

EFC COUNTRY PROFILE JANUARY 2011: FINLAND

Drafted by Ralf Sunell, Suomen Kulttuurirahasto, updated by Paavo Hohti and Kai Kilpinen, The Council of Finnish Foundations

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)?**

Foundations are regulated by the Act on Foundations (5 April 1930/109), which was amended in 1995. There is no exact definition under the Foundation Act of what a foundation is, but usually it is known as a “dedicated property functioning as an independent legal person and used for a special purpose defined by the founder”. The Foundations Act applies only to independent private law entities.

Public law foundations are covered by special legislation.

There also exist numerous non-autonomous funds without legal personality that are administered through another legal person.

- **What purposes can foundations pursue?**

Generally foundations are allowed to pursue any “useful” purpose. They can engage in any activity as long as the activities correspond to the purpose for which the foundations were established. Private purpose foundations may benefit a certain family or the employees of a certain company.

However, according to the Income Tax Act, foundations only get tax-exempt status if they operate “solely and directly for public benefit in a material, intellectual, ethical or social sense”.

- **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?**

A foundation can be created through a deed of foundation or a written will. Also, the bylaws of the foundations have to be drafted. The formal creation of a foundation established under a will must be done by the administrator listed in the by-law unless the testator has named another person.

The establishment of a foundation is subject to the approval of the National Board of Patents and Registration. In practice, the authority grants permission for establishment of foundations proposing a “useful” purpose. Usually the permission to establish the foundation and the approval of its bylaws is accomplished in one procedure.

Once this procedure is completed, the initial board must be elected and the assets transferred to the foundation.

The foundation must be registered with the National Board of Patents and Registration within six months, otherwise the permission will expire.

➤ **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?)**

Yes (see above).

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

Register of Finnish foundations in the National Board of Patents and Registrations in Finland.

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

The statutes, members of the board (supervisory board if any), representatives of the foundation, annual records and accounts.

If foundations are registered, is the register publicly available?

Yes, but with restrictions on availability of details on economic information.

➤ **Is a minimum capital required?**

Yes. A minimum initial contribution of at least €25,000 is required. There is also a "relative" requirement: The endowment of the foundation has to be sufficient to allow the foundation to operate according to its purpose.

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

Is it mandatory to have a supervisory board?

The board is the only mandatory governance body stipulated by the Foundations Act.

According to the Act, the foundation must have a board acting as its administrative body. The board should comprise at least a chairman and two other members. The board will be in charge of governing the affairs of the foundation and ensuring that all activities are done in compliance with the law and the bylaws of the foundation.

Special bodies can be established in addition to the board but their decision-making power, rights and obligations must be exactly stipulated in the bylaws of the foundation.

A supervisory or audit committee is not stipulated in the Foundations Act.

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?

At least one member of the board shall be resident in the European Economic Area. The National Board of Registration and Patents may grant the foundation an exception of this

provision. No one who lacks legal competence or is bankrupt may function as a member of the board. Minimum number of board members is three (see above), there is no maximum. The right to appoint members is stipulated in the by-laws of the foundation. If not, the board will appoint its own members. The appointing body has no right to remove foundation board members, though this is debatable since it is not directly stipulated in the Foundations Act.

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

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?

There are no special restrictions on the rights of the founder; he can also become a board member. The founder has no say in the matters of the foundation after its registration unless the by-laws so stipulate (or he/she/it is a board member).

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

Beneficiaries have no special rights; they are of course entitled to the same public information as everybody else.

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?

The Foundations Act (section 11) stipulates:

A member of a body of the foundation or a functionary of the foundation shall not participate in the handling of a contract between himself and the foundation. Nor shall he participate in the handling of a contract between the foundation and a third person if he stands essentially to gain thereby and if there is a conflict of interest between himself and the foundation. The above provisions on a contract shall apply also to litigation or other representation of the foundation.

And in Section 10:

The [foundation's] assets shall not be lent to any of the following persons:

- (i) a partner, a director/trustee, a supervisor, the chief executive officer, or a person in a comparable position, in the foundation or a corporation within the same corporate group or a cross-held corporation, as referred to in the Accounting Act, or a person responsible for the accounts or financial management of the foundation or corporation or the supervision of the same;
- (ii) a person in the employment or otherwise in the service of the foundation or a corporation or person referred to in subparagraph (i); or
- (iii) the spouse, domestic partner, brother, sister, direct ascendant or direct descendant of a person referred to in subparagraph (i) or the direct ascendant or direct descendant of the spouse, or a brother-in-law or sister-in-law of the person referred to in subparagraph (i).

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

Only if stated in the by-laws.

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

The law defines the principles; the organisation defines the actual persons, e.g. Chairman of the Board, Secretary-General.

Do the director and officers have powers of representation?

