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PHILANTHROPY AND TAXATION

Swiss legal framework and reform perspectives

This article reviews several issues related to the Swiss tax framework in the field of philanthropy, primarily focusing on the direct taxes [1]. It describes the philanthropy-related tax incentives in Switzerland, summarizes their main criticism and presents the ongoing proposals for legislative changes in this respect.

1. SWISS TAX LAW FRAMEWORK

1.1 Definition. The term "philanthropy" does not have a legal definition in Swiss law. The linguistic English definition of this term is as follows:
1) "goodwill to fellow members of the human race; especially: active effort to promote human welfare;
2)
a) an act or gift done or made for humanitarian purposes;
b) an organization distributing or supported by funds set aside for humanitarian purposes [2]."

Similar definitions are given by other linguistic dictionaries, also French ones [3]. Thus, the term "philanthropy" is usually perceived as having diverse meanings: a goodwill in general; an act of transfer of goods; or, even more specifically, a philanthropic (charitable/not-for-profit) organisation.

In the present legal analysis, the term "philanthropy" is used in its two possible linguistic meanings, that is regarding the taxation of *philanthropic organisations* and of *philanthropic transfers of funds or other property (donor taxation)*.

1.2 Taxation of philanthropic organisations. Regarding direct taxes, *Swiss federal law* exempts legal entities that are pursuing public service or public interest purposes from the federal income tax on profits that are exclusively and irrevocably affected to such purposes (Art. 56 lit. 6 LIFD/DBG [4]). Economic goals cannot be considered as public interest purposes. Acquiring and managing significant corporate equity is considered as a public interest goal only when the interest in keeping such entity is subaltern to the public interest goals and when the exempted legal entity is not involved in the management of such a corporate entity (Art. 56 (g) LIFD/DBG).

Cantonal legislations contain similar legal norms in relation to cantonal profit tax. For instance, an identical legal norm exists in Geneva's cantonal legislation, exempting from direct taxes legal entities pursuing public service or public interest purposes, provided that such profit or equity is exclusively and irrevocably affected to these purposes (Art. 9 (f) LIPM) [5]. Nonetheless, in contrast to the federal law, several cantons have enacted restrictions in this respect; for instance, some require a formal exoneration decision ("ruling") by a cantonal tax administration (BE, GL, SO, AR, TI, NE, TG, GE and BL) [6]. GR and TG exonerate only public purpose entities exercising their activity on their territory or for the general interest of Switzerland [7]. In addition to that, all the real estate belonging to exonerated entities bears real estate tax. The real estate that is directly affected to public service or public purposes is exonerated in TI and GE [8]. All the cantons (except NW and VD) maintain lists of Swiss legal entities that are exempted from federal income tax due to their public service or public utility purposes [9].

The above discussed exoneration requirements apply to the entities subjected to limited and unlimited tax liability in Switzerland, thus both to resident entities and to permanent establishments [10]. Legal entities governed by public law and semi-public companies that do not fall into the scope of Art. 56 (a)–(c) LIFD/DBG can in certain cases benefit from the exemption of Art. 56 (g) LIFD/DBG [11].

Detailed information on administrative practices regarding the exoneration of legal entities pursuing public service or public purpose goals can be found in the Swiss Cantonal Administration Conference publication of 18. 01. 2008 [12]. In very general terms, an entity has to satisfy the following conditions: (1) purpose of general interest, (2) unlimited circle of beneficiaries, (3) exclusive and irrevocable contribution of the funds, (4) disinterest, and (5) actual non-profit activity [13].

The above-mentioned legal norms exonerate (completely or partially) from federal, cantonal and communal taxes only such profits (and equity at cantonal level) that are exclusively and irrevocably affected to public service and public interest purposes. They do not exonerate profits deriving from an activity that is simply useful or idealistic [14].

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The Swiss tax exoneration framework for charitable entities was recently amended by the Federal Act on the exoneration of legal entities with idealistic purposes (hereinafter LExo) [15]. This federal act introduces new federal tax law norms that exempt from federal and cantonal taxes legal entities pursuing *idealistic purposes* and realizing low profits that are exclusively and irrevocably affected to such purposes. At the federal level, the term "low profits" is defined as not exceeding CHF 20 000.– [new Art. 66a LIFD/DBG, entered into force on the 1st of January 2018]. At the cantonal level, the new 26a LHID/StHG which entered into force on the 1st of January 2016 already allows the cantons to determine the threshold of "low" profits. The cantons have two years to adapt their respective legislations from the entry into force of the above legal norms [new Art. 72 t(1) LHID/StHG]. At the end of this period, if the cantonal legislations are not modified, Art. 26a LHID/StHG applies directly with the threshold set by Art. 66a LIFD/DBG, i.e. CHF 20 000.– [new Art. 72 t(2) LIFD/DBG]. Cantonal taxes on equity are not concerned by this reform.

