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## **ACT ON FOUNDATIONS AND FUNDS**

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### **I. GENERAL PROVISIONS**

#### **Article 1**

This Act regulates the establishment, the constitution, the activity and the termination of foundations and funds and supervision of their operations.

#### **Article 2**

In the sense of this Act a foundation is the property assigned to serve permanently by itself or by the incomes it acquires to the accomplishment of some generally beneficial or charitable purpose.

In the sense of this Act a fund is the property assigned to serve to the accomplishment of some generally beneficial or charitable purpose during a particular period of time.

Generally beneficial in the sense of this Act is considered the purpose by fulfillment of which cultural, educational, scientific, spiritual, moral, sports, health care, environmental or any other social activity has been generally promoted, respectively the purpose or generally material state of a society.

Charitable in the sense of this Act is considered the purpose by fulfillment of which a support is given to persons in need.

The purpose of a foundation is considered generally beneficial, charitable respectively if it refers to persons only belonging to a certain class or profession, national, language, cultural, scientific, religious or similar group, to a particular circle of persons, to persons living in a particular area or those involved in the activity of a particular association, public institution or any other legal entity.

Tasks associated with the establishment and operation of foundations, as well as with other issues regulated by the present Act, are performed by the Ministry of Administration (hereinafter referred to as the Ministry).

A foundation and a fund are legal entities.

## **II. ESTABLISHING, REGISTRATION AND OPERATION OF FOUNDATIONS**

### **1. Establishing a Foundation**

#### **Article 3**

A foundation can be established by a domestic or a foreign physical person (hereinafter referred to as a founder). *or legal*

A person or persons intending to establish a foundation make a statement on the establishment of a foundation assigning particular property to a particular foundation purpose.

If the Ministry based on the act of the establishment of a foundation and after the procedure is completed determines that legal assumptions for the establishment of a foundation have been fulfilled, the Ministry shall grant a permission for the establishment of a foundation and rule its entry into the foundation register.

Prior to making a decision referred to in the paragraph 3 of the present Article, the Ministry is bound to acquire the consent of a respective ministry whose responsibility covers the implementation of the purpose of the foundation.

If responsible ministry does not grant such a consent referred to in the paragraph 4 of the present Article within due time of 30 days starting on the day of a delivery of a request, the consent shall be considered granted.

A foundation is considered established being enlisted in the foundation register. A foundation acquires a capacity of a legal entity by the day of being enlisted in the foundation register.

A foundation can start working after its statute has been approved by the Ministry.

#### **Article 4**

If a foundation is established by one founder it is instituted by a statement of establishment (decision, statement of the last will and similar). If a foundation is established by several persons jointly the document on establishment is made in a form of an agreement.

A document on the establishment of a foundation shall comprehend as follows:

1. a statement of the will of a founder declaring that a particular property is permanently assigned to the establishment of the foundation,
2. data precisely determining the property assigned to the foundation purpose (basic property), together with an evaluation affidavit given by a court of law expert under oath on its value and the anticipated incomes it might produce,
3. the determination of generally beneficial or charitable purpose of the foundation.

A document on the establishment of a foundation shall be drawn up in a written form. It can comprise a provision on a foundation director and other provisions obligatorily comprehended by the foundation statute.

If a foundation has been established in the course of lifetime of a founder, the founder's signature on such a statement shall be certified juridically or by a public notary.

If a foundation is to be established in a case of death of a founder a statement on its establishment should be made in a form of a statement of the last will (a testament, a legacy).

Provisions referring to the assignment of particular property to the foundation provided for in the statement on the establishment of the foundation shall make it possible for that property to be transferred to the foundation by being registered in particular registers directly on the basis of a document on the establishment of the foundation and on the document granting a permission for the establishment of a foundation.

## **Article 5**

The document on the establishment of a foundation can be recalled by a founder until the moment when a permission on the establishment of a foundation has been delivered to him.

The founder's inheritors may refute his statement of the last will on the establishment of a foundation according to the rules on the denial of a testament. Inheritors must give their statement of denial at the time of giving their inheritance statement at the latest respectively immediately after they have been informed of a statement of the founder's last will on the establishment of a foundation.

If the document on the establishment of a foundation has been done by several persons, any founder can refute that document by an arraignment for the reasons making it refutable according to the general rules of the obligatory law. Charges should be filed at the court of justice by the time of submitting the document on the establishment of a foundation to the Ministry.

If a document on establishment of a foundation has been recalled in due time, respectively if a procedure for its refutation has been started, the Ministry can make a decision permitting the establishment of a foundation after the procedure has been completed. If a demand for refutation of the document on establishment is validly denied, the Ministry shall make a decision on the establishment of a foundation.

