakia has the same taxation and legal regime; therefore even corporate foundations are not allowed to act outside of the public benefit framework. This is a loose framework however, as public benefit activity is not clearly defined in the Slovak law.

Public benefit is not defined in the law. The law specifies various public benefit purposes – such as the advancement of education, support of cultural and spiritual values, protection of health, protection of children rights, humanitarian assistance to individuals or protection of human

rights and others.

1.7. Legacy giving

It exists, especially within the Catholic Church. There are also cases among non-profit organizations that are not faith-based, but these are exceptional. Foundations can be recipients of legacies. The statistics is not available.

1.8. Legal requirements for accountability

Annual reports are due to the Ministry of Interior each year, submitted electronically as of 2014. The Annual Report has a prescribed structure that includes information on the changes in the governance, information on the recipients (individuals or organizations) of the foundation resources and information on the foundation income – list of donors. The report shall also include any information on the foundation activity, remuneration of the administrator and other information decided by the Board.

II. FISCAL INCENTIVES FOR DONATIONS, SPONSORSHIP

2.1. Corporate giving incentives

There are no corporate giving incentives at the moment in Slovak fiscal system.

2.2. Individual giving incentives

There are no corporate giving incentives at the moment in Slovak fiscal system.

2.3. Earned income and taxation

Foundations are not allowed any involvement in business-making activities, with the exception of leasing out real estate and organizing cultural, educational, social or sporting events, as long as its assets will be used efficiently and such activities are in accordance with the public benefit purpose promoted and pursued by the foundation.

Foundations are not obligated to file an income tax return form to the pertinent Tax Authority in cases where their income is not a subject of income tax. This covers income such as gifts, legacies, 2% income tax allocation, income from the renting of real estate, land, buildings and other properties, and income, which is taxed by a flat rate at the source (such as interest taxes from bank deposits). If a foundation collects income other than those mentioned, it is obligated to file a tax return form. Foundations that receive more than €3,319 from the 2% tax allocation are obligated to submit a detailed summary of the amount and use of these funds for publication in the Official Journal.

Foundations that own real estate are obligated to submit a property tax statement and pay the property tax that is collected by the municipal authorities. Municipal authorities have the power to decrease the tax rate or completely set foundations free from the property tax duty. Foundations are not obligated to pay tax on motor vehicles.

III. SOURCES OF INCOME FOR CFS

3.1. Private income sources

The corporate gifts and contributions play a more important role in the private income of community foundations than individual gifts. This is not a rule in every case, but a general trend. This is partly due to the effectiveness of effort invested in approaching and obtaining support – compared to effort aimed at fundraising and fund development from individuals.

The combination of the corporate philanthropy motivations with corporate PR motivations and sponsoring make the pool of potential donors for CFs (not just CFS) from the corporate sector – on national or local level relatively high.

Also, the existence of the percentage philanthropy system creates an environment where many corporate donors or individual donors exercise their “philanthropic” instinct through this mechanism.

Private individual gifts represent a relatively small share of income of CFS. Nevertheless, there are small and medium sized individual donors that regularly support CFS in Slovakia.

3.2. Public income sources

The public sources in Slovakia that CFS use include structural funds of the EU, bilateral funds with Slovak co-funding such as the “Norway” funds, subsidies from the central government, subsidies from the regional and municipal governments.

CFS would mostly use subsidies from regional and municipal governments but also some are able to use the European funds, but that would also differ from community to community.

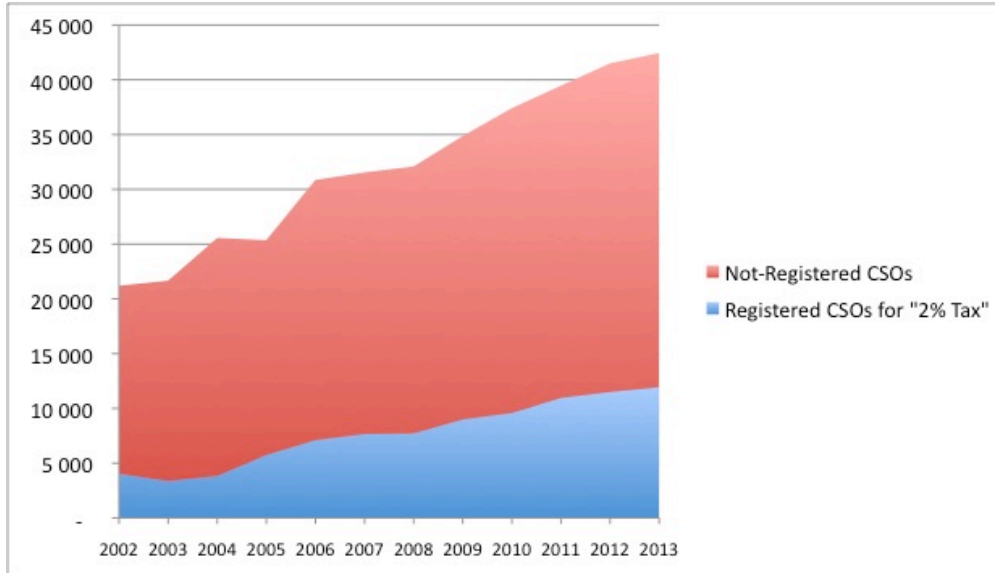
Several years ago there was a problem with a project funded by the European structural funds and one community foundation – CF Prešov, ended up in the insolvency and currently it exists but without any activity and is in a liquidation process. The administrative difficulty and bureaucratic red-tape that are the stigma of these funds cause many problems to non-profits in using of these funds. Especially, in the context where the bureaucratic class that is in charge of these funds is ignorant towards the civil society and does not recognize the different nature of the non-profit sector compared to public or commercial sectors.

