



FONDATION  
DE LUXEMBOURG

Philanthropy in action

**‘How wonderful it is that nobody need wait a single moment before starting to improve the world.’**

Anne Frank

While globalisation has achieved great interdependence between nations, sharing basic values to shape our common future remains essential, albeit a delicate task. Since its inception in 1945, the United Nations, has been at the frontline of the promotion and protection of human rights universally. For this edition of the Philanthropy Letter, we were therefore very honoured to have the opportunity to discuss with the **UN High Commissioner for Human Rights, Prince Zeid Ra’ad Al Hussein** about the tireless work of his office to render human rights principles real. From his early career as a junior UN official in former Yugoslavia to his current role in one of the most sensitive diplomatic positions, he reminds us of the importance to secure the progress made during the last decades against the threats posed by the many severe conflicts and crises of our times.

French-based **Association Evi’dence**, winner of the Fondation de Luxembourg’s 2017 Photo Contest provides a concrete example of promoting values such as respect and responsibility among marginalized members of our societies. With the support of Fondation Alliances du Vivant under the aegis of Fondation de Luxembourg, Evi’dence developed an innovative program of animal mediation in prison environment. Patricia Arnoux, the founder of Evi’dence shares with us her experience from creating this unusual approach to rehabilitation that brings together abandoned animals with detainees.

With reference to our mission to promote and facilitate philanthropy both in the Grand-Duchy and internationally, we asked **Hanna Surmatz, Legal Counsel at the European Foundation Centre** to present the main findings of a recent study she carried out in collaboration with Transnational Giving Europe on how to expand cross-border philanthropy at the European level. In this study, Luxembourg comes out as a role model in terms of its prompt implementation of a practical framework for European donations.

Wishing you a pleasant reading,

**Tonika Hirdman**



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# Rendering Human Rights principles real

## Interview with Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights



### Zeid Ra'ad Al Hussein

assumed his functions as United Nations High Commissioner for Human Rights on 1 September 2014. He is the sixth High Commissioner to have been appointed by the General Assembly since the Office of the UN High Commissioner for Human Rights was established in 1993. Previously, he served as Jordan's Permanent Representative to the UN in New York for 11 years and was Jordan's Ambassador to the United States between 2007-2010. In January 2014 he was President of the UN Security Council.

You have been elected High Commissioner for Human Rights in June 2014, could you tell us in a few words what your mandate is about?

The core driver of our work is to make a difference in people's lives – preventing suffering and crisis – by rendering human rights principles and laws real.

We assist states to develop consensus about laws that will ensure respect for human rights, and we issue detailed, practical guidance on policies, which deliver on those laws. Through the work of our field presences, or fact-finding missions, we seek evidence of human rights violations and abuses. We document these violations, and at times make them public, in an effort to end impunity and establish accountability. We complement our human rights monitoring, reporting and assessments with capacity-building. These programmes aim to enable police to question people without using torture; or training programmes for judicial, security and other officials to bring more visibility

and equal access for women, minorities and excluded groups; support to strengthen local and national institutions and open spaces of freedom for civil society – these are very practical assistance programmes with long-term impact. We are also engaged in public and private advocacy, as a global leading voice on human rights.

Could you tell us something about your background and what has influenced you the most?

In the course of my life I have been haunted by the need to understand the extreme violence of mass atrocities. Among other things, this led me to working as a junior UN official in the former Yugoslavia, during the war there. And it grew into a strong intellectual preoccupation with the Holocaust – the terrible planning of this monstrous killing, the unheard warnings, and the progressive dehumanisation of people. I believe the Holocaust must stand as an urgent warning to all people, for all time.



In the Democratic Republic of the Congo, the High Commissioner meets with several women during his visit to the Panzi Hospital for survivors of sexual and gender-based violence, July 2016 – © MONUSCO

Why do you think you were chosen for this role and what do you hope to achieve?

