

EFC COUNTRY PROFILE JANUARY 2011: ESTONIA

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I. Legal framework for foundations

- **Does the jurisdiction have a basic legal definition of a foundation (Description where applicable)? What different legal types of foundation exist (autonomous, non-autonomous without legal personality, civil law, public law, church law, corporate foundations, enterprise foundations)?**

The Foundations Act passed in November 1995 regulates foundations. All foundations are independent legal persons acting under civil law, irrespective of their founder, except for those foundations set up by the Parliament through separate laws (e.g. The Cultural Endowment of Estonia).

- **What purposes can foundations pursue?**

A foundation may only pursue those purposes specified by its statutes. The purpose may also be private benefit.

- **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?**

Any legal or physical person can set up a foundation. The foundation can be set up either for a certain time, until the realisation of its goals, or for an unlimited time period. The foundation is set up by a founding act that states the name and address of the foundation; the names, personal identification codes and addresses of its founders; the property that is being transferred to the foundation; and the names, personal identification codes and addresses of the board and council members. This must be accompanied by the statutes of the foundation. The founders must sign both documents and the Notary Public must certify their signatures. A foundation can also be founded on the basis of a person's will, in which case an executor will carry out the legal procedures.

Foundations may start using their assets when they have been registered by the Registry of Non-Profit Organisations and Foundations. The board must apply for registration and provide the registry with information on the foundation's purposes, the persons belonging to the board, the person entitled to liquidate the foundation if it has fulfilled its purpose or in case of bankruptcy, and the date the foundation was set up. The application must be accompanied by a copy of the founding act and the statutes, bank information on the foundation's financial assets, sample signatures of the members of the board certified by a Notary Public, and telephone and fax numbers of the foundation. All board members must sign the application, and the Notary Public must certify their signatures.

The Registry may refuse registration if the documents presented do not correspond to the requirements of the law.

- **Is State approval required? (approval by a State Supervisory Authority with/without discretion? Registration with a state authority or court? Notarisation by a Notary public?)**

No

- **Do foundations have to register? If yes, in what register?**

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

Yes. The Registry of Non-Profit Organisations and Foundations is located at the Centre for Registers and Information Systems, which is supervised by the Ministry of Justice.

If foundations are registered, what information is kept at the register?

The register holds information on:

- The code and registration number of the foundation
- Its name
- Its place of residence and address
- Its purposes
- The members of the board
- Who administers the foundation in case of bankruptcy
- The liquidator
- Specific regulations on the rights of representation of the foundation
- The date of its founding
- The dates and general content of changes to the statutes
- The period of functioning, if the foundation is set up for a limited period
- The termination of the foundation
- Merger and division
- Declaration of bankruptcy and termination of the bankruptcy process
- Its extinction from the Registry
- The holder of the documents of an extinguished foundation
- The date and executor of the registry notation
- References to other notations and other remarks

If foundations are registered, is the register publicly available?

Yes. Books are kept according to the Law on Bookkeeping. The board presents a report of financial activities and an auditor's statement to the board for acceptance within four months of the end of every fiscal year. Every board member must sign the report. The report accepted by the board must be delivered to the Registry of Non-Profit Organisations and Foundations within six months of the end of the fiscal year.

Board members, as well as any other persons with a legitimate interest, may appeal to the court for an extraordinary audit. If the court orders the audit to take place, it will appoint auditors for the task.

- **Is a minimum capital required?**

No

➤ **What governance requirements are set out in the law?**

The foundation must have a management board consisting of at least one member, and a supervisory board consisting of at least three members. The statutes of the foundation may define some persons (e.g. the founders) as specially favoured persons. The supervisory board must appoint an auditor, who may not be a member of the supervisory board or the management board, or any of the specially favoured persons.

If the management board has three members or more, they must elect a president from among themselves. The management board may represent the foundation and run its everyday activities, while the supervisory board must approve more important economic decisions. The supervisory board may at its discretion appoint a new management board or dismiss any individual member of the management board and appoint a new one. A supervisory board member cannot be a member of the management board at the same time. A specially favoured person has the right to receive information about the foundation's activities and to become acquainted with its financial documents.

