info@philea.eu

Philanthropy House, Rue Royale 94,
1000 Brussels Belgium

13/09/2022

List of Key Barriers for Philanthropy

A Single Market for Philanthropy and Public Good

While it is easy for goods and services to move freely around the European Union, it is still difficult for donors, foundations and committed citizens to operate across borders. Even though international engagement of foundations and funders is growing, our latest legal mapping confirmed that the operating environment for cross-border philanthropy within the European Union is still far from satisfactory.

Philanthropic organisations are challenged by various legal, administrative, and fiscal barriers when acting across borders, which have been estimated in the feasibility study on the European Foundation Statute to cost them around €90,000,000 to €101,700,000 per year.

List of Key Barriers:

- Recognition of Foreign Foundations; philanthropic organisations sometimes need to register or create a branch before they can operate in another country in Europe. The legal personality is not always recognised abroad.

- Cross-Border Merger of Foundations; philanthropic entities cannot merge across borders as companies can. While companies can merge across borders, philanthropic entities can't do the same

- Cross-Border Transfer of the Seat; there is no legal provision in most countries for shifting a philanthropic organisation's headquarters across borders, so this process entails a high degree of legal uncertainty.

- Discrimination of cross-border philanthropy and complex procedures; some governments continue to discriminate against comparable foreign EU-based public benefit organisations and their donors from a tax perspective or have complex procedures.

- Restrictions on Foreign Funding; whereas philanthropic funding should flow freely according to the EU, there is a worrying phenomenon of so-called foreign funding/foreign agent restrictions.

- Banking sector reluctant to provide services; banks are sometimes not providing services to the philanthropy sector (in particular cross-border financial transfers) because they consider actions too risky.

- Tighter registration and reporting requirements; tight national registration and reporting requirements aimed at preventing money laundering and terrorism financing – over implementation in some cases.

- Complex Impact Investing and Asset Administration rules; some national laws are restrictive regarding how foundations can invest their assets or how they can support social enterprises on the grant-making side.

- Specific issues around "political" activities; while party political engagement is clearly not allowed for public benefit organisations, we have also seen some governments further restricting political activities in a wider sense.