

2020

Legal Environment for Philanthropy in Europe

Croatia

COUNTRY PROFILE

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I. Legal framework for foundations

1. **Does the jurisdiction recognise a basic legal definition of a foundation? (please describe) What different legal types of foundations exist (autonomous organisations with legal personality, non-autonomous without legal personality, civil law, public law, church law, corporate foundations, enterprise foundations, party political foundations, family foundations, foundations of banking origin as a specific type, companies limited by liability, trusts)? Does your jurisdiction recognise other types of philanthropic organisations?**

Pursuant to the 2019 Law on Foundations, a foundation is recognised as a legal entity and is defined as an asset designated for the perpetual accomplishment of public-benefit or charitable goals.

There are currently 271 foundations and funds pursuing a broad range of public-benefit and charitable goals.

2. **What purposes can foundations legally pursue?¹**

- Only public-benefit
 Both public- and private-benefit

3. **What are the requirements for the setting up of a foundation (procedure, registration, approval)? What application documents are required? Are there any other specific criteria for registration?**

A foundation may be established by a natural or legal person, regardless of their nationality or place of business.

A foundation shall be deemed established by virtue of the founding act. Depending on the number of founders (one or more), a founding act may be in the form of a unilateral decision or will (in case of the establishment *mortis causa*), or in the form of an agreement, but in any event it must be in notarial form. A founding act must contain the name of the founder, the place of residence or the seat thereof (depending on whether the founder is a natural or legal person), the ID or passport number of the founder, the name and the seat of the foundation, the goals for which it is established, and information about the assets that the founder has endowed to the foundation.

Along with the application form, the following documents shall be submitted to the Registry of Foundations which is kept by the Ministry of Public Administration: the founding act; decision on the appointment of a person authorised to represent the foundation (director, administrator, president, etc.); a decision on the appointment of members of the governing board; confirmation of a person authorised for the execution of the will of the founder; proof of a bank transfer related to the designated endowment or proof of ownership of other assets that have been designated for the endowment; a certified appraisal of the endowed asset; excerpts from the registry of a foreign legal person i.e. the founder; and the statutes of the foundation. Depending on circumstances, the foundation may be required to provide additional documents (e.g. a consent to use the name of a natural person in its own name). The foundation shall acquire legal personality on the day of entering into the Registry.

4. **Is state approval required? (approval by a state supervisory authority with/without discretion)**

- Approval by a state authority with discretion
 Approval by a state authority without discretion
 Approval by a court
 Notarisation by a notary public

¹ This question focuses only on public-benefit foundations; see the definition in the Glossary developed for this project, which can be found on the Philanthropy Advocacy website.

5. Are foundations required to register?

a) If foundations must register, in what kind of register?

- Company register
- Foundation register at national level
- Foundation register at the regional/county level
- Beneficial ownership register
- Any other public register (other than a foundation/charity one)

b) If foundations are registered, what information is kept in the register?

The Registry of Foundations is open to the public and contains the following information: the date of entry into the registry; the organisation's identification number; the full and abbreviated name of the foundation, if there is an abbreviated name; the seat of the foundation; its goals; the act of the establishment; information about the time period for which the foundation has been established; the name, residence or place of business of the founder; the ID or passport number of the founder; the statutes and the date they were approved; information about the endowment; the name, the residence and ID numbers of an authorised representative as well as members of the governing board of the foundation; information about mergers and other forms of transformation; the name, the ID number and residence of a designated liquidator of the foundation.

c) If foundations are registered, is the register publicly available?

- Yes, all information publicly accessible
- Yes, some information publicly accessible
- Yes, accessible upon request
- No

6. Is a minimum founding capital/endowment required?

- No
- Yes, amount:

7. Is the foundation required to maintain these assets or any other specified asset level throughout its lifetime? Are spend-down foundations allowed?

There is a statutory requirement for the foundation to maintain the value of its endowment throughout its lifetime. A decrease in the value of the designated endowment is only possible if so envisaged by the founding act and the statutes of the organisation, provided such a decrease will not impact on the organisation's ability to pursue its goals for the duration of its existence.

8. What governance requirements are set out in the law? Is it a one-tier or two-tier foundation governance model?

a) Is it mandatory to have a:

- Supervisory board
- Governing board

b) What are the requirements concerning board members? Is a minimum/maximum number of board members specified? Does the law regulate the appointment of board members and their resignation/removal or can this be addressed in the statutes/bylaws?

The Law envisages that the governing board must have at least three members with full legal capacity. The statutes are the controlling instruments on issues of resignation and removal of members of the board.

c) What are the duties and what are the rights of board members, as specified by national legislation or case law?