A document on the establishment of a foundation can be refuted by the foundation creditors, according to the rules on refutation of the legal operations. Moving a law-suit for refutation does not prevent the establishment of a foundation.

A court of justice may in the course of a law-suit and for the sake of protection of the foundation's rights, respectively of the rights of other co-founders, by official duty or on a demand made by the Ministry or by other co-founders, rule temporary measures of ensurance.

## **Article 6**

The establishment of a foundation is permitted:

1. if a document on the establishment of a foundation has been brought in accordance with the provisions of the article 4 of the present Act;
2. if the purpose of a foundation is generally beneficial or charitable, and
3. if the foundation property is sufficient for permanent implementation of the purpose of a foundation.

Foundation property is considered insufficient for a permanent fulfillment of its purpose if its anticipated incomes make it permanently or for a longer period possible only to preserve that property, particularly immovable property, but not sufficient for the implementation of the immediate purpose of a foundation.

The establishment of a foundation is not permitted:

1. if the purpose of a foundation is infeasible respectively legally or morally not allowed,

2. if there is no serious reason for the establishment of a foundation, particularly if the purpose of the foundation is obviously lacking seriousness.

## **Article 7**

If a founder is a legal or physical entity being alive at the time of the establishment of a foundation, a document on the establishment of a foundation together with a demand for its establishment shall be delivered to the Ministry. A demand for the establishment of a foundation should be made on a due form in two copies. A demandant is bound to enclose the necessary evidence to the demand submitted proving that the provisions of the article 4 of the present Act have been met.

Evidence enclosed is submitted in original, transcribed or copied. If a transcription or a copy are not verified, an official should determine if a transcription or a copy are true to the original.

A demand form and documents necessary to be enclosed to a demand referred to in paragraph 1 of the present article are stipulated by the rules brought by the minister of administration.

## **Article 8**

If a statement on the establishment of a foundation is given by the last will, the court dealing with legacies shall inform the Ministry about that statement, and if the Ministry estimates that presumptions for the establishment of a foundation are fulfilled, the Ministry shall grant permission for the establishment of a foundation, based on the last will. If the Ministry denies to grant such permission, it will be considered that the provision on the establishment of a foundation is of no legal effect.

## **Article 9**

After receiving a document on the establishment of a foundation, respectively after issuing permission allowing for the establishment of a foundation by the last will, the Ministry shall without delay determine a temporary director of a foundation who will be in charge by the time a director of the foundation is nominated.

Temporary director may be a person designated as a director by a document on the establishment of a foundation, but if that document does not comprehend any provision on a person of a director, the Ministry shall nominate a temporary director.

A temporary director may also be an official of the Ministry.

## **Article 10**

The Ministry makes a decision on the establishment of a foundation by an official decision under paragraph 3 article 3 of the present Act.

The Ministry is bound to make the official decision under paragraph 1 of the present article within the term of 60 days starting on the date of delivery of an orderly request for the establishment of a foundation.

The official decision on the establishment of a foundation contains: name and seat of the foundation, the purpose of the foundation noting the circle of persons to whom the purpose of the foundation is directed, a name and surname of the person, respectively the title of the foundation body authorized to represent the foundation and other data provided by the provisions of the present Act, as well as the provision indicating that a foundation cannot perform any legal operations until the competent Ministry approves its statute.

When the official decision approving the establishment of a foundation becomes valid, the Ministry shall by official duty enlist the foundation into the foundation register.

A founder, respectively a temporary director may start an administrative dispute against a decision not permitting the establishment of a foundation at the Administrative Court of the Republic of Croatia.

After a foundation has been registered in the foundation register, the Ministry publishes an advertisement in the "Official Gazette" noting a name, seat and purpose of the foundation. The costs of publishing it are covered by the foundation.

## **Article 11**

Those authorized to participate in the procedure of decision making on the establishment of a foundation are as follows:

1. in case when a founder is a legal entity or if a foundation is established in the course of lifetime of a founder being a physical entity, it is a founder, or after his death, a founder being a physical entity, those are his inheritors,
2. if a foundation is to be established in case of founder's death - those are the founder's inheritors and the testament executor.

## **2. The Director of a Foundation**

### **Article 12**

After a document permitting the establishment of a foundation has become valid, the Ministry shall nominate a director of a foundation. Before making a decision on the nomination of a director, the Ministry shall be provided by his/her consent.

