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Internal Market and Services DG

FREE MOVEMENT OF CAPITAL, COMPANY LAW AND CORPORATE GOVERNANCE
Company law, corporate governance and financial crime

**SYNTHESIS OF THE COMMENTS ON THE CONSULTATION DOCUMENT
OF THE INTERNAL MARKET AND SERVICES DIRECTORATE-GENERAL**

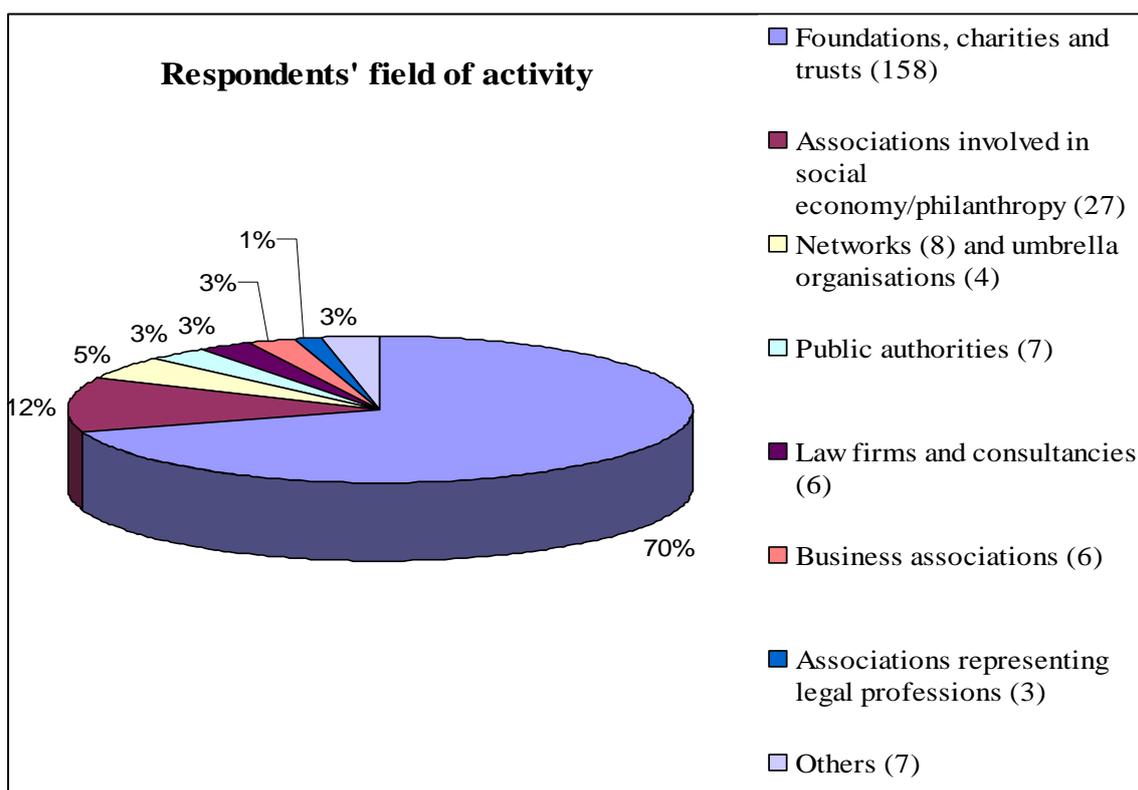
ON

A POSSIBLE STATUTE FOR A EUROPEAN FOUNDATION

NOVEMBER 2009

In order to assess the need for a statute for a European Foundation, the Services of DG Internal Market and Services launched a public consultation in February 2009 on two questionnaires developed for this purpose. One questionnaire was targeted to anyone with a view on the need for a European Foundation Statute, including the non-profit sector, business associations and public authorities, and the other was targeted specifically to founders of and donors to foundations. The questionnaires were largely linked to a feasibility study on the European Foundation Statute¹ published at the same time as the launch of the consultation, and the page numbers in the questions refer to the feasibility study. The results of the questionnaire targeted to founders of and donors to the foundations are presented separately and can be found at the [DG Internal Market and Services webpage²](#). However, the number of the respondents to this second questionnaire was so low that no firm conclusion can be drawn there from.

