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UPDATES ON THE LEGISLATIVE AND REGULATORY ENVIRONMENT FOR SWISS FOUNDATIONS AND ASSOCIATIONS

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INTRODUCTION

Flore-Anne Bourgeois Prieur

Head of Civil Society Service,
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PRESENTATION

Prof. **Giulia Neri-Castracane**

Director of the Commercial Law Department and
Associate Professor, Faculty of Law, UNIGE

Vincent Pfammatter

Partner at Walder Wyss, member of the board of
proFonds and Academic Fellow of the GCP

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Philanthropy Lunch

Legislative & Regulatory Changes for Swiss Foundations and Associations

4 September 2025

Giulia Neri-Castracane

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Faculty of Law/Geneva Centre for
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Academic Fellow of the Geneva Centre for
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Agenda

1. Amendments to Swiss Law in 2024/2025
2. Evolution of practices in 2024/2025
 - Compensation of board members: The Vaud and Zurich practices
 - Geneva's action plan for enhancing its attractiveness as a philanthropy hub
 - Strengthening the attractiveness of cantons for foundations
 - Swiss initiatives on impact investing
3. In the legislative pipeline
4. Selected case law

Amendments to Swiss Law in 2024/2025

Amendments to Swiss Law in 2024/2025

Changes were limited to occupational benefits foundations:

- Art. 89a para. 8 (4) SCC: allows the allocation of benefits in other specific situations that go beyond strict occupational pension fund purposes.
- Threshold amounts in occupational pension schemes (second pillar) have also been adjusted, effective from 1st January 2025.
 - Changes include increasing the coordination deduction from CHF 25,725 to CHF 26,460 and raising the entry threshold for mandatory insurance to CHF 22,680 (Art. 5 and 3a OPP 2) ;
 - Maximum tax-deductible amount for tied individual pension provision (pillar 3a) will also increase (Art. 5 OPP 2).
- Retroactive contributions into the pillar 3a are possible as of 1st January 2025 for up to ten years (deductible from the taxable income).

Evolution of practices in 2024/2025

Compensation of board members

Vaud practice:

- In January 2024, the Vaud cantonal tax administration published guidelines clarifying compensation and reimbursement of expenses for members of governing bodies of tax-exempt entities.

➤ *Directives en matière d'indemnisation des membres d'organes d'entités exonérées d'impôts en raison de leur but de pure utilité publique (PUP)*



Zurich practice:

- In February 2024, the Zurich tax authority issued guidelines confirming that reasonable compensation for board members of tax-exempt foundations should no longer face obstacles.
- The ZH tax authority announced two further measures: (i) allowing new models of entrepreneurial support by foundations (impact investing) and (ii) applying the same evaluation standards to charitable activities abroad as to those within Switzerland.



Geneva's action plan for enhancing its attractiveness as a philanthropy hub (1/2)



Le secteur philanthropique à Genève

*État des lieux et recommandations pour l'État de
Genève*

- In autumn 2024, the Geneva Center for Philanthropy at University of Geneva delivered a report commissioned by the Geneva State
- The report highlights Geneva's strength as a philanthropy hub
 - home to 1,367 foundations
 - more than 3,000 associations
 - holding over CHF 25 billion in assets
 - distributing CHF 8,9 billion yearly

Geneva's action plan for enhancing its attractiveness as a philanthropy hub (2/2)

The report recommends 6 key areas of potential development:

- Increase **transparency** in the philanthropic sector to foster understanding and strengthen its legitimacy;
 - Create a **strategic think tank** involving key actors from the philanthropic sector, with the aim of promoting coordinated, long-term strategic development;
 - Improve the **coordination** of actions carried out by the public administration and its various departments;
 - Work on adapting the **tax framework** applied in Geneva;
 - Support the development of **social entrepreneurship and sustainable investment**;
 - **Communicate** more effectively to promote the establishment and expansion of philanthropic activities in Geneva.
-
- Based on this report, the State's Department of Economy and Employment is now preparing an **action plan**, which should soon be published and implemented through various measures.
 - This measures were decided before and without consideration of other actions that have been implemented in reaction to US (USAID) and other governments disengagements and budget cuts.

Strengthening the attractiveness of cantons for foundations

Following the declaration by Zurich and Geneva, of their intention to enhance the cantons' attractiveness as philanthropy hubs, parliamentarians in other cantons have submitted interpellations and postulates at cantonal level to boost their own canton's appeal.

- **Canton of Basel-Stadt**



- **Canton of Lucerne**



Swiss initiatives on impact investing

Several private and academic initiatives have recently emerged, with the objective of fostering the development of impact investing in Switzerland, by promoting greater transparency and collaboration in this field.

- Spring 2025, *Future-Proof Funding Initiative* by the association SwissFoundations: to guide member foundations through a transformation process;
- December 2024, *Swiss Platform for Impact Investing* (SPII) by Swiss Sustainable Finance (SSF): further supports investors, foundations, and other stakeholders by sharing best practices, case studies, and research;
- Second half of 2024, two professors from the GCP launched a 4 year *research project* on the barriers to and incentives for impact investing in Switzerland.

