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LENDING

COMMUNICATION FROM THE COMMISSION

on

PROMOTING THE ROLE OF VOLUNTARY
ORGANISATIONS AND FOUNDATIONS IN EUROPE

TABLE OF CONTENTS

I. Introduction	1.
II. Scope	1
III The role and importance of Voluntary Organisations and Foundations	3
IV The sector and the European Institutions working together	6
V Problems and challenges facing the sector	8
VI Conclusion	11
Annex I. The survey	16
Annex II. Overview of the Legal and Fiscal Framework for Voluntary Organisations and Foundations	26
Annex III Legal and Fiscal Framework for Voluntary Organisations and Foundations	31

↳ Sweden

UK

Netherlands

Austria

Finland

Portugal

Luxembourg

Italy

Ireland

France

Belgium

(look in individual country files for country information)

Denmark

Germany

Greece

Spain

I INTRODUCTION

PURPOSE

1 This Communication concerns one sector of the social economy in the European Community - that of voluntary organisations and foundations. These organisations are playing an important role in almost every field of social activity. They contribute to employment creation, active citizenship, democracy, provide a wide range of services, play a major role in sport activities, represent citizens' interests to various public authorities and play a major part in promoting and safeguarding human rights as well as having a crucial role in development policies.

1.1 Over the years they have made an increasing contribution to the development of Europe which is something that should be encouraged and developed.

1.2 Given this importance, the European Commission carried out an extensive survey in order to gain a better knowledge of the sector and to identify issues to be addressed. The results of the survey are given in annex 1.

1.3 The aim of the document is to illustrate the growing importance of the sector within the European Union, to show what problems and challenges these organisations are facing and to open up a dialogue on the basis of a set of ideas, in order to favour their development at European and national level, to improve their capacity to meet future needs and maximise their contribution to European integration.

1.4 This document presents a series of measures which could be taken at Member State level, but does not seek to impose on Member States specific solutions or actions. It is up to individual Member States to take on the different issues as they see fit. However, conforming to the principles of subsidiarity and proportionality there are some objectives which can be dealt with at Community level. These ideas are outlined in the "Conclusion".

II. SCOPE

Voluntary organisations

2 Of the three sectors - co-operatives, mutual societies, and voluntary organisations - which go to make up the social economy, that of voluntary organisations is by far the most difficult to delimit or define.

2.1 At their most basic, voluntary organisations are simply groups of people who have come together for some purpose or other.

2.2 At one end of the spectrum, the world of voluntary organisations merges imperceptibly into the tissue of everyday social, community, and family life; at the other end can be found great institutions of enormous national and even international importance such as universities, hospitals, research and cultural institutions, which many people are accustomed (erroneously) to think of as straightforward "public" bodies. Others, in contrast, have hundreds of professional staff, thousands of volunteers and a turnover of many millions of ECU's. Very many voluntary organisations work closely with public authorities in conventional spheres like social work; others maintain a strong tradition of complete independence and are concerned with radical social programmes or "alternative" lifestyles.

2.3 There is, however, some agreement that voluntary organisations share to varying degrees the following features:

a) they are distinguished from informal or ad hoc, purely social or familial, groupings by some degree, however vestigial, of formal or institutional existence.

(b) they are non-profit-distributing, that is to say they have purposes other than to reap profits for their management or members.

(c) they are independent, in particular, of government and other public authorities, that is to say free to govern themselves without interference according to their own rules and procedures.

(d) they must be managed in what is sometimes called a "disinterested" manner. The

use of this term is meant to indicate not just that voluntary organisations must not themselves be profit-seeking, but also that those who manage them ought not to do so in the hope of personal gain.

(e) they must be active to some degree in the public arena and their activity must be aimed, at least in part, at contributing to the public good.

2.4 The degree to which particular voluntary organisations share the above five features will vary considerably. Deciding, for example, whether a voluntary organisation is indeed independent is not easy, and the notion of the "public good" is bound to be controversial. The definition does, nonetheless, offer a degree of coherence in a complex area.

2.5 This paper deals with all organisations which share, to some degree, the above five features. However, three very specific kinds of organisation have been consciously excluded. These are political parties, which can be voluntary organisations but are clearly a special case; religious congregations (that is, in the strict sense, and not excluding organisations of religious inspiration active in work of general public benefit); and trade unions and employers' organisations.

Foundations

3 Like voluntary organisations, foundations also undertake a wide range of activities. In some countries the foundation is frequently the preferred vehicle for pursuing purposes indistinguishable from those typically pursued in other countries by voluntary organisations. From the legal point of view, however, foundations form a more homogeneous group than do voluntary organisations, the only important distinction being between those that are for essentially private, and those that are for essentially public, benefit. It is foundations which have some public purpose (even while remaining private bodies) which are the focus of this Communication.

3.1 For present purposes foundations are thus bodies with their own source of funds which they spend according to their own judgement on projects or activities of public benefit. They are entirely independent of government or other public authorities and are run by independent management boards or trustees.

Types of voluntary organisation

4 Voluntary organisations and foundations are difficult to categorise and define. Part of the difficulty at the European level lies simply in the different national traditions which they reflect, and their strong tendency to combine several different objectives. Most voluntary organisations and foundations can, however, be considered as having one or more of the following functions:

(a) Service delivery or provision to provide to their members or clients services such as social services, health care, training, information, advice or support.

(b) Advocacy: i.e. organisations whose purpose is to campaign, lobby, and otherwise argue on behalf of some cause or group with the aim of changing public perception or policy.

(c) Self-help or mutual aid: organisations typically formed by groups of individuals with some common interest or need in order to provide mutual help, information, support and cooperation.

(d) Resource and co-ordination: so-called "intermediary bodies" which co-ordinate the activities of, or provide information and support to, either individual organisations working in a particular field or to the sector in general. Such organisations fulfil the important function of providing an interface between the sector and public authorities.

4.1 Many voluntary organisations and foundations are, of course, national and even international in scope. The great majority, however, carry out their activities in regions or localities. In general, the narrower their geographical focus the greater the range of functions voluntary organisations tend to fulfil and the more difficult it is to separate these

functions one from another. Throughout Europe hundreds of thousands of autonomous local groups working at the level of the neighbourhood, city quarter, village, or small rural area, whose aim is to improve the quality of life for the local community. Such organisations in effect simultaneously fulfil, typically in an informal way, all the functions described above - providing services and mutual support, drawing attention to the needs of the community or of particular groups within it, and providing a mechanism through which the community can make its aspirations known to public authorities.

The legal and fiscal framework for Voluntary Organisations and Foundations

5 The importance of having clear, positive legal and fiscal frameworks for voluntary organisations and foundations to work in cannot be underestimated. Organisations find it difficult to develop their work when such frameworks do not exist, whether they be at national or European levels. Annex II gives an overview on the way that legal and fiscal frameworks for the sector are based in the European Union.

III. THE ROLE AND IMPORTANCE OF VOLUNTARY ORGANISATIONS AND FOUNDATIONS

6 It is clear from the results of the Commission's survey that voluntary organisations and foundations, though often very small, together command sizeable assets and mobilise large human resources, both salaried and volunteer. Like other forms of enterprise, and particularly small and medium sized enterprises many voluntary organisations and foundations are also economically active - they sell products, provide services for which they are paid, and generate surpluses which are then reinvested.

6.1 The contribution of the sector to the economy is very considerable indeed. Just how

significant has recently been revealed by the results of the first rigorous comparative survey of the sector in four Member States (the United Kingdom, France, Germany and Italy) directed by the John Hopkins University, Baltimore¹. These results are of conceivable interest.

6.2 The study found that:

in Germany the sector accounts for 3.7% of total employment and 10% of total service employment. That is no less than a million people. The non-profit sector is especially important in health: 40% of the hospital patient days are provided by the sector, as are 60% of the residential care facilities.

in France 4.2% of the employed work in the sector or over 10% of the total employed in the service sector. In all some 800,000 people are employed. Non-profit organisations look after over half of those in residential care and about 20% of primary and secondary school students. Non-profits are especially prominent in social services and in sport where 80% of those with sporting interests belong to non-profit clubs.

in Italy nearly 2% of the employed work in the sector or over 5% of those employed in the service sector. In total the sector, which is prominent in social services, employs about 400,000 people. Non-profits run 20% of kindergartens and over 40% of residential care facilities.

In the UK 4% of the employed work in the sector or over 9% of those in the service sector. Altogether about 900,000 people are employed in the sector, which plays an especially important role in the provision of research and education: - all colleges are run by non-profits, as are 22% of primary and elementary schools.

6.3 Finally, the combined expenditures of the sector in these countries was no less than 127 million ECU (17 billion in Italy, 31.3 billion in France, 36.6 billion in the UK and 42.2 billion in Germany).

¹ Published in 1994.

The figures for non-profit operating expenditures as a percentage of gross national product are no less impressive: 2% in Italy; 3.3% in France, 3.6% in Germany; and 4.8% in the UK

6.4 Moreover it is in terms of employment growth that the most interesting facts of all emerge. What the study found - in any event in France and Germany where figures were available - was that over the decade from 1980 to 1990 the sector has been a powerful creator of employment. In France the sector accounted for one out of every seven new jobs created in that decade and in Germany one out of every eight or nine. This is a very significant finding indeed.

6.5 These figures should not, perhaps, come as a complete surprise, given the growth of the sector in the recent past and the reasons which seem likely to be behind it (see paragraphs I.4 and I.5 of annexe I). Some of these reasons are likely to be, historical, or to have been specific to particular Member States. Other factors, however - the discovery of new needs and the development of new social preoccupations, and above all the tendency of governments to engage voluntary organisations and foundations in the delivery of services of which they themselves were formerly both designers and providers have been increasing throughout the Community.

6.6 But such policy developments have not developed evenly in all the Member States. The extent to which they have been accompanied by clear constitutional or administrative changes designed to favour the involvement of voluntary organisations and foundations has varied.

6.7 The figures demonstrate clearly that the sector has shown itself capable of opening up new opportunities contributing not just to improving the quality of life but also employment and economic growth. It is for this reason that the sector should be encouraged to play a bigger part in the quest for job creation as stated in the "Employment Pact", for example in the context of Local Employment Initiatives.

6.8 Throughout the Community many voluntary organisations and foundations are engaged in the training and retraining of the unemployed, sometimes as providers of government programmes but often on their own account, as well as providing services for less favoured people - for people with disabilities, for alienated youth, for those who for one reason or another have repeatedly failed to gain a hold in the job market.

6.9 Voluntary organisations and foundations also give valuable training to numerous volunteers, many of whom later find employment on the conventional jobs market as a result of the experience and expertise they have acquired. Volunteering is also for many people an invaluable means of preserving the work habit at a time when, particularly for the long term unemployed. The voluntary sector is likely to provide with enriching opportunities for new experiences aiming at gaining social abilities which will enhance employability and moreover, the feeling of ownership and citizenship among young people. The European Voluntary Service deals with this issue and provides an educational experience based on the active involvement of young people in a local project. Volunteering is also very important for older retired people who are looking to continue to use their skills and maintain a continued active role in society.