A person designated by the document on the establishment of a foundation will be nominated for a director of a foundation if the Ministry does not come to an opinion that this person cannot act in a capacity of a director.

If a person designated for a director in the document on the establishment of a foundation denies the offered duty, and in case that other persons who might perform such a duty are not designated in the document on establishment of a foundation or if no person is designated at all in the document on the establishment, then the Ministry taking into consideration the purpose of the foundation, the amount and the kind of property and its features nominates a director appointing a person considered capable to carry out that duty successfully.

### **Article 13**

A director of a foundation is particularly bound to do as follows:

1. to take over i.e. to collect the foundation's property, to administer and to represent the foundation, if undertaking particular actions or legal operations in connection with the foundation has not been retained by the Ministry by this Act or by a document on the establishment or by a decision made by the Ministry. The provisions of the present Act on the authorities of managing and representative bodies of the foundation are applied to the authorities of a director respectively,
2. to make a proposal of the statute of a foundation, and

3. to make a proposition to the Ministry listing persons for the first nomination of managing and representative bodies of the foundation.

If a director of a foundation does not orderly accomplish his duty the Ministry shall recall and replace him by another person.

A director of a foundation is entitled to an appropriate compensation for his work and reimbursement of expenses. The compensation and reimbursement of expenses are paid from the foundation funds, upon decision by the Ministry by the time of the designation of managing and representative bodies, and subsequently by the managing and representative bodies of the foundation.

In case of a dispute on the right of a director to compensation and reimbursement of expenses common court is competent.

### **3. The Title of a Foundation**

#### **Article 14**

The title of a foundation is determined by a founder in a document on establishment. If the name of a foundation is not provided by a founder in a document on establishment or if that name pursuant to the provisions of this article cannot be accepted, the name of the foundation shall be determined by the Ministry in an official decision permitting the establishment of a foundation, taking into consideration as much as possible the founder's wishes.

The title of a foundation should be such a name that can be clearly differentiated from the titles of other already registered foundations. A name of a foundation should contain the word "foundation".

The title of a foundation may also contain the name of a particular physical or legal entity, as well as note the purpose of the foundation.

If a physical or legal entity whose name is contained in the title of the foundation is not a founder, that name can be entered into the title of the foundation by that person's or by his inheritor's consent. The consent is given by a written publicly verified statement.

If a consent of the third person or of a competent government body is necessary for the purpose of registration of a particular title of a foundation the foundation can acquire that title by such a consent only. The third person gives such a consent by a written publicly verified statement, and a competent government body by its decision.

A foundation is bound to use its title in business correspondence.

The provisions of the Company Law concerning a firm are applied in an appropriate way to the title of a foundation unless otherwise specified by the provisions of the present Act.

### **4. Seat of a Foundation**

#### **Article 15**

The seat must be in the Republic of Croatia. A place determined by the act of establishment is considered as the seat. If there is no such a provision on the seat in that act, the Ministry shall determine a place where the seat is to be.

The seat of the managing and representative bodies is at the seat of the foundation.

## **5. The Property of a Foundation**

### **Article 16**

The basic property of a foundation assigned to the foundation by a founder in the act on establishment and its value must not be decreased or wasted in the course of achieving the foundation purpose. That property becomes the property of the foundation being registered in the foundation register. The Ministry could undertake operations in relation to the competent bodies aimed at the protection of basic property directly or by means of a temporary director even before the foundation has been entered into the foundation register.

The property of a foundation also involves the resources acquired by using that property (e.g. lease, rent, interests, dividends, copyright, patents and licences, royalties and the like, incomes from agricultural ground, woods or similar), contributions, donations and the like. For the purpose of acquiring funds a foundation can organize some activities (humanitarian shows, occasional lottery, production and sales of publications, emblems, badges and the like).

The foundation property may be located in foreign countries too.

The funds being a part of the foundation property should be transferred to the Republic of Croatia and deposited on the foundation's account.

The foundation property can be used only for the achievement of the purpose the foundation has been established for.

Immovable assets brought into the foundation as its capital or bought from the interests for the purpose of fulfilling the foundation's purpose and increasing its financial support must not be misappropriated (sold, exchanged) at the expense of the already acquired financial support and capital purpose.

### **Article 17**

The state encourages and facilitates the work of foundations by appropriate regulations.

The state may appear as founder or co-founder of a foundation only under a special act.

The property of a foundation as well as its incomes enjoy special tax relaxations.

Special acts shall regulate the issues regarding the kind, as well as the amount of tax relaxations and privileges for foundation founders, donors and beneficiaries.

