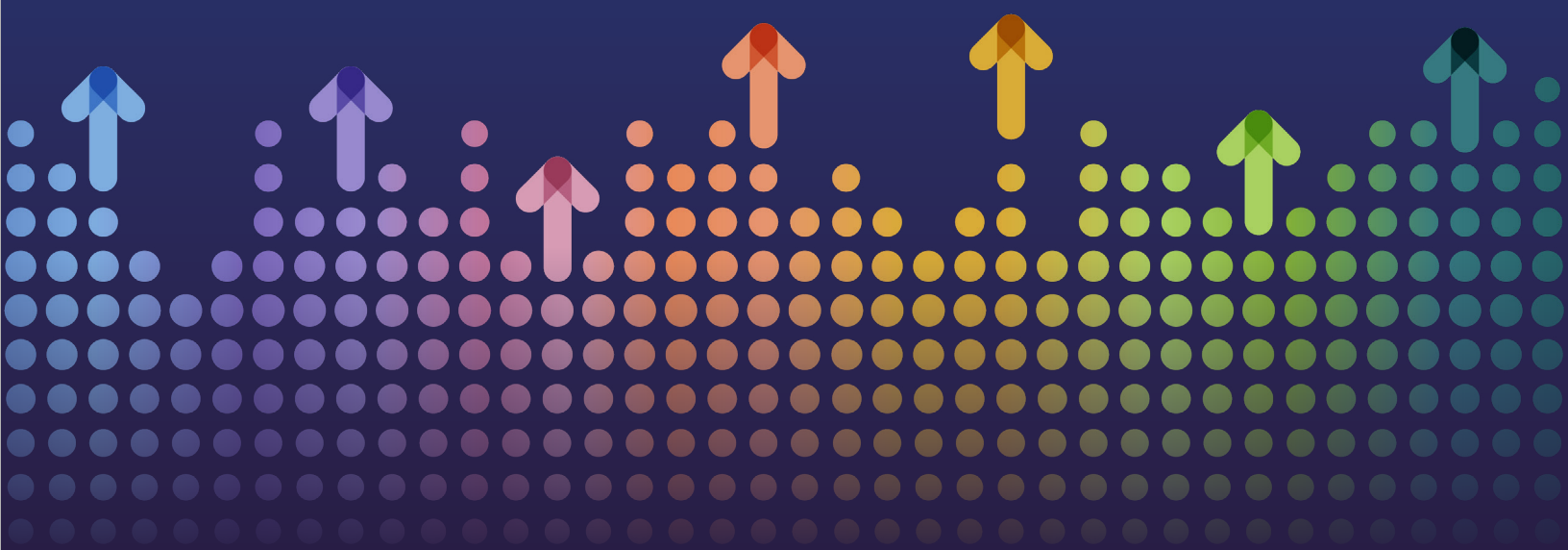


## IMPACT CASE STUDIES

# Promoting an enabling environment for philanthropy and civil society

How philanthropy networks and support organizations are working behind the scenes to successfully protect and grow the space for philanthropy and giving



**WINGS**

WORLDWIDE INITIATIVES  
FOR GRANTMAKER SUPPORT



WINGS is a network of 130 philanthropy associations, networks, academic institutions, support organizations, and funders, in 45 countries around the world whose purpose is to strengthen, promote and provide leadership on the development of philanthropy and social investment.

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# Foreword

**You may know about them, but it's rare to get a glimpse into their inner workings: Philanthropy Support Organizations (PSOs) are often the hidden heroes in combatting the rising trend towards heightened control and excessive, unwarranted restrictions of philanthropy and civil society throughout the world.**

The networks, associations and other organizations supporting donors and foundations are developing unique and indeed successful strategies and solutions to overcome these challenges. Beyond simply responding to more restrictive operating environments, they are also playing a proactive role in expanding the space and creating new incentives for the sector to thrive.

Philanthropy and giving are critical to the mission of how we build more resilient, sustainable and democratic societies while helping to achieve the ambitions laid out in the Sustainable Development Goals (SDGs). Their success relies on two central pillars: the development of a strong Philanthropy Support Ecosystem (PSE), or infrastructure, and an enabling environment that helps civil society to thrive. The PSE is comprised of the organizations and individuals who help to create the conditions for philanthropy to achieve its potential.

Seventy-two percent of WINGS members have reported that they are increasingly engaged in advocacy to encourage a more enabling environment for philanthropy. Equally important, in a challenged context of shrinking space, the PSE is playing a key role in developing solutions to support civil society under restrictive or authoritative regimes.

That's why fostering an enabling environment and strengthening the PSE are WINGS' [strategic priorities](#) for the years to come.

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**"Philanthropy and giving are critical to the mission of how we build more resilient, sustainable and democratic societies"**

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The enabling environment that underpins the work of philanthropy includes many components like bank de-risking, cross-border giving, burdensome reporting/registration, tax incentives, civic space, the right of association, funding mechanisms, advocacy, amongst many others. Through their advocacy, PSOs can influence laws, regulations that surround these. The message in these case studies is clear: a strong support ecosystem for giving and philanthropy facilitates collaboration, professionalizes the field, promotes giving and builds standards.

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"By bringing together our collective wisdom, we can help to strengthen our capacity, generate new ideas and multiply our impact"

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Nonetheless, more is needed. An important part of the work of PSOs remains invisible despite their significant impact. This publication, therefore, aims to give visibility to PSOs' successes in promoting a more enabling environment and to disseminate best practices and strategies that could inspire further collaboration toward concrete results. PSOs often feel isolated and challenged when addressing such complex issues and they do so with limited resources. By bringing together our collective wisdom, we can help to strengthen our capacity, generate new ideas and multiply our impact.

The introduction includes an article from ICNL that explains the role of infrastructure organizations in the process of creating a thriving civic space, alongside a joint article from the Enabling Environment Affinity Group, which was created to provide a space for collaboration between WINGS' members interested in engaging on the key issues around the philanthropy environment. The objective of this group is to work towards a more collective voice for philanthropy, giving and private social investment at the global level.

The case studies that follow present different strategies that have been used to protect and grow the space for philanthropy and civil society organizations. We explore technical solutions, such as the innovative NGOSource which has streamlined US based equivalency determinations and significantly lowered the cost of compliance, by pairing technology with collaboration.

We also find out how coalitions between philanthropy and civil society can keep repressive regulations at bay, such as the creation of the NPO coalition in partnership with the European Foundation Centre, established to challenge the Financial Action Task Force, that has led to severe banking restrictions for philanthropy and civil society throughout the world. Other coalitions engaging in advocacy and evidence-based research, like those in Spain and Brazil, have helped to create a more favorable environment to encourage and grow private giving.

The lessons of each case is explored and some common themes emerge across our case studies:

- Diverse groups bring a stronger voice to ensure regulators and policy makers are more likely to engage in building solutions
- Deep and expert knowledge of policies, rules or technology by PSOs is critical to making headway in the pursuit of reform
- Collaboration takes time and investment as well as a dedicated focal point throughout any process, either independent of the individual organizations or embedded within PSOs themselves

WINGS works with a variety of partners, including other global networks, who develop and implement strategies to limit the effects of shrinking civic space. In 2017 WINGS, Forus (previously known as the International Forum of National NGO platforms) and CIVICUS-AGNA signed and released the [Declaration to Support a More Enabling Environment for Philanthropy and Civil Society, including NGOs](#). This publication uses their collective voices as a way of harnessing the power of our networks to develop an unhindered global culture of giving and solidarity.

This process is an ongoing effort by WINGS to document the impact of the field. Most of the case studies presented have come from Europe and the US. We hope this becomes a living document, open to more contributions, especially from the global south, with experiences and ideas on how to make PSOs stronger in their role as advocates for an enabling environment.

This report is intended as a source of inspiration but it is also a call to action. We all share this responsibility and encourage you, our partners, to tell us about your own experiences or emerging plans to strengthen the philanthropy support ecosystem and overcome the challenges in your country or region. We hope more actors working in this field will engage in the cause of promoting a more enabling environment in which philanthropy and civil society can freely carry out their important work, now and in the future.

**DOUGLAS RUTZEN**

PRESIDENT AND CEO, INTERNATIONAL  
CENTER FOR NOT-FOR-PROFIT LAW

**ALEXANDRA DEBLOCK**

PROGRAM OFFICER, INTERNATIONAL  
CENTER FOR NOT-FOR-PROFIT LAW

# Inspiring Innovations: How infrastructure organizations create thriving civic space

## ABOUT ICNL:

The International Center for Not-for-Profit Law (ICNL) promotes a legal environment that strengthens civil society and advances the freedoms of association and assembly, philanthropy, and public participation around the world. Since 1992, ICNL has provided technical and research assistance in more than one hundred countries, spanning virtually every political, economic, and legal system.

**In recent years there has been a flurry of legislative activity affecting civil society and philanthropy. According to ICNL’s tracking data, 94 countries have proposed more than 269 legislative initiatives over the past six years. It’s not all bad news; one-third of the initiatives would enhance civic space.**

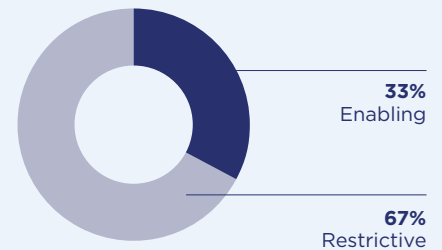
Data indicate three primary forms of legislative pressure on civic space over this time period:

- Lifecycle legislation restricting the formation, registration, and operation of civil society organizations (CSOs)
- Legislation constraining the ability of CSOs to receive international funding; Legislation restricting peaceful assembly

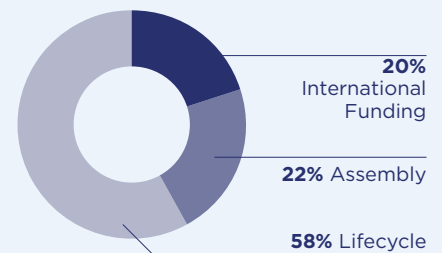
Among these constraints, restrictions in “lifecycle” legislation appeared most often, with restrictions on international funding and peaceful assembly occurring with nearly equal frequency.

In recent months, our tracker has picked up “innovations” that go beyond these traditional forms of constraint. For example, in Tanzania recent amendments to the Statistics Act make it illegal to discredit or challenge any official government statistic. In Uganda, after songs critical of the government gained popularity, the government proposed regulations that require artists to have their lyrics and scripts vetted by the authorities.

**269 initiatives in 94 countries since 2013**



**Nature of Constraint since 2013**



In Hungary the Orbán government imposed a 25% tax and other restrictions on civil society organizations assisting migrants. Governments are innovating when it comes to civic space restrictions and we must also innovate to protect and expand civic space.

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"Scores of progressive laws have been enacted – and restrictive laws defeated – because of the advocacy work of WINGS members and other infrastructure organizations"

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## **PROGRESS IN ACTION: THE ROLE OF INFRASTRUCTURE ORGANIZATIONS**

Within this context, ICNL is partnering with infrastructure organizations in every region to help protect and, where possible, expand civic space. A few examples follow.

### **Informing the Development of International Norms**

Countries including Russia, China, and Egypt are investing in diplomacy to weaken international norms underpinning civic space. Meanwhile, traditional supporters of enabling standards for civic space, such as the US government, are less focused on multilateralism.

Civil society must therefore ramp up efforts to protect international norms supporting civil society and philanthropy. Otherwise, if norms regress, autocratic governments could more easily defend restrictive legislation with reference to international standards. Without progressive guiding norms it would also become more difficult to mobilize multilateral engagement to safeguard civic space, and colleagues working within countries would have less international solidarity and support.

Infrastructure organizations play an important role in safeguarding international norms and they can achieve impact. Consider the Global Coalition on FATF. Financial Action Task Force (FATF) Recommendation 8 originally singled out CSOs as “particularly vulnerable” to terrorist abuse, which resulted in governments justifying national-level laws to constrict civic space under the guise of adhering to global counterterrorism policy. A group of infrastructure organizations, including the European Foundation Centre, Human Security Collective, Charity & Security Network, the European Center for Not-for-Profit Law, and ICNL worked together to address this challenge. As a result of the Coalition’s efforts, FATF removed the “particularly vulnerable” language, called on governments to respect fundamental rights and humanitarian law, and cautioned governments not to overregulate CSOs.