If members of the management or supervisory board have violated the statutes of the foundation or the law, or if they have failed to fulfil their duties and caused damage to the foundation or to its creditors, they will be personally responsible for the damage.

Is it mandatory to have a supervisory board?

Yes

What are the requirements concerning board members? Is a minimum/maximum number of board members specified? What are the rules concerning appointment of board members? And their resignation/removal?

The minimum number of board members is three. Members of the management board and auditors or persons with an equivalent economic interest, or bankrupts may not be members of the supervisory board. The procedure for appointment and removal of members of the supervisory board is prescribed by the articles of association and not the law.

What are the duties and what are the rights of board members, as specified by national legislation?

The supervisory board plans the activities of the foundation, organises the management and supervises the activities of the foundation.

The consent of the supervisory board is required for the management board to enter into transactions which are beyond the scope of everyday economic activities.

The supervisory board has the right to examine all documents of the foundation and to audit the accuracy of accounting, the existence of assets and the compliance of the activities of the foundation with law and the articles of association.

The supervisory board represents the foundation in disputes and upon entry into transactions with members of the management board.

What are the rights of founders? 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 founder may amend the articles of association of the foundation. If a foundation has several founders, all founders may amend the articles of association only jointly.

The supervisory board may amend the articles of association of the foundation only if:

- All founders are withdrawn; or
- The founders fail to agree on amendment of the articles of association, or
- This right is granted to the supervisory board by the articles of association

What are the rights of beneficiaries (e.g. right of information)?

A beneficiary or other person with a legitimate interest may demand information from a foundation concerning the fulfilment of the objectives of the foundation. The beneficiary or other person with a legitimate interest may examine the annual accounts of the foundation and the activity report of the management board, the auditor's report, accounting documents, the foundation resolution and the articles of association.

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?

A member of the supervisory board may not participate in voting if approval of entry into a transaction between the member and the foundation is being decided, or if approval of entry into a transaction between a third person and the foundation is being decided if the interests of the member of the supervisory board arising from such transaction are in conflict with the interests of the foundation.

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

No

➤ **Who can represent a foundation towards third parties? Is this specified in law or is it up to the statutes of the organisation?**

According to the law, members of the management board may represent the foundation. The statutes may introduce a limitation, which requires that the members of the management board may represent the foundation only collectively.

Do the director and officers have powers of representation?

No

➤ **Liability of the foundation and its organs**

Foundations are independent legal persons and are free to act within the framework of their own statutes and the law.

What is the general standard of diligence for board members? Does your country differentiate between voluntary (unpaid) and paid board members?

In case of misconduct by a board member, he or she has to compensate for the resulting harm. There is no difference between unpaid and paid members.

Is there a “business judgment rule”, giving a board member a “safe harbour”, if she/he (1) acts on an informed basis; (2) acts in good faith, (3) acts in the best interests of the corporation, (4) does not act out of self-interest (duty of loyalty concept plays a role here), and (5) is not wasteful?

No

What is the liability the directors and officers?

The law does not specify this. The liability of the directors and officers is provided in their work contracts.

Can the founder modify the standard of diligence for board members in the foundation’s statutes?

No

Can board members be held **civilly** and/or **criminally** liable in the following cases?

	Yes	Probably yes	Unclear	Probably no	No
The foundation distributes money for a purpose which is a public benefit purpose but not accepted in the foundation’s statutes.	X				
The foundation loses its status of a tax benefit foundation (because one requirement in tax law was not fulfilled).					X
The foundation loses money because a board member has acquired some stocks in a company which unexpectedly went bankrupt.		X			
The foundation sells immovable property to the spouse of a board member. The board member was unaware that the price was too low.	X				
The foundation sells immovable property to a third person. The board member was unaware that the price was too low.		X			

➤ **Are economic activities allowed (related/unrelated)?**

Economic activities are allowed, but the foundation may use its income only for purposes specified by its statutes.

