

**LAW OF UKRAINE**

from July 5, 2012 of No. 5073-VI

**About charity and charitable organizations**

This Law determines general principles of charity in Ukraine, provides legal regulation of the relations in the society, directed on development of charity, approval of humanity and mercy, provides favorable conditions for education and activities of charitable organizations.

**Section I GENERAL PROVISIONS**

**Article 1. Determination of terms**

1. In this Law terms are used in such value:

1) the beneficiary - the acquirer of the charitable help (physical person, the non-profitable organization or territorial society) which receives the help from one or several philanthropists for the goal achievement, determined by this Law.

Any legal entities who receive the help for the goal achievement, determined by this Law can be beneficiaries of charitable organizations also;

2) charity - the voluntary personal and/or property help for achievement of the purposes determined by these Law which does not provide obtaining by the philanthropist of profit, and also payments of any compensation or compensation to the philanthropist from the name or on the instructions of the beneficiary;

3) charitable organization - the legal entity of the private law which constituent documents determine charity in one or several spheres determined by this Law, as the main objective of its activities;

4) the charitable program - the complex of charitable actions in the spheres determined by this Law;

5) the philanthropist - capable physical person or the legal entity of private law (including charitable organization) which voluntary performs one or several types of charity;

6) benefactor activities - charity in education, cultures and arts, protection of the cultural heritage, the science and scientific researches which is performed according to the procedure, determined by this Law and other laws of Ukraine.

2. Other terms in this Law are used in the values determined [by Civil](http://cis-legislation.com/document.fwx?rgn=8896) and [Tax by codes](http://cis-legislation.com/document.fwx?rgn=32564) of Ukraine and other laws of Ukraine.

**Article 2. Legislation on charity**

1. The legislation of Ukraine on charity and charitable organizations is based on [the Constitution](http://cis-legislation.com/document.fwx?rgn=8689) of Ukraine and consists of this Law, [the Civil code](http://cis-legislation.com/document.fwx?rgn=8896) of Ukraine, international treaties of Ukraine which consent to be bound is provided by the Verkhovna Rada of Ukraine, and other regulatory legal acts.

**Section II CHARITY**

**Article 3. Purposes and spheres of charity**

1. The purposes of charity is provision of the help for assistance to legitimate interests of beneficiaries in the spheres of charity determined by this Law, and also development and support of these spheres in public concerns.

2. Spheres of charity are:

1) education;

2) health care;

3) ecology, environmental protection and protection of animals;

4) prevention of natural and technogenic catastrophic crashes and liquidation of their consequences, the help injured with catastrophic crashes, armed conflicts and accidents, and also to refugees and persons who are in difficult vital circumstances;

5) guardianship and care, legal representation and legal assistance;

6) social protection, social security, social services and overcoming of poverty;

7) culture and art, protection of cultural heritage;

8) Science and scientific research;

9) sport and physical culture;

10) human and civil rights and fundamental freedoms;

11) the development of local communities;;

12) the development of international cooperation of Ukraine;;

13) stimulation of economic growth and economic development of Ukraine and its individual regions and competitiveness of Ukraine;

14) promotion of national, regional, local and international programs aimed at improving the socio-economic situation in Ukraine.

3. Charitable organizations are not allowed to provide charitable assistance to political parties or on behalf of political parties, as well as participate in the election campaign.

**Article 4. Subjects of charitable activities**

1. The subjects of charitable activities are a charitable organization formed by and act in accordance with this Law and other benefactors and beneficiaries.

2. Restrictions on political parties and candidates for elective positions at the state or other public service subjects of as a charity determined by the laws of Ukraine.

3. Entities of charitable activities entitled to exercise charitable programs, joint charity and other types of charitable activity with nonresidents according to the specifications established by the laws or international agreements of Ukraine.