The objective of the consultation was to get feedback on the feasibility study itself and on the need for a European Foundation Statute, and to get more in-depth information on the operational problems that foundations face when operating cross-border. The consultation forms part of an assessment on the need for and impact of possible EU action in this field.

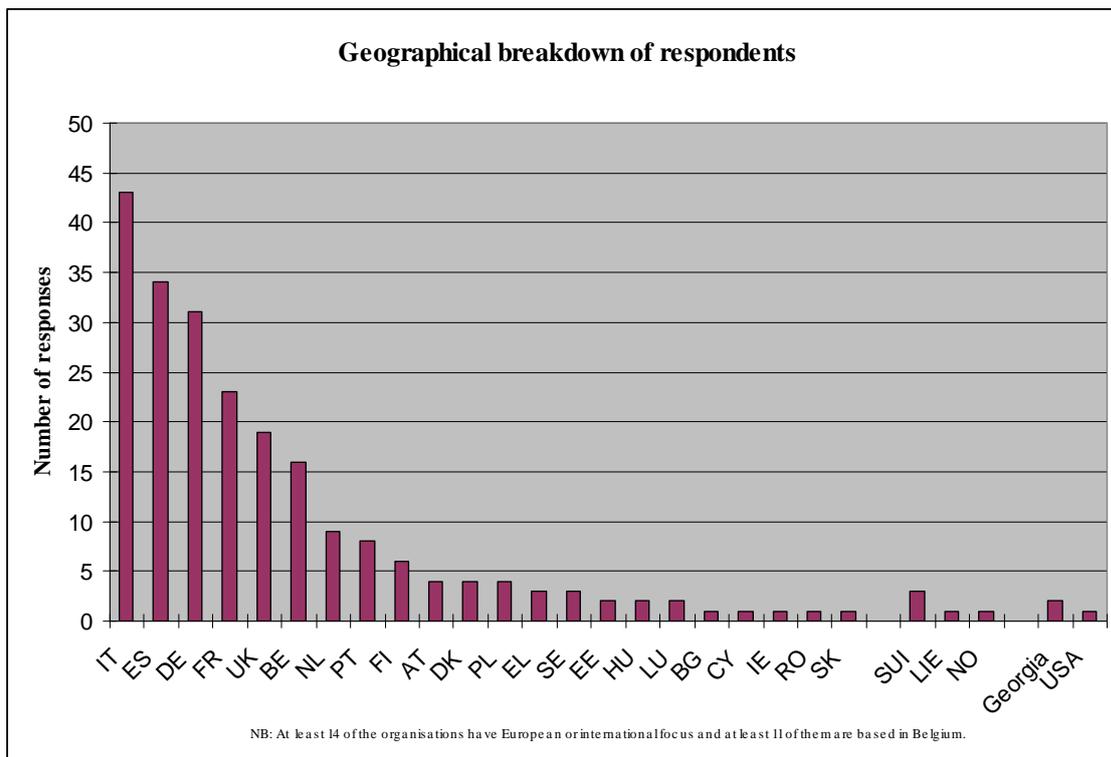


¹ http://ec.europa.eu/internal_market/company/docs/eufoundation/feasibilitystudy_en.pdf

² http://ec.europa.eu/internal_market/consultations/2009/foundation_en.htm

226 responses were received from 27 countries. By far the biggest number of responses came from foundations, charities and trusts (a group including also the responses from public benefit companies and public law corporations that can be assimilated to foundations). Most respondents of this group are public benefit purpose organisations, their main fields of activities being culture, education, social development, science and research. Around one third of them have cross-border activities.

A number of responses also came from associations involved in social economy or philanthropy and from networks and umbrella organisations of the foundation group. Including these entities, around 87% of the responses came from the non-profit sector. A large part of these contributions were standard answers and thus identical or quasi identical.



