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1. Introduction

One of the major goals of the Social Impact Vouchers project (SIV) is creation of transnational and national social impact funds designed to financially support voucher issuing programmes targeted to facilitate and improve employment opportunities for various social groups in the participating countries.

During the fund design and implementation phase, it has become clear that considering the specifics of the employment supporting activities and difficulties related to designing the funding system with expected returns on the invested capital, project partners have concluded that the best way of success has donation-based scheme for the fund operations.

Donation based schemes targeting employment activities usually heavily depend on public funding from various public sources on all levels – EU, member state, regional and local. However, SIV project has designed a system that could be also interesting for a significant number of philanthropic donors or impact-first oriented investors from private sector.

Ability to attract private donations is largely dependent on the incentives that donors could receive in case of giving donations.

Therefore, many countries have developed schemes that are financially motivating donors to donate to causes with positive social and environmental impact.

This report will summarize main points in the European and memer state regulation of donation incentives relevant for SIV project.

2. Eligibility of the recipients of the donations

In most European countries, eligibility for the receipts of the donations is related to a so called not-for-profit or non-profit status of the legal entity receiving the donation. The most common form of non-profits is an association but it can have also other forms (depending on the member state’s legislation) – foundation, labour union. Institution, cooperative, church-based organisation and even company.

Associations and other non-profit organisations (NPOs for short, as associations are a specific form of the broader category represented by non-profit organisations) have so far developed in the context of the EU Member States' or other countries' national regulatory frameworks. NPOs form the backbone of civil society, being a highly diverse ensemble of organisations that range from small local associations to large international NGOs like Greenpeace, and from social service providers and relief agencies to philanthropic foundations handling billions of euros. Civil society is an arena where citizens self-organise in order to have their interests heard and to exercise an influence. NPOs embody the capacity of society to self-organise and its potential for peaceful, though often contested, settlement of diverse private and public interests.

Most developed market economies have seen a general increase in the economic importance of NPOs as providers of diverse health, social, educational and cultural services. NPOs support public management

approaches by building, maintaining and rebuilding social cohesion, by strengthening the nexus between the social capital of citizens and economic development, and by being a source of social innovation in addressing diverse public problems. In many ways, NPOs push against their stereotypical portrayal as charities, which dates back to the 19th century, and present a growing and diverse group of private organisations dedicated to a public purpose.

While they play an important domestic role within the EU Member States, NPO face legal and administrative barriers when it comes to operating across borders. As a result, their contribution to the European project is likely below their potential in a wide range of areas such as education, culture, health care, social services, research, development aid, humanitarian assistance and disaster preparedness. They are also below their potential for increasing social cohesion among European societies, especially in cross-border regions.

While private-sector actors can leverage the EU internal market to set up EU-wide companies, non- profit organisations (NPOs) do not have a comparable legal and policy framework. Consequently, associations, non-profit organisations and foundations in the EU are primarily developed in a national context. Their potential to carry out cross-border fundraising and activities is limited due to the inconsistent treatment of cross-border transactions.

EU action in this area has a potential to strengthen civil society and enhance its contributions both within the Member States and across the EU in a wide range of areas such as education, culture, social services, research, development aid and humanitarian assistance.

2.1. Legal forms of NPO’s

The area between the market and the state, variously referred to as civil society or the third, voluntary or non-profit sector in the 23 EU languages and the various national jurisdictions, amounts to a massive terminological tangle at the cross-national level, with a great diversity of definitions. The terminology varies across the EU due to differences in language, tradition, legal and fiscal treatment. For example, in Sweden, a very substantial network of volunteer-based advocacy, recreational and hobby organisations exists alongside a highly developed system of public-sector service provision. In most other 'older' Member States, there are various systems of state-sponsored welfare provision that include a substantial role for NPOs, many of them religiously or otherwise ideologically affiliated. In the Netherlands, there is the system of pillarisation, in Germany – that of subsidiarity, and in France – networks like Sécours Catholique and Sécours Populaire that offer welfare services of many kinds and enjoy significant support through public funding. Versions of such public-private partnerships are found in southern Europe, though are somewhat less developed. In central and eastern European EU countries, both government spending on social welfare and non-profit activity remain limited. Nonetheless, both have increased since those countries joined the EU, but are not at the level witnessed in other Member States.