We have seen similar impact by infrastructure organizations at the regional level. In Africa, for example, partners identified the need to articulate regional norms on the freedom of association and assembly. Infrastructure organizations, including regional networks of human rights defenders, worked together to create landmark Guidelines on Freedom of Association and Assembly in Africa. The Guidelines were adopted by the African Commission on Human and Peoples’ Rights (ACHPR) in 2017 and the network is now developing a monitoring tool to promote appropriate implementation of the Guidelines.

### **Advocating for Enabling National Laws**

In every region, WINGS members have played an important role in assessing legislative needs, defining priorities, building coalitions, developing advocacy campaigns, undertaking research, and monitoring the impact of new legislation. Indeed, scores of progressive laws have been enacted – and restrictive laws defeated – because of the advocacy work of WINGS members and other infrastructure organizations.

### **Navigating the Legal Environment**

For CSOs, each new law becomes part of a complex legal environment that affects their day-to-day operations. Infrastructure organizations are vital in helping CSOs navigate the legal environment. For example, infrastructure organizations can share information through written guidance, webinars, communities of practice, legal services, and in-person convenings.

This information can be particularly helpful in restrictive environments. For example, we work in a country where the government enacted complicated reporting requirements with fines for non-compliance that would bankrupt most organizations. An infrastructure organization provided assistance to hundreds of CSOs to navigate these requirements so they could continue to operate.

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"We must challenge ourselves to dream of thriving civic spaces and the steps we must take to get there"

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### Protecting CSOs

Infrastructure organizations have deep networks and are a strong voice in promoting solidarity across the sector. For example, in 2017, former U.S. Congressman (and now Governor of Florida) Ron DeSantis proposed an amendment to a bill that would have banned Islamic Relief Worldwide from receiving any funding from the federal budget. A diverse group of more than 50 organizations, including the American Jewish World Service, American Hindu World Service, Catholic Relief Services, ICNL, and InterAction, came together to sign a [letter](#) in opposition. The amendment was defeated.

### Engaging the Public

Infrastructure organizations can also work to create positive narratives around philanthropy and civil society. They have the ability to promote a culture of philanthropy, engage the business community on corporate social responsibility, and highlight the importance of civil society to the public writ large.

There are interesting examples from around the world. To capture the imagination of youth in Afghanistan, ICNL and its partners appealed to the most popular form of entertainment in the country: quiz shows. More than 300 students from schools around the country gathered in an auditorium to answer questions relating to the value of civil society, civil society law, and gender. Students were randomly selected to appear on stage as the show broadcast on national TV, so students and their families tuned in to see if their friends would be called to compete. The show used entertainment to inform Afghans about the role and value of civil society.

Infrastructure organizations are also useful in heightening public awareness about the threats to the sector. When Australia proposed a bill on foreign interference, more than 40 CSOs and infrastructure organizations came together to form the [Hands Off Our Charities alliance](#). The Alliance produced videos and written materials to educate the public, and members rallied more than 160 organizations to sign an open letter to the government to reject the legislation. Together they were successful in preventing the bill from unduly restricting CSO advocacy work.

### SHAPING THE FUTURE OF CIVIC SPACE

In many countries, CSOs find themselves in a reactive position, requiring them to respond to the current news cycle and the agendas set by governments. As a result, they lack time to think about the long-term future of the sector. Infrastructure organizations therefore have an important role in shaping the future of civil society and philanthropy.

As a modest contribution to this visioning process, ICNL is launching "Civic Space 2040." Through this initiative we will work with partners to identify trends that will affect civil society and philanthropy in the coming decades. We will then engage partners to construct an inspirational vision of the future and to begin mapping actions to achieve this vision. In developing this initiative, we drew inspiration from Dr. Martin Luther King Jr. He didn't mobilize a movement by proclaiming, "I have a problem." Rather, he had a dream, and we must also challenge ourselves to dream of thriving civic spaces and the steps we must take to get there.

# Healthy philanthropy = healthy society

Civil society and global philanthropy are fighting for their relevance. No longer the highly trusted actors in some countries, they have been targeted and vilified in a growing number of countries with heightened restrictions on their operations being almost universally imposed. While it is true that not all civil society organizations are above reproach, the attacks and restrictions currently imposed are wildly out of proportion when weighed against the societal benefits of an active, engaged civil sector. In particular, the benefits of responsible, innovative philanthropy are threatened by current trends. No one organization can fight the uphill battle for fair treatment alone.

This is why we believe that philanthropic networks and the infrastructure organizations underpinning civil society are vital today. They bring us together to 'make the case' for a strong civil society. Few of those who criticize or seek to restrict civil society appreciate the enormous contributions of the sector in the realms of health, education, climate change, and peacebuilding to name just a few. For civil society and philanthropy to overcome the mounting challenges before them, the sector needs to learn from each other, connect, and create shared understandings within and across borders.

The WINGS Enabling Environment Affinity group was set up to bring about a nourishing and enabling environment across our networks, as well as to help build a shared learning and understanding of the common threads that underpin a healthy environment in which philanthropy and civil society can flourish. We call this the enabling environment 'building blocks': the policies, tools, resources and processes that can strengthen the operating environment.

## CIVIL SOCIETY'S IMMUNE SYSTEM

In the book *Blessed Unrest*, Paul Hawken describes civil society organizations as humanity's white blood cells. As white blood cells are constantly at war with threats to the human body, so too is grassroots civil society constantly striving to limit pain and injustice. And like white blood cells, they are constantly forming and shaping and evolving. But society's 'white blood cells' are also under threat like never before.

Hawken's metaphor provides a useful frame for thinking about a term like the 'enabling environment.' If civil society are the white blood cells, what are philanthropy networks? Are we the bone marrow that creates the cells? The anti-biotics that helps the cells fight off infections? Though these answers may differ across organizations, geographies,

and even within our own networks, the building blocks for the 'healthy immune system', or more appropriately, the philanthropy eco-system, have common elements.

## THE ENABLING ENVIRONMENT BUILDING BLOCKS

We have identified the components where philanthropy support networks engage and are critical for helping to underpin our immune system. They include:

**Policy:** laws for civil society, giving, association, free speech, assembly; regulatory frameworks for dialogue with the government

**Inclusive Infrastructure:** e-commerce and e-philanthropy, communications, community building, networking

**Knowledge & Support:** trainers and mentors, communities of practice, best practices, repositories, organizational development, and resiliency

**Tools & Data:** resource guides, policy guides, digital tool kits, data, learning and reporting tools and guides, access to technology

**Funding:** variety of funding types and sources, accessibility of funding; support for innovation and learning re local philanthropic practice including tax incentives and state support, Public-Private Partnerships



## WHAT DOES THIS MEAN FOR OUR WORK?

There are far too few countries where all these conditions – the building blocks of an enabling environment – exist or function well. Our networks are constantly working to support and strengthen these core areas of the philanthropy ecosystem.

We believe an enabling environment should be:

- Created, understood, connected to, respected and supported by citizens
- Understood, connected to, respected and supported by formalized civil society and philanthropy organizations
- Accessible for organizations to get the tools needed to design, deliver, monitor and evaluate programs
- Able to provide for itself (endowments, fundraising)
- Able to inform and influence policy
- Considered a legitimate actor, partner, and critic by States and Corporations
- Self-regulated
- Innovative and adaptive to the circumstances
- Transparent and accountable
- Non-partisan

An enabling environment is needed to create deeper impact of civil society and to allow different organizations to achieve their common objectives. Philanthropy support organisations and others in the philanthropy support eco-system can contribute to make this possible and find ways to collaborate with other organizations with similar aims (NGOs, CSOs, etc.).

## OUR CALL

- Growing philanthropy requires investment in the support ecosystem and advocacy for an enabling environment
- PSOs need to learn how to assess the national and regional environment where they act
- PSOs can learn how to advocate, build coalitions, interact with governments and better communicate the value of their work
- It is important to have better collaboration between PSOs: share experiences, data, strategies, and create forums
- We need to come together as a field and also with other actors from the broader civil society to harness our efforts for greater impact

## THE ROLE OF PHILANTHROPIC NETWORKS

Infrastructure organizations and Philanthropy Support Organizations (PSOs) have a critical role in responding to enabling environment issues across the world. They are helping to shape, strengthen and enhance all six areas of the enabling environment (policy, infrastructure, knowledge and support, tools, and funding).

This publication features eight cases from different organizations: the Association of Charitable Foundations (UK), Council on Foundations (USA), European Foundation Center (Europe), Fondation de France (France), German Association of Foundations (Germany), IDIS (Brazil), Spanish Association of Foundations (Spain), and TechSoup (USA).

As you will see these cases address different enabling environment 'building blocks' that range from endowment funds, legal reforms, the use of technologies, data solutions, the professionalization of young foundations, strategies to raise a collective voice, tax regulations, and advocacy, among others. These cases serve as good examples of efforts engineered to reduce barriers to progress.

## WHERE TO NEXT?

We all want a healthy immune system both now and in the future. These case studies offer concrete ideas on how relevant the Philanthropy Support ecosystem is to protect, and often grow, the space for civil society and philanthropy. Even though each case is absolutely related to its context, some trends like collaboration inside the sector and cross-sector partnerships, dissemination of knowledge, building a narrative, and harnessing public trust, show how we are shaping and carrying actions on this topic.

If you would like to be a part of the discussion and help our call, consider joining the Enabling Environment Affinity Group and help this community define, delineate, and share practices like those in this document. They present how the members of the WINGS network are working on different elements of the infrastructure for an enabling environment. Each may serve as inspiration as we work to understand and enable the people and processes working toward a more civil society.

\*The group is comprised of 46 organizations in 27 different countries of 6 regions of the world. Many thanks to Chris Worman for leading this collective writing effort. For more information visit: [www.WINGSweb.org/page/AffinityEE](http://www.WINGSweb.org/page/AffinityEE)

# ACF convened a coalition to influence policy-makers and mitigate new burdensome tax reporting standards

## Overview

The Association of Charitable Foundations in the UK (ACF) worked with their members alongside a wider group of stakeholders and a legal expert to challenge new burdensome tax reporting requirements for charities, which was being implemented under the Common Reporting Standard framework (CRS). The OECD driven regulation was originally intended to stem tax evasion, but a large portion of charities would be caught in the net. Some of this would mean an excessive burden on charitable foundations but it could also contravene human rights and lead to a reduction in charitable giving, especially across borders.

ACF worked with a variety of partners to help draw attention to the issue. This included creating materials to help charities fulfil their obligations but, more importantly, working proactively with a coalition to influence key government and political actors in order to reduce the negative and disproportional burden on charitable foundations. ACF also worked with a legal firm to challenge the potential impacts of the regulation on human rights.

### SUMMARY OF ACHIEVEMENTS

ACF successfully influenced the UK government tax authorities to:

- Reduce the tax reporting burden on charities as a consequence of ill-conceived regulation
- Slow down the process of implementation to give the sector time to put systems in place
- Protect human rights defenders caught in the net

### ABOUT ACF:

ACF is the membership body for UK foundations and grant-making charities. Driven by a belief that foundations are a vital source for social good, our mission is to support them to be ambitious and effective in the way they use their resources. We do this through the provision of policy and advocacy, research and information, and a wide-ranging programme of events and learning. Our 370 members collectively hold assets of around £50 billion and give over £2.5 billion annually.

## Context

The Common Reporting Standard (CRS) is an international tax transparency regime, agreed at the OECD level, which creates Automatic Exchange of Information between tax authorities in participating countries. The intent of the CRS is to reduce tax evasion by individuals and corporations. The CRS tracks money flowing through financial institutions to those account holders that are tax resident elsewhere, with a view to passing the information onto the relevant authorities.

Until the CRS went live in January 2016, there was no indication that charities were to be included into the scope of requirements, so the ACF was unaware. The tax authorities (HMRC) had failed to engage the charity sector at all.

Under the scope of the standard, charities deriving more than 50% of their income from investments or

trading in financial assets and those in which trustees have granted a Financial Institution discretionary management over their funds are considered 'financial institutions.' Thus, if a charity is a charitable trust, due diligence would require tax residence data to be collected on all grantees and settlors (donors). Consequently, the regulation applied to a sizeable portion of charities and charitable foundations.