**Article 5. Types of charitable activities**

1. Benefactors jointly or individually may perform charitable activities under the voluntary choice of one or more of the following types:

1) free transfer of ownership to beneficiaries money, other property, and free assignment to beneficiaries property rights;

2) free transfer of ownership to beneficiaries the right of use and other rights to the property and property rights;

3) free transfer of incomes from property and property rights to beneficiaries;

4) free provision of services and works for the benefit of beneficiaries;

5) charity joint activities or fulfillment of other contracts (agreements) on charitable activities;

6) public gathering of donations;

7) management of charitable endowments;;

8) the execution of wills, testamentary refusals and inheritance contracts for charitable activity;

9) conducting of charity auctions, non-monetary lotteries, contests and other charitable activities not prohibited by law.

2. Reimbursement of expense of other beneficiaries by charities associated with the transfer of property and property rights referred in the first paragraph of this Article shall be recognized as charity.

3. Receiving by beneficiaries charity from benefactors cannot be a ground for restricting or terminating any other allowances, benefits or privileges determined by the laws of Ukraine.

4. Laws of Ukraine may define additional types of charities and certain features of regulation of charities.

**Article 6. Donations. Charity grant**

1. Donations is recognized as free transfer of funds, other assets, property ownership by benefactor to beneficiaries to achieve certain, pre-specified goals of charitable activities under this Act. Agreement on charitable donations currency values is not a subject to mandatory notarization.

2. Targeted assistance in the form of currency values ​​that should be used by the beneficiary during the period specified by benefactor is recognized as charitable grants. The amounts of currency values ​​of charitable grant intended use of which are not held within the time specified of benefactor, have to be returned to a benefactor as a returnable financial assistance. Charitable grants are under the provisions of donations, unless otherwise provided by law.

3. Donations, the beneficiary of which is a charitable organization, or other legal entity may be provided with one or more precedents or cancel circumstances, which must not contradict the laws of Ukraine or infringe the rights of third parties.

4. Charitable donations may be given to beneficiaries eligible by certain competitive benefactor or his authorized representative. Terms of competition may be determined as actions that the beneficiary has to fulfill for the benefit of third parties, except those which related to the benefactor.

5. Change of purposes and procedure of using charitable donations is possible with the consent of the benefactor or his successors, as well as by a court or otherwise by law or legal transaction of benefactor.

6. Benefactor or his authorized representative has the right to exercise control over the proper use of charitable donations, including to third parties.

7. Benefactors or their legal successors have the right to the procedure established by this Law to change the beneficiaries of charitable donations in case of violation of purposes, terms and procedures for the use of such donations or its part.

**Article 7. Public fundraising**

1. Public fundraising is recognized as voluntary gathering of targeted assistance in the form of money or property among the indefinite number of persons, including the use of electronic communications or telecommunications to achieve the objectives set out in this Law.

2. Persons which carry out a public gathering of charitable donations on behalf of the charitable organization are operating under a notarized power of attorney of a head of the charity organization. The letter of attorney should determine in particular purpose, place and date of collection of money or other property, procedure for their use and procedure for public access to the financial statements of the charitable organization.

3. Persons which carry out a public gathering of charitable donations in favor of charitable organizations on their own behalf are operating under contract (agreement) on Charity activities with such charitable organization. Contract (Agreement) shall specify, in particular, the objectives, the place and date of collection of money or other property, the order of their use, order of public access to the financial statements of the charitable organization and responsibilities of the parties in case of breach of contract (agreement) or order of use donations.

4. Persons which carry out a public gathering of charitable donations on behalf of or in favor other beneficiaries (other than charitable organizations) are operating under contract (agreement) on Charity activities with the beneficiary or one of its legal representatives. Contract (Agreement) shall specify, in particular, the objectives, the place and date of collection of money or other property, the order of their intended use, accounting and reporting, as well as the responsibility of the person who performs a public gathering of charitable donations, and benefactors to the beneficiary in case of breach of contract (agreement) or order of the use of such donations.

5. Persons who are in the state or other public service and persons acting on behalf of persons who are in government or other public service, are not entitled to make a public gathering of charitable donations.

6. It is forbidden to do public gathering of charitable donations for purposes that are contrary to the laws of Ukraine or violate the rights of third parties. It is forbidden to do public gathering of charitable donations in the form of excise goods.