Special laws may also regulate mandatory contributions to respective foundations from the incomes of games of chance or from the profits of particular state-owned companies.

## **6. The Statute of a Foundation**

### **Article 18**

The Statute of a foundation should particularly comprehend:

1. the name and the seat of the foundation,
2. the data on the establishment and the basic property of the foundation,
3. the provisions on the purpose of the foundation, on the way its incomes are used, consequently on the circle of persons supported by the foundation and the way in which a grant is approved,



4. the provisions on managing and representative bodies of the foundation (hereinafter referred to as: the foundation bodies), and the provisions on the procedure for their nomination and suspension, and on the responsibility for the activity of their members,
5. the provisions on decision making if the foundation bodies comprehend more persons, and on declaration of those decisions,
6. the provisions on authorities of the foundation bodies, as well as on their right to a compensation for services rendered and to reimbursement of expenses,
7. the provisions on submitting reports on the activity of the foundation and on submitting accounts to the Ministry of Administration and the Ministry of Finance on the state of property and financial state of the foundation,
8. the provisions on legal operations requiring a preliminary consent, respectively a subsequent approval of the Ministry,
9. the provisions on the change of assignment of the property balance in case of the termination of the foundation,
10. other provisions in compliance with the act on establishment, respectively those that would be considered functional for successful regulation and operation of a foundation.

The statute of a foundation can stipulate that the foundation is governed by the bodies of some public institution, citizens' association or any other legal entity in case only if a written publicly verified consent of a body responsible for that legal entity has been preliminarily acquired, or if the foundation has been established by that legal entity.

The Statute of a foundation is approved by the Ministry.

The director of a foundation is bound to submit the statute of a foundation for the approval within 30 days after being nominated for a director.

## **Article 19**

In the course of the process of approving the statute persons authorized to take part as parties are the founder, his inheritors and the director of the foundation respectively.

The Ministry can deny granting the approval of the statute if the statute of a foundation is not in compliance with the provisions of the present or any other law or if its provisions are in contradiction with the provisions of the act on establishment. It will be considered that there is no contradiction with the act on establishment of testamentary established foundations if the statute contains such exceptions from the provisions of the act on establishment that might be supposed to have been responding to the plausible founder's will if he were alive at the time of passing the statute, and that they are absolutely beneficial. If a founder is alive, his consent is necessary to any exception from the provisions of the act on establishment.

If the Ministry denies granting the approval of the foundation's statute, the foundation's director is bound to submit a new statute in due time of 30 days after the document denying the approval has become valid.

The Ministry shall certify and give a copy of the text of the approved statute to the director of the foundation. A copy of the statute shall remain deposited in the foundation register, where the adoption of the statute is recorded.

## **Article 20**

The foundation bodies may change and amend the statute of a foundation in compliance with the document on establishment, the statute and the law.

A decision on the changes of the statute of a foundation should be submitted to the Ministry for approval. The Ministry shall determine on granting the approval for the changes of the statute and deliver it to the founder, respectively to his inheritors and to the representative of the foundation. A valid document on

granting the approval for the changes of the statute will be delivered to the foundation register for the purpose of implementation.

The Ministry shall order the changes and amendments to the foundation bodies if it is necessary to fulfill the founder's will, respectively the purpose of the foundation in changed conditions. If the foundation bodies do not take proceedings according to that rule in a due time of thirty days, the Ministry shall determine by itself an appropriate change of the statute.

Changes of the statute enter into force after the Ministry's determination becomes valid.

A foundation is a party represented in the proceedings referred to in paragraphs 2 and 3 of the present article by a person having been in a capacity of a representative prior to the start of those proceedings. The founder or his inheritors respectively have the status of a party in these proceedings.

The Ministry shall publish these changes and amendments to the statute in the "Official Gazette" if these changes comprehend the change of name, seat or purpose of a foundation. The costs of publishing are covered by the foundation.

## **7. Foundation Bodies**

### **Article 21**

At the time of submitting the statute to the Ministry for approval, the director of a foundation is bound to propose members of the anticipated foundation bodies by name, taking into consideration persons listed for that purpose in the act of establishment. The persons anticipated for the members of foundation should for the purpose of nomination submit their preliminary written publicly verified consent, they should be capable in business and worthy of trust with respect to their professional abilities, previous work and behaviour, and they can neither be persons to whom the benefits of a foundation are assigned to, nor can they be officials of the Ministry or members of the Foundation Council.

The foundation bodies and their members will be nominated for the first time by the Ministry according to the list of persons proposed by the foundation director, providing that they meet the requirements of paragraph 1 of the present article. Otherwise the Ministry shall order the foundation director to propose other appropriate persons within due time of a month.