Legislative Pipeline

Automatic exchange of information

- Switzerland to implement the OECD's Crypto-Asset Reporting Framework (CARF).
- Qualified Non-Profit Entities should be exempt upon confirmation from any Swiss authority, if five criteria are met.
- A draft has been approved by the Council of States and the National Council in June 2025, the matter will be discussed in the autumn parliamentary session.

Federal register of beneficial owners

- Aims to combat money laundering and terrorism financing;
- Exclusion of foundations and associations already required to register in the commercial register:
 - proposed by the Council of States on 18 December 2024;
 - confirmed by the National Council on 12 June 2025.

Family foundations

- Revision of article 335 Swiss Civil Code (SCC) to allow maintenance family foundations

Advisory activities and anti-money laundering

Inclusion of certain advisory activities under the due diligence obligations of the Anti-Money Laundering Act:

- The National Council has yet to decide;
- Series of exclusions are largely welcomed by professionals and stakeholders of the non-profit sector.

Reinforcement of the public utility character of organizations

On 19 December 2024, National Councilor Mr. Beat Walti introduced a motion to tighten tax exemption rules for organizations claiming public utility status.

- Motion currently under review by the competent National Council committee.

Restriction of the right to appeal for associations

National Council has agreed to restrict the right of appeal for cantonal associations and decided, regarding a project involving the construction of sixteen hydropower plants that appeals would only be admissible if submitted jointly by at least three organizations.

- This restrictive stance contradicts the broader approach recognized by the ECHR in its decision against Switzerland.

Case law review

Tax exemption and group of beneficiaries, commercial activity and political activity

- An association operating a **private school** had its tax exemption revoked retroactively.
 - Federal Supreme Court stated that to obtain a tax exemption for public service, the group of beneficiaries must encompass a substantial part of the population.

(Federal Supreme Court, 9C_234/2024, judgement of 12 August 2024)
- An association operating both a non-profit inn and a **hotel** had its tax-exempt status for public utility purposes revoked.
 - Federal Supreme Court stated that the operation of the hotel did not satisfy the altruistic criteria required for tax exemption, as the hotel's revenues represented a significant share of the association's total income.

(Federal Supreme Court, 9C_165/2024, judgement of 28 October 2024)
- Federal Supreme Court dismissed the appeal of an association seeking tax exemption on the grounds of public utility because its activities were essentially **political in nature**.
 - Its activities were limited to drafting and supporting a cantonal popular initiative;
 - The Court recalled that, under tax law, political activity has never been recognized as serving a public utility purpose.

(Federal Supreme Court, 9C_430/2024, judgement of 31 March 2025)

The excluded member's right to be heard

- The Federal Supreme Court dismissed the appeal of a company challenging the decision to exclude it from the association of which it was a member, on the grounds of conduct deemed inappropriate.
 - Although the committee had initially violated the member's right to be heard, the company was able to present its arguments before the exclusion was definitively confirmed by the general assembly, which had full power of review.
- In contrast, the Geneva Court of Justice annulled an association's decision to exclude a member on the grounds that his right to be heard had not been respected.
 - Before a final decision is taken by the competent body the member must be given an opportunity to present arguments, even in case of exclusion without indication of grounds.

(Federal Supreme Court, 5A_942/2022, judgement of 24 September 2024)

(ACJC/893/2024, judgement of 8 July 2024)

Non recognition of the Zofingue student association

- The Federal Supreme Court upheld the appeals of the UNIL and the EPFL, confirming their right to deny formal recognition to the Vaud section of Zofingue.
- The association's exclusively male membership was deemed incompatible with the core institutional commitments of both entities – particularly their obligation to uphold and implement gender equality.
- The interests of UNIL and EPFL in promoting gender equality (Art. 8 Cst.) prevailed over the Vaud section of Zofingue's claim to freedom of association (Art. 23 Cst.).

(Federal Supreme Court, 2C_72/2024, judgement of 25 March 2025; Federal Supreme Court, 2C_441/2024, judgement of 25 March 2025)

Sanction powers of supervisory authorities

- A foundation supervised by the Geneva foundation supervisory authority (ASFIP) appealed against a decision imposing a CHF 1,000 fine, as well as a threat of sanctions under article 292 of the Swiss Criminal Code (SCC).
- The Geneva Court of Justice annulled the fine, as it was not founded on any formal legal or regulatory provision derived from an explicit legislative delegation under cantonal law, but confirmed ASFIP's competence to accompany its decisions with the threat of sanctions under article 292 of the SCC.

(Geneva Court of Justice, ATA/1283/2024, judgement of 5 November 2024)

Dismissal of a foundation board member

- The Federal Administrative Court upheld the appeal of a foundation board member against the board's decision to dismiss him for good cause.
- The Court emphasized that dismissing a foundation board member is an *ultima ratio* measure, justified only in cases of proven incapacity, objective incompetence, or persistent inaction.
- The Court ordered the member's reinstatement.