The governing board appoints the director of the foundation, approves its statutes, approves the annual financial report and the work plan, and decides on the use of the foundation's property, unless otherwise stipulated in the founding act and the statutes of the organisation (please see below). The governing board may carry out other duties as envisaged by the statutes. The Law does not set out specific standards of diligence for members of the board. Under the general civil law rules, they are bound to act bona fide in protecting the interest of the organisation.

- d) What are the rights of founders during the lifetime of the foundation? Can fundamental decisions, such as change of purpose, be made at the discretion of the founder? What are the legal requirements in such circumstances?

There are two ways for the founder to retain a decisive influence on the management of a foundation during its life time, if so provided by the founding act and the statutes of the organisation. First, the founder can be president or a member of the governing board having a casting 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; the use of the organisation's assets; and the dissolution and distribution of the remaining assets of the organisation. Alternatively, the founding act and the statutes may provide that the founder shall retain the power of prior approval of decisions to be rendered by the governing board on all or some of the foregoing issues, without necessarily having a seat on the board. If so, decisions of the governing board on those issues without the founder's prior consent are generally deemed null and void, provided this decision-making arrangement is duly entered into the Registry of Foundations.

- e) Can the board or the founder amend the statutes including the purpose of the foundation? If yes, please indicate any particularities. What is the relationship between the powers of the founders, the statutes of the foundation and the power of the board members?

Please see the response above.

- f) What are the rights of third parties (e.g. right of information)?

There are no statutory provisions in this regard, the statutes of the foundation represent the controlling instrument in this respect.

- g) What rules are in place to ensure against conflict of interest? What is the legal definition of a conflict of interest under your legislation? How is self-dealing prohibited?

Members of governing board or any other governing body are prohibited from deciding on issues in which they or persons affiliated with them have proprietary interests.

- h) Can staff (director and/or officers) participate in decision-making? How and to what extent?

Under the Law, the director represents the foundation and runs its day-to-day operations. The statutes may contain further provisions in this respect, including instances in which staff needs to be consulted during a decision-making process involving the director or the governing board.

9. What is the liability of the foundation and its organs? What is the general standard of diligence for board members? (e. g. duty of obedience, duty of care/prudence, duty of loyalty)? In what type of rule are these criteria established: fiscal, administrative, civil, commercial? Is there a solid case law, if any, regarding the duty of due diligence? Does your country differentiate between voluntary (unpaid) and paid board members? Who is allowed to bring a complaint about breaches of such duties: the other members of the board, the founder/s, and the public authorities? If a complaint is brought, which authority has competence in such cases: administrative, tax authority, only the judiciary power (attorney general) or beneficiaries/general public?

As noted, the Law does not envisage specific duty of diligence for the governing board members. The Law generally presumes that members of the governing board and other bodies of the foundation carry out their duties pro bono, unless the statutes envisage otherwise. However, paying out remuneration cannot be at the expense of the well-being of the organisation.

Any third party having a perceived legitimate interest can sue the governing board and its members for the alleged breach of bona fide duties, under the civil law rules governing compensation for

damage. This includes public authorities insofar as public funds received by the organisation have been adversely impacted by the breach of bona fide duties.

10. Who can represent a foundation towards third parties? Is this specified in law or is it up to the statutes of the organisation? Do the director and officers have powers of representation based on legislation?

Under the Law the director has the general power of representation. The statutes may envisage that other persons may also represent the foundation.

11. Are purpose-related/unrelated economic activities allowed? If so, are there other types of limitations on economic activities (related/unrelated)?

Under the Law a foundation may engage directly in both related and unrelated economic activities. There is no particular statutory limit with respect to the scope of those activities. However, such a limit is set out in tax law, for the purpose of taxing income generated from economic activities which are deemed to amount to unfair competition in the market. This deliberation is made by tax authorities on a case-by-case basis.

12. Is there any legal/fiscal framework for grant-makers to be able to fund legal entities that are conducting economic activities in addition to their public utility activities? If any, what are the limitations for funding those kinds of legal entities?

There are no statutory limitations in this respect.

13. Are foundations permitted to be major shareholders in a company? Are there any limitations to voting rights? Is this considered as an economic activity?

There are no statutory limitations in this respect; majority shareholding and voting rights per se are not likely to be deemed an economic activity.

14. 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?

There are no particular statutory limitations in this respect, rather, the statutes represent the controlling instrument for those issues.

15. 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)

Yes.

16. Are there any limitations (in civil law/tax law) to political party related or general lobby/advocacy activities?

No, insofar as those lobbying activities are consistent with the (public-benefit) goals of the foundation.