### **This raised the following problems related to the enabling environment for civil society:**

- Red Tape
- The supply of information could threaten the human rights of individuals, or groups of individuals, as sharing sensitive information could pose a risk to an individual's freedoms

- The potential to lead to further closing of civil society space, as participating countries could implement legislation closing foreign funding because more information on donors would be exposed
- Scaling back grant-making for those most in need, because of excessive and disproportionate monitoring, in spite of HMRC's own assessment that the risk of charities being used for tax evasion is low

ACF therefore set out to **influence** the scope of the regulation and mitigate its impact on charities and charitable foundations.

## What actions were taken? What was innovative?

The challenge required a new approach to bring together a group of diverse stakeholders as well as to influence officials that ACF had never engaged with in government. This required tenacity and perseverance and a more cooperative approach in order to achieve progress.

ACF took four key actions:

- 1. Created a coalition of organisations in order to create a strong voice for the sector**, including the Charity Tax Group, Charity Law Association, Charity Finance Group, Association of Charitable Organisations and the Ariadne Network of funders. This platform was represented at a monthly meeting set up by HMRC over the course of a year-long engagement period. ACF drew on experience from its own members to share with the wider platform and HMRC.
- 2. Developed clear guidance materials** designed to help charities understand and fulfil their obligations, including simple and accessible materials: an FAQ document, a flow chart, checklist and self-certification form for foundations and grant-holders. All materials were intended to cut through the jargon issued by HMRC.

**3. Influenced policy makers** by working with a member of the House of Lords who helped raise the issue in Parliament. This made the issue important politically as it revealed that HMRC hadn't considered the impact of the regulation on charities at all. ACF also wrote to the Minister for Civil Society alongside meeting with relevant civil servants.

**4. Engaged a respected law firm** to articulate our human rights and civil liberty concerns. The firm wrote to HMRC outlining concerns that some of the reporting information could put individuals at risk of harm.

## What were the challenges?

The proposals were very much below the radar. ACF wasn't aware of the new reporting standard before public information became more readily available as the authorities hadn't previously thought through the implications for the charitable sector. Had there been more consistent engagement with the authorities, it might have been possible to shorten the long period of uncertainty for charities and charitable foundations. Being caught after rules were issued made influencing much more difficult.

Engagement was extremely time-consuming, taking well over a year. HMRC – the tax authorities – are extremely complex. ACF and its coalition partners had to get beyond the usual point of contact to navigate different internal departments and expertise.

It took a full year of working intensively with HMRC to get comprehensive guidance for UK charities that must comply. This required tenacity at a time of limited resources. By the end of the year, however, a cooperative approach between HMRC and ACF had been achieved, with a unique joint Q&A session hosted for ACF partners.

The technical nature of the proposals required a strong evidence base in order to establish a comprehensive analysis of all of the unintended consequences of the regulation. ACF gathered the evidence by scoping the range of charities that might be affected by the regime and communicating frequently with members to ascertain how the regime might play out in practice.

### KEY LESSONS

- Have regular contact with authorities so that you're notified earlier in a process of what's coming down the line. Don't wait until new rules are issued
- Collective voices, including members and outside partners, can make a tangible difference to government policy on the operating environment for charitable foundations
- Use a range of policy levers to influence change – different branches of government and civil servants alike
- A strategic legal intervention can provide a lever that is difficult for government to ignore

## What was achieved?

After a year of engagement with HMRC and our partners, as well as the legal case, ACF made significant inroads to improve the operating environment that could otherwise have been seriously restricted.

- A significant reduction in the bureaucracy surrounding the regulation making it more accessible for the charity sector. The due diligence requirements became less burdensome after we successfully argued that UK charity registration ought to be evidence of tax residency. They also convinced HMRC that any smaller grants for individuals should only require a simple shorter 'tick box' form.
- Changed the definition of those that would be impacted by the reporting requirement, successfully reducing the number of charitable foundations and charities who would be impacted. HMRC agreed that incorporated organisations would not have to carry out due diligence on grant-holders because their legal form excluded beneficiaries from the definition of 'equity interest holders'.

They also agreed that investments in 'unit trusts' (referred to as mutual funds in the US) did not count as investments under discretionary management.

- Protected human rights defenders who would have been exposed by the law. As a consequence of ACF's intervention, HMRC recognised that there may be cases where the threat to individuals due to the exchange of their information warranted some protection. A process was established that enabled funders to apply to have information withheld from the exchange if a risk was perceived. HMRC would still transmit the data required to other authorities, but could redact any information relating to the recipients at risk. In exceptional circumstances, where some trusts may be making grants directly to vulnerable individuals, allowances will also be made on a case by case basis to allow for verbal assurances rather than written ones.
- The process of implementation was slowed down, requiring the tax authorities to spend more time educating charities of their requirements.

By raising the issue that charities had not been given adequate time to prepare for the compliance deadline, HMRC agreed to make allowances for a more gradual introduction of the reporting requirements. They would not apply penalties where charities had made efforts to carry out their due diligence requirements and report accurately. HMRC also engaged in more awareness raising and communications to educate charities of their responsibilities and produced guidance materials. ACF also co-hosted an information session jointly with HMRC.

ACF's lawyer, Melanie Carter, said "Unless ACF made the robust legal intervention it did, enlisting the support of other organisations, HMRC would be very unlikely to have constructed the clear, accessible and enforceable administrative arrangements that it has now put in place to review and then withhold from transfer, information which might threaten human rights of individuals or groups of individuals abroad."

# The Association of German Foundations created the alliance for public benefit law to help strengthen the regulations to encourage giving in Germany

## Overview

The Association of German Foundations advocated for key legislative changes to improve the enabling environment for German Philanthropy. Under the auspices of the Alliance for Public Benefit Law – a cross-sectoral body – a series of strategies were used, including engagement with parliamentarians and storytelling techniques. The Association of German Foundations later with the Alliance – worked over almost two decades to improve tax incentives for foundations, simplify the bureaucratic process of setting up and running a foundation, as well as encouraging stronger transparency of the charitable sector itself.

### SUMMARY OF ACHIEVEMENTS

- Introduction of significant tax incentives to enable the creation of more German Foundations
- Encouraged reforms that have led to the doubling of the number of German foundations in less than 20 years: from 10,000 in the late 1990's to over 22,000 foundations today
- Strengthened the Association of German Foundations in the process and grew its membership and participation

### ABOUT ASSOCIATION OF GERMAN FOUNDATIONS:

In its role as umbrella organization, the Association of German Foundations (founded in 1948) represents the concerns of over 22,000 foundations vis-à-vis the public, politics and administration. As the central organisation of the German foundation sector it offers comprehensive information and consultation services for its more than 4,450 members to donors, media professionals and the interested public. Through the diversity of its events, the Association facilitates dialogue, in particular the exchange of experience, as well as the networking of foundations amongst their peers.

## Context

Germany is a politically and economically strong and rich country with a long foundation history. The first foundations in Germany had been established 1000 years ago. Some 900-year old foundations still exist.

Nonetheless, the engagement and giving rates of the Germans are quite high but could be much higher. There was a huge potential to grow opportunities for individual and institutional giving through private wealth and legacies. But the foundation law in Germany was not very well developed. Instead, it was complicated and burdensome. In practice, the law only 'allowed' foundations to exist, giving the perception that setting up a foundation was almost a bureaucratic offence.

The Association of German Foundations wanted there to be a more enabling environment for philanthropy that could encourage more foundations and giving to flourish. Opportunities to focus reform included: tax incentives, bureaucracy, and increased transparency of the sector itself.

## What actions were taken? What was innovative?

Over a period of several years, the Association of German Foundations sought to influence foundation law, foundation tax law and public benefit law reforms, first in 2000 and 2002, then again in 2007 and 2013. There has also been more effort placed on continuing to evolve the law in 2019. These efforts included:

**1. Entered into an initial dialogue with government** to explore their interest in doing more for civil society and philanthropy. This encouraged the government to set up a commission in 1997 of representatives of German provinces and government officials to discuss and draft new modernized law regulations, which lasted until 2002. The Association of German Foundations also strengthened relationships with political allies. The association created in 2006 an advisory group of 90 federal parliamentarians to raise their awareness about foundations and their role in civil society. The Association of German Foundations did this by connecting them with real living funders and also with foundations in the regions represented by the politicians. A second Commission was also established by the government, which sat between 2014 and 2018.

**2. Formed a collective voice for the public benefit sector** under the umbrella of the Alliance for Public Benefit Law in 2005. The Alliance includes 10 umbrella organisations as well as independent third sector organisations. The Alliance is managed by the three official speakers in their organisations plus the legal team of The Association of German Foundations. The Alliance 'reform of the charitable and Donation Law' also included experts and scientists. Amongst other things, the project group drafted proposals for legal reform, as well as improvements that the sector could voluntarily make regarding transparency.

**3. Proposed changes to the law**, to help modernize and harmonize existing legislation. This included tax incentives and improvements to the bureaucratic burden, for example by giving more flexibility for allocating budgets. These were proposed in three stages, in 1998/2000, 2007 and in 2013.

**4. Used storytelling techniques** to bring attention to the issue by the media, politicians and the general public. In one case, The Association of German Foundations used the story of an influential high net worth individual

(Dr. Florian Langenscheidt with his wife Gabriele Quandt) who was in the process of setting up a foundation in order to find a sustainable finance basis for the association Children for a Better World. He was invited to speak at The Association of German Foundations with the Minister of Finance. He also sent a letter on the same day the law passed to 150 of his friends or colleagues to ask them for an endowment donation up to €1 or €2 million as it was suggested in the new law. The Association of German Foundations used this story to explain the importance of the legal reforms.

**5. Continued to evolve other improvements.** In 2019, The Association of German Foundations and the Alliance are anticipating a new draft law that was promoted by the Alliance since 2015. The law would include a 'Business Judgement Rule' for foundations to enable board members to be better protected when making investment decisions using due diligence, similar to protections of company directors. The proposal includes strengthening the rights of founders during their lifetime and offering clearer regulations to support foundations' articles, additions or mergers with others.

## What were the challenges?

Bringing funders and parliamentarians together, while important, was challenging. It was difficult getting people to meet due to competing time commitments and also to find a topic relevant to both parliamentarians and funders alike. They initially met twice a year but the board of parliamentarians didn't continue beyond three years as the attendance decreased after the law passed.

Improved legislation alone isn't enough to grow the sector. Younger and smaller foundations will need the support to help professionalize and develop their strategies, such as building more financial support or tentative mergers with others. The Association of German Foundations needed to be able to offer this support.

The Alliance still exists as an informal entity and continues to meet 2-3 times per year, but it is not as active as it was, which compromises its ability to be flexible and responsive.

A new group formed mainly by NGOs, however, grew in the last three years to champion stronger tax benefits for politically engaged organisations.

While transparency was a key area for reform, this remains weak. The Association of German Foundations supported Good Governance guidelines for foundations in 2006, however these are voluntary. An initiative developed in cooperation with Transparency International Germany to promote transparency across the sector is also still low in numbers, as it's often considered to be a lower priority for organizations. The Association of German Foundations and the Alliance will continue to call for a mandatory online accessible register for foundations similar to those required for companies at the national level to improve transparency overall.

## KEY LESSONS

- Create a coalition. A collective voice through the cross-sectoral alliance: politicians, funder, media and other public service organisations helped to strengthen the position
- Develop an active communications strategy and nurture media contacts. In particular, use storytelling to bring the work of foundations alive in order to better inform decision makers. For example, find a champion funder to help tell their own story
- Approach politicians through stories not technical information; introduce them to living donors working in their areas
- The number of funders isn't the most important factor in success, but the breadth is critical. A wide breadth can help draw more partners into the cause

## What was achieved?

- **Significant improvement in tax incentives for private giving.** These were introduced at the very end of 2000 and strengthened again in 2007. The law established stronger and more simplified incentives, including a universal 20% tax reduction for donations to public benefit issues.
- **Continuous growth of foundation assets** motivated by the introduction of a higher threshold for tax incentives on new endowments for new or existing foundations in 2007, from €307K to €1 million per person every 10 years.
- **Substantially grew the number of new foundations created** including smaller foundations with an initial minimum endowment of €25K.

