

2020

Legal Environment for Philanthropy in Europe

Finland

COUNTRY PROFILE

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Association of Finnish
Foundations

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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?**

Foundations are regulated by the Foundations Act (487/2015). There is no exact definition under the Foundations Act of what a foundation is, but usually it is known as a “dedicated property functioning as an independent legal person and used for a special useful purpose defined by the founder”.

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

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

Generally foundations are allowed to pursue any “useful” purpose. They can engage in any activity as long as the activities correspond to the purpose for which the foundations were established. Private-purpose foundations may also exist.

However, according to the Income Tax Act, foundations only get tax-exempt status if they operate “solely and directly for public benefit in a material, intellectual, ethical or social sense”.

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 can be established using a charter or with a testamentary disposition. In both procedures the foundation is established when it is entered into the Register of Foundations by the Finnish Patent and Registration Office. Separate permission for establishment when setting up a foundation is not required since the new Foundations Act came into force in 2015.

A foundation must be reported for registration within 3 months from the signing of the charter. If this is not done, the establishment expires. If the testator has signed the charter, the notification must be made within 3 months from the date that the will gained legal force.

Enclosed with the registration form must be the charter; statutes; a statement concerning whether the foundation is established with a testamentary disposition; a report on how the will became final; and a report from the foundation’s auditor stating that the payment of the foundation’s basic capital has been made in compliance with the charter and by-laws and that the foundation has budgetary, operating and financial plans according to Chapter 2, Section 4 of the new Foundations Act.

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

- Approval by a state authority with discretion (see above)
 Approval by a state authority without discretion
 Approval by a court
 Notarisation by a notary public

5. **Are foundations required to register?**

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

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.

- 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 statutes, members of the board (supervisory board and managing director if any), annual records and accounts.

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: €50,000

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

No requirement to maintain assets according to law, but more strict requirements might be set out in the statutes.

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

The board is the only mandatory governance body stipulated by the Foundations Act. According to the Act, the foundation must have a board acting as its administrative body.

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?

At least one member of the board shall be resident in the European Economic Area. The Patent and Registration Office may grant the foundation an exception of this provision. The board should comprise at least a chairman and two other members. The right to appoint members is stipulated in the statutes of the foundation. If not, the board will appoint its own members. An appointing body's right to remove the member can be designated in the statutes.

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

The board will be in charge of governing the affairs of the foundation and ensuring that all activities are done in compliance with the law, the statutes and the interest of the foundation.

- 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?

The statutes may stipulate that their amendment requires the consent of the party specified in the statutes.

- 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?

The Board decides on changes to the statutes. If the Foundation has a supervisory board, it shall decide to amend the Statutes, unless the Statutes provide that the Board shall decide to amend the Statutes.

The statutes may stipulate that their amendment requires the consent of the party specified in the statutes.

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

No rights.

- 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?

A member of the Board may not take part in the decision making concerning an agreement between him or her and the Foundation. He or she shall also not take part in any proceedings relating to an agreement between the Foundation and a third party if he/she can be expected to have a substantial interest in it which may conflict with the interests of the Foundation.

In addition to the above, a member of the Board may not participate in the handling of a matter concerning a grant or other gratuitous benefit if the beneficiary is him or her or a family member, other close relative or an entity or foundation under their control. This paragraph shall not apply to a foundation the purpose of which is to promote the interests of the founder's family.

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

Yes, but ultimately the supervisory board, board of directors or managing director is responsible for the decisions.

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, 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?

According to The Foundations Act (Civil Law) management of the Foundation must act diligently to further the purpose of the Foundation and the interests of the Foundation.

A member of the Supervisory Board, a member of the Board of Directors and the Managing Director shall compensate the Foundation for any damage which he or she has intentionally or negligently caused to the Foundation in breach of the duty of care provided for in the Act.

A member of the Supervisory Board, a member of the Board of Directors and the Managing Director shall also indemnify the Foundation or any other person for any damage which he or she has otherwise caused in his or her duties by violating this Act or the rules of the Foundation.

Case law regarding these provisions is quite scarce because the new foundation law has only been in force since December 2015.

Does your country differentiate between voluntary (unpaid) and paid board members?

No.

Who can claim responsibility for breaches of such duties: the other members of the board, the founder/s, the public authorities? In which case who: administrative, tax-authority, only the judiciary power (Attorney General) or beneficiaries/general public?

The supervisory board, a member of the supervisory board, the board of directors, a member of the Board of Directors and the founder of the Foundation may appeal against the decision of the Supervisory Board and the Board of Directors in an action against the Foundation.

At the request of the registration authority (Patent and Registration Office), a court may dismiss the supervisory board, the board of directors or a member thereof if the institution or a member thereof has persistently or wholly functioned contrary to the rules or the Foundations Act.

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?

