

Philanthropie Aktuelle

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EDITORIAL

Dear readers,



In an ideal society, the spheres of state, economy and nonprofit organizations (NPOs) are precisely defined and can be clearly differentiated. The state is based on democratic procedures,

the economy follows market principles, and NPOs are based on voluntary contributions by citizens. If only it were that simple! In reality, the three sectors are closely interconnected, there are overlaps, duplications and interferences. Far from being fixed, the frontiers between them have to be constantly renegotiated.

This becomes particularly evident in the current debate concerning the political involvement of NPOs. There are good arguments for both sides – for the fundamental curtailment of NPOs' political participation as well as for the need for lobbying and advocacy by NPOs, especially in the name of those who have no direct political rights.

A completely different question might also be posed: How important is a nonprofit status and the concurrent tax deduction privilege at all, if one is convinced of one's own cause? In crowdfunding and philanthropy, there is an increasing number of players who do not even seek nonprofit status, thus significantly reducing the bureaucracy and regulation they face.

Wishing you a pleasant read.

Georg von Schnurbein

Charitable and politically active – a contradiction?

The past year has seen a heated debate concerning the participation of nonprofit organizations (NPOs) in political processes. Instead of discussing greater regulation, the debate should focus on the principles of substantive participation. By Georg von Schnurbein

In the public sphere, charitable status is often equated with nonprofit organizations (NPOs). However, there are quite a number of NPOs that are non-charitable, i.e. not tax-exempt. These include, in particular, all sports clubs, political parties as well as business associations and trade unions. While «nonprofit» generally refers to the fact that an organization does not seek financial gains, in Switzerland the term charitable status is a tax law term – i.e. it is the basis for tax exemption. The essential criteria for this are altruism and the pursuit of general interest. In practice, however, increasing problems with the term and the associated consequences can be detected.

Last year, with the Jagdgesetz-Referendum (Hunting Law Referendum) and the Konzernverantwortungsinitiative (Corporate Responsibility Initiative), two important votes in Switzerland were prominently shaped by charitable NPOs. The ensuing debate over whether or not this is acceptable, culminated in a political motion by National Councilor Ruedi Noser calling for a review of the requirements for tax exemption.

New political landscape

In order to understand the current situation, we have to take a look back at the recent developments regarding Swiss politics. Until the 1990s, associations (i.e. non-charitable NPOs) play an important role in politics – their constitutional status is even higher than that

of political parties. Since then, however, they have become less and less important. At the same time, parties, and later general interest groups, academics and cantonal administrative bodies have gained influence. The influence of associations has declined because political issues are becoming more complex, and at the same time more specific. It is becoming increasingly difficult to represent all members equally in a given political question. The member logic often gets in the way of the influence logic, so to speak (Armingeon 2011).

Among charitable NPOs, on the other hand, there has been a growing realization that political involvement is important in order to achieve their goals – not least due to financial considerations: 1.8 billion Swiss Francs in private donations per year are offset by 234.5 billion Swiss Francs in tax revenues. If the state changes its spending in favor of their beneficiaries, NPOs themselves have to take over less of the financing.

However, the increased political involvement of NPOs can also be explained by the fact that their areas of activity are increasingly regulated by politics. Where once only subsidies were paid, very detailed performance contracts are now negotiated. NPOs must therefore be given the opportunity to contribute their views to the political process.

According to current tax exemption practice, a charitable NPO is indeed allowed to exercise political influence for

CONTENT

Charitable and politically active	01
A view beyond the horizon	02
Interview: Isabelle Stadelmann	03
Con-Sense: a portrait	04
Calendar	04

the benefit of its charitable purpose, as long as this does not represent the NPO's main activity. This interpretation has rarely led to problems in the past. However, since charitable NPOs have increasingly and prominently appeared in committees for initiatives and referenda, the question of how to assess their main activity has become more important: Is financial expenditure in general the basis for assessment, or only the share of this expenditure in Switzerland? How large may the share of political activity be within the public perception of an NPO?