17. What are the requirements for an amendment of statutes/amendment of foundations' purpose?

Under the Law, the governing board has the power to amend the statutes of the foundation, including provisions governing its purpose, unless otherwise provided by the founding act and the statutes.

18. What are requirements with regard to reporting, accountability, auditing?

a) What type(s) of report must be produced?

- 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)
- Report on conflict of interest (self-dealing and conflict of interest breach cases)

b) Must all/any of the reports produced by the foundation be submitted to supervisory authorities? If so, to which authorities (e.g. foundation authority, tax authority)?

No, this obligation only pertains to the annual financial report, which is filed with the tax/audit authority.

c) Are the reports checked/reviewed? By whom (supervisory/tax authorities)?

The annual financial report may be checked by tax/audit authorities.

d) Do any or all of the reports and/or accounts of foundations need to be made publicly available? If so, which reports and where (website, upon request)?

Only the annual activity reports needs to be made publicly available on the foundation's website.

e) Is external audit required by law for all foundations?

External audit insight (not full audit) is required by a foundation whose annual income is between 3 and 10 million kunas (HKN) (between ~ €400,000 and ~ €1.3 million). Full external audit is only required by a foundation whose annual income exceeds 10 million kunas (HKN) (~ €1.3 million).

f) By whom should audits be undertaken? Do requirements/guidelines exist regarding international and national auditing agencies and standards?

The foundation must submit its annual financial report to the Ministry of Finance (Financial Agency - FINA). The Law prescribes that foundations whose annual income is higher than 3 million kunas (HKN) (~ €400,000) should select an independent licenced audit company through a transparent public procurement procedure. The auditing rules are compliant with the recognised international standards.

19. Supervision: Which authority, what measures?

a) What type of body is the supervisory authority? (multiple answers possible)

- A public administrative body
- A public independent body
- A combination of a governmental body and a court
- A court
- A public administrative body and an independent body
- A tax authority
- Other

b) Does the supervisory body review reports?

- Yes
- No

c) Are foundations subject to inspection?

Yes

No

d) Is approval from the authority required for certain decisions of the governing board?

Yes, formal approval is needed

Yes, needs just to be informed

No

If yes, please specify which type of decisions:

e) Is it mandatory to have a state supervisory official on the governing board?

Yes

No

Can a government official be appointed to the governing board by a state authority, if so please mention:

f) What enforcement measures are in place (including compliance measures and sanctions for non-compliance) concerning registrations, governance, reporting, and public-benefit status?

There are various statutory provisions which envisage monetary fines in case of non-compliance or failure to remedy the non-compliance within a given notice period.

20. When and how does a foundation dissolve?

The foundation can be dissolved by virtue of voluntary dissolution (liquidation), following a decision of the governing board or the founder, or in case of bankruptcy.

21. Is there a maximum that can be spent on office/administration costs in civil law and/or tax law? If yes, what is the amount?

No, however, it is the general duty of the governing board to ensure that the office/administration costs do not jeopardise the financial well-being of the organisation.

22. Does civil and/or tax law require a foundation to spend a certain percentage of its overall assets within a certain period of time (e.g. within the next financial year)? In particular, can a foundation accumulate these expenses over a period of time (and if so, what kind of authorisation is required to do so)?

No.

23. Under what conditions does the civil law in your country recognise a foreign foundation? Do they have to register? Does your law recognise the concept of trusts?

Foreign foundations that seek to operate in Croatia on a permanent basis need to establish a branch office. This obligation does not pertain to their one-off activities (e.g. seminars, conferences) or shorter-term activities (e.g. capacity building in a shorter period of time). The law does not recognise the concept of a trust.

24. Does the law in your country allow a foundation to conduct (some or all) activities (grant making, operating, asset administration, fundraising) abroad? Is there any limitation?

Foundations may conduct activities abroad without limitations.

25. Does the law in your country impose any restrictions on ability to receive donations from abroad? If so, please describe.

There are no statutory restrictions in this respect.

26. Does the civil law in your country allow the transfer of the seat of a foundation (in the EU) and/or cross-border mergers?

Yes.

II. Tax treatment of foundations

1. What are the requirements to receive tax exemptions?

- Pursuing public-benefit purposes
- Non-distribution constraint
- Being resident in the country
- Other

2. What are reporting/proof requirements to claim tax exemptions? What does the foundation have to submit to the authorities (statutes, financial reports, activity reports, other?)

In order to claim tax exemptions, the foundation must file its annual financial report to the tax/audit authorities.