DG MARKT would like to thank the respondents for their contributions.

This report summarises the results of the consultation. The report does not provide detailed statistical data but rather seeks to provide a qualitative presentation of the contributions received. It does not give any indication of potential initiatives, if any, which the Commission may undertake in the future in this area.

EXECUTIVE SUMMARY

The consultation generated a large number of responses especially from the non-profit sector. There was a strong support for a European Foundation from the non-profit sector whereas the few respondent public authorities as well as most of the few respondent business associations were sceptical or negative towards the idea of such a statute.

Barriers and difficulties to the cross-border activities of foundations in Europe

The civil and tax law barriers identified in the feasibility study were perceived to be real by most of the respondents. However, there were some sceptical views as to the magnitude and relevance of these problems, especially from some public authorities and business associations, particularly as regards the civil law barriers. Also the evidence base and cost calculations in the feasibility study in support of the barriers were questioned in several replies from these two groups of respondents. The transfer of registered or real seat was ranked as the most important civil law barrier followed by recognition of foundations. Respectively, taxation of foreign foundations and taxation of domestic foundations operating abroad were ranked as the most important tax law barriers followed by inheritance taxation. Only a few examples of the concrete problems the foundations face in the internal market were received. Most respondents considered the civil and tax law barriers being equally important. A majority of those who did not consider them equally important considered tax law barriers to be more important.

What solutions would be most appropriate?

Most of the respondents considered the European Foundation Statute as the preferable policy option. However, there was a clear division of views between the different types of respondents. The non-profit sector respondents supported the idea of a Statute whereas the respondent public authorities and business associations were more sceptical or negative towards it. Views were split on whether a Statute without any tax elements would be attractive. However, all respondents seemed to agree that if tax elements were included equal treatment between national and European Foundations should be guaranteed.

Content of the possible European Foundation Statute

A majority of the respondents were of the view that a Statute should be as comprehensive as possible and refer back to the national laws in as few cases as possible. As to the main characteristics of a European Foundation, some reservations were raised especially on the issue of no membership but also on the issues of a public benefit purpose and state supervision. Most of the respondents thought that some initial endowment should be required and that any economic activity should be allowed provided that such activities remain ancillary and/or that the resulting income benefits the charitable purpose. On the supervision the dominant view from the respondents from the non-profit sector was that it would best be arranged at a European level or alternatively be delegated to the national level. The respondent public authorities preferred national supervision.

Transformation of existing foundations into a European Foundation

Concerning the conditions under which existing foundations could be transformed into a European Foundation the most common answer, mainly coming from the non-profit sector, referred to the existing national procedures on merging foundations or transforming foundations into other types of public benefit entities or amending statutes. At the same time there were views from public authorities that a European Foundation should be a legal form for new foundations only or that any transformation would have to be in accordance with the will of the founder, the statutes of the foundation and national law. Generally respondent foundations were interested in transforming into European Foundation provided that it would bring added value. They believed that the possibility of transformation would be decisive for the expansion of activities cross-border.

Question 1: Barriers to the cross-border activities/establishment of foundations

Q 1.1 The study identifies four categories of civil law barriers/difficulties for the cross-border activities of foundations in Europe (pp. 105-111):

- 1) Recognition of foreign foundations (pp. 105-107),
- 2) Recognition of trusts (p. 107),
- 3) Cross-border transfer of the Real Seat (pp. 107-110),
- 4) Cross-border transfer of the Registered Seat (pp. 110-111).

Do you agree with these findings?

Q 1.2 Do you see any further civil law barriers/difficulties? Please specify.

All who responded to this question agreed with the finding that recognition of foreign foundations and recognition of trusts form a barrier/difficulty to the cross-border activities of foundations in Europe, and close to all respondents thought the same way about the cross-border transfer of both real and registered seat. All these barriers were perceived to be real by these respondents. However, there were some sceptical views as to the magnitude and relevance of the barriers identified in the feasibility study expressed particularly by some public authorities and business associations. The problem of recognition of foreign foundations was said to be limited only to some Member States and the particularity of trusts as a legal form was claimed to be the real problem for trusts and not their recognition. Furthermore the assumptions on which the calculations in the feasibility study were based and the sufficiency of evidence and information on the barriers therein were questioned.

