

# Philanthropie Aktuell

## EDITORIAL

Dear readers,



«The foundation board governs the foundation». Recommendation 4 is the shortest of the Swiss Foundation Code and at the same time has far-reaching implications. As concise as the statement

may be, its implementation is complex: since there is only one mandatory body in a foundation, all responsibility lies with this body.

This was not a problem as long as foundations, as «banks of NPOs», only made disbursements, often to the same beneficiaries. Today, however, the expectations toward foundations have changed. In addition to regulatory requirements, investment has also become a challenge. Every foundation can be found on the Internet and the number of applications for funding is increasing accordingly. There are many other reasons that make a commitment as a board member seem unattractive – especially in an honorary capacity.

But there is another perspective: the foundation board decides on the implementation of the foundation's purpose, on the investment of its assets, on the use of its proceeds. The foundation board is only bound by the deed of the foundation and is more free in its design and implementation than any other governing body. Anyone seeking freedom of design should become a member of a foundation board!

Wishing you a pleasant read.

Georg von Schnurbein

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## Between honorary office and professionalism

**Despite a complex environment, foundation boards are expected to be professional and diligent – and rightly so. But this requires an appropriate environment so that foundation boards can assume their leadership responsibilities. Volunteering is welcome, but not at the expense of professionalism. By Dr. Roman Baumann Lorant.**

In a ruling, the Swiss Federal Supreme Court once stated that managers in an honorary office cannot carry out their duties any less carefully than managers in a paid position. In the event of a claim, the judges in Lausanne refuse to mitigate liability on the grounds of honorary office. In return, foundation boards are increasingly confronted with an environment that encourages juridification, bureaucracy and over-regulation. The tension between voluntary work and professionalism has intensified in recent years. What, then, is to be done?

### The question of compensation

The expectations toward members of foundation boards are high. Professionalism, integrity, availability in terms of time, aptitude and professional competences are required. That in itself is important and to be welcomed. At the same time, however, it cannot be the case that members of foundation boards should not be adequately remunerated for their work because certain tax administrations still uphold the dogma of voluntary work as a prerequisite for tax exemption on the grounds of nonprofit status. Professional management of the foundation and moderate compensation of the foundation boards should go hand in hand. Of course, it is up to each foundation board to decide whether it wishes to forego ade-

quate compensation, provided that this is not done at the expense of professionalism.

### Recruitment and administration

Professionalism begins with the recruitment of foundation boards. Candidates must be recruited on the basis of a requirement profile. Latter is derived from the foundation's purpose and strategy. Subsequently, the professional and personal requirements for the candidate must be defined. A professional recruitment process is required. Furthermore, from the foundation's point of view, it is crucial that the foundation board as a whole is balanced according to criteria such as professional competences, occupation, age and gender. Diversity is the buzzword in order to achieve the best effect according to the foundation's purpose. The claim to professionalism can be derived from the legal duty toward due diligence of the foundation board. Against the background of its role on the foundation board, each board member must have the necessary knowledge and experience to carry out his or her duties carefully and conscientiously. Availability in terms of time is also part of a professional conduct. Today, foundation board members can be expected to continue to educate themselves systematically and network strategically in the sector in order to look beyond their own foundation's horizon.

**Professional succession planning**

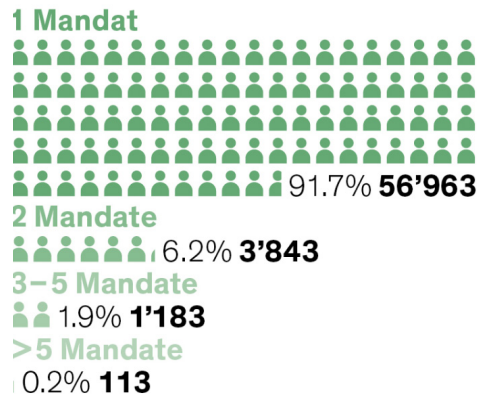
The more years a foundation board member has been serving, the more experienced he or she can exercise his or her office. But be aware: experience is not a free pass to rest on one's laurels. The environment, the sector and above all the laws are in constant change. In good time, two or three years before a member of the foundation board leaves, it is time to actively tackle succession planning. This closes the loop on the aforementioned recruitment process.