7. Regulations on public gathering of charitable donations are used for public sale of the property on behalf of or for the benefit of charitable organizations (public auctions, contests, auctions, etc.).

**Article 8. Charitable easements**

1. Benefactors have the right to make easements of land plots or other property in favor of charitable organizations and other beneficiaries if they use it for philanthropic activity.

2. Private charitable easements are terminated on the grounds specified in the Civil Code of Ukraine, and if it impossible to use items of personal charitable easements for the purposes of charitable activities.

**Article 9. Management of charitable endowments**

1. Interests and dividends from the management of charitable endowments intended for:

1) providing of charitable assistance to beneficiaries designated by benefactors or their authorized persons;

2) implementation of charitable programs;

3) joint charitable activity.

2. The changes of objectives, procedure and terms of use of charitable endowment is possible only on the basis of consent of benefactor or his successors, as well as by the court if the charitable endowment was established under the covenant.

**Article 10. Philanthropic activity**

1. Philanthropic activity is recognized as a preparation or support of charitable activities related to the creation, reproduction or use in accordance with law works and other intellectual property rights, including touring charity events, provided free access to such events.

2. The provision of the first part of this Article shall not apply to activities related to advertising (except for social advertising), electoral campaigning, and with the reproduction or commercial use (trade) names, trademarks (and service), and industrial designs protected in accordance with the law.

**Section III**

**CHARITABLE ORGANISATIONS**

**Article 11. Principles of charitable organizations**

1. The purpose of charitable organizations may be receiving and distribution of profits among the founders, members of government and other related entities, and also among the employees of such organizations.

2. The labor legislation, compulsory social insurance and social security apply for workers of charitable organizations.

3. Charitable organizations unassisted determine their areas, types, location (territory), dates and beneficiaries of charitable activities in the founding documents of charitable programs or other decisions of government.

 4. Charitable organizations are entitled to create separate divisions to be the founder and member of other charitable organizations and unions, associations and other voluntary associations, carry out joint charitable activities, as well as have other rights under the law.

**Article 12. Founders and members of charitable organizations**

1. Founders of charitable organizations may be legally capable individuals and entities except public authorities, local governments, and other entities of public law.

2. Founders of charitable organizations or persons authorized by them make decisions about the formation of charities, adopt their founding documents and governing bodies and make other decisions related to the formation and registration of charitable organizations.

3. Charitable partnerships and charitable foundations can have except the founders, other members who have entered into their composition in the manner prescribed by the statutes of charitable partnerships or charity foundations.

**Article 13. Types of charitable organizations**

1. Charitable organization may be established as a charitable partnership , charitable institution or charitable foundation with the specifications defined by this Law and other laws of Ukraine.

2. Charitable partnership is a charitable organization which was created at least by two or more founders and acting under the statute

3. Charitable Institution is recognized as charitable organization, the founding act of which defines the assets that one or more founders pass on to achieve the objectives of charitable activities by such assets and / or income from those assets. Constitutive Act of the charitable institution may be contained in the will. The founder or founders of charitable institution do not participate in the management of charitable institution. Charitable Institution operates under the Statutory Act.

4. Charitable Foundation is recognized as charitable organization which operates under Statute , has members and is operated by participants who are not required to pass this organization any assets to achieve the objectives of charities. Foundation may be established by one or more founders. Assets of Charitable Foundation can be formed by parties and / or other benefactors.

**Article 14. Institutional documents of charitable organizations**

1. Institutional document of the charitable partnership and charitable foundation is a Statute. Institutional document of charitable institution is the founding act. Institutional documents of charitable organizations are approved by the founder (founders) of charitable organization or their authorized persons.

2. Institutional documents of the charitable organization must include:

1) name of charitable organization;

2) purposes and areas of charitable activities;

3) governing bodies of charitable organization, their composition, competence and procedures of decision-making;

4) order of appointment, election or approval of the members of governing bodies of charitable organization except the higher body of the charitable partnership and the charitable fund their replacement, termination of their powers, the termination of their powers (recall);

5) procedure for amending the founding documents of charitable organization;

6) sources of assets (income), order of control and reporting of charitable organization;

7) reasons and procedure for termination of charitable organizations, including the allocation of assets.

