



## PRESS RELEASE

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### European Foundation Statute must be on Commission agenda

**Brussels, 10 December 2009 - Speaking at the conference on Cross-border philanthropy in Europe, European Commission Vice-President Barrot stated that philanthropy is an activity of vital economic and social importance; however there is a persistent lack of Europe in the field. The Single Market is not yet a reality for foundations and philanthropic bodies, which still face legal and administrative barriers in their cross-border work and cooperation and cannot unleash their full potential.**

There is a case for considering appropriate EU action to address these hurdles. The European Commission (EC) will therefore review potential options with an open mind, including the development of a European Foundation Statute. Encouraging Member States to ensure a fair-treatment of other EU country-based foundations and their donors by adapting their tax laws in line with the EC-Treaty is another line of action of the Commission, as well as the review of the VAT treatment of public bodies and public benefit organisations, which the EC is starting.

Gerry Salole, Chief Executive of the European Foundation Centre (EFC), stated that the ability to learn from each other's practices and know-how and to develop innovative legal tools to optimise philanthropic work is crucial if foundations are to address current European and global challenges successfully. Interestingly, and despite the daunting nature of the current climate, the atmosphere in the philanthropic sector is up-beat and optimistic with new ideas to make good use of all available resources to tackle needs, and creative and often collaborative solutions across borders to both old and new challenges. However, EU legislative action is clearly needed to support such initiatives.

Closing the debate, Prof Manuel Ortega Medina, former MEP and chair of the friends of Academy of European Law (ERA), recalled that the foundation sector is a competent and solid sector, but it has not yet been heard. This means that Europe is lagging behind on an effective European Framework for philanthropy. He encouraged the sector to raise its voice and join forces with allies. Existing barriers to philanthropy cannot be overcome by European rulings, he added, as they do not provide legal safety and European case law is often implemented in different ways in the 27 Member States. Therefore it only offers an unsatisfactory solution. "It's like trying to empty the Atlantic with a teaspoon" Mr Medina said. A European legal form is needed to establish a level-playing field for philanthropy in Europe. The European Foundation Statute would be a new, attractive, optional, public-interest tool, governed by European law, which complements the national foundation laws.

For Dr Wolfgang Heusel, ERA Director, a Statute would also help create a European identity, and help pool resources in essential fields including education and culture which underpin Europe's innovation potential and creativity. Bernard Majoie, President of the Fondation Fournier Majoie pour l'Innovation, further indicated the need for a trusted European label which can provide both greater visibility to European initiatives and a benchmark of transparency and accountability.

A total of 90 representatives of foundations, EU institutions, public authorities, as well as law, tax and financial experts gathered in Brussels to debate existing barriers and potential solutions for cross border philanthropy in Europe. Developments on the European Foundation Statute, EC infringement

procedures and critical European Court rulings -Persche & Stauffer- on non-discrimination regarding the tax treatment of donors and foundations were the core of the discussions. The event was a joint initiative of ERA, the EFC, the King Baudouin Foundation, Transnational Giving Europe, Fondation Fournier Majoie pour l'Innovation and the DDB law firm.

Marjut Leskinen, of the European Commission, reported on the results of the public consultation on the European Foundation Statute released on 10 November 2009. The European Statute has strong support from the non-profit sector, while several governments have expressed initial views on the matter. She informed participants that once in office, the new Commissioner is due to take a decision on the Statute, and the launch of the impact assessment study of a new legislation in the field.

Tina Tukić, of the European Commission, reported on the infringement procedures launched by the EC to request Member States to bring their national tax laws in line with the EC-Treaty. Some 19 procedures were started and 11 cases successfully closed. The procedures question discriminatory national tax provisions for individual donors and corporate donors and the taxation of public benefit organisations. Countries including France, the Netherlands and Luxembourg have already started work to review their tax legislation and administrative procedures to allow tax-effective cross-border donations. However, case law has great limitations in that it only addresses case by case breaches - hence Member states have engaged in discussions about the need for a coordinated approach in the field to avoid creating other obstacles, as well as acknowledge the recent ECJ rulings.

For further information and copies of the presentations please contact the EFC Secretariat at [eu@efc.be](mailto:eu@efc.be)

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#### **Notes to Editors:**

##### ***The European Foundation Centre***

- The European Foundation Centre (EFC), founded in 1989, is the leading representative organisation of public-benefit foundations at European level.
- EFC's mission is to strengthen independent funding in European philanthropy by cooperating with a range of partners that can advance the public good in Europe and beyond. In 2009, EFC celebrates its 20th anniversary.
- Today, EFC serves over 220 members, including community and independent foundations as well as corporate funders. Some 90% of EFC's members are based in Europe. Others are in countries including Japan, and the USA. To see a list of EFC members, visit [www.efc.be/membership](http://www.efc.be/membership).

##### ***The European foundation sector***

- Foundations operating in EU countries represent a **total expenditure of around €46 billion**, which is equal to the annual net official development aid provided by some of the world's most developed countries - the USA, UK and Japan, combined.
- There are over **110,000 'public-benefit foundations' (PBFs) in the EU**, representing almost 4 foundations per 10,000 inhabitants. This number is growing rapidly.
- Foundations are active in areas ranging from the environment, social services, health and education, to science, research, arts and culture.

- Most European foundations operate locally and nationally, though foundations' cross-border work in the EU has boomed.
- EU laws are not keeping up with this trend. Foundations must often open branches in several countries. EFC and members are advocating for a **European Foundation Statute** to alleviate this and other restraints caused by unnecessary legislative burdens.

### ***The European Foundation Statute***

- On 10 November 2009 the European Commission released the outcomes of the public consultation on a possible European Foundation Statute (EFS) carried out from February to May 2009. **Outcomes of the consultation show strong support for an EFS from the non-profit sector.**
- Contributions received in the framework of the public consultation and the findings of the feasibility study on a EFS published on 15 February 2009 will help the Commission assess the need for and impact of a EFS before submitting a new legislative proposal for adoption by the EU Institutions.

For information on the EFS visit:

<http://www.efc.be/EuropeanFoundationStatute/Pages/EuropeanFoundationStatute.aspx>