**Work as board is central**

Ultimately, professionalism not only affects the individual members of a foundation board, but also the board as a whole. A foundation board must organize itself professionally and lay down its business and procedures in an organizational regulation. The regulations must be kept up to date in accordance with the current legal framework. Unfortunately, standard business often comes first. This often leads to the foundation board forgetting that it is the topmost strategic body of the foundation. Preferably once a year, every found-

At the end of 2018, a total of 62'102 persons were active in 69'490 foundation board positions in Switzerland's 13'169 charitable foundations. The cliché of the accumulation of offices through multiple board mandates can only be found very rarely in the statistics. Only 2.1% of these persons have three or more mandates. By contrast, the vast majority (91.7%) are active on only one foundation board.

Source: Swiss Foundation Report 2019



ation board should hold a separate strategy meeting. Is our «steamer on course»? Is our strategy up to date? Are our finances and personnel developing in the right way? A professional foundation board must be able to answer these questions.

**Conclusion**

Today, professionalism is a prerequisite in the entire cycle of a foundation board: from recruiting to the exercise of the office to succession planning, foundation

board members are challenged. Even if honorary office is welcome, professionalism must not suffer as a result. Appropriate compensation and – where necessary – insurance protection against liability risks, on the other hand, can certainly be demanded from a professional foundation board.

Dr. Roman Baumann Lorant is a lawyer and lecturer for foundation, association and nonprofit law at the University of Basel.

**The bright and dark sides of philanthropy: Looking back at ERNOP 2019**

From 4 to 5 July 2019, the Center for Philanthropy Studies (CEPS) hosted the 9th Conference of the European Research Network on Philanthropy (ERNOP) at the University of Basel. The theme: «Philanthropy in the spotlight? Resources, Reputation and Achievements».

Around 175 participants, renowned guests and lively discussions – the CEPS can look back on a successful ERNOP Conference 2019 at the University of Basel.

**Bright and dark sides**

The main conference started on 4 July in the Kollegienhaus of the University of Basel. After a welcoming address by CEPS Director Georg von Schnurbein, the stage was set for the first keynote speaker. Rob Reich, author of the book «Just Giving» (see footnote 1), challenged the participants with a lecture on the darker sides of philanthropy. He argued that foundations are often not sufficiently accountable and transparent, a fact that is difficult to reconcile with democratic societies. To overcome this, Rob Reich suggested not so much thinking about how philanthropy can be most effective, but instead discussing how legitimate and relevant its goals are for society

as a whole.

Two more keynote speeches followed on 5 July. Pamala Wiekping of the Vrije Universiteit Amsterdam drew the audience's attention to the positive aspects of philanthropy. She stressed that philanthropy is far more than «rich, white men who donate a lot of money». Rather, she took the many small gestures of philanthropy by women, children, and men around the globe as an opportunity to emphasize the value of philanthropy. Not least for this reason, she emphasized the need for truly global research on philanthropy, which is currently still strongly focused on North America and Europe (see footnote 2).

In the third keynote speech, Lynda Mansson, Director General of the MAVA Foundation, spoke about how her foundation is making its way to the planned closure in 2022 and the challenges it is facing.

**Research & Practice**

In addition to the keynote speeches, the conference were packed with a large number of sessions in which academics and practitioners from all over the world exchanged their experiences and research results and discussed them intensively. For example, representatives from academia and practice met to discuss legal barriers to cross-border philanthropy in Europe (see footnote 3).

On behalf of the CEPS, Sara Stühlinger, Sophie Hersberger, Alice Hengevoss, Theresa Gehringer, Dominik Meier, Georg von Schnurbein, Oto Potluka and Nicholas Arnold presented the latest results of their research.

Nicholas Arnold

1) <https://press.princeton.edu/titles/14186.html>  
 2) [http://www.wiekping.com/papers/Keynote\\_ERNOP\\_Basel\\_Wiekping.pdf](http://www.wiekping.com/papers/Keynote_ERNOP_Basel_Wiekping.pdf)  
 3) [www.alliancemagazine.org/blog/reflections-on-legal-barriers-to-cross-border-philanthropy-in-europe/](http://www.alliancemagazine.org/blog/reflections-on-legal-barriers-to-cross-border-philanthropy-in-europe/)

## «The demands on a foundation's management have increased»

The Swiss Federal Supervisory Authority for Foundations (ESA) supervises around 4'500 foundations. We talked to ESA Director Helena Antonio about the increased demands placed on foundation boards, the way foundations deal with these and the development of the digitalized eESA foundation supervision.