3.2.1. Percentage Philanthropy (2%)

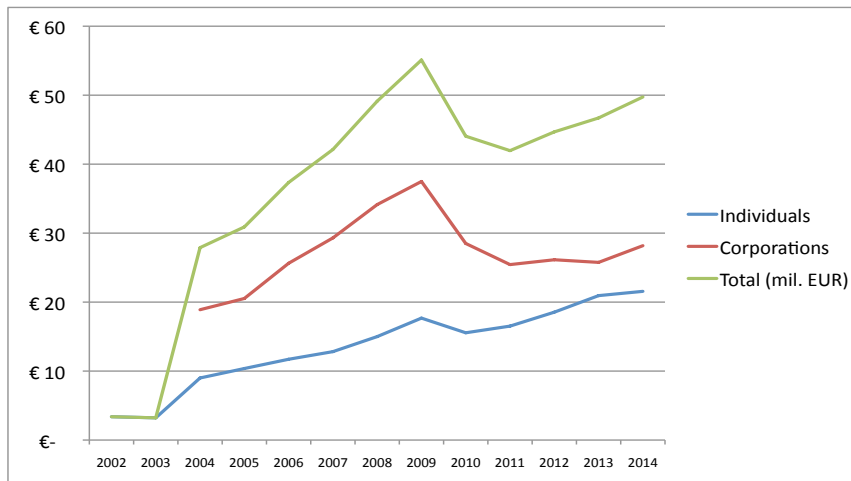
The percentage philanthropy concept emerged in the policy debate around the issue of church and civil society funding in Central and Eastern Europe in early nineties (1992-1995). First in Hungary (1996), later on in other countries, newly democratized governments were looking for ways how to establish new relationships with these societal actors.

After discussions among stakeholders, the mechanism emerged in Hungary and later on in Slovakia, Romania, Lithuania and Poland, as a public finance innovation that channeled public funds in a decentralized way to civil society and to public benefit purposes. Today, in each country it has a slightly different form, but the core principle is the same: it grants a right to a taxpayer to designate 1% or 2% of paid income tax to a non-profit, non-governmental organization or other type of public benefit entity or to a church.

In Slovakia the percentage philanthropy became an important source of income of non-profit organizations (approximately 10-15% of all income of the sector) and over 13,000 of recipients register for it every year (see chart). This number indicates also most likely the active non-profit sector.



The percentage philanthropy mechanism In Slovakia consists of the 2% of the personal income tax and also 2% from the corporate income tax.



The extension of the system to corporate income tax is unique in the world. It has stimulated the growth of corporate foundations (there is over 80 of them). Corporate foundations are recipients of the 2% from their founders' companies, especially, those with huge profits – as then the 2% of the tax paid is a large amount which makes sense for redistribution through foundation grant-making. Thus the corporations are able to use the percentage philanthropy as

an extra resource for their foundations at no cost. Corporate foundations then redistribute the 2% to various recipients and public beneficial purposes, following the corporate strategy.

In 2009 Slovakia changed the system and added a “gift matching” component for corporate income taxpayers and introduced a gradual phase-out of the system by 2018 for corporations. The phase-out plan has been opposed by the non-profit sector and at the moment there is a debate between the government and the civil sector about stabilization of the mechanism in a current format.

The percentage philanthropy is for community foundations an important source of income (see infographics).

IV. Non-Profit Sector in Slovakia and the Position of Foundations.

4.1. Foundations in Slovakia - history and evolution

Philanthropy in Slovakia is shaped by both the deep cultural traditions of Central Europe and the changing role of the state in the 20th century. The non-profit sector was active in Slovakia in the 19th century, and the country saw both classic church charity and monetary collections for those in need, as well as enlightened philanthropists who carried out their giving as investments in the community.

With the arrival of the communist regime in 1948 however, charities and civic organizations were closed, gatherings of citizens prohibited, and private property nationalized.