The most common answer to the question of further civil law barriers/difficulties (almost exclusively answered by non-profit sector respondents) referred to the administrative and financial burden of establishing branches and the legal uncertainty about the recognition of a foundation as a public benefit organisation in the other Member State.

Some answers elaborated wider on the reasons for barriers concluding for example that the obstacles mainly arise from the fact that there is no legal harmonisation of the notion of foundation, and that the term covers very different entities from one state to another.

Q 1.3 Please rank the civil law barriers in order, starting with the one you find the most important.

The responses to this question were received almost exclusively from the non-profit sector. The transfer of real or registered seat was seen as the most important civil law barrier by most of the respondents (although only four respondents reported problems with the transfer of seat under question 1.5). The second most important barrier was the recognition of foundations. The third most important barrier mentioned by the respondents was not included in the questionnaire but was "Legal insecurity over national recognition of general interest nature or public benefit status of resident foundations' cross-border work". This third barrier could appear to be either more a tax law barrier or a part of the general recognition problem. Hardly any of the respondents gave a ranking to the problem of recognition of trusts.

Q 1.4 If you are answering for a foundation, please give concrete examples of the civil law barriers and/or difficulties you have encountered. How do you deal with these barriers/difficulties? Have they influenced your plans to conduct cross-border activities?

Only very few concrete examples were received, most answers referring very generally to the problems of setting up of several organisations in various Member States. Several of these respondents had, however, indicated earlier in the questionnaire that they have not tried to set up an organisation in other Member States.

Some of the more concrete examples reported were 1) that in Portugal there is no legal definition of an office of a foreign foundation or an administrative procedure for setting up a branch. A possible alternative according to the civil code is the creation of a new foundation; 2) that in Spain where a special recognition procedure is in place, recognition is not possible when the foundation's sole activity is fundraising and the state supervisory authority must determine whether the foreign foundation's purposes are in accordance with general interest; 3) that in Italy missions accepted for a foundation are different from the ones accepted in Germany; 4) that legal insecurity over foundations' status and the additional requirements regarding reports on expenditure of funds makes foundations too often refrain from directly funding across borders and use a national partner organisation instead; 5) problems in opening of bank accounts in other Member States.

There were also respondents who had not experienced any kind of problems despite being active cross-border. Very few respondents explained how they have dealt with the barriers, but often they would seem to have established partnerships with related institutions in other countries. Almost no respondent commented on whether the problems encountered had influenced their plans to conduct cross-border activities.

Q 1.5 If you are answering for a foundation and have tried to transfer your real or registered seat cross-border, have you experienced any problems? Please specify your reasons for wanting to transfer the seat and the problems experienced, if any

Four respondents answered positively to this question and ten answered negatively. No-one specified their reasons for wanting to transfer the seat or gave any concrete information on the problems encountered.

Q 1.6 The study identifies eight categories of tax law barriers/difficulties for the cross-border activities of foundations in Europe (pp. 111-122):

- 1) Income taxation of foreign foundations (pp. 112-114),
- 2) Income taxation of domestic foundations operating abroad (pp. 114-115),
- 3) Income taxation of domestic donors of foreign foundations (p. 116),
- 4) Income taxation of foreign donors of domestic foundations (p. 117),
- 5) Income taxation of foreign donors of foreign foundations (pp. 117-118),
- 6) Income taxation of affiliated beneficiaries (p. 118),
- 7) Inheritance taxation (pp. 118-120),
- 8) Further taxes (pp. 120-121).

Do you agree with these findings? If not, please explain why.

Q 1.7 Do you see any further tax law barriers/difficulties? Please specify.