3. Is specific reporting required for the use of public funds (grants received from public bodies/state/municipality/etc.)?

As a norm, a foundation that has received public grants, in addition to an annual financial report, must submit to its donors and make public on its website a report on supported project activities. The precise format of that report is set out in the grant agreement.

4. Is there an obligation to report to public authorities on donors and beneficiaries? If so, to which authority and what type of information?

The statutory requirements with respect to the content of the annual financial report do not include disclosure of specific information on donors and beneficiaries. However, for the purpose of financial oversight, the foundation must keep a record of donors and beneficiaries.

5. Is there a statutory definition of what a public-benefit purpose (charitable purpose) is in the civil law (foundation law, trust law) of your country? If yes, please give us the definition. If so, is the determining definition that subsequently links to tax benefits?

The concept of public-benefit goals in the Law on Foundations entails human and citizens' rights; support to democratic institutions; societal and local community development; environmental protection; sustainable development; international aid and cooperation; culture; education; science; spirituality; sport; health; humanitarian issues; social issues; other charitable issues; as well as any other goal supporting the fundamental values enshrined in the constitutional order of the Republic of Croatia.

6. Is there a statutory definition of what a public-benefit purpose is in the tax law of your country? If yes, please give us the definition.

Under the personal and corporate income tax law, in-country donations to cultural, scientific, educational, health, humanitarian, sport, religious, ecological and other purposes deemed for public benefit are exempted up to 2% of the taxpayer's gross annual income in the preceding year. The tax exempt percentage may be higher, pursuant to a decision of the competent ministry on financing particular programmes and actions.

7. Please indicate whether the following purposes would or would not be accepted for tax privileges in your country (noting that the tax status often depends on additional requirements):

(see following page)

Public-benefit purpose	Accepted in tax law (for tax privileges)			
	Yes	Probably yes	Probably no	No
Arts, culture or historical preservation	X			
Environmental protection	X			
Civil or human rights	X			
Elimination of discrimination based on gender, race, ethnicity, religion, disability, sexual orientation or any other legally prescribed form of discrimination	X			
Social welfare, including prevention or relief of poverty	X			
Humanitarian or disaster relief	X			
Development aid and development cooperation	X			
Assistance to refugees or immigrants	X			
Protection of, and support for, children, youth or elderly	X			
Assistance to, or protection of, people with disabilities	X			
Protection of animals	X			
Science, research and innovation	X			
Education and training	X			
European and international understanding (e.g. exchange programmes/ other activities aimed at building bridges between nations)	X			
Health, well-being and medical care	X			
Consumer protection	X			
Assistance to, or protection of, vulnerable and disadvantaged persons	X			
Amateur sports	X			

Infrastructure support for public-benefit purpose organisations	x			
Party political activity				x
Advocacy	x			
Advancement of religion	x			
<i>Other – please list other purposes accepted in tax law for tax privileges in your country</i>				

8. Support of “the public at large”

- a) Do the activities of a foundation with public-benefit status for tax purposes generally have to benefit “the public at large”?

A foundation may be established (and enjoy the corresponding tax benefits) to support a specific segment of the population, rather than the public at large.

- b) If yes, can a foundation with public-benefit status for tax purposes support a closed circle in a sense that beneficiaries can be identified based on legal or family affiliations?

This may depend on specific circumstances.

9. Non-distribution constraint

- a) Does a foundation with public-benefit status for tax purposes generally have to follow a “non-distribution constraint” which forbids any financial support of the foundation board, staff, etc.?

Yes in principle, however, there is no precise statutory definition of a non-distribution constraint. As noted, the Law presumes that members of the governing board and other bodies of a foundation provide their services pro bono. They are however entitled to appropriate remuneration, if so provided by the statutes, but only from the foundation’s income. In addition, remuneration cannot be paid out at the expense of the financial well-being of the organisation. As a general rule, payment (salaries) to staff falls outside the remit of a non-distribution constraint; the same pertains to justified costs that staff have incurred in pursuing their duties and responsibilities, as well as modest annual monetary awards or gifts to employees for specific occasions (e.g. retirement). A tax authority may on its own initiative, or at the request of interested parties, examine if particular payments to the organisation’s employees or members of the board effectively amount to serving private interests, rather than the interest of the organisation.

- b) What happens with the foundation’s assets in case of dissolution - can the assets revert to private ownership or do they have to stay in the public-benefit sphere?

