



Denmark

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Foundation, Cooperative, Trust, Endowment, Society, Others: Self-governing Institution or 'selvejende institution'

Five main social issues addressed by these organizations: Primary and High School Education, Arts and Culture, Housing and Economic Development, International Causes, Other: Sports and Leisure

Average time established by law to register a philanthropic organization: 0-30 Days

Average cost for registering a philanthropic organization: US \$0

Government levels primarily regulating the incorporation of philanthropic organizations: Central/ Federal Government

Philanthropic Environment Scores:

	Ease of Operating	Tax Incentives	Cross-Border Flows	Political Environment	Socio-Cultural Environment	OVERALL SCORE
2018	4.8	4.0	4.0	4.8	4.5	4.42

I. Formation/Registration, Operations, Dissolution of a Philanthropic Organization (PO)

The three questions in this section pertain to the laws and regulations governing philanthropic organizations (POs). The scoring questions for this category cover three aspects of regulations: (A) formation and registration, (B) operations, and (C) dissolution.

Question 1: To what extent can individuals form and incorporate the organizations defined?

Score: 5.0

Denmark has three dominant organizational forms of POs: (1) the association, which can have various names besides association, such as club or society; (2) foundations or trusts ('stiftelse'); and (3) 'self-governing institutions' ('selvejende institution') (Ibsen and Habermann, 2006).

Denmark has guaranteed the freedom of association in its written constitution, which dates back to 1849. Articles 77, 78, and 79 guarantee freedom of expression, freedom of association, and freedom of peaceful assembly. The positive right of freedom protects the right to form and become a member of associations of one's own choice, as long as the association pursues legal goals. Associations that use or encourage the use of violence are dissolved by court order. This means that government cannot dissolve an association unless the case is tested in court. These limitations are in accordance with the UN Declaration of Human Rights, which Denmark has ratified.

Besides the constitutional guarantee, Denmark does not have an act on associations as such. The basis for the law is instead based on precedents, commonly accepted principles of association, and legal doctrine (Gjems-Onstad, 1996). This also means that there is no legal or government requirement for registration of associations, no official register, and no registration fee. Any person or group can form an association, and there is no restriction on its purpose as long as it is legal. The criteria for an association to be established as a legal entity is quite vague, though written documents containing the statutes of the association and a formally elected board at a yearly general assembly—where all members have one vote—is the most common practice, most legal experts would say that this is not necessary for the association to have legal capacity (i.e. be able to exercise rights and be subject to legal obligations (Gjems-Onstad, 1996)).

Foundations, on the other hand, are subject to statutory regulation, under the Law of Foundations and Certain Types of Associations. This law also applies to certain associations within the field of work, i.e. unions, employers' associations, and other associations that represent members' economic interests. A foundation (or 'stiftelse') must have a written statute with its name, common good purpose, founder, size, number of persons on the board, rules of accounting, and intended use of any surplus. Foundations are subject to the non-distribution constraint and must have yearly audit procedures. Foundations are subject to the authority of the Ministry of Justice. However, according to a new law from 2014, only foundations holding assets exceeding DKK 1 million are subject to the law. Smaller foundations are legally regarded as an association or a self-governing institution (described in the next paragraph).

Besides associations and foundations, Danish law also holds a category called self-governing institutions ('selvejende institution', literally 'self-owning institution'). Most of these are subject to the law of foundations. Others are regulated by a local agreement. The difference between the

foundation and the self-governing institution is that the latter typically is organizing or running a nonprofit activity or service, such as a school, kindergarten, sports facility, or homeless shelter. The self-governing institution is a legal and economic entity, self-owned, pursuing a specific purpose described in its written statutes, and subject to the non-distribution constraint. The self-governing institution is accountable only to itself—not its founder or a mother-association. Contrary to the association, the self-governing institution does not have members.

Question 2: To what extent are POs free to operate without excessive government interference?

Score: 5.0

POs in Denmark are free to choose their legal form according to what suits their purpose best. The association is by far the most dominant form and institutionally recognized as a legitimate way of pursuing a purpose or an activity for a membership that shares a common goal. The association can operate without governmental interference. An association is not required to be registered officially. However, if the association receives support from the government, registration is required in the so-called Central Corporate Register (CVR register) which registers name, address, bank account, digital mailbox, etc.

Associations operate on literally all fields in Danish society and their possibilities to receive public support vary according to the specific field.

