

5. FRANCE

5.1. General

In international comparison, the number of foundations is relatively low in France. Moreover, these foundations only have a comparatively small amount of assets at their disposition. Among the roughly 1,200 existing foundations, approx. 500 are foundations for public utility (*fondation reconnue d'utilité publique*), 70 are business foundations (*foundation d'entreprise*) and 1,530 are foundations operating under the aegis of other foundations (*fondation abritée par une fondation reconnue d'utilité publique*); in contrast, there are approx. 800,000 associations in France. The small number of foundations is explained, among other things, by the tax system which provides only few incentives for the establishment of a foundation. The institution of the foundation was not designed for the purpose of asset management²².

Foundations are governed by the Act 87-571 of 23 July 1987 on the development of patronage (*Loi du 23 juillet 1987 sur le développement du mécénat*), which was recently changed by the Act 2003-709 from 1 August 2003 as well as by the related application decree 91-1005 from 30 September 1991.

5.2. Establishment

If explicitly stated, the following provisions refer to public utility foundations. Foundations can be established by natural full age persons or by one or several legal persons, either by means of an endowment or a transfer of assets to the foundation. In most cases, an association is set up in the first place, which is then replaced by a foundation. Also foreign natural and legal persons can set up a foundation in France, unless otherwise provided by their national law.

According to French law, the founder has to pursue a particular purpose when endowing the foundation with assets. This purpose may be to directly realise income or to use the funds for a specific aim. Moreover, the founder is obliged to provide sufficient funds to effectively pursue the purpose of the foundation.

The public utility status and the assets of the foundation are subject to approval by the state regulatory authorities. The control of the foundation is in principle the responsibility of the Ministry of the Interior, which is assisted by other ministries concerned.

²² Cf. Hellio et al (2007), p. 885.