After the decision on the nomination of foundation bodies has become valid, the authorities of the foundation director are terminated. At the same time, the managing and representation of the foundation is taken over by the nominated bodies.

A particular protocol and the initial balance sheet shall be drawn up on the basis of the director's report and revision performed by authorized officials, on overtaking the managing of the foundation between the trustee and the newly appointed foundation bodies. The director is discharged by the Ministry.

The Ministry shall deliver a valid official decision on the appointment of foundation bodies to the foundation register for the purpose of implementation.

During the procedure of nominating the foundation bodies a director, a founder, respectively his inheritors can take part as parties.

### **Article 22**

Members of the foundation bodies should in addition to meeting the requirements under paragraph 1 article 21 perform their duty conscientiously, in compliance with the provisions of the law and other regulations, the statute and other general acts of a foundation.

The work of the foundation bodies is as a rule honorary and voluntary.

Members of foundation bodies are entitled to a compensation i.e. salary from the foundation incomes only, and in the case only when it is explicitly stated by the foundation statute, an award appropriate to their activity in foundation bodies and if it is possible with respect to the foundation incomes.

Members of the foundation bodies are entitled to reimbursement of the necessary expenses connected with the performance of their duty.

Providing for a compensation, a salary or reimbursement of the expenses to members of foundation bodies must not bear any major influence on the achievement of the purpose of a foundation.

A general act, or respectively if there is no general act, a separate decision on compensation and salary to the members of the foundation bodies must be approved by the Ministry.

The Ministry must be notified of each nomination or suspension of a member of a foundation body, noting the name and address of a person within 15 day@ 8 The Ministry shall order the members of the foundation bodies who have not performed their duties properly and in compliance with the law or the statute to carry out their duties in a due time.

The Ministry is bound to suspend the members of a foundation body not meeting the conditions under paragraph 1 article 21 of the present Act or if they do not act upon the instruction under paragraph 8 of the present article.

A foundation can have professional administration if the needs of its operation and the foundation's incomes justify it, as regulated by the foundation's statute.

## **Article 23**

The Ministry shall determine a commissioner to a foundation:

1. if the nominated managing bodies of a foundation are no longer willing or able to perform their duties, while the Ministry, respectively other competent bodies have not taken the measures necessary for their replacement in a due time and in compliance with the law or the statute,
2. if one or more foundation bodies, acting contrary to their duties, jeopardize continuous preservation of the basic property or the fulfillment of the foundation purpose.

A commissioner takes over all the authorities of the foundation's managing and representative bodies since the moment of his nomination.

Unless otherwise specified by the foundation statute, the foundation commissioner has to submit a proposal for the nomination of new foundation bodies to the Ministry within the term of thirty days starting with the day of his nomination.

Nominating new foundation bodies, the Ministry shall act in compliance with the provisions of articles 21 and 22 of the present Act.

The foundation commissioner is entitled to an appropriate compensation and reimbursement of expenses by the foundation.

The Ministry may, if necessary, suspend the nominated foundation commissioner and assign a new one.

## **8. Changing the Name of a Foundation, the Seat, the Purpose, the Property and Statutory Provisions on the Foundation Bodies**

### **Article 24**

The name of a foundation may be changed in case only if any of the elements for the determination of its name has been changed (the name of physical or legal entity whose name a foundation bears, the purpose or the part of property after which a foundation has been named and the like).

The foundation's seat may be changed.

The purpose and the circle of persons whom a foundation is assigned to can be changed, with the approval of the Foundation Council, in case only if the foundation having not been changed in that way could not fulfill its duty determined by the statute, or if the purpose of the foundation having not been changed ceases to be generally beneficial or charitable.

The basic property listed in the statute may be changed only if this does not decrease its value and does not threaten the fulfillment of the foundation's purpose.

The statutory provisions on the foundation bodies can be changed if the bodies stated in the statute are no longer existent, if they no longer act upon their authorities or if the proposed change of management is purposeful for the foundation and not contrary to the act on the establishment of the foundation.

## **III. TERMINATION OF A FOUNDATION**

### **Article 25**

A foundation is terminated:

1. if it loses its property,
2. if its property ceases to be sufficient for a permanent fulfillment of the foundation's purpose while assumptions do not exist for a transformation into a fund, but the purpose of the foundation can be achieved by its termination and by transferring its property to another foundation pursuing the same or similar purpose, and
3. if the purpose of a foundation ceases to be generally beneficial or charitable or its achievement has become impossible, legally or morally not allowed, while the change of the statute is not possible in compliance with the provisions of article 24 paragraph 3 of the present Act.