Most associations that receive public support do so according to the law on general education (Folkeoplysningsloven) administered by the local government. This law is operative within the fields of sports, leisure, culture, arts, and education, which are the dominant voluntary fields in Denmark. This law requires associations to be democratically governed, i.e. they must have elected boards, yearly general assembly meetings, open membership, etc. However, there is not much governmental control with the actual operations of associations within these fields. The general rule is that associations are obliged to document that public funds have been used for the purpose for which they were granted, usually through yearly accounts. According to the law on social service (Serviceloven, article 18), Danish municipalities are obliged to financially support local associations and organizations within the health and social work fields. Amounts, however, are small and organizations must apply each year for specific activities or projects. Within this field, there is comparatively more government control, but there is considerable local variation.

Foundations are required to distribute money according to their purpose as described in their written statutes. Any person or association can establish a foundation. However, the founder or donor must hand over all decision-making authority to the foundation, i.e. the board. The Ministry of Justice can, according to the foundation law, require information about whether the operations of the foundation are in accordance with the statutes and the general law. Foundations holding a net capital above DKK 3 million must use an auditor authorized by the State.

Self-governing institutions usually operate an institution or a service on a contract or agreement with the local government. As such, they are subject to closer control and accountability, and they are usually subject to the same set of regulations, which are in effect for public bodies operating within

the same field. For instance, a self-governing free school is subject to the same law as public schools.

Besides these rules and regulations, POs are free to communicate and cooperate with whomever they want. Several umbrella organizations, such as The Danish Adult Education Association (Dansk Folkeoplysnings Samråd) or the National Center for Volunteer Work, publish handbooks for associations and website guides that are easily accessible for citizens and associations.

Question 3: To what extent is there government discretion in shutting down POs?

Score: 4.5

An association is free to dissolve itself without interference from the government. Usually the written statute specifies the rules of dissolution, e.g. that a majority should vote for this at two consecutive general assemblies, and the liquidation of its assets. The government can dissolve associations that use or encourage the use of violence by court order. This means that government cannot dissolve an association unless the case is tested in court.

Dissolution, changes in the statutes of a foundation, or merging of two foundations requires permission from the foundation authority ('fondsmyndighed'), i.e. the Ministry of Justice.

A self-governing institution operating under a contract with the government can terminate the contract according to the regulations set up in the agreement.

II. Domestic Tax and Fiscal Issues

The two questions in this section pertain to laws and regulations governing the fiscal constraints of giving and receiving donations domestically.

Question 4: To what extent is the tax system favorable to making charitable donations?

Score: 4.0

According to the tax law (Ligningsloven article 8A and 12) individual persons or corporations get a tax deduction for charitable donations of up to a maximum amount of DKK 15,200, as of 2016. It is also possible to donate larger amounts (maximum 15 percent of an individual's yearly income) to officially accepted charitable and religious organizations (see criteria in next paragraph) under the condition that the individual donates a yearly amount over a period of at least 10 years.

The Danish tax authorities publish a list of officially accepted charitable organizations on their website for which donors can deduct contributions. Organizations must meet the following criteria to be accepted for this list: the yearly revenue must exceed DKK 150,000; the association must have a democratically elected board; the organization must not be working against democracy or freedom of rights; must have a least 300 fee paying members; and it must receive more than 100 donations a year of a least DKK 200.

Recent technology makes it possible for donors to have donations paid via smart phones automatically registered as tax deductible by the tax authorities.

Question 5: To what extent is the tax system favorable to POs in receiving charitable donations?

Score: 4.0

Associations are exempt from tax if the association pursues charitable or common good (almennyttige) purposes as stated in a written statute. Any surplus must be used for the purpose of the association and profits must not be distributed. Any sale of goods or services must be in accordance with the purpose of the association. Upon request, associations must also be able to document that revenue is used for common good purposes.

Associations can also receive gifts or donations without paying tax. Recipient associations must inform the Danish tax authorities about donations. The activities of the receiving organization are not restricted to Denmark.

In general, associations are also exempt from value added tax (VAT). However, associations whose sale of goods or services exceeds DKK 50,000 can be required to pay VAT, if their activities are regarded as violating free market competition.

Working as a volunteer, for instance as a board member, for an association, an individual can receive a tax free compensation or reimbursement to be used for travels, telephone, or internet in the service of the association. Expenses should not be documented, but should be rendered probable upon request.

Foundations are tax-exempt for distributions and grants donated for charitable or common good purposes. Foundations get a deduction of 125 percent for donations to common good purposes (i.e. in effect a public subvention).

