Open letter to EU Presidency and Governments, 9 July 2014

Foundations expect impetus for European Foundation Statute to continue under Italian EU Presidency

We are likely at a turning point in the negotiations on the European Foundation Statute (EFS), given the progress made on this file over the past 6 months during the Greek EU Presidency. Building on the good dynamic and concrete outcome of this active work, we believe that the Italian EU Presidency can now lead the discussion to a fruitful conclusion.

It is important to remember that the very aim of this new optional and complementary European Statute is to help a fast growing number of foundations and funders who wish or need to work across borders on initiatives that improve the wellbeing of Europe’s citizens. The Statute will allow them to carry out this work under the same conditions throughout the EU through the setting up of European Foundations, thus reducing delays, administrative and legal hurdles and related costs, and saving funds which would be better invested in the very mission of the general interest work of the foundations. The EFS proposal is fully in line with current times aiming to design a cost-effective tool which meets the needs of citizens and funders who are more and more mobile in their professional life and at retirement age, and address socio-economic concerns which do not stop at the borders in very varied fields such as research, the environment, migration, heritage conservation.

In recent years, national governments have successfully revised their “own” laws dealing with the not-for-profit sector, including foundations. These national efforts should be scalable and reflected at the larger EU level, and with the Italian Presidency of the EU beginning on 1 July the foundation sector trusts – and expects - that there will be a continuation of the good work undertaken by their predecessors.

As particular as they can be, these national legal reviews usually share a common goal: to give citizens and their foundations the means to engage and address issues and needs to serve the larger society in a more participatory and effective way. With austerity measures rife around Europe, governments are looking for support from the private and third sectors.

The interests of foundations and the issues they are engaged in seldom end at their national borders. As a result, foundations’ representative organisations, individual donors and other interested parties in Europe have called on the EU institutions and the 28 EU
countries to develop and agree on an optional tool that will facilitate their cross-border work without undue legal and administrative obstacles and related costs. This tool has taken the form of a legislative proposal for a *European Foundation Statute*, proposed by the EU executive in 2012, which would enable the creation of European Foundations under the same conditions in each of the 28 countries, ensuring their legal recognition across the board.

Technically speaking, this implies simplifying the environment in which foundations can be set up and operate without having to forego the 60+ different national and regional legislations covering foundations in the EU. Similarly, it involves obtaining enhanced legal security and trust for founders and donors when working across Europe and beyond.

Financially speaking, it means supporting an ever growing sector which disburses some 100 billion euros annually in a variety of fields ranging from research and innovation, education, training and cultural heritage to nature conversation and many more.

Economically speaking, the sector employs 1 million people, with more than double that number working as volunteers for foundation activities in roles such as advisors and experts or sitting on grants committees and other foundation organs.

*So where are we two years down the road, after the publication of the European Statute proposal?*

EU advisory bodies representing regions and cities, socio-economic and civil society interests endorsed the proposal in 2012, the European Parliament backed the initiative in 2013, and the Member States are (still) discussing a text which requires the approval of all 28 of them.

Are we on track or has something gone awry? To progress, some core questions need clear answers.

- Can the Union still take a decision which requires a unanimity vote of the member states, whatever the issue is?
- Does the perceived slow uptake of prior EU company laws, i.e. the statute for large companies in Europe preclude the adoption of a European statute for foundations pursuing general interest purposes?
- Do austerity measures at the national level become a major stumbling block and prevent the adoption of a new law which is perceived as a mere administrative cost and not a return on investment to society? This would be all the more astonishing in particular in those countries which have a highly developed charity sector, and where large sections of community development and services to citizens are co-run by foundations, not least in the fields of health care, childcare, education and housing.
- Does it really matter that a European Foundation has a starting capital of 25,000 or 50,000 euros when its very aim is to benefit the public at large, and for some to go where no other actor will go because the “market” is too small, scattered or specific, or simply not profitable?
- How can it be that while there is unanimous agreement that transparency should be increased via compulsory information storage for all types of entities, registration for future European Foundations is an issue in certain countries?

The review of the EFS proposal by governments began in 2012, and since then successive EU presidencies have made good progress on many aspects of the text, notably following the unanimous decision by EU Member states representatives to remove tax provisions from the proposal. These had proved to be a major stumbling block.

The European Foundation Centre and its partners, the national associations of donors and foundations (DAFNE) across Europe have been long-term supporters of a European Foundation Statute. Championing it as an optional complementary tool to existing domestic laws on foundations, both organisations are again urging Member States to adopt the proposal in due course.

A solution is every bit as possible as it is necessary. It takes the shape of a simple tool that is not only about better regulation but first and foremost about being responsive to citizens’ and society’s needs.

EUROPEAN FOUNDATION CENTRE (EFC) AISBL -

The EFC, founded in 1989, is an association of over 200 public-benefit foundations and corporate funders active in philanthropy in Europe and beyond. Our goal is to strengthen independent funding in European philanthropy using four key approaches. We foster a legal and fiscal environment where foundations can thrive. We analyse and recount what foundations are doing. We reinforce the philanthropic sector by setting standards and building capacity. And we promote collaboration among foundations and with other stakeholders, to advance the public good. All members back the EFC Principles of Good Practice, which reinforce good practice and transparency.

For further information contact EFC at eu@efc.be

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DAFNE is a network bringing together 24 donors and foundations networks from across Europe. Each of these individually serves public benefit foundations and other grantmakers at national level. With a collective membership of over 7,000 foundations, DAFNE underpins the individual activities of its members by strengthening collaboration between the national associations and providing a platform for exchange of knowledge.

For further information contact DAFNE at dafne@dafne-online.eu

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