The purpose of this law was to *extend the scope of exoneration* of legal entities, going beyond public service and public interest goals that currently justify the exoneration [16]. Due to the principle of equal treatment, this exoneration is applicable to *all legal entities* (and not only associations [17]) pursuing idealistic goals and realizing low profits as defined.

An "idealistic goal" cannot be defined in an exact and exhaustive manner and the Federal Council offers possible interpretative approaches in its Dispatch on LExo [18]. The term "ideal" or "idealistic" has multiple uses and meanings (possibly being interpreted as passionate, enthusiastic, dreamer, altruistic, generous, devoted, committed or benevolent). However, some guidance for a more precise legal definition can be found in Art. 60(1) CC/ZGB [19]. The latter considers as idealistic the tasks of associations engaged in political, religious, scientific, cultural, charitable, social or other non-commercial purposes [20]. The Federal Council thus interprets "idealistic" purposes as *any non-commercial purposes;* a legal entity must not seek to realize profits for itself or for its stakeholders [21]. An entity pursuing idealistic goals must meet very strict conditions for realizing profits. Legal authors as well as case law confirm that the purpose of an entity is of economic (and not idealistic) nature if its activity aims at generating economic advantages for its members or associated persons [22].

Concerning *the VAT,* is exempt from tax liability in Switzerland any person who as a non-profit, voluntarily-run sporting or cultural association or as a charitable organisation generates on Swiss territory a turnover from taxable supplies of less than CHF 150 000.–, unless she or he waives exemption from tax liability; the turnover is measured by the agreed considerations without the tax [Art. 10(2)(c) VAT].

1.3 Taxation of philanthropic transfers (donor taxation). Swiss federal and cantonal laws exempt from direct tax certain transfers to non-profit organisations made by individuals and legal entities.

Concerning *individual taxation,* the federal law stipulates that are deductable from taxable income gifts made in favour of *Swiss legal entities* that are tax-exempt in relation to their public service or public interest purpose (Art. 33 a LIFD/DBG; see also *supra*). Such a deduction is allowed only up to 20% of the taxpayer's net income, after the allowable deductions of Arts. 26 to 33 LIFD/DBG, and only for the amounts of at least CHF 100.–. The gifts to the Confederation, to cantons, municipalities or their entities could be deducted under the same rules (Art. 33 a LIFD/DBG). The latter norm concerns in particular universities and federal polytechnic schools (such as *École polytechnique fédérale de Lausanne* – EPFL) [23].

Cantons are *free to set any threshold* for such deductions pursuant to Art. 9(1)(i) LHID/StHG. In this respect, the majority of Swiss cantons enacted the same legal norms as the federal ones, setting a maximum deduction threshold at 20%, with the minimum donation requirement of CHF 100.– (ZH, BE, UR, SZ, OW, GL, ZG, FR, SO, SH, AR, AI, SG, AG) [24]. However, other cantons have slightly modified this norm, for instance dropping the requirement of the minimum amount of the donation (GR, VS and GE [Art. 37(1) LIPP [25]]). Several cantons enacted more important exceptions to this rule. For instance, BS sets the exoneration threshold at 20%, however its Cantonal council has authority to lift this threshold on case-by-case basis. Similar authority is given to the Cantonal councils of TI, VD and LU (the latter grants higher exemptions in the presence of a considerable public interest) [26]. Finally, three Swiss cantons have opted for an altogether different deduction threshold in relation to cantonal income tax: BL does not limit such deductions with any threshold, and NE and JU set the threshold respectively at 5% and 10% [27].

In the field of *corporate taxation,* the legal norms are similar. At the federal level, Art. 59(1)(c) LIFD/DBG states that are treated as a deductible expense gifts of funds and other property which amount to a maximum of 20% of the taxpayer's net profits to *Swiss legal entities* that are tax exempt in relation to their goals of public service or public interest as well as to the Confederation, to cantons, municipalities or their entities.