The remaining assets of the dissolved foundations shall be transferred to another foundation, association or institution pursuing the same or similar goals, or local municipality, as envisaged by the statutes. In case the transfer of the remaining assets is not possible as envisaged by the statutes, for whatever reasons, the remaining asset shall be transferred to a local municipality in which the foundation had its place of business

10. “Altruistic” element

- a) Is remuneration of board members allowed in **civil law** and in **tax law**? If remuneration is allowed, are there any limits in **civil law** and/or in **tax law**?

As already noted, the Law presumes that members of the board and other bodies of the foundation carry out their duties pro-bono, unless otherwise provided by the statutes. If so, on limits of such payments see above under 9. In tax law, remuneration is considered taxable income.

- b) Does **tax law** allow a donor/funder to receive some type of benefit in return for a donation? (e.g. postcards, free tickets for a concert)

The statutory definition of a gift does not allow any consideration for a gift received, and therefore such consideration may result in a gift not being recognised as tax deductible.

- c) Is there a maximum amount that can be spent on office/administration costs in **civil law** and in **tax law**? If yes, how are “administration costs” defined? Please indicate which of the following types of expenditures would/would not be considered as “administration costs”:

- Personnel costs (staff salaries/payroll costs)
- Board remuneration
- Costs of external audit
- Other legal/accounting costs
- General office overheads (rent/mortgage payments, utilities, office materials, computers, telecommunications, postage)
- Insurance
- Publicity and promotion of the foundation (e.g. website, printed promotional materials)
- Asset administration costs
- In the case of an operating foundation – costs related to programmes/institutions run by the foundation
- Costs related to fundraising

The Law does not impose any particular cap on administrative costs, nor are administrative costs specifically defined. However, there is a general obligation for the manager and members of the governing board to ensure that any payment towards third parties, staff included, as well as overall operational costs, do not undermine the financial well-being of the organisation.

11. Hybrid structures (elements of private benefit in public-benefit foundations)

- a) Does the **civil law** of your country accept the following provisions/activities of a public-benefit foundation?

	Yes	Probably yes	Unclear	Probably no	No
The founder restricts the use of the endowment by specifying that the foundation is required to maintain the founder, their spouse and descendants.					x
The founder retains a beneficial reversionary interest in the capital of a property or other asset for their own continuing use.					x
The gift consists only of the <i>freehold reversion</i> (residuary interest) in a residence that is subject to an existing lease (for a term of years, or even for life) in favour of the founder (or another member of their family) as tenant.					x
A foundation distributes a (small) part of its income to the founder or their family.					x

- b) Does the **tax law** of your country accept the following provisions/activities of a tax-exempt foundation?

	Yes	Probably yes	Unclear	Probably no	No
The founder restricts the use of the endowment by specifying that the foundation					x

is required to maintain the founder, their spouse and descendants.					
The founder retains a beneficial <i>reversionary</i> interest in the capital of a property or other asset to retain for their own continuing use.					X
The gift consists only of the <i>freehold reversion</i> (residuary interest) in a residence that is subject to an existing lease (for a term of years, or even for life) in favour of the founder (or another member of their family) as tenant.					X
A foundation distributes a (small) part of its income to the founder or their family.					X

12. Distributions and timely disbursement

- a) Are foundations allowed to spend down their endowment?

There is a statutory requirement for the foundation to preserve the value of its founding assets. Other than that, the foundation may spend down its income and other property as it sees fit, in accordance with the Law and the foundation's statutes.

- b) Are they allowed to be set up for a limited period of time only? If so, is there a minimum length of time for which the foundation must exist?

As noted, a foundation may be established for an indefinite or limited period of time. The Law does not provide a minimum length of time for an organisation to be established, rather, the statutes represent the controlling instrument in this respect.

- c) Does the **civil law** and/or **tax law** of your country require a foundation to spend its income (or a certain amount of the income) within a certain period of time, e.g. within the next financial year? If yes, is there a specific amount/percentage of the income that must be spent within this time? Which resources would be considered as income? E.g. would donations/contributions designated for building up the endowment be included in/excluded from the income to be spent? What expenditures would count towards the disbursement of income (e.g. would administration costs be included/excluded?)?

The Law does not provide for a specific timeframe in which income must be utilised, nor does it set out a specific threshold with respect to the foundation's overhead expenses.

- d) Does the **civil law** and/or **tax law** of your country require a foundation to spend a percentage of its overall assets in the form of a "pay-out rule"?

The Law does not provide for a specific percentage of the foundation's overall assets to be spent during the lifetime of the foundation.

Example: Does the **civil law** of your country require the following of a public-benefit foundation?

	Yes	Probably yes	Unclear	Probably no	No
A foundation accumulates its income for 5 years, only in the 6 th year are there distributions for the public-benefit purpose of the foundation.			X		

Example: Does the **tax law** of your country require the following of a public-benefit foundation?

