

(English version)

**Question for written answer E-002550/25
to the Commission
Arash Saeidi (The Left)
(25 June 2025)**

Subject: Misuse of foundations for tax and asset-optimisation purposes

Despite the warnings made in a 2008 Commission-ordered study on the feasibility of a European Foundation Statute (ETD/2007/IM/F2/80), no harmonised framework has been put in place to prevent certain foundations being misused for tax purposes.

In several Member States, foundations can be used as a tax-exempt way to transfer assets, without there being any real scrutiny of how they serve the public interest. For example, the Netherlands had over 60 000 foundations in 2016, many of which had no clearly identifiable philanthropic mission, compared to only 660 public-benefit foundations in France in 2021. Some jurisdictions allow foundations to be set up without precise requirements for their non-profit purpose, transparency or governance, which makes tax avoidance easier.

1. Does the Commission have any data on, or analyses of, the use of foundations in some Member States to circumvent inheritance tax or to hold family assets without effective public scrutiny?
2. Does the Commission have any plans to fund an EU-wide comparative study on tax-exemption criteria and mechanisms for supervising foundations in Member States, particularly in order to assess the degree to which they are being misused?
3. Does the Commission consider that, without a binding EU definition of ‘public-benefit purpose’, a potential European Foundation Statute could become an instrument of harmful tax competition or a means of circumventing national laws on wealth taxation?

Submitted: 25.6.2025

**Answer given by Mr Hoekstra on behalf of the European Commission
(26 August 2025)**

The Commission has repeatedly analysed foundations as part of the social economy ⁽¹⁾. The Commission Staff Working Document ‘Relevant taxation frameworks for Social Economy Entities’ ⁽²⁾ provides a comparative overview of key features ⁽³⁾, notes that the respective tax framework is rather complex and fragmented in most Member States ⁽⁴⁾ and includes a section on inheritance tax as well as country fiches ⁽⁵⁾.

In addition, the Commission published a Staff Working Document on ‘Non-discriminatory taxation of charitable organisations and their donors: principles drawn from EU case-law’ ⁽⁶⁾.

The notion of public benefit is explicitly mentioned in the tax law of all Member States ⁽⁷⁾ and Member States enjoy broad freedom to determine the tax treatment applicable to public benefit purpose entities and their donors with respect to a number of taxes ⁽⁸⁾.

Regarding circumvention, the Court of Justice of the European Union has highlighted that the fact that a foundation is established in another Member State cannot give rise to a general assumption of criminal activity ⁽⁹⁾.

⁽¹⁾ See COM(2021) 778 final, p. 3, see also Commission Staff Working Document Non-discriminatory taxation of charitable organisations and their donors: principles drawn from EU case-law, <https://data.consilium.europa.eu/doc/document/ST-10651-2023-INIT/en/pdf>, p. 2.

⁽²⁾ See <https://single-market-economy.ec.europa.eu/system/files/2023-09/Relevant%20taxation%20frameworks%20for%20Social%20Economy%20Entities%20-%20Staff%20working%20document.pdf>.

⁽³⁾ See SWD(2023) 211 final, p. 1.

⁽⁴⁾ See, <https://single-market-economy.ec.europa.eu/system/files/2023-09/Relevant%20taxation%20frameworks%20for%20Social%20Economy%20Entities%20-%20Staff%20working%20document.pdf>, 6.

⁽⁵⁾ For Belgium, a recent publication on the Legal Environment For Philanthropy in Europe (<https://philea.eu/wp-content/uploads/2024/11/Belgium-Philea-2024-Legal-Environment-for-Philanthropy-in-Europe.pdf>) notes (p. 3) that under Belgian tax law, ‘The substitute inheritance tax (“taxe compensatoire aux droits de succession/tax tot vergoeding der successierechten”) is applicable to private foundations (as well as to associations). Public-benefit foundations are not subject to this tax.’

⁽⁶⁾ See SWD(2023) 212 final.

⁽⁷⁾ See SWD(2023) 211 final, p. 7.

⁽⁸⁾ See Proposal for a Proposal for a Council Regulation on the Statute for a European Foundation (FE), <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0035:FIN:EN:PDF>, Recital 20.

⁽⁹⁾ See Case C-386/04, *Stauffer*, point 61.

In addition, ⁽¹⁰⁾ Member States exchange tax information to support the administration and enforcement of domestic tax law under the directive on administrative cooperation in the field of taxation ⁽¹¹⁾.

⁽¹⁰⁾ See SWD(2023) 212 final, p. 6.

⁽¹¹⁾ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation, see also European Commission website, https://taxation-customs.ec.europa.eu/taxation/tax-transparency-cooperation/administrative-cooperation-and-mutual-assistance/directive-administrative-cooperation-dac_en#email.