At the cantonal level, the federal law does not fix any threshold in this respect, leaving it entirely to the competence of cantonal legislator [28]. The differences between allowable deduction thresholds are therefore quite important among certain cantons, even though the majority of them followed the example of the federal legislator setting it at 20% (ZH, BE, LU, UR, SZ, OW, NW, GL, ZG, FR, SO, BS, SH, AR, AI, SG, GR, AG, TG, VD, VS et GE). The only canton that allows the entire deduction of transfers made to public utility legal entities is BL (the same treatment as for individuals), as TI, NE and JU set the threshold at 10% [29].

The tax exemption related to gifts to the Confederation, cantons or municipalities is in principle granted in all Swiss cantons, regardless of whether or not the beneficiary of such a gift is situated in the taxpayer's residence canton [30].

It must be noted that gifts to *legal entities that combine public interest and public service goals with other goals* are in principle non-deductable. In exceptional cases however, such gifts are deductible only if the entity in question keeps separate accounts for funds destined to public service goals and other goals and fulfils several other conditions [31].

Gifts to the Swiss-based exempt entities are deductable regardless of whether they exercise their activity in Switzerland or abroad [32]. Gifts to *philanthropic organisations established abroad* are deductible neither for individuals nor for corporate entities. However, certain foreign organisations that operate internationally but are established in Switzerland may benefit from various *privileges and immunities,* including the exemption from direct and indirect taxes, under the federal Host State Act [33]. An institutional beneficiary may be accorded privileges, immunities and facilities if: a. it has its headquarters or a branch in Switzerland or carries out activities in Switzerland; b. its purposes are not for profit and are of international utility; c. it carries out activities in the sphere of international relations; and d. its presence in Switzerland is of special interest to Switzerland (Art. 6 HSA).

It has to be noted that certain *private (paid) initiatives* were created to optimise tax efficiency of cross-border donations. For instance, a partnership of European foundations and associations "Transnational Giving Europe (TGE)" facilitates tax-efficient cross-border giving within Europe. TGE network organisations are exempt non-profit entities in their resident countries, accepting payments from donors' resident in the same country and transferring those donations abroad, according to donors' instructions (and subject to certain conditions regarding the receiving entities). In this way, TGE enables donors resident in one of the participating countries to support non-profit organisations in other member countries, while benefiting from the tax advantages provided for in the legislation of their country of residence [34].

Regarding the *VAT,* Art. 3(i) LTVA/MWSTG [35] states that gifts to Swiss legal entities that are pursuing public interest goals are not subjected to it. Non-profit legal entities are defined by LTVA/MWSTG through referral to Art. 56 LIFD/DBG *(supra)*. Thus, the federal direct and indirect tax legislation is harmonized on this point.

2. COMPARATIVE PERSPECTIVE: THE EU LAW

The *European Court of Justice (ECJ)* case law on the free movement of capital can *influence the taxation* of cross-border philanthropic transfers in Switzerland [36]. Thus, a brief introduction of the ECJ jurisprudence in this respect is presented below [37].

During the last two decades, the ECJ handed down some *landmark decisions* regarding the tax treatment of charitable donations in a cross-border perspective. Delivered in 2006, the *Stauffer* case concerned the tax-exempt status of an Italian charity with commercial properties in Germany [38]. The ECJ judged that in accordance with the EU law, comparable charitable organizations in other EU Member States should not be discriminated based on residency requirements [39]. Several other cases on the tax status of charitable organizations and their donors followed [40], such as *Persche* [41], *Missionwerk* [42], *Commission v. Austria* [43] and *Commission v. France* [44]. In the *Persche case,* regarding the taxation of donors, the ECJ followed its "*Stauffer* position" arguing that based on the free movement of capital, comparable donations to charitable organizations should be treated equally, regardless of whether a donation stays within an EU Member State or crosses borders between two EU Member States [45]. The ECJ highlighted that the countries are not required to mutually recognize each other's charities. However, the tax authorities can ask the taxpayer to provide such proof, in order to determine whether the conditions for deducting expenses provided for in the legislation at issue have been met and, consequently, whether to allow the tax incentive [46].

This case law has an *impact on charitable EU cross-border donations to* Swiss-resident philanthropic entities. Due to Art. 56 of the Treaty on the European Union that prohibits restrictions on the free movement of capital between Member States and third states, as well as to bilateral sectoral agreements, gifts from a donor resident in a Member State to institutions with a public purpose in Switzerland should be subject to the legal precedent of the ECJ [47] (i. e. subject to the same rules as internal charitable gifts). In contrast, the gifts from Switzerland to an institution established in an EU Member State currently do not enjoy similar treatment (the principle of the free movement of capital is not part of the current bilateral agreements concluded between Switzerland and the European Union) [48].

