

Glossary

Legal Environment for Philanthropy in Europe 2024

The [Philea country profiles](#) covering the legal environment for philanthropy in Europe were based on a questionnaire sent to national-level experts. This glossary was developed as an annex to the questionnaire solely for the purposes of this mapping project.

The main objective of the glossary was to facilitate – to the greatest extent possible – the same understanding of some of the key terms used in the questionnaire by the national experts across the 40 countries profiled. With the approval of the project's advisory group, the approach taken was to develop functional, rather than legal, definitions. These functional definitions differ to some extent from the legal definitions used in national legislations or European/international law contexts.

Glossary terms

Administrative/indirect costs

Office and administrative costs are expenses that are not directly associated with or attributable to a programme, project, or specific area of a foundation's work, but which might still be incurred as a result of a programme, project or specific area of work (e.g. staff, office space, electricity, utilities etc.).

Asset

An asset is any resource owned by the foundation. Anything tangible or intangible that can be owned or controlled to produce positive economic value is an asset.

Beneficial owner

A beneficial owner (BO) is a "natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted."¹

Disbursement

Disbursement is the act of paying out or disbursing money.

Economic activity

Economic activity is trade or business activity involving the sale of goods and/or services. Normal asset administration by foundations (including investment in bonds, shares or real estate) would not be considered as economic activity.

Related economic activity is in itself related to and supports the pursuance of the public-benefit purpose of the foundation.

Endowment

Endowment means the part of the assets/property of a foundation that is generally not to be spent as such but invested in the market to generate income to support the specific purpose of the foundation. "Endowment" refers to the total of a non-profit institution's investable assets, also known as "principal" or "corpus", which is meant to be "invested" in the market, with the return from these investments used for operations or programmes that are consistent with the wishes of the founder. Some countries also allow foundations to spend down the endowment whereas in other cases this is not allowed.

External audit

External audit is an independent examination by a third party of the financial statements prepared by the organisation.

Foreign foundation/foreign public-benefit foundation

A foreign foundation means a foreign-based public-benefit foundation (see definitions of "Foundation" and "Public-benefit foundation/institutional philanthropy" below) being resident in one country and giving or engaging in activities across borders.

¹ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (Text with EEA relevance).

Foundation

There is no universal legal definition in Europe for “foundations”. Therefore, a “foundation” can have different meanings, varying from one country to another. This is due to the many languages and cultures as well as the different legal and fiscal environments that exist across Europe. This mapping focuses on “Public-benefit foundations/institutional philanthropy” (see definition below for this term).

Foundation in Civil law

Civil law countries traditionally follow an organisational approach. Usually, an institutional legal form exists having rather similar conceptual criteria, which is usually called “foundation” alongside such other legal forms as the (non-profit) association, the company or the cooperative.

Foundation in Common law

In common law countries, different legal forms exist, such as trusts or limited liability companies, but a foundation as a legal form does not exist. The approach is to focus on the “charitable” character of the organisation. To be a charitable institution, an organisation must have exclusively charitable purposes, and it must be administered for public benefit.

Hence, for the purpose of this Philea mapping, we take a functional approach and use the term “Public-benefit foundation/institutional philanthropy” to embrace and cover all different types of national organisations that are about private resources for the public good (see definition below for this term).

Governing board

Governing board means the legally prescribed decision-making body of a foundation. It is a body of persons holding ultimate responsibility for ensuring that the organisation serves its mission and for the overall welfare of the organisation.

Impact investing

Impact investments are contributions made with the intention to generate positive, measurable social and environmental impact (alongside or without a financial return).

Major shareholder

A foundation is a major shareholder if it holds a significant interest (majority interest/share) in one or more commercial undertakings.

Mission-related investment

Mission-related investment refers to the use of investments (asset allocation/investment of their endowments) by foundations as tools to also achieve their philanthropic goals. The term mission-related investment is used to describe investment that supports the mission of the foundation by generating a positive social or environmental impact, while generating reasonable rates of financial return.

Non-distribution constraint

A non-distribution constraint implies that any transactions/benefits to third parties going beyond reasonable compensation for services rendered are prohibited (such as unreasonable board remuneration or excessive payments to service providers).

Obligated entity

Article 2 of the Anti-Money Laundering Directive (AMLD) defines obliged entities as credit institutions and financial institutions which need to fulfil the obligations laid out in the Directive such as:

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

Party political foundation

Party political foundations are foundations closely linked with a particular political party, underpinning and complementing the objectives of that party.