### **Article 26**

The Ministry passes an official decision on the termination of a foundation upon proposal made by bodies responsible for representing a foundation or by official duty. In the course of the termination of a foundation the parties are a founder, respectively his inheritors and the representative of a foundation.

The Ministry shall nominate a commissioner of a foundation by a document on termination of the foundation who immediately takes over the managing and representation of the foundation. The commissioner shall take over the property of the foundation, the books and other documents from the hitherto existing foundation bodies which will be recorded by a special protocol. If the hitherto existing bodies deny to participate in taking over, respectively if they do not respond to the commissioner's invitation he will make the protocol by himself on taking over the foundation property and archives. A copy of the protocol on taking over, respectively on taking charge will be delivered to the Ministry.

The Ministry shall decide, upon commissioner's proposal or by official duty whether judicial or any other proceeding has to be started against the members of hitherto existing foundation bodies.

It can be determined by a document on termination of the foundation that the foundation should stop its activity even before that document has become valid.

A body responsible for representing the foundation can enter an administrative dispute against the act on termination of the foundation at the Administrative Court of the Republic of Croatia.

A valid act on termination of the foundation shall be delivered to the court responsible for carrying out the procedures of bankruptcy or liquidation of institutions for the purpose of execution of the proceeding of bankruptcy or liquidation of the foundation.

After the document on closing the procedure of the foundation bankruptcy or liquidation has become valid, the court shall by duty deliver that document to the Ministry and to the foundation register for the purpose of its obliteration. The foundation is terminated by the obliteration of that entry.

The Ministry shall publish a declaration in the "Official Gazette". The costs of publishing will be covered by the one who takes over the balance of the foundation property. If the foundation has no property at the time of termination, the costs of publishing shall be covered by the Ministry.

## **Article 27**

It is determined by the act on termination of a foundation to whom the balance of the foundation property will be transferred.

The foundation property shall be transferred to physical or legal entity by their written consent whom that property should belong to in case of the termination of a foundation according to the document on the establishment of a foundation or its statute or if that is not possible to any other foundation with a similar foundation purpose. If neither of that is possible, the foundation property shall be assigned to some generally beneficial or charitable purpose being the closest to the will of the founders of the terminated foundation.

In case when the foundation property is transferred to another foundation with a similar foundation purpose, the Ministry shall determine by a document on the transfer of the property the manner in which the name of the founder of the foundation will be preserved from oblivion.

By the termination of a foundation its property becomes the property of the person determined by the document on the termination of a foundation as a transferee of that property.

The document on termination of a foundation together with an excerpt from the foundation register is considered a valid basis for the entry of a change of the owner into the land register.

## **Article 28**

Bankruptcy and liquidation proceedings can be executed over a foundation.

The regulations on bankruptcy and liquidation of public institutions are applied in an appropriate way in the proceedings of bankruptcy, respectively liquidation of public institutions.

The property balance left over after the bankruptcy or liquidation of a foundation shall be given to the Ministry by the bankruptcy, respectively liquidation court. The Ministry shall decide about that property in compliance with the provisions of this Act referring to the disposition of the foundation property in case of foundation termination.

## **Article 29**

A foundation realizes its rights, based on the act on establishment, to the foundation property in the proceedings at the court in charge of exercising property-rights demands. In the course of such a procedure the rights to a foundation are also exercised on the basis of the act of establishment and the statute.

Judicial proceedings from paragraph 1 of the present article may be carried out even before a foundation has acquired the capacity of a legal entity.

## **IV. INSPECTORIAL SUPERVISION OVER FOUNDATIONS**

### **Article 30**

Inspectorial supervision over the operation of foundations is administered by the Ministry of Administration, Ministry of Finance and the State Office for Revision.

The Ministry of Administration executes inspectorial supervision for the purpose of checking up how basic property has been kept up, has its purpose been fulfilled and has it been managed in compliance with the regulations.

The Ministry of Finance and the State Office for Revision perform inspectorial control over the foundation's financial operation.

Inspectorial supervision over the operation of a foundation is performed by inspectors and other state officials and state administration bodies under paragraph 1 of the present article authorized for control execution.

Upon establishment that there has been a contravention of the law or of some other regulation, the inspector or any other state official authorized for the performance of control has both the right and the obligation to do the following, in compliance with the law and other regulations:

1. order elimination of the established deficiencies and irregularities within a set term,
2. submit report to the competent state body for penal purposes, respectively start contravention proceedings,
3. undertake other measures i.e. perform other actions he has been authorized for by special regulations.