There are now more than 22,000 private foundations in Germany, more than double the amount of 20 years prior. (The minimum threshold has now been raised to €50K).  
(see table 1, right)

- **Increased the membership of The Association of German Foundations itself.** The association was seen by their members as a successful actor/a powerful advocate for their interests. The number of new members increased as well as the amount of the single membership contributions.

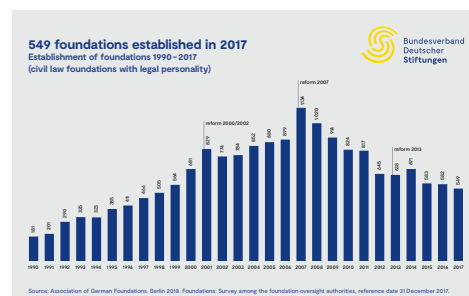


TABLE 1

Source: [www.stiftungen.org/fileadmin/stiftungen\\_org/en/Foundation-Germany/facts/Establishment-of-foundations-1990-2017.pdf](http://www.stiftungen.org/fileadmin/stiftungen_org/en/Foundation-Germany/facts/Establishment-of-foundations-1990-2017.pdf)

# The Council on Foundations helped to uphold the 'Johnson Amendment' – the critical law that keeps charitable organisations in the US non-partisan

## Overview

The Council on Foundations sought to fend off pressure to repeal an important piece of legislation, known as the 'Johnson Amendment', which underpins trust in the charitable sector by ensuring the charitable sector remains non-partisan. There has been pressure to repeal the amendment on the grounds that it is too restrictive on churches and limits religious freedom of speech. The Council worked across the sector and with other actors, engaging actively in advocacy and using targeted media to challenge this pressure and ensure that the Johnson Amendment remains a key pillar of the charity sector in the U.S.

### SUMMARY OF ACHIEVEMENTS

The Council on Foundations successfully held back political pressure to repeal the 1954 Johnson Amendment, which ensures the charitable sector is non-partisan.

- Created a coalition called Give Voice, representing a diverse group of actors
- Fought off changes to recent legislative proposals
- Encouraged more Council on Foundation members to engage in advocacy

### ABOUT COF:

The Council on Foundations is a United States-based nonprofit leadership association of grantmaking foundations, corporations, and public charities qualified under 501(c)(3) of the Internal Revenue Code. Members include charitable foundations and the mission is to provide the opportunity, leadership, and tools needed by these organizations to expand, enhance and sustain their ability to advance the common good.



## Context

In 1954, the U.S. Congress passed a law that prohibited charitable organizations, including churches and religious institutions, from participating in or intervening in any political campaign on behalf of (or in opposition to) any candidate for public office. The law, which was passed in large part due to the efforts of then-Senator Lyndon B. Johnson (who would later become President of the United States), is often referred to as the 'Johnson Amendment.'

The Johnson Amendment ensures that the charitable sector is non-partisan. Unlike the business sector, charitable organizations exist specifically to serve the public benefit and betterment

of society. Unlike government, these organizations serve to channel the generosity of private citizens towards the causes and issues that resonate with their passions and experiences. For charities to continue to fulfil this purpose, it is crucial that the trust earned by Charities over the years is not diminished by partisan labels or influence.

Beginning in 2016, during the campaign leading up to the highly polarized U.S. presidential election, the Johnson Amendment came under scrutiny by both congressional Republicans and then-candidate Donald Trump, who wanted to see the law weakened or repealed.

They argued that the law is too restrictive on churches and hinders their religious freedom of speech.

After President Trump was elected, there were additional efforts to attack the Johnson Amendment. This included three bills in Congress and one Executive Order from the White House to allow non-profit organisations to more actively engage in the political arena. The closest legislative efforts have come to weakening the Johnson Amendment was at the end of 2017 during the first major overhaul of the U.S. tax code since 1969. Ultimately that effort failed due to a technicality, but lawmakers continue to push this issue.

## What actions were taken? What was innovative?

To combat efforts by Congress and the Trump administration to weaken or repeal the Johnson Amendment, the Council on Foundations deployed a multi-pronged strategy:

**1. Educated members of Congress and their staff.** The Council already conducted regular meetings with Congressional staff to educate them about issues that impact philanthropy and to advocate on behalf of its members. As soon as it was clear that the Johnson Amendment was under threat, the Council launched an aggressive educational campaign on the dangers of opening the door for partisanship in the charitable sector.

The issue was reframed as one that would have widespread – and potentially devastating – impacts across the charitable sector.

Specifically:

- If the restrictions on churches were raised it would also open the door to more undisclosed political contributions to candidates, because of the way the provision is written into the Internal Revenue Code
- This would increase the vulnerability of charities to partisan influence

**2. Created a coalition called Give Voice,** joining with other national groups – including other charitable/philanthropic infrastructure groups, as well as religiously-affiliated institutions – to strategize a collective approach and mobilize respective grassroots/membership networks. It hosts a website to provide background information and resources on protecting the Johnson Amendment.

The National Council of Nonprofits, took the lead in spearheading efforts to lead the coalition such as organizing coalition calls, initiating sign-on letters and managing the logistics around social media outreach.

The coalition has been an effective way to engage a wide variety of stakeholders and keep everyone informed about each organization's outreach efforts to their networks, as well as to activate specific lobbying efforts in response to key legislative developments.

**3. Undertook targeted advocacy and media initiatives** around key moments and pieces of legislation aimed at policymakers. A full-page advertisement was placed in two prominent political newspapers in December 2017 – POLITICO and Roll Call – calling on members of Congress to reject any attempt to include a provision to weaken the Johnson Amendment in the tax code overhaul. The Council also identified key members of Congress and coordinated with member foundations to send personal letters and make phone calls urging their Representatives and Senators to do the same.

## What were the challenges?

Explaining the situation beyond the charitable sector should have been done earlier, specifically how harmful weakening/repealing the Johnson Amendment would be.

Its been challenging to find out who is truly in favour of or against the Johnson Amendment. It may be necessary to use different tactics toward cultivating true champions of this issue, particularly for those who are more moderate or indifferent about it.

Engaging the broader public and the constituents who will vote on whether to keep elected officials in office could increase the pressure on policymakers to take a firm stance on the Johnson Amendment's purpose in our civil society.

### KEY LESSONS

- Educate policymakers and staff early in the process
- Have frequent and regular follow-up with policy makers and staff to stay ahead of the narrative that opponents put forward
- Engage strategic partners (ie religiously-affiliated groups) who are able to reinforce the message to different audiences
- Remain vigilant and continuously aware of the threat from your opponents and how it can manifest in different ways

## What was achieved?

Preventing changes to the Johnson Amendment remains an on-going initiative and a high priority for the Council. So far, the Council has:

- Fought off changes to the tax reform and 2018 and 2019 appropriations processes, despite the fact that anti-Johnson Amendment language was included in initial versions of all three of the aforementioned bills. However the appropriations process is cyclical and the energy to repeal the Johnson Amendment among certain lawmakers has not diminished.
- Raised awareness in Congress as well as educating congressional staff on a bipartisan basis on the risks of weakening/repealing the Johnson Amendment. Both Council and Give Voice Coalition members have noted the increased congressional engagement and awareness for what the Johnson Amendment is and its significance within the charitable sector since we began advocacy efforts in early 2017.
- Engaged several members who are traditionally reticent to advocate or lobby. Of all the tax policy issues that the Council advocates on, this issue stirred genuine concern and passion from the sector as a result of the severity of the threat.

# Fondation de France/Transnational Giving Europe — creating a secure solution for tax-effective cross-border cash donations

## Overview

Fondation de France worked with other European partners to set up Transnational Giving Europe (TGE). It was a response to the problems associated with cross-border giving in Europe that were cumbersome and didn't allow tax deductions in the home country. European regulators were aware of this issue – as it contravenes European treaties, however, the legislative process has been slow to catch up. A private solution was warranted.

TGE now has 21 country participants that facilitate efficient cross-border giving within Europe, and provides for the ability to take advantage of their home-based tax regime, even if they're giving to a charity in another member country.

## SUMMARY OF ACHIEVEMENTS

Fondation de France and other foundations, in partnership with the European Foundation Centre created an effective, private solution to enable cross-border giving in European countries. Known as the TGE – Transnational Giving Europe, the platform:

- Brings together members covering 21 countries
- Over the last 10 years, the TGE network has channeled over €70 million. Even though the growth has been gradual, the average amount per year is €7 million, and €10.6 million were channeled in 2017. France is amongst the most important beneficiaries and contributors, with €2 million channeled in 2017
- Enables private donors from one country to effectively donate cash to another
- Provides donor with the ability to benefit from the tax regime in their home country

## ABOUT FONDATION DE FRANCE:

The Fondation de France has been created in 1969. The objective: create a modern tool of philanthropy, both private and independent, in order to carry out educational, scientific, social or cultural “giving initiatives.” The Fondation de France is the spearhead of philanthropic development. For many years, it has carried out in-depth work to consolidate and professionalize the philanthropic activity of foundations and develop their efficiency and ability to innovate.

# Context

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Many European citizens are willing to make cross-border gifts and donations to help and support international causes and foreign charities. However, most European countries do not grant income tax deductibility to donors wanting to support a foreign beneficiary in another Member State. This unequal treatment of national and cross-border philanthropy infringes the fundamental freedoms guaranteed by the European Union treaties.

The European Commission is aware of this problem and has already requested that some countries adapt their legislation accordingly. Key legal decisions of the European Court of Justice confirmed this, and paved the way for a transnational giving framework. But national and European solutions can take considerable time to come into effect.

In 2000, four major European foundations from Belgium, France (Fondation de France), the Netherlands and the UK, identified the issue of cross-border tax-deductible giving and worked together to come up with a private solution that could allow an efficient and serious alternative to waiting for the slow pace of legislation to catch up. The Transnational Giving Europe (TGE) network was set up in 2001 for that purpose.

## What actions were taken? What was innovative?

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Fondation de France led a core process to help build, first, cooperation, amongst the constituents, and second, a working technical solution.

**1. Brought together an initial group of partners** in 2009, that eventually met once a year for two days, in a different country each year. The group included France, Belgium, the Netherlands and the UK.

**2. A system was set up** – TGE – that is enabled by one philanthropic institution in each country that acts as a reference organization: for inwards giving, it receives the gift from abroad and testifies to the eligibility of the project in regard to the public interest. For outward giving, it obtains, for the donor, the tax-deductibility authorization and transfers the gift to the reference organization in the beneficiary country. Fondation de France, for example, is the reference organization for France.

**3. Developed an online platform in 2018**, designed for new organisations joining TGE as potential recipients. They have to file an authorization request online, which has to be validated by partner countries via the digital platform.

**4. Extended the impact with national partners outside the network:** France and Belgium have also set up an online giving facility to enable their residents to make gifts online via credit card in favor of a European beneficiary organization outside the network. The long-term objective is to help other partner countries invest in this type of service, to modernize the tools and thus facilitate the administrative process for donors.

The key innovation was to create a much lighter certification process than had the system relied on individual countries in the EU, which would be too constraining for organisation, especially those that would only very occasionally rely on international gifts or donations.

## What were the challenges?

The main challenges remain in modernizing the tools to improve giving as well as communications and ensure that TGE is more broadly known amongst both beneficiaries and donors.

Setting up TGE involves a long-term commitment and such an initiative is not easy to set up and run, because each country has its own regulatory system. Whilst there are overarching European principles, each country still has its own set of unique rules. For example, giving to religious groups is more broadly

eligible for tax deductions in Germany than in France, and there are a number of local rules with which you may have to comply.

For these reasons, it's a significant challenge to make the network efficient and smooth. Each member needs to be willing to be collaborative and in this case, willing to adjust the framework of their national system for the sake of the network, while preserving their national specific requirements.

### KEY LESSONS

- All member organizations should meet in person once a year to help build relationships and mutual trust, in order to enable better problem solving; the process of collaboration provides a unique space where expertise can gather and share information on national legislation on philanthropy and giving
- Limit paperwork as much as possible
- Invest in a formal coordinator role and share the costs amongst participants
- Creating tools isn't enough: communication and outreach is critical towards both beneficiaries and donors, so that they're aware that the tool exists. Monthly newsletters and social media are both important

## What was achieved?

TGE enables national organizations to extend fundraising to donors abroad, whether they be locals or expatriates, without having to set up branches or sister organizations and without having to master different national laws. It can also create opportunities to approach global partners such as multinational corporations, benefiting from borderless interest in a specific cause or capitalizing on global exposure offered by the internet.

