

# UBO

Using this guide, you can find out exactly how to correctly register your UBO in the UBO register as an international church. International churches are sometimes registered with the Chamber of Commerce (KvK) as a foundation, sometimes as a church organization ('kerkgenootschap') and occasionally as association. For each of these three legal forms slightly different rules apply for registration in the UBO register. In this document we list them.

## What is UBO?

UBO stands for ultimate beneficial owner. This is the person who ultimately owns or controls a company, foundation, association, or church. The EU requires all companies, but also institutions including churches, to register in the UBO register who their UBOs are. This register is implemented in the Netherlands by the Chamber of Commerce. Churches that are registered as foundations have already received a letter about this from the Chamber of Commerce. All organizations are obliged to register their UBOs in this register by March 27<sup>th</sup> 2022.

- *If no UBO can be determined, the board members of the organization are registered. Not as an owner or party of interest, but in their role as responsible manager. Sometimes the expression 'pseudo-UBO' is used for this situation.*
- *Organizations with the legal form of a church organization ('kerkgenootschap') have not yet received a letter. Other legal forms, such as foundations and associations, have received a letter.*
- *The starting point is that an organization must determine for itself who the UBO or UBOs are, using the interest categories per legal form (see below).*

## Why is the UBO introduced?

The UBO register makes transparent who pulls the strings of legal entities (organizations) registered in the Netherlands. The purpose of the UBO register is to combat financial-economic crime. The register meets the requirements of the privacy law and the General Data Protection Regulation (AVG). Part of the data of the UBO register are publicly accessible.

## What does this mean for you as an international church?

The UBO applies to international churches that are registered with the Chamber of Commerce, i.e. as legal entities established in the Netherlands. Churches are usually registered as foundations or church organizations ('kerkgenootschap'), and very occasionally as associations.

The obligation to register a UBO is linked to the legal form. Foundations must register their UBO. Associations with full legal capacity and associations with limited legal capacity but with a company, must register as well. Church organisations ('kerkgenootschap') have to register their UBO too, unless they are registered in the KvK on a voluntary basis, or if there is a higher aggregation level in the Netherlands (see below for further explanation).

The website of the Chamber of Commerce contains more information on the UBO for [foundations](#) and for [associations](#). Please read it carefully first. The information is [available in English](#) too.

*Are you a church organization ('kerkgenootschap')?*

For church organizations ('kerkgenootschap'), slightly different rules apply. The first step is to check how your church is organized. What is the 'highest aggregation level' of your church? In other words, *does your church have a national headquarters or not?*

→ NO. Some church organizations ('kerkgenootschap') are not part of a national church organization in the Netherlands, and are registered as an independent organization in the Chamber of Commerce (sometimes they are part of a church abroad, but that is not relevant for UBO). These churches have to register their UBO as individual entities independently.

→ YES. There are also church organizations ('kerkgenootschap') with several local churches in the Netherlands. Often, the local churches are registered with the Chamber of Commerce, and so is the national church. An example is the PKN church. It is then necessary to check whether the relationship between the local church and the national church has been laid down in writing somewhere, for example in the statutes. Or whether the board of the national church is prepared to issue a written statement indicating which local churches fall under their jurisdiction. In that case, only the national church organization must register their UBO, and the local churches do not need to be registered in the UBO register.

Church organisation ('kerkgenootschap'):	Foundation:	Association:
Churches must register their UBO in case of: <ul style="list-style-type: none"> <li>• Compulsory registration of the church in Trade Register KvK</li> <li>• Absence of a higher level of aggregation in the Netherlands</li> </ul>	<ul style="list-style-type: none"> <li>• All foundations must register their UBO</li> </ul>	Obligated to register their UBO: <ul style="list-style-type: none"> <li>• Associations with full legal capacity</li> <li>• Associations with limited legal capacity and a company</li> </ul>
Applicable criteria to determine who is the UBO: <ol style="list-style-type: none"> <li>1. Legal successor in case of dissolution as stated in statute</li> <li>2. All board members according to the statute</li> <li>3. All board members according to another document of church organization</li> </ol>	Applicable criteria to determine who is the UBO: <ol style="list-style-type: none"> <li>1. Right to assets (&gt; 25%)</li> <li>2. Voting right in case of amendment to the articles of association (&gt; 25%)</li> <li>3. Control in another way, but not a board member</li> <li>4. All statutory board members</li> </ol>	Applicable criteria to determine who is the UBO: <ol style="list-style-type: none"> <li>1. Right to assets (&gt; 25%)</li> <li>2. Voting right in case of amendment to the articles of association (&gt; 25%)</li> <li>3. Control in another way, but not a board member</li> <li>4. All statutory board members</li> </ol>