In 1989, after the Velvet Revolution, the non-profit sector was revived and started introducing “new words” and new concepts into life and the vocabulary.

It can be said, that Slovakia is lacking a philanthropic traditions compared to Czech or Polish neighbors. This lagging partly stems from the lack of existence of a Slovak aristocracy and business elite in the 19th and 20th century.

Slovakia is suffers with high unemployment rates, high corruption (in EU context), large state administrative machinery, and growing disparities in the economies in individual regions. The peasant and rural nature of Slovakia’s population is conservative in selection of issues and in its political and social attitudes. At the same time there is growth of urban, educated, well-travelled younger generation that brings in modern world trends and attitudes.

Public attitudes towards giving have improved, but it is still going to take years to establish the notion of giving as an inherent part of people’s mentality. Beyond the economic weaknesses in a large part of the country, it is the public’s mindset that represents the real obstacle to giving.

The cultural traditions relevant to a phenomenon of philanthropy in Slovakia draw upon the prevailing Christian catholic inclination, which in the philanthropic context means an inclination to supporting the poor. In general, people in Slovakia associate giving with religious charity, and few understand the difference between this and strategic giving.

Public collections are most common ways of approaching public for funding. Popular projects

include projects such as An Hour for Children campaign; the League Against Cancer campaign; Good Angel – System of Support, which helps families with members suffering from cancer and other systemic diseases, etc. Although individual philanthropy has grown through public collection projects, overall it has not risen as much as expected. Very few NGOs have professional fundraisers and focus on intensive fundraising work. Private individual giving has typically been oriented towards issues such as assistance to the needy and sick, children and youth, church, health protection and support.

In last few years in Slovakia emerged several interesting private foundations based on an initiative of high net-worth individuals – owners of very successful businesses and focused on strategic issues – ranging from high quality education ending with corruption.

Recent developments in institutional philanthropy in Slovakia over the last five years can be described as a rapid growth of corporate foundations and slow growth of individual philanthropy through public collection projects. The role of media is very important.

4.2. Foundations in numbers

In Slovakia currently (as of December 2012) exists 942 foundation of which 727 is active and 215 is inactive and in liquidation.

The overall value of assets of all foundations in 2012 was €80,8 mil. The annual growth in assets represents 1,85%.

Foundations provided gifts and grants (in 2012) in the amount of €21,1 mil. which is €0,14 mil. less than in previous year. Community foundations make approximately 2-3% on the total foundation sector grant-making.

Foundations in Slovakia are not a significant source of funding, compared to some other foundations sectors in the region (V4).

4.3. Corporate foundations

In corporate giving the major change has been the increased establishment of corporate foundations, which have almost tripled in number since 2002. This has resulted from a change in the law to allow corporations to allocate 2% of corporate income tax for charitable purposes, which many corporations used to establish corporate foundations to further distribute the 2% of the tax for various charitable causes.

The effects of this policy are both positive and negative. While there are more financial resources for non-profits, and while corporations have gained experience running philanthropic institutions, corporations have also learned that “giving” is possible without actually sacrificing anything, due to the 2% allocation.

4.4. Independent Foundations

Other significant institutional forms of philanthropy in Slovakia are independent foundations. These are mostly fundraising foundations that raise support from individuals and corporations and re-grant the funds for various purposes that reflect a combination of needs for both the

short and long term. Among the most known in Slovakia belong: Ekopolis Foundation, Children of Slovakia Foundation, Socia Foundation, Carpathian Foundation, Open Society Fund, Foundation in Support of Civic Activities, Pontis Foundation.

These foundations build on the experience and knowledge brought into Slovakia during the nineties by private philanthropic institutions such as the Mott Foundation and Rockefeller Brothers Fund, and others who supported the growth of indigenous grant-making capacities in the post-communist countries.

Community foundations fall into this category.

V. EVOLUTION OF THE CF MOVEMENT IN SLOVAKIA

5.1. The emergence of CFs in Slovakia

The emergence of the CF concept in Slovakia is related to the story of the Healthy City Foundation in Banska Bystrica, which was in 1994, an existing foundation with a mission in public health promotion for the city and with the city participation in it. Through an exposure to the concept to a board member in 1993 during his study trip to the U.S. the idea came to this community and started to be played with.

As a result, in 1994 the Healthy City Community Foundation Banska Bystrica emerged from the transformation of the former foundation with the ambition to serve the community with a new mission and way of work. This happened with an important moral and technical support from a consortium of private U.S. foundations that were nurturing the fermenting processes of civil society development in Slovakia and broader region.

5.2. Context

Most of Central and Eastern Europe emerged after 40 years of communist ideology with full of hopes and with bag of problems, including the suppressed civic awareness and traditions. The rebuilding of the state and the society meant also re-building of the communities and civil society organizations including foundations.

