

Comparative Highlights of Foundation Laws

The Operating Environment
for Foundations in Europe





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The information used in this publication comes from the country profiles drafted by national experts within the legal mapping project by the Dafne-EFC Philanthropy Advocacy Initiative, which aims to provide an overview of the legal and fiscal operating environments for foundations in countries across Europe and beyond. Full versions of these country profiles are available on the Philanthropy Advocacy website (<https://www.philanthropyadvocacy.eu/legal-environment-for-philanthropy-in-europe/>). The experts bear full responsibility for the correctness and accuracy of the information in the final country profiles upon which this publication is based.

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Foreword

Foundations – How to regulate these unique actors in society?

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If one considers the great diversity of the legal, regulatory and fiscal treatment of foundations across European jurisdictions, one is reminded of the all too familiar ambiguous public image of foundations: They are seen as exotic institutions by some, and as bulwarks of conservatism by others; as playgrounds for the rich, and selfless expressions for humanitarian concerns; as agents of positive social change and innovations, and as institutions with undue political influence. This picture is by no means unique to Europe: The eminent foundation expert Waldemar Nielsen¹ writes about the United States that “foundations, like giraffes, could not possibly exist, but they do.” He describes how, as quasi-aristocratic institutions, they flourish on the privileges of a formally egalitarian yet socially as well as economically highly unequal society; they represent the fruits of private economic activity; and they are organised for the pursuit of public objectives, which is seemingly contrary to the notion of economic self-interest.

Beholden to neither the ballot box nor the market, foundations are among the freest institutions of modern society.

And in these seeming and actual contradictions lie the challenges to policymakers and legal experts: What is the best regulatory framework for such an institution? Should foundations be regulated just as any other non-profit organisation is, or, given their independence, be regulated more closely, and held to higher accountability standards? In the United States, reporting and accountability requirements for foundations have increased over time, whereas in Europe, the picture is mixed; they are, for example, lower in Germany today than they were in the 1990s, and in Hungary, they are increasing and more restrictive. Yet overall, we observe a great diversity of foundation forms as well as legal and regulatory treatment in Europe – which this comparative study of the legal and fiscal landscape in Europe makes abundantly clear.

Yet there is another reason the legal treatment of foundations varies so much across Europe. At its core are different state-civil society relations as well as different policy approaches towards private action for the public good, and hence legal traditions when it comes to philanthropy. Together with other types of non-profit organisations, foundations form the infrastructure of civil society, a highly diverse ensemble of many different organisations that range from small local associations to large international NGOs, and from social service providers and relief agencies to philanthropic foundations commanding billions of euros. It is an arena of self-organisation of citizens and established interests seeking voice and influence. Located between government or the state and the market, it is according to Ernest Gellner that set of non-governmental institutions which prevent the state from dominating and atomising the rest of society.² For John Keane, foundations and civil society institutions are expressions of particular quasi-private, quasi-public interests that are permanently in tension with each other and with the state which frames, constricts and enables their activities.³

From these perspectives, foundations express the capacity of society for self-organisation and the potential for peaceful, though often contested, settlement of diverse private and public interests. It is, as Gellner remarks, a complex and complicated balancing act in constant need of calibration. It requires an environment that enables and encourages as well as limits – a task that becomes all the more challenging in the European context. More and more foundations work across national borders, and in particular their potential in the many hundreds of EU cross-border regions seems immense. In this context, there is an urgent need for a common European framework, especially in terms of cross-border tax treatment and programme activities.

For this purpose, the comparative overview presented here provides a valuable basis for reflection by and discussion among stakeholders on how foundations are regulated, and what a future framework could or should look like.

Representing the combined efforts of many different individuals and organisations, this publication is itself a true product of collaboration. I would like to thank all the foundations, associations, researchers, and legal service professionals who contributed their time and expertise to this endeavour. A special thanks goes to the Stiftung Mercator with whose generous support this publication is issued.



1. The Big Foundations. New York: Columbia University Press, Nielsen, W. 1972.
2. Conditions of liberty: Civil society and its rivals. London: Hamish Hamilton, Gellner, E. 1994. p. 5.
3. Civil society: Old images, new visions. Stanford University Press, Keane, J. 1998. p. 6.

Identifying trends, providing benchmarks



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Since the first edition of “Comparative Highlights of Foundation Laws” in 2007, we’ve seen the European philanthropy sector grow and evolve, becoming more outward-looking and international. The legal and regulatory environments in which philanthropy operates have changed as well, with an increase in the influence of European and international law on philanthropy law.

We’ve seen the incremental development of European Court of Justice jurisprudence on free movement of philanthropic capital as well as the establishment of the principle of non-discrimination on the grounds of nationality, among many other developments. On an international level, the example of the Financial Action Task Force stands out, with its money laundering and terrorism financing prevention rules impacting philanthropic organisations.

In this time period, there have been several efforts to develop pan-European vehicles to facilitate cross-border philanthropy with proposals for a European Association, European Mutual Society and most recently, a European Foundation Statute. Additionally, supranational legal forms and other policy options to overcome barriers to cross-border philanthropy are being discussed once again by EU policymakers. But we have also seen foreign funding restrictions being introduced for the first time in Europe, as well as sometimes overly rigid security agendas. These developments have brought with them important lessons on how EU law can be used to defend civil society space.¹

National lawmakers have also responded to developments in philanthropy such as crowdfunding and the use of new digital platforms for giving; new forms of operating such as impact investing and mission-related

investing; and changes in funder needs such as the need for more flexibility and new ways of working.

A changing sector in a changing landscape calls for continuous monitoring and study. This 2021 edition of “Comparative Highlights of Foundation Laws” - which follows the 2007, 2011, and 2015 editions - offers both broad analysis and detailed information on the legal and fiscal environments for philanthropy across 40 countries in wider Europe. The publication serves as a key reference point for philanthropic organisations, academics and law- and policymakers who are interested in or impacted by the legal and fiscal landscape for philanthropy in Europe.

About this mapping project

Since 2002 the EFC has mapped the legal and fiscal operating environments for philanthropy across Europe. These mappings are updated regularly and consist of in-depth country profiles, drafted by national-level legal experts, detailing the legal and fiscal environments for philanthropy in some 40 countries across wider Europe. In 2020 the 5th edition of the country profiles was published under the joint Dafne-EFC Philanthropy Advocacy initiative. The profiles are publicly available online,² and we encourage you to refer to them for more detailed country information.

Each edition of “Comparative Highlights” draws on these country-level profiles and analyses the various aspects of the legal and fiscal frameworks across the countries in an effort to provide the reader with a broad, comparative overview of the diverse legal and fiscal environments of foundations in the wider Europe, and to highlight key trends and developments. This 4th

1. Fannucci, F. and Surmatz, H. How to Use EU Law to Protect Civic Space. Handbook. The European Center for Not-for-Profit Law Stichting (ECNL), the European Foundation Centre (EFC) and the Donors and Foundations Network in Europe (Dafne), 2020. <https://efc.issuelab.org/resources/36701/36701.pdf>

2. Available for download at: <https://www.philanthropyadvocacy.eu/legal-environment-for-philanthropy-in-europe/>

edition analyses in a user-friendly format the different components of the various regulatory frameworks, such as the purposes that foundations are allowed to pursue; the requirements for their establishment and governance; as well as transparency and accountability requirements. National tax treatment of foundations; tax incentives for individual and corporate donors; and cross-border treatment are also discussed.

“Comparative Highlights” also serves as a benchmark for highlighting patterns and identifying rules that fall outside common denominators, in both positive and negative ways, and as such can help measure the status and health of our laws around philanthropy. These insights enable us to compare what is happening elsewhere with our own domestic situations, and can help national efforts to advocate for a more favourable operating environment. In the Finnish and Swedish foundation sectors, for example, these comparisons helped advocates to argue that tax incentives for giving are the norm in other European countries and therefore should be introduced in these countries as well. Bulgarian foundations also used this mapping to help preserve tax incentives for philanthropic giving in their country.

The entire mapping project – from country profiles to “Comparative Highlights” – has been guided by an Advisory Committee composed of well-known philanthropy/foundation and NPO researchers who lent their expertise to this endeavour. This group co-developed the methodology and have acted as a sounding board throughout the project. Please see the full list of Advisory Committee members at the beginning of this publication.

What you will find in these pages

This publication offers:

- **A comparative summary** giving conceptual and historical contexts for philanthropy; highlighting key observations from the mapping; and discussing the evolving nature of legal environments for philanthropy.
- **Perspectives** from experts in the field on various aspects of the legal and fiscal frameworks for philanthropy in Europe.
- **A point-by-point analysis** providing summary analyses of 33 aspects of the legal and fiscal environments for foundations that are detailed in the 40 in-depth country profiles.
- Each numbered summary in the point-by-point analysis corresponds to a chart in the **comparative charts section** of this publication. Each chart lists the situation in

each country for a particular aspect of the legal and fiscal framework for philanthropy, allowing for country-by-country comparisons on these aspects across all 40 countries included in the mapping.

Reaching milestones, together

We welcome the recent increase in research on the sector by both academics and the sector itself. Comparative data are important building blocks in our knowledge base and are essential to efforts by philanthropy infrastructure organisations to promote an enabling environment for philanthropy. These kinds of data also help us to highlight good regulatory practice and spot signs of trouble on the horizon. They inform and enable reports such as “Enlarging the Space for European Philanthropy (2018)”³ to be carried out, which in turn provides a solid footing upon which to base the sector’s recommendations for policy action in campaigns such as the European Philanthropy Manifesto.⁴ We hope “Comparative Highlights” will contribute to the debate and create appetite for more research in the field.

With this edition, the experts and organisations involved in this research together have reached a milestone of 20 years of mapping, sharing technical knowledge, and answering the difficult questions on the openness (or not) of European countries to philanthropic endeavours.

It gives us great pleasure to thank the philanthropic organisations, associations, legal practitioners and researchers who gave their expertise, time and passion to this mapping project. We would like to especially recognise the efforts of the members of the Advisory Committee, the national-level experts who drafted the country profiles, and the Philanthropy Advocacy staff, as well as Stiftung Mercator for supporting this publication. Please see the full list of contributors at the beginning of this publication.

We very much hope that you will find this work useful and inspiring. Do not hesitate to reach out to the Philanthropy Advocacy team with your comments, questions and ideas.

Finally, as the Chairs of Dafne and the EFC, we would like to celebrate the achievement of this joint Dafne-EFC effort. This edition of “Comparative Highlights” is a compelling demonstration of the power of collaboration, and we look forward to the work ahead.



3. <https://efc.issuelab.org/resource/enlarging-the-space-for-european-philanthropy.html>

4. <https://www.philanthropyadvocacy.eu/manifesto/european-philanthropy-manifesto-in-your-language>

Analysis



The legal and fiscal environments for foundations in Europe – A comparative summary

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Setting the context

Carrying out a comparative analysis of the legal and fiscal environments of foundations and philanthropic organisations across Europe is a challenging exercise. No common European legal definitions of these terms exist, and legal traditions vary, as do the historical and cultural contexts, across all the countries included in this study.

For this mapping, we established a basic, common understanding of key concepts and how the various law traditions should be taken into account. The historical and cultural contexts from which philanthropy in Europe emerges informed this mapping as well.

A functional concept of foundations and philanthropic organisations

Despite the lack of common legal definitions for a “foundation” or “philanthropic organisation” across wider Europe, there is a generally understood and accepted functional concept of public-benefit foundations/philanthropic organisations:

“Public-benefit foundations are independent, separately constituted non-profit bodies with their own established and reliable source of income, usually but not exclusively from an endowment, and their own governing board. They distribute their financial resources for public-benefit purposes, either by supporting associations, charities, and educational programmes or by operating their own programmes.”¹

This concept, along with a number of other definitions, was included in a glossary, which is available online,² developed for this project and used by all country experts as they drafted the in-depth country profiles upon which this comparative analysis is based.

Common law, civil law or a mix of both – The varied legal traditions across Europe

Most of the countries surveyed that have civil law systems recognise the foundation as a legal form, and several of these countries also recognise different types of foundations,

1. Feasibility Study of a European Foundation Statute, Reimer and Hopt et al 2009, p. 13. <https://www.issuelab.org/resource/feasibility-study-on-a-european-foundation-statute-final-report.html>
2. <https://www.philanthropyadvocacy.eu/legal-environment-for-philanthropy-in-europe/>

some of which have been introduced more recently to accommodate new demands for more flexible concepts. Examples include the endowment fund category in France, structures to pursue private interests, and foundation types that mix private- and public-benefit interests. In these last two cases, it is then the tax law (or other) that distinguishes public-benefit foundations from private-benefit foundations. Here historical context plays a role (see below).

Often there are additional legal forms in these countries which may also be included in the functional perspective of this research. Examples include associations and public-benefit limited liability companies, among others. In countries with a mostly common law tradition, such as the UK (focus on England and Wales), Ireland and Cyprus, the emphasis is on the public-benefit/charitable character and the activities of the foundation/philanthropic organisation, which can take different legal forms such as incorporated or unincorporated associations, trusts, or companies limited by guarantee, among others.

Considering this context, we decided to take a functional approach with regard to foundations/philanthropic organisations, while focusing on the laws governing the legal form of a foundation, where such a legal form exists.

The roots of foundation law in Europe – Historical and cultural contexts ³

The laws and regulations of foundations differ as a result of varying historical, cultural, social and political circumstances. Traditions around philanthropy and foundations as separate property structures go back more than 2000 years – some researchers argue that it goes back even further. To set the historical context for this analysis, and to whet the appetite for further reading, a snapshot is provided here highlighting some of the key historical developments in philanthropy across Europe.

In the **late Roman** tradition, the “foundation” was considered not only as a “pool of property” but often also as a tool for pursuing certain goals by a community of people. During the Middle Ages, the foundation/organised philanthropy concept in Europe was closely connected with the church and *piae causae* (good causes) and regulated in **canton law**. The spreading of Christian charitable ideas also spread the concept of giving away property (beyond the family/tribe) to good causes, as far as Scandinavia. The age of reformation and enlightenment shifted the **foundation sector into the secular sphere** with the pursuit of public-benefit purposes and the placement of foundations under the supervision of state authorities. Entering the **modern age**, common law countries focused on the charity concept, and in continental Europe, different routes between considering foundation law as a matter of private law or public law – or a mixture of both – developed.

3. Please see comparative analysis by Ronovská, K.: *Nové české nadační právo v evropském srovnání*. Praha. Wolters Kluwer, 2012, with short summary in English on p. 282; and for a more detailed historical account, see Schulze, R. *Die Gegenwart des Vergangenen - Zu Stand und Aufgaben der Stiftungsrechtsgeschichte*. In Hopt, J.K., Reuter, D. *Stiftungsrecht in Europa*, Köln, Carl Heymans Verlag KG, 2001, p. 68. See also Alli Turrillas, J. C., *La fundación, ¿una casa sin dueño? (gobierno, responsabilidad y control público de fundaciones en Inglaterra, USA, Alemania y Francia)*, Iustel, 2012.

In the **French civil code environment**, foundations were considered – within the spirit of the ideals of the French revolution – as remnants of feudalism, with the dead hand of the founder creeping out of the grave to wield influence beyond their lifetime. Hence, in this context, there was strong state supervision and regulation in public law as well as a limitation to the pursuance of public-benefit purposes. The *Code Civil de Français (Code Napoléon, 1807)*, did not even regulate foundations, and this Code also influenced other parts of Europe at the time.

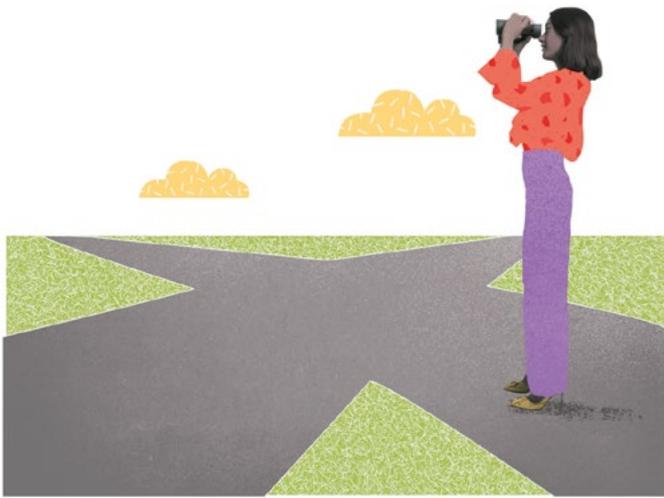
In the **Netherlands** however, the lack of regulation of foundations in the French civil code left room for founders’ private initiatives to evolve. Founders could, with notary support, establish foundations with their property, which was often used to support family members. Foundation law in the **Austro-Hungarian Empire** was regulated by public law for a long time. *The General Civil Code of 1811* mentioned foundations only in a single provision (§ 646 ABGB), limiting foundations to serving public-benefit purposes only. However, a royal decree in 1841 set out that to create a foundation state approval was needed in addition to the manifested founder’s will to donate property for a permanent purpose (whether private or public interest).

In those countries where the influence of **German law traditions** prevailed, the foundation was acknowledged as a type of legal person based on private law property pursuing private and public-benefit interests as set out by the will of the founder(s). State approval was, however, required for its creation. The *German Civil Code (BGB)* and the *Swiss Civil Code (ZGB)* included basic elements of foundation law, leaving it for the Länder (state) level to set out the details.

The first half of the 20th century saw a significant drop in the number of foundations in Europe as well as the reduction of their assets with two world wars, the economic crisis, and waves of inflation. After the Second World War some European countries perceived private initiatives of foundations as an important factor in the reconstruction of economies and support for public-benefit action, while other countries from the former “Eastern bloc” with a socialist or communist state vision, as well as Austria and some Scandinavian countries with a strong social state vision, considered them less relevant and even undesired. The promotion of public good was in those cases often considered the primary role of the state.

After the fall of the “Iron Curtain” in 1989 many countries of Central and Eastern Europe rediscovered foundations and public-benefit organisations. In many countries, new foundation laws focused on entities that pursue public-benefit purposes only. In some sense, that approach is similar to the “charity” concept of the Anglo-American common law tradition. At about the same time, law revisions kicked off in several western European countries (Austria, Germany, Switzerland and Scandinavia) often establishing

the legal form of a foundation to pursue private as well as public-benefit purposes. Foundations clearly also became instruments for private purposes (e.g. as structures to keep family-owned businesses together and to avoid property being divided via inheritance, among others) and for mixed purposes in parts of Europe. In the last decades of the 20th century, new laws contributed to the sector's growth and social acceptance, renewing the non-profit fabric in various fields such as culture, heritage conservation, health, education and environmental protection. The new laws also led to more policy and advocacy engagement.



Foundation law – Key observations and quo vadis?

This comparative study sheds new light on the philanthropic sector in Europe, allowing us to better understand the landscape of foundation law in Europe, and to spot trends and developments. Below are some key points and trends emerging from the study.

Public-benefit actors using business approaches

Most foundations are actors for public benefit, but some countries also provide for a mix of private- and public- interest actors. Of the 40 legal frameworks in European countries that were compared in this study, 25 permit private purposes and 15 allow only foundations for public benefit.

More recently, however, in Europe there has been a **trend towards using foundations as a legal form also for private purposes**. This has been seen in law revisions in Belgium, Czech Republic, Hungary, Italy, Romania, Russia and Ukraine, just to name a few countries that now also include the concept of private-purpose foundations, though tax incentives in these countries are only given to public-benefit organisations and their donors. While exact data on the ratio of public-benefit interest foundations to private-interest foundations is lacking, we do know that the vast majority of foundations in Europe are public-benefit foundations, often with a tax-exempt/public-benefit status. This research therefore **focuses on public-benefit foundations/philanthropic organisations** as the concept known in all European traditions and as the most common use of the foundation.

We also see, however, that the clear-cut division of public-benefit/private purposes, as well as between **non-profit and for-profit behaviour, has increasingly become mixed**, with new forms on the horizon, including mixed purpose and mixed activity forms. Founders of today often want to use foundations as tools to do public good but also as instruments to design property structures – hence there sometimes is a desire to pursue public benefit as well as private-interest purposes, though not all European countries allow such mixed structures. Business-oriented founders (and other founders) also want to use business concepts for actions and approaches in the public-benefit foundations they create. Public-benefit foundations that engage in economic activities, do impact investing and support social economy actors/start-ups are becoming a reality in parts of Europe, even though not all laws allow for such behaviour. While profit-driven asset administration as an approach to generate return/profit for the pursuance of the public-benefit purpose is a widely accepted concept, the laws are more restrictive when it comes to business approaches on the programme side. What this trend of increasing entrepreneurial approaches in the public-benefit foundation sphere implies cannot be assessed here, but there is room for further research and analysis to explore where foundation law is moving – clearly the legal toolbox for foundations is constantly evolving.

New approaches to foundations' capital

The role and use of a foundation's capital seems to be changing. Overall, minimum starting capital rules seem to play a less important role today compared to 15 years ago. New forms of foundations and new forms of generating income have been introduced. It seems more important that the foundation has a reliable source of income to pursue a specific public-benefit purpose than to have a fixed amount of starting capital. While foundations have traditionally been thought of and still are generally regarded as property/asset-based organisations, **more modern approaches suggest**

more flexibility around the capital requirement and use of the capital with a shift in focus towards the public-benefit purpose and activities. Some legal frameworks allow only secure asset allocation of the endowment, such as bonds or investments with a guaranteed return, but some governments want to enable foundations to better link asset management/ allocation of the endowment to the foundation's public-benefit mission.

In some countries, there are also more regulations for collaborating and co-funding with other actors, such as specific rules for collaborations with public authorities (via public-private partnerships) or businesses. More regulation on new operational tools such as crowdfunding platforms is in the pipeline at national and EU levels, which is also impacting foundations' operations.

Internal versus external governance and supervision

Discussion of the operating environment of foundations also circulates around the issue of **governance (internal and external)** of foundations. Do corporate governance principles apply to public-benefit foundations, and if so, how? Most laws put foundations under state supervision, but discussions are ongoing in some countries as to whether tools such as self-regulation, codes of conduct or labels could to some extent replace or loosen external state supervision. These tools are becoming more prominent – what are the implications for foundation law in the future?

In this context, we see as evidenced by this mapping exercise that **more reporting requirements and stronger due diligence policies for foundations** have been introduced over the past 20 years. Foundations are also subject to new policies developed to fight money laundering and terrorism financing, as well as tax evasion. In a few cases we have seen overregulation happening in the name of the security agenda, unintended for the most part, but, in a few cases, intended.⁴ Foreign funding restrictions introduced in Hungary were declared in conflict with EU law, but other countries as well are discussing tighter controls on cross-border funding.

Cross-border philanthropy

International policies and EU law are increasingly impacting the operating environment for philanthropy/ public-benefit foundations. We have seen the international standards of the Financial Action Task Force; the 4th and 5th EU Money Laundering Directive; and the new 2021 EU AML package all playing a huge role in this regard. EU law is however also becoming a tool to safeguard certain standards,

rights and values such as the free flow of capital and freedom of association.⁵

In the context of operating internationally, the laws are **still not yet up to speed when it comes to cross-border philanthropy and public-benefit foundations**. This is the case despite the fact that the work of public-benefit foundations and philanthropy has become more international, reflecting the reality that issues do not stop at national borders, and that citizens and businesses have become more international in their outlook and activity. Within the Single Market, **companies may move a seat across borders or engage in cross-border mergers, but foundations and philanthropic organisations still may not**. In some frameworks, even for a public-benefit foundation to operate legally in another country requires setting up a branch or registering in that country. In general, tax-effective cross-border philanthropy does not yet work in practice. Despite groundbreaking decisions of the European Court of Justice,⁶ which has introduced the non-discrimination principle, laws remain complex, and in some cases, even discriminatory. And seeking recourse remains a costly and lengthy process.

When it comes to the **application of the non-discrimination principle in EU countries**, almost all Member States have amended their legislation to recognise donations to comparable or similar entities in other Member States and to apply the same concept for the tax treatment of foreign-based public-benefit organisations with regard to corporate income tax treatment. A number of Member States assess comparability on a case-by-case basis, which is often a **time-consuming and costly exercise** for taxpayers, including the requirement to provide translations of relevant documents. This approach often requires donors to obtain approval in each case, often from a regional authority. Furthermore, no record is retained, and no precedent is established. This is the case in Belgium, Bulgaria, Czech Republic, Estonia, Germany, Hungary, Latvia, Lithuania and Slovakia. In Belgium, however, it is possible to obtain a ruling from the central authority that the foreign entity is comparable. Other Member States require the philanthropic entity to **demonstrate comparability** and/or be registered in that State as well as in their home jurisdiction. This is the case in Austria, Finland, Ireland, Malta, the Netherlands, Norway and Sweden. This approach has the advantage that once registered, other donors can rely on the registered status to support the tax relief. However, due to the difficulties of establishing comparability, very few entities are registered under this approach.⁷

Finally, it should be noted that some Member States (Portugal, Romania and Slovakia) do not comply with the European Court of Justice rulings.

4. European Union Agency for Fundamental Rights. Protecting Civic Space in the EU, 2021. <https://fra.europa.eu/en/publication/2021/civic-space-challenges>

5. Fannucci, F. and Surmatz, H. How to Use EU Law to Protect Civic Space. Handbook. The European Center for Not-for-Profit Law Stichting (ECNL), the European Foundation Centre (EFC) and the Donors and Foundations Network in Europe (Dafne), 2020. <https://efc.issuelab.org/resources/36701/36701.pdf>

6. For more information please read. Forrest, L. and Surmatz, H. Taxation of cross-border philanthropy in Europe after Persche and Stauffer. From landlock to free movement? The European Foundation Centre and Transnational Giving Europe, 2014. <https://efc.issuelab.org/resources/18545/18545.pdf> and Forrest, L. and Surmatz, H. Boosting Cross-Border Philanthropy in Europe: Towards a Tax-Effective Environment. The European Foundation Centre and Transnational Giving Europe, 2017. <https://efc.issuelab.org/resource/boosting-cross-border-philanthropy-in-europe-towards-a-tax-effective-environment.html>

Legal requirements for public-benefit tax-exempt status

Some trends can be identified but differences do remain in how the national legal systems conceive of and frame the concept of “public benefit”. These differences reflect the varying legal and cultural traditions of the countries concerned, as well as their different historical and political circumstances.

Nonetheless, certain trends can be identified, such as the fact that in almost all countries surveyed a public-benefit foundation must pursue its **public-benefit purpose** exclusively, and in cases where a public-benefit foundation dissolves, remaining **assets must continue to be used for the public benefit**. In most of the surveyed countries, there is no maximum that a tax-exempt foundation can spend on administration costs.

The tax law of the majority of countries surveyed does not require a tax-exempt foundation to spend its income, or a certain portion of its income, within a certain period (exceptions include Finland, Germany, Italy, Portugal and Slovakia). Points on which greater variation exists are the questions of board remuneration, the requirement to follow the non-distribution constraint, and the requirement to support the “public at large”. Differences in the details of relevant tax laws include whether the donation is in the form of money or is in kind (Finland and Portugal only provide tax relief for cash donations), and whether the donor is an individual or corporation (e.g. Hungary only provides relief for corporations and Sweden only provides relief for individuals).

According to the data collected, for an entity to be philanthropic, its **purpose** must be for the public benefit. This means that the organisation and its purpose has to benefit the **public at large** or a sufficient section of the public. If the circle of beneficiaries does not constitute a sufficient section of the public, the entity’s purpose would only be for the private benefit of a few individuals and therefore not meet the necessary requirements to qualify as a philanthropic/public-benefit entity worthy of receiving preferential tax treatment. Some countries (e.g. Austria, France and Slovenia) stipulate that the circle of beneficiaries needs to be open to the public and cannot be restricted by specific characteristics of individuals such as gender, sex, religion, or origin. In Austria, the circle of beneficiaries must be the general public in the sense that the activity is in line with public interest in regard to intellectual, cultural or material subjects. In Slovenia, there is no minimum number of people that need to be in the circle of beneficiaries and the benefit cannot be limited by individual characteristics including skill, gender, religion, nationality, or

origin. In Germany, the worthy purpose must be dedicated to the altruistic advancement of the general public. In 2017 the federal fiscal court in Germany decided that a public-benefit organisation cannot be for the common benefit if it excludes women from its membership without a relevant justification.

Purposes accepted for public-benefit tax-exempt status

Notions of what constitutes public benefit are tied closely to national cultural and legal traditions; historical and political circumstances; and approaches to government. As such, these are reflected in the legal definitions and expressions of the concept in national laws. When a foundation is set up for a particular purpose, perhaps the most important practical consideration as regards that purpose is whether it confers on the foundation eligibility for the organisation itself and its donors to receive tax privileges (where these exist).

The tax-privileged status of a foundation does depend on the pursuance of **a public-benefit purpose**. Most countries provide a general clause in their regulations regarding what constitutes public benefit, but a number do have a specific list of public-benefit purposes, which has the advantage of more legal certainty but the disadvantage of reduced flexibility. There seems to be a common understanding of generally accepted public-benefit purposes that a recent OECD report on taxation and philanthropy confirmed, including welfare, education, scientific research, and healthcare. Austria, Finland, Germany, Malta and Romania have more limited purposes compared to others.⁸

Constantly evolving – Framework laws and tax laws

It is important to note is that the operating environment for foundations/philanthropic organisations is constantly evolving. Currently there are foundation law revisions in the pipeline in Germany and Portugal, to name two. Tax law is also under constant review with new tax incentives related to the Covid pandemic in 2020 being introduced in several countries with the aim to stimulate more giving and the creation of more public-benefit work. Governments seem to be using the tax law as a way to stimulate more investments and activities in certain policy areas.

These constant changes require continual monitoring and research through studies such as this comparative mapping project.

7. For more information please see Forrest, L. and Surmatz, H. Taxation of cross-border philanthropy in Europe after Persche and Stauffer. From landlock to free movement? The European Foundation Centre and Transnational Giving Europe, 2014. <https://efc.issuelab.org/resources/18545/18545.pdf> and Forrest, L. and Surmatz, H. Boosting Cross-Border Philanthropy in Europe: Towards a Tax-Effective Environment. The European Foundation Centre and Transnational Giving Europe, 2017. <https://efc.issuelab.org/resource/boosting-cross-border-philanthropy-in-europe-towards-a-tax-effective-environment.html>, Dafne-EFC Philanthropy Advocacy country profiles: <https://www.philanthropyadvocacy.eu/legal-environment-for-philanthropy-in-europe/> and OECD and Geneva Centre for Philanthropy. Taxation and Philanthropy, 2020. <https://www.oecd.org/ctp/taxation-and-philanthropy-df434a77-en.htm>

8. For more information please read OECD and Geneva Centre for Philanthropy. Taxation and Philanthropy, 2020. <https://www.oecd.org/ctp/taxation-and-philanthropy-df434a77-en.htm>

Shining the spotlight on philanthropy



By Oonagh B. Breen,
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With the publication of this 2021 edition of “Comparative Highlights of Foundation Laws” comes another timely resource from the Philanthropy Advocacy initiative, acting through the joint auspices of Dafne and EFC. The “Comparative Highlights” draw on the latest data and research from the 5th Edition of the Legal and Fiscal Country Profiles,¹ which features 40 country reports examining the legal and fiscal landscape of philanthropy across Europe. First appearing in 2007, and now in its 4th edition, the “Comparative Highlights” provide a welcome lens through which to draw together the richness of our respective philanthropic traditions and practices across Europe; to spot emerging trends and practices; and to highlight both common and isolated challenges to effective cross-border philanthropy. This edition comes on the back of two decades of research and mapping in the field of European philanthropic practice and marks a deepening reservoir of knowledge that has seen the coverage of the “Comparative Highlights” grow from an initial 27 European countries in 2007, to 30 in 2011, and to 40 in 2015 and 2021, respectively.