**CEPS:** Has the work of foundation boards become more demanding?

**H.A.:** Yes, the demands placed on foundation boards have increased in the last 10 to 20 years. Some changes in the law have led to foundations having to be managed more professionally. In 2006, for example, the legal obligation to have a statutory auditor was introduced. Since 2008, the latter also has to be licensed by an audit supervisory authority.



Helena Antonio has worked for the Swiss Federal Supervisory Authority for Foundations since 2004 and as its director since June 2014. Formerly, she was head of the legal service of the Film Section of the Federal Office of Culture and court clerk and judge in two appeals commissions.

Furthermore, in the past, a founder was more likely to limit himself or herself to a very specific area, such as supporting an animal shelter or promoting a certain aspect of medicine. Today, there are more and more complex foundations that have multiple purposes and cover many very different areas. This has also increased the demands placed on the management of foundations. When it comes to electing members, a foundation board today has to look very closely at what people with which skills it needs.

**CEPS:** Do you notice this happening?

**H.A.:** Yes, the awareness regarding professionalism has increased among foundations. They try to attract those experts to the foundation board that can contribute to the realization of the foundation's purpose. In general, foundations have also moved increasingly into the public spotlight in recent years. We welcome the fact that they are aware of their responsibilities and are looking for the best possible foundation management.

**CEPS:** Your function is to supervise. How can you support foundations/

foundation boards in dealing with the increased challenges?

**H.A.:** The Swiss Federal Supervisory Authority for Foundations has no active supporting role. We can offer advice when foundation boards are confronted with problems. We are open to discussions. There are also foundation boards and foundations that want to introduce themselves. It is enriching for us to have this direct contact. However, we cannot do this every day because we supervise 4'500 foundations.

**CEPS:** Keyword professionalization: What are your wishes towards foundations?

**H.A.:** Our wishes are modest. First and foremost, that foundations adhere to their duties: that they submit their annual reports on time; that they ensure that their organization complies with its bylaws and that the entry in the commercial register is always up to date. They must also announce meetings and topics in good time and be transparent in this area both within the foundation board as well as vis-à-vis us.

On the whole, this works well and the foundations adhere to these guidelines. There is always a small part that is, for example, perhaps not even aware of the fact that changes on the foundation board have to be reported in the commercial register. Sometimes there are also delays in reporting.

**CEPS:** The eESA project is also intended to make the work of foundations easier. What is the current development of the project?

**H.A.:** The Swiss Federal Supervisory Authority for Foundations intends to make use of the possibilities offered by digitalization. With the eESA project, we are pursuing the goal of carrying out the supervisory work of the Supervisory Authority electronically and automatically as far as possible. At the moment, we are still in the initialization phase. We are thoroughly clarifying all aspects. A small group of foundations

is also involved as pilot users. They can show where they see potential for improvement. In spring 2020, we will probably move on to the concept phase and will continue to work with the pilot users here as well. A nice sign for us was the fact that over 400 foundations were interested in participating in the pilot. But even once the new portal is up and running, foundations will not be forced to use eESA. Those foundations that wish to do so will continue to be able to make their submissions on paper.

**CEPS:** Many thanks!

### CEPS INSIGHT

#### Changes in the CEPS team

After five months at the CEPS, Anne Mayer's internship ended on 30 August. The CEPS would like to thank Anne Mayer very much for her valuable contribution and wishes her all the best for her future. The CEPS is also pleased to welcome two new doctoral students to its ranks. Domink Meier, formerly student assistant at the institute, will deal with motives for philanthropy, such as donation behaviour, from an interdisciplinary perspective. Damian Schweighauser will explore the legal types available to NPOs in Switzerland.

[ceps.unibas.ch/en/about-us/team/](https://ceps.unibas.ch/en/about-us/team/)

#### Award for Jonas Kipfer-Berger

Our former colleague, Dr. Jonas Kipfer-Berger, was awarded the Successio 2019 Prize on the occasion of the Swiss Inheritance Law Day on 29 August 2019 for his dissertation «Das Spannungsfeld zwischen dem Pflichtteilsrecht und dem Generationenwechsel in Familienunternehmen». The Successio Prize is awarded by the Successio Association for particularly valuable contributions in the field of inheritance law. The CEPS warmly congratulates Jonas Kipfer-Berger on this award.

