

2020

Legal Environment for Philanthropy in Europe

Slovenia

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?

The term “foundation” may be used in the name by legal entities which have been established for general beneficial or charitable purposes and do not pursue such purposes as a profit-oriented activity.

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 domestic or foreign natural person or legal entity. The founder may establish a foundation with a legal act *inter vivos* or in the event of death. The deed of establishment as a legal act *inter vivos* shall be made up in the form of a notarial deed. The deed of establishment as a legal act in the event of death shall fulfil the conditions of legal form for one of the testaments according to the inheritance law. The approval of the deed of establishment shall be issued by the body competent for foundations (i.e. the ministry whose operating range covers the purpose of the foundation) within 30 days of receipt of the deed of establishment. The body competent for foundations shall issue its approval provided that:

- The purpose of the foundation must be generally beneficial or charitable
- The original assets have been allocated
- The establishment is not contrary to public order

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

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)

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.

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

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?

Yes, if provided for by the foundation's 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

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 board of trustees as the governing board shall consist of at least three members. The members of the board of trustees shall be appointed in accordance with the deed of establishment and the regulations. In the event that on the basis of the deed of establishment or the regulations it is not possible to appoint the board of trustees, the board of trustees shall be appointed by the body competent for foundations. Members of the board of trustees cannot be:

- Persons who are not of age or have not legal capacity
- Persons employed in the foundation
- Persons exercising supervision of the foundation

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

The board of trustees is the highest body of a foundation's management and has the following duties:

- Managing the foundation's assets
- Setting the amount of funding available in internal funds on the basis of the adopted annual programme of work and the financial plan
- Consenting to the rulebooks and acts which are the responsibility of the other bodies of the foundation

The board of trustees has the following rights:

- Adopting the statutes of the foundation and any changes and additions thereto
- Adopting the annual work programme and budget of the foundation
- Adopting the annual report and others reports of other bodies of the foundation, and the annual report on financial operations

- 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 foundation council as a joint body consisting of founders:

- Appoints and dismisses the members of all the foundation's bodies
- Gives consent to the annual reports, to the proposed statutes and amendments and additions thereto
- The fundamental decisions are the rights of the board of trustees

- 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?

No.

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

The right of information is very a important right for any beneficiaries.

- 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?

The Slovenian legislation (e.g. the Foundation Act, 1995, 2005) prohibited the establishment of foundations with a private purpose, which means it is not possible for founders or members of the foundation's staff to be beneficiaries of the foundation.

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

This matter is dependent on the board of trustees (governing board). The director as one of the legal not obligatory bodies of the foundation can prepare proposals of the foundation's documents, a proposal of the conclusions and in this way participates in decision-making.

The director as a manager of the foundation is appointed by the governing board. The director performs tasks in line with the founding act or statutes, and is not the responsibility of the governing board or other bodies of the foundation. The extent of the director's rights is usually defined in the founding act or statutes.

- 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?**

The board of trustees shall manage the assets of the foundation with the due diligence of a prudent businessman. This criteria are established by civil and commercial types of rules. No, Slovenia does not differentiate between voluntary and paid board members.

- 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?**

One task of the board of trustees under Slovenian legislation (Foundations Act) is also to represent the foundation externally. The foundation is usually represented by the chairperson of the board of trustees; however, the chairperson may also delegate the power of representation to any member of the board of trustees. In addition to the chairperson of the board of trustees, the latter is also

represented by the director or secretary-general in major nationally or internationally significant foundations.

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

Managing the foundation's founding capital is an economic activity, but it is not common in the Republic of Slovenia, as the vast majority of Slovenian foundations have relatively small founding capital. However, the economic activity is often constituted by income from the performance of a specific activity within the defined purpose of the foundation. In principle, such income should not exceed or constitute more than 30% of the foundation's total revenue during the financial year.

12. Is there any legal/fiscal framework for grantmakers 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.

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?