The 1st edition of the “Comparative Highlights” in 2007 marked out the pre-Stauffer landscape in which EU Member States were essentially landlocked environments when it came to tax-effective cross-border philanthropy. Since then, we’ve witnessed the incremental development of European Court of Justice jurisprudence on free movement of philanthropic capital with *Stauffer* (in 2009) and the development of the principle of non-discrimination on the grounds of nationality in the sphere of tax law and philanthropic donations with the cases *Hein Persche*, *Missionwerk* and so many others. We’ve also seen the effects of the ill-fated efforts to develop pan-European vehicles to facilitate cross-border philanthropy with unsuccessful proposals for a European Association, a European Mutual Society and most recently the European Foundation Statute.

The “Comparative Highlights” for 2021 make for very interesting reading and draw on an impressive body of data contained in the recently updated country profiles. Building upon the country profiles (which provide valuable insights into the legal and fiscal operating environments for foundations in Europe; the purposes that foundations are allowed to pursue, establishment, governance, transparency, fiscal and accountability



requirements), the “Comparative Highlights” complement the country reports by providing a high-level guide to current developments and emerging trends throughout Europe when it comes to philanthropy and its treatment both nationally and on a cross-border basis.

“Foundations are becoming more creative in the ways in which they generate income in the asset management space.”

New elements in the 2021 Highlights include consideration of the approaches of EU Member States and countries in wider Europe to complying with requirements relating to beneficial ownership. Many countries have now incorporated the definition of “beneficial owner” into their national legislation with a split between those countries developing specific registers for beneficial ownership and those countries using an existing general register. Another noticeable development is the emergence of impact investment by philanthropic organisations since 2015. Most countries appear to allow this type of investment, though the law in this area is still in flux, as evidenced by a smaller

number of countries that have yet to legislate for or regulate impact investing. The 2021 Highlights also draw attention to the fact that foundations are becoming more creative in the ways in which they generate income in the asset management space. Pointing to the need for further research in this area, the point is well made that there is room for greater clarity as to whether certain activities (e.g. the granting of micro loans) are permissible under respective national foundation laws and tax laws.

Dipping into the “Comparative Highlights” provides readers with an immediate sense of the many similarities that exist among these 40 nations when it comes to the legal and fiscal treatment of philanthropy, while simultaneously highlighting those areas of significant difference. It is worth reflecting on the important contribution that empirical research of this nature makes. Mapping projects that are consistent in execution and rigorous in analysis provide a benchmark against which to measure the status and health of our laws around philanthropy. They also enable us to understand and compare what is happening elsewhere with our own domestic situations. They provide both macro and micro analysis. The combined value of the “Comparative Highlights” and the country profiles should not be underestimated. It is only through the development of technical empirical information of this nature – the micro-level analysis – that we can ever aspire to a macro analysis of European developments and trends. The availability of such data is an important building block in our knowledge base. It informs and enables reports such as “Enlarging the Space for European Philanthropy”² to be carried out, which in turn provides a solid footing upon which to base the European Philanthropy Manifesto.³

Understanding that we cannot change what we cannot see, it is clear that the “Comparative Highlights” shines an additional, needed spotlight on an important area. Let’s all now make the best use possible of this rich resource to further enable the space for philanthropy.

1. Philanthropy Advocacy Legal and fiscal country profiles, 2020. <https://www.philanthropyadvocacy.eu/legal-environment-for-philanthropy-in-europe/>

2. Breen, O. Enlarging the Space for European Philanthropy. EFC and Dafne, 2018. <https://www.efc.be/uploads/2019/03/Enlarging-the-Space-for-European-Philanthropy.pdf>

3. Philanthropy Advocacy, European Philanthropy Manifesto. Private resources for public good, 2019. https://www.philanthropyadvocacy.eu/wp-content/uploads/2019/03/20190321-Philanthropy-Manifesto_420x210_WEB.pdf

Foundations, civil society and state supervision – What’s at stake?

By Wino van Veen

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This 2021 edition of the “Comparative Highlights of Foundation Laws” is the long-awaited successor of the 2015 edition. It is a work of significance for all with an interest in comparative study of not-for-profit law, but no less for those dedicated to promoting a healthy democratic society at a national and international level. Foundations – together with associations – are after all the most important legal forms for civil society organisations. Their regulation and operating conditions determine the extent to which they can contribute to keeping civil society up and running. The attitude of the state and the relevant public authorities towards foundations is therefore key to the space foundations have in that country to contribute to a healthy society.

The relation between foundations and the government intrinsically is a delicate one. Foundations as civil society organisations must be able to criticise and provoke government, even to advocate against (proposed) legislation and government policies. Governments could in response be tempted to exert their powers to stifle such activities by foundations and/or to prevent the establishment of foundations with such objects all together. These risks can materialise more easily in countries where foundations can be deployed for public-benefit purposes only – because the government may be of the opinion that

it is in the position to determine what is of public benefit – and where the supervisory authority is vested in a body of the public administration such as a ministry. This is even more the case if the supervisory powers have a discretionary quality or include the power to appoint public servants in boards as members or observers. Here’s where adherence to the rule of law and genuine respect for fundamental rights on the part of the supervisory authorities are essential. Unfortunately, we live in times that even in countries that are members of the Council of Europe and of the EU, this cannot be taken for granted. It is common knowledge that populism is advancing in politics and Europe nowadays counts more populist governments than in 2015. Moreover, in some Member States the independence of the courts is under pressure.

It’s maybe good to bear this in mind when comparing the results of the current 2021 study with the 2015 edition. The rules may not have changed, but the manner in which these rules are interpreted and applied, and the overall working climate for foundations in a particular country, may have changed indeed. Consequently, the type of supervisory authority, for example, perhaps now is more relevant than before. If supervision is placed in the hands of a ministry or other body of the public administration, the risk that they will wield their powers to limit the space for foundations is higher than if supervision is charged to an authority that is independent from government.¹ In the same vein, if foundations by law are allowed to pursue objects of public benefit only, this more readily exposes them to the supervisory authority’s interpretation of what is of public benefit and what is not.



Leaving aside the impact of European directives aimed at combating money laundering and terrorism financing – which are covered elsewhere in this publication – when comparing the studies from 2015 and 2021 there are a few developments that are worth mentioning. One of these is that in Belgium the ministry of the interior is no longer involved as a supervisory authority. Also, two more countries have dropped the restriction that foundations can be used for public-benefit purposes only.² For the reasons I mentioned above, these are changes in a positive direction.

On the other hand, in Austria a new power has been given to the supervisory authority which allows it to prohibit the formation of a foundation. Depending on the level of discretion that is left to the supervisory authority and the general attitude of government towards foundations, this may have a negative impact on the freedom to establish foundations in Austria. What is clear, however, is that a power has been created for the authorities to obstruct the formation of foundations, which wasn't in the law before. Also in Turkey the foundation register was reported to be publicly available in 2015, but is now, according to the 2021

edition of this study, a non-public register. For the ability of foundations to take part in social and economic life, however, a publicly available register is important.³ A change to registration that is not open to the public, therefore, is not a positive development.

There is one point on which multiple countries seem to have amended their regulation of foundations. The minimum capital requirements for foundations are reported to have been increased in six countries.⁴ This change is not to be welcomed, but is not necessarily troubling either. The increase seems modest in some cases. Moreover, as long as the minimum amount is reasonable and does not constitute a disincentive, from a legal perspective such minimum capital requirements seem acceptable.⁵

One other notable aspect of the relation between the state and foundations is that states tend to hold their foundations close. For instance, the Member States of the EU have not agreed to a statute on a European Foundation, which would have allowed foundations to convert into a European Foundation, to merge across borders and to migrate to another Member State. From the perspective of promoting social economy within the EU, one would expect that these initiatives would be welcomed in Europe. For sure, non-profit organisations that are economically active can engage in cross-border mergers and migrations based on the case law of the European Court of Justice,⁶ and occasionally they do, but the lack of harmonised rules and the reluctance of national authorities in practice often stand in their way. I see no alternative but to keep knocking on doors and to try and keep initiatives that ease cross-border activities alive. On a positive note, the JURI Committee of the European Parliament recently published a study on the concept of a statute for European cross-border associations and non-profit organisations, which has sparked the sector's hope that things will indeed change for the better.⁷

“When comparing the results of the current 2021 study with the 2015 edition (we see that) the rules may not have changed, but the manner in which these rules are interpreted and applied, and the overall working climate for foundations in a particular country, may have changed indeed.”

1. See also T.J. van der Ploeg/W.J.M. van Veen/C.R.M. Versteegh, *Civil Society in Europe: Minimum norms and optimum conditions of its regulation*, Cambridge University Press, 2017, p. 281-283.

2. Romania and North Macedonia.

3. See for further reference and explanation, *Civil Society in Europe* (cited in footnote 1), p. 263-265 and p. 279-280.

4. Austria, Cyprus, Kosovo, Denmark, Greece, Italy. The requirements seem to have been relaxed in Lithuania and Turkey.

5. See *Civil Society in Europe* (cited in footnote 1), p. 265.

6. See *Civil Society in Europe* (cited in footnote 1), p. 46 f.f.

7. A statute for European cross-border associations and non-profit organizations, Policy Department for Citizens' Rights and Constitutional Affairs, Directorate General for Internal Policies, PE 693.493-May 2021. The study was commissioned to Prof. Antonio Fici, University of Molise.

Wanted: A rational definition of ultimate beneficiary owners of public-benefit foundations

By **Kateřina Ronovská**,
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The identification of ultimate beneficiary owners (UBO) of legal persons and other property structures (typically trusts) is currently a hotly debated topic throughout the EU. As part of the fight against the abuse of the financial system, money laundering and terrorism financing, the anti-money laundering (AML) directive has imposed on the individual Member States the duty to apply AML rules to their national legislation and also to establish a national UBO registry, which should, *pro futuro*, be connected to the registries in the other EU Member States.

These registries should keep a record of all natural persons that enjoy *ultimate benefits* from specific property structures or that have *direct or indirect control* over them. The duty to identify and record UBOs concerns not only business corporations but also legal persons and trust structures established to pursue public-benefit purposes (i.e. foundations).

The current study indicates that the AML directive is applied differently across the various countries. Unlike business corporations, where the UBO is always determined on the basis of *material criteria of control and/or ultimate property benefit*, foundations and trusts (and similar entities) are regulated by some Member States in a manner where the ultimate owners are – to use a hyperbolic expression – “*just about anybody who happens to pass by*”.



UBOs of foundations and trusts are considered to be – without any additional consideration of influence and benefit – all settlors, members of governing bodies, supervisory board members and beneficiaries, regardless of their position. Such a formally defined rule essentially classifies anybody as a UBO, without paying attention to a specific situation (*material criteria*), namely whether and what control such a person has over a given entity or how that person participates in the benefit.

That effectively means that the desired impact of the European law, namely to have the registries contain data with good informational value (i.e. complete, precise and up-to-date), is compromised. As a result, the record-keeping becomes distorted and blurred.

What may also be considered problematic, however, is the actual legal framework in the EU law in this area. Due to the unclear formulations, the approaches adopted by the individual countries are very different. Moreover, the data supplied by the countries (when data is actually shared) are mutually incompatible, and thus only minimally useful. The interconnection of the national registries of UBOs across the EU thus seems to be an unattainable goal at present.

At the same time, it has become clear what a powerful instrument has been given to the national regulators in the form of these rules, which authorise a radical intervention in fundamental rights (mainly the right to privacy) and make it possible to introduce, (and justify) new registration obligations that had hitherto not been considered at all, perhaps apart from capital business corporations where some degree of supervision is acceptable or justified.

In addition, it has been reported that, in several jurisdictions, there have been attempts to increase the administrative

burden beyond a reasonable level (e.g. introducing new obligations to report information) and even to place under control the activities of some strategic legal persons, most notably non-profit organisations.

Also, there is a complete absence of rules that could be applied for more complex property structures operating across borders. It is not clear whether and to what extent one may rely on the information about UBOs contained in the national registries of the individual Member States.

“What may also be considered problematic, however, is the actual legal framework in the EU law in this area. Due to the unclear formulations, the approaches adopted by the individual countries are very different.”

Such methods of fighting terrorism financing and money laundering have caused embarrassment, even in the relevant EU structures. The European Commission therefore announced, as early as autumn 2020, that it was working on a new set of uniform rules in the form of directly applicable EU regulation, the draft version of which should be published soon. It is expected to introduce a rational, EU-wide approach to the definition of ultimate owners, registries and other related issues. Let's hope it does just that.

“The desired impact of the European law, namely to have the registries contain data with good informational value (i.e. complete, precise and up-to-date), is compromised. As a result, the record-keeping becomes distorted and blurred.”

Caught in the anti-money laundering web

By **Katerina Hadzi-Miceva Evans**,
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This comparative overview of the legal operating environments for foundations across Europe has revealed that in over one-third of the countries, public-benefit foundations are considered as “obliged entities” for anti-money laundering purposes. This means that they must undergo a specific set of additional administrative and financial obligations under EU rules. As Kateřina Ronovská writes elsewhere in this publication, public-benefit foundations are also subject to the rules of beneficial ownership, meaning that they must register their “owners” (persons who ultimately own or control them) in special registers, without consideration that foundations do not necessarily have “owners”¹ as defined in European rules.

“Gold plating” – Going beyond what’s required

The concepts of obliged entities and beneficial owners were introduced by the EU’s 4th and 5th Anti-Money Laundering Directive.² The directive does not require foundations to be obliged entities and mainly applies to credit and financial institutions. Nevertheless, some countries (e.g., Bulgaria, Cyprus, Denmark, Ireland, Slovakia and Spain) list foundations as obliged entities. This means that foundations in these countries now need to: (1) identify and verify the identity of their customers and of the beneficial owners of their customers even though foundations do not necessarily have “customers”; and they must monitor the transactions of and the business relationship with their “customers”; (2) report suspicions of money laundering or terrorist financing to the authorities; and (3)

undertake additional measures to ensure that their staff and policies will prevent any misuse of the anti-money laundering rules. Foundations now need to secure additional resources – both human and financial – in order to meet the requirements of these anti-money laundering rules. The compliance requirements also add administrative burdens to their operations. Furthermore, foundations are under a threat of being fined if they do not comply with the rules. Through research and outreach, ECNL, Dafne and the EFC discovered that EU Member States go beyond what is required for various reasons – from the lack of understanding of the EU rules, to purposefully trying to put foundations under stricter scrutiny.

Creating uncertainty

The problem is further exacerbated in those cases where the national laws do not clearly determine whether foundations are indeed obliged entities. For example, in Belgium, Estonia, Malta, Switzerland and the United Kingdom, foundations may become obliged entities depending on their activities. Further, the laws do not precisely define who should be considered as the owner(s) of foundations that should be listed in the register (e.g. is it the founder, trustee, beneficiary, or manager?). This broadly defined concept leaves the

“EU Member States go beyond what is required for various reasons – from the lack of understanding of the EU rules, to purposefully trying to put foundations under stricter scrutiny.”



application of the rules to interpretation by the authorities. The lack of clear rules, the potential for arbitrary application and the fines that come with the rules lead to several consequences: uncertainty in daily work, individuals being dis-incentivised from undertaking board positions, and an overall chilling effect on the important work of philanthropy in delivering aid and benefit to the public good.

Low risk but hefty and disproportionate obligations

The EU policies and those of the Financial Action Task Force (FATF) concerning combating money laundering and terrorism financing have already had a chilling effect on legitimate philanthropic and other public-benefit/non-profit organisations.³ This is despite the requirement by both the EU Directive and the FATF Recommendation 8 for Member States to identify the risk of anti-money laundering and terrorism financing before they impose further measures for the sector.

In fact, two reports by the EU (from 2017⁴ and 2019⁵) which assessed the risk of anti-money laundering across Europe, have found that the risk in the sector from abuse is low. Despite this, countries have decided to go towards more regulation of foundations and cross-border giving rather than proportionate responses which consider the level of risk from abuse in the sector.

Untangling the net

The trend is not irreversible and there are a few steps that can be taken to remedy the situation:

First, countries should not adopt far-reaching regulations beyond what the global or European standards require. Member States that consider public-benefit foundations as obliged entities should reform their laws

to exclude such organisations from the list. They should also provide clear guidance for financial and supervisory authorities on how to implement and interpret the EU regulatory framework on anti-money laundering.

Second, regulation is not the only resort. The reports from the EU's own Supra-National Risk Assessments suggest other useful approaches to address concerns and reduce the risk. For example, elevating self-regulatory measures by the sector, such as internal risk assessments or sectoral codes of conduct, can contribute to the increased transparency and accountability needed to address money laundering concerns. Engaging in multi-stakeholder dialogues among NPOs, financial institutions, regulators, and relevant government departments to jointly assess and understand actual risk scenarios and work together to create solutions are further approaches to be considered. This requires additional resources and time to achieve effective and sustainable results.

Third, the EU should speak up in cases where countries go beyond the rules and review its regulatory and policy framework to provide more clarity. It should create tools for public-benefit foundations to raise and address cases of over-regulation and fundamental rights concerns. It can follow the example of the FATF to review unintended consequences⁶ of application of its rules and create direct channels for communication with foundations and non-profits.

Finally, the risk-based approach is the norm set by the EU and the FATF and should guide national-level responses. Where the risk is lower, the measures need to be proportionate and focused on the actual risk rather than general ones that target the entire not-for-profit and philanthropic sector. The net should not be cast widely, ensuring that public-benefit foundations will not be caught in it (un)intentionally.

1. Philanthropy Advocacy, European Commission discusses new AML/CFT policy with the sector, March 2021, <https://www.philanthropyadvocacy.eu/news/european-commission-discusses-new-aml-cft-policy-with-the-sector/>

2. Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L0843>

3. EU Agency for Fundamental Rights, Challenges facing civil society organisations working on human rights in the EU, 2017 https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-challenges-facing-civil-society_en.pdf

4. Report from the Commission to the European Parliament and the Council on the assessment of the risk of money laundering and terrorist financing affecting the internal market and relating to cross-border activities, 2017, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017DC0340&from=DE>

5. Report from the Commission to the European Parliament and the Council on the assessment of the risk of money laundering and terrorist financing affecting the internal market and relating to cross-border activities, 2019, https://ec.europa.eu/info/sites/default/files/supranational_risk_assessment_of_the_money_laundering_and_terrorist_financing_risks_affecting_the_union.pdf

6. FATF, Mitigating the Unintended Consequences of the FATF Standards, 2021, <https://www.fatf-gafi.org/publications/financialinclusionandnpoissues/documents/unintended-consequences-project.html>

Foundations in Europe from a tax perspective – Observations and trends

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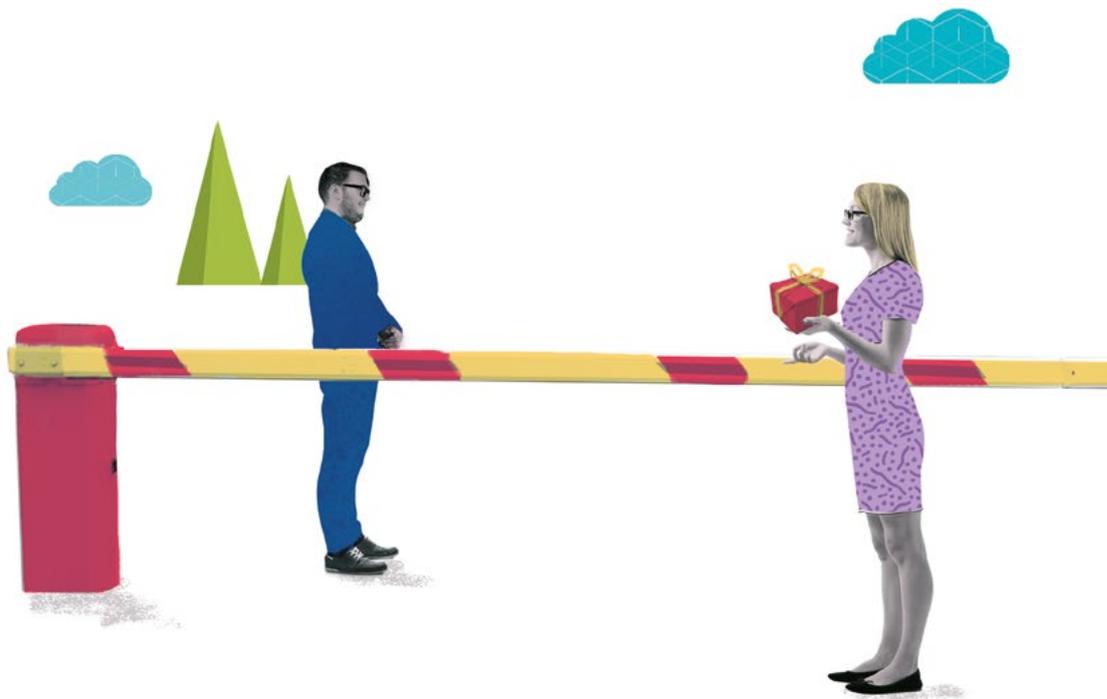
In the last few years, we have witnessed an increased scientific interest in the comparative studies of tax frameworks for not-for-profit entities. In November 2020, the OECD issued a report on “Taxation and Philanthropy”, a first large-scale comparative study in this domain that reviews tax regimes in 40 OECD member and participating countries.¹ A significant part of the present study by the Dafne-EFC Philanthropy Advocacy Initiative focuses on taxation, and the considerations below highlight the major trends emerging from this survey.²

Two principal trends concerning the general tax law framework applicable to foundations in Europe are revealed: First, all countries grant tax concessions for philanthropic foundations; and second, nearly all countries have tax incentives or similar subsidies to encourage donations by individual and

corporate donors. This continuous state support for the philanthropic sector persists regardless of some emerging criticisms of tax support for private philanthropy, coming principally from North American scholars.³ Whether such government support through tax concessions will remain or increase is to be seen. For instance, Switzerland is not likely to increase its existing tax deductions for giving in its upcoming foundation law reform.⁴

Behind these general trends, we can observe multiple differences among legal mechanisms governing tax-exempt status and tax incentives for donors. For instance, even though all jurisdictions grant tax exemptions for charitable foundations based on the general requirement to operate for public benefit, and they do not tax the “philanthropic” income, the practices related to the taxation of commercial income of such entities vary greatly, with the countries often adopting a case-by-case approach.⁵ Tax incentives for donors, as well as their extent, also diverge. Even though the tax deduction is clearly the most common instrument in

“All countries grant tax concessions for philanthropic foundations; and... nearly all countries have tax incentives or similar subsidies to encourage donations by individual and corporate donors.”



Europe, certain states also use tax credits, allocation mechanisms (“percentage giving”), and matching systems. Certain jurisdictions, such as Italy, offer a choice of tax incentives to donors (e.g. tax deduction or credit). Another trend is that tax incentives are nearly universally granted for both individual and corporate donors. Nonetheless, the type of incentives and/or their extent might differ for individuals and corporations. For instance, Lithuania does not have tax incentives for individual donors (allocation mechanisms, offered in Lithuania for individual donors, are not considered as such); however, it offers generous tax incentives for corporate philanthropy.

In a cross-border context, we can also distinguish two principal trends: First, a foundation’s activities abroad do not generally put at risk its tax-exempt status or its ability to receive tax-deductible donations; and second, almost all countries are at least in formal compliance with the ECJ case law, indicating that they grant equivalent tax concessions to donors giving both domestically and within the EU. Surprisingly, however, certain countries still indicate in the survey that they do not apply equal tax treatment to giving within the EU (e.g. Portugal and Spain) or to activities of

comparable EU-based philanthropic entities operating in their respective jurisdictions (e.g. Latvia and Lithuania). Such positions are not in line with the ECJ case law.

Another interesting legal rule and/or practice revealed by this study is that a number of countries surveyed allow support and giving by tax-exempt foundations to beneficiaries that are for-profit organisations (such as, for instance, a small green start-up). Even though such a practice is by far not uniform in Europe, it might indicate that a more fundamental paradigm shift could be underway from the classical understanding of philanthropy as an opposing activity to business towards the concept of social entrepreneurship.

Finally, one may not overlook a very important trend emerging in the philanthropic sector recently,⁶ which is the increasing prevalence of large philanthropic foundations.⁷ The importance of this momentum for tax systems cannot be ignored, as it places greater focus on the degree of influence of large donors on the use of taxpayer funds.⁸ Empirical research and data on the evolution of this trend in recent years would be of a great interest for both academics and policymakers working in the field of taxation.

1. OECD (2020), Taxation and Philanthropy, OECD Tax Policy Studies, No. 27, OECD Publishing, Paris. (see also Private Philanthropy for Development, OECD Publishing, Paris, 2018.) <https://www.oecd.org/ctp/taxation-and-philanthropy-df434a77-en.htm>

2. For the commentary of the OECD findings, see for instance Lideikyte Huber G. and Peter Henry, The OECD Report on Taxation and Philanthropy: Main Findings and Policy Options for Switzerland, in: Expert Focus February/2021, p. 108-112.

3. E.g. Reich, R., Just Giving: Why Philanthropy is Failing Democracy and How it Can do Better, Princeton University Press, Princeton, 2019.

4. Bill, Strengthening the attractiveness of Switzerland for foundations, Modifications to the Swiss Civil Code, FF 2021 486 (FR: Code civil. Renforcer l’attractivité de la Suisse pour les fondations. Projet), accessed 31.05.2021.

5. The OECD 2020 Report extensively analyses this question, see p. 57.

6. This observation does not derive from Comparative Highlights study.

7. OECD 2020, p. 10.

8. Ibid.

Point-by-point analysis

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The in-depth country profiles upon which this comparative analysis is based contain detailed information on various aspects of the legal and fiscal environments for foundations in 40 countries across wider Europe. Here we offer a point-by-point summary analysis of each of these aspects, from the allowed purposes of a foundation to reporting requirements to cross-border barriers and philanthropy taxation, to name just a few. **Each brief analysis corresponds to a detailed, country-by-country chart in the Comparative Charts section of this publication.**

For more information on the environments in each country, please see the full country profiles, which are available online,¹ and/or contact the national experts listed in the profiles for the latest information.

Setting up a foundation

1. Purpose of a foundation

All the surveyed countries require that a foundation's assets be dedicated to a specified purpose.

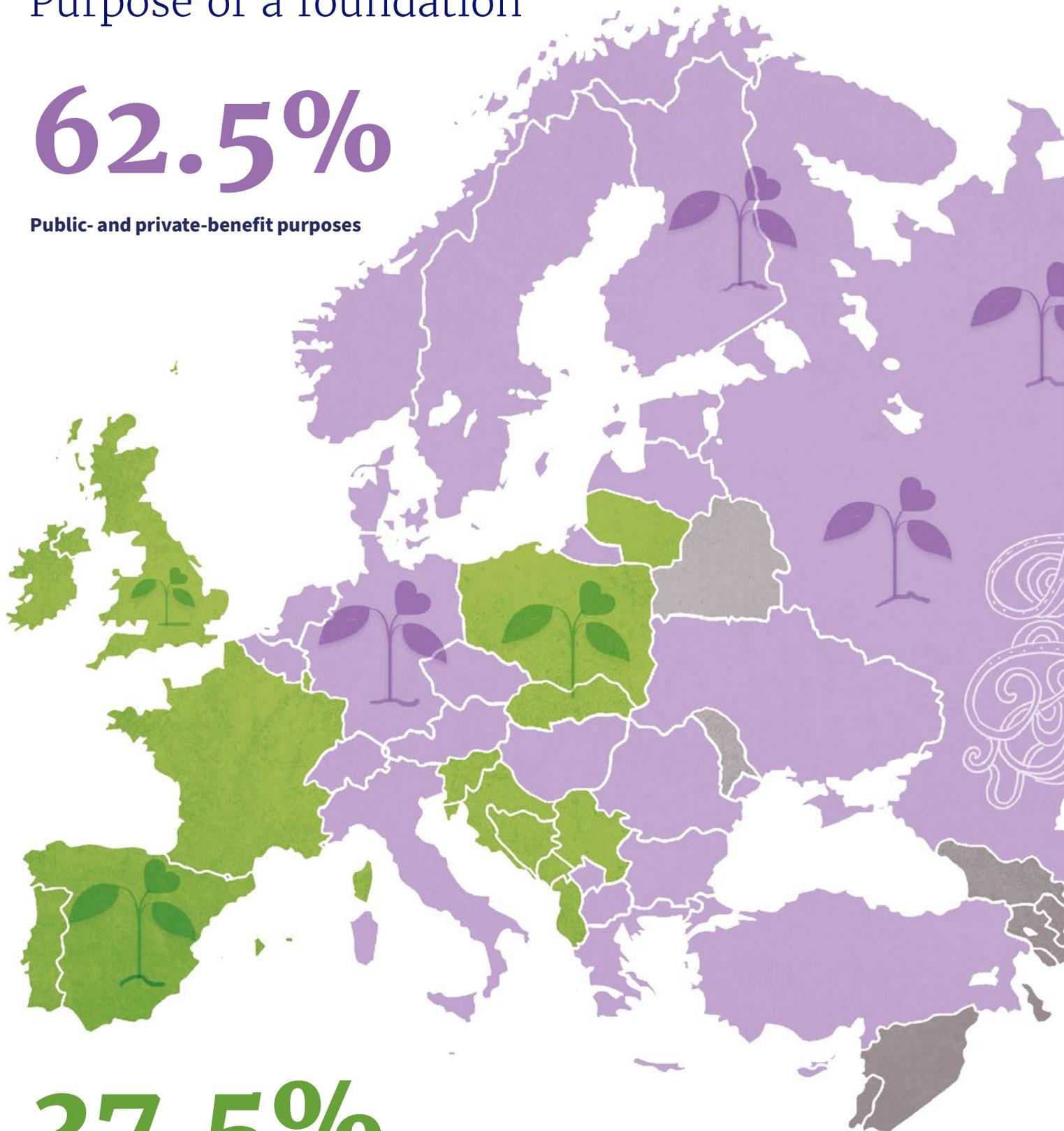
In 15 countries, the laws on foundations require that these organisations pursue public-benefit purposes only, which include activities in areas such as health, education, environment or disability, to name just a few. In most countries, foundations may pursue any lawful purpose, including private-interest purposes, which include e.g. benefits for one family such as trust funds for the founders' children. However, under the tax law of those countries, only public-benefit foundations qualify for preferential tax treatment (For an overview of accepted tax-exempt public-benefit purposes, see Comparative Summary section of this publication). For the purpose of this mapping exercise, we focus on those organisations that pursue a public-benefit purpose, which can take different legal forms in some countries, including trust structures without legal personality (e.g. Ireland).