3. Institutional documents of charitable organization may determine the characteristics of activity and termination of such organization and must not conflict with the laws of Ukraine.

Statute of charitable partnership and charitable foundation must contain the conditions and procedures for admission of members of charitable societies or charitable foundation, the rights and obligations of participants and the conditions and procedure for their removal from the membership of the charitable society or charitable foundation.

**Article 15. State registration of charitable organizations**

1. Charitable organizations acquire rights and obligations of a legal entity from the moment of their state registration.

2. State registration of charitable organizations is conducted by state registers according to the location of charitable organizations under the Law of Ukraine "On state registration of legal entities and individuals - entrepreneurs."

**Article 16. Assets (income) of charitable organizations**

1. Charitable organizations have the right of ownership and other property rights to money, securities, land, other immovable and personal property, and intangible assets, except as otherwise provided by law or the constituent documents.

2. Use of assets (income) and transactions of charitable organizations should not contradict with legislative acts and purposes of charitable activities.

3. Size of administrative expenses of the charitable organization may not exceed 20 percent of the income of the current year.

Expenses related with the management of charitable endowments are included to the administrative expenses of the charitable organization, unless otherwise provided by law or legal transaction between the charitable organization and benefactor.

4. Charitable organizations have the right to engage in economic activity without a purpose of making profit, which contributes to the achievement of statutory goals.

**Article 17. Reporting of charitable organizations**

1. Charitable organizations draw up and submit financial, statistical and other mandatory reporting in the manner prescribed by law.

2. Constituent documents of charitable organizations or transactions between charitable organizations and benefactors can determine the order of compilation and provision of special reports for individual benefactors or their successors granted them the use of assets.

3. Information about the structure and size of the income and expenditure of charitable organizations and the terms of their assets to charitable activities is not confidential information or trade secrets.

Reporting of charitable organizations may contain information about benefactors or beneficiaries with the consent of benefactors, beneficiaries or assigns or legal representatives, unless otherwise provided by law.

**Article 18. Termination of charitable organizations**

1. The state registration of the termination of of charitable organizations is conducted according to Law of Ukraine "On state registration of legal entities and individuals - entrepreneurs" with the specifications prescribed by this Law.

2. Legal successor of charitable organization if it’s reorganized must be one or more charitable organizations.

3. The decision on the elimination of charitable organization receives the governing body authorized by the constituent documents of charitable organizations.

4. Grounds for the court decision to liquidate the charitable organization are established by law.

5. Assets that remain during liquidation of charitable organizations after satisfaction of creditors should be transferred to one or more charitable organizations in the order established by the constituent documents or by court.

6. In cases determined by the laws of Ukraine, and in the absence of charitable organizations referred to in paragraph five of this article, the assets of charitable organizations that is liquidated are sent to the State Budget of Ukraine.

Section IV
MANAGEMENT OF CHARITABLE ORGANIZATIONS

**Article 19. Governing bodies of charitable organization**

1. The governing bodies of charitable associations and foundations are the general meeting of participants, the executive authority and the supervisory board.

The supreme governing body of the charitable associations and foundations is the general meeting of participants.

The governing bodies of charitable institutions are the executive body and the supervisory board.

The supreme governing body of the charitable institutions is the supervisory board.

2. In charitable partnerships and funds that have less than ten members, it is not necessary to create supervisory board. In the absence of the Supervisory Board powers are exercised by its general meeting of members.

3. Institutional documents of charitable organization may determine the procedure of the formation and activities of other of charitable organizations reporting to the governing body charitable organization referred to in the first paragraph of this article.

**Article 20. General Meeting of charitable associations and foundations members**

1. The supreme governing body of the charitable associations and foundations is the General Members' Meeting, which consists of charitable societies or charities members, or authorized representatives of such participants.