Irrespective of national differences, there are three main types of NPOs in the EU depending on their governance structure, and they are the focus of the present assessment. Table 1 presents an overview of these main types of NPOs.

Type of non-profit organisation	General focus	Governance structure
Association	Common interests, civic engagement and self-organisation. This makes an association a constituent of civil society	Private members elect a board that represents their interests. The board, in turn, is accountable to the members

Type of non-profit organisation	General focus	Governance structure
Corporation	Service delivery and close to the provision of services in areas such as health care, social services and education	A corporation that allows for the pursuit of a public or charitable objective, while limiting the liability of those involved. The board is only liable to the extent of the corporation's assets. Some have members while others apportion voting rights
Foundation	Philanthropy and private contributions to the public good	Typically structured in relation to an ownerless asset that can be financial or in the form of property that has monetary value. The assets are typically overseen by an entity with a governance structure, for example, a board of trustees

Data on the NPOs in the Member States are rather patchy, frequently misleading and often outdated. Most importantly, NPOs are not fully covered by the European System of Accounts (ESA) on a regular basis, and there are few efforts to measure the comparative scale and scope of non- profit activities.

The Union of International Associations defines NPOs that are setup in more than one Member State with objectives and activities framed in a European or wider context as international NPOs (or INPOs). An example of an INPO is Greenpeace, comprised of 27 independent national or regional organisations in over 55 countries and coordinated by Greenpeace International, which has its legal base in the Netherlands. Many think-tanks and advocacy organisations closely associated with EU institutions are established according to Belgian and not EU law.

According to the European System of National Accounts, operations of NPOs in another Member State are counted as 'domestic' actors if they have an ongoing and formally registered presence there. For example, the various Caritas operations across Europe would not be part of Caritas Germany or Caritas International but would be included in the domestic non-profit sector in the respective Member States where they are present. Many NPOs have de facto become major European actors, but are not recorded as such officially.

In total,there were an estimated 4996 INPOs established across the EU countries in 2020 (UIA, 2021). An average INPO has members in nine other Member States. As shown in Figure 4, the dominant areas of activity for INPOs include commerce (1.711), health (1.673) and infrastructure (1.066). The number of INPOs has increased about 30 % since 2010, with an increase by about 100 each year. The level of cross-border financial flows related to INPOs has increased substantially over the past decade, but remains lower than at the national level. Belgium hosts the largest number of INPOs followed by Germany, France, the Netherlands and Italy (see Figure 5). The prominent figures for Belgium are clearly a result of the 'EU effect' and the agglomeration of INPOs in Brussels. Many INPOs close to the EU institutions, such as think-tanks, advocacy and interest entities, are established according to Belgian and not EU law. They are not European actors of the societas Europaea kind.

2.2. Cross-border issues

Despite fairly widespread use of incentives for domestic philanthropy, the landscape for a more global approach to philanthropy remains fairly guarded. The issues that arise relate to:

- incentives for individuals and corporations for the making of a cross-border donation;
- incentives relating to cross-border bequests; and
- other tax treatment of cross-border donations or bequests e.g. exemptions from gift taxes; inheritance taxes and, where property is disposed of, capital gains tax.

It is important to mention that lack of incentives for cross-border donations is not an European but rather a global issue as we can see it clearly from the following table:

Tax incentives for cross-border donations	
Country	**Country incentivises cross-border donations**
Australia	No
Austria	Yes, if EU/EEA[1] and countries where administrative cooperation exists
Belgium	Yes, if EU/EEA
Bulgaria	Yes, if EU/EEA
Canada	No, except under DTA
Croatia	Yes, if EU/EEA
Czech Republic	Yes, if EU/EEA
Estonia	Yes, if EU/EEA
Finland	Yes, if EU/EEA and entity registered
France	Yes, if EU/EEA
Germany	Yes, if EU/EEA and some connection to Germany
Greece	Yes, if EU/EEA
Hungary	Yes, if EU/EEA (only corporate donors)
Ireland	Yes, if EU/EEA and entity registered
Israel	No, except under DTA
Italy	Yes, if EU/EEA
Japan	No
Latvia	Yes, if EU/EEA and DTA
Lithuania	Yes, if EU/EEA
Luxembourg	Yes, if EU/EEA
Malta	Yes, if EU/EEA and entity registered
Netherlands	Yes, if entity registered
New Zealand	No, except for specific cases
Norway	Yes, if EU/EEA
Portugal	No (does not comply with ECJ rulings)