1. <https://www.philanthropyadvocacy.eu/legal-environment-for-philanthropy-in-europe/>

Purpose of a foundation

62.5%

Public- and private-benefit purposes



37.5%

Public-benefit purposes only

2. Minimum capital

All countries assume that a foundation owns assets, but differences exist as to whether foundations must have a certain minimum level of assets at the moment of establishment, and whether the assets (or part of the assets) must be preserved or may be spent down.

In most of the countries surveyed, there is some minimum capital requirement to ensure that, upon establishment, a foundation holds enough capital to pursue its statutory purpose. This may take the form of a requirement in the law to this effect, or a minimum amount specified in the law. In cases where there is no specification made in the law, the relevant authorities may nonetheless require a certain amount of capital for the establishment of a foundation and may refuse the establishment if they do not consider the amount of capital held to be sufficient for the pursuance of the chosen purpose.

Minimum capital amounts range from less than €250 (Poland) up to €1.5 million (France), though in France, there is a special form of “foundation” for which a smaller amount is required. In the Czech Republic the legal form of a “foundation” requires a minimum capital of €20,000, but the “foundation fund” does not have such a requirement. Minimum capital requirements can also vary within a given country depending on the territorial scope of activities. These variations give a sense that the capital amount plays less of a role in modern foundation law. The wide variation in amounts cannot be attributed to any one factor, but reflects, among others, different traditions about the concept and role of foundations; economic differences; and varied expectations on issues such as the need for guaranteed financial sustainability, the need for creditor protection, and the manner in which foundations generate income to pursue their purposes. After establishment, the survey shows that several countries require the foundation to maintain the value of the capital.

While foundations are still in general regarded as perpetual – or at least long-term – institutions, foundations may in most countries be established with the intention to spend down their capital. Spending down is, however, not permitted in all countries, and in some there are certain conditions attached, e.g. a spend-down foundation must be set up for a duration of at least ten years. Some countries have specific forms of spend-down foundations (e.g. *fondation à capital consommable* and *fondations de flux*, in France). In cases where the law does not expressly permit, or in fact prohibits, spending down by a foundation, if a foundation either does not have the resources to pursue its statutory purpose, or it is otherwise unable to do so (e.g. that purpose has been fulfilled), the foundation may be dissolved.

3. State approval

In a significant number of the countries surveyed, state approval is needed for a foundation to be established.

However, in only a few of those countries do the authorities have discretionary powers to refuse the establishment of a foundation in cases where the application otherwise meets all legal requirements for establishment.

One can argue that in the context of modern foundation law, state approval with discretionary powers is outdated and may even potentially be in conflict with the freedom of association. In the absence of discretionary power, state approval (or court registration systems) serves as a guarantee to the general public that the legal requirements for the establishment of a foundation are checked and reviewed before the legal person is created.

4. Registration

In almost all of the countries surveyed, foundations are required to register with either the state authority or court, with France being the main exception to this requirement. And in almost all countries, these registers are publicly available, either in full or in part.

Registration serves a double function: First, for the legal creation of the organisation, and second, for transparency and legal certainty vis-à-vis the public. In the majority of cases, the register is kept by a state authority. Most of the countries require foundations to register at national level. However, in Germany, this requirement varies according to federal state laws. In Spain, foundations must register in the autonomous region where their main activity is pursued, but if it is pursued in more than one region, they must register with the national register. In Italy, foundations acting nationwide or in several regions are required to register in the legal entities register at the office which represents the national authority at local level.

In almost all countries, the registers of foundations are publicly available, or at least some information is publicly available or available upon request, with access to key data on the registered foundations. However in a few countries these registers are not easily accessible to the general public. There is an ongoing debate as to whether making registers accessible to the public could be, in the case of private-interest foundations, in conflict with the right to privacy.

5. Beneficial ownership register*

Interpretation and collection of beneficial ownership information varies across the countries surveyed.

The 4th and 5th Anti-Money Laundering Directive (hereinafter “AMLD”)² introduces the requirements for EU Member States to set up registers of so-called beneficial ownership (BO) of all legal entities. While in the case of private-interest foundations, a BO (e.g. family member) might be easily identified, the case is less clear-cut when it comes to public-benefit foundations.

The results of this comparative study show that the AMLD has been transposed differently in the various countries. Unlike business corporations, where the BO is always determined on the basis of the material criteria of “control” and/or “ultimate property benefit”, foundations and trusts (and similar entities) are regulated differently, and there is no clear mechanism for identifying BOs in public-benefit organisations.

Some of the surveyed countries require information on BOs to be part of the general registers for foundations (e.g. Estonia, Finland, Hungary, Romania, and Slovakia). For other legal entities, the information on BOs is included in a business register (e.g. Denmark, Italy, Latvia and Sweden). However, most of the countries have introduced dedicated BO registers (e.g. Austria, Czech Republic, Greece, Luxembourg, Malta, the Netherlands and Portugal). In Germany, there is a BO register in cases where there is no other reliable public register or where no other reliable source contains the information required under the AMLD. In Poland there is a BO registry, but foundations are not included.

* Anti-money laundering policies, including the concepts of beneficial owners/BO registers/obliged entities, were introduced in the EU Member States by the EU AML Directive. Non-EU Member States must also develop anti-money laundering policies under the FATF standards. This is relevant for points 6 and 7 below as well.

6. Determination of a beneficial owner

When it comes to foundations, the definitions and means of identifying BOs vary across the countries surveyed.

According to the AMLD, beneficial owners (BO) are: “any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted... in the case of trusts: (i) the settlor; (ii) the trustee(s); (iii) the protector, if any; (iv) the beneficiaries, or where the individuals benefiting from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates; (v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means; ...in the case of legal entities such as foundations, and legal arrangements similar

to trusts, the natural person(s) holding equivalent or similar positions to those referred to in cases of trusts...”

EU Member States have incorporated in their national legislations the definition of a BO: In some cases it is the board (e.g. Belgium, Finland, Germany and Sweden). In Italy, BOs are defined as founders, if still alive; beneficiaries, if easily identified; or all those who are legally entitled to represent the foundation, such as legal representatives or administrators. In Latvia the identification of the BO has been an issue, mostly due to a lack of understanding of the term. Currently, the BO of the foundation by default is the governing board (all members), unless the foundation provides strong justification that such a designation is not applicable and a BO cannot be identified. In the Czech Republic, the BO is always a founder, a board member, a beneficiary or a person in whose interests the foundation was established or is functioning, if a beneficiary is not determined, and members of the supervisory board.

7. Determination of obliged entities

Even though the 4th and 5th AML Directive does not consider foundations to be obliged entities, several of the countries surveyed do consider them as such.

Article 2 of the 5th AMLD defines obliged entities as credit institutions and financial institutions. These entities must fulfil the obligations laid out in the Directive such as:

- Identify and verify the identity of their customers and of the beneficial owners (see the definition above) of their customers (for example, by ascertaining the identity of the natural person who ultimately owns or controls a company), and to monitor the transactions of and the business relationship with the customers.
- Report suspicions of money laundering or terrorist financing to the public authorities, which is usually represented by the financial intelligence unit.
- Take supporting measures, such as ensuring the proper training of personnel and the establishment of appropriate internal preventive policies and procedures.

Foundations are generally not obliged entities according to the 4th and 5th AMLD. However, in the following countries the survey revealed that there is overregulation where the national implementation appears to consider foundations as obliged entities: Bulgaria, Cyprus, Denmark, Ireland, Poland (when foundations receive or transfer more than €10,000) Slovakia and Spain. It is expected that the new AML package will further clarify that foundations and other NPOs are generally not to be considered as obliged entities.

2. Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L0843>

Operations

8. Political activities

When it comes to engaging in “political” activities, a distinction is made between “political” and “party political” activities. In general, the former are allowed, though sometimes with limitations, while the latter are not.

Public-benefit foundations are generally not allowed to undertake party political activities, which are defined as activities towards the success of a political party, candidate for a political office or a political group. A specific category of “political” foundations closely linked with a particular political party, underpinning and complementing the objectives of that party, exist in several EU countries. But these involve a specific category and regulation, and as such are not part of this mapping exercise.

Many of the surveyed countries, however, have no limitation in their civil or tax law when it comes to political activities in a wider, non-party political sense (Belgium, Bulgaria, Croatia, Denmark, Finland, Greece, Italy, Luxembourg, the Netherlands, Romania, Spain and Sweden). Another good number of surveyed countries (Czech Republic, Germany, Hungary, Latvia, Lithuania, Malta, Portugal and Slovakia) do set out by law some limits on political engagement of foundations. In France, there is a legal limitation for both advocacy and political activities of foundations. In Poland, advocacy is not regulated. In Germany recent discussions about the removal of the tax-exempt status of one public-benefit organisation created a debate as to when “political” engagement would put the tax-exempt status at risk.

9. Economic activities

Foundations may engage in economic activities in almost all of the countries surveyed, although the majority of these countries do impose some limitations on the nature and magnitude of activities permitted.

For the purposes of this comparative study, economic activity is understood as trade or business activity involving the sale of goods and services. Normal asset administration by foundations (including investment in bonds, shares, or real estate) would not be considered as economic activity. Related economic activity is in itself related to and supports the pursuance of the public-benefit purpose of the foundation.

Foundations are allowed to carry out economic activity in almost all of the countries surveyed (in Slovakia they generally cannot engage in economic activities, but certain exceptions are allowed), although most of these countries do limit to varying degrees which kinds of activities are permitted. The

most common limitation imposed on economic activities is the requirement that they be related to/facilitate the public-benefit purpose and/or that they remain ancillary to the foundation’s activities (Austria, Belgium, Czech Republic, France, Ireland, Italy, Latvia, Luxembourg, Poland, Portugal and Romania). In a handful of countries, a limit or ceiling on economic activities is specified in the law. For example, in Germany if annual income from unrelated economic activity does not exceed €45,000, it is not taxed, and in Slovenia income generated must amount to less than 30% of the foundation’s total income.

In Estonia economic activities are not regulated by law, but a foundation may use its income only to achieve the objectives specified in its articles of association. In Malta related and unrelated economic activities are permitted, but Maltese law has very strict rules regarding the way in which such activities may be conducted. Denmark distinguishes between commercial and non-commercial foundations.

The ability of a foundation to generate income through activities beyond fundraising and asset administration can play an important role in ensuring its sustainability through securing financial stability and independence, but this must be balanced with the primacy of the public-benefit purpose and activities and the need to avoid distortion of competition in the market place, if the organisation holds tax-exempt status.

The actual practice and the laws in most countries, as well as more recent research, do not consider economic and entrepreneurial activities of foundations to be a problem *per se*. Foundations can engage in economic activities either directly (in their own name) or indirectly, i.e. by owning shares in corporations and being an influential shareholder. Concerns about such an approach revolve around the need to eliminate the risks that economic activity brings³ and the need to preserve a foundation’s assets for its statutory purpose. However, discussions around modern foundation law reveal that more flexible approaches to asset administration and activities are needed. Discussions continue on the implications of the potential application of business rules/corporate governance and tax law/competition law, and ensuring clarity around legal forms in these contexts. In general, the topic of foundations’ engagement in economic activities gives rise to many questions that are subject to academic as well as legal and political debates in individual European countries and at EU level.

³ For more details, see Kalss, S. The Protection of Members and Creditors. In Hopt, J.K., von Hippel, T. Comparative Corporate Governance of Nonprofit Organisations. Cambridge: Cambridge University Press, 2010, p. 797.

10. Majority shareholding

In almost all of the countries surveyed, foundations are permitted to be majority shareholders.

Foundations may however be prohibited from engaging in active management of the company in which they hold a majority share. Only in Hungary and Slovenia is majority shareholding by foundations explicitly forbidden. Some countries require specific authorisation from the regulatory authority to assess the degree of participation (e.g. for banking foundations in Spain and Italy).

11. Asset management / Investment

In many countries surveyed there are no explicit regulations in civil and/or tax law regarding foundations' asset management, but in some, rules do apply.

Some legal frameworks allow only secure investments, such as bonds or investments with a guaranteed return. In countries where some limitations do apply, the rules vary considerably. In Denmark, non-enterprise foundations must invest at least 25% of their assets in bonds or similarly low-risk, low-yield investments. In Germany, alternative investments such as hedge funds and private equities are possible to a certain extent as long as there is no risk for the public interest, the possibility of loss of capital is limited, and there is no opposing regulation in the statutes. In Italy, there are some limitations on real estate investments. In Portugal, approval is needed for the sale of assets with special significance to public and private foundations with public-utility status. A similar situation exists in Spain, where foundations must seek authorisation to dispose of endowment assets or assets directly linked to the aims of the foundation.

The question around rules on asset allocation becomes very relevant in the context of mission-related investments (MRI), an approach by foundations that links asset management/ allocation of the endowment to the foundation's mission, often (but not necessarily) with lower returns and more financial risks. In these cases, the legal and tax rules are not very clear-cut, but the requirement to preserve the value of the capital makes riskier investments more difficult. There is ongoing debate regarding the need for a more favourable environment for such mission-related investments.

12. Asset allocation / Impact investments on programme side

Generally, foundations have become more creative in the ways in which they generate income via their asset allocation and how they undertake their programmatic activities, for example via impact investment tools. However, sometimes it is not clear whether an activity is allowed according to the respective foundation laws and tax laws.

This has become an issue for activities around certain types of investments as well as for programmatic activity, for instance if activities would generate income (e.g. the granting of (micro) loans) or if they support for-profit actors/social economy actors.

Countries were also surveyed on impact investments, defined as contributions made with the intention to generate positive, measurable social and environmental impact (alongside or without a financial return). Results show that impact investing is allowed in most European countries. Exceptions are Italy, Slovenia and Spain. In France, foundations and endowment funds can only grant no-interest or very low-interest loans. In Sweden, impact investing is possible but it is not certain whether this would put the foundation's tax-exempt status at risk. A few countries do not have any legal provisions regarding impact investing (Austria, Cyprus and Germany). It seems that legal questions around impact investing need more thorough analysis.

13. Governing organs / (corporate) governance

As a general rule, the founder(s) have the freedom to design the internal governance structure of their foundations, but the law may give them some guidance in this area.

Legal requirements regarding the governance of foundations vary among the countries surveyed. In most countries, the mandatory governance organ is a governing board, as a body of persons holding ultimate responsibility for ensuring that the organisation serves its mission and for the overall welfare of the organisation. The most common additional organ is a supervisory board, which often has a control function towards the governing board.

A handful of countries do require a supervisory board in addition to a governing board for all foundations (Czech Republic, Estonia and Portugal). In other countries, a supervisory board is required only in specific cases, such as for larger foundations or for foundations with public-benefit status (Hungary, Italy, the Netherlands and Slovakia).

Most commonly, the governing board of a foundation must comprise at least three members. However, in over a third of the countries surveyed the governing board of a foundation

can consist of just one member. Requirements on the number of board members may vary according to the specific organisational form taken by the foundation, whether it holds public-benefit status, and/or the amount of founding capital.

While the issue of corporate governance has been debated in company law for a long time, it is a more recent topic when it comes to foundations, and in particular, public-benefit foundations. The issue of corporate governance in this context appears more complex as foundations do not have members, owners or shareholders or other persons that could supervise the governing board. There is also no body similar to the association assembly that could make decisions about the most important issues and cross-check decisions of the governing board. This is one of the reasons that external supervision via supervising authorities/courts is in place and must be considered in this context to gain a complete picture of the governance of foundations.

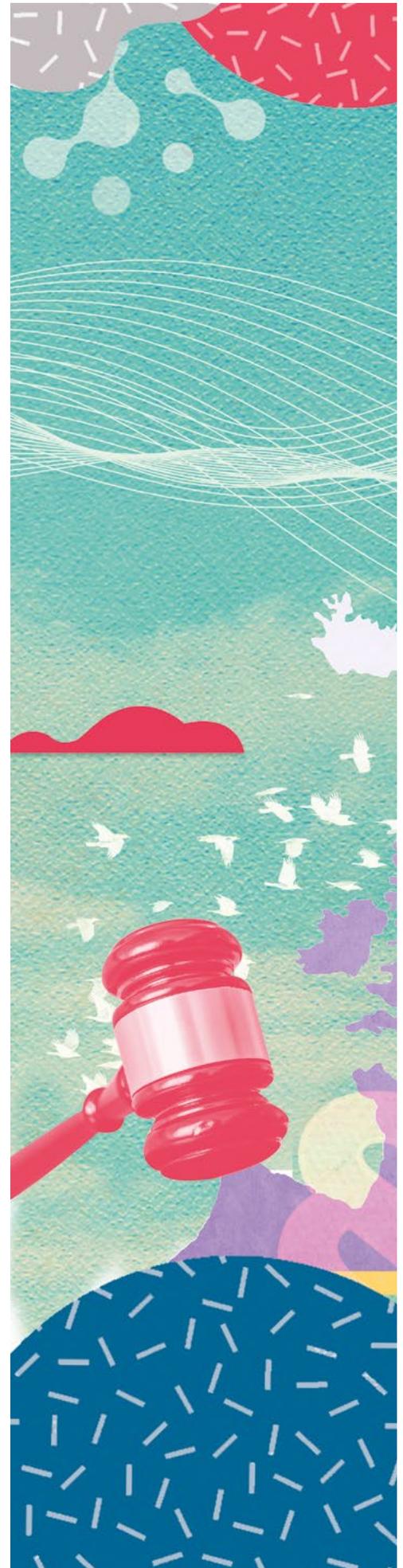
In addition, new control/reporting structures in the context of prevention of money laundering and terrorism financing via BO registers must be considered. The solution through external supervision may, however, not be the only possibility: New conceptual approaches in individual European countries are emerging, for example via two-tier governance models with a supervisory board; calls for transparency and control by means of the “market”; and a push for clear descriptions of rights and duties of foundation board members in the law. The use of the kind of soft law / internal administration standards that are known in the company sphere should be considered for foundations. In this vein, the foundation sector quite frequently uses codes of conduct, which are widely respected despite generally being of a voluntary, rather than binding, nature.

14. Rights of founders

In most countries, founders’ rights are not regulated by law. In those that do have rules, regulations vary significantly.

Although founders’ rights in most cases are not regulated, they can nevertheless be specifically designed in the statutes of the foundation. In several of the countries where founders’ rights are addressed in the law, founders lose decision-making power once a foundation is created. However, they can become board members and in this way have a say in the foundation’s direction (Denmark, Germany, the Netherlands, Portugal and Romania). In Portugal and Romania, founders can even secure a lifetime position in the management of the foundation. Founders cannot be the sole members of the board in Sweden.

In some other countries such as Austria, Czech Republic and Malta, founders can keep their rights to influence the foundation, for example by changing the statutes and the purpose of the foundation.



Reporting and supervision

15. Reporting requirements

All of the countries surveyed require foundations to report on their finances on at least an annual basis, and in the majority of countries, these are made publicly available.

In all countries surveyed, at least the financial part of the foundation's reports are submitted to one or several external authorities, be this the tax authority, or a state or independent supervisory authority, or a combination of these. The majority of countries also require that foundations report annually on their activities.

In most of the countries, at least the financial reports of the foundation are publicly available. Requirements on publication of reports may apply only to foundations with public-benefit status, or to foundations of a certain size or organisational type. In around one quarter of the countries surveyed, there is no requirement for any of the reports of a foundation to be made publicly available. However, even where the law does not require that the reports of foundations be made public, foundations may choose to make the information publicly available, for instance through their own website.

In the context of preventing money laundering and terrorism financing, new policies have been put in place to collect information on foundations' beneficial owners (see point 5 above).

16. External audit

External audits of larger foundations' financial statements are required in most of the countries surveyed.

An external audit is an independent examination by a third party of the financial statements prepared by a foundation. Most of the countries surveyed have in place requirements that external audit is required for at least certain foundations. Most commonly, requirements are in place that larger foundations must be audited. Thresholds may be expressed as an amount of annual income, value of assets, or number of employees (or some combination), which if exceeded triggers the requirement for the foundation to be audited. Audit requirements are in some cases also linked to the organisational form of the foundation, a foundation's public-benefit status, whether the foundation uses public money, or whether the foundation fundraises.

17. Supervisory authorities

In general, a designated state authority supervises foundations, though there is wide variation in the types and powers of these authorities.

For the purposes of this report, a supervisory authority is a public body (part of a public authority and/or court) that ensures that foundation assets are managed and appropriated in accordance with their statutory purposes. Where necessary, it applies to the court for appropriate measures.

Foundations are generally supervised by a designated state authority, although the powers of these authorities vary significantly. Tax-exempt foundations are supervised by the tax authorities when it comes to their status as a tax-exempt organisation.

The following types of supervision by a state supervisory authority are found in the countries surveyed:

1. Public administrative bodies without the court
2. Combined supervision by a public administrative body and the court
3. Public independent bodies which stand outside the hierarchy of public administration and have all necessary competence
4. Court only

Some European countries and legal scholars have recently been discussing the approach to external supervision of foundations. External supervision serves to protect the foundation from its own bodies (protection of the interests of the foundation/will of the founder); to protect the foundations' assets from misuse; and to ensure the assets are used for the pursuance of the public-benefit purpose (protection in the public interest/creditor protection). Foundations lack a built-in control body (e.g. association assembly) or members/shareholders that could supervise their activities and governing board. The protection of the foundation's interests is in some cases done by internal control bodies (the supervisory board, controller); but in most countries this is under the purview of the relevant body of the external (state) supervision over foundations. The public interest in preserving the assets and ensuring pursuance of the public-benefit purpose applies mainly to public-benefit foundations, less so to private-interest foundations.

In this context, it is also worth noting that supervision plays a role in ensuring the social interest of public donation campaigns (raising money in public campaigns, asking for donations through TV/media, etc.); ensuring that the funds are used for the stated purposes; controlling whether public money is used properly; and keeping an eye on the volunteer activity in which many of these organisations engage.⁴

⁴ A. Ware, *Between Nonprofit and State: Intermediate Organizations in Britain and the United States*, Politi Press, 1989, pp. 200-203. For an overall approach of regulation in the world, see: O. B. Breen & M. Sidel, *Regulatory Waves. Comparative perspectives on State Regulation and Self-Regulation Policies in the Nonprofit Sector*, Cambridge University Press, 2017.

Cross-border philanthropy

18. Recognition of foreign-based foundations

Not all countries recognise the legal personality of foreign-based public-benefit foundations, requiring registration or even creation of a branch in order for the foreign foundation to be able to operate in their territory.

With foundations' outlook and activity becoming increasingly international, their ability to operate and be legally recognised beyond the borders of the territory in which they are established has become more and more important to enabling them to pursue their objectives. However, in some countries, foreign-based foundations must register or create a branch in order to operate within their borders, as otherwise they will not be legally recognised.

One instrument towards such recognition has been the European Convention on the Recognition of the Legal Personality of International NGOs.⁵ The Convention facilitates the recognition by signatory countries of the legal personality and capacity of foreign-based public-benefit organisations established in other signatory countries without further steps, although additional requirements may remain in force in certain cases.

According to the data provided by the national experts for this study, many of the surveyed countries require a foreign foundation to register a branch in the respective country (e.g. Belgium, Croatia, France, the Netherlands and Poland). In Ireland it is even an offence to carry out charitable purposes without being properly registered. In Spain recognition is given to all foundations legally constituted in another country and occasional activities are allowed with no requirements, but permission to regularly operate in Spain is required.

Some other surveyed countries do not require registration of a foreign foundation when operating in their country (Austria, Bulgaria, Denmark, Estonia, Finland, Germany, Greece, Hungary, Luxembourg, Slovenia and Sweden).

19. Limitations for foundations to operate abroad

The collected data shows that currently in surveyed countries, there are no statutory limitations in any of the countries for a foundation to conduct (some or all) activities (grantmaking, operating, asset administration, fundraising) abroad. There may, however, be some limitations in tax law.

While there are no limitations in foundation law when it comes to operations abroad, in a few countries there are limitations

in tax law. French tax law denies the application of income and corporate tax reductions to gifts made to foundations which do not conduct the main part of their activities in France. The situation is similar in Germany, where tax law requires that pursuing public-benefit purposes abroad must have the potential to improve the reputation of Germany and does not lead to disadvantages in this regard. In Belgium, tax provisions might restrict the provisions on the eligibility to receive income tax deductible gifts, among others.

20. Foreign funding restrictions

In general, there are no restrictions on the ability of foundations to receive donations from abroad.

However, there are two exemptions to this general rule:

1. In Hungary, Act No. LXXVI of 2017 on transparency of associations and foundations funded from abroad prescribes certain registration, declaration and publication obligations for organisations that receive annually a minimum of ~ €20,600, directly or indirectly, from foreign sources. This law was repealed by the Court of Justice in 2021, however, the implementation of the judgment is yet to come.
2. In Ireland, an unintended consequence of amendments to the Electoral Acts 1997-2012 is that a foundation may not receive a political donation from an individual (other than an Irish citizen) who resides outside Ireland and may not receive a donation from an entity that does not have an office in Ireland from which a principal activity is directed.

21. Cross-border transfer of seat and/or cross-border mergers

The transfer of the seat of a foundation (in the EU) and/or cross-border mergers are not often regulated, and when they are, rules vary significantly across Europe.

The civil law of several of the countries surveyed, does not allow the transfer of seat of a foundation, or cross-border mergers (Bulgaria, Czech Republic, Estonia, Finland, Hungary and Lithuania). However, in some cases it is allowed (Belgium, Croatia, Cyprus, Ireland, Portugal and Slovenia). One example is that of the Slovenian Science Foundation in 2017. The Slovenian founder had operated a legally unformed fund for 25 years in the Federal Republic of Germany, and then transferred the headquarters of this fund to the Republic of Slovenia. Romania allows this as well, but no cases are

5. <http://conventions.coe.int/Treaty/en/Treaties/Html/124.htm>

known. There is also a significant number of cases in which the national legislation does not mention transfer of seat or cross-border merger, which means these actions are neither prohibited, nor explicitly allowed, but in practice they are not done (Denmark, France, Germany, Latvia and Sweden).

Tax treatment of foundations

22. Activities abroad and implications for tax-exempt status

Most of the country experts indicate that conducting activities abroad should not in principle put the public-benefit tax status of a foundation at risk. However, this is the case in some countries.

In most countries, activities abroad are compatible with the tax-exempt status of public-benefit foundations (e.g. Hungary, Italy, Latvia, Luxembourg, Poland and Romania). However, there are some countries in which activities carried out abroad can jeopardise their tax status: In Austria, foundations operating mainly abroad can lose their special tax status; in France, some conditions are attached to these activities; in Germany, a positive impact for the German public is required; and in Portugal, activities abroad are likely to be compatible with the public-benefit tax status as long as they do not constitute the majority of the foundation's activities.

23. Gift and inheritance tax

Foundations that pursue public-benefit purposes are, in almost all of the countries surveyed, exempt from gift and inheritance tax.

This is the case where these taxes exist and where the foundation as recipient of the gift/legacy would be the taxable party. In some countries, the living donor (in the case of a gift) or heir (in the case of a legacy) may be jointly liable for the inheritance/gift tax, and in a handful of countries, foundations are not subject to gift/inheritance tax since these taxes are levied only on natural persons. In countries with an inheritance tax, the foundation receiving the bequest is liable for the tax and thus entitled to receive any tax relief. In countries with an estate tax, on the other hand, the tax liability as well as the corresponding tax relief is with the estate of the deceased.

When it comes to the tax treatment (inheritance and gift tax) of legacies to non-resident public-benefit foundations, the situation varies substantially across Europe. In Belgium, legacies to non-resident public-benefit foundations are in

principle taxed at a higher rate, namely the rate applicable between third parties, i.e. they do not benefit from the reduced rate applicable to Belgian foundations. Inheritance and gift tax is often paid by the recipient, so taxation will be dealt with in accordance with tax laws of the recipient's resident country. Some countries apply the rule that donations to foreign foundations may be exempt from inheritance and gift tax if the recipient's country has entered into a reciprocity agreement (Germany, Greece, Ireland and Luxembourg).

24. Grants to for-profit organisations

When it comes to the question of whether a public-benefit foundation with a tax-exempt status can also support/give grants to for-profit organisations e.g. a small green start-up, the situation varies significantly.

Some countries provide this possibility by law (Belgium, Bulgaria, Croatia, Luxembourg, Poland, Portugal and Slovakia), but in other countries, the legislation does not allow this kind of activity (Czech Republic, Denmark, Finland and France). A handful of countries do not have explicit legal provisions on this matter (e.g. Greece). In Germany, only grants to other tax-privileged or legal persons under public law are allowed. A cooperation with commercial enterprises is only possible through involvement as a so-called auxiliary person, if the actions of the auxiliary person are to be considered as own work of the public-benefit corporation.

25. Tax treatment of income from grants and donations

Donations to public-benefit purpose foundations are in general exempt from corporate income tax for the foundation.

In Denmark, however, public-benefit foundations do pay income tax on grants and donations unless given for the purpose of building up the foundation's endowment.



26. Tax treatment of income from asset administration and economic activities

In the majority of countries, tax exemptions exist for foundations' income from both asset administration and, to some extent, economic activities.

According to the data collected, normal asset administration by foundations (including investment in bonds, shares, real estate) would not be considered as economic activity. In a number of countries, income from asset administration may be selectively taxed, according to the type of investment or the type of organisation (e.g. in Belgium, Bulgaria, Greece, Italy and Romania, income is taxed if profits are €15,000 or more).

Income from economic activities is in the majority of countries at least partially tax exempt. Most countries tax income from unrelated activity but exempt income from related activity, as related economic activity supports the pursuance of the public-benefit purpose of the foundation (e.g. France, Hungary, Ireland, Luxembourg and Portugal). In some cases income from economic activities is tax exempt only up to a certain ceiling; other countries also exempt unrelated economic activity, but only if this is conducted on a small scale. A handful of countries do however tax all business income in full whether from related activity or unrelated activity. In the Czech Republic, foundations are generally not permitted to undertake economic activities.

When philanthropic entities with a preferential tax treatment engage in commercial activity, it may raise concerns around unfair competition if the goods or services supplied by the entity are also supplied by non-philanthropic businesses. To overcome this challenge countries have developed different solutions: limit the degree to which a philanthropic entity can engage in commercial activity; tax the commercial activity and limit the commercial activity they can engage in; or only limit the preferential tax treatment of commercial activities that lead to unfair competition with for-profit businesses.

Austria and Germany apply thresholds as well as distinguish between related and unrelated commercial income. In Austria, philanthropic entities that generate related or unrelated commercial income above the respective thresholds risk losing their tax-exempt status. In Germany, on the other hand, unrelated commercial income above the threshold is taxed. In addition, other countries (France, Hungary, the Netherlands, Norway and Slovakia) use thresholds to determine how to tax the income of philanthropic entities.