The law defines that the board represents the foundation. The managing director also does so in some situations defined in the law. The statutes may provide that a member of the board or the managing director has the right to represent the foundation or that the board may grant the right to its member, managing director or other designated person. The board may at any time revoke the right to represent the foundation.

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

Permission is not granted for the establishment of a foundation for the purpose of carrying out economic activity.

The foundation may engage only in business activities directly related to its activities and other business activities specified in the statutes in order to finance its activities. The statutes may also restrict the right to conduct business related to the activities.

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?

No. According to the Income Tax Act, foundations only get tax-exempt status if they operate "solely and directly for public benefit in a material, intellectual, ethical or social sense". This condition might not be met if the funded entity's economic activities can be regarded as business income.

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?

Yes.

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?

According to the Foundations Act, the foundation's asset management must be planned.

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)

These should usually be specified as investments.

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

No.

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

According to the Foundations Act, the purpose of the foundation **shall** be changed if the use of the capital of the foundation for the purpose assigned to it is made impossible or substantially impeded due to a change of circumstances, or if it is used completely or to a significant extent for useless or unlawful purposes.

The purpose of the foundation **may** be changed if the use of the foundation's capital for the purpose assigned to it is substantially inappropriate due to changing circumstances and the change of purpose is a precondition for the efficient and effective use of the foundation's resources.

The founder may, in the statutes of the foundation, lay down the conditions for changing the purpose otherwise.

The new purpose must not differ significantly from the original purpose.

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)

Report on transactions with closely related parties (part of the activity report).

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)?

Patent and Registration Office annual supervision report.

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

Patent and Registration Office and tax administration.

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)?

Yes. Annual reports and accounts are publicly available, with the exception of detailed economic information. Reports made to the tax authority are not publicly available.

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

Yes.

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

Under the Auditing Act only a chartered accountant or chartered accounting corporation may serve as auditor to a foundation.

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?

The official supervision consists mostly of the review of the annual accounts and annual activity report of the foundation, but other reviews are possible. Breaches of the law may be sanctioned or corrected by a demand for rectification or an injunction, or it may result in damages and demands for punishment or dismissal of the board or even dissolution of the foundation.

20. When and how does a foundation dissolve?

A foundation may be placed in liquidation if one of the following apply:

- 1) It has been established for a specified period of time and the period has expired.
- 2) It has been established on the basis of prescribed conditions and the intended conditions no longer exist.

3) The use of its funds for the purpose prescribed for it is impossible or substantially impeded, completely or substantially useless or unlawful and the purpose of the foundation cannot be changed.

The statutes of the foundation may prescribe the conditions for dissolution of the foundation otherwise than provided for above.

The registration authority (Patent and Registration Office) may order the foundation to be placed in liquidation or removed from the register if one of the following apply:

- 1) The foundation does not have a competent board entered in the register, and a new board may not be appointed.
- 2) If ten years have passed since the last notification of the foundation to the register of foundations.
- 3) The foundation has been declared bankrupt, due to lack of funds.

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.

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. The assessment is made on the basis of many years of activity, during which a significant amount in relation to the foundation's total assets and income will have had to be distributed, if the foundation is to obtain status as a foundation for the public good according to the Income Tax Act, and receive certain tax benefits.

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?

If registered as a Finnish foundation. The law does not recognise the concept of trusts.

24. 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?

No limitations.

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

No.

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?

Not specifically.

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?)

Recognition of exempt status requires ongoing maintenance of non-profit activities and is conferred by the taxation authorities after submission of each annual income tax return including financial report, activity report and statutes (one-time submission).

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

No, unless the grant giver requires it separately.

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

Not regarding donors but the foundation must report every grant over €1,000 to a private person on a separate yearly tax return before the end of January the following year.

The foundation must report to the Patent and Registration Office all grants and other economic activity with a closely related party.

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?

No.

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 Income Tax Act, an organisation is eligible for tax-exempt status if it meets the following requirements:

- 1) It acts exclusively and immediately for the public good in a material, mental, moral or social sense.
- 2) Its activities are not limited to a limited number of persons.
- 3) It does not, by its activities, provide an economic benefit to a participant in the form of a dividend, profit share or a higher than reasonable salary or other compensation.

The Act has an example list of what can be regarded as public-benefit purpose, but in practice the definition is considered to encompass nearly all sectors of social life.

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”?

Yes.

- 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?

Yes, anyone with one of the above-mentioned disadvantages/under-privilege may be a beneficiary.

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.

- 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 assets stay in the public-benefit sphere. The statutes of a foundation must include a clause on how the remaining assets are to be used.

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**?

Allowed in both civil and tax law, but it must be reasonable in terms of size and assets of the foundation.

- 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)

No.

- 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”:

No.

- 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

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*				

* Public-benefit status is defined in the Income Tax Act, not the Foundations Act which only stipulates that a foundation's purpose must be a "useful" one. That also includes private purposes.

- 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 is required to maintain the founder, their spouse and descendants.					x
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?

Yes.