Romania	No (does not comply with ECJ rulings)
Slovak Republic	No (no relief for domestic donations)
Slovenia	Yes, if EU/EEA
Sweden	Yes, if EU/EEA and entity registered
Switzerland	No
United States	No, except under DTA

The EU Treaties provide for the free movement of capital between Member States and freedom of establishment. European Community law therefore requires Member States not to discriminate against a gift to a NGO in another Member State. This does not mean a gift to a foreign NGO will automatically benefit from the same treatment as a domestic NGO, it means that the nationality of a NGO is not sufficient to justify a difference of treatment. The ECJ in Hein Persche v Finanzamt Ludenscheid [2008] Case 318/07 (14 October 2008) (Persche's case), stated that European Community law does not require Member States to automatically acknowledge a foreign charity status when granting tax relief to donations. However, where a taxpayer in one State (in that case Germany) makes a donation to an entity that has philanthropic status in its own State (in that case Portugal), the State of the taxpayer cannot deny the right of equal tax treatment solely because the recipient entity is not resident in its territory. In that case, Mr Persche, a German resident, claimed a deduction from personal income tax for an in-kind donation of bed and bath linen, walking frames, and other equipment. The donation was made in favour of a Portuguese NGO working on a number of social issues including providing care homes for the elderly. The ECJ did not go so far as to require Member States to provide mutual recognition of philanthropic entities, but rather required Member States to accord tax benefits when there was 'comparability', and in this case Germany had not considered whether the Portuguese NGO satisfied such a test. Following this, and other ECJ cases, the burden is on the taxpayer to prove that the entity would be entitled to tax relief in the Member State in question but for its establishment elsewhere; and if the taxpayer can prove this the authority must consider the evidence presented.

Almost all Member States have amended their legislation and/or procedures to recognise donations to comparable or similar entities in other Member States. A number of Member States assess comparability on a case-by-case basis which is often a time-consuming and costly exercise for taxpayers, including the requirement to provide translations of relevant documents. This approach typically requires individual donors to obtain approval, often from a regional authority, in each case; no record is retained, and no precedent is established. This is the case in Belgium, Bulgaria, Czech Republic, Estonia, Germany, Hungary, Latvia, Lithuania and the Slovak Republic, although in Belgium it is possible to obtain a Ruling that the foreign entity is comparable from the central authority. Other Member States require the philanthropic entity to demonstrate comparability and/or be registered in that State as well as in their home jurisdiction. This is the case in Austria, Finland, Ireland, Malta, Netherlands, Norway and Sweden. This approach has the advantage that once registered, other donors can rely on the registered status to support the tax relief. However, due to the difficulties of establishing comparability, very few entities are registered under this approach.

Determining whether a gift to a foreign entity is comparable is problematic because of the diversity of approaches to the question of tax relief for donations in the Member States. Differences between the jurisdictions that might be relevant include whether the gift is money or in-kind (Finland and Portugal only provide tax relief for cash donations) and whether the donor is an individual or corporation (as noted above, Hungary only provides relief for corporations and Sweden only provides relief for individuals). There may

also be differences related to the eligibility of the entity: whether it is a NGO or a fund and the nature of its purposes (Austria, Germany, Finland, Malta and Romania have more limited purposes), how monies are disbursed including on overheads (Austria, Belgium, Estonia, Latvia and Lithuania all restrict the expenditure on 'overheads' in different ways). There are also differences relating to directors' remuneration (most countries prohibit payments to board members, but Sweden does not), whether the entity engages in activities abroad (Germany imposes restrictions) and on timely disbursement of funds (Portugal and Sweden impose specific time limits while others require the monies to be expended in a 'reasonable period').