In France, foundations that carry out commercial activity on a regular or occasional basis, may be exempt from corporate taxes if the activity does not compete with the business sector and if the revenues do not exceed €72,000 per annum.

27. Value-added tax refund schemes

In only a few cases do refund schemes exist for VAT costs incurred by public-benefit foundations.

In some surveyed countries there is a value-added tax (VAT) refund scheme for the irrecoverable VAT costs of public-benefit foundations. In Greece, there is a special procedure for foundations to gain exemption from VAT. In Hungary, the right to claim a VAT refund is available to the foundation at a rate that matches the percentage that the donation represents in the costs of carrying out the public-benefit activities.

Preferential VAT treatment may apply to a philanthropic entity's inputs (purchases) as well as its outputs (e.g. supplies: sales or disposals). Regarding its inputs, philanthropic entities pay VAT on their purchases, as long as those purchases are not exempted goods or services. If they are not registered for VAT purposes, the entity is likely treated as a final consumer and cannot recover the VAT paid on its inputs without specific tax relief. Similarly, if the entity is registered for VAT purposes but does not make any taxable sales, it will also not be able to recover the VAT paid on its inputs. A philanthropic entity may not make any taxable sales because its supplies (outputs) are exempt, or because they are out of the scope of the VAT. On the other hand, philanthropic entities that do charge VAT on their sales (including zero rated goods and services) are able to recover the VAT paid on their inputs.

Consequently, countries may choose to allow philanthropic entities to not charge VAT on their supplies (or the entities may be under the revenue threshold), which could in turn create an input tax burden for those entities. As a result, some countries offer tax relief to philanthropic entities that are not able to recover VAT paid on their inputs (or are only able to recover a share of it).

28. Tax treatment of foreign-based foundations

In some countries, tax benefits are not available at all if the foundation does not have its seat in the country, and in others the benefits are available only if the foundation benefits the public of the particular country.

Countries where tax benefits are not available include Croatia, Cyprus, Estonia, Latvia and Lithuania. In France and Germany, the benefits are available to the foundation only if its activities benefit the public in these respective countries.

For corporate tax income purposes or foreign withholding tax purposes, it is a matter of demonstrating comparability to a locally based tax-exempt organisation in order to receive the same tax status, which is often a complex, lengthy and costly process.

When it comes to EU Member States, the European Court of Justice stated that EU law does not require Member States to automatically acknowledge a foreign tax-exempt public-benefit status. However, where an entity that has philanthropic status in its own state also satisfies the requirements in another state, the Member State cannot deny that entity the right of equal tax treatment solely because it is not resident in its territory. The application of the comparability test to cross-border donations is complex. Philanthropic entities deriving income in another Member State will need to satisfy the revenue authorities in the source jurisdiction as to comparability. Some Member States require registration of the relevant foreign public-benefit organisations to register (Belgium, Croatia, Cyprus, France, Ireland, Latvia, Lithuania, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia and Spain). The Netherlands permits entities from any country to register provided it meets the eligibility requirements in the legislation. Belgium allows the foreign PBO to assess whether it is exempt from corporate tax on one of two criteria.

Tax treatment of donors and beneficiaries

29. Tax system for donors

For philanthropic giving to be eligible for tax incentives, the recipient must be a recognised public-benefit organisation. None of the countries surveyed offer tax subsidies to gifts made directly to individuals in need.

Most of the surveyed countries use a system of tax deduction as a reduction in the gross amount on which tax is calculated. A minority of surveyed countries uses the system of tax credit, which determines an amount that can be deducted from the actual tax to be paid (Cyprus, France, Hungary for individual donors, and Spain). Some of the countries differentiate between individual and corporate donors for the purposes of determining the appropriate tax mechanism (Belgium, Estonia, Latvia, Lithuania and Romania).

In some cases, donations are matched or facilitated through an allocation scheme. Furthermore, deductions are more common for corporate tax incentives than personal income tax incentives.

30. Tax treatment of individual donors – Domestic and cross-border cases

In only a small number of the countries surveyed do individual donors not receive a tax incentive for donations in the form of either a tax credit or tax deduction.

An example of the above is Lithuania, where there are no tax incentives for individual donors but they may allocate 2% of their income tax to an approved PBO. In Slovakia, there are no tax incentives.

For other countries, the levels of the incentives offered vary and may depend on the type and/or level of the donation (e.g. only monetary donations above a certain amount), and the value of the tax credit/deduction can usually not exceed a specific threshold, most commonly expressed as a percentage of the donor's total annual taxable income.

Countries that incentivise cash donations from individuals also incentivise non-monetary donations. Countries differ in their approaches, with some requiring appraisals if the value of a non-monetary donation exceeds a threshold; some using different valuation rules for different types of assets; some not requiring valuations; or some reviewing valuations through audits.

Regarding EU Member States, where incentives exist these are in the majority of EU Member States applied equally for donations to domestic and comparable foreign EU-based public-benefit organisations, but the conditions for determining comparability vary. However, in some of the surveyed countries, equal tax incentives do not apply to individual donors giving to a comparable foreign EU-based public-benefit foundation (Croatia, Malta, Portugal and Romania), which indicates that the obligation to apply the non-discrimination principle to the taxation of comparable foreign EU-based public-benefit organisations and their donors of the European Court of Justice⁶ has not been fully implemented.

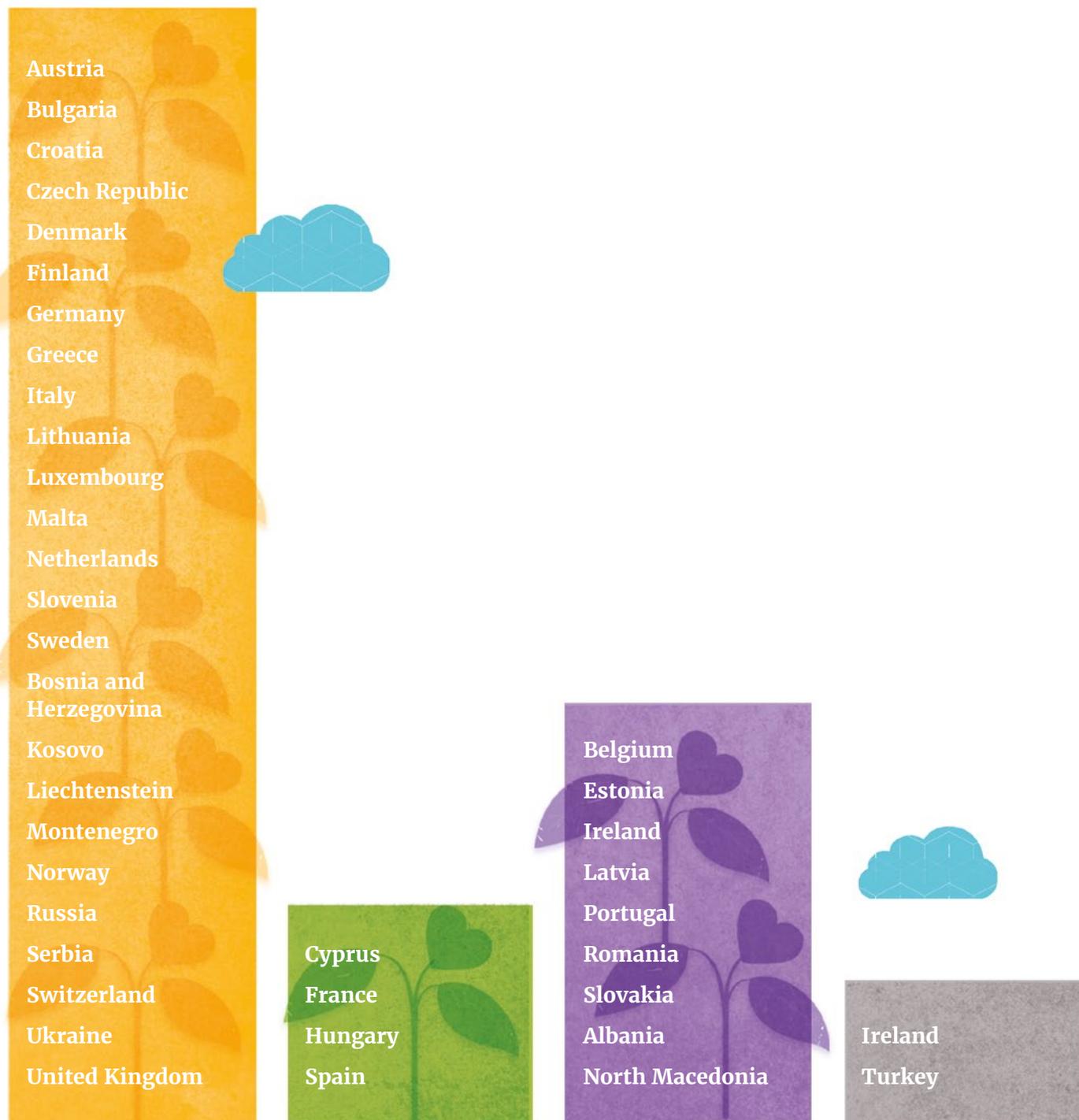
31. Tax treatment of corporate donors – Domestic and cross-border cases

Almost all of the countries surveyed provide for tax incentives for corporate donors giving to public-benefit organisations.

Examples of countries that do not have these kinds of tax incentives include Slovakia and Sweden. However, in Sweden, while there are no deductions for corporate donors in general, some donations can be deducted as business expenses.

⁶ The key ECJ case here is the “Persche” case (C-318/07). For further information, please refer to Forrest, L. and Surmatz, H. Taxation of cross-border philanthropy in Europe after Persche and Stauffer. From landlock to free movement? The European Foundation Centre and Transnational Giving Europe, 2014. <https://efc.issuelab.org/resources/18545/18545.pdf>

Tax system for donors



Tax deduction

Tax deduction is a reduction in the gross amount on which tax is calculated.

Tax credit

Tax credit is an amount that can be deducted from the actual tax to be paid.

Hybrid

Hybrid is a combination of tax deduction and tax credit.

None

Please see the glossary for this mapping project: <https://www.philanthropyadvocacy.eu/wp-content/uploads/2020/12/Glossary.pdf>

In general across the countries surveyed, tax deductions and credits for corporate donations are tied to the corporate income tax and may be limited to a share of total revenue; a share of total taxable income; a share of the sum of total turnover, and wages and salaries paid; a share of the corporate income tax liability; a share of the gift itself; a monetary value; or a combination of these tax relief ceilings. Furthermore, unlike individuals, corporations can deduct business expenses, and thus the sponsoring of philanthropic entities, as well as donating, may partly be encouraged through normal business expensing rules.

In the majority of the countries where incentives exist, these are applied equally for corporate donations to domestic and comparable foreign EU-based public-benefit organisations.

According to the experts, in most of the EU Member States, the tax relief for donations to foundations is also applicable to donations to residents of other EU or EEA Member States (application of the comparability test in Austria, Belgium, Czech Republic, Estonia, Finland, France, Germany, Italy, Poland, Portugal or Romania). However this is not possible in some Member States (Croatia, Cyprus, Latvia, Lithuania, Slovenia and Spain).

Based on the data provided by the national experts, donors giving to comparable organisations located in EU or EEA countries get equal tax treatment, however the conditions for determining comparability vary (Belgium, Finland, Germany, Luxembourg and Poland). In Spain gifts to a foreign PBO cannot be deducted for income tax purposes, unless a delegation of such foreign PBO is registered in the Spanish Register of Foundations to carry out its activities in Spain, and unless the PBO meets all the requirements under the law.

32. Tax treatment of donations via specific tools

Tax treatment of donations made via channels such as door-to-door fundraising, text or crowdfunding platforms, among others, varies widely across the countries surveyed.

In some of the surveyed countries donors do not get tax incentives when donations are done via specific tools such as: requesting money in public (street, door-to-door); via TV and radio campaigns; or via SMS (text), crowdfunding (Croatia, Estonia, Lithuania, Malta, Romania, Slovakia and Sweden). This is particularly due to the fact that when donating through these channels, the identity of the donor cannot always be duly determined. In some other countries, the law does not specify which channels may be used for a donation, therefore the tax incentives apply while using these specific tools (Luxembourg, the Netherlands and Spain). In Italy, a tax relief is provided for small-scale donations made on the street or by text message, but when donations are made through crowdfunding platforms, the donor must have a certificate. In

Poland, there are tax incentives for donations via TV and radio campaigns as well as crowdfunding, if the donation goes to a non-profit organisation and is made via bank transfer. The same holds true for Portugal, though only for crowdfunding.⁷

33. Tax treatment of beneficiaries

Some countries provide tax exemptions for beneficiaries of public-benefit foundations.

In terms of the tax treatment of beneficiaries of public-benefit foundations, several countries regard gifts or grants by foundations as income for the recipient, and therefore the beneficiary of the gift or grant is taxed (e.g. Austria, Lithuania and Spain).

Some of the countries provide exemptions in specific cases, e.g. in Poland or Finland there is a ceiling. In Poland the value of grants or in-kind donations from the public-benefit organisation must not exceed €1,200 over the course of 5 years. In Finland, grants awarded by foundations for university studies, scientific research and artistic work, as well as prizes awarded for scientific, artistic and other non-profit activity are tax free up to €23,270 (in 2020). In Estonia, some grants for educational, creative or scientific purposes are tax exempt. In Germany income tax will only be levied if the grant or benefit exceeds what is considered to be an adequate cost of living.

In some other countries grants provided by a foundation in accordance with its statutory purposes to any legal or natural person are tax exempt (Czech Republic, Luxembourg, the Netherlands, Portugal, Romania, Slovakia, Slovenia and Sweden).

7. For more information please read Hartay, E., Strecansky, B. and Achler, M. The Potential and Risks of Using Digital Technologies in Fundraising: A Comparative Research. European Center for Not-for-Profit Law, 2021. <https://ecnl.org/sites/default/files/2021-05/ECNL%20Comparative%20research%20on%20digital%20fundraising%202021%20FINAL.pdf>

Comparative charts



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For a brief analysis of the regulatory aspects covered by each chart, please see the Point-by-Point Analysis section of this publication.

Setting up a foundation

1 | Purpose of a foundation

Country (In the EU) A – S	What type of purpose are foundations legally permitted to pursue?	Country (Outside the EU) A – U	What type of purpose are foundations legally permitted to pursue?
Austria	Public- and private-benefit purposes.	Albania	Public-benefit purposes only.
Belgium	Public- and private-benefit purposes.	Bosnia and Herzegovina	Public-benefit purposes only.
Bulgaria	Public- and private-benefit purposes.	Kosovo	Public- and private-benefit purposes.
Croatia	Public-benefit purposes only.	Liechtenstein	Public- and private-benefit purposes.
Cyprus	Public- and private-benefit purposes.	Montenegro	Public-benefit purposes only.
Czech Republic	Public- and private-benefit purposes.	North Macedonia	Public- and private-benefit purposes.
Denmark	Public- and private-benefit purposes.	Norway	Public- and private-benefit purposes.
Estonia	Public- and private-benefit purposes.	Russia	Public- and private-benefit purposes.
Finland	Public- and private-benefit purposes.	Serbia	Public-benefit purposes only.
France	Public-benefit purposes only.	Switzerland	Public- and private-benefit purposes.
Germany	Public- and private-benefit purposes.	Turkey	Public- and private-benefit purposes.
Greece	Public- and private-benefit purposes.	Ukraine	Public- and private-benefit purposes.
Hungary	Public- and private-benefit purposes.	United Kingdom	Public-benefit purposes only.
Ireland	Public-benefit purposes only.		
Italy	Public- and private-benefit purposes.		
Latvia	Public- and private-benefit purposes.		
Lithuania	Public-benefit purposes only.		
Luxembourg	Public-benefit purposes only.		
Malta	Public- and private-benefit purposes.		
Netherlands	Public- and private-benefit purposes.		
Poland	Public-benefit purposes only.		
Portugal	Public-benefit purposes only.		
Romania	Public- and private-benefit purposes.		
Slovakia	Public-benefit purposes only.		
Slovenia	Public-benefit purposes only.		
Spain	Public-benefit purposes only.		
Sweden	Public- and private-benefit purposes.		

○ n/a indicates that the information is “not available”.

For countries outside the Eurozone, amounts indicated in the charts reflect exchange rates at time of writing.

2 | Minimum capital

Country (In the EU) A – I	Is a minimum capital required to establish a foundation? If yes, what is the amount?	Is the foundation required to maintain the capital?	Are spend-down foundations allowed?
Austria	● Yes For public-benefit foundations it is €50,000, enough to pursue the foundation's purpose.	● Yes Public-benefit foundations need to retain a minimum capital of €50,000.	● Yes Only for private foundations.
Belgium	● No For public-benefit foundations, initial capital must be sufficient to pursue the purpose.	● No	● Yes
Bulgaria	● No	● No	● Yes
Croatia	● No No specific amount required in law but public-benefit foundations' initial capital must be sufficient to pursue the purpose.	● Yes	● Yes
Cyprus	● Yes Not less than €1,000.	○ n/a	○ n/a
Czech Republic	● Yes €18,000 for foundations. For funds, amount should be sufficient to pursue the purpose.	● Yes	● Yes
Denmark	● Yes €40,000 for enterprise foundations; €135,000 for non-enterprise foundations.	● No But enterprise foundations must maintain a "basic capital" of €40,000.	● Yes
Estonia	● No	● No	● Yes
Finland	● Yes €50,000	● No	● Yes
France	● Yes No minimum in the law, but in practice €1.5 million for public-benefit foundations; €15,000 for endowment funds; €150,000 for corporate foundations to be spent over 5 years.	Long-term foundations with endowments can only spend the interest income from the capital to ensure sustainability of the foundation.	● Yes
Germany	● Yes No minimum in the law, but in practice €50,000-€100,000.	● Yes In general.	● Yes But must be for a duration of at least ten years.
Greece	● Yes No minimum in the law, but in practice enough to pursue the foundation's purpose.	○ n/a	● Yes
Hungary	● Yes No minimum in the law, but in practice approx. 900€.	● Yes	● No
Ireland	● No	○ n/a	● Yes

2 | Minimum capital

Country (In the EU) I – S	Is a minimum capital required to establish a foundation? If yes, what is the amount?	Is the foundation required to maintain the capital?	Are spend-down foundations allowed?
Italy	<p>● Yes</p> <p>€120,000 for recognition at national level, varies at regional level. It is possible to establish a foundation for public-benefit purposes (among the ones listed by the “Third Sector Code”) with a minimum endowment of €30,000.</p>	<p>● Yes</p>	<p>○ n/a</p>
Latvia	<p>● No</p>	<p>○ n/a</p>	<p>○ n/a</p>
Lithuania	<p>● No</p>	<p>○ n/a</p>	<p>○ n/a</p>
Luxembourg	<p>● Yes</p> <p>No minimum in the law, but in practice €100,000.</p>	<p>● No</p>	<p>● Yes</p>
Malta	<p>● Yes</p> <p>€232.94 for public-benefit foundations.</p>	<p>● No</p>	<p>● Yes</p>
Netherlands	<p>● No</p> <p>However, if a foundation lacks sufficient resources to pursue its purpose, and there is no prospect that it will be able to acquire such, a foundation can be dissolved by the court.</p>	<p>○ n/a</p>	<p>○ n/a</p>
Poland	<p>● Yes</p> <p>€250.</p>	<p>● No</p>	<p>● Yes</p>
Portugal	<p>● Yes</p> <p>No minimum in the law, but enough to pursue the purpose - €250,000 is presumed sufficient.</p>	<p>● No</p>	<p>● Yes</p>
Romania	<p>● Yes</p> <p>At least 100 times the minimum gross national salary. For fundraising foundations, at least 20 times minimum gross national salary.</p>	<p>● No</p>	<p>○ n/a</p>
Slovakia	<p>● Yes</p> <p>€ 6,638.</p>	<p>● Yes</p>	<p>● No</p>
Slovenia	<p>● No</p>	<p>○ n/a</p>	<p>● Yes</p>
Spain	<p>● Yes</p> <p>€30,000, but state authorities may increase or decrease the amount. 25% must be paid at the time of establishment, the remaining 75% within 5 years.</p>	<p>● Yes</p> <p>If the foundation does not want to keep the capital, authorisation is required. This will be granted if there is just cause.</p>	<p>● Yes</p>
Sweden	<p>● No</p> <p>But it must be possible to achieve the purpose, if not immediately, then in the foreseeable future.</p>	<p>● Yes</p> <p>In general.</p>	<p>● Yes</p>

Setting up a foundation

2 | Minimum capital

Country (Outside the EU) A – U	Is a minimum capital required to establish a foundation? If yes, what is the amount?	Is the foundation required to maintain the capital?	Are spend-down foundations allowed?
Albania	● Yes In practice around €715, enough to pursue the foundation's purpose.	○ n/a	○ n/a
Bosnia and Herzegovina	● Yes €1,000.	● No	● Yes
Kosovo	● Yes €1,000.	○ n/a	○ n/a
Liechtenstein	● Yes €30,000.	● No	● Yes
Montenegro	● No	○ n/a	○ n/a
North Macedonia	● Yes €10,000.	● No	● Yes
Norway	● Yes Non-commercial foundations must have founding capital of at least €10,000. Commercial foundations must have a founding capital of at least €20,000.	● Yes As a general rule, yes. However the statutes may decide otherwise. The level of capital must be responsible.	● Yes
Russia	● No	● No	● Yes
Serbia	● Yes €30,000 for endowments.	● Yes For endowments.	○ n/a
Switzerland	● Yes No minimum in the law, but in practice €46,000.	● No	● Yes
Turkey	● Yes €8,500.	● Yes Only interest income can be spent.	● No
Ukraine	● No	● No	● Yes
United Kingdom	● No	● Yes For foundations with a "permanent endowment".	● Yes

3 | State approval

Country (In the EU) A – P	Is state approval required in order to set up a foundation?	If Yes: does that state authority have discretion in this matter?
Austria	● No But the authority does have the capacity to prohibit the formation of the foundation.	● No
Belgium	● Yes For public-benefit foundations.	● No
Bulgaria	● Yes	● No
Croatia	● Yes	● No
Cyprus	● Yes	● Yes Limited discretion.
Czech Republic	● No	○ n/a
Denmark	● No	○ n/a
Estonia	● Yes By a court and a public notary.	○ n/a
Finland	● Yes	● Yes
France	● Yes For public-benefit foundations. ● Yes For corporate foundations. ● No For endowment funds.	● Yes For foundations. ○ n/a For endowment funds.
Germany	● Yes	● No
Greece	● Yes	● Yes
Hungary	● Yes By a court.	○ n/a
Ireland	● No But approval from the independent regulator, the Charities Regulatory Authority, is required.	● No
Italy	● Yes By an authority and a public notary.	● Yes
Latvia	● Yes By a public notary.	○ n/a
Lithuania	● Yes By a public notary.	○ n/a
Luxembourg	● Yes	● Yes With judicial review.
Malta	● Yes	● Yes
Netherlands	● No	○ n/a
Poland	● Yes By a court.	○ n/a

Setting up a foundation

3 | State approval

Country (In the EU) P – S	Is state approval required in order to set up a foundation?	If Yes: does that state authority have discretion in this matter?
Portugal	● Yes	● No
Romania	● Yes By a court.	○ n/a
Slovakia	● Yes	● No
Slovenia	● Yes	● Yes
Spain	● Yes	● Yes
Sweden	● No	○ n/a
Country (Outside the EU) A – U		
Albania	● Yes By a court and a public notary.	○ n/a
Bosnia and Herzegovina	● Yes	● No
Kosovo	● Yes	● Yes
Liechtenstein	● No	○ n/a
Montenegro	● Yes	● No
North Macedonia	● No	● Yes Some information publicly accessible.
Norway	● No	○ n/a
Russia	● Yes	● Yes
Serbia	● Yes	● No
Switzerland	● Yes By a public notary.	● No
Turkey	● Yes By a court and a public notary.	● No
Ukraine	● No	○ n/a
United Kingdom	● No But approval from the Charity Commission, a Non-Ministerial Government Department.	● No

4 | Registration

Country (In the EU) A – I	Are foundations required to register? With which authority?	Is the register publicly available?
Austria	● Yes (State), public-benefit foundations register with the state. The foundation register is kept at national level, maintained by the Ministry of Internal Affairs.	● Yes
Belgium	● Yes (Court and state), Clerk’s Office of the Court of Enterprises; company register (Moniteur Belge); Banque Carrefour des Entreprises; and BO register.	● Yes Some information.
Bulgaria	● Yes (State), all foundations - Registry Agency to the Minister of Justice.	● Yes
Croatia	● Yes (State), foundations have to be registered on regional level by county offices. All data about registered foundations becomes publicly available in the central Register of Foundations upon registration.	● Yes
Cyprus	● Yes (State), foundation register at national level - Register of Foundations, which is kept by the District Officer (the Registrar).	● Yes Some information.
Czech Republic	● Yes (Court), foundation register at national level - the public register (Registry of Foundations at the Ministry of Justice) and BO register.	● Yes Partly different regime for public- and private-benefit foundations.
Denmark	● Yes (State), foundations are obliged to update beneficial ownership info in the Central Business Register maintained by the Danish Business Authority (DBA).	● Yes Some information.
Estonia	● Yes (State), foundation register at national level and BO register.	● Yes Upon request.
Finland	● Yes (State), national level -Register of Foundations maintained by the Finnish Patent and Registration Office.	● Yes
France	● No	○ n/a
Germany	Depends on federal state law, but federal BO register.	● Yes BO register.
Greece	● Yes (State), national foundation register at the Ministry of Finance.	● Yes
Hungary	● Yes (Court), registration with the national court - foundation register at national level.	● Yes
Ireland	● Yes (State), all must register with the Charities Regulatory Authority for charity status. Charitable companies limited by guarantee must also register with the Companies Registration Office.	● Yes Some information upon request.

4 | Registration

Country (In the EU) I – S	Are foundations required to register? With which authority?	Is the register publicly available?
Italy	<p>● Yes (State), foundations acting nationwide or in several regions - legal entities register, at the office which represents the national authority at local level). ONLUS (Non-profit organisation of social utility): Register at Ministry of Finance (for tax privileged status). Foundations that qualify as “Third Sector Entity” - RUNTS (National Register of the Third Sector).</p>	<p>● Yes Some information.</p>
Latvia	<p>● Yes (State), with the State Register of Companies, which includes the Register of Associations and Foundations.</p>	<p>● Yes</p>
Lithuania	<p>● Yes (State), Legal Entities’ Register at the Centre of Registers.</p>	<p>● Yes Some information.</p>
Luxembourg	<p>● Yes (State), company register.</p>	<p>● Yes Some information.</p>
Malta	<p>● Yes (State), Registrar for Legal Persons responsible for the Registry for Legal Persons and the Register of Beneficial Owners.</p>	<p>● Yes Some information.</p>
Netherlands	<p>● Yes (Chamber of Commerce) - Register of Commerce.</p>	<p>● Yes Some information.</p>
Poland	<p>● Yes (Court), Registry Court.</p>	<p>● Yes</p>
Portugal	<p>● Yes (State), In January 2020, a single Registry of Foundations was established, and BO register.</p>	<p>● Yes Some information.</p>
Romania	<p>● Yes (Court), the Associations and Foundation Register of the judicial court competent for awarding the legal status sends the registration data to the National Registry of Nonprofit Persons under the authority of the Ministry of Justice.</p>	<p>● Yes</p>
Slovakia	<p>● Yes (State), register at the Ministry of Interior.</p>	<p>● Yes Some information.</p>
Slovenia	<p>● Yes (State), register at the Ministry for Home Affairs.</p>	<p>● Yes</p>
Spain	<p>● Yes (State), foundations must register in the autonomous region where their main activity is pursued, but if it is pursued in more than one region, they register with the National Register.</p>	<p>● Yes</p>
Sweden	<p>● Yes (State), registration with one of the regional authorities.</p>	<p>● Yes</p>

4 | Registration

Country (Outside the EU) A – U	Are foundations required to register? With which authority?	Is the register publicly available?
Albania	● Yes (Court), Court of First Instance in Tirana.	● Yes Upon request.
Bosnia and Herzegovina	● Yes (State), Associations and Foundations Register at the Ministry of Justice.	● Yes
Kosovo	● Yes (State), Register of Foundations at the Ministry of Public Administration (currently Ministry of Internal Affairs).	● Yes
Liechtenstein	● Yes (State), Public Registry for public-benefit foundations and foundations running commercial activities, and BO register.	● Yes Some information.
Montenegro	● Yes (State), Register of Associations administered by the Ministry of Public Administration.	● Yes Some information.
North Macedonia	● Yes (State), Central Register of North Macedonia.	○ n/a
Norway	● Yes (State), Foundations Register at national level; Register of Legal Entities (company register); and, if conducting business, the Register of Business Enterprises.	● Yes The Foundation Register and Brønnøysund Register Centre.
Russia	● Yes (State), registration by the tax authority.	● Yes Some information.
Serbia	● Yes (State), Register of Endowments and Foundations at the Serbian Business Registry Agency.	● Yes
Switzerland	● Yes (State), Commercial Register (except for public law foundations).	● Yes
Turkey	● Yes (Court and state), records kept by the foundation's local competent court, and Central Register of the General Directorate of Foundations.	● No
Ukraine	● Yes (State), Company Register.	● Yes
United Kingdom	● Yes Charity Commission (if annual income exceeds €5,500) unless they are required to register with a different regulator.	● Yes

5 | Beneficial ownership register

**Country
(In the EU)
A – L**

Does your country have a specific register for beneficial owners of legal entities/foundations or does the foundation/company/association register serve as a BO register?

**Country
(In the EU)
L – S**

Does your country have a specific register for beneficial owners of legal entities/foundations or does the foundation/company/association register serve as a BO register?

Austria	Specific BO register kept by a register office at the Ministry of Finance.	Luxembourg	A special register for BO of entities registered with the company register.
Belgium	Specific register: UBO register.	Malta	A specific register for the BO of foundations maintained by the Registrar for Legal Persons.
Bulgaria	The Register at the Registry Agency to the Minister of Justice serves as a BO register.	Netherlands	The BO register is a separate register, held by the Chamber of Commerce.
Croatia	The Register of Foundations serves as a BO register.	Poland	There is a BO registry but foundations are not included.
Cyprus	Register for the collection of information for companies and a BO register for trusts.	Portugal	A specific register for BO of legal entities.
Czech Republic	Specific Registry of Czech beneficial owners is maintained by the Ministry of Justice.	Romania	Beneficiary Registry for Associations and Foundations managed by the Ministry of Justice.
Denmark	Information about beneficial ownership is in the central business register.	Slovakia	BOs are entered in the general Registry of Non-Profit Non-Governmental Organizations.
Estonia	Data on BOs are kept in the general commercial register, but they must be entered separately and re-confirmed by the foundation when submitting its annual report.	Slovenia	○ n/a
Finland	The foundation register serves as a BO register.	Spain	The Register of Foundations is currently in charge of these functions.
France	○ n/a	Sweden	The Swedish Companies Registration Office serves as a BO register.
Germany	There is a BO register in which those organisations must be registered for which there is no other reliable public register or other reliable source containing the information required under the AMLD.		
Greece	A special BO register.		
Hungary	The regular register applies.		
Ireland	The BO register for corporate charities is maintained by the Companies Registration Office, separately to the Companies Register.		
Italy	A specific section in the Registry of Business.		
Latvia	The State Register of Enterprises.		
Lithuania	○ n/a		

5 | Beneficial ownership register

Country (Outside the EU) A – U
 Does your country have a specific register for beneficial owners of legal entities/foundations or does the foundation/company/association register serve as a BO register?