At a time of such pervasive and urgent crisis in many countries of the Middle East and North Africa, perhaps my personal understanding can be of some help. My goal is very simple and extremely large: I need to feel that I am improving in some way the lives of those who suffer most from tyranny and violence, including structural violence and economic destitution. The woman who must haul rocks to a building site to feed her children, the families who seek refuge desperately, across the sea – we are all human, born equal, with the same rights.

What are the key obstacles to an effective compliance with human rights standards enshrined in international law?

Again, there is a very simple answer, but it is deceptively simple. Governments must live up to the commitments they have made, to uphold the civil, political, economic, social and cultural rights of their people to the maximum extent of their capacity. Why they so often do not do so, is deeply complex.

In several regions of the world, the rights of girls and women are neglected. How do you see that women's rights can be improved going forward?

It is not only neglect – in many regions we are seeing a backlash against women's rights, which seeks to dismantle some of the most important progress the human rights movement has effected in recent decades. The oppression of one half of humanity is intolerable, and part of the reason why my staff is so committed to effecting change is because we feel this very deeply. Our monitoring of violations of women's rights, and our programmes to assist change, are very extensive.

How do you see the role of civil society and private donors, such as foundations in supporting your work to promote human rights?

Support from the private sector is essential. We count on civil society for information, for advocacy – and financial help. The human rights pillar within the United Nations is dramatically underfunded – it receives about 3% of the UN regular budget – and it is therefore vital for us to reach out to new partners.

Can you explain to us the link between the United Nations Sustainable Development Goals (SDGs) aiming at “ending poverty, protecting the planet and ensuring prosperity for all” and the universal principles of human rights?

Essentially, human rights put the sustainability – the ‘S’ – into the SDGs. Economic development must benefit all of society; nobody should be ‘invisible’, including people from traditionally marginalised groups, and nobody should be left behind.

Do you have an example of a success story to share with us?

Sometimes our successes are invisible, because so much of our work is preventive – atrocities brought to an end, conflicts or economic suffering which have been abated or resolved. The many years of work by my Office across every region of Colombia helped bring an end to that country's long and bitter civil war recently: this has been widely acknowledged, and it brings us great pride.

What has been your most satisfying moment in your role so far?

Frequently, when people are facing the death penalty after trials that completely fail to comply with due process, my Office will speak out, and name those people, asking for re-examination

of the case. Or if individuals have been arbitrarily detained, we will identify them and call for their release. These may be individual cases of injustice but they have immense impact on the people concerned and their families. And on dozens of occasions, the individuals in question have been released, or have received a pardon or other forms of re-examination and resolution of their cases. To see these direct and immediate results is deeply satisfying.

*“These programmes aim to enable police to question people without using torture; or training programmes for judicial, security and other officials to bring more visibility and equal access for women, minorities and excluded groups; support to strengthen local and national institutions and open spaces of freedom for civil society – these are very practical assistance programmes with long-term impact.”*

Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights

# L'animal, un médiateur extraordinaire au service de la réinsertion

## Interview avec Patricia Arnoux, Fondatrice de l'Association Evi'dence



### Patricia Arnoux

est titulaire d'un DEUG de psychologie. Elle est aujourd'hui Intervenante en Médiation Animale formée au Québec et a suivi une formation de psychothérapeute à l'Institut Grégory Bateson (IGB) de Paris. Elle travaille depuis neuf ans avec ses animaux à la maison d'arrêt de Strasbourg. Son association Evi'dence a été co-lauréate du 2<sup>e</sup> prix « Innovation Justice 2011 » par équipe pour son action en milieu carcéral.

### Qu'est l'origine de votre engagement dans la médiation animale ?

Je suis passionnée par l'homme et par l'animal et je trouve que chacun, à sa façon, peut amener beaucoup à l'autre... L'animal étant un médiateur extraordinaire car il facilite la parole et accélère la mise en place d'un lien de confiance avec l'Homme. Les relations entre ces êtres vivants me fascinent et motivent donc mon engagement dans la médiation animale.

