

Foundations

It often happens that churches choose to organize themselves as a Foundation. Here is a brief overview of what a foundation is and what conditions a foundation must meet by law. It is important that the church that is a legal entity in the form of a foundation strictly adheres to these conditions set forth by law.

What is a foundation?

A foundation is an organization whose purpose is not to make a profit. Instead, a foundation tries to achieve a social or idealistic goal. A foundation may make a profit with an enterprise. The condition is that this profit must be spent on achieving the ideal goal of the foundation.

A foundation always has a board. In the articles of association / statutes you can stipulate that there is also a supervisory board. This supervises the board. The foundation is a legal form with legal personality. This means that the board members are usually not liable with their private assets for any debts. This also means that a board has control within a foundation.

Unlike an association, a foundation has no members. Therefore, there is no need for a members' meeting to make important decisions and there is also no interference from members in decisions that need to be made.

A foundation's money comes in through donations, loans, grants and inheritances. It is common for churches to do fundraising for this purpose.

Establishing the foundation

To establish a foundation, you go to the notary. The notary draws up the notarial deed containing the statutes. The statutes are then the guiding rules and agreements of the foundation. The notary then usually takes care of the registration of your foundation in the Commercial Register of the KVK (the Chamber of Commerce).

All board members are registered in the Commercial Register. If you have a foundation with a company / an enterprise, you must register this in the Commercial Register. Report board changes to the Chamber of Commerce within 8 days.

At the establishment, you also register the beneficial owners of your foundation. You do this in the UBO register at the KVK. Ultimate beneficial owners (UBO) are, for example, persons who have direct or decisive influence on the foundation.

What are the costs?

For the establishment of a foundation, you do not need a minimum starting capital. The fees for setting up a foundation by a notary are not fixed and differ per notary. On average it costs between €400 and €800. At the Chamber of Commerce, you pay a one-time fee of €51.30 to register your foundation.

Terminate the foundation?

Do you want to end the foundation? Then the board must first decide to dissolve the legal entity. A dissolved legal entity does not immediately cease to exist. The legal entity is not terminated until all

debts and benefits have been paid. Are there any assets left over? You have determined in the bylaws where the money goes.

In short, if the church chooses to adopt the legal form of a foundation, here is an overview of the possible advantages and disadvantages of this legal form.

Advantages	Disadvantages
- The board has full control, no outside influence (unlike an association).	- No profit distribution possible.
- Articles of association / statutes are determined in consultation with the notary, but are fairly 'standard'.	- No members (like in the case of an association).
- The articles of association may refer to Church Law, in order to benefit from its advantages.	- Denomination
- Fundraising easier than for a church. Such as establishment by means of deed of the notary and articles of association.	- Must meet conditions set by law.

Every church institution falls under the definition of a church denomination. The term denomination is a legal term that the law gives to faith communities (including other religions). The denomination must consist of more than one person. As a legal entity the church (religious community) can enter into agreements and own (real) property.

A church denomination must have statutes drawn up and these may not be contrary to the law. Furthermore, the church denomination is subject to Church Law and the church regulations and church orders must comply with this law. A church denomination must be registered by the KVK. The KVK only does a marginal review upon registration.

A church denomination is the only legal entity that can be established without a notary. Furthermore, the law contains no rules for the legal organization of a church denomination. If the church organization engages in commercial activities, then you must also make sure that the organization's business is registered by the KVK. This registration is useful for when the church wants to do business with the Bank or such other commercial institutions.

For recognition by the tax authorities, a church denomination must meet the criteria for having an ANBI status. A church denomination is then eligible for tax benefits. A church building is exempted from OZB (It must be used for more than 70% for public worship).

Although a church denomination enjoys the following freedoms, it is important that it does not engage in any activities that would affect public order or conflict with the law:

- Does not have to abide by the principle of equality.
- May have its own board of directors.

Also listed are the advantages and disadvantages of the legal form of a church denomination

Advantages	Disadvantages
- Freedom of religion, i.e. determining its own rules. This is especially good for churches which	- Fundraising more difficult than for a foundation. And some other things are also more difficult, because not everyone in the

are governed by the church order of their mother church in the country of origin.	Netherlands is open to religious organizations. A foundation can come across as more neutral.
- No need for a notary. However, you do have to think about how you are going to draw up your own statutes. Only a few notaries in the Netherlands know how to do that.	- No protection for liability of board members.
- Tax advantages for owning your own building.	
- Church right- More privacy (e.g. names of board members not shown in Trade Register).	
- Only churches may have a cemetery.	