III. Cross-Border Philanthropic Flows

The two questions in this section concern laws and regulations governing the fiscal constraints of giving and receiving cross-border donations. The scoring for these questions pertains to the donor and receiving entities.

Question 6: To what extent is the legal regulatory environment favorable to sending cross-border donations?

Score: 4.0

Under the restriction that the foreign charitable organization receiving the donation is accepted as a charitable organization, and under the restriction that the organization informs the Danish tax authorities about the donation, it is possible to deduct donations to organizations working within the European Union (EU) or the European Economic Area (EEA).

Donations for organizations working outside the EU or EEA are not tax deductible. Such organizations must establish a legal entity in Denmark or the EU to be accepted.

In general, rules in this area are not easily understandable or accessible. Over the past years the EU has pursued stricter anti-terror and “whitewashing” measures which have made cross-border donations subject to more control. Research that documents whether this causes problems for POs is limited; most likely it does not because surveillance seems very specific.

Question 7: To what extent is the legal regulatory environment favorable to receiving cross-border donations?

Score: 4.0

Danish tax law does not seem to provide any explicit rules or regulations regarding receiving cross-border donation. In general, rules in this area are not easily understandable or accessible.

IV. Political and Governance Environment

The three indicator questions in the next two sections concern the political and governance context, socio-cultural characteristics, and economic conditions that influence the environment for philanthropy.

Question 8: To what extent is the political and governance environment favorable for philanthropy?

Score: 5.0

In general, there are not open conflicts between the government and the voluntary sector, and civil society organizations are recognized as important sources of pluralism, innovation, and public legitimacy. Because Denmark has a long history of free association and a strong tradition of negotiated democratic culture, there is real space and acceptance of a free public sphere where associations, interest groups, and concerned citizens can have a say in public decision-making and also raise their voice in public and advocate change.

Two concerns, however, are important. First, the refugee crisis in 2015-2016 brought many refugees to Denmark and this event has brought about a much more conflict-ridden and polarized public debate in relation to immigration and integration issues in particular. The current political climate is not to the benefit of a deliberative political culture. New social media is a channel for critical voices and mobilization, but also for populism.

Second, students of corporatism are raising concerns that central government is increasingly closing off interest organizations in hearing processes and speeding up the tempo in the law making processes to the detriment of the quality of laws (Christiansen et al., 2010).

Despite these caveats, the political climate is supportive of philanthropic organizations and volunteering. Recent government white papers have underlined the importance of civil society organizations and civic engagement. Much of this political interest is directed at organizations' and

volunteers' contributions to solving welfare challenges, such as growing elderly populations, integration of immigrants, and creating meaningful activities and job opportunities for marginalized groups in the labor market. The downside of this is a more instrumental understanding of the value of civic engagement. Moreover, the political discourse on partnerships and co-creation adds to this agenda, which, in the longer run, may compromise the autonomy and critical voice of voluntary organizations.

Denmark has a stable economic environment, which makes it possible for people to direct their time and energy to organizations in civil society. Between 35 and 40 percent of the population has volunteered within the last year and this level has been stable over the past 10 years. However, recent surveys suggest that citizens' time used for volunteering is decreasing. Some of this trend can be explained by a decrease in the share of voluntary work being done by members of voluntary organizations. Instead, citizens prefer not to be members of the organizations for which they volunteer, and this drives down loyalty, stability, and time investment among the volunteer population (Qvist, Henriksen, and Fridberg, 2017).

Donations remain at a high level, with approximately 70 per cent of the population donating money to POs within the last year. Additionally, the amount is going up, probably with increasing wealth and income, as well as improved and easy donation technology through smart phones and the like. On average, donors make a contribution of DKK 2,000 per year (Petrovski, 2017).

Question 9: To what extent are public policies and practices favorable for philanthropy?

Score: 4.5

In general, the government promotes and supports civic engagement. Most of the support structure and services for voluntary action is run by independent national voluntary organizations, which act as umbrella organizations for regional or local member organizations. Nordic civil societies have a legacy of vertical integration. This means that, for instance, local sport clubs have access to courses organized by the national sport federation or that local clubs can call upon national consultants to help with local problems. This structure is typical within most fields and underscores the autonomy of the voluntary sector.

Additionally, the central government has been building an infrastructure of support organizations, particularly within the welfare fields, to support volunteering and civic engagement. Thus, a national council of volunteering and a national center for voluntary social work has been in place since the beginning of the 1990s. Likewise, locally, local governments are supporting local volunteer centers and are also increasingly employing volunteer consultants to coordinate and cultivate civic action and cooperation between public and private actors. As of 2016, 80 out of 98 Danish municipalities have a politically approved local policy for the voluntary sector (frivillighedspolitik).