	Yes	Probably yes	Unclear	Probably no	No
A foundation accumulates its income for 5 years, only in the 6 th year are there distributions for the public-benefit purpose of the foundation.				x	

13. Are activities abroad in another country compatible with the public-benefit tax status?

Insofar as such activities are envisaged by the statutes, they do not seem to put the tax-exempt status of the endowment at risk.

14. Can public-benefit organisations with a tax-exempt status also support/give grants to for-profit organisations (such as a small green start-up)?

Yes.

15. Corporate income tax treatment. How are the following types of income treated for corporate income tax purposes? Are they taxable or exempt?

a) Grants and donations

b) Investment income (asset administration)

Interest from fixed rate bonds

Equities

Income from leasing of a property that belongs to the foundation

c) Economic activities (related/unrelated)

Income from running a hospital/museum/opera

Income from producing/selling books (e.g. art books sold by a cultural foundation)

Income from running a bookshop inside a museum/opera run by the foundation

Income from running a café in the hospital/museum run by the foundation

Income from selling merchandise (activity not related to the pursuance of the public-benefit purpose)

Income from intellectual property (e.g. royalties and licence fees)

d) Income deriving from grant expenditure towards public-benefit purpose/programme activities (such as loans, guarantees, equities)?

Grants and donations are exempted from taxes, and so is passive (investment) income. Income from economic activities (related and unrelated alike) is subject to taxes only if the tax authorities determine that granting the tax-exempt status to such an income would amount to unfair competition on the market. In such cases, the general corporate tax rate applies. There are no specific tax rules with respect to major shareholding. However, this is likely to be considered passive income, rather than income generated from economic activities.

e) Is major shareholding in a business undertaking considered as an economic activity and taxed accordingly?

16. Are capital gains subject to tax? If so, are they liable to corporate income tax or to a separate tax?

Yes, they are liable to corporate income tax.

17. Does any kind of value added tax (VAT) refund scheme for the irrecoverable VAT costs of public-benefit foundations exist in your country?

No, the foundation is entitled to a generally applicable tax rebate only if it is registered in the VAT system.

18. Is capital tax levied on the value of assets, where applicable?

No, capital tax is not levied on the value of assets.

19. Are there taxes on the transfer/ sale of assets by foundations?

Yes, there are taxes on the sale of assets by foundation.

20. Are there any other taxes to which public-benefit foundations are subject to (e.g. real property tax)?

Foundations are not subject to any other taxes.

21. Can a foreign foundation (EU and other) get the same tax benefits as a national foundation according to the wording of the tax law in your country? If yes, under what conditions? If they have to fulfil exactly the same requirements as locally-based public-benefit foundations, please refer to above but indicate which documents need to be provided and translated:

- Statutes (translation required?)
- Last annual financial report (translation required?)
- Documents providing evidence for certain tax law requirements e.g. that income was actually spent for public-benefit purposes, which may not be required by the organisation's country of seat but are required according to the legislation of the country from which tax benefits are sought?
- Other

Tax benefits are provided only for foundations which have their seat in Croatia.

22. Does your country have signed bi-lateral tax treaties, which provide for reciprocal tax treatment of public-benefit organisations? If so, with which countries?

Croatia has signed bilateral tax treaties with Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, China, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kosovo, Kuwait, Latvia, Lithuania, Luxemburg, Macedonia, Malaysia, Malta, Mauritius, Moldova, Montenegro, Morocco, the Netherlands, Norway, Oman, Poland, Portugal, Qatar, Romania, Russia, San Marino, Serbia, Slovakia, Slovenia, South African Republic, South Korea, Spain, Sweden, Switzerland, Syria, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, and Vietnam.

23. Does your country apply withholding tax to the income from local investments held by domestic and/or foreign-based foundations? If so, can domestic or foreign-based foundations reclaim all or part of the withholding tax under domestic law?

The withholding tax is not levied on income generated from local investment by a domestic or foreign endowment/foundation.

III. Tax treatment of donors of foundations

1. Is there a system of tax credit or tax deduction or other mechanisms such as tax allocation systems or matching grants?

Tax deduction.

2. Tax treatment of individual donors

a) What tax relief is provided for individual donors? Is there a minimum and/or a ceiling to a contribution on which tax incentives can be claimed?