Are the local churches not registered at the Chamber of Commerce, but the national church is? Some churches have a head office to which all local churches belong. But it can also happen that a church is located in Rotterdam, for example, and then slowly plants churches in other cities in the Netherlands. These other cities are not obliged to register with the Chamber of Commerce and therefore do not have to register their UBO. They simply fall under the CoC registration of the church in Rotterdam (including their complete administration). The church in Rotterdam then actually fulfils the role of the national church organization, and is thus UBO obliged.

## Steps to determine the UBO

### *To begin with*

UBO stands for ultimate beneficial owner. This is the person who ultimately benefits financially or pulls the strings of the organization. An UBO is someone who is associated with a Dutch organization. Do you not have a national umbrella church, but do you fall directly under the management of a church or pastor abroad? In that case, only the Dutch organization is subject to the UBO obligation, and you only need to register the UBO of that Dutch organization, not the information on the church or pastor abroad. Is your organization registered in the Dutch Chamber of Commerce, but does one of your board members live abroad? Then he/she is connected to a Dutch organization, and can therefore also be a UBO.

### *Preparation and reading*

On the Chamber of Commerce website, you can find the correct order of criteria for each organization. The information is available for [foundations](#) and [associations](#) and [available in English](#) too. Please examine this step by step to see what is applicable to your organization, and read the website carefully. For many organizations, this will already provide a lot of clarity. We will explain it further here.

It is up to churches themselves to decide who the UBO of their church is, i.e. how the criteria of the Chamber of Commerce are applicable to their own internal organization. To determine this, you need two documents: the statutes or church order, and the extract ('uittreksel') from your registration with the Chamber of Commerce. Other documents may also be needed. It is also good to look at how things work in practice. Who has the most influence over decisions? The UBO can be someone with a formal position within the organization (board members), but it can also be someone who has no formal position but who does influence the organization to a great extent. The board members are the persons who are registered with the Chamber of Commerce. Make sure this information is up to date. You can check this by ordering an extract from the Chamber of Commerce.

Don't you have a statute or church order? As a foundation or association, you must have had statutes at some point, because this document is required for registering with the Chamber of Commerce. Look carefully to see if you can find them, or perhaps you can remember which notary drew up the statutes, because notaries keep archives and can give you a copy of the document.

Church organizations ('kerkgenootschap') are obliged to have statutes or articles of association but they can make these themselves (no obligation to go to a notary). If you are a church organization ('kerkgenootschap') and you do not have a statute or a church order, you have to arrange this. If necessary, contact SKIN for more information. In order to register the UBO, documentation showing who is the representative of the organization is sufficient in such a case. This could be, for example, minutes of a board meeting, or a (rental) contract. In that case, it is up to the church to decide who you think is the UBO, and then you can consult with the Chamber of Commerce whether this is correct and how you can best prove it (with which documentation).

Foundations and associations must then find the following information, on the basis of these documents (statutes or church order, extract from the Chamber of Commerce, and any other documents within your organization): how many board members do you have? Are these board members authorized jointly ('gezamenlijk bevoegd'), is one of them authorized individually ('alleen bevoegd'), or does one board member have more voting rights than the other? This is relevant to answer the next question.

## *Who has 'interest' ('belang') in your organization?*

For each legal form, different categories of interest are applicable. These categories are in a specific order and must be filled in in that order. (In theory, you can fall into several categories, but with churches this will most likely not happen. If it does happen to your organization, please contact SKIN or the Chamber of Commerce for personal advice). We will here explain the categories applicable for foundations and associations.