The growth of the civil society organizations – that some observers have called the world-wide associational revolution – took place also in Slovakia. Thousands of new associations and hundreds of foundations were established. But the “old guard” was annoyed by the sudden transfer of the “power to the people”. The post-communist and former communist elites joined with nationalist ideologies and movements were not embracing the new liberal-democratic establishment. In this situation the civil society in Slovakia had to defend its freedoms. In 1996, the front-line was the dispute over the proposal of the restrictive law on foundations.

It became obvious, that a good legal framework for the civic organizing is necessary. Slovakia adopted very liberal law on associations in the 1990 but the foundations were not clearly defined. This unclarity was mis-used by politicians that planned restrictive law on foundations. This provoked a response from the third sector which launched a campaign “For the Good Law on Foundations”. The government did not respond positively to these calls, however, the awareness of the foundations in the public increased. In couple of years after 1998 elections, when Slovakia set on the path of towards its integration to EU and NATO, new and open legal

framework was adopted that allowed for further growth of civil organizations including foundations.

“The ostracization of civil society and people with European orientation in the period of Vladimir Mečiar – 1994-1998 created a special context for the community organizing. Many of the activists were professionals who were blocked from any other public positions in the government or public sector and were looking for ways, how to be useful. The growth of think-tanks and other types of CSOs at that time was a response to this situation. Community Foundations were emerging in those times primarily as community grant-makers who activated energies of citizens and were catalyzing various activities in public space.

5.3. Considerations about the “model”

The activities of the CF in Banska Bystrica and its early results and approaches (seeding small grants to formal and informal groups of citizens, locally driven participation) soon attracted interest of other actors interested in nurturing the awakened civil society in Slovakia – be it other Slovak community leaders in other active communities (Pezinok, Trenčín, Prešov) or be it national level civil society development actors (Open Society Fund).

Especially, the activists in Prešov, Pezinok and Trenčín were already at that time organized into community organizations – a kind of community funds which acted as community-based grant-makers providing small grants to active citizens in communities – playgrounds were built, public events organized, local traditions strengthened – all aimed at re-building the local identity and relationships between the people and place where they live. Hence it came natural to learn from each other and see the potential relevance of the CF concept in these communities.

These community groupings consisted of activists interested in reviving the civil society in their communities and were in a search for models that could help them in these efforts. They tried various approaches such as community fora, community hearings, etc. with strong participatory dimension and grass-root ethos.

The CF concept was to some extent controversial whether it would make sense in a local social and economic context. There was a substantiated skepticism regarding its application, especially, when the interest from communities was there. For that reason a process of analyzing the feasibility of the concept started that included variety of stakeholders into this conversation. The process lasted 2 years in 1997-1998 It was called the CPDI (Community Philanthropy Development Initiative) and produced a Feasibility Study that better and in more deeper terms described the current situation and provided an outline of possible further development. Donors that supported this process included Sasakawa Peace Foundation, Charity Know-How, Open Society Fund and others. The study was managed by Ekopolis Foundation and ETP Slovakia.

5.4. Role of Support Organizations and Donors

Thanks to the risk-taking attitude of the Board of the Open Society Fund Slovakia in 1996 – first domestic support program aimed at supporting the gradual transformation of the existing community funds into community foundations was launched. The program made a pathway to a broader program with a more focused intention starting in 1999 with the funding of the C.S.Mott Foundation, Open Society Fund and USAID that lasted until 2005 and created a pro-

growth environment combining financial support with technical assistance and community of CFs development.

Important role was played by the Ekopolis Foundation in a consortium with the Center for Philanthropy and also by the Open Society Fund, Slovakia and the Partners for Democratic Change, who all acted in a support role to the emerging community foundations movement.

Not only it provided a mechanism for distribution of financial assistance but it also acted as a space for learning, advocacy for legal and fiscal framework.

5.5. Association of CFs

After the strengthening of the CF field, the support role of the above mentioned organizations was gradually taken over by the Association of CFs, which was established in 2003.

The CFs after 2000, when they had already experience with community grant-making role, they started to face a challenge: What does it mean to be a foundation? How to develop a good board? How to address the issue of endowment? How to raise funds and develop relationships with key stakeholders in the community. And many more.

To learn this well needed also international exposure and sharing of experiences from countries who already had such experience – U.K, US. But many solutions had to be found locally and by trying, testing, often failing, but persisting. And learning from each other.

The Association filled also the need of joint-project development among the CFs and monitoring of the basic quality standards of CFs.

Today, CFs in Slovakia are on their path towards sustainability without an external support and in the context that is turbulently changing. They need to respond to periods of growth soon replaced by periods of downfalls caused by the financial and economic crises.

Despite all these challenges they work to strengthen their relationships with donors, citizens and look for innovative ways for citizens engagement through new instruments such as Fund development, developing relationships with individual donors, fundraising using events or on-line tools.