2. The General Members' Meeting may decide any question of charitable associations and foundations.

3. The order of decision-making by the General Members' Meeting, their calling and holding, as well as other questions regarding authority of the General Members' Meeting as the supreme governing body of charitable associations and foundations are defined by their statutes.

4. The exclusive competence of the General Members' Meeting of charitable associations and foundations includes:

1) amendments to the Constitution;

2) the appointment or election and termination of powers or termination (recall) of the members of the executive and the supervisory board;

3) the decision on reorganization or liquidation.

5. Statutes of charitable associations and foundations may classify other issues as the exclusive competence of the General Members' Meeting.

6. If a charity or charitable foundation has one member, a decision to be taken by the General Members' Meeting of the charitable society or foundation, is made this party alone in a writing solution form.

**Article 21. Executive authority of the charity**

1. The executive body of the charitable organization is a permanent body of the charitable organization.

Members of the executive board may be one or more individuals who have full capacity.

2. Executive authority is acting on behalf of a charitable organization in the manner and within the powers prescribed by law and the constituent documents of the charitable organization.

**Article 22. The Supervisory Board of charities**

1. The Supervisory Board is the governing body of charitable associations and foundations that within its competence as defined by their statutes, regulates and supervises the activities of the executive body and performs other functions provided by the statutes of charitable associations and foundations.

The Supervisory Board is the highest governing body of charitable institutions that can address any issues of charitable institutions under this Law.

2. The members of the supervisory board of a charitable organization may not be members of the executive body.

3. The Supervisory Board approves the charity activities and monitors compliance of a charitable organization assets with its constituent documents.

4. The Supervisory Board and a charitable society and a foundation has the right to suspend the powers of any member of the executive board until a decision of the supreme governing body is made, unless the statute provides otherwise.

5. The powers and procedures of the supervisory board of charitable associations and foundations are defined by their statutes.

**Article 23. Conflict of interests**

1. a member of the governing body of a charitable organization does not participate in decisions regarding:

1) contracts or other actions between the charity and this member of the authority or an associated person;

2) disputes between the charity and this member of the authority or an associated person;

3) release of a member of the governing body or an associated person of the property liability to the charity.

2. Members of the governing bodies of a charitable organization or associated persons are not eligible to receive loans or credits of such loans or loans (mortgage, surety, etc.) from the charity.

3. Constituent documents of charitable organizations may determine other grounds of conflict of interests and the procedure for its solution.

4. The beneficiaries of charitable programs may not be members (founders) and members of charities management.

**Article 24. Responsibility of government charities**

1. Members of the governing body of a charity are jointly and severally liable for the acts or dysfunction of the body which caused damages to a charity because of this law violation.

2. Members of the governing bodies of a charitable organization may enter into agreements regarding liability insurance for damages caused by their charity.

Section V

REPRESENTATIVE OFFICES

OF FOREIGN CHARITY ORGANIZATIONS

**Article 25. Accreditation of representatives, branches of foreign charities in Ukraine**

1. Accreditation of representative offices of foreign charitable organizations and termination of such accreditation in Ukraine is carried out according to the procedure of accreditation of separated subdivision of a foreign non-governmental organization defined by the *About Public Associations* Law of Ukraine.

Section VI

GOVERNMENT REGULATION OF CHARITIES

**Article 26. State control in the field of philanthropy**

1. State control in the field of philanthropy is provided by bodies of executive power and local self-government within their respective authorities.

**Article 27. Responsibility in philanthropy**

1. Subjects of philanthropy and officials of the executive authorities and local self-government are the subject for civil, administrative, disciplinary and criminal penalties for violations of the *About Charity and Charitable Organizations* law in the manner prescribed by law.

2. The court decision grounds for termination of a charitable organization according to the state registrar, the Designated Authority for State Registration, or other person concerned, in particular:

1) usage of the charitable organization assets (income) established in violation of this Law requirements for charitable activities, lasting for at least 12 months;

2) inability to self-reorganization or liquidation of the charitable organization as prescribed by law or by the constituent documents of the organization.

