

# WHY IS A EUROPEAN FOUNDATION STATUTE NEEDED?



## ILLUSTRATIVE EXAMPLES

If foundations are to fully support the EU's goal of a "smart, sustainable and inclusive" growth in Europe, they need better legal backing, particularly with a growing number of them engaging in cross-border activities.

The ways in which a European statute would enhance these efforts are outlined below. To illustrate each area, we have used just a very few cases of the many examples of foundations already involved in cross-border activities, or of those wanting to do so. These "snapshots" demonstrate the existing barriers to cross-border work and cooperation, as well as the benefits that a European Foundation Statute (EFS) could have for foundations.

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



The EFS could help **overcome legal and administrative barriers** for cross-border action and cooperation faced by foundations and their funders.

The [Evens Foundation](http://www.evensfoundation.be) (Belgium) experienced different challenges when setting up its representations in France and Poland in an effort to address the problems faced in its cross-border activities. These challenges include 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.sociedadeducacion.org/indexeng.html) (Spain) faced a number of problems when trying to set up an office/branch in Portugal. The Portuguese Civil Code does not provide a legal definition of an office of a foreign foundation, and according to the Portuguese Civil Code, the alternative was the creation of a new foundation in Portugal (minimum endowment of 250,000 euros).

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

[Miriam Stiftung](#) (Germany) applied for recognition in Ireland in order to better manage the property it has in that country. Its application was turned down by Irish authorities although it fulfilled all requirements of Irish foundation law, claiming the following reasons:

- 1) It was not an Irish-based foundation
- 2) An organisation registered as a corporation with a German regional authority could not qualify as a public benefit organisation in Ireland
- 3) It had no public benefit activities in Ireland

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



The EFS could provide foundations and funders with a **tool to develop their organisations** and cross-border activities and cooperation.

[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 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. This is a concrete example of the civil and tax law/barriers and/or difficulties the foundation has experienced, which implies a duplication of costs that could be avoided with an appropriate European legal tool such as the European Foundation Statute. Naturally, these barriers influence the dimension and budget of the foundation's EU-wide activities which could be larger otherwise.

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

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. 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.

European funds are members of the International Network of Women's Funds, which serves as an umbrella organisation for professional philanthropists in the area of social change and women's rights philanthropy.

[www.womensfundingnetwork.org/the-network/member/slovak-czech-womens-fund-nf](http://www.womensfundingnetwork.org/the-network/member/slovak-czech-womens-fund-nf)

**The History Network for Young Europeans - EUSTORY** is a common platform of non-governmental organisations from 22 European civic organisations in 22 European countries which supports teaching history to young people across several EU Member States. Founded in September 2001 at the initiative of the Hamburg-based Körber Stiftung, it had to struggle to find the appropriate legal structure for its pan-European public interest objective and had to consider setting up several national foundations for the EUSTORY network despite its pan-European mission. In 2006 the network decided to set up the International EUSTORY Foundation, which could also act as an interim model for a European Foundation. However it did not succeed due to the lack of a European Statute.

[www.eustory.de](http://www.eustory.de)

In 2007, discussions started to set up a **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, the Netherlands (head office), a decision based on the fact that Dutch foundation law provides a flexible environment and easy and quick establishment of foundations. It also has a presence in Germany (Berlin) and Belgium (Brussels).

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

**The European Institute of Innovation and Technology (EIT) Foundation** was incorporated on 14 September 2010, as a foundation under Dutch law. Its provisional seat has been established through the auspices of the Erasmus University Rotterdam. Its objectives are to promote and support EIT's activities and aims. As a non-endowed foundation it is currently preparing a plan to seek donations from private investors who wish to be associated with the goal of constructing a more innovative and entrepreneurial Europe. Because of the current lack of a European legal form for a foundation, the EIT Foundation was to be set up as a national foundation. A transformation into a potential European legal form for foundations will be considered when available.

[eit.europa.eu](http://eit.europa.eu)



The EFS is needed to launch **new initiatives**.

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 aiming to improve living conditions of local human communities, protect wildlife and preserve the natural environment. Its French founders have expressed their interest to transform it into a European Foundation when such a form becomes available.

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

**WWF** is currently reviewing ways to set up a new international foundation for nature conservation purposes in the Baltic Sea countries. Ideally WWF could have used a European legal form for this initiative. The plan is to create a public interest 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.

[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.



European Foundation Centre, AISBL, 2011  
[www.efc.be/efs](http://www.efc.be/efs) | [eu@efc.be](mailto:eu@efc.be)