Only if stated in the by-laws.

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

The Foundation Act contains provisions on the liability of the members of foundation bodies and functionaries towards their foundation and towards third parties.

Liability towards the foundation arises in all cases in which the person in question has caused damage either wilfully or through negligence.

Liability towards third parties only covers damage caused by an act in breach of the Foundation Act or the bylaws of the foundation.

Liability of the auditors is governed by the Audit Act. An auditor is liable to compensate for damage that he has, in his official capacity, caused to the foundation either wilfully or through negligence. Liability towards third parties is applicable if there is a violation of the Audit Act or the Foundation Act or the bylaws of the foundation.

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

No

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?

See above.

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 - civil				
The foundation loses its status of a tax benefit foundation (because one requirement in tax law was not fulfilled).	X - civil				
The foundation loses money because a board member has acquired some stocks in a company which unexpectedly went bankrupt.	The whole Board is civilly liable				
The foundation sells immovable property to the spouse of a board member. The board member was unaware that the price was too low.	The whole Board is civilly liable				
The foundation sells immovable property to a third person. The board member was unaware that the price was too low.	The whole Board is civilly liable				

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

Permission is not granted for the establishment of a foundation for the purpose of carrying out economic activity.

However, if the economic activity is stipulated in its statutes/bylaws and this activity is directly related to the foundation's purpose, the foundation will be allowed to conduct a business. But the business activity must be very limited and can never form the main part of the organisation's activities. A foundation shall not carry on any business that is not referred to in its bylaws and does not directly support the purpose of the foundation.

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

According to the Foundations Act, the board of trustees shall take special care to properly manage the foundation's affairs as well as ensure the secure and profitable investment of the foundation's assets.

Shareholding and major shareholding is allowed. There are no restrictions on investing in alternative investments, hedge funds or private equity. However, the tax treatment of income from these alternative investments may differ and could be a hindrance to investing in these asset classes, especially private equity.

- **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)**

These should be specified as grant funds, not investments (see requirement for “secure and profitable investments” above.)

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

According to the Foundations Act, all changes in the by-laws have to be approved by the supervisory authority, which is the Foundation Register of the National Board of Patents and Registration.

The prerequisites for amending the foundation’s purpose are stricter than those for other amendments. It is possible to amend the purpose in four cases, i.e. when the use of the foundation’s assets for its statutory purpose is determined to be:

- Impossible
- Very difficult
- Totally or essentially useless because of the low value of the assets or another reason
- Against the law or good practice

The new purpose must, however, not essentially differ from the original purpose. Unless otherwise described in the bylaws, the decision to amend the purpose has to be made with a qualified majority of at least two-thirds of the votes.

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

Foundations have to maintain accounts and submit annual reports to the registration authority. They have to file annual income tax returns with the taxation authorities and are required to submit to the registration authority their annual books of accounts.

Recognition of tax-exempt status requires ongoing non-profit activities and is conferred annually by the tax authorities.

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

Yes

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)?

To the foundation register: Annual reports and accounts.

To the tax authority: Tax return (only if tax return forms are sent to the foundation), list of individual grantees (for grants of € 1,000 or more), report on received donations and their usage (only donations that are deductible by the donor).

Who checks (supervisory/tax authorities)?

See above.

Where is the required information publicised?

Annual reports and accounts are publicly available, with the exception of detailed economic information. Reports made to the tax authority are not publicly available.

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

Yes

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

Under the Auditing Act only a chartered accountant or chartered accounting corporation may serve as auditor to a foundation.

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

In Finland all foundations are subject to supervision under the National Board of Patents and Registration. When the board of a foundation is a public authority, the foundation becomes accountable to that body. The official supervision consists mostly of the review of the annual accounts and annual activity report of the foundation, but other reviews are possible. In fact, any irregular situation may be sanctioned or corrected by a demand for rectification or an injunction, or it may result in damages and demands for punishment or dismissal of the board or even dissolution of the foundation.

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 public administrative body: The National Board of Patents and Registration

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

The public benefit status (and tax benefits that come with it) of foundations and associations is defined by the Tax Authority and has normal rights for tax inspection.

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?

See above.

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

The Foundation Act states that a foundation that has been established for a fixed period of time or on the condition that certain requirements be met will be dissolved when either the period has expired or the requirements no longer exist.

Dissolution also occurs when there are no longer any assets held by the foundation.

The Foundation Act also states other reasons for the dissolution of a foundation, for example if the operations of the foundation have been constantly in breach of the law or its by-laws.

Approval of the National Board of Patents and Registration is needed for dissolution.

Following its dissolution, the remaining assets of the foundation are transferred to the state, unless the by-laws contain regulations for their use. The state will then transfer the assets with a view to ensuring they are used for a purpose similar to the one the foundation had.