Parlez-nous de votre projet à la prison de Strasbourg. En résumé, ce sont des souris, des sourires et des hommes ...

... Mais aussi des furets, des oiseaux, des rongeurs, des chiens et des chats !

L'animal apaise et ne pose pas de jugement, ce qui est très apprécié des personnes détenues pour lesquelles il est un médiateur neutre, un compagnon constant, une source d'affection permanente, et souvent leur seul but de vie.

Cette médiation animale, cœur de notre action, vise à responsabiliser, revaloriser, apaiser et ainsi amener la personne détenue à un changement de comportement qui pourra lui permettre de mieux résister aux tentatives de délinquance et de radicalisation qu'elle pourrait rencontrer.

Ce travail sur soi avec la remise en place des règles sociales souvent inexistantes ou hors normes améliorera ses relations en prison et la préparation à sa réinsertion. Cette action peut également contribuer à la diminution du stress des surveillants pour les inscrire dans une nouvelle dynamique.

Grâce au lien singulier que chaque détenu a noué avec son animal et à l'occasion des événements importants qui rythment leur vie ensemble, les détenus recréent entre eux, autour d'émotions partagées, une vie sociale avec ses symboles et rituels.

A-t-il été difficile de convaincre de l'utilité de faire venir des animaux en prison et comment le projet a-t-il été accueilli par les membres de l'administration pénitentiaire ?

Comme toutes innovations et tout particulièrement dans ce milieu, ce projet a suscité beaucoup d'interrogations et d'incompréhension de la part du personnel. Mais grâce à l'écoute de la direction et la réponse que je pouvais apporter en termes de prévention du suicide, cette action a pu être expérimentée et aujourd'hui développée.

Comment sélectionnez-vous les animaux qui vous accompagnent en prison ?

Ce sont essentiellement des animaux maltraités, abandonnés ou en souffrance, recueillis par l'association Evi'dence, pris en charge et soignés par des détenus dits « référents ». Ils reprennent confiance en l'homme et retrouvent aussi une nouvelle vie.



Le hamster Chips –  
© Association Evi'dence

À quoi ressemble une journée type de votre projet de médiation animale en milieu carcéral ?

Ce programme novateur mis en place en 2008, à la Maison d'Arrêt de Strasbourg présente 40 heures par semaine d'intervention en médiation animale et consiste en :

- La mise en place de groupes de parole animés par deux intervenantes en médiation animale accompagnées de leurs animaux médiateurs auxquels participent une cinquantaine de détenus volontaires par semaine.
- La présence permanente d'une trentaine de petits animaux domestiques adoptés (sauf chiens et chats qui ne se prêteraient pas aux conditions de la détention) répartis dans trois locaux installés dans les quartiers des hommes et des femmes. Chaque animal devient le compagnon de soutien d'un détenu « référent ».

Comment s'est mis en place le soutien de la Fondation Alliances du Vivant sous égide de la Fondation de Luxembourg, à votre projet ?

La Fondation de Luxembourg a eu connaissance de notre action et a pris contact avec mon association



Tourterelle avec un détenu – © Association Evi'dence

Evi'dence en 2016. Cette rencontre a permis l'émergence de nos intérêts communs et la conclusion d'un partenariat qui vient d'être reconduit cette année pour trois ans. Grâce au soutien de la Fondation Alliances du Vivant, notre action a non seulement été consolidée mais s'est également développée.

Quels rapports réussissez-vous à instaurer avec les détenus ?

Essentiellement un rapport de confiance et de respect. Ces séances que nous

dispensons sont très riches, les apports venant tant de l'animal que de l'homme.

Pouvez-vous partager avec nous quelques résultats du projet sur les détenus ?