Under the Personal Income Tax Law in-country donations ("gifts") by individuals to cultural, scientific, educational, health, humanitarian, sport, religious, ecological and other purposes deemed for public benefit are exempted up to 2% of their gross annual income in the preceding year. The tax exempt percentage may be higher, pursuant to a decision of the line ministry on financing particular programmes and actions. There is no minimum amount on contributions in order for it to qualify as tax exempt.

b) Which assets qualify for tax deductibility (e.g. cash, real estate, in kind or other)

Donations in money.

3. Tax treatment of corporate donors

a) What tax relief is provided for corporate donors? Is there a minimum and/or a ceiling to a contribution on which tax incentives can be claimed?

Under the Corporate Income Tax Law in-country donations ("gifts") by corporations to cultural, scientific, educational, medical, humanitarian, sport, religious, ecological and other purposes deemed for public benefit are exempted up to 2% of their gross annual income in the preceding year. The tax exempt percentage may be higher, pursuant to a decision of the competent ministry on financing particular programs and actions. There is no a minimum ceiling on contribution in order for it to qualify as tax exempted.

b) Which assets qualify for tax deductibility? (e.g. cash, real estate, in kind, or other)

Donations in money and in kind.

4. Tax treatment of donations to non-resident public-benefit foundations: Do donors get the same tax incentive?

As noted, tax incentives are only provided for in-country contributions.

5. Other frameworks such as percentage law systems, whereby the donating tax payer may assign part of the tax due to a public-benefit organisation?

There is no such framework.

6. What are the requirements that the donor must fulfil and/or what is the information they must provide in order to claim tax benefits? What information must donors provide to their tax authority in order to receive tax incentives for their donation (e.g. submitting details on the organisation they support: statutes, annual financial report, documents providing evidence for certain tax law requirements, for instance to show that income was actually spent for public-benefit purposes)?

A donor must submit a decision on donation (if it is a legal person), the agreement on donation, or proof of payment to the bank account of the beneficiary, if a donation is in money. If a donation is in kind, a donor must submit the receipt for the transfer of goods, delivery note, or other credible supporting documents.

- 7. Are there any different or additional requirements to be fulfilled when a donor is giving to a foreign-based foundation? What information must donors to foreign-based organisations provide in order to receive tax incentives for their donation (e.g. statutes, annual financial report, documents providing evidence for certain tax law requirements, for instance to show that income was actually spent for public-benefit purposes)? Are translations of documents required?**

As noted, donations to foreign-based foundations are not tax exempt.

- 8. 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
- Crowdfunding

Do they have to follow any kind of particular process? If so, which one?

Donors do not get tax incentives when donations are done via tools such as those specified.

IV. Tax treatment of beneficiaries

(i.e. those receiving a grant or other benefit from a foundation)

1. Individuals: Are individual beneficiaries of grants required to pay taxes or are the grants tax exempt?

2. Legal entities: Is there any legal/fiscal framework for beneficiaries conducting economic activities so that they can be eligible for foundation funding? Are there any limitations on the economic activities of the beneficiaries?

Beneficiaries can only spend money for the specific purposes that are set out in a donation agreement. It is not possible to receive a grant and use that money for economic activities.

3. Are there any different or additional requirements that must be fulfilled by a beneficiary receiving funding from abroad?

There is no difference in this respect.

V. Gift and inheritance tax

- 1. Does gift and inheritance tax/transfer tax exist in your country and, if yes, who has to pay the tax in the case of a donation/legacy to a public-benefit organisation (the donor or the recipient organisation)?**

Legal and private persons who inherit, receive as a gift or otherwise acquire property without compensation are subject to inheritance and gift taxes. Humanitarian associations and the Red Cross are exempted from those taxes.

- 2. What are the tax rates? Is there a preferential system for public-benefit organisations (PBOs)? Which PBOs qualify? Is there a difference according to the region or the legal status of the PBO?**

A general tax rate of 4% applies.

- 3. Is there a threshold (non-taxable amount) from gift and inheritance tax for donations/legacies to public-benefit organisations?**

Money and in-kind donations below 50,000 kunas (HKN) (~ €6,600) is tax exempt.

- 4. Is there a legal part of the estate that is reserved for certain protected heirs and which a donor cannot give to third parties?**

Yes, the Inheritance Act stipulates the rights of protected heirs.

- 5. What is the tax treatment (inheritance and gift tax) of legacies to non-resident public-benefit foundations?**

Legacies to non-resident public-benefit foundations are also subject to this tax treatment (inheritance and gift tax).

VI. Trends and developments

- 1. Are there current discussions about the question of whether cross-border activities of foundations or other non-profit organisations and their donors are protected by the fundamental freedoms of the EC Treaty? Have there been any changes to your country's legislation, resulting from the [Persche](#), [Stauffer](#), [Missionswerk](#) or other relevant ECJ judgments, or are changes being discussed? Any changes being discussed with regard to the free movement of trust structures resulting from the [Panayi Trust](#) and [Olsen and Others](#) cases?**

No there are no current discussions about that question.

