

# News Flash: Belgian Non Profit Associations to Identify Donors (April 2017)

Today 27<sup>th</sup> April 2017, it was reported in the Belgian financial press, that in future Belgian non profit associations (the so-called *VZWs* or *ASBLs*) will need to identify their donors. The initiative from Belgian Minister of Justice, Mr. Koen Geens, aims to curtail tax evasion, money laundering and the financing of terrorism through the use of Belgian non profit associations.

To date Belgian non profit associations are not required to divulge such information. Currently the Ministry of Justice has only very limited control over donations to Belgian non profit associations. Only donations in excess of Euro 100,000 by way of a notarial deed require prior approval of the Minister of Justice, the same does not apply to handgifts, bank transfers and the like.

According to the press, the new obligation will require Belgian non profit associations to disclose in their financial statements from whom they receive monetary donations as well as the amounts of such donations. The Ministry considers that the administrative burden caused by this new disclosure requirement should be minimal since Belgian non profit associations are already required to file their financial statements with the Commercial Court and the National Bank of Belgium, depending on their size.

While little is known as to the exact details of this new disclosure requirements, pending its implementation through Royal Decree, some immediate questions arise in respect of its scope and practical implications.

Firstly, will the new disclosure requirements also apply to Belgian international non profit associations (the so-called *iVZWs* or *AiSBLs*), the Belgian foundations (the so-called *stichtingen* or *fondations*) and foreign non profit associations active in Belgium? The answer although not expressly

reported is probably affirmative given that all three already require the prior approval of the Ministry of Justice for donations in excess of Euro 100,000 by way of a notarial deed and are subject to the same obligations of financial reporting.

Secondly, will this new disclosure requirement only apply to gifts or will it also apply to all sources of funding including membership fees? If not, an absurd situation arises whereby the identity of members and membership fees are not publicly known (albeit that a non profit association is required to maintain a membership list and should disclose the aggregate of membership fees in its financial statements), whereas details of donors and their donations would be public.

Thirdly, how to monitor hand gifts in practice? Will non profit associations be prohibited to collect monies from members of the public in the street, if they cannot ascertain the identity of the person? Moreover, is there not a substantial risk that non profit associations will simply turn a blind eye and forget to record the identity of the donor and the amounts received?

Finally, and equally important, what about the legitimate interest of the donor to safeguard his anonymity? There is a delicate balance to be struck between the finality of this new disclosure requirement and the anonymity desired by certain benefactors, who may, for a multitude of reasons, not want their identity to be known. If donor anonymity is to be sacrificed, without sufficient safeguards, in a blanket approach to combat tax evasion, money laundering and the financing of terrorism, there is a significant risk that non profit associations witness a significant drop in donations.

For further information on our non profit expertise in Belgium, feel free to contact our Brussels based partners Giulia Mauri, Tomas Schollaert, Patrice Vanderbeeken or Yves Delaey.

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