3. REFORM PROPOSALS

3.1 Comments on the current Swiss law framework. The above analysis reveals that the *Swiss tax system encourages private redistribution.* Both federal and cantonal legislators eliminate, up to a certain threshold (20%), not only economic double-taxation, but *any* direct taxation on funds gifted to philanthropic purposes. In particular, such funds are neither taxed as income in the hands of the person who makes the philanthropic transfer (donor) nor taxed as profits in the hands of the receiving person (philanthropic organisation). Consequently, allowing zero tax on funds destined to charitable purposes, the Swiss legislator shows its particular will to support private redistribution. Such legislative will can also be deducted from the fact that charitable gift deductions are contained in the chapter "general deductions", all of them having democratic or social-policy justifications.

The Swiss tax treatment of philanthropic gifts and philanthropic organisations is *not unique in comparative perspective.* In legal English (and particularly Anglo-American legal vocabulary), the tax treatment that links a particular tax benefit (for example, the deduction for charitable donations) and a particular corporate form (the not-for-profit form) is often called *linkage* or *coupling* [49]. We observe *similar linkage systems* in various countries, for instance in the US.

The Swiss legislator encourages philanthropic giving through tax incentives *only to a certain extent* (deduction threshold) and *only within the Swiss territory.* Those restrictions are often pointed out by legal academia as drawbacks of the Swiss charitable taxation framework [50]. However, other alleged systemic flaws are also highlighted: the absence of harmonisation of cantonal deduction thresholds, differences between allowable individual and corporate deductions between cantons and sometimes within the same canton, impossibility to remunerate foundations' board members via salary, inability for non-profit entities to accumulate profits, etc. [51]. The reform proposals of certain authors as well the

Luginbühl initiative presented below aims at correcting some of those deficiencies.

In this respect, one must note that taxation or rather non-taxation of philanthropic activities and organisations is subject to *different appreciations* by legal writers and economists. Whereas certain praise the beneficial effects of tax subsidies to philanthropy, others highlight their drawbacks, for instance inefficiency, democratic deficiency as well as incompatibility of those subsidies with the principle of the ability to pay [52]. This critique is found in international academic papers, in the Swiss political parties' discourse and have also been identified by certain Swiss authorities during tax reforms [53]. The current Swiss legislative framework might therefore be seen as *a compromise* between those conflicting views.

3.2 Luginbühl initiative. On the 9th of December 2014, the member of the Federal Parliament *Werner Luginbühl* submitted the initiative *"Renforcer l'attractivité de la Suisse pour les fondations"*. This initiative, which addresses the general legal framework applicable to Swiss law foundations seeking to improve the competitiveness of Switzerland in this field, also touches upon a number of tax issues. In particular, it seeks to increase the unique deduction threshold for the gifts made through estate (deductible either on the year of death or on the year of distribution of an estate), to introduce a general carry-over possibility for donations that exceed the allowable deduction threshold for a given year, as well as to allow foundations' board members to receive compensations without jeopardizing an entity's tax-exempt status [54].

The initiative received diverse appraisals. For instance, the association *SwissFoundations* advocates against its adoption. It criticizes the lack of clear strategic framework of this initiative and points out the possible damaging effects of the proposed amendments (over-regulation effects), reminding that in 2013 the Federal Council had recommended to set aside *Luginbühl's* motion on the same issue, presenting a detailed report in this respect [55]. *SwissFoundations* advocated for a more pragmatic approach, including a periodic collect, analysis and publication of statistical data in this sector and the encouragement of an auto-regulatory approach. However, *ProFonds* (another association defending the interests of Swiss-based foundations) expressed its support to the Luginbühl initiative [56].

On the 15th of August 2017, this initiative was endorsed by the Legal commission of the Council of states *(commission juridique du Conseil des Etats)* and, on the 20th of October 2017, by the Commission of legal affairs of the National council *(Commission des affaires juridiques du Conseil national)*.

4. CONCLUSIONS

The Swiss tax system *encourages private redistribution* through philanthropic activities. Such encouragement is however limited and in principle applies only to Swiss-based charitable entities subjected to unlimited and limited Swiss taxing jurisdiction. This system represents a *compromise between two conflicting views* on subsidizing philanthropic activities with tax incentives: one regarding it as a favourable intervention and the other as undemocratic and inefficient.