If the established deficiencies and irregularities are not eliminated within the set term, the Ministry of Administration shall proceed in compliance with article 26 of the present Act.

The inspector and other state administration body officials under paragraph 1 of the present article authorized for exercising control must not be appointed representatives or members of the foundation's managing body.

### **Article 31**

Foundation property should be managed in a manner provided by the act on establishment or by the foundation's statute. Substantiated and documented reports on the actions taken with regard to the foundation property (financial investments, handling of securities) are submitted to the Ministry of Administration and Ministry of Finance.

Changes in the way of using foundation property are permitted under conditions of paragraph 1 of the present article provided that they do not decrease the value of the foundation property. The Ministry should be notified of any such changes in the way of using foundation property without delay, but if it concerns legal matters encumbering or alienating real estate or some particularly valuable movables being a part of

the foundation property, the Ministry's consent must first be obtained for them to be legally valid. The Ministry shall grant its permission, respectively agree in case only if particular legal matters guarantee future fulfillment of the foundation purpose.

Foundation bodies are under obligation of submitting each year, at the same time when legal entities are bound to submit such reports to the financial control bodies, an annual balance sheet for a previous calendar year to the Ministry of Administration, Ministry of Finance and the State Office for Revision. The balance sheet must contain, among other, a review of the foundation incomes and expenditures during the previous accounting period and the state of foundation property.

The Ministry of Administration, the Ministry of Finance and the State Office for Revision may at any time require an insight into the disposition of foundation property and its management.

## **V. FUNDS**

### **Article 32**

A fund is the property designated for serving to the achievement of a generally beneficial or charitable purpose over a given period of time, but not longer than five years.

Funds are correspondingly liable to the provisions of the present Act referring to foundations.

Property assigned to one-shot fulfillment of a generally beneficial or charitable purpose is not considered a fund.

### **Article 33**

A foundation can be transformed into a fund when its incomes are no longer sufficient for permanent fulfillment of the foundation purpose, even in compliance with the changed statute of the foundations, but when by the utilization of the foundation's basic property the fulfillment of the foundation purpose is anticipated possible in at least ten years, unless the founder chooses some other solution.

Transformation of a foundation into a fund is performed by changing the foundation statute in a manner provided by the present Act and published in the "Official Gazette".

## **VI. FOUNDATION COUNCIL**

### **Article 34**

The Foundation Council is the highest expert and advisory body authorized:

1. to discuss the state of foundations and funds in the Republic of Croatia and give proposals and guidelines in connection to this,
2. to discuss and give proposals and opinions on matters submitted to the Foundation Council by the competent ministers,
3. to provide opinion and give proposals on regulations to be passed in view of the implementation of the present Act, and
4. to decide on other issues anticipated by this Act.

### ***Article 35***

The Foundation Council consists of a chairman and six members nominated among the experts in respective fields within which foundations and funds are established, as well as among renowned public servants and benefactors.

The chairman and the members of the Foundation Council are appointed by the Government of the Republic of Croatia (hereinafter referred to as: the Government) for a period of four years.

The internal organization and operation of the Foundation Council, as well as compensation and reimbursement of expenses to its members, shall be regulated by the rules on the Foundation Council laid down by the Government.

The Foundation Council holds its sessions whenever necessary, but at least once every three months. Decisions are made by majority vote of all the Foundation Council members.

Professional services for the Foundation Council shall be done in a way determined by the Government.

## **VII. FOUNDATION REGISTER**

### **Article 36**

Foundation Register is administered by the Ministry.

Funds are also entered in the Register of Foundations.

The Register consists of a foundation i.e. a fund book and files.

There is a special entry on each foundation and fund in a foundation and fund book, as well as a special file.

Foundation, respectively fund entries and files are given an ordinal number according to the time of delivery of the document permitting the establishment of a foundation, respectively a fund, to the registration office.

Entry books and files are to be permanently preserved.

Foundation and fund books must be kept in a manner enabling their protection from misuse, destruction or damage.

### **Article 37**

Entry books are open for inspection to any interested party.

Insights into the registers are performed in the mandatory presence of the registering official.

Any interested party may demand excerpts from the foundation and fund books and transcripts of the documents from the files.

### **Article 38**

Foundation i.e. fund entries contain the date and the number of a document permitting the establishment of a foundation i.e. name, seat and address of a foundation i.e. a fund, information on its purpose, the circle of persons to whom a foundation, respectively a fund is assigned to assist, names and addresses of persons authorized to represent the foundation i.e. the fund, information on the change of the foundation, respectively the fund statute, as well as information on the transformation or termination of the foundation, respectively the fund.