Social importance

7 There are no accurate figures of knowing how many persons in the Union are members of voluntary organisations but, on the basis of some Member States' estimates it is commonly reckoned to be somewhere between a third and a half of the population, approximately a hundred million.

7.1 Historically the influence and achievements of voluntary organisations, and their sister organisations foundations, would be difficult to overestimate. It is to voluntary organisations and foundations to which we owe the origins of many of the services such as education, health and social services which we

take for granted today. Their contribution to the development of social and political ideas, and to the intellectual climate in which we now live, has been similarly immense. Voluntary organisations and foundations have played a vital role in the dissemination of scientific ideas and of technological developments and have provided forums for the exchange of thinking across the whole range of human concerns. They have led the fight for the recognition of human rights and the dignity of the human person, and for the preservation of our cultural heritage and of the natural environment. Many promote a spirit of solidarity on behalf of the less favoured, the sick or people with disabilities, the poor and the excluded, the aged and the young, and between those who have jobs and those who do not, between men and women, between generations, between the more prosperous regions and the poor or struggling regions. Voluntary organisations make important contributions to the fight against social exclusion, sexual exploitation of women and children, as well as racism and xenophobia. They have played a major role in the mobilisation of public opinion in favour of development, promoted democracy, and have established privileged links with the representatives of civil society in the developing countries, as well as providing much needed emergency help and food aid in times of crisis, often showing heroism working in troubled regions.

7.2 Today voluntary organisations and foundations are active in every conceivable field of human interest or endeavour and their contribution to the welfare and development of our societies and to our diverse cultures remains as essential as it has ever been, especially in view of the process of European integration. At the same time they continue to innovate, to discover new needs and to experiment with ways of responding to them.

In this way voluntary organisations and foundations continue, as they have always done, not just to provide the seed bed or "gene pool" from which future social and other policies may eventually grow but also the political, social and intellectual climate in

which change comes to be seen as desirable on a wider scale.

Political importance - Citizenship

3. For many people, membership of, or volunteering for, voluntary organisations and foundations, provides a vital means through which they can express their sense of citizenship, and demonstrate an active concern for their fellows and for society at large.

8.1 The part that voluntary organisations play in strengthening a sense of citizenship and providing a means for its expression is of growing importance at the European level. Indeed, they have an active part to play in creating a sense of European citizenship as mentioned in Article 8 of the Treaty on European Union. Voluntary organisations and foundations have long fostered international contact and understanding between peoples and are now showing a keen interest in the part citizens have to play in the forging of the European Union and in giving substance to the citizen's Europe. Their experience and basic philosophy, together with their growing organisation at the European level, fit them well for this role.

Political importance: Promoting Democracy

9. Voluntary organisations and foundations foster a sense of solidarity and of citizenship, and provide the essential underpinnings of our democracy. In the light of the challenges now facing the European Community, and indeed in the different countries of East and Central Europe, these functions have never been more vital.

9.1 There is no doubt that voluntary organisations and foundations make a profound and indispensable contribution to the democratic life of Europe. Indeed, the existence of a well-developed association and foundation sector is an indication that the democratic process has come of age. For many people participation in a voluntary organisation may be their only

experience of democratic processes outside of the normal electoral framework.

9.2 Their contribution to the effectiveness with which representative democracy functions should not, however, be underestimated. Above all, they now play an essential part as intermediaries in the exchange of information and opinion between governments and citizens, providing citizens with the means with which they may critically examine government actions or proposals, and public authorities in their turn with expert advice, guidance on popular views, and essential feedback on the effects of their policies.

9.3 That voluntary organisations and foundations are important to the democratic process does not mean that they could ever take on the role occupied by elected representatives. There are, indeed, some dangers in the sort of "single issue" lobbying which some voluntary organisations tend to espouse. Their preoccupation with particular causes or with particular individuals or groups can make them unjustifiably impatient with the balance between competing interests which all democratically elected governments seek to achieve. There is a need for greater understanding about the constraints of policy decision making.

IV THE SECTOR AND THE EUROPEAN INSTITUTIONS WORKING TOGETHER

9.4 The European Institutions have a long history of contacts and informal consultation with the voluntary sector. This is the case with many of the European Commission's services, such as DGIB, DGVIII with Development Agencies and ECHO which have achieved an experience of particular interest in their cooperation with humanitarian aid NGOs, DGV and the platform of European Social NGOs arising out of the Social Forum, DGXI and environmental organisations, DGXXIII and the Consultative Committee for Cooperatives, Mutuals, Associations and Foundations. DGX in particular looks to the voluntary sector to

disseminate information on European issues to the citizens.

NGOs are involved in a significant number of research projects funded within the 4th Framework Programme (1994-1998). The targeted Socio-Economic Research Programme widely covers the issue of the role of the sector in the economy and its importance for social cohesion. It is intended to put even more emphasis on this topic within the 5th Framework Programme (1999 - 2002).

The European Parliament also relies on a large number of voluntary organisations in order to obtain information and views on a wide range of issues. The heterogeneity of the sector is valued, in particular, for its knowledge and experience of social policy, environmental, aid and development issues and for providing a vital link with citizens in their localities, especially to those most vulnerable in society.

9.5 The increasingly pivotal role the voluntary sector plays in a wide range of issues central to the construction of Europe, including in particular, in many Member States, in the management and delivery of key aspects of social welfare services, has been acknowledged and reflected in the Commission's main statements on social and employment policy, for instance in the Green and White Papers on Social Policy and the White Paper on Growth, Competitiveness and Employment.

9.6 However, for many years the contacts between the European Institutions and the voluntary sector took place on a completely ad hoc basis and it was not until the Treaty of the European Union, in 1992, that the importance of links with this sector was first formally expressed in the creation of Declaration 23 which is annexed to the Treaty.²

² Declaration 23 states: "The Conference stresses the importance, in pursuing the objectives of Article 117 of the Treaty establishing the European Community, of cooperation between the latter and charitable associations and foundations as

9.7 A high level of political commitment exists at European level to ensuring that more systematic consultation with the voluntary sector is instigated, as regards both the development and implementation of policy, commensurate with their increasingly important role, especially in social policy, in the Member States³.

Subsequent to the creation of Declaration 23, a number of developments have taken place which moved forward the process of consolidating co-operation with, and instigating more systematic consultation of, NGO's and other voluntary sector organisations. Key amongst these developments were:

- the holding of the first European Social Policy Forum in March 1996, which brought together over 1000 participants mainly from NGOs, on the eve of the beginning of the Intergovernmental Conference. This saw the launch of a new policy objective: the building over time of a strong civil dialogue at European level to take its place alongside the policy dialogue with the national authorities and the social dialogue with the social partners. It is intended that the Forum be held every two years.

This emerging civil dialogue has two main aims:

- to ensure that the views and grassroots experience of the voluntary sector can be systematically taken into account by policy makers at European level so that policies can be tailored more to real needs, and;

institutions responsible for welfare establishments and services".

³ It should also be noted that the Commission has had a long standing dialogue with the sector in other areas such as with Development NGOs through the EC-NGO Liaison Committee which receives 90% of its funding from the Commission.

- to disseminate information from the European level down to the local level so that citizens are aware of developments, can feel part of the construction of Europe and can see the relevance of it to their own situation, thus increasing transparency and promoting citizenship.

- the creation in 1995 of a Platform of European social NGO's, representing a large number of organisations, in order to assist in the preparation of the European Social Policy Forum and to facilitate the development of civil dialogue.

- the setting up of a "Comité des Sages" in 1995 to prepare a report on fundamental rights to be discussed at the Social Policy Forum with a view to it providing an input to the IGC discussions on the revision of the EU Treaty.

This report which advocated a Europe of civic and social rights has also sparked off a Europe-wide debate through a series of national seminars involving, in particular, the voluntary sector and the Social Partners.

- the creation, in 1997, of a new budget line, B3-4101, to promote co-operation with NGO's and other voluntary sector organisations and to strengthen the capacity of these organisations to engage in civil dialogue at European level;

9.8 In the context of the preparations for the IGC an ongoing dialogue was developed between the sector, the Commission and the European Parliament.

Important issues relating to the sector have been discussed in the framework of the IGC. These include:

- a legal base for regulations concerning associations at European level
- a legal base for incentive measures both in employment and the social field

- the integration of Declaration 23 into the Treaty and specific provision for the consultation of, and dialogue with charitable associations and foundations on all policy matters which concern them

- a modification of article 8a to take (by co-decision) measures to facilitate freedom of circulation.

The Commission intends to make relevant proposals according to the outcome of the IGC.

With regard to future progress, in order to retain the maximum amount of creativity and free expression, it is important not to over-bureaucratise or institutionalise consultation of the voluntary sector and to strive instead for a flexible but systematic approach in developing the civil dialogue and relations between the voluntary sector and the European Institutions which takes full account of the principle of subsidiarity and of the specificities of each Member State.

9.9 The Commission has also attempted to open up a wide range of funding programmes to the sector. This includes the Structural Funds, the PHARE and TACIS programmes for East and Central Europe, the Leonardo da Vinci Programme, the Declaration 23 and the new Third Sector and Employment budget lines, the SME and Social Economy budget lines, as well as the European Voluntary Service Programme which encourages transnational volunteering, the EDF for cooperation and development with the LOME countries, and specific budget lines for external actions, in particular cooperation with the ALAMED countries, to name but a few.

It is estimated that overall some 800 million ECU (of which 196MECU is in the form of co-financing) annually of EU development assistance is channelled through NGOs and the Commission looks to the sector in many policy issues towards developing countries.

The European Commission is also working closely with NGOs in the fight against sexual exploitation of children and women.

The Commission would like to see its cooperation with the sector developed further in view of deepening European integration. Proposals to this end are made in the "Conclusion".

V PROBLEMS AND CHALLENGES FACING THE SECTOR

10. Voluntary organisations and Foundations are working under enormous pressure and within a constantly changing environment. In some cases organisations are taking on the running of services that were hitherto provided by the public authorities. However, there are very real problems and challenges facing the sector in the way that it can respond to providing these new services. Organisations which have traditionally played the role of providing a back up for state run services, suddenly find themselves having to run those services themselves. This may mean completely new staffing arrangements, new management structures and needs, a complete change in the financing of the organisation, a change in the way that it works with the public authorities, and indeed with other voluntary organisations and foundations. How will the organisation be resourced? Will funding come from public authorities in the form of long term grants or short term contracts: indeed, will there be enough funding? Will an organisation be able to increasingly draw on support from the public (individuals) or the corporate sector? This change may also mean a major rethink in the raison d'être of an organisation. Should an organisation which was set up to promote the needs of specific parts of the population (people with disabilities, socially excluded, ethnic minorities, etc.) and to provide some back up services, be asked to suddenly take on the running of the mainstream service itself?