➤ **Are there any rules/limitations regarding foundations’ asset management?**

A foundation may not be a member of an economic cooperative. A foundation may not give credit or provide a credit guarantee for its founders, board members, council members, or persons sharing economic interests with them.

- **Are foundations legally allowed to allocate grant funds towards furthering their public benefit purpose/programmes which (can) also generate income? (recoverable grants; low interest loans; equities)**

Yes

- **What are the requirements for an amendment of statutes/amendment of foundations purpose?**

Before registration, the founders may rescind the setting up of the foundation or change its statutes. After the foundation has been registered, the statutes may only be changed in order to adapt to changed circumstances, while the purpose of the foundation cannot be changed. The supervisory board may change the statutes if the founders are no longer alive, or if the founders are not unanimous about changing the statutes, or if the statutes explicitly grant this right to the supervisory board. If due to changed circumstances there has emerged a need to change the statutes but the founders or the supervisory board fail to do so, the Court may take the decision to change the statutes.

- **What are requirements with regard to reporting, accountability, auditing?**

Reporting requirements: Do annual reports and/or accounts of foundations need to be made publicly available?

Annual reports must be delivered to the Registry of Non-Profit Organisations and Foundations. Anyone stated by the Statutes to be a beneficiary, or with any other legitimate interest, has the right to be acquainted with the annual reports and accounts. If the statutes do not specify any favoured persons, everyone has that right.

What type(s) of report must be submitted (annual report including details of finances and activities, public benefit report, tax report/tax return, other reports e.g. on 1% schemes)?

An audited annual report including details of finances and activities must be submitted to the Registry of Non-Profit Organisations and Foundations. Foundations that have public benefit status must also submit a report on their public benefit activities to the Tax and Customs Board.

Who checks (supervisory/tax authorities)?

The annual report must be approved by the supervisory board and audited by an external auditor. Reports are checked by the tax authorities. Private foundations whose annual income or assets remain below €15,000 may opt for a financial review instead of an audit by an external auditor. Such an exception does not extend to private foundations founded on the basis of a will.

Where is the required information publicised?

Annual reports are publicly available via the website of the Central Commercial Register.

What are the legal requirements concerning external audit? Is external audit required by law for all foundations?

Yes, external audit is required for all foundations.

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

The procedure for appointment and removal of auditors and their term of office is prescribed by the articles of association of the foundation.

➤ **Supervision (which authority – what measures / sanctions?)**

The Registry of Non-Profit Organisations and Foundations is maintained by the courts. Extraordinary audit and forceful dissolution of a foundation may only be ordered by a court that can take the case to trial on the basis of an appeal from the Minister of Internal Affairs or from any person with a legitimate interest.

Does the supervisory authority comprise of a public administrative body, a public independent body, a combination of a governmental body and a court, or a public body and an independent body?

A court.

What is the extent of the supervision? Does the body review reports and make inquiries? Are public benefit organisations subject to inspection?

Public benefit organisations submit reports on their public benefit activities to the Tax and Customs Board.

Is approval from the authority required for certain decisions of the Board of Directors?

No

Is it mandatory to have a state supervisory official on the board?

No

What enforcement measures are in place (including compliance measures and sanctions for non-compliance) concerning registrations, governance, reporting, and public benefit status?

If a legal person fails to submit an annual report or other data required by the Registry the court may fine both the legal person and the members of its management board. If 18 months have passed since the end of the fiscal year and a legal person has not submitted an annual report, the legal person will be deleted from the register.

➤ **When and how does a foundation dissolve?**

A foundation can be dissolved by a decision of its supervisory board – or by a decision of its founders, if the statutes grant them this right – if the purpose of the foundation has been completed; if the foundation was set up for a certain time period, at the expiry of that time period; or due to other causes specified by the statutes or by the law.