However, there is not a coordinated government policy toward the voluntary sector. Rather, policies are being formulated and pursued within separate policy domains.

In general, there is very little corruption in Denmark, in particular due to effective institutions.

V. Socio-Cultural Environment

Question 10: To what extent are socio-cultural values and practices favorable for philanthropy?

Score: 4.5

Denmark has a long tradition of philanthropy and volunteering, which the present society relies on. This tradition, though in the beginning connected to the Lutheran State Church, is today primarily of a secular kind. In effect, we find half of all voluntary organizations within the fields of sport, culture, and leisure. Trust in voluntary organizations is very high, and people find organizations important for the pursuit of interests, for organizing leisure and cultural activities, and as vehicles for social capital. There is more skepticism when it comes to voluntary organizations as providers of welfare services, because this is considered a public responsibility within the context of a universal welfare state (Frederiksen, 2015).

The relative egalitarian structure of the Danish society is supportive of increasing participation rates across status groups. Status selection mechanisms are softer compared to more hierarchical organized societies, and there is a comparatively high take up of low status groups into the voluntary sector. Among unemployed people, 28 percent volunteered, and among immigrants, 21 percent volunteered (Fridberg and Henriksen, 2014). Though still lacking significantly behind the better off, these are high rates in international comparisons.

Among the younger generations, the gender gap has disappeared. There are gender differences, however, related to which fields men and women are active in. In particular, men are more active in sports.

Concerning philanthropic giving, one cannot say that there is an equally strong culture. Within a welfare state that relies heavily on taxes, and where resources are subject to redistribution through a progressive tax system, many people feel that solidarity is better expressed by paying taxes. This does not mean that people don't give to philanthropic causes, but the amounts are smaller, and there is not a societal contract relying on private donations. However, private foundations are increasingly playing a strategic role within different policy areas, such as welfare, city planning, education, and research. There is a growing recognition of engaging in private giving, and through the internet and social media much more crowdfunding initiatives have popped up over the recent years.

VI. Future of Philanthropy

These questions are used to provide a general picture of the future of philanthropy in this country as well as recommendations to improve the philanthropic environment.

Current state of the philanthropic sector

The voluntary sector in Denmark is well-organized and strongly institutionalized.

Three major recent events affecting the philanthropic landscape between January 2014 and December 2016

- The refugee crisis in 2015-2016 brought many refugees to Denmark and this event has brought about a much more conflict-ridden and polarized public debate in relation to immigration and integration issues in particular. The current political climate is not to the benefit of a deliberative political culture. New social media is a channel for critical voices and mobilization, but also for populism;
- Students of corporatism are raising concerns that the central government increasingly is closing off interest organizations in hearing processes and speeding up the tempo in law making processes to the detriment of the quality of laws; and
- Local governments have started to recruit and organize the use of volunteers in public institutions. In this way, the public sector has started to compete with local associations for volunteers.

Future development trends in the philanthropic landscape

There is probably a change in the intensity and commitment of volunteers – away from the classic membership based forms of volunteering – and increasingly toward episodic and low intensive forms of volunteering. In parallel with this, we have witnessed an expansion of new organizational forms. Some of these are results of active and neo-liberal government policies that aim at activating the responsible citizen, others are results of creative citizens inventing new forms of civic engagement, and others, again, are results of efforts within the voluntary sector to re-invent organizational forms that can keep the organizations attractive to their membership base or broaden their recruitment base. Some of those could not have come about without the rapid invention and expansion of new technologies, notably the internet and related social media.

These new forms include: volunteer centers, volunteering at public institutions, such as elderly homes or hospitals; internet based helping platforms, such as ‘Homework online;’ internet based social activism, such as “Refugees Welcome;” micro-activism, such as citizens helping refugees to cross borders; privately organized collection of funds for particular individuals (crowdfunding philanthropy); social enterprises, etc. The implication of this development, both for the traditional organizations and for the voluntary sector as such, is, however, a complicated question.

Three key recommendations to improve the environment for philanthropy

- Tax laws are not always easily accessible and cross-border donations are especially complicated;
- Public support for associations is generous in many cases, but there is not equal treatment across fields. Sports associations are treated with less control than welfare associations in many cases; and
- Public sector interest in voluntary organizations and volunteers should not focus only on the strategic use of POs as a welfare resource.