10.1 These are all areas that have major implications for organisations in the way that

they are resourced and trained, and public authorities should be aware of the importance of giving voluntary organisations and foundations the resources and time to be able to adapt to new needs.

10.2 Despite their increasing reliance on foundations and voluntary organisations to carry out a wide range of functions, public authorities have not on the whole acknowledged their responsibility to ensure that the sector is as well placed as possible to make its distinctive contribution to the public good. The result is that in many Member States the sector, as a sector, operates in what amounts, at least in strategic terms, to a policy vacuum. This lack of a coherent framework of public policy has inhibited it from contributing, to the optimum extent possible, to the solution of the problems which we face. It is time it was remedied.

10.3 One of the greatest problems facing policy makers is the present serious lack of information about the sector. In an important sense, policy-making has also been inhibited by the structure of government itself, and in particular by the habit of public authorities of relating to associations and foundations as suppliers of services to particular client groups or as interlocutors in particular subject areas. Social service departments have contact with organisations supplying social services, environment departments with those active in the environmental field, and so on. Over a period of time, such departments and their officials can acquire a close and detailed knowledge of the particular organisations with which they deal. Within government as a whole, however, such knowledge as departments may acquire remains fragmented. For the most part it is rare for public authorities to have an overview of the sector as a whole or of its needs, or of significant developments within it. The same phenomenon has no doubt also been one of the factors which in a number of Member States has inhibited the growth of a "broad sectoral"

consciousness amongst voluntary organisations and foundations themselves.

10.4 The urgent need now is for public authorities to complement their "vertical" approach and to begin to look seriously at "horizontal" issues affecting the sector as a whole with a view to developing appropriate policies. At the same time, the public role of voluntary organisations and foundations needs to be acknowledged and the acceptance of the sector as a full partner in the debate on all policy and implementation matters which concern them, needs to be actively encouraged at all levels.

10.5 Over the past ten years the amount of transnational work done by voluntary organisations and foundations has increased dramatically. This is due to a growing number of European funding programmes being opened up to the sector which encourage transnational collaboration, and an expanding number of organisations who are interested in developing their services in other countries.

10.6 There is also a large and continuously growing number of European wide federations or networks of voluntary organisations and foundations. Some, such as the Red Cross Liaison Committee act as a co-ordinating organisation for individual national organisations which share the same aims and objectives, as well as the same name. Others such as the European Foundation Centre or CEDAG* (the European Council for Voluntary Organisations) act as a focus point for lobbying the public authorities on behalf of the sector, and providing and developing examples of good practice within their - often - diverse membership.

10.7 There are also many development and emergency aid agencies which have a long tradition working overseas, but which are working more and more together at a European level and with the European Commission. Indeed, the EC-NGO Liaison Committee of Development NGOs, works closely with

DGVIII (Development), with ECHO, DGIB and with other Dgs of the European Commission.

10.8 The ability of voluntary organisations to make their full contribution in transnational activities in the social and employment field has been limited by the suspension of some European programmes since 1995 pending a European Court of Justice ruling on the legal basis of such measures. In its proposals to the IGC, the Commission has endeavoured to remedy this by proposing a legal base for the transfer of best practice, networking and exchange of experience on a transnational basis in such fields as the fight against social exclusion and the promotion of equal opportunities and the combating of discrimination on the grounds of gender, disability, race or age. This would enable the Community to adopt such incentive measures as have already been established for education, training and public health.

10.9 There are however, many other problems facing organisations trying to develop their transnational European work: They include:

** difficulties finding like minded organisations in other countries in order to develop joint projects.*

Although on paper an organisation may seem to have the same aims and objectives, in reality it may not. The role of an organisation working with a specific client group in one country may differ a great deal from one working in another. There are also difficulties in organisations working together which is often due to differences in culture and language

** inability of organisations to access European funding⁴*

** difficulties finding matching funding for projects which are co-financed through European funding programmes*

Matching funding for projects often comes from public authorities who may be putting forward their own rival bids, or not be interested in supporting the project.

** over dependence on European Community Funds leading to difficulties in forward planning and continuity of management owing to the incompatibility of the short term nature of this funding and the long term core funding needs of voluntary organisations.*

Difficulties in obtaining funds at national level has led some organisations to look for European funding which can be inappropriate to their main aims and objectives. Failure to continue receiving these funds can undermine their existence.

** difficulties faced by organisations due to late payments of European funding.*

Payments held up for various reasons at European or national levels can often cause problems for organisations carrying out transnational projects.

** lack of legal recognition for organisations in other countries.*

This can cause serious problems for organisations wishing to open offices in other Member States, or provide services that are financed by public authorities from another Member State. The Commission has already proposed certain measures (notably the Statute for a European Association) aimed at giving

⁴ Decision making for many European funding programmes is frequently made at national rather than at European level.

organisations a legal personality in other countries within the European Union.

*** weak representativeness of organisations taking part in consultation**

In some cases European networks lack the structure and adequate membership to ensure that views of a wide spectrum of operating organisations at local, regional and national levels are taken into account.

*** lack of understanding by some public authorities on what European work voluntary organisations and foundations wish to do.**

Many organisations complain that public authorities are not aware or being supportive of the transnational work that they are trying to do. This often results in transnational projects being hindered.

lack of adequate training

Inadequate training can lead to poorly run organisations and the inability to respond to challenges and new needs.

lack of access to networking techniques

Subsequent to poor training some organisations are not able to develop links with other like minded organisations.

10 Not all these problems are insurmountable, and indeed some of them are already being dealt with by the European Commission and by some Member States. However, it should be stated that they are often dealt with on an ad hoc basis, and not as part of a coherent strategy and policy towards the sector. The following section presents a number of ideas which can be addressed by the sector itself, as well as at Member State and European levels.

VI CONCLUSION

MEMBER STATE LEVEL

The Commission believes that for the most part action will need to proceed, in line with the principle of subsidiarity, at the level of the Member State or, where appropriate, at the level of the region or the locality.

The Commission proposes that the Member States examine attentively the following areas:

*** acquiring a much deeper knowledge and understanding of the sector at all levels**

There is no doubt that policy making is at present severely hampered by the lack of systematic and reliable data about the sector. Indeed there are parts of the Community where the sector has had so little public profile that policy makers appear to have been scarcely aware of its existence. All concerned actors, European, national, regional, local authorities and the voluntary sector itself, need therefore to address the question of what practical steps they could each undertake to map the extent and contribution the voluntary sector makes.

*** the relationship ("partnership") between public authorities and the sector**

Voluntary organisations are being asked to take on an increasingly important role, by public authorities across the Community and by the European Commission itself. It is therefore important that voluntary organisations are given the opportunity to be involved in planning services and policy making with public authorities at all levels. Relationships between voluntary organisations and public authorities should be clearer and new partnerships developed. Partnership between voluntary organisations and governments will involve contractual arrangements between individual voluntary organisations and public authorities which will properly involve their own constraints. But whatever relationship they may have with governments, voluntary organisations and foundations are independent of government and must remain so. Public authorities should review public policy and make proposals about what would need to be done for policy to help the voluntary sector to increase its capacity and where relevant to improve its skills in order

that it can best fulfill the new roles it is being called on to address.

• **the law governing voluntary organisations and foundations**

The competent authorities should examine what scope exists for clarifying and adjusting legal frameworks so that they are conducive to the voluntary sector fulfilling its full potential at national, regional and local levels.

• **the fiscal basis and competition rules on which the sector operates**

The taxation rules applicable to the sector have to be clear and simple, and incentives as well as exemptions have to be studied attentively. Any individual tax treatment has to be justified in relation to the constraints specific to this sector and to its method of internal organisation which differentiates it from traditional economic actors.

• **how the continued financial health of the sector is to be secured**

Positive legal and fiscal regimes are important for the growth of the sector in each country, as well as to ensure public accountability. However, public authorities should also ensure that the sector is seen positively by society and that funding by public authorities, the corporate sector and private donations are all encouraged.

• **training**

The growth of the sector has not been matched by an increase in training to help voluntary organisations develop their skills and expertise in order to meet new needs. All too often, training budgets are the first to be hit when funding becomes difficult to obtain and voluntary organisations are asked to cut costs. Public authorities should ensure that voluntary organisations are given adequate training in order to provide the services and do the work that is being increasingly asked of them.

• **information society developments**

Voluntary organisations and foundations have a clear interest in being associated closely with information society developments. The participation of voluntary organisations and foundations in pilot projects, particularly in the applications field, should be encouraged.

• **better access to programs co-financed by the Structural Funds**

Many voluntary organisations are concerned about access to finance from the Structural Funds. Insofar as the implementation of Community Support Frameworks and operational Programmes is the responsibility of Member States, the latter are encouraged to examine and review current administrative practise so as to facilitate access to information and broader participation by the voluntary sector. The same applies insofar as the designation of beneficiaries for global grants is concerned.

VOLUNTARY SECTOR AND FOUNDATIONS LEVEL

It is important that voluntary organisations and foundations make every effort to promote themselves, through use of the media and new information technology. They should try to be open and accessible in order that the public and public authorities understand their aims and objectives and how they work. Organisations should encourage relevant training for their staff and volunteers, and when appropriate, should try to develop good links with public authorities and the corporate sector.

The sector should look to diversify its funding base in order not to become too dependant on any one source of funding. Networks of organisations should also try to ensure that their membership base is as comprehensive as possible in order for them to be truly representative.

EUROPEAN COMMUNITY LEVEL

In addition, the Commission proposes the following at European Community level:

▪ Voluntary organisations play an extremely important role as interfaces between citizens and government authorities, although in many cases this role still does not receive proper recognition. Voluntary organisations are asking for their work in this sphere to be recognised; they are no longer satisfied with a single

lobbying role, but are asking to be consulted systematically and regularly by Community bodies on all matters, and on all decisions which might affect the work they do, how they do it and their efforts to achieve their objectives.

The Commission will maintain and further develop a continuous exchange of information and points of view by establishing systematic and regular dialogue and consultation with the sector⁵. In this connection the Commission welcomes the establishment by the aforementioned movements of the Consultative Committee for Cooperatives, Mutual Societies, Associations and Foundations, which aims to ensure the consultation and the horizontal co-ordination of the sector. The Commission will also look to develop its dialogue with the sector through the European Social Policy Forum and the new budget line promoting cooperation with charitable associations, and will examine how the representation of voluntary organisations on other existing advisory committees can, where appropriate, be organised. The development of this **dialogue and partnership** will contribute to a better understanding and building of European integration at all levels. As well as this, the revised treaty should include such measures as the fight against exclusion, the promotion of employment, and measures in areas such as non discrimination and immigration, which call for this strengthening of dialogue.