Some Member States impose additional requirements on foreign entities. For example, Latvia only provides relief in relation to Member States with which it has a Double Tax Agreement. The German tax legislation also requires that the activities of all philanthropic entities 'either have to support individuals which have their permanent residence in Germany, or the activities could benefit Germany's reputation'.

The Netherlands is the most open of the countries responding. The Netherlands makes no distinction between domestic and foreign entities, whether from the EU/EEA or elsewhere. Providing the entity can satisfy the requirements of the tax law, they are entitled to be registered and donors can claim deductions. These entities must be comparable and satisfy other requirements such as integrity requirements, to demonstrate that those involved with the entity are 'fit and proper persons'.

Finally, it should be noted that some Member States (Portugal, Romania and the Slovak Republic) do not comply with the ECJ rulings.

3. Approaches to regulating donations in Europe

Just 10 years ago, the general rule to be found across the Member States was that tax incentives were restricted to domestic NGOs and donors giving to domestic NGOs. Foreign-based NGOs and donors giving across borders were consequently not able to obtain tax privileges.

Explicit justification for the exclusion of foreign-based NGOs is typically not found in the legal texts. Legal scholars have outlined two main arguments.

One conceivable reason for the exclusion of foreign-based NGOs from access to tax-privileged status, is that receipt of such support through the tax system is justified by some kind of domestic connection to the state in question. Some experts have tried to explain the traditional "domestic connection" or "landlock" approach to tax incentives in this way: Tax incentives for NGOs are given because those organisations fulfil tasks that are of interest and benefit to the state and should hence benefit the resident public-benefit community of the given state.

It should be noted however that in no Member State has there ever been a requirement for a domestic connection so strict that it is necessary that the state be directly financially relieved of burdens/obligations by the philanthropic activity in question. No Member State limits the beneficiary circle of tax-privileged public-benefit activities to its own citizens or residents. Rather, all Member States permit that tax-privileged philanthropic activities may benefit foreigners living abroad.

A second possible reason for the traditional exclusion of foreign-based NGOs from access to tax-privileged status is pure practicality: Foreign NGOs are governed by different legal provisions the comparability of which with domestic laws cannot, it is argued, readily be determined. In addition, aforeign NGO is by nature located in another territory, meaning that the national tax authority of the state from which the NGO is seeking tax-privileged status has no direct control over the foreign NGO nor any direct powers of intervention should the foreign NGO flout applicable legislation. While a request for assistance from the foreign authorities would be possibe, it would also be cumbersome.

The traditional regulatory approach as described above has however been overhauled: The European Court of Justice has, in a series of judgements specifically dealing with taxation of NGOs and their donors,

developed a general non-discrimination principle as regards tax law in the area of public-benefit activitiesn and has set the following rules for Members States' national tax laws:

- It is at the discretion of Member States whether or not they wish to provide for tax privileges for NGOs and their donors. Similarly, Member States are in principle free to determine the relevant conditions and requirements. It is theoretically also permissible for the beneficiary circle, namely the recipients of the support of the NGO, to be limited to domestic citizens or to persons living within the domestic territory. Member States are in particular not obliged to automatically grant a status equivalent to that of a domestic NGO to a foreign EU-based NGO recognised as holding tax-privileged public-benefit status in its country of origin
- However, limits to the scope of discretion of the Member States are established by the fundamental freedoms of the Treaty on the Functioning of the EU:
    - It is not permitted that foreign EU-based NGOs and their donors are excluded from eligibility for tax privileges if, seat aside, they fulfil all requirements of the national public-benefit tax law.
    - It is not permitted that a (domestic or foreign EU- based) NGO is required to undertake its philanthropic activities in the Member State which grants the tax privilege, unless there are compelling objective reasons for this. Such reasons do not, for example, exist in the case of the promotion of science as a public-benefit purpose; Member States must not restrict tax benefits for donors of gifts made to domestic universities or laboratories.
- It is necessary in cross-border cases that Member States carry out a comparability test to determine whether or not a foreign EU-based NGO meets the requirements of national tax law. Such tests are to be carried out by the national authorities and courts of the Member State concerned
- Within the framework of the comparability test the competent national authorities may require the foreign NGO, and/or as relevant its donors, to provide any documentation they deem useful for the carrying out of the comparability test.