A foundation may be dissolved by decision of a court, if its purposes or activities are in conflict with the law, the constitutional order or decency; if its activities do not correspond to the purposes as defined by its statutes; or if its financial situation is such that it obviously will not be able to carry out the objectives it was set up for.

Upon dissolution, an application will be presented to the Registry of Non-Profit Organisations and Foundations. The members of the board will act as liquidators, except when dissolution has been ordered by a court. After all creditors of the foundation have received their share of the foundation's assets, the remaining assets will be divided between the legal or physical

persons specified by the statutes. If the decision to dissolve has been taken by founders who are physical persons, the remaining assets will be divided between them. If the statutes do not specify what will be done with the assets in case of dissolution, they will be handed over to the state; likewise, if the dissolution is due to activities of the foundation that were against the criminal law, the constitutional order, or decency.

➤ **Under what conditions does the civil law in your country recognise a foreign foundation?**

It must be registered in Estonia.

➤ **Does the civil law in your country allow a foundation to conduct (some or all) activities (grant-making, operating, asset administration, fundraising) abroad? Is there any limitation?**

Yes

II. Tax treatment of the foundation

➤ **What are the requirements to receive tax exemptions (pursuing public benefit purposes, non-distribution constraint, being resident in the country?)**

In general, foundations are treated in a manner similar to business organisations. They do not pay taxes on their income but on certain distributions. The government may grant tax-exempt status to foundations and other non-profit organisations that serve a public benefit purpose; that are involved in charitable activities; that do not distribute any income to their founders, members of the board or to persons who have made donations to the Foundation; and whose administration costs do not exceed what is necessary for achieving their stated purposes. In order to be included in the list of organisations benefiting from income tax incentives, a foundation must file an application and give information about its statutes and activities. Tax-exempt status is not available for political organisations, for organisations supporting an enterprise, for professional and labour organisations, or for organisations that have several times previously failed to present their income declarations to the tax authorities, or who have not paid their tax debts.

➤ **What are reporting/proof requirements to claim tax exemptions?**

To receive tax-exemptions a foundation must submit an application to the Tax and Customs Board which then makes recommendations on granting or not granting a tax-exempt status to the foundation. The list of such organisations is approved bi-annually by the government.

➤ **Is specific reporting required for the use of state funds?**

Every governmental body has its own reporting requirements. There is an attempt though to streamline the reporting requirements of governmental bodies.

➤ **Is there an obligation to report on donors and beneficiaries?**

Public benefit organisations are required to disclose their donors and beneficiaries to the Tax and Customs Board.

➤ **Are there specific accounting rules for foundations?**

No

- **Is there a statutory definition in the civil law (foundation law, trust law) of your country what a public benefit purpose (charitable purpose) is? If yes, please give us the definition.**

No

- **Is there a statutory definition in the tax law of your country of what a public benefit purpose is? If yes, please give us the definition.**

Public benefit (charitable) purpose is defined in the Income Tax Law:

- The association operates in the public interest
- It is a charitable association, that is, an association offering goods or services primarily free of charge or in another non-profit seeking manner to a target group which, arising from its articles of association, the association supports, or makes support payments to the persons belonging in the target group
- The association does not distribute its assets or income, grant material assistance or monetarily appraisable benefits to its founders, members, members of the management or controlling body, persons who have made a donation to it or to the members of the management or controlling body of such person or to the persons associated with such persons
- Upon dissolution of the association, the assets remaining after satisfaction of the claims of the creditors shall be transferred to an association or legal person in public law entered in the list of non-profit associations and foundations benefiting from income tax incentives
- The administrative expenses of the association correspond to the character of its activity and the objectives set out in its articles of association
- The remuneration paid to the employees and members of the management or control body of the association does not exceed the amount of remuneration normally paid for similar work in the business sector
- The requirement prohibiting the distribution of its assets or income, material assistance etc does not apply to an association engaged in social welfare, or to a case where the associated person belongs to the target group supported by the association and does not receive additional benefits as compared with other persons in the target group

- **Support of “the public at large”**

Do the activities of a tax-exempt foundation generally have to benefit “the public at large”?