The current tax incentive system in the philanthropic sector has recently been subject to some *modifications,* notably the entry into force of legal norms partially exempting from tax all legal entities with idealistic purposes. Some further modifications may be introduced in relation to the above-discussed *Luginbühl* initiative. However, this initiative is subject to controversial appraisals. We consider that due to a number of systemic deficiencies that are regularly highlighted by academics and practitioners (e.g. disparities between inter-cantonal exoneration regimes, complicated cross-border deductions, etc.), *a comprehensive study* on the taxation of philanthropy should be carried out in order to define the optimal reform proposals. ■

Notes: 1) This article was written on request of the Geneva Centre for Philanthropy of the University of Geneva (www.unige.ch/philanthropie). The Centre considers that taxation is an important aspect in the field of philanthropy and that this subject deserves further in-depth studies. I would like to thank notably Patricia Legler from SwissFoundations for her valuable insights on the matter. **2)** https://www.merriam-webster.com/dictionary/philanthropy access date 12.09.2017. **3)** A similar English definition is for instance given by the Oxford dictionary. See https://en.oxforddictionaries.com/definition/philanthropy access date 12.09.2017. French language dictionaries also have similar explications of the term "philanthropie", for instance Larousse provides this definition: "1) Sentiment qui pousse les hommes à venir en aide aux autres; amour de l'humanité. 2) Désintéressement, charité." **4)** Loi fédérale sur l'impôt fédéral direct du 14 décembre 1990 (LIFD)/Bundesgesetz über die direkte Bundessteuer vom 14. December 1990 (DBG), RS 642.11. **5)** Art. 9(1)(f) LIPM (Loi sur l'imposition des personnes morales du 23 septembre 1994, D 3 15). **6)** Conférence suisse des impôts, Informations fiscales, Imposition des personnes morales, Septembre 2016 (hereinafter: Imposition des personnes morales,) p. 10. **7)** Idem, p. 10. **8)** Imposition des personnes morales, p. 10; for GE legislation see Art. 76 al. 1(b) LCP. **9)** Imposition des personnes morales, p. 10. **10)** Urech Nicolas, Commentaire de l'art. 56 LIFD No. 55, in: Noël/Aubry Girardin, Commentaire de la loi fédérale sur l'impôt fédéral direct (Commentaire LIFD), 2017, p. 1029. **11)** Ibidem, No. 54, p. 1029. **12)** Conférence suisse des impôts, Exonération fiscale des personnes morales qui poursuivent des buts de service public, d'utilité publique ou des buts cultuels. Déductibilité des libéralités. Informations pratiques à l'intention des administrations fiscales cantonales (hereinafter: Exonération fiscale des personnes morales), 18.01.2008. **13)** Urech, op. cit. p. 1030–1034. **14)** Imposition des personnes morales, p. 54. **15)** Loi fédérale sur l'exonération des personnes morales poursuivant des buts idéaux du 20 mars 2015/Bundesgesetz vom 20. März 2015 über die Gewinnbesteuerung von juristischen Personen mit ideellen Zwecken. **16)** Message concernant la loi fédérale sur l'exonération des personnes morales poursuivant des buts idéaux du 6 juin 2014, RS 14.051 (hereinafter: Dispatch LExo), p. 5220. It must be highlighted that under current federal legislation, the profits of associations, foundations and other legal entities are exempted under CHF 5000.– [Art. 71(2) LIFD/DBG]. Cantonal legislations establish different thresholds; see Dispatch LExo, p. 5224. **17)** Dispatch LExo, p. 5220. **18)** Idem, p. 5228. **19)** Ibidem. **20)** Ibidem. **21)** Ibidem. **22)** Dispatch LExo, p. 5228. **23)** Danon Robert, Commentaire de l'art. 59 LIFD, No. 24, in: Noël/Aubry Girardin, Commentaire de la loi fédérale sur l'impôt fédéral direct (Commentaire LIFD), 2017, p. 1153. **24)** Administration fédérale des contributions, Brochures fiscales pour la période fiscale 2017, Impôts sur le revenu et sur la fortune des personnes physiques, Déduction des versements pour des buts de bienfaisance (hereinafter: Brochures fiscales, déductions 2017), p. 1–2. **25)** Loi sur l'imposition des