▪ The role of voluntary organisations in present-day society will not be recognised without more knowledge of how this sector operates, and of its requirements and expectations. As people are very far from being fully aware of all this, particularly in all the Member States and at European level, an effort must be made in this direction. One of the ways of making progress in this matter is to give a **higher profile** to voluntary organisations and

⁵ In this context it should be recalled that the European Commission has published a directory on European Non Profit organisations in order to enable officials to consult more systematically and as widely as possible.

their work. For these reasons, and in order to support the effort to improve knowledge of this sector, the Commission will consider proposing **a year of voluntary organisations and European citizenship.**

▪ The Commission recognises the importance of the role that voluntary organisations can play as disseminators of information, and as bodies close to ordinary citizens, and proposes to involve them more closely in its activities of disseminating information. Voluntary organisations have played an important role in the development of past "European years". This role has not always been acknowledged. The Commission therefore intends to ensure that the role of voluntary organisations is recognised and publicised in all "European Years" relevant to the sector.

▪ The European Parliament has proposed that studies be made on the expansion of the social economy in the European Community, in particular the establishment of an observatory to follow developments in this sector in the single market. The Commission considers that for voluntary organisations and foundations, this task could be undertaken within the European observatory for SMEs, and proposes that the collection and analysis of information, in the framework of the existing structures, should be based on what voluntary organisations do and want to do at transnational level, and particularly on the problems which they encounter in doing so, i.e. problems arising from differences in their legal forms in the various States, money transfers, leasing or purchasing premises in other states, obtaining subsidies, the effectiveness of the mutual recognition of vocational qualifications, obstacles to sponsoring in the Member States, etc. It would also look to identify areas of good practice which could be promoted and disseminated.

• To undertake transnational activities, voluntary organisations need instruments which are not yet widespread, but which are a *sine qua non* for any activity of this kind. These instruments range from a knowledge of languages to familiarity with current differences in the various Member States concerning

taxation, working methods, administrative procedures etc. There is great demand for training on the part of those voluntary organisations which are interested in expanding their transnational activities. The Commission will therefore give an impetus to promoting better access to **European training programmes** which officials of voluntary organisations wishing to expand into Europe could use.

On the other hand the involvement of the voluntary sector during the European year of life long learning gives evidence of the actual and potential contribution of this sector to life long learning, including adult education which is largely managed by the voluntary sector. In the years to come, this contribution is likely to become crucial to build a knowledge society for all.

▪ Voluntary organisations often have difficulty in finding partners or people to work with outside their own Member States who could help them in their transnational activities, and facilitate access for them to a number of Community funds for which this is a condition of eligibility. All the more because the numerous Community instruments and policies available to enterprises for finding partners at European level (BC-Net, Europartenariat, BCC etc..) are not always suited to the needs of voluntary organisations.⁶ Accordingly, the Commission will see that they are made easily accessible to voluntary organisations, and that they meet their specific requirements.

▪ Voluntary organisations and foundations have a clear interest in being associated closely with **information society developments**. An effort should be made to raise their awareness of the opportunities and benefits that the information and communication technologies, services and applications can offer them. The Commission has already set up the Information

⁴ The RECITE and ECOS/OUVERTURE programmes, and also the PACTE programme can facilitate the internationalisation of voluntary organisations and foundations.

Society Project Office as a "one stop shop" within the Commission to facilitate access to information in this area. The Information Society Forum will seek to involve all parties concerned, including voluntary organisations and foundations, in the policy debate. The participation of voluntary organisations and foundations in pilot projects, particularly in the applications field, should be encouraged.

▪ Many voluntary organisations are calling for easier access to sources of finances, including to the Structural Funds as well as other sources. The complexity of application systems and administrative procedures, which often lead to delays in payments can prevent small, lean voluntary organisations from making the valuable contributions they have the potential to make in the implementation of the various EU funding programmes.

Insofar as the Structural Funds are concerned, the Commission will, in conjunction with the Member States, continue to actively explore ways of facilitating access to Community finance, including the possibility of pre-financing by the Member States and the increased use of global grant finance. In general terms, it will be proposing ways of streamlining and simplifying procedures in the context of the reform of the Structural Funds which is due to take effect from the year 2000. Likewise, it will continue to encourage a broad interpretation of the concept of partnership extended to economic and social partners⁷, compatible with the need for proper and effective systems for monitoring the management of public funds.

The Commission will also explore ways of publicising more widely information on existing Community Finance which is available to voluntary organisations and foundations.⁸

⁷ Article 4 of the Framework Regulation No. 2081/93 on the Structural Funds.

⁸ DGVIII (Development) already has a document "Digest of Community Resources available for financing the activities of NGOs and other Governmental and/or Decentralised Bodies representing Civil Society in the fields of Development CO-operation and Humanitarian Aid".

The results of activities financed under the new budget line B3-4013 will help shed some light on the employment dimension of the third sector. In particular the actual and potential role of the voluntary sector and foundations in the employment development process and their job creation capacity will be examined and examples of best practice identified. The Commission will ensure that the resulting analysis and conclusions are widely disseminated.

The European Commission's support through training and the use of information technologies will improve their capacity to network in order for them to fully participate in European Community Programmes.

- The survey has shown that there is a growing interest by voluntary organisations in developing their transnational work. Voluntary organisations are keen to learn different models and ways of working from organisations in other countries. Many organisations find this difficult to do, due to the lack of resources. The Commission could help organisations such as foundations to explore the possibility of them setting up a special fund in order to facilitate the transnational work of voluntary organisations. In particular, the fund would enable voluntary organisations to pre-finance certain projects for which grants have been asked from public authorities, and also enable study visits, and the attendance of conferences, seminars and training events for organisations which normally lack the means to do so.

- The numerous difficulties facing voluntary organisations when they contemplate transnational projects are often the result of national legislations which are ill-suited to the new needs, but they can also arise from the effect of measures taken at Community level, which, since they were drafted with other objectives in view, may turn out to be obstacles for voluntary organisations and foundations. For this reason the Commission proposes to study and monitor closely the effects of Community policies, actions and legislation on this sector. This follow-up and analysis should be carried out systematically also through better

inter-departmental co-ordination, with the aim both of monitoring the implementation of Community rules in the sector and of promoting the structures of voluntary organisations and their access to the Single Market.

The Commission intends to conduct a broad dialogue involving the sector, the European Parliament, the Committee of the Regions, the Economic and Social Committee, Member States and other interested parties in order to fully discuss the issues contained in this document. The Commission intends to hold a series of conferences and seminars to discuss the Communication and issues arising out of it.

ANNEX I THE SURVEY

I How many voluntary organisations and foundations are there? How are they financed? How many people belong to voluntary organisations? How many people do they employ? How many people work for voluntary organisations or foundations as volunteers? How big is the sector, and is it growing? How is it developing at the European level? What are its needs and aspirations for the future?

I.1 Unfortunately, as has already been made clear, there is a serious lack of information about the voluntary sector in Member States, and still more at the European level. This lack of essential facts reflects not simply what has, until fairly recently, been a lack of interest amongst scholars and policy makers, but also the absence of any sort of convenient sampling frame.

I.2 In an attempt to throw some light on the scene, the Commission therefore decided to carry out a questionnaire study of voluntary organisations in all the Member States. The method used was to distribute questionnaires to voluntary organisations throughout Europe via their representative organisations in Brussels and at national level. The survey was carried out between June and October 1993 and altogether some 2300 replies were received. This is a surprisingly good response and the Commission is grateful to everyone involved. The response may itself be taken as an indication of the lively interest that voluntary organisations in the different Member States have in developments at a European level.

I.3 Given the method used, which was the only one open to the Commission, the study must be regarded as strictly exploratory and its results, which are not in any sense scientific, should be treated with caution. The findings are, however, of interest and are discussed below.

Growth of the sector

I.4 All the evidence suggests that the associative sector has grown enormously since the end of the last war and the survey clearly reflects this phenomenon, highlighting in particular the very marked increase in the number of voluntary organisations in the last twenty or so years. The growth of the sector in the last decade might justly be called explosive. Of the voluntary organisations which responded to the questionnaire, some 75% were founded after 1961, about 65% after 1971 and about 45% after 1981. There is no reason to believe that the sample was abnormally "young" nor does growth appear to be slackening. There are minor differences between the sector in different Member States - for example, for reasons which will be obvious, the sector appears to be on average younger in Spain and Portugal than elsewhere in Europe (84% of the Spanish and 85% of the Portuguese sample were founded after 1971 and 63% and 62% respectively after 1981) - but the same basic phenomenon can be observed everywhere in Europe.

I.5 There are no doubt many reasons for this very marked growth but the following factors have almost certainly been influential.

- increases in prosperity following the second world war and latterly increased leisure time (shorter working week, longer holidays and two-day weekends)
- the shift evident in most European economies during the 80's towards the provision of services
- the increasing delegation to voluntary organisations of services (particularly social services) previously delivered by public authorities ("social privatisation")
- changes in public preferences away from uniform and relatively impersonal services of the kind typically provided by public authorities towards the more individual client-oriented approach favoured by voluntary organisations

- the identification of a whole range of new needs and the growth of new social preoccupations (e.g. sexual equality, the environment and preservation of the biosphere, foreign aid to developing countries following the granting of independence to former colonies in the 60's, peace etc.)
- the employment crisis in the late 70's and early 80's leading to the creation of employment schemes involving voluntary organisations
- historical reasons peculiar to particular Member States such as the release of pent-up associative demand following political changes in Spain and Portugal or the movement to create structures outside the purview of the state following the social and political upheavals of 1968
- demographic changes taking place in Europe such as the increasing number of retired/unemployed people leading Member States to offload services from the State to the private and associative sectors as a way of cutting public expenditure

Numbers of members

I.6 One well-known voluntary organisation in the Community has over 13 million members. Most voluntary organisations, however, are small, often having no more than a handful of active adherents. Because of the methods used by the Commission, the sample contains a disproportionate number (30%) of "intermediary organisations" in the sense explained in paragraph 4 and of national organisations. The results will therefore have considerably overestimated the average size of voluntary organisations in the Community. (Most intermediary organisations responding to the survey were federations - that is, umbrella bodies providing some centralised services (such as information and combined lobbying) for a number of separate voluntary organisations or branches (usually with their own legal identity) working in the same field. Nonetheless the figures are of interest.

I.7 In the sample, about 40% of voluntary organisations had fewer than 100 members and more than half had fewer than 200. The range was, however, very wide. Thus 13% of the sample had between 1 000 and 5 000 members, and 15% had over 5 000. As would be expected, national organisations tended to have more members than those with a regional focus - they appear, roughly speaking, to have twice as many members as regional organisations.

I.8 Of the federations responding to the survey very nearly half represented more than fifty organisations, with 9% representing over 500. Such bodies do, of course indirectly represent large numbers of members of individual voluntary organisations: in our sample over half (55%) of federations indirectly represented more than 10 000 members with 32% representing over 100 000. The average number of members indirectly represented was over 1 300 000.