Albania	Such a register does not exist yet.
Bosnia and Herzegovina	○ n/a
Kosovo	No specific BO register.
Liechtenstein	Specific register.
Montenegro	○ n/a
North Macedonia	In addition to the foundation/company/association register, a new BO Registry was introduced in January 2021 requiring all foundations to register there by end of April 2021.
Norway	A separate register for BO of all legal entities.
Russia	The foundation/company/association register serves as a BO register.
Serbia	○ n/a
Switzerland	● No
Turkey	● No
Ukraine	The Company register serves as a BO register.
United Kingdom	Different registers for different legal forms.

6 | Determination of a beneficial owner

Country (In the EU) A – C	Does the national law define/ specify who is considered as a beneficial owner of a foundation?	Country (In the EU) C – G	Does the national law define/ specify who is considered as a beneficial owner of a foundation?		
Austria	○ n/a	Czech Republic	<p>● Yes</p> <p>Any natural person who ultimately owns or controls a legal entity (including trusts). In the case of foundations it is always a natural person (even in the cases when they do not “own” or “control”):</p> <ol style="list-style-type: none"> 1. The founder. 2. A member of the administrative or supervisory board or its auditor or a person of similar status. 3. A person who receives the foundation’s support according to the purpose outlined in the founding legal action of the foundation. 		
Belgium	<p>● Yes</p> <ol style="list-style-type: none"> 1. Members of the board of directors. 2. Persons who can represent the foundation. 3. Persons entrusted with the daily management. 4. The founders. 5. The persons who are beneficiaries of the foundation, or when these persons have not yet been identified, the category of natural persons in whose main interest the foundation was established. 6. Any other natural person exercising ultimate control over the foundation by other means. 				
Bulgaria	Declaration of actual ownership of any entity, as well as a complex check of the donations under particular circumstances, according to the internal rules of the organisation.			Denmark	<p>● Yes</p> <p>(FL section 4-5 and EFL section 21 A-D).</p>
Croatia	● No			Estonia	<p>● Yes</p> <p>If the foundation has not appointed beneficiaries, the members of the management board and the supervisory board must be indicated in the register as BOs.</p>
Cyprus	<p>● Yes</p> <p>Any natural person who ultimately owns or controls a corporate or legal entity (including trusts) or on whose behalf the entity is conducting its activity or transaction. In the case of trusts, the notion of UBO includes:</p> <ol style="list-style-type: none"> 1. The settlor. 2. The trustee or commissioner. 3. The protector, if any. 4. The beneficiary, or where the individual benefiting from the legal arrangement or legal entity has yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates. 5. Any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means. <p>In the case of legal entities, such as foundations, and legal arrangements similar to trusts, the natural persons holding equivalent or similar positions to the persons referred to under 1-5 above.</p>			Finland	<p>● Yes</p> <p>The board of directors.</p>
				France	● No
				Germany	<p>● Yes</p> <ol style="list-style-type: none"> 1. Any natural person acting as settlor, trustee or protector, if any. 2. Any natural person who is a board member. 3. Any natural person designated as beneficiary. 4. The group of natural persons in whose favour the assets are to be managed or distributed, if the natural person who is to become the beneficiary of the assets under management has not yet been determined. 5. Any natural person who, directly or indirectly, exercises a dominant influence over the management of assets/allocation of income. 6. Any natural person who can directly or indirectly exercise a dominant influence on an association, who is a member of the board of directors of the foundation, or who has been designated as a beneficiary of the foundation.

6 | Determination of a beneficial owner

Country (In the EU) G – L	Does the national law define/ specify who is considered as a beneficial owner of a foundation?	Country (In the EU) L	Does the national law define/ specify who is considered as a beneficial owner of a foundation?
Greece	<ul style="list-style-type: none"> ● Yes <p>“Any natural person(s) who ultimately owns or controls a legal entity, as well as, the natural person(s) on whose behalf a transaction or activity is conducted”.</p>	Luxembourg	<ul style="list-style-type: none"> ● Yes <p>Foundations are comparable to fiduciaries and trusts, as regards the determination of their beneficial owners. The beneficial owner of a foundation is therefore any natural person who has a function that is similar or equivalent to those existing in trusts and fiduciaries, namely:</p> <ol style="list-style-type: none"> 1. The settlor. 2. The trustee. 3. The protector, if applicable. 4. The beneficiaries or, when the persons who will be the beneficiaries of the construction or the legal entity have not yet been designated, the category of persons in whose main interest the construction or legal entity has been incorporated or is operating. 5. Any other natural person exercising control as a last resort, by direct or indirect ownership or by other means. In this context, functions that are similar or equivalent within a foundation that is governed by Luxembourg law are: The founder of the foundation; and members of the legally provided management body, who exercise control over the foundation (i.e. the board of directors).
Hungary	<p>Unclear</p> <p>Banks and similar institutions normally consider board members as BOs.</p>		
Ireland	<p>There are 2 sets of laws: the EU (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019, and the EU (Anti-Money Laundering: Beneficial Ownership of Trusts) Regulations 2019. The BOs in the case of the former are “those natural persons who ultimately own or control the corporation,” while in the case of the latter, they are “any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted.”</p>		
Italy	<ul style="list-style-type: none"> ● Yes <ol style="list-style-type: none"> 1. Founders, if still alive. 2. Beneficiaries, if easily identified. 3. All those subjects who are legally entitled to represent the foundation, such as legal representatives or administrators. <p>If the application of the above-mentioned rules fails, the BO is the natural person or persons to whom, ultimately, the direct or indirect ownership of the entity or its control can be attributed.</p>		
Latvia	<ul style="list-style-type: none"> ● Yes <p>The governing board (all members), unless the foundation provides strong justification that such a designation is not applicable and a BO cannot be identified.</p>		
Lithuania	<ul style="list-style-type: none"> ○ n/a 		

6 | Determination of a beneficial owner

Country (In the EU) M – P	Does the national law define/ specify who is considered as a beneficial owner of a foundation?	Country (In the EU) R – S	Does the national law define/ specify who is considered as a beneficial owner of a foundation?
Malta	<p>● Yes</p> <p>“Beneficial owner” shall have the same meaning assigned to it under the Prevention of Money Laundering and Funding of Terrorism Regulations as specifically applicable to foundations and for the purposes of the Civil Code (Second Schedule)(Register of Beneficial Owners – Foundations) Regulations shall be specifically applicable to the following:</p> <ol style="list-style-type: none"> 1. The founder. 2. The administrator(s). 3. The protector or members of a supervisory council, if any. 4. The beneficiaries where identified in the relevant foundation instruments, subject to regulation 4(1)(d), or where the individuals benefiting from the foundation have yet to be determined, the class of persons in whose main interest the foundation is set up or operates; and when the beneficiary is a legal entity, then this term shall also include the BO of such legal entity. 5. Any other natural person exercising ultimate and effective control over the foundation by means of direct or indirect ownership or by other means including any person (other than those already referred to in 1 to 4 above) whose consent is to be obtained, or whose direction is binding, in terms of the statutes of the foundation or any other instrument in writing, for material actions to be taken within the foundation; and BO shall be construed accordingly. 	Romania	<p>While the national law includes a definition of the concept of BO, this definition varies depending on the nature of the entity. It is unclear who is considered the BO of a foundation – board members, founding members, or executive members.</p>
Netherlands	<p>● Yes</p> <p>The same definition as applies to other legal entities.</p>	Slovakia	<p>● Yes</p> <p>If the founder is an individual, the BO is:</p> <ol style="list-style-type: none"> 1. The founder. 2. An individual who is entitled to appoint or dismiss the statutory body, governing body, supervision body of the foundation or its members. 3. An individual who is the statutory representative, governing body or supervising body or a member of these bodies. 4. An individual who receives at least 25% of funds that the foundation provides (if such individual can be determined). If recipients of funds cannot be determined, the BO is a group of individuals who derive a significant benefit from the founding or from the activities of the foundation. <p>If the founder is a legal entity, the BO is:</p> <ol style="list-style-type: none"> 1. An individual who has a direct or indirect share or has in total at least 25% of voting rights in the legal entity or in its equity (endowment). 2. An individual who is entitled to appoint or otherwise constitute or dismiss the statutory body, governing body, supervising body or any of its members. 3. An individual who controls the foundation by some other means than those mentioned above. 4. An individual who is entitled to economic benefit from at least 25% of the activity of the foundation.
Poland	<p>● No</p>	Slovenia	<p>● No</p>
Portugal	<p>● No</p> <p>However, best practice considers the members of the board as the BOs of a foundation as they are in charge of the activity of a foundation.</p>		

6 | Determination of a beneficial owner

Country (In the EU) S – S	Does the national law define/ specify who is considered as a beneficial owner of a foundation?	Country (Outside the EU) A – U	Does the national law define/ specify who is considered as a beneficial owner of a foundation?
Spain	<p>● Yes</p> <ol style="list-style-type: none"> The natural person on whose behalf it is intended to establish a business relationship or intervene in any operations. The natural person who ultimately owns or controls, directly or indirectly, a percentage higher than 25% of the capital or voting rights of a legal person, or by other means exercises control, direct or indirect, of management of a legal person. 	Albania	● No
		Bosnia and Herzegovina	● No
		Kosovo	● No
		Liechtenstein	● Yes
		Montenegro	● No
		North Macedonia	<p>● Yes</p> <p>BO in other legal entities (including foundations), where ownership is not based on the shareholder principle, is every person with authorisation to represent the legal entity or the person who has a controlling position in the governance of the assets of the organisation.</p>
Sweden	<p>● Yes</p> <p>The board of the foundation is considered as the BO and in the case of attached administration it is the representative of the legal person that has the attached administration that is considered as the beneficial owner.</p>	Norway	● Yes
		Russia	● No
		Serbia	○ n/a
		Switzerland	<p>● No</p> <p>However, there is a general definition of the “Beneficial Owner” in Art. 2a para. 3 GwG for those who fall under the scope of the GwG (i.e. Anti-Money Laundering Act).</p>
		Turkey	● No
		Ukraine	<p>● Yes</p> <p>The same definition as applies to other legal entities, i.e. any person having 25% or more of votes in a foundation, directly or via affiliated person(s), including trusts, or via agents and other intermediaries. Some indirect powers (e.g. right to change directors or to veto the board’s decisions) may result in being considered as a BO.</p>
		United Kingdom	BOs are defined by reference to their legal form, which may vary between foundations.

7 | Determination of obliged entities

Country (In the EU) A – P	Does the national law consider foundations as obliged entities as defined by the Anti-Money Laundering Directive?	Country (In the EU) R – S	Does the national law consider foundations as obliged entities as defined by the Anti-Money Laundering Directive?
Austria	○ n/a	Romania	● No
Belgium	● No Usually foundations are not considered as obliged entities, depending on their field of activity.	Slovakia	● Yes
Bulgaria	● Yes	Slovenia	● No The AMLD is followed only by their donors when transferring funds.
Croatia	● No	Spain	● Yes
Cyprus	● Yes	Sweden	● No
Czech Republic	● No	Country (Outside the EU) A – U	
Denmark	● Yes	Albania	● Yes
Estonia	● No Usually foundations are not considered as obliged entities, depending on their field of activity. The AMLD regulation applies to foundations when they are paid or they spend over €5,000 in cash, over a period of up to 1 year.	Bosnia and Herzegovina	● Yes
Finland	● No	Kosovo	● Yes
France	● No	Liechtenstein	● Yes
Germany	● No In 4557/2018, there is no mention to foundations.	Montenegro	● Yes
Greece	Unclear	North Macedonia	● No
Hungary	○ n/a	Norway	● No
Ireland	● Yes	Russia	○ n/a
Italy	● No	Serbia	○ n/a
Latvia	○ n/a	Switzerland	● No But the possibility cannot be excluded that in the case of certain effective activities and arrangements a foundation may fall under its scope.
Lithuania	● No	Turkey	● No
Luxembourg	● No	Ukraine	● No
Malta	● No Generally foundations are not considered to be obliged entities, but this rule may be subject to exceptions which depend on their field of activity.	United Kingdom	Some foundations could be obliged entities depending on their activities.
Netherlands	● No		
Poland	Foundations are obliged entities if they accept or make cash transfers that are higher than €10,000.		
Portugal	● No		

8 | Political activities

Country (In the EU) A – S	Are there any limitations (in civil law/tax law) to political party related or general lobby/ advocacy activities?	Country (In the EU) S – S	Are there any limitations (in civil law/tax law) to political party related or general lobby/ advocacy activities?
Austria	○ n/a	Spain	● No
Belgium	● No For a general purpose, this would in principle not be a problem.	Sweden	● No
Bulgaria	● No	Country (Outside the EU) A – U	
Croatia	● No	Albania	● No
Cyprus	○ n/a	Bosnia and Herzegovina	● Yes Political.
Czech Republic	● Yes Political.	Kosovo	● Yes Political.
Denmark	● No	Liechtenstein	● No
Estonia	● Yes In practice.	Montenegro	● Yes Political.
Finland	● No	North Macedonia	● Yes Political.
France	● Yes Both.	Norway	● No
Germany	● Yes Political.	Russia	● Yes Political.
Greece	● No	Serbia	● Yes Political.
Hungary	● Yes Political.	Switzerland	● Yes Political in the tax law.
Ireland	● Yes Political.	Turkey	● No
Italy	● No	Ukraine	● Yes Political.
Latvia	● Yes Political.	United Kingdom	● Yes Political.
Lithuania	● Yes Political.		
Luxembourg	● No		
Malta	● Yes Political.		
Netherlands	● No		
Poland	● Yes But advocacy is not regulated.		
Portugal	● Yes Political.		
Romania	● No		
Slovakia	● Yes Political.		
Slovenia	○ n/a		

9 | Economic activities

Country (In the EU) A – L	Are economic activities (related/unrelated to the public-benefit purpose) permitted?	Is there a ceiling / limit? If Yes: what are these?
Austria	● Yes Related.	● Yes Must be ancillary.
Belgium	● Yes Related and unrelated.	● Yes Must be ancillary.
Bulgaria	● Yes Related.	● No
Croatia	● Yes Related and unrelated.	● Yes In tax law, taxing the income.
Cyprus	● Yes Related and unrelated, depending on the type of organisation.	● No
Czech Republic	● Yes Related and unrelated.	● Yes Must be ancillary.
Denmark	● Yes Related and unrelated.	For enterprise foundations there is no limit; but for non-enterprise foundations, the economic activities must be ancillary.
Estonia	Economic activities are not regulated by law, but a foundation may use its income only to achieve the objectives specified in its articles of association.	● No
Finland	● Yes Related always, and unrelated only if stated in the statutes.	● No
France	● Yes Related.	● Yes Must be ancillary.
Germany	● Yes Related and unrelated.	If the annual income from unrelated economic activity does not exceed €45,000, it is not taxed.
Greece	● Yes Related. It is possible to set up a corporate foundation which is linked to a corporation with regard to finance and administration.	● No
Hungary	● Yes Related.	● No
Ireland	● Yes Related and unrelated.	● Yes Must be ancillary.
Italy	● Yes Related.	● Yes Must be ancillary.
Latvia	● Yes Related and unrelated.	● Yes Must be ancillary.
Lithuania	● Yes Related and unrelated.	● No
Luxembourg	● Yes Related and unrelated.	● Yes Must be ancillary.

9 | Economic activities

Country (In the EU) M – S	Are economic activities (related/unrelated to the public-benefit purpose) permitted?	Is there a ceiling / limit? If Yes: what are these?
Malta	Related and unrelated economic activities are permitted, but Maltese law has very strict rules regarding the way in which such activities may be conducted.	● No
Netherlands	● Yes Related and unrelated.	● No
Poland	● Yes Related and unrelated.	● Yes Must be ancillary.
Portugal	● Yes Related.	● Yes Must be ancillary.
Romania	● Yes Related.	● Yes Must be ancillary.
Slovakia	● No But with certain exceptions.	○ n/a
Slovenia	● Yes Related and unrelated.	● Yes Income generated must amount to less than 30% of the foundation's total income.
Spain	● Yes Related.	● Yes Must be ancillary.
Sweden	● Yes Related.	● No

9 | Economic activities

Country (Outside the EU) A – U	Are economic activities (related/unrelated to the public-benefit purpose) permitted?	Is there a ceiling / limit? If Yes: what are these?
Albania	● Yes Related.	● Yes Income generated must not be higher than 20% of the total annual income.
Bosnia and Herzegovina	● Yes Related. Unrelated economic activities may only be conducted through a specially established legal entity.	● No
Kosovo	● Yes Related.	● No
Liechtenstein	● Yes Related.	● No
Montenegro	● Yes Related.	● Yes Annual limit of €4,000 or up to 20% of the total income.
North Macedonia	● Yes Related.	● No
Norway	● Yes	● Yes A non-commercial foundation can engage in activities of an economic nature without being characterised as commercial, provided it does not fall under the Foundations Act's definition of a commercial foundation.
Russia	● Yes Related.	● No
Serbia	● Yes Related.	● Yes Must be ancillary.
Switzerland	● Yes Related and unrelated.	● No
Turkey	● Yes Related and unrelated.	● No
Ukraine	● Yes Related and unrelated.	● No
United Kingdom	● Yes Related.	● Yes Must be ancillary.

10 | Majority shareholding

Country (In the EU) A – S	Is majority shareholding allowed?	Country (Outside the EU) A – U	Is majority shareholding allowed?
Austria	● Yes	Albania	● Yes
Belgium	● Yes	Bosnia and Herzegovina	● Yes
Bulgaria	● Yes	Kosovo	● No
Croatia	● Yes	Liechtenstein	● Yes
Cyprus	● Yes	Montenegro	● Yes
Czech Republic	● Yes	North Macedonia	● Yes
Denmark	● Yes	Norway	● Yes
Estonia	● Yes	Russia	● Yes
Finland	● Yes	Serbia	● Yes
France	● Yes	Switzerland	● Yes
Germany	● Yes	Turkey	● Yes
Greece	● Yes	Ukraine	● Yes
Hungary	● No	United Kingdom	● Yes
Ireland	● Yes		
Italy	● Yes With certain restrictions depending on type of organisation.		
Latvia	● Yes		
Lithuania	Unclear		
Luxembourg	● Yes		
Malta	● Yes		
Netherlands	● Yes		
Poland	● Yes		
Portugal	● Yes		
Romania	● Yes		
Slovakia	● Yes		
Slovenia	Unclear		
Spain	● Yes		
Sweden	● Yes		

11 | Asset management/Investment

Country (In the EU) A – G	Are there any rules/limitations in civil and/or tax law regarding foundations' asset management (only secure investments/bonds/investments with a certain return)?	What, if any, types of investment are prohibited?	Are there any limitations on mission-related investments?
Austria	● Yes	A private foundation must not run a separate business or be a personally liable partner in a company.	○ n/a
Belgium	● No	○ n/a	○ n/a
Bulgaria	● No	○ n/a	○ n/a
Croatia	● No	● No	● No
Cyprus	Any investments should serve the statutory purpose of the foundation.	○ n/a	○ n/a
Czech Republic	● No But due care and loyalty of the investing body are required.	○ n/a	○ n/a
Denmark	● Yes For non-enterprise foundations at least 25 % of the assets must be invested in bonds or similarly low-risk, low-yield investments. Enterprise foundations are, broadly speaking, free to invest in any way that complies with the purpose of the foundation.	The non-enterprise foundations are not allowed to invest in real estate, unless provided for in the statutes of the foundation.	Not regulated.
Estonia	● Yes	Loans to, or securing loans for, founders or board members, or to/ for persons with an equivalent interest.	● No
Finland	● Yes The foundation's asset management must be planned.	○ n/a	○ n/a
France	Public-utility foundations as well as endowment funds do not face such restrictions. They can receive legacies and donations, while corporate foundations can only receive contributions from the founding corporation, and from the employees of the founding corporation and of any related companies.	No financial advantage can be granted to the founder or their relatives.	○ n/a
Germany	● Yes Alternative investments such as hedge funds and private equities are possible to a certain extent as long as there is no risk for the public interest, the possible loss of capital is limited, and there is no opposing regulation in the statutes.	○ n/a	○ n/a
Greece	● No	● No	● No

11 | Asset management/Investment

Country (In the EU) H – S	Are there any rules/limitations in civil and/or tax law regarding foundations' asset management (only secure investments/bonds/investments with a certain return)?	What, if any, types of investment are prohibited?	Are there any limitations on mission-related investments?
Hungary	● No Only in the case of “trust foundations”..	● No	● No
Ireland	● No	● No	● No
Italy	Foundations of banking origin must set specific guidelines regarding asset management, in order to guarantee profitability and prudent management. They cannot invest more than 15% of their assets in non-instrumental real estate, but the threshold can be exceeded for historic buildings.	○ n/a	○ n/a
Latvia	● No	● No	● No
Lithuania	● Yes	● Yes For example, grant loans, except in cases when the funds constituting the endowment capital are invested in securities.	○ n/a
Luxembourg	Foundations may own real estate only to the extent necessary for the pursuance of their purpose(s). Moreover, in such cases according to Art. 36 FA, donations or wills in favour of a foundation will be effective only if they conform to the provisions applicable to associations (ASBL), which requires authorisation by Grand Ducal Decree for such donations/wills to take effect.	● No	○ n/a
Malta	● No But the administrators of foundations are subject to fiduciary obligations.	● No	○ n/a
Netherlands	● No	● No	● No
Poland	● Yes Foundations may invest their assets designated for their statutory activity in financial instruments without losing tax benefits..	● No	○ n/a
Portugal	● No But authority approval is needed for the sale of assets with special significance to public and private foundations with public-utility status.	● No	○ n/a
Romania	● No	● No	● No

11 | Asset management/Investment

Country (In the EU) S – S	Are there any rules/limitations in civil and/or tax law regarding foundations' asset management (only secure investments/bonds/investments with a certain return)?	What, if any, types of investment are prohibited?	Are there any limitations on mission-related investments?
Slovakia	<p>● Yes</p> <p>The endowment assets cannot be invested as equity stake in a business or used as a guarantee for the liabilities of the foundation or any other third-party liabilities. Endowment assets (cash) can be invested only in bonds or T-bills, publicly traded shares, investments in mutual funds, bonds, deposit certificates and real estate. The assets of the foundation that are not registered as an endowment can be invested without any restrictions.</p>	<p>● No</p>	<p>○ n/a</p>
Slovenia	<p>● No</p>	<p>● No</p>	<p>● No</p>
Spain	<p>● Yes</p> <p>Authorisation by the Protectorate for acts of disposal of property of the endowment or property directly linked to the aims of the foundation is still needed.</p>	<p>● No</p>	<p>○ n/a</p>
Sweden	<p>● Yes</p> <p>A foundation may not engage in speculative investments.</p>	<p>● No</p>	<p>○ n/a</p>
Country (Outside the EU) A – N			
Albania	<p>● No</p> <p>Except for the general requirement that a foundation's assets should be used for the foundation's goals and purposes.</p>	<p>● No</p>	<p>○ n/a</p>
Bosnia and Herzegovina	<p>● No</p>	<p>● No</p>	<p>● No</p>
Liechtenstein	<p>● No</p> <p>But a foundation's assets must be managed in compliance with the founder's intention and in accordance with the principles of good management.</p>	<p>● No</p>	<p>● No</p>
Montenegro	<p>● No</p>	<p>● No</p>	<p>● No</p>
North Macedonia	<p>● No</p>	<p>● No</p>	<p>● No</p>

11 | Asset management/Investment

Country (Outside the EU) N – U	Are there any rules/limitations in civil and/or tax law regarding foundations' asset management (only secure investments/bonds/investments with a certain return)?	What, if any, types of investment are prohibited?	Are there any limitations on mission-related investments?
Norway	<p>● No</p> <p>But there is a responsibility standard ensuring that sufficient consideration is at all times given to assuring both the security of the capital and a satisfactory return in order to achieve the foundation's purpose.</p>	<p>● No</p>	<p>● No</p>
Russia	<p>● No</p> <p>The only rule is that the investments serve or are consistent with the purposes for which the foundation was established.</p>	<p>● No</p>	<p>● No</p>
Serbia	<p>● No</p> <p>Other than the requirement for the governing board to exercise the diligence of a prudent person with common sense.</p>	<p>● No</p>	<p>● No</p>
Switzerland	<p>● No</p> <p>No legal rules, but some rules developed by jurisprudence and guidelines established by associations.</p>	<p>● No</p>	<p>● No</p>
Turkey	<p>● Yes</p>	<p>● Yes</p> <p>For example, foundations cannot allocate grant funds as low interest loans or recoverable grants.</p>	<p>○ n/a</p>
Ukraine	<p>● No</p>	<p>● No</p>	<p>● No</p>
United Kingdom	<p>Tax law exempts the income and capital gains of foundations only to the extent that they are applied to charitable purposes. This condition is considered to be satisfied if foundations invest their funds pending their application to charitable purposes, provided that the funds are not invested for an excessive period without being applied. The tax law includes a list of approved categories of assets in which foundations can invest freely. If a foundation makes an investment outside these categories it must show that the investment has been made for the benefit of the foundation and has not been made for tax avoidance purposes. Mission-related investments are permitted if they meet the criteria for a financial investment or a programme-related investment and are not prohibited by the foundation's governing documents.</p>	<p>● No</p>	<p>Mission-related investments are permitted if they meet the criteria for a financial investment or a programme-related investment and are not prohibited by the foundation's governing documents.</p>

12 | Asset allocation/Impact investments on programme side

Country (In the EU) A – P	Are foundations legally allowed to allocate grant funds towards furthering their public-benefit purpose/programmes which (can) also generate income – impact investing? (recoverable grants; low interest loans; equities)	Country (In the EU) P – S	Are foundations legally allowed to allocate grant funds towards furthering their public-benefit purpose/programmes which (can) also generate income – impact investing? (recoverable grants; low interest loans; equities)
Austria	● No No provisions.	Portugal	● Yes
Belgium	● Yes	Romania	● Yes
Bulgaria	Foundations can carry out additional economic activity only if it is related to the subject of their basic activity for which they are registered, and by using the revenue for achieving the goals determined by the statutes or the constituting act. This includes recoverable grants, low interest loans, equities.	Slovakia	● Yes
Croatia	● Yes	Slovenia	● No
Cyprus	● No No specific restrictions.	Spain	● No Foundations can only allocate funds towards the aim of the foundation or complementary to it, and any profits generated have to be reinvested in the pursuit of the purposes of the organisation.
Czech Republic	● Yes	Sweden	● Yes But it is not certain that this will enable the foundation to keep its tax-exempt status.
Denmark	Not explicitly regulated in the Enterprise Foundation Act; but such investments are tolerated in practice.	Country (Outside the EU)	
Estonia	● Yes	Albania	● Yes A foundation may use its assets to allocate funds towards furthering its public-benefit purpose income.
Finland	These should usually be specified as investments.	Bosnia and Herzegovina	● Yes
France	Foundations and endowment funds can only grant no-interest or very low-interest loans.	Kosovo	● Yes
Germany	No specific regulations for foundations.	Liechtenstein	● Yes However, the consequence of the allocation of grant funds might be that the foundation loses its tax privileges.
Greece	● Yes	Montenegro	Domestic funds (funds allocated on national level and by local self-government) would not be permitted, but there are no limitations for foreign donors.
Hungary	● Yes	North Macedonia	● Yes
Ireland	● Yes	Norway	● Yes
Italy	● No	Russia	● No
Latvia	● Yes In most cases.	Serbia	● Yes
Lithuania	● Yes	Switzerland	● Yes
Luxembourg	● Yes	Turkey	● No
Malta	● Yes But certain restrictions may apply.	Ukraine	● Yes
Netherlands	● Yes	United Kingdom	● Yes
Poland	● Yes		

13 | Governing organs/(corporate) governance

Country (In the EU) A – R	What are the mandatory governing organs of a foundation?	What is the minimum number of governing board members?
Austria	Public-benefit foundations: Governing board.	Public-benefit foundations: 2
Belgium	Governing board	No minimum number
Bulgaria	Governing board	1
Croatia	Governing board	3
Cyprus	Governing board	3
Czech Republic	Governing board and supervisory board, Controller (smaller foundations, foundation funds).	Foundation: 3 Foundation fund: 1
Denmark	Governing board	3
Estonia	Governing board and supervisory board.	Supervisory board: 3
Finland	Governing board	3
France	Governing board or supervisory board.	Public-benefit foundations and endowment funds: 3. Specific requirements for corporate foundations.
Germany	Governing board	No minimum number.
Greece	Governing board	1
Hungary	Governing board. Supervisory board only in case of public-benefit foundations with an annual income above €150,000.	3: At least 2 of which are residents of Hungary. Alternatively, the founder may appoint a trustee to function as a single-member managing body of the foundation.
Ireland	Governing board	3
Italy	Governing board. For ONLUS, Foundations of the Third Sector, foundations of banking origin, and music foundations also supervisory board.	1
Latvia	Governing board, Supervisory board - only if the governing board is less than 3 people.	The governing board must have at least 3 members. Otherwise an additional supervisory body with at least 3 members must be set up
Lithuania	Governing board	1
Luxembourg	Governing board	3
Malta	Governing board	Foundations: 3 individuals or 1 legal person.
Netherlands	Governing board. Supervisory board is not mandatory but may be required for obtaining public funding in certain sectors.	1
Poland	Governing Board. Supervisory board only obligatory for foundations that are public-benefit organisations.	1
Portugal	Governing board and supervisory board.	Uneven number of members, 1 of which must be nominated as its president.
Romania	Governing board	3

13 | Governing organs/(corporate) governance

Country (In the EU) S – S	What are the mandatory governing organs of a foundation?	What is the minimum number of governing board members?
Slovakia	Governing board and supervisory board. However, the supervisory board can be substituted by the Inspector of the foundation in case the total assets of the foundation are less than €165,959.	3
Slovenia	Governing board	3
Spain	Governing board	3
Sweden	Governing board	3
Country (Outside the EU) A – U		
Albania	Governing board	3 unless otherwise stipulated in the statutes of the foundation.
Bosnia and Herzegovina	Governing board	3
Kosovo	Governing board	3
Liechtenstein	Governing board	2
Montenegro	Governing board	1
North Macedonia	Governing board	1
Norway	Governing board. General manager obligatory only for some commercial foundations.	At least 3 for foundations with a founding capital of €300,000.
Russia	Governing board and supervisory board.	More than 1
Serbia	Governing board	3
Switzerland	Governing board	1
Turkey	Governing board	Not specified in the law, but 3 is encouraged.
Ukraine	Governing board and supervisory board (mandatory if ≥10 founders).	1
United Kingdom	Governing board	Incorporated company (private): 1 Incorporated company (public): 2 Unincorporated charity: 1

14 | Rights of founders

Country (In the EU) A – C	What are the rights of founders during the lifetime of the foundation?	Country (In the EU) D – H	What are the rights of founders during the lifetime of the foundation?
Austria	Can change the statutes at any time, can alter the purpose of the foundation if this right has been foreseen in the founding act or the original purpose cannot be fulfilled. The founder can also withdraw the founding act and can be a member of the board.	Denmark	None: As soon as the foundation is created, the founder loses influence over decision-making. However, both the founder and family members may be on the board, but together they may not hold a majority.
Belgium	No specific rights in the law, but statutes can grant rights and foresee that fundamental decisions, such as change of purpose, or appointment or dismissal of directors, can be made at the discretion of the founders.	Estonia	The rights of the founders are set out in the statutes, and although the founding rights cannot be transferred or subsequently acquired, the statutes may specify, for example, which persons will exercise the founding rights.
Bulgaria	The reserved rights of the founder or of a third person determined by him shall be passed on to the respective body of the foundation if the founder or the person dies; if they are declared absent; or if they are placed under judiciary disability. The most common rights that are reserved: vetoing of amendments to the statutes; deciding on termination or transformation of the organisation; and, in some cases, selecting the board members of the foundation.	Finland	The statutes may stipulate that their amendment requires the consent of the party specified in the statutes.
Croatia	The founder(s) can protect their interests in the founding act of the foundation or in the statutes of the foundation including also some specific rights and fundamental decisions. No further specific rights in the law.	France	None: Only the board of public-utility foundations has the capacity to decide on any change to be made to the bylaws; the founders have no right to that extent.
Cyprus	The relevant legislation does not provide for any particular rights of the founders.	Germany	None: As soon as the foundation is established, the founder loses influence over decision-making. Nevertheless, a founder can reserve the right to serve as a board member with the respective rights and duties.
Czech Republic	Founders can keep “rights to influence foundation”, for example to change the statutes and the purpose of the foundation; and change the internal organisation such as the powers of the members of the governing bodies etc. Founder can also be a board member.	Greece	The will of the founder is the central element of the private law foundation described in the foundation act. If the purpose of the foundation has become impossible, the competent authority may give by a new decree another similar purpose in accordance with the probable will of the founder. If the will of the founder is fully unrealisable the property left for a charitable purpose may exceptionally be used for other similar purposes under a special law. In general, there is no special power of the founders to change the purpose of the foundation.
		Hungary	The founder has authority to recall any member of the board of trustees before the expiry of their mandate, if s/he considers that the foundation’s purpose is in imminent jeopardy. The founder draws up the statutes and appoints the board.