- **A broad, practical and tax-effective way to undertake cross-border cash donations** At the European level. TGE is the only practical and secure solution for tax-effective cross-border cash donations. The network now covers 21 countries: Austria, Belgium, Bulgaria, Croatia, Estonia, France, Germany, Greece (last country to have joined the network in 2018),

Hungary, Ireland, Italy, Luxembourg, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Switzerland and the United Kingdom.

- **Enables donors, both corporations and individuals**, resident in one of the participating countries, to financially support non-profit organizations in other Member States, while benefiting directly from the tax advantages provided for in the legislation of their country of residence.

Two concrete examples of beneficiaries using TGE are museums having donors abroad and high schools or universities relying on donations from individuals and companies and having a significant number of alumni in other countries.

### EXAMPLE:

#### Foreign beneficiaries in donor volume by year

Year	Number of French donors
2011	41
2012	519
2013	562
2014	735
2015	598
2016	569
2017	675
2018	1083
<b>General total</b>	<b>4782</b>

# IDIS led an education and advocacy strategy to build support for an Endowment Law that was approved in January 2019

## Overview

Until recently, there was no supporting legislation for endowments in Brazil. As a consequence, few incentives existed and there were only a limited number of endowments to support CSOs in Brazil. IDIS worked with others to build support for an Endowment Law over an eight-year period, including a strong education element about why it was needed, alongside an advocacy strategy to see a law ultimately enacted.

Given the importance of endowed giving in the growth of philanthropy in many countries, bolstering it should provide a major boost to Brazil's culture of giving.

### SUMMARY OF ACHIEVEMENTS

- The passing of a new Endowments Law to strengthen incentives for giving and CSO long-term sustainability in Brazil

### ABOUT IDIS:

IDIS is a civil society organisation and CAF's Global Alliance partner organisation in Brazil. Operating since 1999, IDIS works to build and support a thriving and sustainable civil society by providing strategic philanthropic solutions to individuals, family and corporate foundations. Always at the forefront of driving continuous development of practices in Brazilian philanthropy, IDIS carried out Brazil's first-ever Social Return on Investment evaluation (SROI) and is responsible for creating the first robust piece of research on giving in Brazil.

## Context

In spite of the fact that endowment funds are a well-known and commonly used mechanism in the developed world, they are only just beginning to be used elsewhere.

Some of the largest endowments in the world can be found in the United States of America and the United Kingdom. Some examples of the largest and most relevant endowments are the Bill & Melinda Gates Foundation, with an endowment valued at over \$50 billion

USD, Harvard University's endowment, valued at over \$37 billion USD, and the Wellcome Trust endowment, valued at over \$30 billion USD.

In emerging economies, this is also a trend with such examples as the Mohammed Bin Rashid Al Maktoum Foundation in the United Arab Emirates and its \$10 billion endowment, and in India, with the Azim Premji Foundation and its \$21 billion endowment.

However, in Brazil there was no legislation regulating endowments, meaning while there were a few endowments, such as the Bradesco Foundation and Maria Cecilia Souto Vidigal Foundation, both linked to a financial institution when founded, they were rare. Until now there has been no legal environment to support endowments, creating a level of uncertainty for endowment donors.

## What actions were taken? What was innovative?

IDIS, the Brazilian partner of the Charities Aid Foundation (CAF Global Alliance), sought to generate support for an enabling endowment law in Brazil effectively from scratch. The pillars of innovation included a dual strategy of education and advocacy. IDIS took key actions including:

**1. Launched a book** in 2012, entitled "Endowment Funds, Creation and Management in Brazil" with support from Vale Foundation and Ford Foundation. It was the first book to address this topic in Brazil and continues to be a reference for organisations, philanthropists, academia, fund managers and regulators.

**2. Led several meetings resulting in the drafting of a bill proposal for endowments, based on international best practice.** In 2012 and 2013, IDIS convened the Endowment Study Group with GIFE and JP Morgan. The group had 90 members, including lawyers, executives of the non-profit sector, public prosecutors, academics and others.

**3. Developed 3 guidance documents and other useful materials on Endowment Funds.** In 2016, IDIS developed guidance in partnership with Levisky Negócios & Cultura, PLKC Advogados, with sponsorship by the Brazilian National Development Bank (BNDES), Petrobras and Caixa Econômica Federal. They also translated an important book on philanthropy and endowments, 'Philanthropication through Privatization' (PtP) by Professor Lester M. Salamon from John Hopkins University.

**4. Created an advocacy strategy with several partners from civil society philanthropy and the private sector.** IDIS and others agreed fundamental principles for good legislation that would benefit CSOs, philanthropy and social investors. These included:

- Breadth of the social causes and non-profit organizations that may constitute endowment funds
- Existence of fiscal incentives
- Governance and transparency rules based on international best practices

**5. Met with congressional representatives and government officials across multiple departments** over a 6 year period, including the General Secretary of the Presidency, representatives of the Chamber of Deputies, Federal Senate, IDB and the Ministry of Education, Culture and Economy. IDIS hosted events and discussions that led to 11 Bills in the National Congress that sought to regulate endowments in Brazil.

**6. Brought together the Coalition for Endowments** ("Coalizão pelos Fundos Filantrópicos") in the final stages to strengthen the movement for the regulation of endowments. Led by IDIS and with legal advice from PLKC Advogados, relevant organizations supported the creation of the movement: Gife, APF, Cebrap, Humanitas 360 and Levisky. With over 60 organizations, the Coalition was launched in the National Congress in 2018.

## What were the challenges?

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The path that has led to the approval of the legislation was long and unpredictable and IDIS needed to be prepared and flexible. For example, in 2018, due to an unfortunate catastrophe, a fire that destroyed over 90% of the Brazilian National Museum's archives ended up being a catalyst for government action. Michel Temer, the President at that time, signed a Provisional Measure to ensure that museums, universities, other public institutions and nonprofits benefit from the endowment mechanism, improving their long-term sustainability. IDIS, in the name of the Coalition, released a Public Notice declaring support to the measure and highlighting the importance that it includes all social causes and organizations.

Advocacy depends on organizational agility. Identifying key government representatives that could push forward the initiative is very important, but more so is the ability to respond rapidly to all opportunities that emerge in the process, with concrete alternatives. The IDIS president was directly involved and there were dedicated funds provided in the final stages to help achieve success.

### KEY LESSONS

- Organisations should be responsive to external events which can help to galvanise political support – in this case a tragedy of a museum fire
- Getting a new law passed takes time. Successful advocacy depends on agility and perseverance, as well as availability throughout the process to respond to events and opportunities as they arise
- Building a strong knowledge base on the aims, with international benchmarks, is important
- Creating a broad coalition was the critical innovative aspect that led to success

## What was achieved?

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In early 2019, after eight years of work by IDIS, Brazil's government approved the Provisional Measure, transforming it into the 13.800 Law, the "Endowments Law".

- The law will provide better incentives for creating endowments, expected to benefit cultural CSOs, such as museums and orchestras in particular.

• IDIS also built a stronger network of civil society supporters. Over the long period of advocating for endowment regulation in Brazil, IDIS was able to attract multiple partners and supporters to the cause (over 60 organizations from all sectors). It became a core pledge across civil society that united different actors.

- Laying the groundwork for longer-term impact. If Brazil's largest fortunes donate 1% of their assets to endowments, at least US\$ 1.2 billion for philanthropy would be realized.



# The Spanish Association of Foundations (AEF) influenced the law to improve tax incentives for individuals in order to grow public support for foundations

## Overview

After the Financial crisis in 2008, contributions to Spanish foundations were at risk. Unlike in other jurisdictions, tax incentives are generally lower for individual giving than those of companies and did little to encourage significant giving. AEF sought to influence the government to overhaul the fiscal rules governing foundations, specifically regarding tax incentives for donors. The organisation worked with other partners in the sector and produced ground-breaking research that showed the economic benefit of Foundations to the Spanish economy, focussing on the benefits of growing individual giving. A partial overhaul of the rules was achieved in 2014, which had immediate benefits for the sector.

### SUMMARY OF ACHIEVEMENTS

After the 2008 financial crisis, The Spanish Association of Foundations (AEF) sought to influence changes to Spain's fiscal rules to encourage more individual giving. Through their efforts, AEF:

- Achieved partial changes to tax law in Spain, encouraging more individual donations through tax incentives
- Quantified the economic benefit of the foundation sector
- Created more understanding in the general public about the benefits to society of individual giving
- Contributed to the growth of the foundation sector overall

### ABOUT THE SPANISH ASSOCIATION OF FOUNDATIONS (AEF):

The Spanish Association of Foundations (AEF) is a private and independent national association. It was established in 2003 by the merger of two other long-established Spanish organizations. It brings together over 800 diverse Spanish foundations and represents the sector at the national level. The main objectives are to: represent and defend the interests of Spanish foundations, strengthen and articulate the sector and improve the professionalization and management of foundations contributing to their transparency and good governance.

## Context

The Spanish Foundation Sector is young: over 70% of foundations have been set up in the last twenty years. Spain now has about 8,800 foundations, the vast majority of which are small. Over 60% have an annual income below €500K and 20% have annual incomes of less than €30K.

The amount of individual donations given to foundations is still very low. Currently only 11% comes from individuals and nearly 30% from private companies, with the remainder coming from public administration and earned income from investments, services and products.

The proportion between donations from individuals versus companies is significantly lower compared to countries such as the US, where donations from individuals account for 70% of the total contribution received by the foundation sector overall.

The negative impact of the 2008 financial crisis put contributions to foundations in Spain at risk. A large number of foundations saw a significant decrease in their income from all sources: public, private, investments etc. At the same time they faced growing demand for their work as a consequence of

the financial crisis itself, as people were heavily affected economically. Unemployment soared up to 25%. Shrinking resources and increasing demand were at levels not seen in decades. This raised the real danger that part of the foundation sector could collapse.

Act 49/2002 is a Spanish regulation that deals with the fiscal treatment of non-profit organisations, including any tax benefits for donors. The Act provides a limited tax incentive for individual donors and a higher one for corporations.

## What actions were taken? What was innovative?

It has always been a key part of the work of AEF to try to increase citizen participation in organisations working to improve the public benefit as this contributes to a stronger democracy and social cohesion. In 2009, due to the extraordinary economic situation, AEF decided to prioritize the role of citizen participation through giving, seeking to amend Act 49/2002 so that tax incentives for donors could increase. With the support of AEF's advisory board, the organization focussed all of its advocacy efforts on this outcome.

AEF already had significant knowledge of fiscal regulation relating to foundations. AEF had an advisory council, which included financial professionals alongside dedicated staff expertise. On average, AEF has answered a thousand enquiries from its members covering legal, fiscal and accountancy issues every year. This helped in putting together a number of proposals aimed to amend the Act.

Specifically, AEF:

**1. Expanded advocacy efforts** around *different* norms that could impact on giving to foundations. For example, AEF sought to advocate signpost reforms to the Science Act and the Sustainable Economy Act, through meetings with their respective ministries, as well the relevant politicians. It was important for AEF that it sought to widen opportunities because these help to open doors and make connections to the specific area of legislation.

**2. AEF influenced political parties** across the spectrum who were also presenting proposals to improve Act 49/2002.

**3. Produced research that highlighted the contribution of foundations to the economy**, underpinning the benefits of tax incentives for individual giving. For the first time in Spain, AEF produced accurate information on the number of foundations, their annual income and expenditures, their aggregated assets, information of the employment created by the sector and also of the number of beneficiaries. Those figures showed that foundations accounted for almost one per cent of GDP and that the sector employed over two hundred thousand people.

**4. Researched different tax scenarios** in collaboration with expert academics, showing the macro-economic impact of each one, proving what could happen to such things as income and employment, depending on the tax incentive stimulus. The research highlighted the importance of smaller donations to foundations: €150 was the average contribution by Spanish individuals. By showing the benefits of increasing tax incentives on this amount, the research could consider the impacts precisely on different scenarios.