I.9 The size of voluntary organisations and federations appears to vary according to a number of factors. Larger bodies tend to be older, as do organisations working in fields of obvious and enduring interest, such as social services and education. As has already been remarked, voluntary organisations with wide geographical scope tend to be larger than those with a relatively parochial focus. The size of the membership also reflected to some degree the size and relative wealth of the Member State and the relative maturity of the sector.

Employment

I.10 The numbers of staff employed by voluntary organisations varies very widely - from none at all to many thousands. The great majority of voluntary organisations are, in effect, small enterprises and, like their counterparts in the conventional economy, most employ no more than a handful of staff. A few, however, are large organisations by any standards, employing large numbers of full and part-time salaried staff.

I.11 The average voluntary organisation in our sample employed 40 full and 10 part-time staff. The equivalent average figure for intermediary

organisations was a little higher. These averages do, however, conceal wide variations. Thus some 14% of our sample employed no paid staff at all, 17% employed over 50 people (full and part-time), 6% between 101 and 500, and 4% over 501. The commonest number of employees was between 1 and 5. Full-time staff appear to work on average for 36 hours a week and part-timers for 20 hours. These figures varied less from country to country than they did according to the area in which the voluntary organisation was active: for example, as might be expected, voluntary organisations active in the health or social services field tended to employ many more salaried staff than those active in, say, civil rights.

Volunteers

I.12 Another very important source of support for voluntary organisations is, of course, volunteers. 81% of our sample said that they employed volunteers. Voluntary organisations in some countries appeared to make rather greater use of volunteers than others, but in no country did the proportion of voluntary organisations which have volunteers working for them fall below 60%. Again, the numbers of volunteers employed varied widely: 30% of voluntary organisations (including federations and other intermediary organisations) told us that between 1 and 5 volunteers were active in their organisation; about 18% reported that they were supported by between 6 and 10 volunteers; 60% had over 51 volunteers, 10% had between 101 and 500, and 7% had over 500. A few voluntary organisations (3%) were supported by over 2 000 volunteers. On average each volunteer spent about nine hours a week working for the organisation they supported.

I.13 Although there did not appear to be major differences between the number of organisations in different Member States using volunteers, the ratios of salaried staff to volunteers varied widely from country to country - from about 1:1 to about 1:8. Such differences did not appear to be related to the size or wealth of Member States or any other particular factor. It may be that they simply reflect varying traditions, or the

extent to which volunteering is, or is not, organised.

I.14 The numbers of volunteers employed also varied markedly according to the voluntary organisation's main field of activity. For example, voluntary organisations working mainly in the field of culture and recreation, or in human rights, clearly depended to a much greater extent on volunteer workers than did voluntary organisations working in health, education, or social services. However, while there was some tendency for voluntary organisations to rely on either salaried staff or volunteers, it was not necessarily the case that voluntary organisations with few salaried staff had few volunteers, or vice versa - the mix varied a great deal.

Assets

I.15 The voluntary organisations and federations in our sample had:

- financial assets amounting to 2,208 thousand ECU;
- property amounting to 702 thousand ECU;
- equipment amounting to 1,102 thousand ECU;
- other assets amounting to 835 thousand ECU;
- total assets of 10,068 thousand ECU

These averages conceal wide variations between voluntary organisations themselves and between countries. By and large it is, as would be expected, voluntary organisations in the richer Member States which have on average bigger assets, though the variation in even these countries is as wide as anywhere. Voluntary organisations in Member States where there are still remnants of the old mortmain laws, or where the laws governing inheritance are still relatively rigid, have discernibly fewer assets in the form of property.

Expenses

I.16 Data on organisations' annual expenditure was broken down into salaries and wages, administrative costs, and other costs. On average the costs incurred by our sample organisations amounted to the following:

salaries and wages: thousand ECU	27,743
administrative costs: thousand ECU	465
other costs: thousand ECU	1,044
total costs thousand ECU	31,149

There were minor differences between countries: broadly voluntary organisations from better off Member States spent more than average on wages and salaries. Not surprisingly larger organisations spent rather more on administration than did federations, which were generally more expensive to run than simple voluntary organisations.

Sources of Income

I.17 Very many voluntary organisations depend to some degree on external subsidies of one kind or another, typically from public authorities, but often from individuals or other private donors. Many others are virtually self-supporting, obtaining their income from membership fees or by the sale of services or other products. To get an idea of how they financed their expenditures, we asked voluntary organisations in our sample to state what proportion of their income was from their own resources and what proportion came from so-called external sources, such as gifts and subsidies.

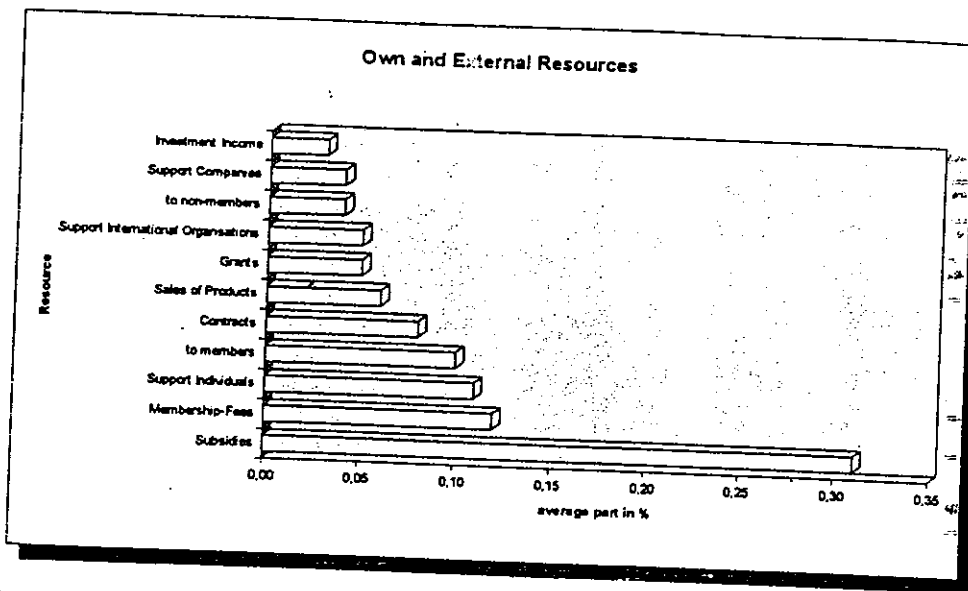
I.18 For the purposes of the study, income from the sale of services (whether to members or non-members) or products (e.g. publications), membership fees, investment income and income from contracts, were all counted as "own resources". Under "External resources" were included subsidies from government bodies and other public authorities,

and support from individuals, international bodies, foundations and companies.

I.19 On average membership fees (30%) and the sale of services (30% of which 20% were to members and 10% to non-members) made the largest contribution to voluntary organisations' "own resources", followed by contracts (17%), sales of products (15%), and investment income (8%). To put the matter in another way, on average a typical European voluntary organisations derives some 62% of its "own resources" from economic activity of one form or another - i.e. from selling services directly or under contract, or from selling products such as publications. Again these averages did, however, conceal wide variations in the amounts that voluntary organisations gained from various sources and in their relative importance. For example, in two Member States the most important source of income in the "own resources" category was sales to non-members; and in another membership fees apparently contributed little in comparison with contracts with public authorities.

I.20 There was less variation apparent when we looked at "external resources". By far the most important source of external income for voluntary organisations in all but one Member State was reported to be subsidies from public authorities (52%). This was followed by support from individuals (22%), support from international bodies (10%), grants from foundations (9%), and lastly support from companies (7%). Again to put these averages into perspective, grants from foundations were generally not an important source of income (between 3% and 6%) in all but two Member States, as were supports from business.

I.21 Of all the sources of internal and external income, subsidies were clearly the most important, followed by membership fees. The following diagram compares all the sources of internal and external income and gives their mean percentages of the total.



I.22 Additional information was also sought from voluntary organisations and federations about the balance of "own" to "external" income over the last three financial years. The ratio of own resources to external resources was on average about 45:55, with no significant fluctuations over the three years. In each year, however, there were some voluntary organisations/federations claiming that 100% of their income was derived exclusively either from their own or from external resources. In other words most voluntary organisations appear to generate a little under half their income themselves, relying for the remainder mainly on subsidies of one kind or another; but there are numbers of voluntary organisations which are either wholly self-sufficient or alternatively, wholly dependent on external aid.

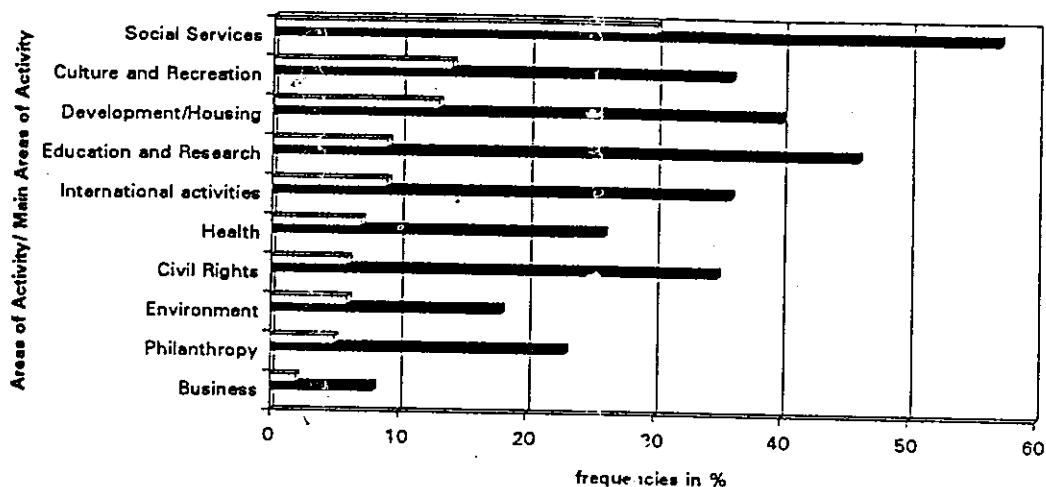
Sphere of Activity

I.23 The questionnaire used the following ten main spheres of activity with which to classify voluntary organisations/federations:

I.24 The figures in brackets indicate the proportion of respondents naming each of these areas as one in which they were active. These figures take account of the fact that, as has already been made clear, many voluntary organisations are active in a number of fields at once. This is clearly revealed by the following diagram showing the proportions of voluntary organisations whose main activity may lie in one field but which are also active in others. There were, as would be expected, differences between countries, though it is noteworthy that social services was named most frequently in all

Social Services	(57%)
Education and Research	(46%)
Development and Housing	(40%)
Culture and Recreation	(36%)
International Activities	(35%)
Civil Rights and Advocacy	(35%)
Health	(26%)
Philanthropy and Voluntarism	(23%)
Environment	(18%)
Business and Professional Voluntary organisations	(8%)

Areas of Activity and Main Areas of Activity - frequencies in %



but two countries (it is unlikely that this finding simply reflects our particular sample). Greater differences appeared, however, when we looked in more detail at the type of social services provided where voluntary organisations in different countries appear to specialise in different sub-areas such as family care, youth work or services to elderly people or people with disabilities. The latter three groups were, in fact, most often mentioned. This may reflect the fact that governments most often turn to voluntary organisations to provide services for these particular groups.