14 | Rights of founders

Country (In the EU) I – P	What are the rights of founders during the lifetime of the foundation?	Country (In the EU) P – S	What are the rights of founders during the lifetime of the foundation?
Ireland	Upon creating a charitable foundation, the founder conveys all legal title in the property to the charity trustees. The charity trustees may include the founder, but the task of the charity trustees is to pursue the charitable purpose of the foundation as laid down in its governing instrument. Changes in charitable purpose may not be undertaken unilaterally by either the founder or the charity trustees.	Portugal	Founders do not have any explicit “rights” during the lifetime of the organisations they incorporate, except of course if, in the case of living founders, they have any lifetime position in the management of the foundation, which is possible.
Italy	The founder can revoke the constitution of the foundation before registration and before the start of its activity. The foundation’s statutes may reserve specific powers in the control and administration to the founder.	Romania	The founder may have special rights as regards the decisions during the lifetime of a foundation only if they are included in the statutes.
Latvia	The law does not prescribe any role of founders after the establishment of the foundation, unless this is specified in the statutes. If the statutes allow, then even change of purpose can be made without the involvement of the founders.	Slovakia	Founders shall be severally and jointly liable for the fulfilment of duties and obligations contracted by the founders on behalf of the foundation prior to its registration. The foundation can be dissolved upon the founders’ resolution, or upon their mutual agreement if the governing board has not been operational for at least 1 year.
Lithuania	Starting from the date the fund is registered in the Legal Entities’ Register, all the founders become stakeholders of the fund.	Slovenia	The foundation council as a joint body consisting of founders appoints and dismisses the members of all the foundation’s bodies, and gives consent to the annual reports, to the proposed statutes and amendments and additions thereto. The fundamental decisions are the rights of the board of trustees.
Luxembourg	The articles of a foundation may provide for certain rights in favour of the founder but the law does not provide for any particular rights in favour of the founder.	Spain	The founder can introduce any legal provisions and conditions into the statutes. The founder may also establish a remuneration for employees and may prohibit the modification of the statutes. Founders may prohibit the amendment of the statutes and the fusion of the foundation at their discretion.
Malta	A founder may take fundamental decisions if s/he reserves this right in the deed and statutes of the foundation or if this is granted or permitted by applicable law.	Sweden	The founder must not be the sole member of the board and has no possibility to solely make decisions on behalf of the foundation. The founder may however, on behalf of the foundation, sue a board member in cases where the board member has in the discharge of their duties, either intentionally or negligently damaged the foundation. The founder can also appear in court to apply for the dismissal of a board member for negligence.
Netherlands	The founders have no powers by law, but rights or powers - such as the power to amend the articles, appoint board members or dismiss board members - can be attributed to them in the articles. Founders can also be members of the board.		
Poland	The law does not regulate this issue. This can be designed in the statutes.		

14 | Rights of founders

Country (Outside the EU) A – N	What are the rights of founders during the lifetime of the foundation?	Country (Outside the EU) N – T	What are the rights of founders during the lifetime of the foundation?
Albania	The founder may serve as a board member with the respective rights and duties. However, in practice the courts have not been opposed to the founder playing an important role in the management of a foundation, despite the existence of a board as the highest decision-making body.	Norway	The founder does not have the power to alter/amend the statutes of the foundation. The founder is, however, entitled to apply to the Foundation Authority for a decision on alteration of the foundation pursuant to the Foundation Authority's authority of alteration. The founder has the right to review and comment on a decision on alteration of the foundation.
Bosnia and Herzegovina	The founder has the right to elect and dismiss governing board members, if that right is stipulated in the statutes of the foundation. Fundamental decisions, such as change of purpose, can be made only by the Governing Board. The founder has no right to influence such decision-making.	Russia	The founders' participation in its activities and management is not mandatory.
Kosovo	The rights of founders end on the occasion of the registration of the foundation and the appointment of the director and the governing board of the foundation. Thus, the rights of founders are delegated to the governing board members.	Serbia	The founder can be president or board member having a deciding vote or veto power on the following matters: the enactment of the statutes; the appointment and dismissal of the director; the transformation of an organisation or changes of its stated goals; and, the dissolution and distribution of the remaining assets of the organisation. Alternatively, the founding act and the statutes may provide that a founder shall retain the power of prior approval of decisions to be rendered by the governing board on the foregoing issues, without necessarily having a seat on the board.
Liechtenstein	The founder can, in the foundation deed, reserve the right to revoke the foundation or to amend the declaration of establishment. These rights may not be assigned or bequeathed, but they can be exercised by a representative.	Switzerland	A founder may request an amendment of the foundation's purpose if the founder has reserved this right in the foundation deed and provided that at least 10 years have elapsed since the foundation was established or since the last amendment has been requested by the founder.
Montenegro	The founders may reserve some rights for themselves in the statutes of the foundation such as: vetoing of amendments to the statutes; deciding on termination or transformation of the organisation; and selecting the board members of the foundation.	Turkey	All changes to the statutes of a foundation require a court decision. However, courts always take into account the adherence to the will of the founder and allow very few changes. By and large, fundamental changes to the statutes of a foundation are not permitted.
North Macedonia	The founder has the right to make decisions on amending of the goal, the name, the manner of amending and supplementing the statutes, and termination of the foundation. The founder with the founding act or the statutes of the foundation can retain the rights that usually are perceived as competences of the board.		

14 | Rights of founders

Country
(Outside the EU)
U – U

What are the rights of founders during the lifetime of the foundation?

Ukraine

Founder may decide on amending the statutes, winding up the foundation, and appointing and dismissing members of the supervisory board and the governing board. They also may make decisions on other issues as specified in the statutes.

United Kingdom

It is possible for founders to include provisions to protect their interests in the governing instrument of a charity but they cannot override decisions of the board. A founder might determine that the charity's assets are to be used for specific charitable purposes only; such assets cannot be used for different charitable purposes and if they are so required, such use can only occur with the permission of the Commission.

15 | Reporting requirements

Country (In the EU) A – E	Which types of report must be produced annually? (e.g. activity report, financial report, other)	To which authority(ies) if any must these be submitted?	Are the reports publicly available?
Austria	Annual financial report.	Tax authority, foundation authority (public foundations).	● No
Belgium	Annual financial report, annual activity report (large foundations only), tax report, report on governance changes (e.g. new board members), report on conflict of interest (if any).	Accounts: National Bank of Belgium for large foundations, Clerk's Office of the Court of Enterprises. Governance changes: Belgian Gazette (Ministry of Justice).	Accounts: ● Yes: but only for accounts published in the National Bank of Belgium database Governance changes: ● Yes: in the Belgian Gazette
Bulgaria	Annual financial report and activity report.	Annual financial report to National Statistical Office; annual activity report to Central Register within the Ministry of Justice; tax report/tax return to National Revenue Agency.	● Yes Annual reports.
Croatia	Annual accounts/financial report, activity report.	Ministry of Justice and Public Administration, Ministry of Finance (Financial Agency - FINA) and the National Audit Office.	● Yes Financial reports are publicly available on the Register of Non-for-Profit Organisations (RNO) managed by the Ministry of Finance, and the annual activity reports need to be made publicly available on the foundation's website.
Cyprus	Annual accounts/financial report.	Charitable Trust: Accounts filed with Administrative Secretary. Association: Auditor's report is filed with the Registrar. Company Limited by guarantee: Annual audited accounts and annual returns must be filed with the Company Registrar and annual accounts must be filed with the Income Tax Department.	● No
Czech Republic	Annual accounts/financial report and activity report.	Foundations: Annual report, only facultative for foundation funds; both forms tax report to tax authorities.	● No
Denmark	Commercial Foundations: Same rules apply as for non-listed limited companies. Non-commercial foundations: Annual accounts/financial report.	Non-commercial foundations: Annual report must be filed with local tax authorities.	Commercial foundations: ● Yes Non-commercial foundations: ● No
Estonia	Annual financial report/financial accounts, annual activity report, public-benefit/activity report, tax report/tax return, reports on governance changes.	All foundations: Annual audited financial and activity report to Registry of Non-Profit Organisations and Foundations. Foundations that have public-benefit status: Report on public-benefit activities to Tax and Customs Board.	● Yes The government publishes all annual reports in the business register as well as the tax form for charities.

15 | Reporting requirements

Country (In the EU) F – I	Which types of report must be produced annually? (e.g. activity report, financial report, other)	To which authority(ies) if any must these be submitted?	Are the reports publicly available?
Finland	Annual accounts/financial report, annual activity report, tax return, reports on governance changes.	Patent and Registration Office annual supervision report, and tax authority.	<ul style="list-style-type: none"> ● Yes Annual reports and accounts. ● No Reports to the tax authority.
France	Annual financial report/financial accounts, annual activity report, public-benefit/activity report, tax report/tax return, other reports e.g. on 1% schemes.	All reports are filed with the Prefet and the Ministry of the Interior.	<ul style="list-style-type: none"> ● Yes
Germany	Annual financial report/financial accounts, annual activity report, public-benefit/activity report, tax report/tax return, reports on governance changes.	Annual reports: Supervisory authorities according to the laws of the Bundesländer; if the foundation wishes to receive tax privileges, reports must also be submitted to the relevant financial authorities.	<ul style="list-style-type: none"> ● No
Greece	Annual accounts/financial report, every 2 years foundations need to submit their plans with respect to the future administration of the assets.	All the reports must be submitted to the Ministry of Finance.	<ul style="list-style-type: none"> ● Yes
Hungary	Annual financial report/financial accounts, annual activity report, public-benefit/activity report, tax report/tax return, other reports e.g. on 1% schemes, the court must be notified of changes in the board.	National Court Office: Annual financial report, public-benefit/activity report. Tax authority: 1% schemes report.	<ul style="list-style-type: none"> ● Yes
Ireland	Annual financial report/financial accounts, public-benefit/activity report, reports on governance changes (e.g. new board members).	All to file an annual report with the charities regulator. Unincorporated charities must also file their statements of account with the charities regulator. After first receiving tax-exempt status, charities to file an audited return with Revenue within 18 months. All charities with turnover above €100,000 must prepare audited statements of account for Revenue - they are not required to submit these unless asked; filing of their statements of account with the Companies Registration Office.	Reports filed by companies are publicly available on the online Companies Register, download with fee. The charities regulator makes available reports and accounts of charitable companies for free on its Charities Register.
Italy	Foundations: Annual accounts/financial report. Foundations of banking origin: Annual accounts/financial report, activity report, and other reports e.g. on 1% schemes.	Tax statements must be filed with the Italian Tax Authority, which carries out all the related checks. For Third Sector Foundations only, financial statements must be filed to the RUNTS.	Third Sector Foundations whose revenues exceed €1 million are required to file and publish on their website the social report as well the remuneration granted.

15 | Reporting requirements

Country (In the EU) L – N	Which types of report must be produced annually? (e.g. activity report, financial report, other)	To which authority(ies) if any must these be submitted?	Are the reports publicly available?
Latvia	Annual financial report/financial accounts, Annual activity report - only for foundations that apply dual entry accountancy (it is mandatory from certain turnover), Public-benefit/activity report - only for foundations with public-benefit status.	Annual reports (financial and narrative) and public-benefit reports are submitted to the State Revenue Service (tax authority)	Reports are published by the State Register of Enterprises and are available free of charge to everybody.
Lithuania	Annual financial report/financial accounts, annual activity report, public-benefit/activity report, tax report/tax return, other reports e.g. on 1% schemes.	Unclear	● Yes
Luxembourg	Annual accounts/financial report and budget, tax return, reports on governance changes.	The Ministry of Justice. Tax return to tax authorities. The annual accounts must be published within the same period in the Electronic Compendium of Companies and Associations (Mémorial).	● Yes In the Electronic Compendium of Companies and Associations.
Malta	Annual financial report/financial accounts; annual activity report; annual return; organisational chart and list of current administrators; other reports e.g. Statement of Public Collections; tax report/tax return; reports on governance changes.	Some of the reports must be submitted to supervisory authorities (Registrar for Legal Persons and the Register of BOs-Foundations; Commissioner for Voluntary Organisations; Tax Authorities). All enrolled voluntary organisations must submit an annual return to the Commissioner for Voluntary Organisations.	● Yes But some documents are only submitted if the foundation is an enrolled voluntary organisations.
Netherlands	By default there are no external or public reporting requirements for foundations. A foundation that is subject to corporate income tax (CIT), will have to file tax returns annually. A foundation that has an enterprise that has had a net turnover of €6 million in 2 consecutive years must be registered in the Register of Commerce, and has to draw up and publish its annual accounts and directors' report. Foundations with public-benefit status for tax purposes (ANBIs), must annually publish on their website an activity report and a financial report (this must be made public within 6 months after the end of the financial year).	Foundations running a business with sales over a 2-year period of at least €6 million per year must submit the annual accounts to the Chamber of Commerce; and their Corporate Income Tax return to the tax authorities.	A foundation with an enterprise must be registered in the Register of Commerce if it had a turnover of €6 million for 2 consecutive years. It then has to publish its annual accounts and directors' report, which are available online on the website of the Register of Commerce.

15 | Reporting requirements

Country (In the EU) P – R	Which types of report must be produced annually? (e.g. activity report, financial report, other)	To which authority(ies) if any must these be submitted?	Are the reports publicly available?
Poland	Annual financial report, annual activity report, public-benefit/activity report, tax return, other reports e.g. on 1% schemes.	Detailed annual report to the minister relevant to the purpose of the foundation. An annual financial report together with the annual tax report, to the fiscal authorities. In the case of a foundation that runs economic activity, the financial information must be sent to a registry of enterprises. Foundations that are public-benefit organisations are required to submit a narrative and financial report to the Minister of Social Policy and to report on the disbursement of funds received as 1% of personal income tax. A foundation that runs street collections must provide a report to the Ministry of Interior.	● Yes
Portugal	Annual financial report/financial accounts, annual activity report, public-benefit/activity report, tax report/tax return, reports on governance changes.	All reports should be submitted to the supervisory authorities. The Secretary-General of the Presidency of the Council of Ministers, acting as the foundations authority, must receive the annual financial report and the annual activity report as well as new board members' reports within 30 days of their appointment.	● Yes
Romania	Annual financial report/financial accounts, public-benefit/activity report, tax report/tax return, other reports e.g. beneficial owners or credits/loans from foreign sources, reports on governance changes e.g. new board members (these are not reports as such, but the changes are effective only after being approved by the judge; further on they are published in the national register for non-profit entities).	All reporting, including monthly/quarterly fiscal reporting to the tax authority. Reporting on BO is to be submitted to the Ministry of Justice. Labour contracts, to the Ministry of Labour employment database. Additional reporting for social service providers to the Ministry of Labour. All credits/ loans from foreign sources must be declared to the National Bank. Through random checks, the National Bank requires quarterly reports to be submitted for all operations. For any type of foundation, separate reporting in the case of grants awarded from public funds.	● Yes For some of them (i.e. activity reports of public-benefit foundations).

15 | Reporting requirements

Country (In the EU) S – S	Which types of report must be produced annually? (e.g. activity report, financial report, other)	To which authority(ies) if any must these be submitted?	Are the reports publicly available?
Slovakia	Annual financial report/financial accounts, annual activity report, tax report/tax return only if the foundation had income that is subject to income tax, other reports e.g. on 1% schemes (if the amount received from the percentage designation was higher than €3,230), Reports on governance changes in the annual report.	Annual financial report/financial accounts submitted to the Central registry of financial statements. Annual activity report submitted to Central registry of financial statements in its public domain. Tax report/tax return submitted to the Tax Office. Reports on governance changes reported in the annual report. Percentage tax designation report to the Official Journal (Gazette).	The annual activity report and the financial statement submitted to the Central registry of financial statements is available in the public domain. The tax report is not available to the public.
Slovenia	Annual financial report/financial accounts, annual activity report, public-benefit/activity report. Tax report/tax return, other reports e.g. on 1% schemes, reports on governance changes (e.g. new board members), reports on conflict of interest (self-dealing and conflict of interest breach cases).	Relevant ministry depending on the purpose of the foundation, foundation body.	Unclear
Spain	Annual accounts/financial report, annual activity report, public-benefit/activity report, tax report/tax return, other reports e.g. on 1% schemes	The Protectorate: Annual report. Administrative Authority: Action plan.	● Yes
Sweden	All foundations: Tax declaration. Larger foundations, foundations that conduct business, and foundations set up by the state: Annual accounts/financial report and activity report. Smaller foundations: Statement of accounts.	Foundations with assets of over €145,000, foundations that conduct business, and those set up by the state or municipality must send their annual report to the county administrative board every year, if they have full supervision. All foundations must submit an annual tax declaration to the tax office.	● Yes

15 | Reporting requirements

Country (Outside the EU) A – S	Which types of report must be produced annually? (e.g. activity report, financial report, other)	To which authority(ies) if any must these be submitted?	Are the reports publicly available?
Albania	Annual financial report/financial accounts, annual activity report (this is not an activity report but a performance report and only for those foundations with income or assets that have a value of total assets or income over. €235,000), reports on governance changes (e.g. new board members).	Regional tax office: Balance sheet. Court of First Instance in Tirana: Accounts.	Only the foundations that have total assets or income over €235,000 are obliged to publish on their website the financial statements and the performance report.
Bosnia and Herzegovina	Annual accounts/financial report, tax return.	The foundation authority (Ministry of Justice of Bosnia and Herzegovina, and the tax authority).	● Yes
Kosovo	Annual accounts/financial report; activity report, public-benefit/activity report, tax report/tax return, other reports e.g. on 1% schemes, reports on governance changes (e.g. new board members), reports on conflict of interest.	The supervisory authority, which is the Department for Non-Governmental Organizations, under the relevant Ministry for registration and deregistration of NGOs.	● Yes
Liechtenstein	Annual accounts/financial report and tax return.	Supervisory authority and tax authority.	● No
Montenegro	Annual accounts/financial report.	Tax authority.	● No
North Macedonia	Annual financial report/financial account, annual activity report, public-benefit/activity report, tax report/tax return.	Public Revenue Office and the Central Registry: Balance sheet.	● Yes
Norway	Annual financial report/financial accounts, tax report/tax return, reports on governance changes (e.g. new board members). New board members must be registered in the company register (Enhetsregisteret).	Annual financial reports and financial accounts to the Register of Company Accounts (Regnskapsregisteret), tax report/tax return must be submitted to the Tax Authorities (Skatteetaten), unless the foundation is tax exempt.	● No However, financial reports, financial accounts and company information are made publicly available by the Register of Company Accounts (Regnskapsregisteret).
Russia	Annual financial report/financial accounts, annual activity report, public-benefit/activity report, tax report/tax return.	All of the reports must be submitted to supervisory authorities: the Ministry of Justice, the tax authority or state statistics authorities.	● Yes
Serbia	Annual financial report/financial accounts, annual activity report (but no sanctions levied for the breach of the annual activity report duty), reports on governance changes must be entered in the Register to take effect.	Only the annual financial report must be filed with the tax office.	● Yes

15 | Reporting requirements

Country (Outside the EU) S – U	Which types of report must be produced annually? (e.g. activity report, financial report, other)	To which authority(ies) if any must these be submitted?	Are the reports publicly available?
Switzerland	Annual accounts/financial report, annual activity report, public-benefit/activity report, tax report/tax return, other reports e.g. on 1% schemes, reports on governance changes (e.g. new board members).	To the competent supervisory authority (depending on the range of activities: Federation/ Canton/Municipality/District). If the foundation's range of activity goes beyond 1 canton, the Federal Foundation Supervisory Authority is in charge (Federal Department of the Interior). Tax reports must be submitted to the tax authorities and to the competent supervisory authority upon request.	● No
Turkey	Annual financial report/financial accounts, annual activity report, public-benefit/activity report, tax report/tax return, other reports e.g. on 1% schemes, reports on governance changes.	General Directorate of Foundations: Annual report. Ministry of Finance: extra report of public-benefit foundations.	● No
Ukraine	Annual accounts/financial report, tax reports, reports on governance changes (e.g. new board members).	Tax authority, Public Registrar and statistical authorities.	● Yes
United Kingdom	Registered charities: Annual accounts/financial report and public-benefit report. Larger charities: Summary Information Return ("SIR").	Charity Commission (depending on level of income).	● Yes Accounts.

16 | External audit

Country (In the EU) A – I	Is external audit required by law?	Country (In the EU) I – S	Is external audit required by law?
Austria	● Yes For private foundations.	Italy	● Yes Only Third Sector Foundations and ONLUS that exceed certain limits are required by law to appoint a person in charge of the statutory audit of the accounts.
Belgium	● Yes For very large foundations.	Latvia	● No
Bulgaria	● Yes If cash flow for the year exceeds €512,000.	Lithuania	● Yes
Croatia	External audit insight (not full audit) is required by a foundation whose annual income is between €400,000 and €1.3 million. Full external audit is only required by a foundation whose annual income exceeds €1.3 million.	Luxembourg	● No
Cyprus	● Yes	Malta	● Yes For public-benefit organisations whose annual revenue exceeds €250,000.
Czech Republic	Foundations: ● Yes: if total costs or revenues exceed €200,000. Foundation funds: ● No	Netherlands	● Yes Only for foundations that have an enterprise that must be registered in the Register of Commerce and that has had a net turnover of €6 million in 2 consecutive years.
Denmark	● Yes For commercial foundations	Poland	● Yes Only for big foundations.
Estonia	● Yes An auditor's review of the annual report is required when annual income or total assets exceed €15,000. A full audit is compulsory if at least 2 of the indicators of the financial year exceed certain conditions.	Portugal	● Yes For foundations whose annual income is equal to or greater than €2 million.
Finland	● Yes	Romania	● No
France	● Yes For public-benefit and corporate foundations; and for endowment funds if annual income exceeds €10,000.	Slovakia	● Yes When the foundation's income from public funds including the tax percentage exceeds €200,000 or when all revenues of the foundation for the duration of the reported period exceed €500,000.
Germany	● No But the supervisory authority may demand an external audit for a larger foundation.	Slovenia	● No But may be requested by the supervisory authority.
Greece	● Yes	Spain	● Yes For larger foundations.
Hungary	● Yes For foundations with an enterprise income of on average more than €857,000 in 2 business years.	Sweden	● Yes
Ireland	● Yes For tax purposes if a charity's income is over €100,000.		

16 | External audit

Country (Outside the EU) A – U	Is external audit required by law?
Albania	● No
Bosnia and Herzegovina	● Yes
Kosovo	● Yes For foundations with annual income or expenditure in excess of €100,000.
Kosovo	● Yes For foundations with annual income or expenditure in excess of €100,000.
Liechtenstein	● Yes For charitable foundations.
Montenegro	● No
North Macedonia	● Yes For local public-benefit foundations with annual income or expenditure in excess of €100,000, and for foreign and international public-benefit foundations with annual income or expenditure in excess of €100,000 for activity within Kosovo.
Norway	● Yes
Russia	● Yes
Serbia	● No
Switzerland	● Yes Except family or ecclesiastical foundations, or small foundations that do not raise money from the public - these are exempted from audit by the supervisory authority.
Turkey	External audit is not required, but an external tax exemption report is required for tax-exempt foundations.
Ukraine	● Yes Annual external audits are required by law for all foundations that meet at least two of the criteria for medium-size companies (≥50 employees; ≥€8 million annual income; ≥€4 million assets value).
United Kingdom	● Yes For larger foundations.

17 | Supervisory authorities

Country (In the EU) A – L	By which body/bodies are foundations supervised?	Country (In the EU) M – S	By which body/bodies are foundations supervised?
Austria	Public-benefit foundations: Relevant foundation authority, and tax authorities where appropriate.	Malta	Public independent body and tax authorities.
Belgium	A court (in the cases foreseen by the law) and tax authorities.	Netherlands	A combination of the public prosecutor and a court and tax authorities.
Bulgaria	A public administrative body and tax authorities.	Poland	A public administrative body (ministry); a combination of a governmental body and a court; and tax authorities where appropriate.
Croatia	A public administrative body and the National Audit Office, and tax authorities where appropriate.	Portugal	A public administrative body, an independent body and tax authorities.
Cyprus	The District Officer (the Registrar) and Minister of Interior.	Romania	A public administrative body and tax authorities.
Czech Republic	A court and tax authorities.	Slovakia	A public administrative body and tax authorities.
Denmark	A public administrative body and tax authorities.	Slovenia	A public administrative and a public independent body.
Estonia	A combination of a governmental body and a court.	Spain	A public administrative body.
Finland	A public administrative body.	Sweden	A public administrative body.
France	Ministry of the Interior, the Prefet and the Cour des Comptes, and tax authorities where appropriate.		
Germany	Public administrative body.		
Greece	The Council of National Bequests, a public administrative body that functions within the Ministry of Finance, and tax authorities where appropriate.		
Hungary	A court and tax authorities.		
Ireland	A public administrative body, a court and tax authorities.		
Italy	A public administrative body and tax authorities.		
Latvia	The tax administration office (Revenue Service).		
Lithuania	The State Tax Inspectorate inspects the payment of taxes; the State Social Insurance Fund checks the payment of social benefits; the Centre of Registers grants and removes the status of support recipient; the National Audit Office may audit the use of public funds.		
Luxembourg	Ministry of Justice and tax authorities where appropriate.		

17 | Supervisory authorities

Country (Outside the EU) A – U	By which body/bodies are foundations supervised?
Albania	A public administrative body (General Directorate for Prevention of Money Laundering), a court and tax authorities.
Bosnia and Herzegovina	A public administrative body and tax authorities.
Kosovo	A public administrative body.
Liechtenstein	A public administrative body - the Foundation Supervisory Authority, within the Office of Land and Public Registration - and tax authorities where appropriate.
Montenegro	A public administrative body, a public independent body and tax authorities.
North Macedonia	A tax authority.
Norway	In short, the Foundations Authority is a public administrative body. However, the Ministry of Culture may issue general orders, but not instruct in individual cases. All decisions made by the Foundations Authority can be appealed to the Foundation Complaints Board.
Russia	The Ministry of Justice and tax authorities.
Serbia	A public administrative body and tax authorities.
Switzerland	Public administrative bodies: Depending on the scope of action of the foundation, the supervisory authority on the federal, cantonal or municipal level is the competent authority.
Turkey	A public administrative body.
Ukraine	Tax authorities.
United Kingdom	A public independent body: The Charity Commission for England and Wales is a non- Ministerial Government Department with quasi-judicial functions where it uses powers similar to those of the High Court.