The above described rules of the European Court of Justice are drawn from certain judgements through which the non- discrimination principle has become established, making clear that philanthropic activities are protected by the fundamental freedoms enshrined in the Treaty on the Functioning of the EU. The restriction of these freedoms is therefore only justifiable and proportionate if the foreign NGO is not comparable to a domestic one; a blanket discrimination is not permissible.

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4. Overview of incentives in relevant Member State countries

Naturally, the question of granting incentives in relation to certain types of taxes is only relevant where those taxes exist. Therefore, this comparative legal analysis begins by looking at the situation in the Member States whose fiscal frameworks give rise to taxation which tax advantages might relieve. This study does not however intend to provide an exhaustive exploration of the highly complex rules relating to the taxation of NGOs and their donors. Rather the findings that follow present an overview, not a complete description,

of the present situation. It should be noted that tax privileges such as those available in relation to real estate tax, sales tax, VAT or other taxes are not considered here.

Almost all Member States grant tax incentives for donations to NGOs, provided that certain requirements are fulfilled which are stipulated in the national tax law of the individual country concerned.

In technical terms the most commonly found of such incentives is the tax deduction: the donor can deduct the amount donated from their personal taxable income. Alternative approaches exist but are rare (e.g. the Gift Aid Scheme in the UK) and from an economic perspective their effect is similar to the tax deduction scheme.

Many Member States apply a limit or ceiling, up to which donations can be deducted. Some Member States further differentiate in their rules between types of donors (natural person/legal person) and/or the object of the donation (cash donation/in kind donation). It should also be noted that in all Member States there are delimitations (e.g. a donation is not for consideration, whereas sponsorship is), which for the purposes of this study will not be discussed further.

As the two tablesthat follow show, Slovakia is the only Member State that has no tax incentives for donations to NGOs. All other Member States offer some form of tax incentive at least in certain cases.

4.1. Tax treatment of individual donors

Country	Limit of incentive
Austria	Donations are deductible up to 10% of taxable income.
Belgium	Cash donations of €40 or more are deductible up to 10% of the taxable income, with an absolute maximum of €376,350 for the tax year 2013.
Bulgaria	Donations are deductible at rates of 5, 15, or 50% of the income depending on the recipient. Total deduction cannot exceed 65% of the total income.
Cyprus	The full value of donations is tax deductible with no limits.
Croatia	Donations are deductible up to 2% of taxable income.
Czech Republic	Deductions up to 10% of taxable income, provided at least 2% of taxable base is donated, but not less than 1,000 CZK (approx. €35).
Denmark	Donations exceeding 500 DKK (approximately €70) and up to 14,500 DKK (approximately €1,950), the limit for the 2013 fiscal year, are deductible.
Estonia	Donations up to the value of 5% of the donor’s total income can be deducted.
Finland	**No tax incentives for individual donors**
France	Income tax reduction at 66% of the value of the gift (75% for specific donations), up to 20% of the donor's taxable income. Alternatively wealth tax reduction of 75% of the value of the gift, but is limited to €50,000.
Germany	Tax deduction up to 20% of the yearly taxable income
Greece	20% of the value of the gift may be deducted from the tax payer’s gross income up to 10% of the donor’s total income.
Hungary	**No tax incentives for individual donors**
Ireland	Tax credit of a blended rate of 31% for donations to approved charities, which is claimed by the charity provided donor has paid sufficient tax to cover the claim amount. Minimum annual donation of €250 and maximum of €1m. If donor is associated with the NGO then maximum tax refund of 10% of her/his income tax applies.
Italy	Donations to ONLUS (Organizzazione Non Lucrativa di Utilita' Sociale) are deductible up to 10% of income with a maximum of €70,000. Alternatively tax credit of 26% (for year 2014) for donations to ONLUS and other kinds of charities, up to the value of up to €2,065.
Latvia	Income tax deduction up to 20% of the donor’s total taxable income.
Lithuania	**No tax incentives for individual donors** but they can allocate 2% of their income tax to an approved NGO.
Luxembourg	Tax deduction up to an annual aggregate maximum limit of 20% of the taxable income of the donor or €1,000,000, provided the donations have an aggregate value in excess of €120.

