

# **Business ethics and the law**

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**Part 2: Profit organizations and non profit  
organizations**

**CSR by supporting Npos**



## Profit organisations: General features

### Broad range of legal forms

as suitable, permissible and recognized under relevant laws

### General corporate purpose: for profit to the owners' benefit

- **Specific scope of profit generating activities as stated in the Articles**
- **Domestic or international activities** in accordance with applicable laws (in principle: any legal activity)

### Taxation of organisation and owners

according to legal form and applicable jurisdiction

Understanding the background of the Project

## **NPOs: General features**



### **Limited range of legal forms**

for non profit purposes under applicable national (tax) law(s)

### **Not for profit purposes**

as stated in the **Articles** of the npo

- Catalogue of **tax privileged purposes under national laws**
- **Activities abroad subject to national tax law**

### **Tax privileges for npo and for donors**

under national law (recognition within the EU)



## Different spheres of an NPO: Non commercial spheres

### **Sphere of Idealistic Purpose**

**Promotion of the charitable purposes**  
addressed in the Articles  
of the npo

Dominant feature

Reason for tax privileges

### **Sphere of Asset Management**

**Management of assets**  
(capital and donations)

Purpose: Capital preservation and  
revenues for charitable purposes

Usually tax privileged

## Different spheres of an NPO: Commercial spheres

### **Special purpose enterprise**

**Enterprise directly  
serves the charitable  
purpose**

Examples: Hospital, old  
people's home,  
school, nursery

Usually certain tax  
privileges

### **Commercial business enterprise**

**Business like any other  
commercial enterprise for profit**

Examples: shop, laundry

**Profit serves charitable  
purpose only indirectly**

Usually taxes as for any other for  
profit enterprise



# Non profit organizations: Specific weaknesses

## General points of criticism

**Democratic legitimation questionable** (npo=ngo)

**Control mechanisms often insufficient** (internal as external)

**Lack of transparency common** as to

- Decision-making process
- Financial statements (unless publication legally required)

## Impediments to goal achievement

**Lack of resources**

- Funds
- Qualified personnel
- (Qualified) volunteers

**Competition with state agencies and other npos**

- Field of activities
- Donors
- Volunteers

## Traditional manifestation of CSR by profit organizations: Support of npo(s)



### **Corporate giving**

- Donations
- Sponsoring

### **Corporate volunteering** by company employees

- Volunteering as part of the workload or during working time
- Volunteering during leisure time

# Corporate giving and legal concerns

## Broad scope of giving

- Money
- Equipment
- Advertisement space
- Intangible goods

## Indirect use for profit purposes

- Marketing tool
- Positive effects on staff
- Improvement of sustainability?

## Limits under applicable laws (selection)

- Welfare of the business
- Compliance with tax laws (also for npo)
- Corruption, bribery (also for npo)
- Obligation to maintain religious and ideological neutrality?



# Corporate volunteering and legal concerns

VOLUNTEER



## **Broad scope of activities** for instance

- Services in areas of special expertise
- Mentoring of selected mentees
- Teambuilding projects
- Fundraising
- Recruitment of volunteers

## **Limits under applicable laws** (selection)



- Terms of the individual employment contract and collective labour law
- Occupational safety and health laws
- No loss of remuneration or other negative effects on employment conditions or career development
- Human rights of employees
- Volunteer work in leisure time voluntary: no pressure, no sanctions

## **Selected Bibliography – EU legal material**

### **Primary EU law**

Treaty on European Union (Consolidated version 2016).

Treaty on the Functioning of the European Union (Consolidated version 2016).

Charter of Fundamental Rights of the European Union (2016).

### **Secondary EU law**

Council Act of 26 May 1997 drawing up the Convention made on the basis of Article K.3 (2)(c) of the Treaty on European Union, on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, OJ C 195 of 25.06.1997 -" EU Act on Corruption of Officials 1997"

Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups – "CSR-Directive 2014"

You will find all EU legal sources on the official website of the EU: <http://eur-lex.europa.eu>. This website leads you to the text as published in the Official Journal.

### **Website of the EU Commission on EU policies**

[http://ec.europa.eu/growth/industry/corporate-social-responsibility\\_de](http://ec.europa.eu/growth/industry/corporate-social-responsibility_de). Accessed 13 May 2017.

This website also gives the links to the international guidelines referred by the EU Commission as basis of its CSR strategy.

[http://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption\\_en](http://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption_en). Accessed on 13 May 2017.

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