The entry forms are filled by writing in the corresponding information specified in continuation of the section number.

Sections are filled in readably, in ink, starting from the beginning of the free section.

The text entered into the entry form must not be erased, corrected or made illegible. Exceptionally, minor errors are corrected by crossing them out by a horizontal line, verified by the registering official's signature, and dated. If there are any major errors, the entire entry is annulled by crossing the entry sheet by a diagonal red line and the entry is then made on the next sheet available.

Modifications following the first entry into the book are entered into the column referring to modifications of respective information. After entering new information, the column containing the old information is crossed by a diagonal red line.

Exceptionally, when the subject of the entry changes his/her name or status, the entry of the said information is performed on the next available entry form. All other pieces of information from the previous entry form which are still valid are copied on the new form from the corresponding columns of the previous form. After having copied the information from the previous entry form, the old entry form is crossed by a diagonal red line. In that case, the column "registration transfer" is also filled in on the new form, stating the registering number of the previous form.

### **Article 39**

Foundation and fund books are also kept on a computer.

Data entered into the computer must correspond to the ones from foundation and fund books.

Excerpts from foundation and fund books are issued, as a rule, in the form of computer printouts. Only upon a specific request by the interested party shall excerpts from the register be issued on the basis of a direct insight into the foundation register.

In the excerpts from the foundations i.e. the fund entry form, the outdated information is provided only upon specific request or if the circumstances require it.

### **Article 40**

In each foundation i.e. fund file, there shall be the name of the entry subject and the registering number under which the entry has been performed in the foundation i.e. the fund book.

All the documents on the basis of which or with regard to which entries were made in the foundation i.e. the fund book are entered into the file, and the following in particular: a copy of the document permitting the establishment of a foundation i.e. a fund, a copy of the act on establishment, a statute, changes and amendments and all contributions, respectively documents on the basis of which the entry i.e. the change of information in the register book has been performed.

### **Article 41**

The form and the contents of the foundation, respectively the fund book and of foundation and fund files shall be determined by the minister of administration.

## **VIII. TRANSITIONAL AND FINAL PROVISIONS**

## **Article 42**

Foundations and funds established prior to the entry into force of the present Act have to submit a request for registration into the foundation register within six months of its entry into force, providing that they meet the conditions for establishing foundations, respectively funds provided by the present Act.

Foundations and funds having not submitted a request to be entered into the foundation register within the term referred to in paragraph 1 of this article stop existing.

Exceptionally, foundations registered in the foundation register at the former Ministry of Culture and Education are not bound to act according to paragraph 1 of this article, but they should adapt their statutes and other general documents to this Act within the term of 3 months starting on the date of entry into force of this Act, and deliver their statute to the Ministry within the same term. If foundations do not operate in that way, the Ministry shall make a decision on erasing the foundation from the register.

In the procedure of approving the foundation statute under paragraph 3 of the present article, the Ministry shall correspondingly apply the provision under article 19 of the present Act, and shall, after notarization of the statute, by official duty, pass the document on the entry of a foundation into the foundation register.

The existing legal entities having the word "foundation" in their title who have not submitted a request for an entry into the foundation register according to paragraph 1 of this article are under obligation to carry out the procedure for blotting that word out of their title.

## **Article 43**

The Ministry shall by official duty as well as upon request by their founders, within the term of two years after the Law on Denationalization has been passed and has entered into force, start a procedure for establishing the property of annulled foundations that had been operating up to 1945, and, in accordance with the provisions of this Act, the Ministry shall reestablish those foundations whose property it considers capable to provide implementation of the purpose they had served to before their annulment.

## **Article 44**

The minister of administration shall pass the regulations under the present Act within 45 days of entry into force of the present Act.

The Ministry of Administration shall take over the foundation register from the Ministry of Culture and Education within 30 days of entry into force of the present Act.

## **Article 45**

The members of the foundation council shall be appointed by the Government within two months of entry into force of the present Act.

## **Article 46**

By the entry into force of the present Act, the provision under Article 18 of the Law on Taking Over of the Law on Basic Property-Rights Relations ("Official Gazette" No. 53/91) ceases to be valid in the part referring to foundations.

## **Article 47**

The present Act enters into force on the eight's day upon its publishment in the "Official Gazette".

Zagreb, 16 May, 1995

of the

Parliament of the

House of Representatives

***Republic of Croatia /Sabor/***

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