Exclusion criterion as guiding idea

Such a discussion is neither helpful for politics nor for charitable NPOs. A critical or dismissive attitude on the part of politics would restrict NPOs' access to important resources, and lead to more regulation. Conversely, politics is dependent on the expertise and practical experience of NPOs in the relevant subject areas.

But perhaps one criterion for charitable status could be given more consideration in the future: acting in the general

More than 100 nonprofit organizations (NPOs) supported the Corporate Responsibility Initiative, on which the Swiss voted last year. Together with the Hunting Law Referendum, this initiative marked the beginning of intense discussions surrounding the political activity of charitable NPOs.

Source: www.konzern-initiative.ch



Schluss mit Menschenrechtsverletzungen und Umweltverschmutzung!

www.konzern-initiative.ch

interest can be equated with not excluding anyone. Political organizations such as associations and unions that are not recognized as nonprofit, represent a clientele, and distinguish themselves from political opponents. A charitable organization, on the other hand, should basically maintain an open attitude in all directions, precisely in order to allow for different perspectives and opinions in the (political) dialogue. Conversely, politics should not further regulate nonprofits, but rather develop opportunities for

NPOs to participate and offer content.

In Switzerland, over 70 % of adults donate regularly, but less than 50 % participate in political voting. Seen in this light, donating is also an important expression of social participation and co-creation.

Armingeon, Klaus (2011): A prematurely announced death? Swiss corporatism in comparative perspective. In: Trampusch, Christine und Mach, André (Hrsg.): Switzerland in Europe. Continuity and change in the Swiss political economy. London: Routledge, 165-185.

Charitable status and political activity in the aftermath of the Attac decisions

The decisions by the German Federal Fiscal Court (Bundesfinanzhof) to withdraw the charitable status from the association «Attac» has led to a heated debate in Germany, with some commentators even claiming an attack on democracy. Such arguments are to be refuted, as the decision conforms to existing case law.

In Germany, charitable organizations are not allowed to be predominantly politically active. Since the party donation affair of the 1980s, this has followed from the specific tax-related treatment of political parties and municipal voters' associations.

Tax-deductible donations to political parties are not possible for legal entities. For natural persons, they are limited to € 1,650 per year, and a further € 1,650 can be claimed to 50 %, irrespective of progression. Moreover, there is an obligation to publish donations (above € 50,000 immediately, above € 10,000 in the statement of accounts) as well as a ban on cash donations of more than € 1,000, anonymous donations of more than € 500, pass-through donations from other NPOs, donations above an amount of € 1,000 from non-EU countries such as Switzerland, and from professional associations. If financial influence cannot be ruled out, it must be disclosed.

These rules are based on the Federal Constitutional Court's case law on equal

opportunities for political parties, which prohibits unequal financial support for political parties, for example by wealthy supporters, and thus full tax deduction with respect to party donations. To avoid circumvention, charitable organizations are not allowed to channel their funds to promote political parties and may not act like political parties.

Admissibility and limits

Nevertheless, case law does not stand in the way of political activity within the scope of charitable action, provided that the political commitment does not become an end in itself, but is subordinate to the realization of the specific charitable purposes set out in the mission statement, and that no general political or party-political objectives are expressed or this remains an individual case. For example, the activities of the BUND, which successfully demanded the repurchase of the municipal energy grids in Hamburg as part

of its charitable purpose of «environmental protection» by means of a referendum, were permissible. Party-affiliated foundations may also promote educational work, but this must be done in a balanced manner and without political campaigning.

The call for legislation

The call for legislation is understandable. However, a legal definition of permissible political activity is unlikely to succeed, since the requirements of the Federal Constitutional Court must be complied with. However, it would be conceivable to bring the deduction of donations closer to that of political parties, i.e. to introduce maximum limits and obligatory transparency, which has been completely lacking in German charitable law up until now.