Yes

If yes, can a tax-exempt foundation support a small number of disadvantaged/ underprivileged individuals?

The explanation provided by the Taxes and Customs Office (<http://www.emta.ee/?id=14383&highlight=tulumaksusoodustusega>) stresses that the activities must be transparent and they should benefit the entire society, i.e. “All members of the state as a community”. That can also mean supporting poorer social groups that are unable to manage their lives without such help. The Income Taxes Act explains “charitable activities” as follows: “The association provides its statutory target group a service or a commodity mainly free of charge or in another way that does not bring profit, or awards monetary support for persons belonging to the target group”. The same paragraph states that professional organisations, entrepreneurs' organisations, trade unions and political organisations are not entitled to tax exemptions. Religious organisations are entitled to tax exemptions without any separate decision.

Examples: Do the following purposes promote the public at large?

	Yes	Probably yes	Unclear	Probably no	No
For benefit of the inhabitants of a city with 1,000,000 inhabitants	X				
For benefit of the inhabitants of a village with 10,000 inhabitants	X				
For benefit of the employees of a company					X
For benefit of the members of a family				X	
For benefit of the students of a university		X			
Award for the best student of a university		X			

➤ **Non-Distribution Constraint**

Does a **tax-exempt** foundation generally have to follow a “non-distribution constraint” which forbids any financial support of the foundation board, staff, etc?

Yes

What happens with the foundation’s assets in case of dissolution?

Upon liquidation or dissolution the assets remaining after satisfaction of the claims of the creditors will be transferred to an association or legal person in public law entered in the list of non-profit associations and foundations benefiting from income tax incentives. \

➤ **“Altruistic” Element**

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**?

Remuneration of board members is allowed. The remuneration should “correspond to the tasks of the board member and to the financial state of the foundation”.

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

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?

No. The administration costs should correspond to the character of the foundation's activities and to its statutory aims.

➤ **Hybrid Structures (elements of private benefit in public benefit foundations)**

n.b.: Estonian law does not recognise the definitions of “public benefit” or “tax-exempt” foundations. Instead, there is a legal status for (non-profit associations and) foundations benefiting from income tax incentives. The organisations belonging to the list of such organisations are commonly called public benefit organisations enjoying tax benefits.

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, his spouse and descendants.					X
The founder retains a beneficial reversionary interest in the capital of a property or other asset for his own continuing use.					X
The gift is of only 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 favor of the founder (or another member of her/his family) as tenant.					X
A foundation distributes a (small) part of its income to the founder or his family.					X

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, his 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 its own continuing use.					X
The gift is of only 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 favor of the founder (or another member of her/his family) as tenant.					X
A foundation distributes a (small) part of its income to the founder or his family.					X

Are there any other examples from your country (in **civil law** and/or **tax law**) regarding such “hybrid structures” (e.g. law provisions, court decisions, etc.)?

n/a

➤ **Distributions and Timely Disbursement**

Are foundations allowed to spend down their capital?

Yes

Are they allowed to be set up for a limited period of time only?

Yes

Does the **civil law** and/or the **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?

No

Does the **civil law** and/or the **tax law** of your country require a foundation to spend a percentage of its overall assets in the form of a “payout rule”?

No

Example: Does the **civil law** of your country accept the following activities 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 accept the following activities 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			

Are there any examples or cases from your country (in **civil law** and/or **tax law**) regarding the question of “timely disbursement” (e.g. law provisions, court decisions, etc.)?

➤ **Does activity abroad put the tax-exempt status at risk?**

No

➤ **Income tax treatment**

Income of any kind is not taxed, unless it is being distributed outside the purpose of the foundation. Grants paid by foundations will be subject to income tax, unless they have been granted tax-exempt status. Salaries paid by foundations to its workers are subject to income tax.