Apart from very few respondents all agreed that the issues presented under the numbers 1-7 are barriers, but around half of the respondents mentioned that 5 and 6 appear to be theoretical in nature. One respondent who didn't agree with the findings in 1-7 mentioned that the European Court of Justice rulings on *Stauffer*³ and *Persche*⁴ could solve the barriers concerning the income taxation of foreign foundations and income taxation of domestic donors of foreign foundations, and that the rest of the problems do not specifically apply to internationally active foundations.

On the issue of further tax law barriers/difficulties around half of the respondents saw additional problems. The Italian foundations in particular considered that the level of national taxation also affects foundations' cross-border activities and freedom of establishment, as the Member States' different tax systems create discrimination and constitute an obstacle to the free circulation of capital and the carrying out of cross-border activity. Some others argued that different understandings of the beneficial purpose of certain activities lead to fiscal uncertainty. A few mentioned specifically VAT as a problem.

³ Case C-386/04 Centro di Musicologia Walter Stauffer v. Finanzamt München für Körperschaften

⁴ Case C-318/07 Hein Persche v. Finanzamt Lüdenscheid

Q 1.8 Please rank the tax law barriers in order, starting with the one you find the most important.

Most of the responses to this question were ambiguous. Depending on the interpretation of the responses, either the income taxation of foreign foundations or income taxation of domestic foundations operating abroad was seen as the biggest tax law obstacle followed by inheritance taxation. After that came the tax treatment of domestic donors of foreign foundations and foreign donors of domestic foundations.

Q 1.9 If you are answering for a foundation, please give concrete examples of the tax law barriers and/or difficulties you have encountered. How do you deal with these barriers/difficulties? Have they influenced your plans to conduct cross-border activities?

Most respondents to this question referred to the fact that they have cross-border investments and are therefore taxed at a higher level than local organisations in most Member States, to the difficulty of attracting foreign donors because of the lack of tax deductibility of cross-border donations and to the less favourable gift and inheritance tax treatment. This kind of answer was given also by foundations that according to their replies earlier in the questionnaire have no cross-border activities. In some responses, however, it was pointed out that even if a foundation does not have cross-border activities, it could benefit from the elimination of tax obstacles related to donations by being able to raise more funds from abroad. Very few respondents reported how they deal with the barriers.

Q 1.10 Do you consider the civil law barriers or the tax law barriers more important?

Most of the respondents considered civil law and tax law barriers as equally important although almost half of these respondents thought that the definition of a European Foundation could not leave out elements of fiscal nature. Ten percent was of the view that the tax law barriers are more important and two percent thought so of the civil law barriers.

Q 1.11 Why do foundations set up additional organisations/structures in other Member States in your view?

Q 1.12 The study seems to identify tax barriers as the main reason for foundations setting up additional organisations/structures in other Member States (p. 122).

Do you agree with this finding? If not, what do you think is the main reason for foundations setting up additional structures/organisations in other Member States?

The predominant view was that additional organisations are set up in other Member States for policy, managerial as well as legal and fiscal reasons and because foreign foundations are either not legally recognized or they lack the trust in other Member States. Several responses pointed to tax reasons either from the point of view of

foundation's or donor's taxation. Also the closeness to the stakeholders and public in the host Member State and the necessity to have local teams and local operational infrastructures were given as a reason.

Around 60 percent disagreed and 40 percent agreed with the finding that tax barriers are the main reason for setting up additional organisations/structures in other Member States. Almost all those disagreeing said that tax barriers are one motivation among others.

Question 2: What solutions would be most appropriate?

Q 2.1 The study assesses five different options to deal with the barriers/difficulties identified. The options assessed are (p. 178-194):

- 1) Status quo combined with soft law instruments
- 2) Harmonization
- 3) Bilateral or multilateral treaties
- 4) A European Foundation Statute without tax elements, and
- 5) A European Foundation Statute with tax elements

What other options for solving the problems do you see if any?

Q 2.2 The study suggests that of the above options, the European Foundation Statute seems to be the preferable policy option (p. 1). Do you agree? Why/why not?

Q 2.3 If you do not agree, what do you consider as the preferable policy option? Why?