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?

Yes.

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)?

Tax Law: No fixed percentages or time limits, but public-benefit foundations should spend a significant amount in relation to their annual income and assets within a reasonable time frame.

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”?

No.

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*			

* If collected for a major project according to a plan and the purpose of the foundation.

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

Yes.

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)?

According to the Income Tax Act, foundations only get tax-exempt status if they operate “solely and directly for public benefit in a material, intellectual, ethical or social sense”. This condition might not be met if the funded entity’s economic activities can be regarded as business income.

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

Exempt

b) Investment income (asset administration)

Interest from fixed rate bonds

Equities

Income from leasing of a property that belongs to the foundation

If it is property (real estate) or part of a property leased for a purpose other than non-profit purpose, it is taxable by the municipality according to a lower (than corporate tax) about 6% income tax rate. Real estate income is exempt from state taxation.

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)

Economic activity regarded as business income is taxed at the corporate tax rate of 20%, however the Income Tax Act excludes some categories of normally taxable business income for the benefit of non-profit organisations, including such income-producing activities as lotteries and bingo games, sale of leaflets and address lists, and sale of some products.

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

Not taxed, if not business income.

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

No.

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

No.

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.

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

There is no capital tax on the value of assets gained through investments in Finland.

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

Taxes on the transfer of assets are paid for stocks of unlisted companies, flats, land and real estate. The amount of tax is 4% of the value of the real estate or land, 2% for flats and 1,6% for other assets.

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

Yes, real property tax.

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 – Certificate of residence

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?

Between Nordic Countries.

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?

Yes, withholding tax on the income from local investments held by foreign-based foundations. The tax can be reclaimed.

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?

There is a system of tax deduction in Finland. Systems of matching grants have been used in some public financing.

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?

In Finland individual donors do not receive tax deductions for gifts to non-profit organisations.

An individual donor may deduct donations of not less than €850 and not more than €500,000 made for the purpose of promoting science or art to a publicly-funded university or college in the European Economic Area or to an associated university fund.

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?

Monetary donations made by corporations of a minimum amount of €850 are eligible for a tax deduction. The maximum amount that is tax deductible depends on the recipients, who are divided into two categories. If the recipient is a publicly financed university or a fund within such a university, the maximum deductible amount is €250,000. If the recipient is a public-benefit foundation, the maximum is €50,000. A foundation recipient needs to apply and be shortlisted as an approved receiver by The National Board of Taxation.

The purpose of the donation has to be the support of scientific research, arts or Finnish cultural heritage.

The foundation must apply for approval to be listed (see above). The application is free-form but it must include:

- Extract from a (foundation) register
- The foundation's approved statutes
- The 2 most recent annual accounts
- The latest annual report
- An effective budget
- Plan of action

The application and the documents must be translated into Finnish or Swedish. No registration in Finland is required.

The decision is made by the Tax Authority. The decision is valid for a maximum of 5 years.

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

Cash.

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

The recipient of the donation may be based in any country of the European Economic Area.

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?**

No.

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)?**

Corporations must claim tax deductions in their annual tax return. Foundations must report such donations to the tax authorities.

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?**

No, just as with a domestic foundation, the foreign-based foundation (EEC area) needs to be shortlisted with the Finnish tax authorities in order for a corporation to receive a right to deduct the donation.

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?

No.

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?

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 €23,269.80 (in 2020). The amount includes all grants and prizes received by an individual in any one year after deduction of costs necessary to acquire and maintain the income. The amount is the same as the State Artist Grant and it changes annually.

Grants and prizes awarded by the state, municipality or the Nordic Council for the purposes mentioned above are tax free regardless of their amount.

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?

The legal entity receives funding tax free, if it is regarded a non-profit organisation. If regarded as business income a corporate tax of 20% will be applied.

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

No.

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)?**

Under the Act on Inheritance and Gift Tax, PBOs are not subject to inheritance or gift tax on the value of property bequeathed to them under a will or as a gift.

- 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?**

See above.

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

See above.

- 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?**

According to Finnish law there is a legal part that cannot be donated.

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

Inheritance and gift tax in Finland are always paid by the recipient, so taxation will be dealt with in accordance with tax laws of the recipient's resident country.

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.

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

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

No.

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

Yes, the board of directors.

4. 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?

The foundation register serves as a BO register.

5. 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

Yes, a working group set up by the ministry of finance (18.6.2020) is investigating whether a new 5% source tax on dividend income received by non-profits should be imposed.

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?

Yes, the Money Collection Act, which also affects foundations.

VII. Further information

Useful contacts

[Association of Finnish Foundations](#), Fredrikinkatu 61, 00100 Helsinki, Finland,
info@saatiotrahastot.fi

Selected law texts online

- All the Finnish legislation can be found (in Finnish and Swedish) in the Finlex Data Bank. English translations are also available for some of the laws mentioned here. www.finlex.fi/en/

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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