Malta	Cash donations made to certain organisations can be deducted with different caps of €50,000 or €60,000 or in some cases €100,000.
Netherlands	Donations can be deducted up to 10% of the donor's gross income. No deduction is possible for donations below 1% of the gross income or €60.
Poland	Donations of cash, shares, securities, real estate and in-kind donations are deductible up to 6% of the taxable base.
Portugal	Cash donations: income tax deduction up to 25% of the amount donated where there is no limit for corporate donors. Where there is a limit on deduction for corporate donors, the amount deducted by individuals should not exceed 15% of the value of the donor's total income tax.
Romania	Donors can direct 2% of their income tax to NPOs. Contributions (sponsorship) are deductible up to 5% of total income.
Slovakia	**No tax incentives for individual donors.**
Slovenia	Donors can direct up to 0.5% of their income tax.
Spain	Tax credit of 25% of the value of cash or in kind donations up to 10% of total taxable income.
Sweden	25% of a donation 200-1,500 SEK (approx. €25-170) is deductible and total gifts amounting to at least 2,000 SEK (approx. €225).
United Kingdom	Cash donations are deductible via Gift Aid or payroll giving schemes. The donor claims a deduction from taxable income or capital gains for the amount of the donation grossed up by the basic rate of tax (currently 20%). Gift Aid allows the charity to then reclaim the income tax deemed to be deducted from the donation from the tax authorities.

4.2. Tax treatment of corporate donors

Country	Limit of incentive
Austria	Deductions up to 10% of taxable income.
Belgium	Only cash donations (of more than €40), the exception being works of art donated to museums: up to 5% of the taxable income, with a maximum of €500,000 in 2013.
Bulgaria	Donations are not levied with a tax withheld at the source and lead directly to decrease of the financial result if they amount up to 10%, 15% or 50% (dependent on the recipient) of the positive financial result. The total amount of the deduction cannot exceed 65% of the total income.
Croatia	In kind and monetary donations can be included in business expenses (which will decrease the tax base) up to 2% of the total revenue generated in the previous calendar year.
Cyprus	Whole amount of the donation can be deducted - subject to certain conditions. The same conditions are applicable as to individual donors.
Czech Republic	The donation can be a movable asset or real estate. The donation is deductible up to 10% of the tax base provided that at least 2% of the tax base is donated.
Denmark	Gifts to qualifying charitable organisations exceeding 500 DKK (approximately €70) up to 14,500 DKK (approximately €1,950) are deductible each year. The limit is adjusted annually and was 14,500 DKK for the fiscal year 2013.
Estonia	Total of donations deducted from taxable income may not exceed 3% of the sum of the payments made during the year, nor exceed 10% of the calculated profit of the latest fiscal year.
Finland	Monetary donations made by corporations, with a minimum amount of €850, are eligible for a tax deduction. Maximum amount depends on the recipient, divided in two categories. Maximum amount of a donation given to a publicly financed university or to a fund within the university is €250,000. Maximum amount of a donation given to a public-benefit foundation is €50,000.
France	A tax reduction equal to 60% of the donations to qualifying NGOs up to 0.5% of their annual turnover. Should there be no profits in the following years, the deduction can be carried forward over the next five years. The deduction may also be carried forward over the following five years, if the donations are beyond the 0.5% limit.
Germany	A tax deduction on the income up to 20% of yearly taxable income (or 0.4% of the sum of the turnover and salaries).
Greece	Cash donations are deductible up to a maximum of 10% of the taxable income.
Hungary	Up to 20% of the value of the donation (or the book value of the goods or services provided). 50% of the value if provided to certain national funds. An additional 20% of the value of the donation if provided under a long term donation contract, up to the amount of the pre-tax profit on the aggregate.
Ireland	Donations over €250 are deductible in full.