The research critically showed that in spite of a potential reduction in tax revenue for the government, there would be clear economic benefits overall. This was the first time that research showed this link.

**5. Built a coalition** of the other major infrastructure organisations at the national and regional level and sought endorsement for AEF's proposals in order to respond to a government commission set up in 2013.

## What were the challenges?

In 2013, when the government finally launched an inter-ministerial commission to reform tax incentives to foundations, it was ultimately reluctant to open a full revision of Act 49/2002. They only pursued a partial amendment of the Act. AEF agreed to accept such partial reforms, as opposing them would have closed the door entirely on a full overhaul of the legislation.

It was challenging to get buy-in to the idea that increasing tax incentives would not lead to a decrease in public expenditure towards charitable causes. The research commissioned was fundamental to overcoming this perception. However, such research is expensive and requires specialised knowledge and time. Securing funding for this was key.

AEF stood alone amongst its peers in bringing attention to the issue of how tax incentives would impact on the economy, demonstrating through their research that an increase in tax incentives would not lead to losses in public funding.

AEF has a red line on tax incentives and advocates for them to be the same for all types of public benefit activities (e.g. culture, social, environmental, etc.). However, different government ministries want increased tax incentives for each one of their particular issues. This means AEF couldn't always align with the different government goals.

### KEY LESSONS

- Commissioning research on the economic value of foundations, as well as the economic impacts of any changes in tax laws, gives credibility though it will be expensive
- Make sure you have strong knowledge of the issues and capacity to engage fully
- Offer up legal wording for proposed changes – what it would look like if drafted into law, rather than vague asks – and include a description of why these changes are important
- Bring together a coalition of organisations to increase influence
- There will be benefits beyond the immediate legal change; a wider campaign helped to change the public's perception that philanthropy was only something for big donors. Instead, it was something that all citizens could participate in

## What was achieved?

Though not a full overhaul of the original law, partial amendments made in 2014 achieved significant success (see *table 1*, right). In summary, AEF achieved:

- **Improvements to tax incentives for individuals**, which recognised the importance of small donations to the foundation sector. AEF adopted the term “micro mecenazgo” [very small gifts] to characterize what it means for the increased percentage of deduction on donations up to €150.
- **An immediate growth** in the number of donations to foundations, even taking into account the poor economic situation in Spain at the time (source, Spanish tax agency). Individual foundations were able to open up new opportunities for fundraising towards individuals.
- **Recognised leadership of AEF** with government and the public.



TABLE 1

Source:

Prepared by the Spanish Association of Fundraising with data from the AEAT. [www.aefundraising.org/wp-content/uploads/2018/12/Estudio-Comparativo-Europeo-Fundraising\\_AEFr\\_2018\\_Ok-1.pdf](http://www.aefundraising.org/wp-content/uploads/2018/12/Estudio-Comparativo-Europeo-Fundraising_AEFr_2018_Ok-1.pdf) (p27)

# NGOsource: a case study in funder collaboration and user-centered design

## Overview

U.S. regulations required non-U.S. NGOs supported by U.S. foundations to establish their equivalency to U.S. public charities through a long and expensive process. A coalition of international foundations and the Council on Foundations worked with TechSoup to establish a new independent entity called NGOsource which streamlines the process by creating a formal repository of equivalency determinations (EDs).

### SUMMARY OF ACHIEVEMENTS

NGOsource was created through support from a coalition of foundations and the Council on Foundations and benefits U.S.-based grantmakers and non-U.S. NGOs by:

- Saving significant time and money: reducing a grantmaker's cost of regulatory compliance from up to \$10K USD down to \$1K USD
- Reducing duplication: a non-U.S. NGO is now required to only fill out one document
- Supporting charitable organisations: organisations in countries where charities are facing severe restrictions can continue to be supported through U.S.-based funding. By providing localized (in time zone, language, and culture) support, NGOsource enables NGOs to obtain more complete and timelier ED submissions and cut down on costs and redundancy when funded by U.S.-based grantmakers in the future

### ABOUT NGOSOURCE:

NGOsource, a project of the Council on Foundations and TechSoup, helps U.S. grantmakers streamline their international giving through easier equivalency determinations. For more information, please visit [www.ngosource.org](http://www.ngosource.org).

## Context

In 2005, U.S. foundations shared a common problem: to comply with U.S. tax authorities – the Internal Revenue Service regulations – U.S.-based international grantmakers had to determine whether non-U.S. NGOs were equivalent to U.S. public charities before making grants. At the time, the process for conducting EDs was costly, inefficient, and duplicative. EDs couldn't be shared, so every foundation conducted its own assessment, using its own approach, on its own timelines. Each ED cost

foundations anywhere from \$5K USD to \$10K USD in legal fees. Non-U.S. NGOs were also handling multiple requests for information in varied formats, costing them time and staff resources.

Streamlining the process of equivalency determinations represented an opportunity to save foundations significant money and time in redundant compliance costs and NGOs time in responding to duplicative requests.

TechSoup, responding to a Request

for Proposal process from the Council on Foundations, Foundation Center, Independent Sector, InterAction and a consortium of over 15 international foundations, set out to streamline the process by creating an equivalency determination repository that would:

- Reduce duplication
- Reduce compliance costs
- Ensure trust by foundations and regulators

## What actions were taken? What was innovative?

A consortium of international foundations, along with the Council on Foundations, decided to work together to develop a solution: an ED repository. Innovations included a dual approach to creating the platform through a design-led process, with wide levels of stakeholder involvement, alongside calling for regulatory reform that would underpin the legitimacy of the platform itself for tax authorities.

Actions that were taken included:

**1. Launched a Request for Proposal process** to run NGOsource. Nonprofit social enterprise TechSoup was selected to build, launch, and run this service. The participating funders provided seed funding to TechSoup, with the expectation that the service would soon become self-sustaining based on fee revenue for ED services.

**2. Proposed changes to regulations.** The funders collaborative proposed changes to regulations to clarify the requirements for EDs. In 2009, a coalition led by the Council on Foundations and Tech Soup submitted requests to the IRS and the U.S. Department of the Treasury in support of NGOsource and to urge clarification of certain ED standards. They worked for several years with the Treasury and the IRS to facilitate a rule change in 2012, allowing repositories like NGOsource to serve U.S. foundations' compliance needs.

**3. Used Design processes to develop the platform.** The Council on Foundations brought on a design partner, Information Age Associates, to lead a user-centered design process that would create a repository of standardized EDs.

**4. Created wide ownership through an Advisory Council** of potential users to inform the design of the service. Input from these users guided the design of NGOsource's online platforms and service model and it continues to guide improvements and enhancements to the service.

## What were the challenges?

NGOsource solved a major problem the philanthropic community had faced around the redundant, costly and laborious process of equivalency determination. By partnering with TechSoup, the Council on Foundation and the consortium of funders were able to leverage TechSoup's know-how and global network to support this effort. The effort progressed because of the time and patience that went into building a mechanism useful to all stakeholders.

A key challenge of this project was to address the need to provide culturally competent, timely support to NGOs across the globe. Instrumental to NGOsource's success was partnering with nine of TechSoup's 70 global partners to help NGOs navigate the ED process. NGOsource's global partners – each familiar with the local laws, customs, and ED requirements in the regions they serve – offer high-quality, culturally-responsive support, often in local languages and time zones.

Global partner involvement enables NGOsource to efficiently process EDs from every country in the world.

The service's exponential growth means the evolution of new technology solutions that support its ability to continue to scale. Because NGOsource also has a diverse group of grantmaker members, these clients come with a diverse set of needs. This means NGOsource now has the opportunity to develop increasingly responsive technology that provides agile support for stakeholders, as well as to continue to ensure that data remains secure and complies with emerging data protection standards.

As NGOsource continues to grow, TechSoup will look to apply this user-informed repository model to other issues affecting the sector and, as with NGOsource, usher in new collaborative approaches to state-of-the-art giving.

### KEY LESSONS

- Building a mechanism that suits a wide diversity of partners takes time and patience
- Systems designed need to be user-centered
- Trust in the system requires that data meets the highest security and protection standards
- Technical innovation requires a partner with the right skill set and reach
- Exponential growth provides opportunities for more innovation in the system

## What was achieved?

NGOsource launched in March 2013 and soon gained some of the largest U.S. foundations as subscription-paying grantmaker members.

- Conducted more than 6500 EDs in 136 countries for over 350 grantmaker members as of March 2019. This includes 15 of the 20 largest U.S.-based international grantmakers.
- Achieved financial sustainability for the new organisation. NGOsource has facilitated the giving of over \$2 billion in international funding as of March 2019 and achieved financial sustainability by July 2018, 5 years after its launch.
- Changed regulatory rules to affirm the NGOsource approach. In September 2015, the U.S. Department of the Treasury and the Internal

Revenue Service issued final rules on equivalency determinations affirming the NGOsource approach, thus strengthening grantmakers' ability to confidently rely on EDs provided through their repository.

- Significantly reduced the cost and complexity of international grantmaking. Each ED saves the grantmaker thousands of dollars, staff time and legal cost. Grantmakers benefit from the due diligence done by others; existing ED certificates are immediately issued for only \$250, bringing down the cost and complexity of doing international grantmaking.

NGOsource's success stems from its beginnings as the product of a user-centered design approach. The very population experiencing the problem

collaborated to guide the design of the service and ultimately transform the grantmaker-NGO relationship.

NGOsource's unique cooperative equivalency determination repository model does something that did not exist before: instead of working in silos, it allows the entire philanthropic community to benefit as the data and analysis NGOsource uses to issue an ED to one grantmaker can be used to issue EDs to other grantmakers. This model does not just reduce the expense and difficulty of international giving and dramatically increase the flow of funding internationally, it allows both funders and NGOs to spend more time doing what they do best: meeting their missions.

# European Foundation Centre and partners within a non-profit coalition challenge chilling impact of counter terrorism policy

## Overview

The Financial Action Task Force (FATF) is a multinational response to help reduce money laundering that finances terrorism. The Task force has 40 recommendations that national governments are required to implement. One of the key recommendations suggested that all non-profit organisations (NPOs) were vulnerable to terrorist financing and consequently recommended a series of policies adopted by governments – from banking restrictions to halts on cross-border philanthropy – that were hugely detrimental to civil society in many countries throughout the world. In 2013 the European Foundation Centre (EFC), together with a coalition of organisations including the Charity and Security Network (C&SN), the European Centre for Not-for-Profit Law (ECNL), and the Human Security Collective (HSC), formed an NPO coalition of 130 philanthropy and civil society organisations to engage with the process. From 2015 – 2017 they led a project to help analyse the impact of the FATF policy on the NPO sector, collect evidence and raise awareness about the issues within the NPO sector and policy makers. They developed concrete proposals alongside an advocacy strategy to improve the situation. As a result of this work, FATF did something it had never done before: it issued an ad hoc revision to the text of one of its 40 recommendations that improved the situation for NPOs and ensured any policies that were put in place were reasonable and weighed up the risks in a more proportionate and discerning way.

## SUMMARY OF ACHIEVEMENTS

- Created a platform for not-for-profit organisations (NPOs), that included 130 philanthropic and civil society organisations across 43 countries to confront the policy
- Modified the FATF policy on not-for-profits to ensure that they were not all automatically labelled as being vulnerable to terrorism. Any new policies adopted by governments now need to be grounded in understanding actual risk, and proportionate
- Created a formal mechanism to include NPO representation in FATF policy-recommending forums, securing one seat for philanthropy currently held by EFC on behalf of WINGS

## ABOUT NPO COALITION:

The Global NPO Coalition on FATF is a loose network of diverse nonprofit organisations (NPOs) that advocate for changes in FATF's Recommendations affecting NPOs, particularly Recommendation 8 (R8), with the aim of eliminating the unintended consequences of FATF policies on civil society. [www.fatfplatform.org](http://www.fatfplatform.org).

## Context

The international security agenda, which has included a global fight against money laundering and terrorism financing, has been one of the key drivers behind the more restrictive operating environment for philanthropic support to civil society. Since 9/11, governments have introduced tighter rules on the non-profit organisation (NPO) sector, including philanthropy. These rules use counter-terrorism or money laundering allegations as a justification to limit or control cross-border philanthropy, through banking restrictions and other regulatory means.