- 2. Has the fight against terrorism and financial crime led to the introduction in recent years of new laws/rules affecting the foundation sector (e.g. implementation of EU Anti Money Laundering Directive, or reactions to recommendations of the Financial Action Task Force)? Has it for example become more difficult to:**

- Set up a public-benefit foundation
- Obtain permission to transfer funds across borders
- If able to transfer of funds across borders, has the process become more burdensome administratively
- Open a new bank account
- Maintain a bank account
- Fund certain activities
- Fund certain regions/countries
- Fund certain organisations (please explain the reason - foreign funding restriction?)
- Report to authorities/deal with administration
- Other

The fight against terrorism and financial crimes led to the introduction of the Law of Anti-Money Laundering and Prevention of Terrorism Financing in 2017. This law has not affected the public-benefit foundation sector.

- 3. Does the national law consider foundations as obliged entities as defined by the Anti-Money Laundering Directive?**

No, the national law does not consider foundations as obliged entities in the meaning of the Anti-Money Laundering Directive.

- 4. Does the national law define/specify who is considered as a Beneficial Owner (BO) of a foundation?**

No, the national law does not define who is considered as a Beneficial Owner of a foundation.

- 5. Does your country have a specific register for BO of legal entities/foundations or does the foundation/company/association register serve as a BO register?**

No, there's no specific register for BOs in Croatia. The Register of Foundations serves as a BO register.

- 6. Are there any other recent trends or developments affecting the legal and fiscal environment for public-benefit foundations in your country such as one or more of the following?**

- a) Law revision in the pipeline

- b) Discussion about the role of supervisory authorities (civil law, charity regulator, tax authority) and collaboration among them? Decentralisation or centralisation of supervisory structures? Use of watchdog/rating agencies?
- c) Tendency towards more transparency requirements?
- d) Tendency towards more self-regulation? Self-regulation replacing hard law regulation?
- e) Tendency to use alternative forms to classic public-benefit foundations
- f) Other?

7. Public fundraising: Are there any specific laws that regulate fundraising and do they affect foundations?

No. There are no specific laws that regulate fundraising in Croatia.

VII. Further information

Useful contacts

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- [National Foundation for Civil Society Development – Croatia](#)
- [Croatian Foundations Forum 'For WellBeing'](#)

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- [Law on Foundations](#), Official Gazette No. 106/2018, 98/2019, in force from 1st January 2019,
- Law on Associations, Official Gazette No. 106/2018
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- [Law on Financial Management and Accounting in Not-for-Profit Organisations](#), Official Gazette No. 121/2014, in force from 1st January 2015,
- Law on Profit Tax, Official Gazette No. 177/2004, 90/2005, 106/2018
- Law on VAT, Official Gazette No. 73/2013, 106/2018
- [Law on Social Care](#), Official Gazette No. 157/2013, 130/2017
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VIII.About

Philanthropy Advocacy

The Dafne and EFC joint advocacy project “Philanthropy Advocacy” 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.

www.philanthropyadvocacy.eu

Donors and Foundations Networks in Europe (Dafne)

Dafne brings together 30 national associations from 28 countries across Europe, representing over 10,000 public-benefit foundations, big and small, who want to make a difference in society. We have created an alliance for collaboration across philanthropy networks in Europe to address big philanthropy questions of our time in a coordinated and effective manner. We lead, strengthen and build the field for the common good in Europe. We are involved in four key areas: advocacy, peer exchange, communications and research. Our work is needs-based and future-oriented. We value ideas over hierarchy and believe in a truly collaborative approach.

www.dafne-online.eu

European Foundation Centre (EFC)

As a leading platform for philanthropy in Europe, the EFC works to strengthen the sector and make the case for institutional philanthropy as a formidable means of effecting change. We believe institutional philanthropy has a unique, crucial and timely role to play in meeting the critical challenges societies face. Working closely with our members, a dynamic network of strategically-minded philanthropic organisations from more than 30 countries, we:

- Foster peer-learning by surfacing the expertise and experience within the sector
- Enhance collaboration by connecting people for exchange and joint action
- Advocate for favourable policy and regulatory environments for philanthropy
- Build a solid evidence base through knowledge and intelligence
- Raise the visibility of philanthropy’s value and impact

www.efc.be

**Donors and Foundations Networks in Europe AISBL (Dafne) and
European Foundation Centre AISBL (EFC)
2020**



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