Two additional proposals to deal with the identified barriers/difficulties were received, both relating to taxation. One was an initiative to harmonize tax laws in order to equal the tax treatment of non-profit organisations. The other one was an international convention on taxation for philanthropy.

Most of the respondents viewed the European Foundation Statute as the preferable policy option. Around five percent disagreed with this finding and another five percent was sceptical. There was, however, a clear difference in views between the different types of respondents. Those agreeing included more or less all respondents from the non-profit sector, whereas those disagreeing or being sceptical included all the public authorities and most of the business associations.

Those arguing in favour of a European Foundation concentrated mostly on the disadvantages of the other policy options rather than on the advantages of a European Foundation. They stated that maintaining the status quo would leave foundations and their founders with the existing barriers, that harmonisation of foundation laws is neither desirable nor feasible as harmonisation could at best result in a minimum common denominator that would not solve current problems, and that the treaty option is unrealistic as experience shows that not all countries choose to sign such treaties. Those concentrating on the potential merits of a European Foundation argued that it would facilitate cross-border and trans-national activities of public benefit foundations and establish a level playing field for foundations, that it would provide foundations with an

instrument to group and develop foundations' organisation and activities, that it would serve to clarify the concept of a foundation and provide a common definition of a public benefit purpose foundation, and that it would provide a benchmark on accountability, transparency and good governance in managing funds for public benefit purposes. Also the potential of dealing more efficiently with European wide issues such as the environment, research, migration, social inclusion and intercultural dialogue in cooperation with foundations in neighbouring countries was mentioned. Further, it was considered that it would be easier for donors to channel private assets for public benefit purposes across Europe. Finally, a European Foundation Statute was seen as a potential role model for domestic foundations in terms of governance, transparency and accountability.

Those being more sceptical or negative towards the idea of a European Foundation Statute referred to the differences in Member States' foundation laws and traditions and the difficulties flowing there from, to the difficulties experienced with the previous European legal forms and to the risk that a Statute could lead to circumvention or dilution of national rules on foundations not least because of the interrelatedness between the recognition of public benefit status and tax exemption. Furthermore, they could not find enough convincing arguments in the feasibility study for this policy option. One line of argument focused on what was believed to be unconvincing evidence of the current problems and their magnitude, saying that the admission in the study that there has been little obvious public reaction to the challenges of cross-border activities even though the foundations are already very active internationally would suggest that the challenges are only of relevance to a minority of entities; that the study finds that in the vast majority of Member States there are no or only minor barriers to the civil-law recognition of foreign foundations and that foundations can already today conduct cross-border activities, e.g. through setting up companies in other Member States. Another line of argument focused on the lack of any substantial problem-solving potential of a European Foundation Statute, saying that a European Foundation, just like all members of the public and businesses who want to operate internationally would have to adjust to the different legal systems; that even a European Foundation could have its seat in only one Member State and then would have to set up branches for its activities in the other Member States if it could not organise them effectively from its seat; and that the lack of knowledge of foreign law together with psychological and language barriers are more relevant obstacles but unrelated to the legal form.

Q 2.4 Would you consider a European Foundation Statute which does not include tax elements (for instance a tax-exempt status in all EU Member States, p.191) as a useful/attractive instrument? Why/why not?

Almost two thirds of the respondents were of the view that a European Foundation Statute without any tax elements would be a useful/attractive instrument. The most common supporting argument for this view was that a European Foundation Statute would facilitate cross-border work of foundations free from red tape irrespective of whether it includes any tax elements. Another approach was that taxation should be decided at national level, the natural consequence being that only an instrument without any tax elements would be attractive.

Those who were of the view that a Statute without tax elements would not be attractive argued that such an instrument would have little practical relevance and be only a partial

solution. As there are two problems they should be solved at the same time. Tax matters would be a key driver for the introduction of a new legal vehicle and not to include tax elements would seem further to limit its demand and potential take-up.

All respondents seemed to agree that if tax elements were included an equal treatment of national and European Foundations should be ensured.