The Foundations Act adopted in 1995, and the Act amending the Foundations Act of 2005, do not contain provisions on the foundation's shareholding in enterprises.

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?

No.

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)

No.

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

N/A

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

The name, seat or purpose of the foundation may be changed by the board of trustees in accordance with the deed of establishment. The changes shall come into force after approval by the state body competent for foundations.

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)?

By the end of March each year, the board of trustees shall submit a report on its work and financial management (annual activity and financial report) in the preceding calendar year to the body competent for foundations.

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

The reports are reviewed by national bodies, which are responsible for the foundations at the different ministries, whose operating range covers the purpose for which a given foundation has been established.

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)?

Foundations must keep and produce annual reports in compliance with the law.

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

The body competent for foundations may request an audit of financial management of the foundation by a certified auditor.

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

The audit is usually used in practice in the Republic of Slovenia in some special cases on demand of the Slovenian government or the European Commission.

19. Supervision: Which authority, what measures?

In the course of the establishment, operation and termination of foundations, the ministry whose operating range covers the purpose for which a given foundation has been established (the body competent for foundations) will be responsible for overseeing that foundation. In the event that it is not possible to appoint such a ministry, the ministry responsible for public administration shall be competent. Supervision of financial management shall be carried out by competent public bodies or an authorised organisation. The body competent for foundations may request an audit of financial management by a certified auditor.

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?

N/A

20. When and how does a foundation dissolve?

The foundation shall be terminated in the event that one of the following conditions arise:

- The assets fail to be sufficient for further implementation of the purpose of the foundation
- The purpose of the foundation becomes impossible
- In other cases when the body competent for the foundation determines that there are no grounds for further existence of the foundation
- The purpose for which the foundation had been established has been fulfilled

The board of trustees or the body competent for foundations shall decide upon the termination of the foundation.

In accordance with the will and the purpose of the founder(s), the remainder of the assets following the liquidation shall be allocated to another foundation with the same or similar purpose.

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.

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?

No.

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?

Yes, there is no limitation.

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?

In principle, yes; it is precisely the Slovenian Science Foundation that, in 2017, succeeded to transfer the headquarters of one of the legally unformed funds of the Slovenian founder to the Republic of Slovenia after 25 years of operation in the Federal Republic of Germany.

II. Tax treatment of foundations

The basic requirement to receive tax exemptions is to establish in accordance with the Foundation Act a foundation to act in the public interest and engage in not-for-profit activities. Under the Corporate Income Tax Act, foundations are exempt from taxes as per the said act if the foundation's operations are effectively in line with the purpose of their establishment and operation. However, foundations are liable to income tax on revenues generated through for-profit activities.

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?)

N/A

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

Only on demand.

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

No.

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.

No. The Slovenian legislation specifies a public-benefit purpose only on a case-by-case basis.

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):

The legislation does not list specific types of public-benefit purposes; rather, in the case of foundations, it prescribes their general benefit or charity.

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	x			

on gender, race, ethnicity, religion, disability, sexual orientation or any other legally prescribed form of discrimination				
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				
Advocacy				
Advancement of religion				
<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”?

No.

- 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?

Not available.

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.?

No.

- 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?

In accordance with the will and the purpose of the founder(s), the remainder of the assets following liquidation must be allocated to another foundation with the same or similar purpose.

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**?

No.

- 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

- 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?

No.

- 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?

No.

- 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)?

No.

- 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”?

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?

N/A

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)?

N/A

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 – exempted
- 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)?

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.

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

Foundations acting in the public interest in the fields of religion, philosophy, sports and some others, are exempt from payment of VAT.

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

No.

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

No.

20. Are there any other taxes to which public-benefit foundations are subject to (e.g. 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:

No.

- 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

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?

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?

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?

System of 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?

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

Persons liable under the Personal Income Tax Act may claim tax relief. The total amount of cash and in-kind donations to foundations may be deducted from the tax base, accounting for 0.3% of their taxed income in a tax year.

