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IT'S TIME FOR  
A EUROPEAN  
FOUNDATION  
**STATUTE**

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**The European Foundation Statute is an optional and simple tool that will help foundations to better channel their resources into improving the lives of European citizens in a wide range of areas.**

### **WHERE DO WE STAND?**

On 8 February 2012, the European Commission adopted a proposal for a new legislation (Regulation) on a European Foundation Statute. National governments and Members of the European Parliament are now to take a decision on the proposal, ideally by 2014 (before the end of the current term of the Commission and Parliament).

# WHAT DOES THE STATUTE LOOK LIKE?

## LEGAL TOOL

The proposed Regulation released by the European Commission seeks to create a single European legal form - the 'European Foundation' (FE) - which would apply to public-benefit foundations only, and would be optional and exist alongside domestic foundations in all Member States. According to the European Commission's proposal of 8 February 2012, the Statute would have the following characteristics:

## SPECIFICATIONS

Each FE would need to prove its public-benefit purpose, cross-border dimension and possess a minimum of €25,000 in assets.

## SET-UP

An FE can be set up from scratch, by converting a national foundation into a European Foundation or by merging national foundations. Upon registration, an FE would have a legal personality and would receive legal recognition in all Member States.

## EQUAL FOOTING

An FE would benefit from the same tax regime as domestic public-benefit organisations. Donors would receive the same tax benefits as if they were donating to public-benefit organisations established in their own Member State.

# WHY IS THE STATUTE NEEDED?

## THE TREND

Increasingly foundations are working across borders and see the necessity to do so particularly on issues which, in an interconnected and globalised world, cannot be contained and addressed solely within national borders. Working in this way enables foundations to identify excellence, cooperate with like-minded partners and significantly increase their overall impact.

## THE CHALLENGE

There are more than 50 different laws governing foundations across the EU, not to mention numerous complex administrative procedures that foundations must follow when working outside their own country. These barriers represent additional costs of €100 million annually, money which could otherwise be spent on worthwhile initiatives. Because of such barriers, European initiatives are often delayed or fail to get off the ground.

## THE SOLUTION

A European Foundation Statute will provide an optional legal tool to enable foundations to work more easily across Europe.

## WHAT BENEFITS WILL THE STATUTE BRING?

**EU CITIZENS** will directly benefit as the decrease in foundations' administrative and legal costs will translate into foundations channelling more resources into worthwhile citizen causes.

**DONORS** will find donating to foreign foundations less costly and procedural. They will also find it easier to recognise European foundations, since the Statute will provide a reliable European label and image to such organisations.

**FOUNDATIONS** will benefit from more uniform conditions across the European Union, which will provide them with greater legal certainty and fewer administrative costs. The Statute will also facilitate the pooling and scaling up of their expertise and resources. Having a recognisable European label for foundations will undoubtedly stimulate and increase cross-border initiatives and donations.

**MEMBER STATES'** economies are likely to see more funding become available for important fields such as education, research, social and health services, culture or the protection of the environment.

**EUROPE** will benefit from increased support from citizens and foundations to meet its common challenges.

# FOUNDATIONS IN THE EU

## A GROWING PHENOMENON

### WHAT IS A FOUNDATION?

Foundations are independent, non-profit organisations with their own resources that work locally, regionally and internationally to improve the lives of citizens by running and funding activities in a myriad of areas.

### ABOUT THE SECTOR

It is estimated that there are some 110,000 foundations in Europe, collectively spending between €83 and €150 billion annually on projects and programmes, and providing employment to up to one million Europeans. The sector is growing as is the interest among foundations to work beyond national borders to address globally transversal issues including migration, health, socio-economic development and employment, scientific excellence, civil and human rights, the environment, and much more. This reflects the international interests of the founders of these organisations, who are increasingly mobile during their professional and private lives, and as a result have assets located across Europe and the world.

# HOW TO SUPPORT THE STATUTE

## GET INVOLVED

Get in touch directly with the EFC ([eu@efc.be](mailto:eu@efc.be)) or with the national association of foundations in your country. If it is part of the Donors and Foundations Networks in Europe (DAFNE), your national association will have the contacts and information needed to help you be part of this effort.

## SPEAK TO THE DECISION-MAKERS

You can help us raise awareness and support for the European Foundation Statute among national and European decision-makers. Bring the issue to the attention of the competent ministries in your country, or those responsible for internal market affairs and company law at the permanent representation to the EU of your country. You may also choose to write to the relevant Members of the European Parliament.

## SHARE YOUR STORIES

Send us examples of how the Statute would benefit your organisation's cross-border work. We're using these stories at European and national level to show decision-makers the concrete value of this proposed legislation.

## SPREAD THE WORD

Contact the media in your country to publicise these stories and get the word out about the Statute!

# WHY A EUROPEAN FOUNDATION STATUTE?

## ILLUSTRATIVE STORIES

Foundations that are working across borders are illustrating on a daily basis why a European Foundation Statute is needed. We have selected just a few of these stories\* to show the incredible challenges currently facing these organisations and the massive benefits that the Statute could bring to European citizens and society. The stories are divided according to the three main benefits that the Statute will bring:

Stimulate new European initiatives

Reduce administrative costs and overcome legal uncertainty

Ensure equal and fair treatment

\*The case studies are taken from information provided by the foundations concerned to the EFC or shared with the European Commission in the context of its feasibility study and public consultation on an EFS.