Q 2.5 Do you believe that an accreditation system (pp. 179-180) could be a proportionate solution to the problems for cross-border activities that foundations face today? Why/why not?

Most of the respondents didn't believe that an accreditation system could be a proportionate solution to the problems on the grounds that it would not reduce costs or bring legal certainty.

Those believing in the benefits of an accreditation system argued that it would be easy and quick to implement or that it could be a first step towards a Statute should that not yet be politically feasible.

Q 2.6 What added value do you think a "European label" (obtained for instance through a European legal form like the European Foundation) would bring for the foundations?

Q 2.7 In your view, the benefits attached to a "European label" for foundations:

- can only be achieved through a specific European legal form (European Foundation Statute)
- can be achieved through an accreditation system
- can already be achieved through national foundations (e.g. through their names, statutes, marketing)
- can be achieved through other means, which ones?

The first of these questions was misunderstood by many respondents who focused on the benefits of a European Foundation Statute instead of focusing on the benefits of a European label as such, regardless of how it would be obtained. The views on the added value were therefore largely the same as those reported under questions 2.1-2.3. Correspondingly, most of the respondents thought that the benefits attached to a "European label" for foundations could only be achieved through a specific European legal form.

Critical comments stated that the added value of a European label is questionable or that other non-profit organisations than foundations could be devaluated if the label was exclusive for European Foundations.

Question 3: Content and form of a possible statute for a European Foundation

Q 3.1 According to the study the European Foundation should have the following five main characteristics (p.194):

- 1) Legal personality
- 2) Promotion of a public benefit purpose
- 3) No membership
- 4) State supervision, and
- 5) Establishment by registration

Do you agree that a European Foundation should have these five characteristics? If not, please explain why.

All the respondents agreed that a European Foundation should have legal personality and be established by registration. However, some respondents pointed out that by giving their views on the content of the potential Statute they did not support it in general.

The picture is more diversified on the rest of the characteristics. Concerning the promotion of public benefit purpose, a reservation was raised in relation to the tax exemptions normally connected with being recognised as a public benefit foundation, as trying to define what public benefit is would risk having a direct or indirect tax relevance in the Member States. Another reservation raised was the exclusion of foundations with private or mixed purposes. It was for example mentioned that in Member States where foundations are allowed to have any lawful purpose it is often the case that the foundations have mixed purposes, which means that such foundations would not be able to opt for the European Foundation even though they (also) pursue public benefit purposes. On the issue of membership the Italian foundations in particular were of the view that the no membership requirement should be complemented by "with entitlement to economic rights over the endowment or income". Otherwise foundations that do have members, which is quite common under the Italian legal system, would be excluded from opting for the European Foundation. Finally, on the state supervision there were views that supervision should not necessarily be conducted by the State or that any kind of supervision would disturb the autonomy of the foundation.

Q 3.2 How detailed should the European Foundation Statute be? Should it be as comprehensive as possible (as is the case for the Commission proposal for a European Private Company Statute) or should it only contain basic rules and refer to national laws on other issues (as is the case for the European Company Statute) (pp. 195-196)?

Almost three quarters of the respondents were of the view that a European Foundation should be as comprehensive as possible. Most of these respondents thought that the Statute should only refer to national law in as few legal fields as possible, e.g. labour and insolvency laws. Others said that the advantage of a European Foundation is lost if the Statute would not be detailed.

Those in favour of a more basic model argued that the Statute should contain general principles in the matter of governance, transparency and accountability, leaving to statutory autonomy the detailing of the principles and discipline of activities. Another argument was that minimal details would help the Statute to be largely acceptable.

Q 3.3 Should an initial endowment be required (p. 199)? If yes, how large an endowment should be required?

Most of the respondents thought that some initial endowment should be required. A quarter of the respondents mentioned a specific amount, varying between 5000€ and 300 000€. There were views that such a minimum capital should, however, not prevent smaller operations from getting started. There were also views that the initial endowment should be required to be sufficient to enable the foundation to fulfil its purpose on a permanent basis.