18 | Recognition of foreign-based foundations

Country (In the EU) A – I	Under what conditions does the civil law in your country recognise a foreign foundation?	Do foreign foundations have to register in your country?
Austria	Recognised without further steps: Signed European Convention on the Recognition of the Legal Personality of International NGOs, from 1986.	● No Foreign foundations conducting activities in Austria will be recognised whether they have their principal place of business in the country where they are registered, or if they have their principal place of business in Austria.
Belgium	Recognised: Signed European Convention on the Recognition of the Legal Personality of International NGOs, from 1986.	● Yes Foreign foundations can operate in Belgium through a centre of activity, insofar as they have been validly constituted abroad in accordance with the law of the state to which they belong. To be recognised in Belgium, they must create a file at the Clerk's Office at the Court of Enterprises.
Bulgaria	Recognised without further steps.	● No
Croatia	Recognised but must establish a branch.	● Yes
Cyprus	Recognised without further steps: Signed European Convention on the Recognition of the Legal Personality of International NGOs, from 1986.	● Yes
Czech Republic	Foreign-based foundations are recognised as legal persons in the Czech Republic.	○ n/a
Denmark	Recognised without further steps.	● No
Estonia	Recognised without further steps, particularly within EU/EEA.	● No
Finland	Recognised.	● No Although the Finnish Foundation Act states that it applies to all foundations registered in Finland, unless otherwise provided in this Act or another Act.
France	Foreign foundations may benefit from a limited legal capacity in France provided they have legal personality under the law of their country of incorporation.	● Yes If a foreign foundation intends to perform its statutory purpose in France, it should then either create a foundation under French law, or seek special authorisation via a decree.
Germany	Recognised.	● No
Greece	Recognised without further steps: Signed European Convention on the Recognition of the Legal Personality of International NGOs, from 1986. Foreign public-benefit foundations are recognised under Greek law, but to get the respective tax exemptions their purposes need to correspond to the ones accepted as such by the Greek state.	● No
Hungary	Recognised without further steps.	● No
Ireland	Every charitable organisation must register with the charity regulator.	● Yes

18 | Recognition of foreign-based foundations

Country (In the EU) I – S	Under what conditions does the civil law in your country recognise a foreign foundation?	Do foreign foundations have to register in your country?
Italy	Recognised without further steps.	<p>● No</p> <p>A foreign foundation is automatically recognised by Italian law if recognised in the country in which it is based. However, if the foundation has its administration in Italy or if it pursues its main purposes there, it is considered to be an Italian foundation and must be recognised in accordance with Italian national laws.</p>
Latvia	Recognised.	<p>● Yes</p> <p>A foundation must be established as a foundation in Latvia or as a representative/agency of a foreign organisation.</p>
Lithuania	Recognised.	<p>● Yes</p>
Luxembourg	Recognised without further steps.	<p>● No</p>
Malta	Recognised.	<p>● Yes</p> <p>A foundation must register with the Registrar for Legal Persons if it wants to carry on an activity in Malta on a regular basis.</p>
Netherlands	Recognised without further steps: Signed European Convention on the Recognition of the Legal Personality of International NGOs, from 1986.	<p>● Yes</p> <p>Registration is required if the foundation has an office or business in the Netherlands.</p>
Poland	Recognised.	<p>● Yes</p> <p>If a foundation wants to operate beyond giving grants, it should set up a branch (which requires permission) or a Polish foundation.</p>
Portugal	Recognised without further steps: If within the scope of the European Convention on the Recognition of the Legal Personality of International NGOs, from 1986.	<p>● Yes</p> <p>Foreign foundations seeking to pursue their purpose in Portugal must open a branch, which requires authorisation.</p>
Romania	Recognised.	<p>● Yes</p>
Slovakia	Recognised.	<p>● Yes</p>
Slovenia	Recognised without further steps: Signed European Convention on the Recognition of the Legal Personality of International NGOs, from 1986.	<p>● No</p>
Spain	Recognised.	<p>● Yes</p> <p>A foundation must register a branch in case it wants to operate in Spain regularly.</p>
Sweden	Recognised without further steps.	<p>● No</p>

18 | Recognition of foreign-based foundations

Country (Outside the EU) A – U	Under what conditions does the civil law in your country recognise a foreign foundation?	Do foreign foundations have to register in your country?
Albania	Recognised.	<ul style="list-style-type: none"> ● Yes But it must register a branch or be created as an Albanian foundation in case it wants to operate in Albania for more than 6 months. To operate for more than 30 days but for less than 6 months, it must apply for a permit issued by the governmental authority.
Bosnia and Herzegovina	Recognised without further steps.	<ul style="list-style-type: none"> ● No
Kosovo	Recognised.	<ul style="list-style-type: none"> ● Yes If a foundation wants to create a branch.
Liechtenstein	Recognised without further steps.	<ul style="list-style-type: none"> ● No
Montenegro	Recognised without further steps.	<ul style="list-style-type: none"> ● Yes If a foundation wants to create a branch.
North Macedonia	Recognised without further steps: Signed European Convention on the Recognition of the Legal Personality of International NGOs, from 1986.	<ul style="list-style-type: none"> ● Yes If a foundation wants to create a branch.
Norway	Recognised without further steps.	<ul style="list-style-type: none"> ● No
Russia	Recognised without further steps.	<ul style="list-style-type: none"> ● No
Serbia	Recognised.	<ul style="list-style-type: none"> ● Yes If a foundation wants to create a branch.
Switzerland	Recognised without further steps: Signed European Convention on the Recognition of the Legal Personality of International NGOs, from 1986.	<ul style="list-style-type: none"> ● No
Turkey	Permission of the Ministry of Interior is required for foreign foundations to be able to operate, open branches etc.	<ul style="list-style-type: none"> ● Yes
Ukraine	Recognised.	<ul style="list-style-type: none"> ● Yes
United Kingdom	Recognised without further steps: Signed European Convention on the Recognition of the Legal Personality of International NGOs, from 1986. However, recognition of charitable status is generally not possible.	<ul style="list-style-type: none"> ● No

19 | Limitations for foundations to operate abroad

Country (In the EU) A – R	Does the law in your country allow a foundation to conduct (some or all) activities (grantmaking, operating, asset administration, fundraising) abroad? Is there any limitation?	Country (In the EU) S – S	Does the law in your country allow a foundation to conduct (some or all) activities (grantmaking, operating, asset administration, fundraising) abroad? Is there any limitation?
Austria	No limitation.	Slovakia	No limitation.
Belgium	No limitation in civil law, but there are some tax provisions which might restrict such a freedom, among others the provisions on the eligibility to receive income tax deductible gifts.	Slovenia	No limitation.
Bulgaria	No limitation.	Spain	No limitation.
Croatia	No limitation.	Sweden	No limitation.
Cyprus	No limitation.	Country (Outside the EU) A – U	
Czech Republic	No limitation.	Albania	No limitation.
Denmark	No limitation.	Bosnia and Herzegovina	No limitation.
Estonia	No limitation.	Kosovo	No limitation.
Finland	No limitation.	Liechtenstein	No limitation.
France	No limitation in civil law, but French tax law denies the application of income and corporate tax reductions to gifts made to foundations which do not conduct the main part of their activities in France.	Montenegro	No limitation.
Germany	No limitation in civil law, but tax law requires that pursuing public-benefit purposes abroad must have the potential to improve the reputation of Germany and does not lead to disadvantages.	North Macedonia	No limitation.
Greece	No limitation.	Norway	No limitation.
Hungary	No limitation.	Russia	1 limitation: The objectives of the activities abroad shall be connected with the interests of the Russian Federation.
Ireland	No limitation.	Serbia	No limitation.
Italy	No limitation.	Switzerland	No limitation in civil law, but there might be an effect on the tax evaluation of the foundation since the purpose must be in the public interest from a Swiss perspective.
Latvia	No limitation.	Turkey	No limitation, but grantmaking or charitable donations provided abroad must be notified to public authorities.
Lithuania	No limitation.	Ukraine	No civil law limitation, except ones set by laws regarding anti-money laundering, and illicit and terrorism financing.
Luxembourg	No limitation.	United Kingdom	No civil law limitations, other than those imposed by the nature of the charitable purpose and the terms of the foundation's governing instruments.
Malta	No limitation.		
Netherlands	No limitation.		
Poland	No limitation.		
Portugal	No limitation.		
Romania	No limitation.		

20 | Foreign funding restrictions

Country (In the EU) A – L	Does the law in your country impose any restrictions on ability to receive donations from abroad?	Country (In the EU) L – S	Does the law in your country impose any restrictions on ability to receive donations from abroad?
Austria	○ n/a	Luxembourg	● No However, a donation to a non-profit organisation that exceeds €30,000 in value is subject to the approval of the Minister of Justice, unless the donation has been made by bank transfer from a bank in the EU or the EEA.
Belgium	● No		
Bulgaria	● No		
Croatia	● No		
Cyprus	● No		
Czech Republic	● No		
Denmark	● No		
Estonia	● No But some reporting obligations may apply under AML/CFT regulation.		
Finland	● No		
France	● No		
Germany	● No But donations in excess of €12,500 must be reported to the Deutsche Bundesbank in accordance with the Foreign Trade and Payments Act.		
Greece	● No		
Hungary	● Yes Act No. LXXVI of 2017 on transparency of associations and foundations funded from abroad prescribes certain registration, declaration and publication obligations for organisations that receive directly or indirectly from foreign sources annually €20,600 or more. This act was repealed by the CJEU in 2020.		
Ireland	● Yes An unintended consequence of amendments to the Electoral Acts 1997-2012, establishes that a foundation may not receive a political donation from an individual (other than an Irish citizen) who resides outside Ireland and may not receive a donation from an entity that does not have an office in Ireland from which a principal activity is directed.		
Italy	● No		
Latvia	● No		
Lithuania	● No		
Malta	● No	Netherlands	● No
Poland	● No		
Portugal	● No		
Romania	● No		
Slovakia	● No		
Slovenia	● No		
Spain	● No		
Sweden	● No		

20 | Foreign funding restrictions

Country (Outside the EU) A – U	Does the law in your country impose any restrictions on ability to receive donations from abroad?
Albania	● No
Bosnia and Herzegovina	● No
Kosovo	● No
Liechtenstein	● No
Montenegro	● No
North Macedonia	● No
Norway	● No
Russia	● Yes Foundations that participate in political activities carried out in the territory of the Russian Federation are prohibited from receiving monetary and other assets from US citizens and organisations on a gratuitous basis.
Serbia	● No
Switzerland	● No
Turkey	● Yes It is necessary to notify the Regional Directorate of Foundations when foundations send/receive aid or funds to/from abroad within 1 month at the latest after the transfer. Foundations that send/receive aid or funds need to fill in 2 kinds of written forms and provide these to the Directorate of Foundations. Foundations exceeding the time limit may face an administrative monetary fine.
Ukraine	● No But donations from some jurisdictions and foreign actors are proscribed under FATF regulations.
United Kingdom	● No But charity trustees should consider whether acceptance of a donation from abroad is in the best interests of the charity, and charities are also subject to laws intended to counter money laundering and terrorist financing.

21 | Cross-border transfer of seat and/or cross-border mergers

Country (In the EU) A – N	Does the civil law in your country allow the transfer of the seat of a foundation (in the EU) and/or cross-border mergers?	Country (In the EU) P – S	Does the civil law in your country allow the transfer of the seat of a foundation (in the EU) and/or cross-border mergers?
Austria	○ n/a	Poland	● Probably Yes But there is no such case yet in Poland.
Belgium	● Yes	Portugal	● Yes
Bulgaria	● No	Romania	● Yes although no such cases are known yet.
Croatia	● Yes	Slovakia	● No
Cyprus	● Yes	Slovenia	● Yes
Czech Republic	● No	Spain	Mergers are allowed.
Denmark	While not prohibited by law, the foundation authorities have never allowed transfer of the seat of a Danish foundation. Theoretically, however, if provided for in the foundation statutes, the authorities could allow for such transfer.	Sweden	There are no specific rules.
Estonia	● No	Country (Outside the EU) A – U	
Finland	No specific rules.	Albania	● Yes
France	● No	Bosnia and Herzegovina	● No
Germany	The transfer of the seat of a foundation is not prohibited by civil law. However, there is also no explicit permission norm.	Kosovo	● No
Greece	There are no restrictions provided by the civil law in Greece for the transfer of the seat of a foundation (in the EU) and/or cross-border mergers. However, given that the foundations are controlled by the Greek state, the transfer of seat is not possible in practice.	Liechtenstein	● Yes
Hungary	● No	Montenegro	There are no specific rules.
Ireland	● Yes	North Macedonia	● Yes
Italy	● Yes	Norway	● No
Latvia	● No The law does not address such cases.	Russia	● No
Lithuania	● No	Serbia	Only in the case of a foreign foundation merging with a foundation that has its seat in Serbia.
Luxembourg	● Yes	Switzerland	● Yes
Malta	● Yes	Turkey	Permission from the Ministry of Interior and advice of the Ministry of Foreign Affairs are required to operate abroad.
Netherlands	● Yes Provided that the foundation qualifies as a company within the meaning of art. 54 TFEU.	Ukraine	● No
		United Kingdom	The relevant civil laws vary according to the legal form of the foundation, but it is unlikely to be possible to transfer the seat unless this is permitted by the foundation's governing documents.

22 | Activities abroad and implications for tax-exempt status

Country (In the EU) A – I	Do activities abroad put the tax-exempt status of a public-benefit foundation or the ability to receive tax deductible donations at risk?	Country (In the EU) I – S	Do activities abroad put the tax-exempt status of a public-benefit foundation or the ability to receive tax deductible donations at risk?
Austria	● Yes Foundations operating mainly abroad can lose their special tax status.	Italy	● Yes
Belgium	● No As far as the exemption from corporate tax is concerned. There are some tax provisions in the framework of tax deductible gifts: If a Belgian entity is recognised as eligible to receive income tax deductible gifts it should be verified whether the rules applicable to the category to which it belongs allow it to have activities outside the Belgian territory.	Latvia	● No
Bulgaria	● No	Lithuania	● No The Law on Charity and Sponsorship confines the recipients of sponsorship to entities registered in Lithuania.
Croatia	● No	Luxembourg	● No
Cyprus	● No	Malta	● No As long as the foundation is provided with a certificate issued by the Commissioner for Revenue confirming that it qualifies for the tax exemption. A foundation qualifies for a tax exemption if (a) it is an enrolled organisation, (b) its annual turnover does not exceed €50,000, and (c) it complies with all the provisions of the Act. Alternatively, the foundation must be engaged in philanthropic work and must be named by the Minister for Finance for such purpose.
Czech Republic	● No But some benefits are connected with having the seat of the foundation in an EU or EEA country.	Netherlands	● No As long as the activities meet the Dutch public-benefit requirements.
Denmark	● No	Poland	● No
Estonia	● No	Portugal	● Yes If the activities constitute the majority of the foundation's activities, then the tax exemption is linked to the public-benefit status, which is only granted to institutions that contribute to the "national" or "general" interest and therefore justify the waiving of the tax burden.
Finland	● No	Romania	● No
France	● No As far as the exemption from corporate tax is concerned. But tax benefits for donors are not granted if the foundations do not conduct the main part of their activities in France. Donors get the same tax incentive if the public-benefit organisation is established in the EEA and is comparable to a French public-utility organisation in terms of purpose and legal form.	Slovakia	Not applicable.
Germany	● No But the activities abroad must have the potential to improve the reputation of Germany abroad.	Slovenia	○ n/a
Greece	● No Activities can be conducted abroad without losing tax exemption.	Spain	● No Article 6 of the Foundation Act only requires that the governing bodies of foundations registered in Spain that carry out their principal activity abroad must have their statutory address inside Spanish territory.
Hungary	● No	Sweden	● No
Ireland	● No To the extent allowed by its objectives without prejudicing its charitable status.		

22 | Activities abroad and implications for tax-exempt status

Country (Outside the EU) A – U	Do activities abroad put the tax-exempt status of a public-benefit foundation or the ability to receive tax deductible donations at risk?
Albania	<p>● Yes</p> <p>Foundation activities should be for the good and interest of the public in Albania. As such, activities performed by the same organisation abroad do not qualify for tax exemption.</p>
Bosnia and Herzegovina	<p>● Yes</p>
Kosovo	<p>● No</p>
Liechtenstein	<p>● No</p>
Montenegro	<p>● No</p>
North Macedonia	<p>● No</p> <p>The Law on Donations and Sponsorships allows tax incentives for Macedonian donors when recipients are foreign non-profit entities and the donations are for the benefit of the public interest in another country in cases of natural and humanitarian emergencies and disasters.</p>
Norway	<p>● No</p> <p>To the extent that the activities are related to its non-profit purpose.</p>
Russia	<p>● No</p>
Serbia	<p>● Yes</p>
Switzerland	<p>● No</p>
Turkey	<p>● No</p>
Ukraine	<p>● No</p>
Ukraine	<p>● No</p> <p>To the extent allowed by its objectives without prejudicing its charitable status.</p>
United Kingdom	<p>● No</p> <p>To the extent allowed by its objectives without prejudicing its charitable status.</p>

23 | Gift and inheritance tax

Country (In the EU) A – L	Does gift/inheritance tax exist?	Are there exemptions from gift/inheritance tax for gifts/legacies to public-benefit foundations?	Do equal exemptions from gift/inheritance tax apply for gifts/legacies to comparable foreign EU-based public-benefit foundations?
Austria	● Yes	○ n/a	○ n/a
Belgium	● Yes	● Yes	● Yes
Bulgaria	● Yes	● Yes	● Yes
Croatia	● Yes	● No Only humanitarian associations and the Red Cross are exempt. Financial and in-kind donations below €6,600 are tax exempt.	● No
Cyprus	● No	○ n/a	○ n/a
Czech Republic	● Yes	● Yes	● Yes
Denmark	● Yes	● Yes	● Yes But the recipient organisation must be included in a list.
Estonia	● No	Not applicable.	Not applicable.
Finland	● Yes	● Yes	● Yes
France	● Yes	● Yes	● No
Germany	● Yes	● Yes	Donations to foreign foundations may be exempt from inheritance and gift tax if the recipient's country has entered into a reciprocity agreement with Germany.
Greece	● Yes	● Yes Taxed at a lower rate of 0.5%.	● Yes
Hungary	● Yes For a gift tax. ● No For an inheritance tax.	● Yes	● Yes If the foreign foundation has no payable corporate income tax to the state budget of the country of its tax residence.
Ireland	● Yes	● Yes	● Yes If they have they have charitable status.
Italy	● Yes	● Yes	● Yes Tax exemption for public-benefit purposes also applies to non-resident public-benefit foundations, subject to the reciprocity principle (i.e. when the tax law of the state in which the foundation is established is fulfilled).
Latvia	● No	Not applicable.	Not applicable.
Lithuania	● Yes	● Yes	● No
Luxembourg	● Yes	● Yes	● Yes

23 | Gift and inheritance tax

Country (In the EU) M – S	Does gift/inheritance tax exist?	Are there exemptions from gift/inheritance tax for gifts/legacies to public-benefit foundations?	Do equal exemptions from gift/inheritance tax apply for gifts/legacies to comparable foreign EU-based public-benefit foundations?
Malta	● Yes Stamp duty on immovable property and securities.	● No	Not applicable.
Netherlands	● Yes	● Yes	If the non-resident public-benefit foundation has ANBI (public-benefit) status, the legacy is exempt. Otherwise the regular rates for third parties apply: In 2020, 30% for legacies up to €126,723 and 40% for the remainder. A general exemption of €2,208 (2020) applies.
Poland	● Yes	Not applicable. Since levied on natural persons only.	Not applicable.
Portugal	● Yes Stamp duty.	● Yes	● Yes
Romania	● No	Not applicable.	Not applicable.
Slovakia	● No	Not applicable.	Not applicable.
Slovenia	● Yes	● Yes	● Yes
Spain	● Yes	Not applicable. Since levied on natural persons only.	Not applicable.
Sweden	● No	Not applicable.	Not applicable.

23 | Gift and inheritance tax

Country (Outside the EU) A – U	Does gift/inheritance tax exist?	Are there exemptions from gift/inheritance tax for gifts/legacies to public-benefit foundations?	Do equal exemptions from gift/inheritance tax apply for gifts/legacies to comparable foreign EU-based public-benefit foundations?
Albania	● Yes	● No	● No
Bosnia and Herzegovina	● Yes	● Yes	● Yes
Kosovo	● Yes	● Yes	● Yes
Liechtenstein	● No	Not applicable.	Not applicable.
Montenegro	● No	Not applicable.	Not applicable.
North Macedonia	● Yes	● Yes	● No
Norway	● No	Not applicable.	Not applicable.
Russia	● No	Not applicable.	Not applicable.
Serbia	● Yes	● Yes	● No
Switzerland	Regulated at cantonal level: Exists in some cantons.	Regulated at cantonal level: Donations to non-profit organisations are often exempted.	Donations to foreign public-benefit foundations are only exempted from gift or inheritance taxes in certain cantons in case of a treaty providing for reciprocity.
Turkey	● No	○ n/a	○ n/a
Ukraine	● No	Not applicable.	Not applicable.
United Kingdom	● Yes	● Yes	● Yes

25 | Tax treatment of income from grants and donations

Country (In the EU) A – S	Do public-benefit foundations pay income tax on grants and donations?	Country (Outside the EU) A – U	Do public-benefit foundations pay income tax on grants and donations?
Austria	● No	Albania	● No
Belgium	● No	Bosnia and Herzegovina	● No
Bulgaria	● No	Kosovo	● No
Croatia	● No	Liechtenstein	● No
Cyprus	● No	Montenegro	● No
Czech Republic	● No	North Macedonia	● No
Denmark	● Yes Unless given for the purpose of building up the foundation's endowment.	Norway	● No But if there is sufficient affiliation between the grant/donation and taxable economic activity, the grant/ donation might be taxable.
Estonia	● No	Russia	● No
Finland	● No	Serbia	● No
France	● No	Switzerland	● No
Germany	● No	Turkey	● No
Greece	● No	Ukraine	● No
Hungary	● No	United Kingdom	● No
Ireland	● No		
Italy	● No		
Latvia	● No		
Lithuania	● No		
Luxembourg	● No		
Malta	● No If the foundation qualifies for tax exemption.		
Netherlands	● No		
Poland	● No		
Portugal	● No		
Romania	● No		
Slovakia	● No		
Slovenia	● No		
Spain	● No		
Sweden	● No		

26 | Tax treatment of income from asset administration and economic activities

Country (In the EU) A – M	Is income from asset administration taxed?	Is income from economic activities taxed?
Austria	● No	● Yes
Belgium	● Yes Tax on legal entities.	● No If remains ancillary.
Bulgaria	● Yes Except for income from sale of shares on a regulated Bulgarian market.	● Yes
Croatia	● No	● No Unless a tax exemption would lead to unfair competition.
Cyprus	● No Public-benefit organisations are exempt from income tax.	● No Public-benefit organisations are exempt from income tax.
Czech Republic	● No Income from the registered endowment of a foundation is exempt from income tax. Tax-exempt endowments are limited to certain kinds of investments.	○ n/a Economic activities not permitted.
Denmark	● Yes But dividends received from companies in which the foundation holds at least 10% of the shares are exempt from tax.	● Yes
Estonia	● Yes	● No
Finland	● No With some exceptions.	● No Not regarded as business income.
France	● No	● No If related.
Germany	● No For tax-exempt public-benefit foundations.	● No If related or the income does not amount to more than €45,000.
Greece	● Yes	● No
Hungary	● No	● No If related.
Ireland	● No	● No If related.
Italy	● Yes	● Yes
Latvia	● No	● No
Lithuania	● No	● Yes Within a specified threshold.
Luxembourg	● No	● No If related.
Malta	● No Specified exemptions apply.	● No Specified exemptions apply.

Tax treatment of foundations

26 | Tax treatment of income from asset administration and economic activities

Country (In the EU) N – S	Is income from asset administration taxed?	Is income from economic activities taxed?
Netherlands	<ul style="list-style-type: none"> ● No <p>Provided that the activities do not entail more than regular asset management as performed by individuals.</p>	<ul style="list-style-type: none"> ● No <p>Provided that the profit in a year is less than €15,000 or the profit in the year and the 4 preceding years was less than €75,000.</p>
Poland	<ul style="list-style-type: none"> ● No 	<ul style="list-style-type: none"> ● No
Portugal	<ul style="list-style-type: none"> ● Yes <p>Investment income is subject to tax except if the foundation has tax-exempt status specifically for this type of income.</p>	<ul style="list-style-type: none"> ● No <p>If related.</p>
Romania	<ul style="list-style-type: none"> ● Yes <p>If profits are €15,000 or more.</p>	<ul style="list-style-type: none"> ● No <p>If profits are less than €15,000.</p>
Slovenia	<ul style="list-style-type: none"> ● No 	<ul style="list-style-type: none"> ● Yes
Slovakia	<ul style="list-style-type: none"> ● No <p>Except for income from the sale of investments.</p>	<ul style="list-style-type: none"> ● No <p>If related.</p>
Spain	<ul style="list-style-type: none"> ● No 	<ul style="list-style-type: none"> ● No <p>Provided the activities are purpose related, ancillary or complementary.</p>
Sweden	<ul style="list-style-type: none"> ● No <p>Except for income from leasing of a property that belongs to the foundation.</p>	<ul style="list-style-type: none"> ● Yes <p>But if a foundation is running a hospital there will be no taxation.</p>

26 | Tax treatment of income from asset administration and economic activities

Country (Outside the EU) A – U	Is income from asset administration taxed?	Is income from economic activities taxed?
Albania	<ul style="list-style-type: none"> No <p>With the exception of investment income from fixed rate bonds and from leasing property that belongs to the foundation. Investment income from equities in the form of dividends (for shares owned in a company) is only exempted when the company making the distribution of dividends is subject to income tax.</p>	<ul style="list-style-type: none"> No <p>If related and it should not account for more than 20% of the total annual income.</p>
Bosnia and Herzegovina	<ul style="list-style-type: none"> No <p>Except income from leasing of property that belongs to the foundation.</p>	<ul style="list-style-type: none"> No <p>If related.</p>
Kosovo	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> No <p>If related.</p>
Liechtenstein	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> Yes
Montenegro	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> Yes <p>But the tax base is reduced by the amount of €4,000 provided that the profit is used for the achievement of goals for which it was founded.</p>
North Macedonia	<ul style="list-style-type: none"> Yes <p>Would be treated as taxable economic activity when income from economic activities is above €16,000. The income from dividends from trade companies established with the funds of the association are tax exempt.</p>	<ul style="list-style-type: none"> No <p>If the income from economic activities is below €16,000.</p>
Norway	<ul style="list-style-type: none"> Yes <p>But the tax base is reduced by the amount of €4,000 provided that the profit is used for the achievement of goals for which it was founded.</p>	<ul style="list-style-type: none"> Yes <p>For tax-exempt foundations.</p> <ul style="list-style-type: none"> No <p>If related.</p>
Russia	<ul style="list-style-type: none"> Yes 	<ul style="list-style-type: none"> Yes
Serbia	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> No <p>If related.</p>
Switzerland	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> No <p>Provided the activities are purpose related or ancillary.</p>
Turkey	<ul style="list-style-type: none"> Yes <p>Withheld at source.</p>	<ul style="list-style-type: none"> Yes
Ukraine	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> No
United Kingdom	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> No <p>If directly related to the purpose.</p>

27 | Value-added tax refund schemes

Country (In the EU) A – H	Does any kind of value-added tax (VAT) refund scheme for the irrecoverable VAT costs of public-benefit foundations exist in your country?	Country (In the EU) I – S	Does any kind of value-added tax (VAT) refund scheme for the irrecoverable VAT costs of public-benefit foundations exist in your country?
Austria	● No	Ireland	● Yes
Belgium	● No Foundations which are to be considered exempted taxpayers do not need to charge VAT on their services, but may not deduct input VAT. Foundations can be exempted if they perform activities listed by the law or if their turnover does not exceed €25,000.	Italy	● No
Bulgaria	● Yes The Law on Charity and Sponsorship confines the recipients of sponsorship to entities registered in Lithuania.	Latvia	● No Foundations must register as VAT payers if income from economic activities in the last 12 months has reached €40,000.
Croatia	● No	Lithuania	If the income exceeds €45,000, the foundation becomes a VAT payer automatically.
Cyprus	VAT is not charged on supplies of goods or services which are exempted under the VAT legislation.	Luxembourg	● No Foundations are liable to input tax. They are generally exempt from output tax unless they regularly carry out an economic activity and qualify as “taxable persons” for the purpose of VAT legislation.
Czech Republic	● No	Malta	● No
Denmark	○ n/a	Netherlands	● No
Estonia	● No	Poland	● No
Finland	● No	Portugal	● No But there are some goods and services that are exempted from VAT if provided or performed by foundations.
France	● No But as long as they do not perform economic activities, foundations and endowment funds are not subject to VAT.	Romania	● No
Germany	● No But there are a number of goods and services by foundations that can be either exempt from VAT or where a reduced tax rate can be applicable, e. g. income from cultural events and institutions (museums, orchestras, archives) or educational institutions, as well as scientific lectures and events.	Slovakia	● No But they do not become VAT payers very often because a major part of their income comes from VAT-exempt services or is not subject to VAT at all.
Greece	● Yes There is a special procedure for foundations to gain exemption from VAT.	Slovenia	● Yes
Hungary	● Yes The right to claim a VAT refund shall be available to the foundation at a rate that matches the percentage that the donation represents in the costs of carrying out the public-benefit activities.	Spain	● No But there are some exemptions from VAT.
		Sweden	● No Foundations pay VAT according to the kind of activity in which they engage.

27 | Value-added tax refund schemes

Country (Outside the EU) A – U	Does any kind of value-added tax (VAT) refund scheme for the irrecoverable VAT costs of public-benefit foundations exist in your country?
Albania	<p>● No</p> <p>Foundations are subject to VAT, only certain services can be exempted.</p>
Bosnia and Herzegovina	<p>Exceptionally, the foundation may be exempt from VAT on some of their purchases.</p>
Kosovo	<p>● No</p>
Liechtenstein	<p>Non-profit organisations that achieve annual revenues of up to €136,000 are exempted from the subjective obligation to pay taxes. In addition, certain revenues of non-profit organisations are also exempted from the objective obligation to pay taxes.</p>
Montenegro	<p>● Yes</p>
North Macedonia	<p>● Yes</p>
Norway	<p>● Yes</p>
Russia	<p>● Yes</p> <p>The foundation may impose VAT deduction but only subject to income-generating activity and application of the general taxation system.</p>
Serbia	<p>● No</p>
Switzerland	<p>● No</p>
Turkey	<p>● No</p> <p>Generally, purchasing of goods or services made by foundations with tax exemptions is not exempt from VAT. VAT exemption is only applicable to foundations with tax-exempt status which operate in specific fields.</p>
Ukraine	<p>● No</p> <p>Foundations must register as VAT payers if income from economic activities in the last 12 months has reached €32,500 (2020).</p>
United Kingdom	<p>There is a scheme for refunds of VAT incurred on non-business activities to be paid to specified public bodies, which extends to some categories of private law bodies that are eligible for charitable status, but there is no refund scheme for other charities, regardless of whether they are funded wholly or mainly by the state.</p>

28 | Tax treatment of foreign-based foundations

**Country
(In the EU)
A – L**

Where corporate income tax exemptions exist for domestic public-benefit organisations, can a foreign (EU)-based foundation get the same tax benefits as a national foundation?

**Country
(In the EU)
L – S**

Where corporate income tax exemptions exist for domestic public-benefit organisations, can a foreign (EU)-based foundation get the same tax benefits as a national foundation?

Austria	● Yes	Luxembourg	● Yes A personal tax-exempt status can be recognised for an organisation only if the tax administration can control and supervise the compliance with the legal conditions.
Belgium	● Yes But only on the basis of 1 of the 2 possible grounds for obtaining exemptions.	Malta	● Yes As long as the foundation is provided with a certificate issued by the Commissioner for Revenue confirming that it qualifies for the tax exemption or is named by the Minister for Finance as engaged in philanthropic work and exempt from tax.
Bulgaria	● Yes	Netherlands	● Yes
Croatia	● No	Poland	● Yes
Cyprus	● No	Portugal	● No Foreign foundations may request public-utility status under the general terms if they have a permanent office in Portugal.
Czech Republic	● Yes	Romania	Foreign foundations can be recognised under the condition of reciprocity, based on the prior approval of the Government, by registration in the Register of Associations and Foundations at the registry of the Bucharest Tribunal, if they are validly constituted in their home state and their statutes do not contradict the public order.
Denmark	● Yes	Slovakia	Not applicable No tax incentives for public-benefit organisations.
Estonia	○ n/a Since there is no corporate income tax for anyone.	Slovenia	● No
Finland	● Yes	Spain	● Yes But the foundation would need to set up a branch or register in Spain.
France	● Yes But only if it performs its activities on French territory and is regarded as having a public-benefit purpose in France.	Sweden	● Yes
Germany	● Yes But foreign-based foundations would have to fulfil all requirements that resident foundations must fulfil and thus must pursue activities that potentially benefit the German public.		
Greece	● Yes The basis for reciprocity is a relief provided by national law, based on bilateral agreements for reciprocal treatment, and is examined on a case-by-case basis.		
Hungary	● Yes		
Ireland	● Yes But the organisation must have obtained charitable tax status from Revenue.		
Italy	● Yes But it must be qualified in Italy as ONLUS for tax purposes.		
Latvia	● No		
Lithuania	● No		

Tax treatment of foundations

28 | Tax treatment of foreign-based foundations

Country (Outside the EU) A – U	Where corporate income tax exemptions exist for domestic public-benefit organisations, can a foreign (EU)-based foundation get the same tax benefits as a national foundation?
Albania	● Yes
Bosnia and Herzegovina	● Yes
Kosovo	● No But the foundation would need to set up a branch or register in Kosovo.
Liechtenstein	● Yes
Montenegro	● Yes But only if the foreign foundation would register in Montenegro.
North Macedonia	● Yes But only if the foreign foundation would register in North Macedonia.
Norway	● Yes
Russia	● Yes
Serbia	● No
Switzerland	● Yes
Turkey	● No
Ukraine	● No
United Kingdom	● Yes If a foreign foundation has been registered by HMRC (tax authority) as comparable to a UK charity.