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

If registered as a Finnish foundation.

➤ **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, there may be restrictions in the by-laws of individual foundations

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 practice, a foundation is automatically exempt from taxation once it is created for non-profit purposes. Recognition of exempt status requires ongoing maintenance of non-profit activities and is conferred by the taxation authorities after submission of each annual income tax return. There is no annual payout requirement, but in order to obtain and to maintain its tax-exempt status, the majority of a foundation's distributable income (dividends, interest income, rental income etc.) should be used for non-profit purposes. Capital gains are treated as extraordinary income and are not part of the distributable income.

Under the Income Tax Act, an organisation is eligible for tax-exempt status if it operates solely and directly for the public benefit/general good in a material, mental/intellectual, ethical or social sense. The definition is considered to encompass nearly all sectors of social life.

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

See above.

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

See above.

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

See above (Supervision).

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

Foundations Act (sec.12):

In addition to what is provided in the provisions of the Auditing Act, the audit report shall contain a specific statement on:

- Whether the assets of the foundation have been properly invested
- Whether the fees paid to the members of the bodies of the foundation are to be deemed reasonable
- And whether the annual accounts and the annual report give a true and fair view of the finances and activities of the foundation

➤ **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.**

No

➤ **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?

Yes, anyone with mentioned disadvantage/under-privilege may be a beneficiary.

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 -Not defined by number				
For benefit of the inhabitants of a village with 10,000 inhabitants	X - Not defined by number				
For benefit of the employees of a company				Should be a very large company	
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?

The statues of a foundation must include a clause on how the remaining assets are to be used. If no such clause exists, then the assets of the foundation will go to the State, which must allocate them in turn to promoting the purpose associated with the operations of the foundation concerned.

➤ **“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**?

Allowed in both civil and tax law, but it must be reasonable in terms of size and assets 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

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

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</i>					X

<i>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.					
A foundation distributes a (small) part of its income to the founder or his family.	X*				

*Public benefit status is defined in the Income Tax Act, not the Foundations Act which only stipulates that foundation's purpose must be a "useful" one. That also includes private purposes.

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.)?

No

➤ **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?

Tax law: No fixed percentages or time limits, but public benefit foundations should spend most of their annual income (not capital gains) within a reasonable time frame. Long term planning in expenditure is encouraged.

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?

There is no such definition in civil law.

	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.					

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.		If collected for a major project according to plan			

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.)?

Tax law: Court decisions.

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

Activity abroad is allowed for foundations without losing their tax-exempt status, as long as the Finnish tax authorities ensure that the purpose of these activities is in the public interest.

➤ **Income tax treatment**

Grants and donations

Non-profit foundations do not have to pay any income tax on grants and donations.

Investment income (asset administration)

Investment income is usually treated as personal income and under the Income Tax Act personal income of an exempt organisation is generally not subject to taxation. There are some exceptions, like income from limited partnership structures (i.e. private equity funds) where the income is taxed under a different tax code. Tax-exempt organisations are not subject to national property tax, but they have to pay a municipal real estate tax on income derived from real property.

Economic activities (related/unrelated)

Unrelated economic activities are taxed. The Income Tax Act excludes some categories of normally taxable business income for the benefit of non-profit organisations, including such income-producing activities as lotteries and bingo games, sale of leaflets and address lists, and sale of products made in hospitals and similar institutions.

If economic activity is stipulated in a foundation's by-laws and the business is directly related to the foundation's purpose, the foundation will be allowed to conduct a business. But the business activity must be very limited and can never form the main part of the organisation's activities.

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

Major shareholding is not considered to be economic activity and is tax-exempt.

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

n/a

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

There is no capital gains tax or income tax on investments in Finland.

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

A foundation may be exempt from withholding tax in a foreign country or it has to pay withholding tax but can try to apply for reimbursement up to a certain amount.

➤ **Gift- and inheritance tax**

Under the Act on Inheritance and Gift Tax, most beneficiary institutions are not subject to inheritance or gift tax on the value of property bequeathed to them under a will or as a gift.

➤ **Value added tax (VAT)**

Foundations are treated like final consumers. Therefore, they must pay the value-added tax when purchasing goods and services. Certain activities are not subject to VAT at all or they

are subject to a reduced VAT rate, but these provisions are not based on the nature of the entity that is selling the goods or services but on the activity.

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

There is no capital tax on the value of assets gained through investments in Finland.

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

Taxes on the transfer of assets are paid for stocks of unlisted companies, flats, land and real estate. The amount of tax is 4% of the value of the real estate or land, 1,6% for other assets.

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

Tax-exempt organisations have to pay a municipal real estate tax on income derived from real property.

➤ **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?**

If registered as a Finnish foundation.

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

Depends on bilateral tax agreements.