I.25 Looking in a little more detail at the figures on, for example, "culture and recreation", reveals that 41% of voluntary organisations whose main activity lies in this field are also involved with other cultural and artistic activities - 37% with sport, 29% with recreational and entertainment clubs and 27% with the media and communication. Voluntary organisations which gave another area as their main field of activity were also active in "culture and recreation".

I.26 A further example is provided by "health": 36% of voluntary organisations which claimed that health was their main area of activity were involved in rehabilitation, 35% were involved with public health services, and 26% were active in nursing homes. Nursing homes were also mentioned by, for example, 29% of voluntary organisations which gave "Philanthropy and

Voluntarism" as their main area of activity; and 17% of voluntary organisations who were mostly involved in "social services" were also involved in "rehabilitation".

I.27 This "multi-functionality" is typical of the philosophical approach adopted by voluntary organisations and often also reflects their circumstances as key sources of aid or information in a particular locality. Voluntary organisations in this sense are rarely entirely "subject-oriented": their focus is above all on people and their problems. In this spirit, many voluntary organisations provide what is, in effect a "one-stop-shop" either for the inhabitants of a particular area, or for the group which is their special concern. Thus a voluntary organisation dealing with, for example, people with disabilities, will deal not simply with the immediate results of a particular disability, but will tend to occupy itself also with the information and advice needs of its clients and with the whole range of concerns affecting them, including, most importantly, their rights as citizens. This latter is a particularly important point: as a glance at the diagram will show: while only 6% of our sample regarded themselves as primarily concerned with human rights, 35% gave it as a field in which they were active. The same multi-functionality is evident throughout the diagram.

I.28 When we looked at the expenditure and assets of voluntary organisations working in different fields we found that bodies concerned

with social services and health had the highest expenditure. The voluntary organisations and federations whose main concern was with civil rights and advocacy had the lowest costs and the smallest assets. Environmental voluntary organisations/federations and those whose main objective was education and research were best off from the point of view of assets.

I.29 As regards the "own resources" of voluntary organisations, the most important source of income for bodies in the field of culture and recreation was the sale of services to members and membership fees, both providing 29%. In the fields of education and research and international activities, contracts, (25% and 27% respectively) were the most important source of self-generated income, while in the area of health it was membership fees (36%). Voluntary organisations providing social services also said that membership fees constituted a significant part of their "own resources" (33%), as did those dealing with civil rights (38%), development and housing (31%) and the environment (35%). In contrast, charity organisations obtain the bulk of their own resources by selling services to members (28%) and non-members (26%). For business and professional organisations, membership fees are by far the largest element in the "own resources" category.

I.30 As regards external sources of income, organisations working in all fields are largely supported by subsidies of one kind or another. Subsidies provide from 31% of total external income of charitable voluntary organisations/federations to 73% of such income for business and professional bodies. As has already been noted, support from individuals is also an important source of income. Charitable voluntary organisations and federations, for example, said that support from individuals represented 37% of their external income. Environmental voluntary organisations claimed the proportion to be 29%, and in the fields of social services, education and research and international activities, it represented a fifth of external resources. The major exception to this picture was provided by business and

professional voluntary organisations, which derived only 2% of their external income from individuals.

Geographical scope

I.31 In asking about the geographical area covered by voluntary organisations, we were chiefly interested in gaining an impression of what sort of proportion of our sample considered Europe as a significant, if not the only, focus of their organisation. The results varied surprisingly widely: in one country only 4% of respondents regarded their scope as extending to Europe, compared to 35% in another country. They should, however, be considered together with our findings (reported below) on the number of actual or intended partnerships or other activities undertaken by voluntary organisations at the European level. Interestingly, there appears to be little correlation between how important a focus organisations consider Europe to be and their propensity to form European partnerships.

I.32 The scope of a voluntary organisation's interest is not, of course, necessarily closely related to its organisational structure. For example, an internationally active voluntary organisation may well be locally based, whereas one which may be active at a national level within a particular Member State may lack any interest in Europe. As a broad rule, however, the greater an organisation's geographical scope the more it appears to play an active role at all levels. Thus most national organisations considered that they were also active at local and regional level, but few local organisations considered that their scope extended to national level. In line with this, most of the voluntary organisations that are active at the European level are, in fact, nationally organised.

Target groups and beneficiaries

I.33 We asked voluntary organisations which particular groups of people their organisation worked with or was concerned with and to indicate to whom, or to which bodies they offered services and on what basis. The great majority of voluntary organisations and

federations defined their target public widely - 46% of respondents said that they served the "general public" or alternatively "young people" (37%) or "adults" (35%). In contrast, very few voluntary organisations mentioned more narrowly-defined groups as their particular concern. It may be doubted whether there is much significance in this finding. Since voluntary organisations were not, in practice, confined to one choice from the list provided in the questionnaire, the likelihood is that most respondents whose activity was directed on the one hand at a specific group of people e.g. "drug addicts" or "veterans" and, on the other hand at the population as a whole (whether to draw attention to their work or to canvass for support) indicated both the specific group and "general public".

I.34 When we asked voluntary organisations to whom they provided services the answer was, again, most often the "general public" (39%), followed as the next most frequent categories by the "target group" (38%) and members. (36%), governments or other public bodies (22%). The extent to which these services were provided free or in return for payment varied according to the country concerned and to whom the service was provided. Free services were most often provided to the general public and to members, and paying services to the voluntary organisation's particular target group or clients or to public authorities.

I.35 Overall, more free goods or services were provided by voluntary organisations/federations than goods and services against payment. Not surprisingly, voluntary organisations and federations that mainly offer their services free rely more heavily on support from outside than do bodies which charge. To what extent services are provided free or, alternatively, have to be paid for depended heavily on the voluntary organisation's field of action. For example, the support of the homeless is likely to involve the provision of free (or at least very cheap) goods or services whereas it may be reasonable to charge for, say, adult education. Similarly, sports clubs, where perhaps relatively costly equipment is needed, or which are prestigious,

will provide fewer free benefits than those voluntary organisations involved in social services, especially of a relatively informal kind.

These findings, together with those on voluntary organisations' sources of income are a clear indication of the important redistributive effect which these bodies have.

*European Community-wide partnerships
between voluntary organisations
and foundations*

I.36 Because of the method we used, our sample undoubtedly contained a greater proportion of voluntary organisations which are active at the European level than would be expected in a more scientific sample. The figures are nonetheless impressive evidence of the extent to which the sector is already beginning to come together throughout the Community: 50% of those voluntary organisations answering the relevant question, or nearly a quarter of the total sample, said that they were already involved in cross-border activities in some form of partnership with nationals or organisations from other Community countries.

I.37 Given that the inspiration for the majority of the well-known networks already working at European level came from countries in the north of the Community, it might have been expected that the tendency to form partnerships might be less marked in the south than in the north. In the event, the findings did not support this hypothesis: there were differences between countries, which are not altogether easy to explain, but no clear division was discernible between the overall picture north and south.

I.38 Looking ahead, 46% of our respondents said that they envisaged entering into cross-border partnerships at some time in the future. Interestingly, an analysis by country showed, in effect, that it is voluntary organisations in those countries that have hitherto formed a below-average number of partnerships which have the strongest future intentions. In other words, when it comes to operating on the European stage, voluntary organisations in countries now lagging behind appear to have every intention of catching up.

I.39 Of voluntary organisations already in partnerships, 27% were active in "social services", 14% in the field of "culture and recreation", 13% in "international activities", 11% in "education and research" and 10% in "development and housing". Again, there was evidence that voluntary organisations working in some fields where few partnerships have yet been formed have stronger future intentions as regards cross-border work: for example, no fewer than 75% of our sample voluntary organisations which are active in the field of "development and housing" said that they were planning partnerships for the future. On the other hand, only 22% of voluntary organisations active in the health field said that they were planning to enter into partnerships. This may well reflect the fact that many voluntary organisations supply what are, in effect, public services - and furthermore in a highly regulated field. In these sorts of circumstance, partnerships may simply offer voluntary organisations less and thus be less attractive.

Problems in forming partnerships

I.40 Just over half the voluntary organisations involved in them said that they had met problems in forming or running their partnerships. The broad findings were as follows:

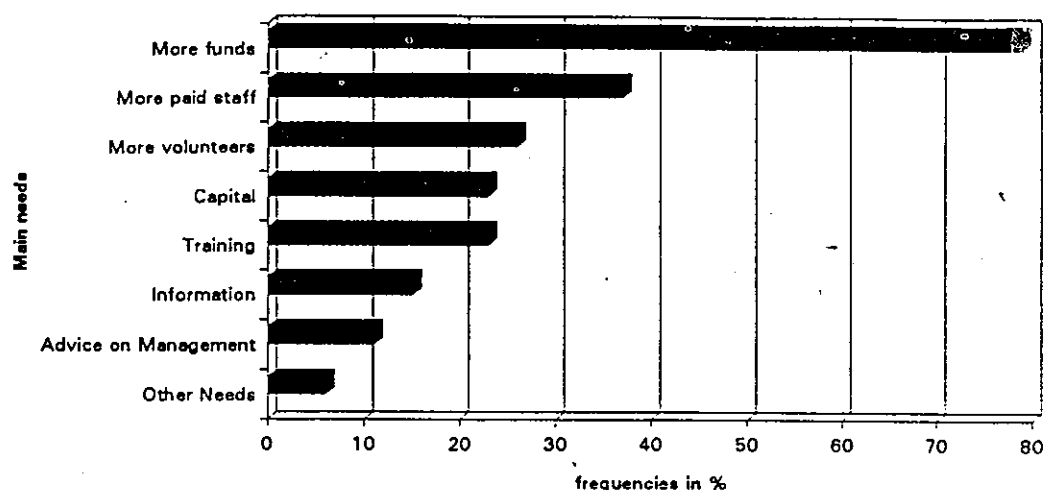
fiscal	21%
legal	19%
administrative	29%
communication	51%
other	35%

The figures in brackets indicate the proportion of respondents encountering each kind of problem. Few differences were apparent between national, regional or local organisations, though there was a tendency for smaller organisations to be less preoccupied with difficulties. The outstanding finding is, of course, the extent to which "communication" has caused difficulties, though the extent of legal and fiscal problems is also noteworthy. It seems likely that the legal difficulties, at least, will be largely removed by the proposed Statute for a European Association. Language is probably the most important impediment to "communication" but it is likely that there are other complicating cultural factors at work as well, such as misunderstanding of role and importance of the sector in different countries, misunderstanding of how organisations work, the lack of understanding of cultural, legal and fiscal backgrounds, the existence of different ways of working etc..

