

## 3. BELGIUM

### 3.1. Civil Law Framework

#### General

Foundations were introduced with the law of June 1921 under the term „institution for public utility“ exclusively for philanthropic, religious, scientific, artistic or educational purposes within the framework of the Association and Foundation Act (*Vereins- und Stiftungsgesetz - VStG*). The institution of the private foundation was not introduced until 2003.

Since 1921, 110,000 legal persons were formed under the Association and Foundation Act, out of which roughly 300 were foundations for public utility. More than one half of these were founded after 1980. The remaining legal persons are non-profit associations; current statistics on private foundations are not available<sup>5</sup>.

The entire (book) value in the foundations amounts to approximately EUR 550,000,000, with 85% belonging to the top 15 foundations<sup>6</sup>. Expenses for subsidies, own programs and administration amounted to a total of approximately EUR 150,000,000 in 2001. 92% of total expenses are attributable to the top 15 foundations.

#### Establishment

The foundation can be established by a natural or legal person. Due to the objective prohibition of dividend distributions, the foundation may not create any material benefit for the founder, the managing directors or a third party. Material benefits may be granted to third parties if the granting of such benefits serves the purpose pursued or if the public utility purpose<sup>7</sup> is not undermined by doing so.

Belgium has stricter publication requirements than for example Liechtenstein; thus their significance is also lower. The concept of publicity serves to protect third parties, in particular the creditors of the foundation and the donors. “Large<sup>8</sup> “ foundations are subject to additional

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<sup>5</sup> Cf. Theisinger (2006), p. 1.

<sup>6</sup> Cf. Develtere et.al. (2004), p. 8.

<sup>7</sup> Public utility purpose as defined by law: sustaining family members in need of provision, maintenance of an art collection, development aid for a region, preserving the family character of a business or the integrity of an inheritance.

<sup>8</sup> Large foundations are foundations with an average of 50 employees and that realise an income of more than EUR 6,250,000 and a net annual result of EUR 3,125,000.