### 1. People who are entitled to more than 25% of the assets

The UBO can be someone with financial interest: someone who receives money from the organization or gives money to the organization. For example, in the case of a organization that raises money for someone. Or, for example, if a sponsor, because of his/her financial gifts, actually has control over the organization.

Check your statutes: what do your statutes say about what should happen to the remaining money if you dissolve the organization? If a person is mentioned there, that person is the UBO.

This category will probably not be relevant for churches, unless your articles of association state that the purpose of the foundation is to financially support a particular person. In general, the assets of a church do not go to a person, but to the organization. If your organization has ANBI status, it must state here that any surplus after dissolution goes to an organization with a similar aim and ANBI status.

In churches, financial interest will usually not apply and this category is therefore not applicable.

### 2. People who have more than 25% voting rights in a decision to amend the articles of association

The articles of association define who is legally authorized to represent the organization. Someone is UBO if he/she has more than 25% influence on the organization, more than 25% rights to the assets or more than 25% voting rights in decision-making.

So, if you have three or less board members, these board members are in principle the UBO. If you have three or less board members, and the board members are jointly authorized, then they are all UBOs. Is one of them authorized alone or with another board member? Then only those one or two board members are the UBO.

If you have four or more board members, but one board member is authorized to represent the entire organization alone or with one or two other persons, then those board members are the UBO. If you have four or more board members and they are jointly authorized, there is no one with more than 25% influence in the organization, so this category does not apply.

### 3. People who have control in some other way, but who are not board members

This can be applicable, for example, for donors. Donors have no formal role, but as an external stakeholder they often have control and, on that basis, an interest in the foundation. If this is formally stated in the statutes, you can designate these persons as UBOs.

For foundations and associations, 'control in some other way' can be the case, for example, in the following example. Are the local churches registered at the Chamber of Commerce, but the national church is not? This is possible e.g. if there is a national pastoral team consisting of all pastors of the local churches. If this national team is the body that makes decisions about the local churches, then the national team is the UBO. If the national team has no authority to make decisions about local churches, but is only a place for consultation between the (otherwise autonomous) local

churches, then the local churches themselves have to register their UBOs and the fourth option is applicable.

#### 4. None of these interests apply?

*No UBO found?* It may happen that none of these three options apply, and no UBO is found. In that case, all board members are registered in the UBO register. They are called 'senior executives' and are registered in the UBO Register, not because they have a particular interest (as in the first three categories), but because they have the function of board member.

#### *Consultation with the Chamber of Commerce*

Do you have any questions? You can always contact the Chamber of Commerce yourself to discuss what is best for your organization. You can also do that through SKIN. The SKIN Helpdesk ([samany@skinkerken.nl](mailto:samany@skinkerken.nl)) has a contact person at the Chamber of Commerce who can help you find the best option for your organization. Of course, we will only consult them on request of and with consent of the church in question.

## Finally

Ultimately, the Chamber of Commerce cannot determine the correct or incorrect answer to the question of who is the UBO of your organization. What matters is that you record as honestly as possible, who has the most influence in your organization. Only a church itself knows what is applicable for its specific organization. It is therefore the responsibility of churches themselves to register the correct UBO. This information must also be kept up-to-date. Changed information from the trade register of the Chamber of Commerce (e.g., new board members) will be automatically taken over, but other changes (e.g., in the statutes) have to be implemented in the UBO register by the church itself.

It may happen that someone who is not registered as UBO but who does have an interest in your organization abuses his or her position of influence. As an organization, you will subsequently be liable for the fact that you have incorrectly reported this in the UBO register.

The registration in the UBO register must be done by 27 March 2022. What happens if you are not on time? In time, organizations that have not communicated their UBO will be transferred for gradual enforcement. Through conversation and warnings, organizations will be stimulated to take action. This process may eventually lead to the imposition of a penalty payment or fine.

Further information on the operation of UBO can be found on the website of the [Chamber of Commerce](#).

Do you have any questions? Please contact the SKIN Helpdesk at [samany@skinkerken.nl](mailto:samany@skinkerken.nl).