Q 3.4 What should be the rule on economic activities by the European Foundation itself (p. 204)?

Most of the respondents agreed that any economic activity should be allowed provided that such activities remain ancillary and/or that the resulting income benefits the charitable purpose.

Q 3.5 How should the supervision of a European Foundation be arranged (pp. 200-203)?

The dominant view was that the supervision would best be arranged by an authority at a European level. The majority having this view said, however, that alternatively the oversight could be delegated to the national level.

A minority of around thirteen percent preferred national supervision, including all the five public authorities who responded to this question. A few respondents preferred private supervision.

Q 3.6 On what conditions should an existing foundation be able to transform itself into a European Foundation (p 184)?

Most commonly the respondents referred to the existing national procedures on merging foundations or transforming foundations into other types of public benefit entities or amending statutes. It was pointed out by several respondents that even though the transformation should be a matter for national law, the Member States would have to take steps to allow and facilitate conversion and mergers of existing public benefit foundations into European Foundations.

Some more detailed answers stated that the transformation should be possible under the conditions that the decision is the expression of the autonomous free will of the foundation's governing bodies and the foundation observes the principles established in the European Statute.

Among the responses of public authorities there were views that a European Foundation should be a legal form for new foundations only. If transformation was to be made possible, it should only be possible if it was in accordance with the will of the founder, the statutes of the foundation and the domestic foundation law.

Q 3.7 If you think that the European Foundation should have other characteristics, please specify which ones.

Answers included arguments in favour of a European dimension, clear basic governance requirements, full statutory and operational autonomy, own organisational independence within the framework of the principles of governance laid down by EU regulations, provisions that settle the issue of relocating a European Foundation head office to another state without winding up in the home state and losing its legal personality, and independence in relation to the founder, contributors and beneficiaries.

Question 4: Potential transformation of existing foundations into a European Foundation

If a European Foundation Statute was introduced, the possibility of transforming existing foundations into a European Foundation would seem to depend on several factors e.g. the statutes of the foundation ("will of the founder"), the agreement of the board of the foundation, the approval of the supervisory authority, the scope of cross-border activities and existing barriers, as well as on the content of a possible European Foundation Statute (p.184).

Q 4.1 If you are answering for a foundation, would you consider transforming your foundation into a European Foundation if possible?

Q 4.2 On what criteria would the decision of the board depend?

Q 4.3 What do you think the benefits and drawbacks of a transformation in the case of your foundation would be?

Q 4.4 Would the possibility to transform itself into a European Foundation be decisive in order for your foundation to expand its activities to other Member States? Why/why not?

Q 4.5 In case your foundation already operates cross-border, would this possibility lead to a substantial increase of cross-border activities?

Most of the respondents replied "yes" or "maybe" to the questions on whether they would consider transforming their foundations into a European Foundation if possible. Added value of the new legal form and the possibility to do such a transformation in legal terms were given as the most common criteria which the decision of the board would depend upon. Other answers included criteria such as the exact nature of the European Foundation and the development planned for the foundation's activities, the need to ensure that the administrative and tax costs would not act as a disincentive to the transformation, growth, public perception of a European Foundation within the Member States and abroad and compatibility with the donor's intention.

The replies to the question on the benefits of a transformation referred mostly to the potential benefits of a European Foundation Statute in general and were very similar to the replies received to question 2.2. The administrative effort to undergo a transformation was mentioned most often as the drawback.

Most respondents thought that the possibility to transform into a European Foundation would be decisive in order for their foundations to expand their activities to other Member States. Such a transformation was said to go hand in hand with a strategic decision to expand activities and to make such an expansion much easier. For foundations already operating abroad, the number of respondents who thought that the possibility of transforming into a European Foundation would lead to a substantial increase of cross-border activities was lower, but still represented the view of a majority of respondents.

Question 5: Any other comments

A theme emerging from some of the responses was that consideration should be given to public benefit legal entities other than foundations as well. As a linked issue, mutual societies and associations were said to need their respective Statutes to benefit from a level playing field.