## Current topics within the foundation sector

As part of its university teaching activities, the CEPS held the tenth Colloquium on Foundations. Three current issues of interest to the foundation sector were discussed.

In the spring semester of 2019, the CEPS held its tenth Colloquium on Foundations. This course uses various formats to highlight current topics in the field of philanthropy. In this year's edition, the students worked with vignettes. These allow an initial classification of a topic, presents the current status, obstacles and actors and gives an outlook on possible developments. This year, the focus was on the following three vignettes: Foundations and Politics, Capacity Building and Data Cooperatives.

The vignette on Foundations and Politics dealt with the increasingly discussed question of the extent to which foundations should become politically active. Among other things, the students came to the conclusion that foundations have so far not had a very high weight in politics due to their funding sums, which are low in comparison to public funding.

The topic Capacity Building dealt with the dilemma of how nonprofits have to and can deal with the call for low administrative costs and the simultaneous need to invest enough in their own capacities. The vignette points to examples of foundations that wish to overcome this dilemma and specifically promote capacity building.

Data cooperatives manage, for example, health or agricultural data. The data producers are at the same time the data owners. At present, however, such data cooperatives still face a number of challenges, such as reaching a certain size in order for the idea to work.

All vignettes are available for download on the CEPS website (in German).

Sara Stühlinger

[ceps.unibas.ch/de/studium/bachelorstudium-193/kolloquium-fs-2019/](https://ceps.unibas.ch/de/studium/bachelorstudium-193/kolloquium-fs-2019/)

### DID YOU KNOW? 147'000

More than 147'000 charitable foundations exist in Europe, as shown by surveys conducted by the Donors and Foundations Network in Europe (DAFNE). They distribute around 60 billion Euros annually. The number of charitable foundations varies between 40 (Ireland) and 22'000 (Germany). In Switzerland, there are more than 13'000 charitable foundations.

Source: DAFNE/Candid, 2016

## CALENDAR

### Executive Education

**Intensiv-Lehrgang Strategisches Finanzmanagement in NPO**  
04 - 08 November 2019, Gunten

**Intensiv-Lehrgang Stiftungsmanagement**  
09 - 13 March 2020, Sigriswil

**CAS Nonprofit Governance & Leadership**  
3 Modules – Sigriswil & Basel  
Start: 20 April 2020

**CAS Global Social Entrepreneurship**  
5 Modules – online, Basel, on-site  
Latest completion of module 1 (online):  
21 September 2020  
[ceps.unibas.ch/en/certificate-course-global-social-entrepreneurship/](https://ceps.unibas.ch/en/certificate-course-global-social-entrepreneurship/)

[Register now -> CEPS executive education](#)

### FURTHER DATES

**Beste Stiftungsratspraxis**  
**SwissFoundations, CEPS, Europa-Institut der Universität Zürich**  
19 September 2019, Zürich

**European Day of Foundations**  
01 October 2019, u.a:  
- Forum des Fondations, Lausanne  
- Stiftungsgespräch 2019, Zürich  
- Philanthropischer City Tour, Basel

**Wirkungsorientiertes Arbeiten in Förderstiftungen**  
**SwissFoundations, PHINEO**  
22 October 2019, Zürich

**Schweizer Stiftungstag 2019**  
**ProFonds**  
14 November 2019, Luzern

## #October1Europe

This year the European Day of Foundations will take place for the seventh time.



Initiated in 2013 by the Donors and Foundations Network in Europe (DAFNE), the «European Day of Donors and Foundations» is dedicated every year on 1 October to the work of

foundations in Europe. The aim of the day is to pay tribute to the work of the charitable foundation sector and to raise awareness to its concerns. The latter category includes, for example, the «European Philanthropy Manifesto», which advocates, among other things, for simplified cross-border philanthropic commitment.

The CEPS is also taking part in the European Day of Foundations – with a very special event. Together with Stiftungsstadt Basel, we invite you to take a philanthropic city tour of Basel. What do the Rhine ferries have to do with the Kunsthalle? What do today's insurance companies and the Music Academy have in common? How many foundations are there in Basel? Immerse yourself with us in the world of Basel's foundations, patrons and philanthropists.

Nicholas Arnold

Registration for city tour (in German):  
<https://tinyurl.com/y3mo5oup>

## LEGAL NOTICE

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