Payout requirement

A payout requirement is the minimum amount of the overall assets or overall yearly income a foundation is required to expend for charitable purposes.

Public at large

The criterion “public at large” implies that a group of beneficiaries cannot be a closed circle in a sense that beneficiaries can be identified based on legal or family affiliations.

Public-benefit foundation/Institutional philanthropy

The terms public-benefit foundation and institutional philanthropy are used in this mapping exercise interchangeably in order to recognise and embrace the full variety and structures that exist for such philanthropic organisations. The terms institutional philanthropy and public-benefit foundation refer to foundations, corporate funders and other players that:

- Have their own financial resources which they deploy strategically
- Are independently governed
- Use private resources for public good²

According to this functional definition, a public-benefit foundation generally:

- Is an independent organisation (i.e. a separately constituted and independently managed body with its own governing board, generally with its own legal personality, and legal form of the organisation in specific terms, for example PLC, S.A., fondation d'utilité publique, etc.)
- Serves a public-benefit purpose (there can be an exhaustive list of purposes or an open list, depending on jurisdiction)
- Is either supporting associations, charities, educational institutions or individuals, or operates its own programmes

² Philea, [Philanthropy FAQ](#)

- Has its own financial resources either in the form of an endowment (see the definition of endowment) or other source of income (irrevocably provided with valuable goods, rights or other resources and/or having an income at its disposal)³
- Does not make distributions by way of profit or gain to its founder(s) or the members of its governing organs
- Has an unlimited duration or longer-term vision
- Is under the review of a supervisory authority/court supervision

This definition does not cover private-interest foundations such as family foundations, which benefit private interests and which exist in some countries. However, in many countries the framework legislation does not distinguish between private-interest and public-benefit foundations. Rather, the distinction is often made only by tax law or through a specific public-benefit status.

This functional definition is based on common features of philanthropic organisations across Europe as identified through previous mappings. In the countries where there is a legal definition of a foundation, this definition stipulated by the law, with its national particularities, should have been used by the national expert, though focusing on public-benefit foundations.

Supervisory authority

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

Supervisory board

A supervisory board is an additional organ of a foundation that has been installed and exists in addition to the governing board. It often has a control function towards the governing board.

Tax credit

Tax credit is defined as an amount that can be deducted from the actual tax to be paid (reduction in amount of tax paid).

Tax deduction

Tax deduction is defined as a reduction in the gross amount on which tax is calculated (reduction in taxable income/tax base).

³ [Feasibility study of a European Foundation Statute, Hopt et al 2009, p. 13](#)

About Philea

Our vision is for philanthropy to use its full potential to co-shape and support a pluralistic, just and resilient society that centres people and planet. To achieve this, our mission is to enable, encourage and empower the philanthropic community to build a better today and tomorrow.

We nurture a diverse and inclusive ecosystem of foundations, philanthropic organisations and networks in over 30 countries that work for the common good. With individual and national-level infrastructure organisations as members, we unite over 7,500 public-benefit foundations that seek to improve life for people and communities in Europe and around the world.

We galvanise collective action and amplify the voice of European philanthropy. Together we:

→ **Co-create knowledge and learn** from effective practices

→ **Collaborate** around current and emerging issues

→ **Promote enabling environments** for doing good

In all we do, we are committed to enhancing trust, collaboration, transparency, innovation, inclusion and diversity.

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Policy and advocacy at Philea

Philea champions the interests of its members vis-à-vis the EU and multilateral organisations. Through [our policy and advocacy work](#), we strive towards an enabling operating environment for European philanthropy by monitoring and analysing policy and regulatory trends at national, European, and international level, and engaging around this agenda with policymakers and other stakeholders. We position philanthropy as a key actor on societal issues and facilitate strategic engagement and collaboration opportunities, including public-private partnerships.

About this project

This country profile is part of a [larger analysis project](#), ongoing since 2002, which includes regularly updated profiles on the legal and fiscal landscape for philanthropy in some 40 countries across the wider Europe; and a comparative overview of the profiles compiled in our “Comparative Highlights of Foundation Laws”.

Legal Affairs Committee

Philea’s [Legal Affairs Committee](#) consists of legal and public affairs experts from Philea members, composed of both national associations and foundations, across Europe. The members of the LAC advise on Philea’s policy and advocacy work.

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