Birgit Weitemeyer

Birgit Weitemeyer holds the Chair of Tax Law and is Director of the Institute for Foundation Law and the Law of Non-Profit Organizations at Bucerius Law School in Hamburg.

«Policymakers have an interest in taking civil society interest into account»

The discussion surrounding the political activity of charitable nonprofit organizations (NPOs) in Switzerland is lively (see lead article). We were able to speak to Isabelle Stadelmann-Steffen, Professor of Comparative Politics at the University of Bern, about the reasons for, the legitimacy of, and the limits to such increasing political activity.

CEPS: Thinking of the Corporate Responsibility Initiative or the Hunting Law Referendum: With such initiatives and referenda, NPOs not only take part in the political discourse, but also actively engage in politics. To what extent is this legitimate?

I.S.: As a matter of fact, an active role for civil society organizations is not only permissible in the Swiss political system, but explicitly provided for. On the one hand, because direct democratic rights offer formalized ways of exerting influence. Initiatives should and can be used to raise concerns from society that parliament and government have not taken into account. And the referendum as a «veto instrument» is of course open not only to parties, but also to social groups or organizations.



Isabelle Stadelmann-Steffen is Professor of Comparative Politics at the University of Bern in Switzerland. Her research interests include public policy, direct democracy, and political engagement.

ve in the political sphere were already good in the past, especially because of direct democratic rights. More recently, however, at least three factors come to mind that suggest that it has become easier rather than more difficult for NPOs to make effective use of these opportunities. A first point is the professionalization that has taken place in this sector. This includes the fact that there are now mostly «professionals» in these organizations, who are explicitly responsible for and trained in political work. This is likely to encourage increased and more organized activity. Secondly, digitization offers good opportunities for mobilization. For example, it is now relatively easy to collect signatures via the Internet and to address one's «clientele» directly and cost-effectively via online activities. Especially NPOs that target a younger audience are likely to benefit from this. Finally, many of the issues that NPOs address, such as climate change, environmental protection and nature conservation, but also human rights and inequalities of all kinds, simply fit in with the current zeitgeist. This increases the opportunities for these organizations for being heard and receiving support from society.

CEPS: Where do you see the limits of such political activity by NPOs?

I.S.: Two spheres can be distinguished in the mediation of political interests. One is the world of classical parliamentary politics, in which elected representatives are politically active and legitimized to represent the interests of their constituents. The second is that which takes place at the level of associations, organizations, and the administration. Here, organizations are classically involved because of their expertise in a particular area. It is quite clear that these two spheres cannot always be clearly separated, and NPOs also become political actors in the sense that they work towards the mission of their organizations and, so to speak, act on behalf of their members. Nevertheless, the system reaches its

limits where these two spheres mix too strongly. For example, in the case of political activities of organizations, where it is no longer clear whether the activity actually relates to the goals of the organization, or rather to the political ambitions of individuals. Vice versa, it must be transparent when elected representatives of the people also represent the interests of certain civil society organizations.

CEPS: Many thanks!

CEPS INSIGHT

Changes in the CEPS team

After five years at the CEPS, Sophie Hersberger has left our institute at the end of February 2021 after successfully completing her dissertation. Having already played a leading role in the preparations for several months, she will now devote herself fully to the consulting company Con-Sense (see page 4). The CEPS wishes Sophie all the best on her future path. In addition, we are pleased to announce that Manvi Bhatia, a member of the team since April 2020, is now a research associate at the CEPS.

ceps.unibas.ch/en/team/

CEPS PhD Series

At the end of December 2020, the CEPS launched its new book series «CEPS PhD Series», in which past and future dissertations written at the institute will be published step by step. The first publications are «Investments in and for Nonprofit Organizations» by Sara Stühlinger and «The Marketization of Nonprofits» by Sophie Herberger.

ceps.unibas.ch/en/publications/

CEPS Annual Report 2020

Despite challenging circumstances, we can look back on a successful year. The CEPS would like to thank everyone who made this success possible!

ceps.unibas.ch/en/about-us/annual-reports/

On the other hand, the referendum as «Sword of Damocles» instrument has led to the establishment of informal ways of exerting influence. The government and parliament have a strong interest in repeatedly taking into account and integrating civil society interests. Finally, it is also part of Swiss semi-direct democracy that there is a political campaign around votes, in which different actors and organizations make their opinions public, and try to win over a majority of the population.