Main future needs of voluntary organisations

I.41 We asked respondents to tell us what they felt were their voluntary organisation's main needs for the future. The results are given below.

Main needs of European associations/foundations



It is clear from the results that the perceived need for more funds and more staff, and above all the former, is more or less universal. The same demand exists in the sector in all the Member States, though there is a tendency for voluntary organisations in poorer countries, where the sector tends to be less well developed, to feel their comparative lack of funds more keenly. Voluntary organisations are not, on the whole, capital-intensive, and it is not surprising, therefore, that there should not be the same desire for more capital. Nonetheless almost a quarter of our respondents mentioned capital as a need.

I.42 The desire for more paid staff appears to be felt most by older voluntary organisations (those founded between 1945 and 1950): younger voluntary organisations, in contrast, appear in relatively greater need of information and management advice. The desire for more volunteers was very widespread but particularly evident amongst voluntary organisations working in the fields of "health" and, for obvious reasons, in "philanthropy and voluntarism". The need for more training was mentioned by almost a quarter of respondents and appears to be felt by voluntary organisations working in all fields regardless of their age.

*Points for the Commission:
development of the
sector at the European
level*

I.43 Finally, we invited respondents to let us know of any points which they would like to bring to the attention of the Commission and to put forward any suggestions they might have about how the Commission might help the development of the sector at the European level. The answers we received ranged widely from simple demands for "recognition" in a quite general sense (either of the non-profit sector or of some particular organisation) to relatively complex suggestions for changes in, or extensions to, European Community policies.

ANNEX II OVERVIEW OF THE LEGAL AND FISCAL FRAMEWORK FOR VOLUNTARY ORGANISATIONS AND FOUNDATIONS

II.1 The following is an overview of the legal and fiscal basis on which foundations and voluntary organisations operate in each of the Member States. Following the definition given in paragraph 2.3 no account is taken of "economic" associations which exist in some Member States and which can engage in commercial or other profit making activities, nor of the several varieties of private foundation.

Legal basis

II.2 The freedom to establish or join, or indeed to leave, a voluntary organisation is nowadays a right (normally guaranteed under the constitution) in all Member States of the Community. The right of association is, of course, also guaranteed under the European Convention on Human Rights.⁹ Generally speaking it is possible for nationals of any Member State to establish a voluntary organisation or foundation anywhere in the Community, although some Member States stipulate that there should be a minimum number of their own citizens or residents involved¹⁰. Some Member States have however, special statutes precisely to enable foreign nationals to establish voluntary organisations which, though subject to the same national registration or publication requirements as any other voluntary organisation, are then run according to such internal regulations as may be laid down in the country from which the founders originate.

II.3 Generally speaking, where jurisdictions make the distinction between private and public

law both voluntary organisations and foundations are entities of private law. Not all Member States define either voluntary organisations or foundations explicitly, and not all make a fundamental legal distinction between voluntary organisations on the one hand and foundations on the other. For present purposes, however, voluntary organisations can be taken as groups of private individuals who have come together for some non-profit end in the public interest. In contrast, foundations are entities which have charge of assets set aside for purposes in the public interest in the form of an endowment or of a regular dedicated source of income.

II.4 That part of the sector of interest here is, therefore, neither wholly private nor wholly public in nature. It follows that fundamental to the law must be some means of demarcating its proper sphere of operation from the territory occupied by purely private activity, by government, or by commercial companies and other forms of profit making enterprise. Within the Community this has been achieved either formally - by setting out the basic features of internal organisation and governance to which non-profit organisations must conform, or by objects - by laying down what spheres of activity count as in the public interest and by establishing other rules defining how the non-profit status of the organisation is to be secured.

II.5 Broadly speaking the first of these approaches - that of defining non-profits by their formal features is characteristic of the civil code tradition, and the second - that of delineating the sphere of non-profit activity in the public interest ("charity") by the purpose of the activity itself - is the fundamental feature of the common law tradition.

II.6 Many commentators draw a sharp distinction between these two approaches, and it is certainly true that the legal traditions from which they derive are very different. The practical effect of the difference in approach can, however, be exaggerated. Many jurisdictions contain special legal provisions for voluntary organisations with certain aims regarded as of public interest which, combined

⁹ Article 16 of the ECHR permits derogations to the right of association in the context of a political activity of non-national citizens.

⁸ This is in fact in contravention of Articles 6 and 52 of the Treaty on European Union.

with different levels of tax relief, means that in practical effect organisations in many Member States are defined in terms of both their formal structure and their objects. It is also true to say that in practical terms the basic provisions of the law on foundations (and in particular the emphasis given to the preservation of assets, with all that that implies) in code countries are also very similar to those found in common law jurisdictions. The clear link here is probably historical. The common law on charity has enjoyed an unbroken tradition and has never drawn a fundamental distinction between foundations and voluntary organisations - both are charitable trusts. Since foundations are the older form, it appears that the law was simply applied later to voluntary organisations without any major adaptations. In contrast many code countries have not enjoyed the same continuity, the result being that the law has diverged.

II.7 Voluntary organisations may be incorporated or unincorporated and both forms are found in all jurisdictions. It seems likely that the majority of voluntary organisations in the Community are in fact unincorporated and thus without legal personality. There are some disadvantages to being unincorporated: it is not always easy for the voluntary organisations to acquire any assets it may need, and its individual board members or trustees, in whose names the business of the voluntary organisation is carried on, may be uncomfortably exposed to liabilities. In most places the law has, however, developed ways of mitigating the difficulties - by the use of the law of agency, for example, or by a common fund to which members contribute and to which creditors have first recourse, and in most jurisdictions the unincorporated voluntary organisation does not appear to be prevented from taking part in legal process as a voluntary organisation (that is to say under its own name rather than that of a responsible board member).

II.8 In code countries the incorporation of voluntary organisations is generally achieved by the publication of statutes conforming to the law in the relevant official journal, together with a list of (board) members. Incorporation (or, more accurately, the registration which is its

condition) may be refused on the grounds that the statutes of the body are non-conforming. A refusal to register a voluntary organisation in these circumstances is an entirely administrative matter and implies no political judgement on the status of the organisation. It needs, therefore, to be carefully distinguished from the circumstances in which organisations may be refused special status for tax purposes (see below, paragraph 5.14 and 5.15). The statutes (and often a full or partial list of members) are typically required to be registered with either the local court or with the responsible ministry, regional or local authority. All foundations have legal personality, which again is normally achieved by the publication of statutes etc.. Unlike voluntary organisations, however, foundations are generally subject to some degree of a priori control to ensure that the statutes are in strict conformity to the law, that (since they are often intended to exist "in perpetuity") management succession has been properly allowed for, and that their intended assets are adequate to achieve their ends.

II.9 In common law jurisdictions no special form of incorporation is available for either voluntary organisations or foundations. Instead bodies seeking the convenience or protection of incorporation have a number of different forms to choose from depending on the area of activity in which they are engaged. By far the most common is the so-called "company limited by guarantee" - in effect a non-profit-distributing company - but there are other forms available such as the "housing association" or the so-called "friendly society". There are also (comparatively rare) examples of charitable voluntary organisations and foundations which have been incorporated by Royal Charter or by special Act of Parliament.

II.10 Incorporation is available everywhere by one means or another, but the resulting degree of legal capacity is not always as great. In a number of Member States legal capacity is effectively unlimited (in any event as long as the body concerned acts in accordance with its statutes). In others, however, neither voluntary organisations nor foundations can receive gifts

and legacies or own real property without the express permission of the relevant public authority.

II.11 There are differences too when it comes to the difficult question of the degree to which voluntary organisations and foundations (but in particular voluntary organisations) are allowed to engage in economic activity without the loss of tax privileges. Some degree of economic activity is allowed in all Member States, the rule generally applied being that such activity must not be voluntary organisations' principal activity in the sense that it must be carried out not for its own sake but for some non-profit aim, and must be ancillary to the objects of the voluntary organisations in the sense that it must be directly tied to the voluntary organisation's objects and not simply designed to improve the organisation's general financial position. In line with the non-distribution constraint under which all voluntary organisations operate, any surplus from economic activity has, of course, to be put towards the achievement of the voluntary organisation's aims. In some jurisdictions, it is possible for a voluntary organisation or foundation to supplement its income by creating or acquiring an entirely separate commercial company, which then remits its income to the parent body.

As far as competition rules are concerned, all competition rules will be adhered to, taking into account the specificities of the sector.

Taxation

II.12 All Member States allow some voluntary organisations - broadly speaking, those which are regarded as having purposes in the public interest - some degree of relief from direct taxation either by exempting them from taxes imposed on companies and other forms of profit-making enterprise, or by imposing a lower rate than that paid by companies, or by establishing a minimum income threshold below which tax is not incurred. These forms of relief are not necessarily mutually exclusive. Where voluntary organisations are exempt from company tax they may have to pay income tax instead. Some Member States allow partial or full exemption

from property taxes on real property owned or occupied by the voluntary organisation or foundation. In addition there may, rarely, be partial relief from employment taxes.

II.13 If the principle of a degree of tax exemption for some voluntary organisations and foundations is universal, the approach adopted by Member States differs significantly, as does the extent to which relief is given to bodies working in different spheres. In some jurisdictions, voluntary organisations and foundations are in principle subject to the same tax regime as companies and receive no relief from direct taxation unless they are recognised (either, as having certain objects, by law, or individually by the relevant authorities) for tax purposes. In others (and in particular those where voluntary organisations and foundations are defined as being in the public interest) tax relief is accorded as of right but may be lost if the voluntary organisations is regarded as carrying on commercial or lucrative activity outside the limits recognised by law or jurisprudence. In such circumstances the privileged tax status of the organisation may be removed altogether. Alternatively relief may be withdrawn only in respect of those activities which are regarded as profit making in the relevant sense.

II.14 Besides these differences in approach there are significant variations in the way in which Member States delineate the sphere of activity that they regard as being in the public interest. There are thus considerable differences in the extent of tax relief for which voluntary organisations and foundations working in different fields are eligible. Some jurisdictions define the area of public interest for the purposes of tax relief very generally and broadly, including, for example, any activity of public utility or benefit. Such jurisdictions typically give full relief to all bodies meeting this broad criterion. Other Member States take a much more restrictive approach. In one, for example, reliefs are presently available only for a small number of individual organisations named by the law. Yet other Member States take both a restrictive approach and one which also

discriminates between different sorts of bodies. Thus only very limited relief may be granted to all non-profit bodies, fuller exemption being confined to bodies operating in a restricted number of fields - such, typically, as health, culture or social services - and subject to stringent management and accountability requirements. Such special tax status is subject to administrative and political discretion and in some Member States appears to be increasingly rarely accorded.