personnes physiques du 27 septembre 2009 (LIPP), D 3 08. **26)** Brochures fiscales, déductions 2017, p. 1–2. **27)** Ibidem. **28)** Imposition des personnes morales, p. 53. **29)** Ibidem. **30)** Conférence suisse des impôts, Informations fiscales, Les impôts sur les successions et les donations, décembre 2016 (hereinafter: Successions et donations), p. 18. **31)** Exonération fiscale des personnes morales, p. 41–42. **32)** Noël Yves, Commentaire de l'art. 33 a, No. 3, in: Noël/Aubry Girardin, Commentaire de la loi fédérale de sur l'impôt fédéral direct (Commentaire LIFD), 2017, p. 783. **33)** Arts 2 and 3 of the Federal Act on the Privileges, Immunities and Facilities and the Financial Subsidies granted by Switzerland as a Host State ("Host State Act", "HSA") of 22 June 2007, RS 192.12. **34)** http://www.transnationalgiving.eu/en/how-does-it-work/, access date 17.10.2017. **35)** Loi fédérale du 12 juin 2009 régissant la taxe sur la valeur ajoutée/Bundesgesetz vom 12. Juni 2009 über die Mehrwertsteuer. **36)** Luginbühl Report, p. 2005; Oberson Xavier, The taxation of philanthropy in Switzerland: Current status and suggestions for improvement, IBFD Bulletin for International Taxation 2015 (hereinafter: Oberson, Taxation of Philanthropy), p. 237. **37)** This subject is extensively analysed in legal academia. For more details see Buijze Renate, Approaches towards the Application of Tax Incentives for Cross-Border Philanthropy, INTERTAX, Volume 44, Issue 1 (2016), p. 16; Koele Ineke A., How Will International Philanthropy be Freed from Landlocked Tax Barriers? Eur. Taxn., 409–418 (2010); Heidenbauer Sabine, Charity Crossing Borders, the Fundamental Freedoms' Influence on Charity and Donor Taxation in Europe, Wolters Kluwer (2011), 55–71; Oberson, Taxation of Philanthropy, p. 237. **38)** Buijze, op. cit. p. 16; ECJ, Case C-386/04, Centro di Musicologia Walter Stauffer v. Finanzamt München für Körperschaften, 14 Sep. 2006. **39)** Buijze, op. cit. p. 16–17. **40)** Ibidem. **41)** ECJ, Case C-318/07, Hein Persche v. Finanzamt Lüdenscheid, 14 Oct. 2008. **42)** ECJ, Case C-025/10, Missionswerk Werner Heukelbach eV v. Etat Belge, 10 Feb. 2011. **43)** ECJ, Case C-10/10, European Commission v. Republic of Austria, 8 Mar. 2011. **44)** ECJ, Case C-485/14, European Commission v. French Republic, 16 Jul. 2015. **45)** Buijze, op. cit. p. 15. **46)** Ibidem. **47)** Luginbühl Report, p. 2005. **48)** Luginbühl Report, p. 2005; Oberson, op. cit. p. 238. **49)** Malani Anup/Posner A. Eric, The Case for For-Profit Charities, John M. Olin Law & Economics working paper No. 304 (2d series), available at the Social Science Research Network Electronic Paper Collection, http://ssrn.com/abstract_id=928976 access date 22.09.2017, p. 17. **50)** See for instance Oberson, Taxation of Philanthropy, or the analysis in Luginbühl Report, p. 2002. **51)** Oberson, op. cit. p. 235 et seq.; Luginbühl Report, p. 2002 et seq. **52)** Swiss Federal Council, Initiative parlementaire, Révision du droit des fondations (Schiesser), Rapport de la Commission de l'économie et des redevances du Conseil des Etats du 23 octobre 2003, Avis du Conseil fédéral du 5 décembre 2003, p. 7466–7467. **53)** Oberson, op. cit. p. 238. **54)** "Renforcer l'attractivité de la Suisse pour les fondations", Initiative parlementaire 14.470, Luginbühl Werner, 09.12.2014, available at https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20140470 access date 24.11.2017. **55)** SwissFoundations, Prise de position au sujet de l'initiative parlementaire du conseiller aux Etats Werner Luginbühl, available at http://www.swissfoundations.ch/sites/default/files/PrisePosition_SF_ParlIni_Luginbu%CC%88hl_28.7.20107_final.pdf access date 24.10.2017, p. 1; Swiss Federal Council, "Fondations. Renforcer l'attractivité de la Suisse. Rapport proposant le classement de la motion Luginbühl du 20 mars 2009", 27 February 2013, RS 09.3344. **56)** http://www.profonds.org/actualites/defense-des-interets/details/?L=1&tx_news_pi1[news]=227&tx_news_pi1[controller]=News&tx_news_pi1[action]=detail&cHash=4a8dff80bdc808dc817cccb8a403862f access date 08.01.2018.