29 | Tax system for donors

Country (In the EU) A – P	Is there a system of tax credit or tax deduction or other mechanisms such as tax allocation systems?	Country (In the EU) P – S	Is there a system of tax credit or tax deduction or other mechanisms such as tax allocation systems?
Austria	Tax deduction.	Portugal	Individual donors: Tax credit. Corporate donors: Tax deduction.
Belgium	Individual donors: Tax reduction. Corporate donors: Tax deduction.	Romania	For individuals: There is a system of tax credit. Tax deduction: 5% from total income for independent activities. For companies: 20% of their owed income tax, or up to 0.75% of their annual turnover, whichever is lower, can be redirected towards non-profits.
Bulgaria	Tax deduction.	Slovakia	● No But corporate and individual (sole entrepreneurs) donors have a possibility of a tax credit regime for cash contributions that relate to research and development, but not necessarily only to foundations because R&D is primarily in the public and private business sector.
Croatia	Tax deduction.	Slovenia	Tax deduction.
Cyprus	Tax credit.	Spain	Tax credit.
Czech Republic	Tax deduction.	Sweden	Tax deduction.
Denmark	Tax deduction.	Country (Outside the EU)	
Estonia	Individual donors: Tax reduction. Corporate donors: Tax deduction.	Albania	There is a mixed system. VAT works on a tax credit system, and any other type of tax (i.e. personal income, profit) works on a tax deduction system.
Finland	Tax deduction.	Bosnia and Herzegovina	Tax deduction.
France	Tax credit.	Kosovo	Tax deduction.
Germany	Tax deduction.	Liechtenstein	Tax deduction.
Greece	Tax deduction.	Montenegro	Tax deduction.
Hungary	Tax credit.	North Macedonia	Individual donors: Tax credit, i.e. on personal income tax. Corporate and other legal entity donors: Tax deduction, i.e. on profit tax.
Ireland	● No Under Revenue's Charitable Donation scheme, tax relief is allowed on qualifying donations made to "approved bodies". If an individual donates €250 or more in a year, the approved body can claim a refund of tax paid on that donation. If a company donates €250 or more in a year, the company can claim a tax deduction as if the donation were a trading expense. There is a 4-year time limit for making a claim under this scheme.	Norway	Tax deduction.
Italy	Tax deduction.	Russia	Tax deduction.
Latvia	Individual donors: Income tax deduction when submitting their annual income declaration. Corporate donors: Tax credit.	Serbia	Tax deduction.
Lithuania	Tax deduction available for legal persons only.	Switzerland	Tax deduction.
Lithuania	Tax deduction.	Turkey	● No
Luxembourg	Tax deduction.	Ukraine	Tax deduction.
Malta	Tax deduction.	United Kingdom	Tax deduction.
Netherlands	Tax deduction.		
Poland	Tax deduction.		

30 | Tax treatment of individual donors – Domestic and cross-border cases

Country (In the EU) A – G	Are there tax incentives for individual donors giving to a public-benefit foundation?	Do equal tax incentives apply for individual donors giving to a comparable foreign (EU) based public-benefit foundation?
Austria	Donations are deductible up to 10% of taxable income.	● Yes But the recipient organisation must be included in a list.
Belgium	45% of the amount of cash donations of €40 or more are deductible with the ceiling up to 10% of the taxable income, and an absolute maximum of €392,200 for the total of the gifts (tax year 2020 income 2019).	● Yes
Bulgaria	Donations are deductible at rates of 5, 15, or 50% of the income depending on the recipient. Total deduction cannot exceed 65% of the total income.	● Yes
Croatia	Donations are deductible up to 2% of taxable income.	● No
Cyprus	The full value of donations is tax deductible with no limits.	● Yes
Czech Republic	Deductions up to 15% of taxable income, provided at least 2% of taxable base is donated, but not less than approx. €35. For 2020 and 2021, this is limited to 30% due to the pandemic situation.	● Yes
Denmark	Donations up to approx. €2,250, the limit for the 2021 fiscal year, are deductible. The limit is adjusted annually.	● Yes If registered as charitable in Denmark.
Estonia	The ceiling is up to €1200, and not over 50% of annual taxable income after other deductions such as training costs for oneself or one's children, or home loan interest.	● Yes
Finland	● No Tax incentives for individual donors, but an individual donor may deduct donations of not less than €850 and not more than €500,000 to a publicly-funded university or college for the purpose of promoting science or art.	● Yes
France	Income tax reduction at 66% of the value of the gift, up to 20% of the donor's taxable income. Alternatively wealth tax reduction of 75% of the value of the gift, but limited to €50,000.	● Yes If it is comparable to a French public-utility organisation in terms of purpose and legal form.
Germany	Tax deduction up to 20% of the yearly taxable income, or donations of individual donors to the endowment of a foundation can be deducted for amounts of up to €1 million for an assessment period of up to 10 years.	● Yes If individuals resident or domiciled in Germany benefit from the foundation's activities or if the activities potentially improve the reputation of Germany. Furthermore, the foundation must meet the same requirements for tax-exemption as foundations in Germany.
Greece	Individual donors may deduct from their taxpayer's gross income, up to 20%. The value of gifts and donations is deductible only if over €100. The deduction will apply only if the total amount of donations exceed 5% of the donor's total taxable income.	● Yes

30 | Tax treatment of individual donors – Domestic and cross-border cases

Country (In the EU) H – R	Are there tax incentives for individual donors giving to a public-benefit foundation?	Do equal tax incentives apply for individual donors giving to a comparable foreign (EU) based public-benefit foundation?
Hungary	● No	Not applicable
Ireland	Minimum donation of €250 and a maximum of €1 million but in all cases the tax relief goes to the charity, not the individual donor: Charities are able to claim the tax back from all donations over €250, the percentage which can be claimed by the charity is 31%.	● Yes But the recipient organisation must have obtained charitable tax status from Revenue.
Italy	Only for cash donations made to legally recognised non-profit associations and foundations that carry out activities of cultural, artistic, social and educational interest. The maximum amount of the deduction is 19% of the charge supported. Deduction is equal to 30% of the value disbursed in favour of the Third Sector Entity (ETS), for a total amount not exceeding €30,000 in each tax period.	● Yes
Latvia	Annual taxable income is reduced by the amount of donations. There is no minimum, but there is a maximum: The total sum of all deductions may not exceed €600 per year.	● Yes
Lithuania	No tax incentives for individual donors, but they can allocate 2% of their income tax to an approved PBO.	Not applicable
Luxembourg	Tax deduction up to an annual aggregate maximum limit of 20% of the taxable income of the donor or €1 million provided the donations have an aggregate value in excess of €120.	● Yes
Malta	Cash donations made to certain organisations can be deducted with different caps of €50,000 or €60,000 or in some cases €100,000.	● No
Netherlands	Donations can be deducted up to 10% of the donor's gross income. No deduction is possible for donations below 1% of the gross income or €60.	● Yes Provided that these foundations are registered as an ANBI (public-benefit organisation) with the Dutch tax authorities.
Poland	Donations of cash, shares, securities, real estate and in-kind donations are deductible up to 6% of the taxable base.	● Yes But it is complicated in practice. There is no clear guidance to claim a tax incentive in such a case.
Portugal	Cash donations: Income tax deduction up to 25% of the amount donated in cases when there is no limit for corporate donors. When there is a limit on deduction for corporate donors, the amount deducted by individuals should not exceed 15% of the value of the donor's total income tax.	● No
Romania	Donors can direct 3.5% of their income tax to non-profit organisations. Contributions (sponsorship) are deductible up to 5% of total income.	● No

Tax treatment of donors and beneficiaries

30 | Tax treatment of individual donors – Domestic and cross-border cases

Country (In the EU) S – S	Are there tax incentives for individual donors giving to a public-benefit foundation?	Do equal tax incentives apply for individual donors giving to a comparable foreign (EU) based public-benefit foundation?
Slovakia	No tax incentives for individual donors. However, sole entrepreneurs (not incorporated) have a possibility of a tax credit regime for cash contributions that relate to research and development. A taxpayer may claim 200% of its investment into the R&D sector as tax deductible. Also, outside of giving, individual taxpayers may re-direct up to 3% of their paid income tax to non-profit organisations registered as tax designation recipients.	Not applicable
Slovenia	Donors can direct up to 0.5% of their income tax.	● Yes
Spain	If donations have been made in the 2 previous immediate tax periods in favour of the same entity for an amount equal to or greater, in each of them, than the previous year, the deduction percentage applicable to the base of the deduction in favour of that same entity that exceeds €150, will be 40%. There is a limit of 10% of the total taxable income in the form of a tax credit.	● No
Sweden	25% of a donation approx. €25-170 is deductible and total gifts amounting to at least approx. €193.	● No

Tax treatment of donors and beneficiaries

30 | Tax treatment of individual donors – Domestic and cross-border cases

Country (Outside the EU) A – U	Are there tax incentives for individual donors giving to a public-benefit foundation?	Do equal tax incentives apply for individual donors giving to a comparable foreign (EU) based public-benefit foundation?
Albania	● No	Not applicable
Bosnia and Herzegovina	Incentives only for self-employed persons - Donations are deductible at the following rates for the different districts of the country: FBH: Up to 0.5% of previous year's annual income. RS: Up to 2 % of annual income. BD: Up to 0.5 % of annual income.	● Yes
Kosovo	Donations are deductible up to 10% of taxable income.	● No
Liechtenstein	Donations are deductible up to 10% of the taxable income prior to the donations.	● Yes
Montenegro	● No	Not applicable
North Macedonia	Donations are deductible up to 20% of the annual tax payable, up to the equivalent of €390.	● Yes With no limitations if they have a registered office in North Macedonia. If not, tax is deductible when recipients are foreign non-profit entities and the donations are for the benefit of the public interest in another country in cases of natural and humanitarian emergencies and disasters.
Norway	The cash donation must amount to at least approx. €50 in the income year in which it is donated. A maximum deduction of approx. €4,900 is allowed per year per donor.	Tax deductions are allowed for cash donations to foundations domiciled in the EEA area, provided the foundation satisfies the same tax exemption requirements that apply to Norwegian foundations.
Russia	Tax deductions are provided in the amount of actual expenses, but not more than 25% of the amount of income received during the calendar year.	● No
Serbia	● No	Not applicable
Switzerland	Cash and in-kind donations of €94 or more per fiscal year made by natural persons are deductible from the income, up to 20% of the taxable income.	● No
Turkey	Donations are deductible up to 5% (10% for the development priority regions) of the donor's income for the year.	● No
Ukraine	Donations are deductible up to 4% of the person's taxable income in the previous year. The value of the deductions shall not be more than their income received as salary.	● No
United Kingdom	Cash donations are deductible via Gift Aid or payroll giving schemes. The donor claims a deduction from taxable income or capital gains for the amount of the donation grossed up by the basic rate of tax (currently 20%). Gift Aid allows the charity to then reclaim the income tax deemed to be deducted from the donation from the tax authorities.	● Yes

31 | Tax treatment of corporate donors – Domestic and cross-border cases

Country (In the EU) A – F	Are there tax incentives for corporate donors giving to a public-benefit foundation?	Do equal tax incentives apply for corporate donors giving to a comparable foreign (EU) based public-benefit foundation?
Austria	Deductions up to 10% of taxable income.	● Yes But the recipient organisation must be included in a list.
Belgium	Only cash donations (of more than €40), the exception being works of art donated to museums: Up to 5% of the taxable income, with a maximum of €500,000 in 2020.	● Yes
Bulgaria	Donations are not levied with a tax withheld at the source, and they are tax deductible if they amount to 10%, 15% or 50% of the positive financial result. The total amount of the deduction cannot exceed 65% of the total income.	● Yes
Croatia	In-kind and monetary donations can be included in business expenses (which will decrease the tax base) up to 2% of the total revenue generated in the previous calendar year.	● No
Cyprus	The full value of donations is tax deductible with no limits.	● Yes
Czech Republic	The donation can be a movable asset or real estate. The donation is deductible up to 10% of the tax base provided that at least 2% of the tax base is donated.	● Yes
Denmark	Gifts to qualifying charitable organisations up to €2,250 are deductible each year. The limit is adjusted annually and was approx. €2,250 for the fiscal year 2021.	● Yes But the recipient organisation must be included in a list.
Estonia	Total of donations deducted from taxable income may not exceed 3% of the sum of the labour costs made during the year, or exceed 10% of the calculated profit of the latest fiscal year.	● Yes
Finland	Cash donations with a minimum amount of €850, are eligible for a tax deduction. Maximum amount depends on the recipient, divided in 2 categories. Maximum amount of a donation given to a public-benefit foundation is €50,000.	● Yes
France	Tax reduction equal to 60% of the donations to public-utility foundations and to endowment funds up to €10,000 or up to 0.5% of their annual turnover if this amount is higher than €10,000. Should there be no profits in the following years, the deduction can be carried forward over the next 5 years. The deduction may also be carried forward over the following 5 years, if the donations are beyond the 0.5% limit.	● Yes The donors get the same tax incentive if the public-benefit organisation is established in the EEA and is comparable to a French public-utility organisation in terms of purpose and legal form.

31 | Tax treatment of corporate donors – Domestic and cross-border cases

Country (In the EU) G – M	Are there tax incentives for corporate donors giving to a public-benefit foundation?	Do equal tax incentives apply for corporate donors giving to a comparable foreign (EU) based public-benefit foundation?
Germany	A tax deduction on the income up to 20% of yearly taxable income (or 0.4% of the sum of the turnover and salaries).	<p>● Yes</p> <p>If individuals resident or domiciled in Germany benefit from the foundation's activities or if the activities potentially improve the reputation of Germany. Furthermore, the foundation must meet the same requirements for tax-exemption as foundations in Germany.</p>
Greece	The deductibility of charitable contributions shall be examined in light of the generally applicable deductibility criteria, focusing on the productivity of such expenses on a case-by-case basis.	<p>● Yes</p>
Hungary	Up to 20% of the value of the donation, and 50% of the value if provided to certain national funds. An additional 20% of the value of the donation if provided under a long-term donation contract, up to the amount of the pre-tax profit on the aggregate.	<p>● No</p>
Ireland	The company simply claims a tax deduction on the donation as if it were a trading expense. The same minimum and maximum thresholds apply in that the donation must be at least €250 and not more than €1 million per annum.	<p>● Yes</p> <p>But the recipient organisation must have obtained charitable tax status from Revenue.</p>
Italy	There are various options. Up to 2% of declared corporate income for donations to ONLUS and other NGOs. Donations to ONLUS can be deducted from income tax up to an amount not exceeding 10% of the total declared income. The Third Sector Code provides a tax credit equal to 50% of the amount disbursed by entities or companies, within the limits of 5 per thousand of annual revenues. Furthermore, The Third Sector Code provides a deduction of 10% of the total declared income for money and in-kind donations made to support Third Sector non-commercial entities.	<p>● Yes</p>
Latvia	There are various options, but in all cases there is no minimum limit. Since there is no corporate income tax on re-invested amounts, companies are not too interested in tax deductions on donations.	<p>● Yes</p>
Lithuania	Deductible up to €9,500 in respect of a single recipient of sponsorship or charity during the tax period. In some cases, double the amount of the donation may be deducted up to 40% of taxable income.	<p>● No</p>
Luxembourg	Tax deduction up to an annual aggregate maximum limit of 20% of the taxable income of the donor or €1 million, provided the donations have value in excess of €120.	<p>● Yes</p>
Malta	Cash donations made to certain organisations can be deducted with different caps of €50,000 or €60,000, or in some cases €100,000.	<p>● No</p>

31 | Tax treatment of corporate donors – Domestic and cross-border cases

Country (In the EU) N – S	Are there tax incentives for corporate donors giving to a public-benefit foundation?	Do equal tax incentives apply for corporate donors giving to a comparable foreign (EU) based public-benefit foundation?
Netherlands	Gifts are deductible up to a maximum of 50% of the profit with a maximum of €100,000. Gifts to cultural entities can be taken into account for 150%. The maximum additional deduction is €2,500.	<p>● Yes</p> <p>Provided that these foundations are registered as an ANBI (public-benefit organisation) with the Dutch tax authorities.</p>
Poland	Donations up to 10% of the taxable base are deductible.	<p>● Yes</p> <p>But it is complicated in practice.</p>
Portugal	No limits on tax deduction when donations benefit state-supported foundations or represent endowment of private origin foundations pursuing social or cultural aims. Donations are calculated as a cost to the donor and rates range from 120-140% of the monetary value of the donation.	● No
Romania	Donations can be deducted up to 20% of the income tax, but not more than 0.75% of the turnover.	● No
Slovakia	Corporations as donors have a possibility of a tax credit regime for cash contributions that relate to research and development, but not necessarily only to foundations because R&D is primarily in the public and private business sector. A taxpayer may use 200% of its investment into the R&D sector as tax deductible. The reporting practice for corporate donors is unclear and ambiguous. Also, outside of giving, corporate taxpayers may re-direct 1% or 2% of their paid income tax to non-profit organisations registered as tax designation recipients.	● No
Slovenia	Corporate donors may claim a tax relief whereby 20% of their investments in research and development (R&D), in the form of commissioned R&D services carried out by a foundation which is at the same time a private research organisation, can be deducted from the tax base. In addition a general tax deduction for cash donations to a foundation, which accounts for 0.3% of the entity's taxable income in a business year, but may not exceed the tax base in a given tax period.	● Yes
Spain	Corporations can deduct 35% of all donations up to a limit of 10% of their taxable income if donations or contributions with the right to deduction have been made in the 2 previous immediate tax periods in favour of the same entity for an amount equal to or greater, in each of them, than the previous tax period. The percentage of deduction applicable to the base of the deduction in favour of that same entity will be 40%.	● No
Sweden	No deductions in general. However, some donations can be deducted as business expenses.	● No

31 | Tax treatment of corporate donors – Domestic and cross-border cases

Country (Outside the EU) A – U	Are there tax incentives for corporate donors giving to a public-benefit foundation?	Do equal tax incentives apply for corporate donors giving to a comparable foreign (EU) based public-benefit foundation?
Albania	Deductible expense up to 5% for publishers and publication of literature, scientific works and encyclopaedia; as well as cultural, artistic and sport-related activities and up to 3% for all other corporate entities.	● No
Bosnia and Herzegovina	FBH, RS and BD: Donations are deductible up to 3% of previous year's annual income	● Yes But only if foreign foundations pursue activities in Bosnia and Herzegovina
Kosovo	Donations are deductible up to 10% of taxable income.	● No
Liechtenstein	Donations to public-benefit foundations are deductible up to 10% of the taxable income prior to the donations	● Yes
Montenegro	Donations are deductible up to 3.5% of the gross annual income.	Not applicable
North Macedonia	Donations are deductible up to 5% of gross income and, in the case of sponsorships, up to 3% of gross income.	● Yes For the benefit of the public interest in another country in cases of natural and humanitarian emergencies and disasters.
Norway	The cash donation must amount to at least approx. €50 in the income year in which it is donated. A maximum deduction of approx. €4,900 is allowed per year per donor.	Tax deductions are allowed for cash donations to foundations domiciled in the EEA area, provided the foundation satisfies the same tax exemption requirements that apply to Norwegian foundations.
Russia	There are tax benefits for paying value-added tax for corporate donors.	● No
Serbia	Donations are deductible up to 5% of total revenue.	Not applicable
Switzerland	Cash and in-kind donations are deductible from the taxable net profit in the amount of up to 20% of the net profit as business expenses.	● No
Turkey	Donations are deductible up to 5% (10% for the development priority regions) of the donor's income for the year.	● No
Ukraine	Cash and in-kind donations are deductible at a rate of up to 4% of the corporation's taxable income in the previous year. Corporate donors can also deduct their donations provided as services and performances.	● No
United Kingdom	Money, land, and quoted shares are deductible. A 100% deduction from taxable profits can be claimed.	● Yes But the recipient organisation must be included in a list.

32 | Tax treatment of donations via specific tools

Country
(In the EU)
A – I

Do donors get tax incentives when donations are done via specific tools such as: requesting money in public (street, door-to-door), via TV and radio campaigns, via SMS (text) or crowdfunding?

Country
(In the EU)
I – S

Do donors get tax incentives when donations are done via specific tools such as: requesting money in public (street, door-to-door), via TV and radio campaigns, via SMS (text) or crowdfunding?

Austria	○ n/a	Italy	● No Tax relief is provided for small-scale donations made on the street or by text message. When donations are made through crowdfunding platforms, the donor has to have a certificate. If it's not possible to derive the above information, in order to benefit from the tax facilities, the beneficiary must issue the receipt of the payment and a specific receipt showing the purpose of the donation.
Belgium	● Yes Via TV and radio campaigns, if the donor is identified, the donation must be final and irrevocable. The donation must amount to at least €40.	Latvia	It does not matter how the gift was initiated, but documentation (proof of payment) is mandatory. Phone and street gifts may not qualify. Crowdfunding may qualify if payment is done via bank account and the recipient is a public-benefit organisation.
Bulgaria	All donations can be tax exempt if there is a contract for the donation signed by the donor and beneficiary, and a protocol for the accepted donation is also required. In the case of donations to public-benefit organisations, for the SMS donation, a certificate from the public-benefit organisation which has received the donation is required, as well as the invoices to prove that the payment has been done.	Lithuania	● No
Croatia	● No	Luxembourg	There are no differences compared to standard donations.
Cyprus	○ n/a	Malta	● No
Czech Republic	● Yes	Netherlands	● No No specific rules apply.
Denmark	● Yes	Poland	Via TV and radio campaigns and crowdfunding, if the donation goes to a non-profit organisation and is made via bank transfer.
Estonia	Generally, no, due to the fact that when donating through these channels, the identity of the donor cannot be determined.	Portugal	Crowdfunding.
Finland	● No	Romania	● No
France	● No	Slovakia	● No
Germany	A tax deduction is granted if the requirements for a donation to a PBO are met.	Slovenia	● No
Greece	● No	Spain	The donors will get tax incentives when donations, through any tool, are made for the benefit of non-profit organisations.
Hungary	● No	Sweden	● No
Ireland	● No		

32 | Tax treatment of donations via specific tools

**Country
(Outside the EU)
A – U**

Do donors get tax incentives when donations are done via specific tools such as: requesting money in public (street, door-to-door), via TV and radio campaigns, via SMS (text) or crowdfunding?

Albania	● No
Bosnia and Herzegovina	● No
Kosovo	● No
Liechtenstein	There are no differences compared to standard donations.
Montenegro	● No
North Macedonia	According to the regulation, they can receive tax incentives in all of the above-mentioned categories, but the proper administrative procedure is needed along with complete documentation, thus it is difficult to use in practice. SMS donations are exempt from VAT.
Norway	● No
Russia	● No
Serbia	● No
Switzerland	The tax deductibility rules do not differentiate between donation channels.
Turkey	● No
Ukraine	There are no differences compared to standard donations. SMS donations are exempt from VAT.
United Kingdom	Individual donors can claim tax relief under the Gift Aid system for payments of money, regardless of the method of payment, provided that the donor supplies a Gift Aid declaration to the charity.

33 | Tax treatment of beneficiaries

Country (In the EU) A – E	Are individual beneficiaries of grants required to pay taxes or are the grants tax exempt?	Country (In the EU) F – L	Are individual beneficiaries of grants required to pay taxes or are the grants tax exempt?
Austria	When a private foundation under PSG (Private Foundation Act) gives grants, a capital gains tax of 27,5% is levied on the beneficiaries, on both individuals and legal entities.	Finland	Grants awarded by foundations for university studies, scientific research and artistic work, as well as prizes awarded for scientific, artistic and other non-profit activity are tax free up to €23,270 (in 2020). The amount includes all grants and prizes received by an individual in any 1 year after deduction of costs necessary to acquire and maintain the income.
Belgium	The provision of grants, subsidies, prizes or other benefits by national or international institutions, including non-profit organisations (i.e. foundations or associations), to individuals can sometimes be connected to a professional or occasional activity of the beneficiary, for instance prizes awarded to musicians or to authors, and subsidies granted to scientists. In such cases the grants, subsidies or prizes are subject to individual tax if they exceed €3,200 per year. Foundations which are recognised by the tax authorities can benefit from a total exemption.	France	Individuals receiving funds from a foundation are exempt from paying tax on them if such funds are granted as assistance of an exceptional nature. However, if such funds are granted in exchange for compensation, they are subject to individual income tax at standard rates. Prizes granted by a foundation are normally taxable.
Bulgaria	There is a list of exemptions from donation tax.	Germany	Income tax will only be levied if the grant or benefit exceeds what is considered to be an adequate cost of living.
Croatia	○ n/a	Greece	Neither donation tax nor income tax is applicable to the beneficiary, provided that the donation from a foundation is fulfilling a statutory obligation.
Cyprus	In principle, if individuals or legal entities satisfy the requirements provided by the law regarding the tax treatment of the foundation, then there will be exemption from tax.	Hungary	Income received from a public-benefit foundation provided in accordance with the public-benefit purpose of the foundation is tax exempt, if provided for one of the listed purposes.
Czech Republic	Grants provided by a foundation in accordance with its statutory purposes to any legal or natural person are tax exempt.	Ireland	Donations received by persons other than charities may be subject to income tax or inheritance tax where applicable.
Denmark	Gifts or grants by foundations are regarded as income for the recipient and taxed at the normal income tax rate.	Italy	The tax treatment depends on the nature of the grant provided by the foundation. Some types of grants could be subject to a withholding tax with reference to income tax purposes.
Estonia	When distributing property to private individuals, the foundation must know and monitor its limits or pay income tax in excess of them. Some grants for educational, creative or scientific purposes are tax exempt.	Latvia	Individuals do not pay income tax on financial and material aid received from public-benefit organisations up to €1,000 per year. An exception is aid for medical treatment: This is fully tax exempt if proofs of payments are held with the organisation.

33 | Tax treatment of beneficiaries

Country (In the EU) L – S	Are individual beneficiaries of grants required to pay taxes or are the grants tax exempt?
Lithuania	Individuals are subject to tax on grants received from foundations, as stated in the Charity and Sponsorship Law.
Luxembourg	If the benefit qualifies as a donation, no other taxes are due.
Malta	It is arguable that grants should not be taxable since such receipts are not of an income but of a capital nature.
Netherlands	Gifts received from an ANBI (public-benefit organisation) registered in the Netherlands are exempt from gift and inheritance tax. Gifts received from SBBIs (social interest promoting institution) or other foundations are not exempt.
Poland	If the value of grants or in-kind donations from the public-benefit organisation does not exceed €1,200 over the course of 5 years, the recipient is not required to pay tax on the gifts received. Scholarship grants made by foundations are tax free up to €900 yearly.
Portugal	Tax exempted if the benefit is considered a scholarship or a prize.
Romania	No taxes are levied.
Slovakia	Receiving a grant/benefit/scholarship from a foundation is normally not subject to tax.
Slovenia	Beneficiaries of foundations are exempt from income tax on grants received from foundations established and operating in accordance with the law governing foundations.
Spain	Individuals and legal entities are not entitled to special benefits if they are the beneficiaries of a grant or a donation from a foundation.
Sweden	The individual receiving a grant from a tax-exempt foundation is also exempt from tax on the grant.

33 | Tax treatment of beneficiaries

Country (Outside the EU) A – S	Are individual beneficiaries of grants required to pay taxes or are the grants tax exempt?	Country (Outside the EU) S – U	Are individual beneficiaries of grants required to pay taxes or are the grants tax exempt?
Albania	○ n/a	Switzerland	Depends on factual circumstances of the individual case: An exemption from income tax would be granted if the grant or other benefit cumulated with other income of the beneficiary does not exceed the means for maintenance of the beneficiary in question.
Bosnia and Herzegovina	Individual beneficiaries of foundations are exempt from tax on grants received from foundations.		
Kosovo	Individual beneficiaries are not required to pay tax. They must only submit a declaration of the origin of the grant.		
Liechtenstein	Revocable foundations: Are not subject to such tax. Irrevocable foundations: If the value of a beneficiary's privileges within an irrevocable foundation can be determined, the beneficial interest will only be subject to wealth tax in cases where the beneficiary is subject to unlimited tax liability.		
Montenegro	Beneficiaries of foundations are exempt from income tax on grants received from foundations established and operating in accordance with the Law on Non-Governmental Organisations, such as scholarships and other benefits that are given to students by foundation activities in the fields of education, culture and science.		
North Macedonia	The income tax shall not be payable on income generated on grounds of scholarships and credits granted to pupils and students given by foundations.		
Norway	Distributions from foundations or trust funds are taxable as a rule, but there are several exceptions such as educational scholarships, among others.		
Russia	Grants are not taxed if grants are provided to support science and education, culture and the arts by international, foreign and (or) Russian organisations according to the lists of such organisations approved by the Government of the Russian Federation.		
Serbia	○ n/a		
		Ukraine	In 2020, individual beneficiaries may receive non-taxable funds from a foundation up to €100 per year. Foundations can reimburse expenditures for health care and medical services to individuals or, with some restrictions, to clinics. Grants for education in Ukrainian colleges and universities are not taxable up to €480 per month (in 2020). As mentioned above, benefits in kind are non-taxable up to €40 per month.
		United Kingdom	Donations received by persons other than charities may be subject to income tax or inheritance tax where applicable. No liability to income tax generally arises unless the grant or benefit is recurring or otherwise has the character of income. Income from a scholarship held by an individual in full-time education at a university, college, school or other educational establishment is generally exempt.



About Philanthropy Advocacy:

Philanthropy Advocacy, a joint initiative of Donors and Foundations Networks in Europe (Dafne) and the European Foundation Centre (EFC), acts as a monitoring, legal analysis and policy engagement hub for European philanthropy. Its main objective is to shape the national, European and international legislative environment by implementing the European advocacy roadmap for a Single Market for Philanthropy.

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