CHAPTER VII

MISCELLANEOUS

1. This Law enters into force on the day following the day of its publication.

2. Enactment of this Law does not require re-registration of charities that were registered prior to the effective date of this Law.

3. Declare void the Law of Ukraine – *About Charity and Charitable Organizations* (Bulletin of the Verkhovna Rada of Ukraine, 1997, N 46, art. 292, 2002, N 32, art. 220, 2010, N 29 , p. 392, 2011, N 42, art. 435).

4. Amend the following legislative acts of Ukraine:

1) Article 131 of the Commercial Code of Ukraine (Verkhovna Rada of Ukraine, 2003, NN 18 - 22, p. 144):

in the first paragraph, the words "member charities" have to be replaced by "charities";

the second part has to be deleted;

in part four words "statute (regulations) approved" have to be substituted by the words "constituent documents, approved";

in part five of the words "statutory objectives and targets" have to be substituted by the words "the goals set by the constituent documents";

in part six of the words "law of charity and charitable organization" have to be substituted by the words "the Law of Ukraine "On Charity and Charitable Organizations";

2) in subparagraph 197.1.15, paragraph 197.1 of Article 197 of the Tax Code of Ukraine (Verkhovna Rada of Ukraine, 2011, NN 13 - 17, p. 112):

in the first paragraph, the words "for charity" have to be substituted by the words "the charity";

in the third paragraph, the words "in key areas set out in Article 4 of the Law of Ukraine"On Charity and Charitable Organizations" have to be substituted by the words "for the purposes set out in Article 3 of the Law of Ukraine "On Charity and Charitable Organizations";

in the eighth paragraph, the words "in the areas provided for in Article 4 of the Law of Ukraine" On Charity and Charitable Organizations " have to be substituted by the words "for the purposes of Article 3 of the Law of Ukraine "On Charity and Charitable Organizations";

3) in the Law of Ukraine "On Humanitarian Aid" (*Vedomosti of Verhovna Rada*, 1999, N 51, p. 451, 2005, N 34, art. 442):

in Article 1:

in the third paragraph, the words "Article 4 of the Law of Ukraine" On Charity and Charitable Organizations " have to be substituted by the words "Article 3 of the Law of Ukraine "On Charity and Charitable Organizations";

in paragraph "b" of the fifth paragraph, the words "the Law of Ukraine" On Charity and Charitable Organizations " have to be substituted by the words "the Law of Ukraine "On Charity Actions and Charitable Organizations";

in Article 2 the words "the Law of Ukraine" On Charity and Charitable Organizations" have to be substituted by the words "the Law of Ukraine "On Charity Actions and Charitable Organizations";

4) in the Law of Ukraine "On state registration of legal entities and natural persons - entrepreneurs" (Bulletin of the Verkhovna Rada of Ukraine, 2003, N 31 - 32, p. 263 with subsequent amendments):

in Article 3:

in the second paragraph, the words "charitable organizations" have to be deleted;

in the third paragraph, the words "charitable organization" have to be deleted;

in part four the words "charitable organizations" have to be deleted;

in Article 10:

the first part of the fourth paragraph has to be added with the following content:

"Three income tax exemption – for the state registration of charity";

the second part has to be added with the second paragraph as follows:

"Registration fee for state registration of changes to the constituting documents of charities is not charged";

the sixth paragraph of Article 29 has to be added with the words "unless otherwise is provided by this Act."

5. Cabinet of Ministers of Ukraine, within three months from the date of enactment of this Act has to:

bring its regulations into conformity with this Act;

ensure within its powers Edition regulations under this Act.

6. Recommend to the National Bank of Ukraine within three months from the date of enactment of this Law:

bring its regulations on charitable activities into compliance with this law;

ensure, within its powers the edition of regulations concerning currency regulation facilitated donations of currency values to treat patients with severe illnesses.

**President of Ukraine** Viktor Yanukovych

**the city of Kyiv**

**July 5, 2012**

**N 5073-V**