

# European Foundation Statute gets further boost

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EUROPE - The creation of a cross-border statute for EU foundations has received a further boost as Michel Barnier has been confirmed as the new internal markets commissioner.



At his hearing before the European Parliament on 13 January, Barnier declared he saw the creation of a European Foundation Statute (EFS) for non-profit organisations as a priority.

“The efficiency of the markets must be put at the service of human progress and not the opposite,” he noted.

In practice, this means he will consider a series of new initiatives, including the development of an EFS for non-profit foundations and philanthropic bodies. He will also look at the possibility of creating a social business act, in a bid to promote businesses which also fight against social exclusion.

The EC carried out a feasibility study on a possible EFS last year, which was followed by a consultation exercise. Replies came from 227 organisations - nearly 80% of them in the non-profit sector – in 27 countries.

The non-profit sector organisations gave strong support to the idea of an EFS, although commercial organisations taking part were more reserved.

The majority of respondents highlighted the existence of legal and tax barriers, which currently hamper the cross-border activities of voluntary organisations. The transfer of a registered branch or headquarters was considered the most important civil law barrier, followed by the recognition of foreign foundations.

The most important tax barriers were the taxation of foreign foundations and of domestic foundations operating abroad, followed by inheritance tax.

A common problem for foundations is cross-border investments are taxed at a higher level than local organisations in most member states.

Most respondents said they considered an EFS to be the best policy option for surmounting these problems. The majority also thought that some initial endowment should be required for bodies set up under such a regime, while most non-profit sector respondents felt supervision could be either at European or national level.

“There has been an inevitable pause in the process with the changeover to the new Commission, but now it is a crucial moment for the development of a European Foundation Statute,” said Hanna Surmatz, legal affairs officer at the European Foundation Centre (EFC).

“Furthermore, we know that this is one among many issues which Mr Barnier will be looking at, so we have to be realistic that the decision will not be taken immediately. We know the majority of the big foundations and funders in the EU are looking more and more to work cross-border, so they will welcome the commitment to developing the EFS,” added Surmatz.

The next step would be to carry out an internal impact assessment, or cost-benefit analysis, of an EFS, and this process could take approximately two months.

A political decision will have to be taken by the European Commission after that, as it would be required to draft the proposed Directive.

The EFC is having ongoing discussions about the progress of the statute with the national non-profit associations of EU member states.

“An EFS could minimise tax liabilities and maximise tax reliefs if, for example, a charity or foundation were to establish a European research institute in collaboration with charities or foundations from other member states,” said Eleanor Boddington, senior solicitor at Wellcome Trust.

“Furthermore, there may be benefits from an investment perspective, depending upon whether an EFS was constituted in such a way that member states’ governments all agreed to give advantageous tax reliefs on the investment activities of foundations from any member state within Europe.”

The EFC is organising its first-ever [Foundation Week](#) in Brussels from 31 May to 4 June 2010. The week is designed to connect foundations with the public, policymakers and other interested parties.

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