➤ **Are there current discussions about the question of 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?**

n/a

III. Tax treatment of donors

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

There is a system of tax deduction in Finland. However, only monetary gifts by corporations are tax-deductible.

➤ **Tax treatment of individual donors**

In Finland individual donors do not receive tax deductions for gifts to non-profit organisations. However, they do receive a tax deduction for donations to publicly funded universities for up

to €250,000, as of 1 January 2009. This incentive is foreseen only as a temporary measure until the end of 2010.

➤ **Tax treatment of corporate donors**

Monetary donations made by corporations of a minimum amount of €850 are eligible for a tax deduction. The maximum amount that is tax-deductible depends on the recipients, who are divided into two categories. If the recipient is a publicly financed university or a fund within such a university, the maximum deductible amount is €250,000. If the recipient is a public benefit foundation, the maximum is €50,000.

The purpose of the donation has to be the support of scientific research, arts or Finnish cultural heritage.

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

The recipient of the donation (see above) may be based in any country of the European Economic Area. The National Board of Taxation approves the recipients of the donations, Finnish or other EEA -based organisations for a maximum period of five years. The list of these organisations is published in Tax Authority web page. At the moment (June 2010), there are no non-Finnish organisations on the list.

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

There are no other frameworks.

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

Corporations must claim for tax deductions in their annual tax return. Foundations must report such donations (in practice all donations from corporate donors) to tax authorities.

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

Grants awarded by foundations for university studies, scientific research and artistic work, as well as prizes awarded for scientific, artistic and other non-profit activity are taxable if the aggregate amount of all the grants and prizes received by an individual in any one year after deduction of costs necessary to acquire and maintain the income exceeds the annual amount of the state grant for artists, around €18,700 in 2010.

However, grants and prizes awarded by the state, municipality or the Nordic Council for the purposes mentioned above are tax-free regardless of their amount.

V. Trends and developments

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

Ministry of Justice is issuing a consultation paper on the possible need for revision of the Foundations Act in the summer 2010. Political decisions will be made in 2011. Most probably the law will be totally renewed in next few years.

A complaint (CP314/09) was made to the European Commission on the possible state aid given to public benefit organisations in form of a tax exemption. Finland submitted its answer to the on 8 June Commission. In its response, the State of Finland notes that: exemption from taxes only applies to parties which meet strict charitable status criteria, and this status is not granted in perpetuity. Charitable activities are not-for-profit activities, and if the nature of the activities changes, tax-exempt status is forfeited. In respect of business activities, taxation is the same as for any other entity engaging in business activities. The definition of charitable status thus does not lead to exemption from taxes that would constitute a derogation from the general tax system and the exemption from taxes is thus not state aid as referred to in Article 107 TFEU.

Until this matter is solved, all changes to the taxation of public benefit organisations are put on hold. There is a Ministry of Finance report from 2009 on the problem areas of taxation of public benefit institutions with proposed corrective measures. It focuses mostly on competition issues with regard to operational foundations. But these proposals have also been put on hold.

➤ **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)?

No

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

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?

There is a Money Collection Act (255/2006) that regulates fundraising from the public-at-large. It contains no specific regulations on foundations. The Act mostly stipulates what

percentage of funds raised can go towards meeting the expenses of the collection. Grant-making foundations only seldom raise funds through these kinds of public collections.

Useful contacts

Säätiöiden ja rahastojen neuvottelukunta ry.
(Council of Finnish Foundations)
Fredrikinkatu 61
00100 Helsinki
Finland
www.saatiopalvelu.fi
info@saatiopalvelu.fi

Paavo Hohti, Managing Director
tel. +35.89.68.18.94.57
paavo.hohti@saatiopalvelu.fi

Kai Kilpinen, coordinator
tel. +35.89.68.18.949
kai.kilpinen@saatiopalvelu.fi

Selected bibliography

Herberts, K., in: *Foundations in Europe. Society Management and Law*, Schlüter, A., Then, V. and Walkenhorst, P. (editors), London, 2001, pp. 111-120

Kesti, J., in: *The Tax Treatment of Cross-Border Donations - Including the Tax Status of Charities and Foundations*, Bator, P. (editor), International Bureau of Fiscal Documentation, loose-leaf, Amsterdam, 1994-2001

Sunell, R., "Stiftungsgesetz ohne Legaldefinition einer Stiftung", in: *Deutsche Stiftungen*, Bundesverband Deutscher Stiftungen e.V. (editor), 3. Ausgabe, Berlin, 2001, pp. 50-51

Sunell, R., in: *European Foundation Fundamentals*, Brown, S. (editor), European Foundation Centre, Brussels, 1999, pp.88-90

Varpelaide, J., in: *International Charitable Giving: Laws and Taxation*, George, C. (editor), Kluwer Law International, loose-leaf, London, 1994-1999