Tax relief for donors

II.15 All Member States grant a measure of tax relief to donors to voluntary organisations or foundations, whether they be individuals or companies or other forms of organisation. Reliefs may be granted up to a maximum amount in any one tax year or, alternatively, up to a maximum proportion (expressed as a percentage) of an individual's gross or after-tax income. The arrangements for companies are usually similar, relief generally being granted either up to a maximum amount or up to a proportion of profits before or after tax. Minimum amounts or proportions may be imposed and, in the case of companies, the permitted base for calculating the maximum gift may be turnover rather than profits.

II.16 Some Member States grant some degree of tax relief to donors to any voluntary organisation or foundation active in the public interest as broadly defined. In others, more restrictive criteria are applied, relief to donors typically being restricted to gifts to those voluntary organisations which are themselves granted special status for tax purposes. Indeed, unless they possess the required status, voluntary organisations in these Member States do not normally have the capacity to receive gifts at all (see paragraph 5.10 above). In jurisdictions where voluntary organisations or foundations normally have limited legal capacity, voluntary organisations given a general dispensation to receive gifts may nevertheless be required to dispose of any gift of real property within a specified period. In some Member

States the voluntary organisation or foundation may be charged tax on the gift received.

II.17 Member States also take a different attitude when it comes to legacies. In some Member States individuals are free to leave all or part of their estate to a voluntary organisation or foundation of their choice and, while this appears to be a less common practice than in the past, many still do so. Alternatively they may create a new body - usually a foundation - with some cherished aim. Such testamentary gifts are generally tax free both to the donor's estate and to the recipient body. In those countries where voluntary organisations and foundations have limited legal capacity, however, it may be impossible to leave anything but a notional part of an estate to a voluntary organisation or foundation unless the recipient body has received the required dispensation from the authorities. Willing an estate may be further complicated by strict laws governing inheritance or by requiring that considerable assets be set aside before a foundation can be created.

Indirect tax

II.18 Article 13(A)(1) of the Sixth Directive 77/388/EEC of 17 May 1977¹¹ requires Member States to exempt from VAT "certain activities in the public interest". These include hospital and medical care, goods and services closely linked to welfare and social security work or the protection of children and young persons, education and training for young persons and so on.¹² Many voluntary organisations and foundations are, of course involved in the provision of just such services and their transactions are exempt from VAT, provided

⁹ Known as the "Sixth Directive", it governs the harmonisation of the laws of the Member States relating to turnover taxes and introduces a common system of VAT and a uniform basis for its assessment.

¹⁰ These exemptions are subject to certain conditions (see Article 13.A.1b),g),h),i)) and are not given automatically.

that they obtain prior authorization from the Member State in which they are established, i.e. they are exempt from the need to file VAT returns, to charge VAT to their clients or to pay output tax. In addition, under Article 13(A)(2) Member States can make the granting of any of the listed exemptions to any body (other than those governed by public law) subject to a number of conditions designed in effect to ensure that exempt bodies are bona fide non-profit organisations whose activities will not affect the competitive position of taxed commercial enterprises. On the face of it the ability to impose conditions on the granting of exemptions would seem to leave a good deal of scope for variations in the treatment of voluntary organisations but in practice, with a few minor exceptions all Member States appear to have implemented the exemptions outlined in Article 13.

II.19 In addition to the exemptions mentioned above, a number of Member States "zero rate" certain supplies. This can benefit non-profits by allowing them to reclaim input tax.

GERMANY

ASSOCIATIONS (VEREINE)

LEGAL FRAMEWORK

1. Right of association guaranteed by law?
Yes: Constitution, Article 9, paragraph 1: German nationals have the general right of association. The legal position of the association is governed by Article 21 *et seq.* of the Civil Code (BGB) and by the relevant provisions of the Law on Association (VereinsG).
2. Basic definition
No legal definition. In legal practice and theory an association is defined as a permanent and structured group of persons (natural or legal) who form an entity on a voluntary basis with a view to attaining a common object. The concept of the communality of the members must be expressed at least by a common denomination and in a body which represents them.
3. Minimum number of founders.
Two founder-members. However, there must be at least seven when the statutes are registered with a view to obtaining legal personality.
4. Types of associations.
The Civil Code governs non-profit associations (*Idealvereine*, Article 21 BGB) and commercial associations which aim to make profits (*wirtschaftliche Vereine*, Article 22 BGB). However, the latter are of only marginal importance, and require authorization by the public authority concerned. The result, *de facto*, is that the concept of an association is more or less restricted in Germany to non-profit organizations, irrespective of whether they have legal status.
5. Membership nationality requirements
No restrictions.
6. Legal personality and how acquired.

By entry in the register of associations in the court local to the head office (Article 21 BGB).

7. Legal capacity.
Unlimited
8. Statutes
For registered associations (BGB 57 and 58).
9. Registration requirements.
For associations wishing to acquire full legal personality.
10. Commercial activities.
A non-profit association may engage in commercial activities if they are purely ancillary, do not constitute the main object of the association and play a very secondary role in relation to its main non-profit activity. If these commercial activities are not completely ancillary, they cannot constitute the association's main or statutory activity. In principle, ancillary activities are allowed only if their purpose is to help in the performance of activities to which tax concessions are attached (not only fund raising) and if this purpose can be attained only through this activity (Articles 65 to 68 of the tax code). The income, profits and assets arising from other commercial activities of an association which is recognized as a public utility are liable to ordinary tax.
11. Disposal of assets on liquidation
Assets pass to the non-profit association named in the statutes. The statutes may lay down that the Annual General Meeting should nominate the non-profit association authorized to receive the assets, but in this case the authorization of the tax authorities is required.

TAX POSITION

INDIRECT TAX

12. Article 13 of the Sixth VAT Directive

All the exemptions applicable to associations under Article 13 apply.

13. Other specific exemptions

None

14. Zero rates

No

DIRECT TAX

15. General position

associations are liable for corporation tax. If their income does not exceed DM 7 500 they are exempt from corporation tax (concession).

16. Associations which are recognized or which enjoy tax concessions.

Tax concessions are granted to associations whose statutes and effective management are inspired exclusively by altruism and the general good and which are directly engaged in a philanthropic or religious activity (Articles 51 to 68 of the tax code). Tax concessions are not confined to associations, but are granted on the same conditions to any legal persons within the meaning of Article 1 of the law on corporation tax.

17. Criteria for recognition

It must be clearly apparent from the statutes and the association's administration that in its actions it is pursuing an objective for the public good. The statutes must state very precisely:

- the object;
- the way in which the object is attained;
- the non-profit activity aimed solely and directly at this object;
- that if the association were to be wound up or deprived of its status as a public utility, its assets would remain in the public utility field;
- that the effective management must be in accordance with the statutes.

18. Recognized bodies

Under Articles 52-54 of the Tax Code, any association whose statutes and actual management are exclusively inspired by altruism and the general good and which is directly engaged in a philanthropic or religious activity is recognized as being of public utility for tax purposes.

In tax law, a distinction is made, with regard to the financial activities of an association of public utility, between activities strictly connected with the declared object in order to enjoy tax concessions and financial activities unconnected with this object and therefore taxable.

Activities strictly connected with the declared object are those for which the receipts are wholly allocated to the object which the association has declared in order to enjoy tax concessions. There are no limits on these activities, which are deemed to be without profit aim, and which enjoy tax concessions.

On the other hand, activities not directly related to the declared object are taxable. These are mainly commercial activities engaged in by the association through enterprises engaged to raise funds to be used to attain the object for which the association has applied for tax concessions. These activities are taxed in the same way as any other commercial activity, but do not entail the loss of non-profit status provided that they do not take over from the main activity of the association (first paragraph of Article 55 of the Tax Code).

19. Gifts by individuals

Gifts made by a natural or legal person liable to tax in Germany with the aim of promoting charitable, ecclesiastical or religious activities for activities which are recognized as being for the general good to an association recognized by the tax authorities as being of public utility can be deducted from the donor's taxable

income up to certain ceilings; the ceilings vary, depending on the purpose of the gift, by between 5% and 10% of the donor's total taxable income.

20. Gifts by companies

Companies may deduct gifts up to 0.2% of the sum of total turnover and salaries and wages paid.

20(a). Gifts to non-resident associations

Such gifts are not deductible.

ACCOUNTS AND AUDITING

21. Accounts

The association must produce an annual profit and loss account. This accountancy obligation vis-à-vis members is laid down in Articles 27 (3) and Article 666 of the Civil Code, and vis-à-vis the tax authorities (for the purposes of establishing the non-profit nature of the social object), in Article 63 (3) of the Tax Code.

If the association is engaged in a commercial activity, it is required by commercial law to keep accounting records in the same way as businesses. In all cases, two sets of accounts must be presented, one for taxable activities and the other for non-taxable activities.

Auditing

The administrators are responsible to the Annual General Meeting for keeping proper accounts. The statutes may provide for a supervisory body and also for its powers. If a supervisory body (Aufsichtsrat) is set up, the provisions applicable to GmbH and AG forms of companies are not applicable. The responsibilities of such a body are determined by the statutes.

The task of auditing associations has passed to the tax inspectorate. It comprises the process of regularly recognizing and checking their non-profit status. As soon as a non-fiscal infringement is detected, the file is

forwarded either to the Ministry of Internal Affairs, which is empowered to dissolve an association covering more than one "Land", or - if the association does not cover more than one Land - to the senior government authority in the Land concerned.

FOUNDATIONS (STIFTUNGEN)

22. Constitution

By a Memorandum of Association subscribed to by any person, physical or legal, *inter vivos* (in which case it can be revoked up to the date of approval), or through a will. The memorandum must state the object of the foundation, the resources available for pursuing this object and the governing body or bodies. The resources provided must be adequate for pursuing the object which the foundation has set itself. An application for authorization must be made to the Land in which the foundation has its head office (under the law of the Länder). An appeal against refusal of authorization may be made only on the basis that the administration had not applied its own criteria.

23. Definition

Assets to which a legal personality attaches.

24. Nationality requirements

Any person may be a founder.

25. Acquisition of legal personality

Through approval by the competent authority.

26. Legal capacity

The maximum capacity required to attain the object of the foundation. It may do all that is necessary, or even simply useful, in pursuing its objective.

27. Disposal of assets on liquidation

If it has become impossible for the foundation to accomplish its object, or if the foundation is jeopardizing the public good, the administrative authority may

amend its object while complying with the intentions of the founder as far as possible. The executive committee must be heard. The authority may also abolish and dissolve the foundation (Article 87 BGB). In this event, the assets go to the persons designated in the statutes. Otherwise, they go to the state. The liquidation procedure is as for associations.

TAX POSITION

28. See associations

ACCOUNTS AND AUDITING

29. Accounts

See associations

30. Auditing

The managing body for the foundation is subject to the competent administrative authority, which is concerned only with conformity with the rules of public order. It operates in the exclusive interest of the foundation. Auditing of the accounts is governed by the statutes.