(Federal Administrative Court, B-3859/2022, B-3901/2022, judgement of 26 November 2024)

Appointment of an administrator in violation of the principle of proportionality

- The Zurich Administrative Court upheld the appeal of a holding foundation against the decision of the Zurich foundation supervisory authority (BVS) to appoint an administrator.
- The Court emphasized that, in the supervision of holding foundations, supervisory authorities must exercise restraint and avoid interfering in corporate management.
- The Court concluded that the BVS had breached the principle of proportionality by appointing an administrator.
 - Closure of Company D had already occurred and was irreversible;
 - There was no concrete indication that the foundation's purpose would be threatened in the future in any way.

Criminal mismanagement and attempted coercion by foundation board members

- The Federal Supreme Court upheld the convictions of two members of a foundation board for aggravated criminal mismanagement (art. 158 of the Swiss Criminal Code (SCC)) and for attempted coercion (art. 181 SCC).
 - Qualification of the board members as managers within the meaning of art. 158 was deemed appropriate for a board member who holds individual signatory power and exercises a sufficient degree of independence and autonomous control over the foundation's assets;
 - Appellants had abused debt enforcement proceedings by issuing unfounded payment orders in order to exert illegitimate pressure, conduct which amounted to attempted coercion under art. 181 SCC.

(Federal Supreme Court, 6B_20/2024, 6B_34/2024 judgement of 17 December 2024)

A foundation does not qualify as a securities dealer

- The Federal Supreme Court upheld the appeal of a foundation managing employee participation plans for a holding company, thereby overturning the decision of the Federal Administrative Court and ordering the FTA to reimburse the amounts already paid.
- Case arose after the FTA reassessed the foundation's liability for securities transfer stamp duty, arguing that the foundation qualified either as an intermediary under art. 13 para. 3 let. b (2) of the Federal Stamp Duty Act (SDA) or as a professional securities dealer under art. 13 para. 3 let. b (1) SDA.
- The Federal Supreme Court rejected this characterization. The foundation had carried out the relevant transactions in its own name, and there was no evidence of other transactions indicating an intermediary function.

Foundation contributions qualified as public subsidies under the VAT Act

- The Federal Supreme Court confirmed that contributions made by the *Zürcher Filmstiftung* to a company active in the production and distribution of audiovisual works qualified as subsidies under art. 18 para. 2 let. a of the VAT Act. The funds originated almost entirely from public authorities, and the foundation was delegated the film funding mandate.
- As a result, these subsidies triggered a proportional reduction of the input tax deduction pursuant to art. 33 para. 2 VAT Act.

(Federal Supreme Court, 9C_149/2024, judgement of 14 April 2025)

Thank you !

Q&A

For more details, see: Neri-Castracane Giulia/Pfammatter Vincent/Andrade Sara/Liccardo Laurie, Swiss foundation and association law – 2024/2025 Legal Update, *in* RSDA 5/2025 (forthcoming).



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UPDATE ACTIVITIES CAGI and GCP

Prof. Nicolas Duvoux

Head, Geneva Centre for Philanthropy at UNIGE
(GCP)

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GCP – Events to come

**7 October | 6pm - 8pm | Semaine de la démocratie | Conférence “«[Amener les jeunes à voter : une question de moyens ?](#)»
| Maison des Fondations - Auditoire Louis-Jeantet**

In collaboration with [Cantonal Office for the Economy and Innovation](#) (OCEI), le [Albert Hirschman Centre on Democracy](#) (IHEID), [SwissFoundations](#) (SF) and the association "[Et pourquoi pas?](#)".

29 October | 12pm – 2pm | Philanthropy Lunch | How much are affluent citizens morally required to do for the global poor? | Uni Carl Vogt, salle 1

In collaboration with the [Department of Philosophy](#), UNIGE

13 November | 12pm – 2pm | Philanthropy Lunch | Just transition | UNIGE

Launch of the research project «Just Transition» - Dr. Monier, Prof. Neri-Castracane, Representative of the World Bank

4 December | 12pm – 2pm | Philanthropy Lunch | *Participation premiers concernés* | UniDufour, salle 408

Participant of the project Demaimpact , Fondation Leenaards



CAGI – Events to come



Information Sessions for NGOs

Tuesday 16 September | 10am - 12pm | Auditorium at "La Pastorale" (CAGI)
"Best practices in visa procedures for civil society actors in Switzerland"

- Co-hosted by CAGI and the Swiss Permanent Mission in Geneva.
- Tailored discussion on visas for NGOs who host representatives from abroad.
- Presentations by the State Secretariat for Migration (SEM), traveling from Bern.

Programme details & Registration:



CAGI – Services for NGOs



Reminder - **NGOs registered with CAGI benefit from the following free services:**

- Assistance in **establishing an association or foundation**
- Guidance for **engaging public authorities** (e.g. tax exemption, commerce registry)
- Dedicated online **recruitment platform**
- Assistance in finding **office space** and **conference rooms**
- Employee access to CAGI **Welcome Program** & special rates **for local cultural offerings**

Find out more:



Cultural Kiosk weekly newsletter:



EVALUATION

Please take a few minutes to complete the evaluation survey:





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