The Financial Action Task Force (FATF), an Inter-governmental body established by the G7 in 1989, currently has 38 Member States as well as a series of observers and is the key driver behind policies that have had a negative impact on philanthropy and civil society. Over 190 countries have committed to implementing 40 FATF standards, of which one significant one - known as recommendation number 8 - had been singling out the entire NPO sector as being particularly vulnerable to abuse for terrorism financing.

FATF is not a legislator but works as a very powerful global framework setter, where rules are adopted by individual governments. Governments are regularly evaluated on how well they implement the standards. Engagement with the NPO sector had been ad hoc and sporadic, in contrast to its relationship with the private sector, which met once a year with FATF officials.

Key issues needed to be addressed:

- EFC and its partners believed the policy that labelled all NPOs to be vulnerable to abuse for terrorism financing was misleading as it wasn't based in evidence and contradicted a risk-based approach.
- Application of the policy itself was open to abuse by governments. Because a poor compliance rating with FATF standards has a negative impact on countries, governments want to score well and meet the standards. Thus, the incentive was to overregulate and ignore NPOs on this issue. The multiple standards, including those that harm civil society and philanthropy, were often implemented without due regard to their needs.

- Some governments inadvertently implemented policies that resulted in a narrowing of the operating space for civil society, such as restrictive banking regulations or growing administrative burdens for philanthropy and civil society alike. Bank de-risking, in particular, became a key unintended consequence of FATF policy, meaning NPOs could often not get access to banking services. Cross-border philanthropy had also become more difficult, including to humanitarian organisations, especially to communities where terrorism had been known to exist.
- Several more repressive governments have used the FATF recommendation 8 as a welcome excuse to close down the NPO sector or severely restrict its operations, using the security agenda as a justification.
- The NPO coalition therefore set out to influence the FATF and seek a review of recommendation 8 because of its negative impact on charities and charitable foundations.

## What actions were taken? What was innovative?

EFC, the Charity and Security Network (C&SN), the European Centre for Not-for-Profit Law (ECNL), and the Human Security Collective (HSC) formed a core team to take the initiative forward. The following actions were taken:

**1. Created the FATF NPO Platform.** ([www.fatfplatform.org](http://www.fatfplatform.org)). The core partners ensured that many actors in philanthropy and beyond were engaged in the growing NPO coalition. There were over 130 organisations from 46 countries involved, representing human rights, service organizations, peace builders, donors, philanthropic organisations and transparency groups. The activities included analysis, proactive advocacy and regular strategizing and support around FATF evaluations and FATF policy implementation at the national level. The coalition regularly updated its members on new policy developments at national, regional and international levels (and continues to do so).

The FATF online platform provides a single portal to help civil society and philanthropy learn about the process and why it's important, engage with decision-makers, and know when reviews are happening so that they can effectively respond at the national or regional level. Key activities were launched through a project called 'Standing up Against Counter-Terrorism Measures that constrain Civic Space.'

**2. Entered into formal dialogue with the FATF.** In April 2013 the FATF entered into a semi-formal dialogue with non-profit organisations (NPOs) for the first time. This discussion centred on the FATF standards used to stem terrorism, and how these impacted the NPO sector. There were concerns about how to balance the need to protect non-profits from abuse by terrorists with the adverse impacts of poor governmental implementation of FATF's NPO standards. A more formal and less ad hoc approach was finally established

in 2016 to engage NPOs in a more formal structure, with an official standing similar to the private sector.

**3. Created evidence-based research,** which showed that the claims of NPOs as being conduits for terrorist financing were unfounded. FATF only referred to 102 cases of NPO abuse in its annual Typologies report in 2014 and there was no evidence of systematic and larger scale abuse by the NPO sector.

**4. Brought together a single unifying voice for philanthropy.** EFC established one voice for philanthropy in the formalised dialogue structure. Through the WINGS network, the EFC gave regular updates on FATF policy developments, organised feedback on FATF policy from the philanthropy sector and submitted this to FATF. Trainings and awareness raising events for the sector were also organised via webinars and face-to-face meetings.



## What were the challenges?

- Understanding the issue and connecting the dots. Trying to understand the relevant role of FATF policy as an (unintended) driver of shrinking space was a significant challenge. This meant unpacking how it was being implemented and finding sufficient evidence. It took a while for the sector to understand that the tightening of rules was systematic and caused by a policy recommendation that misleadingly described the entire NPO sector as being at risk for terrorism financing.
- Getting access to FATF. In spite of the power of FATF, the entity wasn't well-known to the general public or the NPO sector. It worked fairly secretly and it required some effort to find out how it operates and how to get access to its decision makers.
- Making the case to the relevant authorities. FATF is composed of Member States representatives. In the majority of cases these are Ministries of Justice or Finance, supervisory authorities or Financial Intelligence Units. In many cases, these bodies were not very knowledgeable about the NPO sector. Efforts were therefore needed at the national level to educate authorities about the sector and its specific issues.
- Mobilise a wider international NPO coalition. The coalition was comprised of a diverse group of actors from different parts of the world. In addition to language barriers, there were also different national contexts and backgrounds that required effort to overcome, solid information sharing and often more explanation and engagement.
- Criticism from within the sector. Some NPOs criticised the NPO coalition for engaging with FATF since they considered that any engagement with FATF could be understood as giving backing to the FATF policy.

### KEY LESSONS

- Because of the international nature of the FATF, the core group of partners brought together different expertise and geographic representation. They all operated on an equal footing under the umbrella and, at times, organisational 'branding' was unimportant
- Create a firm evidence base to help influence the process
- Cross-sector and cross-country collaboration can work well if there is a clear joint evidence-based advocacy strategy and a committed secretariat to organise the process. Regular meetings and exchanges within the NPO sector were crucial as were regular exchanges with the FATF secretariat and FATF Member States
- A targeted advocacy agenda and a lot of persistence were critical. Friendly words would not have been enough

## What was achieved?

There were some strong interim results, such as increased awareness of the FATF process by NPOs and philanthropy. Most importantly, at its Plenary in June 2016, the coalition achieved significant policy concessions from FATF. Specifically:

- Revised Recommendation 8 on non-profits. Prior to 2016 FATF policy viewed all NPOs as being vulnerable to being used as a conduit for terrorist financing, even though the evidence available did not indicate that all were at risk. As a result of the 2016 amendment, governments must now show that measures targeting non-profits are proportionate to identified risks. This means that in order to be compliant with the FATF policy countries can no longer claim that the whole sector is at risk and adopt regulation that affects all non-profits. Now countries must first demonstrate whether and which NPOs are at risk of terrorist financing abuse. Based on this risk assessment they should adopt measures that respond to the risk by targeting only those groups at risk and in a proportionate level to the risk itself.
- Formalised the role of NPOs in the FATF consultative processes. After years of continuous advocacy by the Global NPO Coalition on FATF, the FATF offered the Global NPO Coalition four seats on the FATF Private Sector Consultative Forum (PSCF), with one seat specifically for philanthropy (currently held by EFC on behalf of WINGS). Other seats are held by ICNL/ECNL for legal expertise on the NPO sector, as well as one by the Co-Chair of the NPO Coalition and one by

the Humanitarian sector. This provides ongoing direct engagement with governments and decision makers on FATF policies and provides a platform to influence good practice, including how to solve some of the unintended side effects such as bank-de-risking.

Work by the coalition to improve the FATF policy and implementation is ongoing. There are regular country evaluations and the coalition continues to support its partners to be part of the review process and ensure that any implementation is proportionate and unlikely to harm the NPO sector.

# Why we should all care more about the “environment” for domestic resource mobilization of civil society

## ABOUT CIVICUS:

CIVICUS is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society throughout the world. It was established in 1993 and since 2002 has been headquartered in Johannesburg, South Africa, with additional hubs across the globe. CIVICUS is a membership alliance with more than 4,000 members in more than 175 countries.

**“We regularly consult our members about their needs, and most of the answers we received in recent years highlight that they are worried about financial sustainability,” says Addys Then Marte, executive director of Alianza ONG, a network of 36 NGOs in the Dominican Republic. “More than worried, some even feel threatened by the current funding landscape,” she added.**

Frankly, this is no surprise for us at CIVICUS, a global alliance of civil society organizations and activists, since sustainability is consistently in the top 3 concerns cited by our over 7500 members (including Alianza) worldwide as a concern for their work. However, while seeking sustainability is definitively nothing new and actually quite a healthy aspiration for any kind of undertaking, this new mantra sounds particularly alarming in the current times as civil society groups, especially the change-seeking ones, are finding it increasingly hard not only to sustain their struggles over time but even to exist and thrive in rapidly changing and adverse landscapes.

According to the [CIVICUS Monitor](#), civic freedoms are under significant attack in 111 countries, covering 96% of the world’s population. Faced with this worrying context, along with democratic regressions around the world, standing up for an independent, diverse and

sustainable civil society has become more important than ever. It is through civil society (or at least its progressive parts) that we stand up for fundamental human values, and help advocate for those who lack political and market power. Civil society is also the sphere of [dialogue, innovation and imagination](#), which provides opportunities to question, reimagine and renew social norms and values, and ultimately the arena through which we can all take action on circumstances affecting our lives.

However, to play this critical and irreplaceable role, civil society - in all its diversity - must stay independent from state and market-related dynamics, and be recognized as a value in itself, not just as a means to achieve other objectives. Given this era of dramatic changes in social justice and in our democracies, we should all pay more attention to the resourcing environment of civil society.

Just as in the Dominican Republic [case](#), civil society groups across many countries, especially change-seeking groups and those representing communities pushed to the edges of society, see this environment as declining or very difficult, with flexible and long-term funds particularly strained, which makes it practically impossible to develop internal capacities, have long-term plans or even decide autonomously how best to pursue their goals.

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"Civil society...  
provides  
opportunities to  
question, reimagine  
and renew social  
norms and values"

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Looking at the international funding landscape, the withdrawal of bilateral donors from several countries is negatively impacting sustainability prospects, as many civil society organizations (CSOs) have grown highly dependent on these. But more generally, the aid modalities themselves show serious limits in supporting a diverse, sustainable and independent civil society: short timeframes, risk aversion to controversial issues and to experimental approaches and a focus on quantitatively driven results, to name a few.

This has caused the "projectification" of activism which is unlikely to develop lasting capacities and is [unfit to support fundamentally political processes of social and institutional change as those driven by grassroots movements](#). Moreover, the tendency to favor trusted organizations mostly based in the Global North has produced a concentration of resources going to fewer, larger entities with very little funding reaching directly to local groups in the Global South (according to recent analyses, these represent just [1% of all ODA](#) and [12% of international giving by US foundations](#)).

Besides being insufficient and inadequate, these streams of funding nowadays are even inaccessible for many. Not just because of the high eligibility thresholds and requirements, but also the last seven years have witnessed a mushrooming [trend of governments restricting the ability to receive funds from foreign sources](#), often on the pretext of preserving state sovereignty from external interference, preventing terrorism, concerns over aid effectiveness or clashes between economic interest and civic activism.

These claims, coupled with accusations on the accountability and transparency of foreign-funded groups, provide governments with powerful arguments for enacting funding restrictions, and now pose a further challenge on the impact of foreign resources for the legitimacy and resilience of the sector. Foreign-funded groups are vulnerable to accusations of mission creep and find it harder to assert their autonomy, which makes it easier to demonize them as foreign agents.

To counteract this worrying global trend it is necessary to work on a mix of strategies that include promoting more devolved practices that ensure local ownership and accountability, as well as investments to build stronger organizations. And, while the funding community is still struggling to define coordinated approaches matching the depth and breadth of the issues at stake, it should also be acknowledged that international solidarity wouldn't in any case be the only and ultimate solution to the sustainability dilemma of the sector.

Many people have already acknowledged this and are now exploring the domestic funding arena. We see more and more groups creatively [exploring different ways to diversify sources of funding](#) and support while staying more rooted on the ground. These could be in the form of affiliation fees, revenue-generating initiatives and hybrid social enterprise models, or by introducing dedicated [economic sharing platforms](#) to exchange assets and capacities locally available, or experimenting with [crowd-funding](#), giving circles and other ways of tapping into new opportunities of individual giving.