CEPS: Are NPOs more politically active or organized today than in the past?

I.S.: As I said, the opportunities and incentives for NPOs to become acti-

Con-Sense strengthens societal engagement

Since March 2021, the new consulting firm Con-Sense has been helping large and small NPOs and foundations increase their impact in society. Scientifically sound methods meet practical application and implementation.

New forms of financing, higher demands of society and funders on effectiveness and efficiency, succession planning in foundation boards, the introduction of an agile working model, finding suitable cooperation partners, or the review of a funding strategy: these are just a few of the topics that NPOs and foundations are dealing with. As a spin-off of the CEPS, the newly founded consulting company Con-Sense has set itself the objective of not only advising organizations in these processes and challenges, but also accompanying them as a partner on equal footing.

consulting is not the only service Con-Sense offers. By organizing knowledge-sharing and exchange events, Con-Sense aims to bring together stakeholders from civil society, business and government to promote the creation of synergies. For example, the event series «Auf den Punkt gebracht» will kick off on 9 June 2021 with a one-hour online format. The discussion will focus on which NPOs or foundations our society will need in the future. Registration options and further information on Con-Sense can be found here: www.aboutconsense.ch

Sophie Hersberger

Linking theory and practice

Con-Sense relies on scientifically based methods and the latest research findings, which are adapted and applied to the everyday organizational life of operational NPOs and foundations through the practical experience of its employees. For example, an impact model should not only remain a model, but through the development of appropriate data collection methods and impact goals, ultimately tell the story that makes an organization unique.

For the entire sector

However, organizational and strategic

DID YOU KNOW?

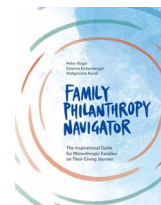
3,673

That is how many foundations have been established in Switzerland since 2010. However, half as many foundations have also been liquidated in the same period. This development shows that foundations do not exist forever, and that more and more founders establish foundations for a limited period of time.

swissfoundations.ch/aktuell/stiftungsreport-2021-preview/

New guidebook

The Family Philanthropy Navigator is a practical and in-depth guide for seasoned and aspiring philanthropists.



Quotes about the difficulty of giving meaningfully range from Aristotle to Bill Gates. For wealthy families, there are additional challenges such as differing thematic interests and divergences

between generations.

With the Family Philanthropy Navigator, Peter Vogel and Malgorzata Kurzak from the IMD and Etienne Eichenberger from WISE philanthropy advisors have published a guidebook that helps overcome the difficulties in defining and implementing one's own philanthropic commitment. The navigator touches on the topics of purpose, relationships, and the appropriate organizational form. In the process, readers get the opportunity to fulfill tasks, and gain more in-depth information.

The case studies included make it clear that the content has emerged from the practical experience of the three authors, and is conveyed in this way. Ultimately, the book offers not only a toolbox for families, but for every person who wants to set effective accents with his or her own philanthropic activities.

Georg von Schnurbein

imd.org/research-knowledge/books/family-philanthropy-navigator/

CALENDAR

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ERNOP Science and Society Seminar

ERNOP
23 March 2021, [online](#)

PPCmetrics Stiftungstagung

PPCmetrics
11 May 2021, Zurich

Schweizer Stiftungssymposium

SwissFoundations
01 - 02 June 2021, Basel

Deutscher Stiftungstag

Bundesverband Deutscher Stiftungen
07 - 11 June 2021, online

Basler Stiftungstag 2021

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