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?

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

Cases:

1. Corporate donors may claim a tax relief whereby 20% of their investments in research and development (R&D), in the form of commissioned R&D services carried out by a foundation which is at the same time a private research organisation, can be deducted from the tax base.

2. Corporate donors may claim another tax relief: A tax deduction in the amount of cash donations paid to a foundation, which accounts for 0.3% of the taxable entity's taxed income in a business (tax) year, but may not exceed the tax base in a given tax period.

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

The tax relief for donations to foundations is also applicable to donations to residents of other European Union member states.

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?

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)?

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.

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?

Beneficiaries of foundations are exempt from income tax on grants received from foundations established and operating in accordance with the law governing foundations, i.e. the Foundations Act. In particular, this applies to charity grants as well as scholarships other benefits that are given to students by foundations active in the fields of education, culture and science.

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?

Not-for-profit organisations (foundations, societies, political parties) are exempt from corporate income tax in the Republic of Slovenia.

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

As legal entities governed by private law and established under the Foundations Act to engage in general-benefit activities, foundations are exempt from tax on gift or inheritance if these funds are used by a legal entity for not-for-profit activities. Movable property includes money and securities. Legacies are also considered gifts. A gift is not subject to taxation if the aggregate value of movable property is lower than €5,000.

- 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)?**

Yes, the recipient organisation usually has to pay tax.

- 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?**

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

Yes. It is € 5,000.

- 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?**

No.

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

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?**

In 2012, at the request of the Ministry of the Interior of the Republic of Slovenia, the Association of Slovenian Foundations prepared an opinion on the Proposal for a Regulation on the Statute for the European Foundation (the European Foundation Statute).

The Association had written in its opinion that it welcomes the initiative as a legal tool for all those foundations wishing to operate across borders and as such be eligible to bear the label of a transnational, i.e. European or EU foundation. This statute would help all those foundations that encounter problems and obstacles in the national legislations of the countries in which they want to operate. At the same time, it would encourage greater coherence or harmonisation of national legislation on foundations in the individual Member States of the European Union.

In the 2013-2014 period, the Slovenian Science Foundation had been a member of the European Research Project Consortium, which studied the role and place of foundations supporting science and innovation in the EU. Aspects included quantitative and qualitative assessments; comparative analysis; trends; and future potential. Some important information about Slovenian foundations had been collected in this field.

In 2018, it was important for Slovenian foundations to cooperate with the National Council of the Republic of Slovenia, namely first in the form of consultation concerning the place and role of foundations in the development of Slovenian society, and then within the context of joint development of directives for further operation.

Unfortunately, new findings and needs of Slovenian foundations, including cross-border activities and their donors, are not yet included in Slovenian legislation. Also not included are some other changes arising from the directives of the European Union and in substance relate to the status and operation of foundations.

- 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:**

No.

- 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?**

In principle, with regard to foundations, the Anti-Money Laundering Directive is followed in the Republic of Slovenia only by their donors when transferring funds.

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

No.

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.

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.

VII. Further information

Useful contacts

- **Edvard Kobal**, [Slovenian Science Foundation](#), Štefanova ul. 15, SI-1000 Ljubljana, Slovenia, tel. +386 1 426 35 90, edvard.kobal@u-szf.si

Selected law texts online

- **Foundations Act**, Official Gazette of the Republic of Slovenia, 20 October 1995, 60-2788/95, 26 July 2005 and 14 October 2005.
- **Corporate Income Tax Act**, Official Gazette of the Republic of Slovenia, 16 November 2006, 117-123030/06
- **Personal Income Tax Act**, Official Gazette of the Republic of Slovenia, 16 November 2006, 117-12272/06
- **Value Added tax Act**, Official Gazette of Republic of Slovenia
- **Inheritance and Gift Taxation Act**, Official Gazette of the Republic of Slovenia, 16 November 2006, 117-12327/06
- [Non-profit law in Slovenia](#)

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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