Italy	Cash donotaions only. Up to 2% of income up to €1,032.91 for donations to ONLUS (Organizzazione Non Lucrativa di Utilita' Sociale) and other NGOs. No limits on donations to universities or university foundations. Donations to ONLUS can be deduction from income tax up to an amount not exceeding 10% of the total declared income. Maximum €70,000 per year. Alternatively, corporate donors can deduct from their declared income donations to ONLUS up to a maximum of €2065.83 or for an amount not excedding 2% of the total declared income.
Latvia	A tax deduction of 85% of donated sums, up to 20% of total payable tax.
Lithuania	Corporate donors can deduct cash, in-kind donations, and even services offered. Exception is cash payments beyond 250 MLS for one single recipient. In some cases, double the amount of the donation may be deducted up to 40% of taxable income.
Luxembourg	Tax deduction up to an annual aggregate maximum limit of 20% of the taxable income of the donor or €1,000,000, provided the donations have an aggregate value in excess of €120.
Malta	Only donations to certain specific organisations would be deductible
Netherlands	The amount of the donation can be deducted up to 50% of the profits with a maximum of €100,000 euro. Donations to cultural institutions can be taken into account for 150%. Maximum annual deduction in this case is €5,000.
Poland	Cash, shares, real estate and in-kind donations are deductible. Limit of incentive: 10% of the tax base.
Portugal	No limits on tax deduction when donations benefit state- supported foundations or represent endowment of private origin foundations pursuing social or cultural aims. Donations are calculated as a cost to the donor and rates range from 120- 150% of the monetary value of the donation.
Romania	Donations can be deducted up to 20% of the income tax, but not more than 0.3% of the turnover.
Slovakia	No tax incentives in place for corporate giving.
Slovenia	A tax deduction on the amount of donations up to 0.3% of the taxable income, but not exceeding the amount of the total tax base. An additional deduction of up to 0.2% of taxable income for donations to organisations established for cultural purposes or for protection from natural and other disasters.
Spain	Corporations can deduct from the amount of tax payable an amount equivalent to 35% of the deduction base, up to a limit of 10% of the taxable base for the corresponding period.
Sweden	No deductions in general. However, some donations can be deducted as business expenses.
United Kingdom	Money, land, and quoted shares are deductible. A 100% deduction from taxable profits can be claimed.

The comparative legal analysis shows that the jurisprudence of the European Court of Justice requiring a non-discrimination of NGOs of other Member States has led to the comparability test being the method used by Member States to determine whether or not a foreign-based NGO is eligible for tax-privileged status. The comparability test is, when compared with the legal situation that preceded it, a significant step forward: where as in the past, foreign EU-based NGOs were simply excluded from the eligibility to have their public-benefit status recognised for tax purposes by other Member States, now the possibility is open. But this study does show, that the way in which the non-discrimination principle is currently implemented is not an entirely satisfactory solution.

We see that the foundation sector and philanthropy more broadly have become increasingly international but that the fiscal environment is still far from being satisfactory. The landmark judgements of the European Court of Justice force Member States not to discriminate foreign EU-based public benefit organisations and their donors. However, this study reveals that barriers continue to exist. Several Member States have not yet removed discrimination and even where they have, problems remain. NGOs and their donors encounter a lack of legal clarity, long and complicated procedures, and significant additional translation and consultancy costs to show their comparable status. Within the EU no formal or uniform approach to the comparability test is foreseen: Usually it is the competent tax authority who decides on a case by case basis whether a foreign NGO is considered comparable to a domestic one.

The benchmark for the comparability test is generally the national tax law of the Member State from which the tax incentives are sought and the crucial question is always in what level of detail this benchmark has to be fulfilled. We consider that “comparable” in the context of cross-border philanthropy should not mean “identical” and imply fulfilment of all precise details of respective national tax laws but rather that the organisations have to be in essence comparable. Apart from incremental improvements that should be

encouraged at national level, the most feasible option appears to be to try to put the focus of Member States' fiscal authorities on a set of core principles for the comparability test. There are already interesting practices developed, and the Luxembourg model certificate certainly being one of them.

The main problem in finally resolving the landlock is still the issue of control and trust among Member States. We can however be hopeful that with the non-discrimination principle having now been in force for several years, Member States will be more willing to address the issue.