Grants and donations

n/a

Investment income (asset administration)

n/a

Economic activities related/unrelated)

n/a

Major shareholding - considered as an economic activity and taxed accordingly?

n/a

Income deriving from grant expenditure towards public benefit purpose/programme benefit purpose/programme activities (such as loans, guarantees, equities)?

n/a

➤ **Capital gains tax, where separate from income tax**

There are no capital taxes.

➤ **Withholding tax on foreign investment income?**

➤ **Gift- and inheritance tax**

None

➤ **Value added tax (VAT)**

Value-added tax must be paid in the same way as by business organisations.

➤ **Capital taxes on value of assets, where applicable?**

None

➤ **Taxes on the transfer of assets?**

The transfer of assets to another foundation or non-profit organisation in the course of reorganising a foundation is free from tax.

➤ **Other taxes, where applicable (Real property tax)**

Foundations are subject to the social insurance tax, real property tax, lottery tax, customs tax, excise taxes, and local taxes (e.g. advertisement tax).

➤ **Can a foreign foundation 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?**

No, if it is not registered in Estonia. However, according to a government decree, grants paid by any foreign foundation for research, study, arts or sports are free from taxes.

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

No tax exemption.

- **Are there current discussions about the question, whether cross-border activities of foundations or other non-profit organisations are protected by the fundamental freedoms of the EC Treaty? Especially: Are the consequences of the Stauffer decision of the European Court of Justice and/or the current infringement procedures of the European Commission discussed by legal scholars or by practitioners? (e.g. publications in law journals) / Have there been any resulting changes to your country's legislation, or are changes being discussed?**

No

III. Tax treatment of donors

- **System of tax credit or tax deduction?**

Donations given to a foundation that has been granted tax-exempt status may, up to a certain extent, be deducted from the income of the donor.

The basis for the tax relief is the inclusion of the foundation in the government's list of organisations benefiting from income tax incentives. The list includes only organisations registered in Estonia.

- **Tax treatment of individual donors**

For individual donors, the total of donations deducted from the taxable income cannot exceed 5% of the donor's total income. The treatment of non-monetary donations is the same as for monetary donations, and taxation is based on their market value.

- **Tax treatment of corporate donors**

For corporate donors, the total of donations deducted from taxable income may not exceed either 3% of the sum of the payments made during the year and subject to social insurance tax, nor 10% of the calculated profit of the latest fiscal year. The treatment of non-monetary donations is the same as for monetary donations, and taxation is based on their market value.

- **Tax treatment of donations to non-resident public-benefit foundations**

On 17 August 2009, the Ministry of Finance made public new draft amendments to the Income Tax Law which extend the various forms of tax relief for donations made to the domestic charities to those made to foreign charities. The changes are based on the European Commission infringement procedure (IP/08/1818, 27 November 2008) and came into effect from 1 January 2011.

- **Other frameworks such as percentage law systems**

No other frameworks exist.

➤ **What are reporting/proof requirements to claim tax benefits?**

The recipient of a donation can submit the data of a donor to the Tax and Customs Board. The Tax and Customs Board may also require additional documents of proof.

IV. Tax treatment of the beneficiary (receiving a grant or other benefit from a foundation)

Individuals

A grant given by a foundation with tax-exempt status to a person who is not connected to the foundation and has not donated to the foundation him/herself is free from tax. If the foundation has not received tax-exempt status, the grant is subject to income tax.

Legal entities

Legal entities do not pay taxes on their income, unless it is further distributed.

V. Trends and developments

➤ **Recent trends or developments affecting the legal and fiscal environment for public benefit foundations**

Among Estonian foundations, there are relatively few truly private foundations with large assets. According to a survey conducted in 2003, the average annual income of a foundation was 4.1 million Estonian crowns (EEK) (approx. €280,000); however, it was only 2.64 million EEK (approx. €180,000) if foundations with participation of either the state or by local governments are excluded. The income was very unequally distributed, meaning that a majority of foundations were very small. Most of the private foundations are more grantseeking than grantgiving, and operate their own programmes. In this sense they are often more reminiscent of voluntary associations. They often rely on project financing from the state or local governments. As a part of public sector management reforms, the number of foundations set up by the state or by local governments has grown rapidly. At the same time, corporate foundations have remained very few in number.