In doing so, these groups are not only turning to organizing models that build solidarity, community and trust, but are also progressively weaning themselves off external donors dependency and the limited and quite risk-averse opportunities of support available domestically from States and corporate philanthropy. Moreover, a rapidly [growing community philanthropy](#) movement is changing the conversation in funding circles around agency, power and giving, opening the eyes of various philanthropic infrastructure organizations to what are the resources (especially the non-financial ones) that matter the most in the long-term.

These changes show that the stakes for developing sound systems to support domestic resource mobilization have never been higher. Advocating for these and strengthening the capacity of civil society groups to leverage domestic resources should become the priorities of our [support ecosystem](#).

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"a rapidly growing community philanthropy movement is changing the conversation in funding circles around agency, power and giving"

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On the ground, this requires adequate legal and regulatory conditions, including incentives tailored to different groups that are predictable, manageable, transparent and free from political interference. It also calls for promoting a well-grounded culture of solidarity with the sector based on more compelling narratives about giving and activism that could win the hearts and minds of people, and on enhanced standards that build trust within society.

In this scenario, creating opportunities for local civil society to deepen understanding, develop or renegotiate the conditions shaping such an environment seems very strategic. Recognizing the fragmentation of our sector as a weakness vis-a-vis governments, donors and the private sector, at CIVICUS we have often promoted spaces for [multi-constituency engagement](#) led by cross-sections of civil society.

We joined forces with WINGS and Forus in an important [call for action in support of an enabling environment for civil society and philanthropy](#), and we have already taken concrete actions towards it. In 2018, AGNA, a CIVICUS-hosted civil society network that brings together national associations and regional platforms to foster greater cooperation, launched an initiative to bring attention and pave the way for domestic resource mobilization as a strategy for enhancing sustainability of the sector.

As part of this initiative, affiliated platforms can request support to initiate (or sustain existing) dialogue processes between various civil society groups, government representatives, philanthropy organizations, the private sector and other relevant stakeholders, with the view to improve domestic conditions for civil society resourcing. Members of the network from very different regions expressed interest in tapping into various opportunities offered by upcoming tax reforms or revamping of laws and regulations on civil society, social enterprise and giving, showing how very relevant this conversation is around the world.

Alianza ONG from the Dominican Republic was the first platform to pilot one of these dialogues. The process, driven by a small multi-stakeholder group, started with a landscape analysis of the main funding modalities available in the country, which revealed that the biggest source of funding for civil society now comes from its own service delivery function. International aid is only the second source of funding followed by State and the private sector. With these and other findings, Alianza organized a national dialogue with more than 80 actors from various sectors who collectively identified the conditions needed to enable an environment for domestic resource mobilization. Alianza ONG and the other partners involved are now developing a multisectoral 2020 Strategy for domestic resources mobilization that will include realistic activities for three priority areas: capacity strengthening, increased transparency and promoting more accessible incentives frameworks.

We are planning on supporting more national dialogues in different countries because they can help ignite change. As the [director of Alianza](#) highlighted, "breaking these funding barriers will take time and more political conversations and political will, but this is an important step ahead in addressing the sustainability of the civil society in our country."

Civil society does not want an environment that is free of laws and regulations, but one with laws and regulations that recognize its autonomy and fundamental role in society, and enables it to work more effectively on a full range of roles in collaboration with other sectors. The outcome of a better resourcing environment is empowered and resilient people coming together and mobilizing to find solutions and resources to solve problems where states and markets fail.

# Forus and its members' commitment to promote an Enabling Environment for civil society

## ABOUT FORUS:

Forus is a global network of 69 National NGO Platforms (NPF) and 7 Regional Coalitions (RC) from 5 continents. As a legitimate catalyst and representative of the voice of NGOs worldwide, Forus works to strengthen the capacities of civil society to ensure the effective and efficient participation of civil society actors in official negotiations.

**An enabling environment refers to the governmental mechanisms and public policies anchored by a regulatory benchmark. It should rely on government funding and allow the autonomous participation of organized civil society. A suitable environment should be based on democratic principles, diversity, and the fulfilment of human rights.**

Real life shows us that the more transparent governance mechanisms are and the more effective the application of human rights, the more open, diverse, upright, and happy people will be in their lives and in society. The world ranking of happiness presented in the 2017 Report of the UN Sustainable Development Solutions Network (SDSN) places Scandinavian countries in the top positions. The criteria are: GDP per capita, social assistance, healthy life expectancy, freedom to make choices, generosity, and perception of corruption. It is not difficult to understand the reason behind this result. They are, in fact, the most egalitarian societies in the world.

The complexity (and contradictions) of the world, however, lies in finding ways of resolving political crises (discrediting the system of representation and multilateralism), environmental crises (having the climate crisis as the most urgent aspect), economic and food security which comes day by day and

widening the gap between the rich and poor. What is more, we're seeing deepening inequality never before experienced in the history of humanity.

According to the latest Oxfam report, "Public Good or Private Wealth?" launched in January 2019 at the World Economic Forum in Davos, the gap between the super-rich and the rest of the world has never been greater than today, with 26 individuals possessing the same quantity of wealth as 3.8 billion underprivileged people. This means that we are moving in the opposite direction of happiness.

On the one hand, we have international laws that guarantee rights and give us the basis to democratize the political and representational systems. These require a radical rethinking of the development model to face the environmental and climatic issues that force us to redress the systems of taxation and distribution of wealth. They also oblige us to recognize the rights of women, indigenous peoples, the LGBTI population, the fight against racism, and the fight for peace, among others.

On the other hand, we are experiencing unthinkable setbacks, which go against the existing legal benchmark and the accumulated debate and/or concrete experiences towards solidary, participatory, and egalitarian societies.

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"the gap between the super-rich and the rest of the world has never been greater"

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Add to this the restriction being imposed on the actions of organized civil societies and social movements. A restriction that, in some countries, presents itself as violent criminalization of citizens exercising their rights.

We are facing a multilateralism crisis and a dangerous return to blind nationalism and dystopia. A rise in neo-liberalism, combined with a far-right political outlook, has been gaining ground in several countries, both developed and developing. The conservative and intolerant attitudes this brings with it are opposed to the basic right to freedom of lifestyle and freedom of ideology.

The rise of populist, illiberal and nationalistic governments and associated groups in different parts of the world, in tandem with rising inequality, threatens to undermine multilateralism and the progressive, politically liberal values which underpin it (e.g. respect for opposing viewpoints, the rule of law, regard for minorities, freedom and respect for the media etc.). Multilateral action must be inclusive of a diverse civil society, including the voices of national level actors, to identify, denounce, and push back against these trends.

We must join forces to strengthen, consolidate, and reform the current international system, protecting representative democracies while placing an enabling environment for civil society at the heart of our efforts.

The global architecture supporting civil society is facilitating increasing interconnectedness between NGOs as well as other key civil society actors. International, regional, sub-regional and national level civil society networks enable them to transmit information effectively, exchange learning, identify best practices and engage in collective strategizing. These capacities mean that civil society can build its collective power and resilience through connection and coordination and push back against the regressive and illiberal trends that have become evident in recent years.

As a global network of National NGO Platforms and Regional Coalitions, Forus strives to promote a fair and sustainable world, where the most vulnerable people have a voice, human rights are respected, and inequalities and injustice are confronted. We influence local and global negotiations while contributing to building a stronger and more united international community and a more effective multi-lateral system. Our membership worldwide is composed of 69 National NGO Platforms and 7 Regional Coalitions representing more than 22,000 NGOs from Africa, America, Asia, Europe and Pacific.

Three main working areas are targeted by Forus :

- **Connect** NGO Platforms and Regional Coalitions to build joint actions, learn from each other and fight for an enabling environment for civil society organizations in their countries and internationally
- **Support** and develop the capacities of our members for more effective participation in decision-making processes, using the network's collective intelligence and innovative approaches
- **Influence** public policies together with our members, by engaging in official negotiations, deliberations and public mobilisations at national, regional and international levels

In our current strategy for 2016-2020, Forus is addressing this area of work as a crosscutting goal. Without a vibrant, independent and skilled civil society, good governance and democracy are almost impossible to achieve. Based on its legitimacy, its representativeness and outreach, Forus is advocating for the mobilization of sustainable resources for capacity development and learning for CSOs, and for the structuring of civil society. This includes recommendations for supporting CSOs' enabling environment.

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"Civil society can build its collective power and resilience through connection and coordination and push back against regressive and illiberal trends"

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Forus is also playing a leading role in strengthening NGO platforms and their members through a capacity development strategy tailored to their needs, focusing on both the "hard" (infrastructure, core skills, etc.) and "soft" (trust, legitimacy, etc.) aspects. This is done through micro-grants to national projects, specific support to regional coalitions, a leadership development program, developing tools and guides, and facilitating peer support and learning at national, regional and global levels.

During the General Assembly in September 2018, held in Santiago, Chile, members discussed strategies for creating an enabling environment from which to combat repression and threats to civic space. Some ideas that came out of the debate include: mobilizing international support; solidarity missions and sharing of experiences; raising visibility through the international media; seeking solidarity-based funding; facilitating contact between members and international cooperation.

Acknowledging Forus' unique position as a network of members representing organized civil society and mainly NGOs, the governance model allows strong leadership from Southern members, and complements other key actors in this space. Forus also recognizes the role of NGO platforms that are at the frontline of dialogue with government, and play an essential role both as the representative and voice of civil society, and as watchdog. Members' testimonials show that this position comes with its unique exposure and risks.

Forus is currently undertaking a mid-term review of its 2016-2020 strategy and is consulting with members on their needs and priorities for the next strategic period. The outcomes will inform Forus' 2021-2025 strategy, where the issue of protecting the enabling environment is expected to be a priority.

Forus will adopt a flexible learning approach, avoiding duplication of efforts and fostering effectiveness and cross-fertilization of experiences within its membership and their constituencies and across the sector. Capitalizing on its unique position as a network, Forus will facilitate peer-to-peer support and local to global connections. These efforts will be in strategic alignment and coherence with existing work to strengthen the capacities of civil society. Enhancing the capacities of CSOs at national, regional and global levels will contribute to higher impact advocacy as it will be better informed, better driven, and will support organizations' efforts in their struggle for keeping or creating an enabling environment for civil society to play its diverse roles.

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"We must join forces to strengthen, consolidate, and reform the current international system"

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# Resources

- [Knowledge Center](#): WINGS' comprehensive global library of resources about the field and its developments
- WINGS, CIVICUS and Forus [Declaration to Support a More Enabling Environment for Philanthropy and Civil Society, including NGOs](#)
- WINGS and EFC webinar on [How can philanthropy engage around FATF?](#). Understand what FATF has to do with institutional philanthropy and how can philanthropy engage around money laundering and terrorism financing policy and implementation
- WINGS, EFC and Global NPO Coalition webinar on [FATF Counter-Terrorism Policy](#).- learn more about key issues at stake and how you can engage both at national and international levels
- WINGS [Latin American Affinity Group webinar](#) on Advocacy for an Enabling Environment as a way to strengthen the philanthropy sector and to face the challenges imposed on philanthropy support organizations
- How do we communicate our worth to the sector and others? WINGS and DAFNE partnered to launch a comprehensive guide on [Using the 4Cs: Evaluating Professional Support to Philanthropy](#)
- WINGS [webinar](#) on how to use the 4Cs Framework to articulate your Capacity, Connections, Capability, and Credibility
- [Unlocking Philanthropy's Potential](#): WINGS guide on what funders can do to build strong philanthropy support ecosystems and help build more resilient, sustainable and democratic societies
- [What difference do PSOs make?](#) Compiled by WINGS, this publication provides a synthesis of 8 impact stories shared by our members and which illustrate the diversity and importance of their contributions to the development of philanthropy
- [What makes a strong ecosystem of support to philanthropy?](#) Developed by WINGS, this paper provides information and key messages to guide the reflections of funders, philanthropy support leaders and other actors in developing their infrastructure and turning it into a proper ecosystem
- [Synthesis](#) of the workshop on Enabling Environment for Philanthropy and Civil Society during the WINGSForum on February 21st, 2017, Mexico City
- [Roadmap](#) from the WINGS International Meeting on the Enabling Environment for Philanthropy on March 10th-11th, 2016, Lisbon

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## WINGS FUNDERS AND SUPPORTERS



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