## STIMULATE NEW EUROPEAN INITIATIVES

In 2007, discussions started to set up the **European Climate Foundation**, which would aim to promote climate and energy policies that reduce Europe's greenhouse gas emissions and help Europe play an even stronger international leadership role in mitigating climate change. In terms of strategic assessment, a European legal instrument would have been the best option. The European Climate Foundation was eventually established in 2008 in The Hague (head office), the Netherlands; a decision based on the fact that Dutch foundation law provides a flexible environment which allows for an easy and quick establishment of foundations. The foundation also has a presence in Germany (Berlin) and Belgium (Brussels).  
[www.europeanclimate.org](http://www.europeanclimate.org)

The **Slovak-Czech Women's Fund (SCWF)**, with its two national offices in Prague and Bratislava, is one of the seven women's funds working in EU countries. The last years have witnessed an increase in the movement of women's funds, which are aimed at boosting local and international resources in Europe to promote equal rights for all women living in European countries. Women's funds are keen to explore new ways of becoming more effective in relation to cross-border giving and the implementation of pan-European projects in order to achieve their goals. A European Foundation Statute could be the right instrument for women's funds to find new resources and partners and to expand to other European countries.  
[ww.womensfundingnetwork.org/the-network/member/slovak-czech-womens-fund-nf](http://ww.womensfundingnetwork.org/the-network/member/slovak-czech-womens-fund-nf)

The **Shining Hope Foundation** (England & Wales) is legally set up as a company limited by guarantee and is a registered charity in England & Wales. It is a grantmaking foundation which aims to improve living conditions of local human communities, protect wildlife and preserve the natural environment. Its French founders have expressed their interest in transforming it into a European Foundation when such a form becomes available.  
[www.shininghopefoundation.org](http://www.shininghopefoundation.org)

WWF has been reviewing ways to set up a new international foundation with the aim of improving the environmental conditions in the Baltic Sea. The foundation would have decision-making and advisory organs with representatives from the Baltic Sea region. Ideally WWF would use a European legal form for this initiative.

[www.wwf.org](http://www.wwf.org)

A French organisation and a Dutch social donor would like to create a European Foundation in Belgium with the aim of setting up new partnerships between young people and enterprises; developing new concepts of adapted housing for senior citizens so that they can stay longer in their homes; and developing residences specialised in taking care of people suffering from Alzheimer's disease or similar diseases. They believe that their action can only be done in partnership.

## REDUCING ADMINISTRATIVE COSTS AND OVERCOMING LEGAL UNCERTAINTY

The [Evens Foundation](http://www.evensfoundation.be) (Belgium) faced many challenges when setting up its representations in France and Poland, including dealing with the differences in the legal systems, the drafting of articles of incorporation, fundraising and supporting transnational projects.

[www.evensfoundation.be](http://www.evensfoundation.be)

[Fundación Europea Sociedad y Educación](http://www.sociedadyededucacion.org/indexeng.html) (Spain) wished to set up an office/branch in Portugal. However, Portuguese Civil Code does not provide a legal definition for an office belonging to a foreign foundation. According to Portuguese Civil Code, the alternative is to create a new foundation in Portugal with a minimum endowment of €250,000.

[www.sociedadyededucacion.org/indexeng.html](http://www.sociedadyededucacion.org/indexeng.html)

## ENSURE EQUAL AND FAIR TREATMENT

**Fundação Calouste Gulbenkian** (Portugal) has branches in London (UK) and Paris (France), as well as grantmaking activities across the EU/European Economic Area. Running branches in two different countries requires continuous expert advice to keep up with the changing legal, financial and accounting environment in each country. As the two branches are not registered charities with the competent national authorities, there is uncertainty about the legal and fiscal status of the foundation. The UK tax authorities, for instance, consider that the Gulbenkian Foundation has a UK permanent establishment which is liable to UK corporate tax, disregarding the foundation's tax exempt status in Portugal. These civil and tax law barriers have resulted in a duplication of costs that could be avoided with an appropriate European legal tool. Naturally, these barriers influence the dimension and budget of the foundation's EU-wide activities which could otherwise be larger.

[www.gulbenkian.pt](http://www.gulbenkian.pt)

**Miriam Stiftung** (Germany) applied for legal recognition in Ireland in order to better manage the property it has in that country. Although it fulfilled all the requirements stipulated by Irish foundation law, its application was turned down by the Irish authorities on the following grounds:

- It was not an Irish-based foundation
- An organisation registered as a corporation with a German regional authority does not qualify for public-benefit status in Ireland
- It had no public-benefit activities in Ireland

[www.miriam-stiftung.de](http://www.miriam-stiftung.de)



GET INVOLVED!

[www.efc.be/EFS](http://www.efc.be/EFS) or contact directly [eu@efc.be](mailto:eu@efc.be)

#### ABOUT THE EFC...

The European Foundation Centre, founded in 1989, is an international membership association representing public-benefit foundations and corporate funders active in philanthropy in Europe, and beyond. The Centre develops and pursues activities in line with its four key objectives: creating an enabling legal and fiscal environment; documenting the foundation landscape; building the capacity of foundation professionals; and promoting collaboration, both among foundations and between foundations and other actors. Emphasising transparency and best practice, all members sign up to and uphold the European Foundation Centre Principles of Good Practice.