Since the beginning of the new millennium, the non-profit sector has gained more visibility in Estonia. With more than 23,000 registered non-profit organisations (among them, 689 foundations as of January 2006) altogether in a country of less than 1.4 million inhabitants, their per capita density is now probably the highest in Central and Eastern Europe. Inspired by the British Compacts between the government and the voluntary sector, non-profit umbrella organisations initiated the preparation of a document entitled the Estonian Civil Society Development Concept (EKAK). Adopted by Parliament in 2002, it seeks to clarify the practices through which the state and local governments should finance and inform non-governmental organisations, and enable their participation in decision-making. However, these practices still need to be implemented; the main impact of the document so far has been to increase cooperation within the sector and to enhance its public image.

➤ **Impact of anti-terrorist debate**

Is there a specific national/regional anti-terrorism act (legislation) in your country, (which one and date of entry into force or adoption)?

Yes. The Act Against Money Laundering and Terrorism, adopted on 19 December 2007

If so, has this law introduced new legal and regulatory requirements for foundations (please describe)?

No

Has the foundation supervisory authority introduced new regulatory/oversight requirements to comply with counter terrorism measures/law?

No

Has the foundation supervisory / regulatory authority(ies) introduced guidance tools to assist foundations to comply with counterterrorism measures/law?

No

If so, did the foundation supervisory authority engage in a consultation with the foundation sector on counter terrorism measures/ does it plan such a consultation?

No.

➤ **Public fundraising**

Are there any specific laws that regulate fundraising and do they affect foundations?

No

Useful contacts

Network of Estonian Non-Profit Organizations (NENO)

Web page: www.ngo.ee/1057

Director: Mr. Urmo Kübar, e-mail: urmo@ngo.ee

Open Estonia Foundation (OEF)

Web page: www.oef.org.ee/en

Executive Director: Ms. Mall Hellam, e-mail: mall@oef.org.ee

Centre for Civil Society Research and Development, Tallinn University (KUAK)

Web page: <http://www.tlu.ee/?LangID=1&CatID=3095>

Director: Prof. Mikko Lagerspetz, e-mail: mikko@ehi.ee

Selected bibliography

Mikko Lagerspetz and Erle Rikmann, "Roles and Visions of Foundations in Estonia", in: Helmut K. Anheier & Siobhan Daly (eds.), *The Politics of Foundations: Comparative Perspectives from Europe and Beyond*. London etc.: Routledge, 2006

Mikko Lagerspetz and Marek Skovajsa, "Non-Profit Foundations in Four Countries of Central and Eastern Europe", *Polish Sociological Review*, 2(154)2006: 187-208

Mikko Lagerspetz, Aire Trummal, Rein Ruutsoo, and Erle Rikmann, *Non-Profit Sector and the Consolidation of Democracy. Studies on the Development of Civil Society in Estonia*. Tallinn: Baltic-American Partnership Programme, 2004

Selected law texts

The most important legal documents regulating foundations are listed below. The Estonian texts have been published in the official magazine *Riigi Teataja*, and can be approached through the web page < <https://www.riigiteataja.ee> >.

Foundations Act (*Sihtasutuste seadus*, adopted 1995, last amended 6 December 2006)

Income Taxes Act (*Tulumaksuseadus*, adopted 1999, last amended 14 June 2007)

Taxation Act (*Maksukorralduse seadus*, adopted 2002, last amended 10 May 2006)

Regulations on Granting Tax-Exempt Status to Non-Profit Organisations and Foundations (*Tulumaksusoodustusega mittetulundusühingute ja sihtasutuste nimekirja koostamise kord*, Government Decree adopted 2000, last amended 22 December 2006)