Un jour, un détenu me dit : « pour moi la Médiation animale représente une rampe que l'on a accroché aux murs de ma cellule, sur laquelle j'ai pu m'agripper, me relever et marcher à nouveau ».

Ce témoignage résume à mon sens le résultat de notre action.

### Quelques mots de Francine Ortiz, fondatrice de la Fondation Alliances du Vivant

Quelles sont les motivations ayant conduit à votre engagement philanthropique ?

C'est par la rencontre, dans la vie la plus quotidienne, de toutes ces bonnes volontés qui améliorent la vie d'autrui, que je me suis sentie concernée moi aussi. J'ai donc cherché un moyen d'appuyer l'action humaine, aussi bien pour notre espèce que pour les animaux. Et pourquoi pas en même temps ?

Pourquoi ce choix d'un projet autour des interactions homme-animal ?

Parce que je pense que la Vie, toutes les vies, sont dans un continuum du vivant sur la planète et que cela confère à l'Homme la responsabilité de ne pas perdre le lien avec l'Évolution dont il est issu. L'interaction entre l'homme et l'animal, dans toutes ses modalités, ne fait que renvoyer, par la réciprocité positive, à notre filiation commune.

Quel est selon vous le rôle des philanthropes d'aujourd'hui ?

Les philanthropes ont de multiples chantiers. Et comme dit le colibri de Pierre Rabhi en jetant une goutte dans un incendie : on peut faire sa part de l'immense tâche à toute échelle. Ce sont évidemment les besoins élémentaires des plus déshérités qu'il faut améliorer : l'eau, l'énergie, les communications. Mais en s'adossant aux nations concernées : c'est sur ce terreau que pousseront l'éducation, la culture, la santé et... l'autonomie.

# Enhancing cross-border philanthropy in Europe



Hanna Surmatz

has been working towards a favorable operating environment for institutional philanthropy at the European Foundation Centre AISBL (EFC) in Brussels since May 2004. Her main responsibilities include monitoring analysis of relevant European developments that affect foundations' operating environment. Between 2001 and 2004 she was employed by the Association of German Foundations in Berlin, where she worked on foundation law issues and international matters. She also served on the board of the European Center for Not for Profit Law (ECNL) for two terms.

Cross-border philanthropy in Europe is growing, but the fiscal and administrative environment for cross-border philanthropy, even within the European Union, is still far from satisfactory. The European Foundation Centre (EFC) and Transnational Giving Europe (TGE) have joined forces with tax experts from across Europe to take a hard look at good and bad existing practices and to develop recommendations and ideas which could potentially lead to a simplification of procedures. The result is a new report entitled, "Boosting cross-border philanthropy in Europe – Towards a tax-effective environment".

In our report, we identified Luxembourg and the Netherlands as two countries that could be used as models for easing rules.

## Barriers to fair treatment across borders

What do we mean when we talk about "cross-border philanthropy"? Not only are we talking about giving across borders but also about philanthropic organisations being able to invest their assets in other countries without penalty.

Institutional philanthropy's asset administration clearly does not stop at national borders. A small data survey of European EFC members (all with total assets of at least €500 million) in the spring of 2016 revealed that claiming back foreign withholding tax is often lengthy and costly – in the majority of cases, foundations are using some form of external advice and have been struggling with individual cases for several years as illustrated by a number of examples featuring in the report.

The level of international philanthropic giving has also grown, with more European citizens willing to make cross-border gifts and donations to support international causes and foreign charities. But these donors also find it hard to claim the tax incentives they are entitled to.

## From landlock to free movement via the European Court of Justice?

Just ten years ago, the general rule to be found across the Member States was that tax incentives were landlocked, that is they were restricted to domestic public-benefit organisations (PBOs) and donors giving to domestic PBOs.

Today – *in principle* – this situation has been largely overturned by important decisions of the European Court of Justice (e.g. Stauffer and Persch cases), which developed a general non-discrimination principle, implying that PBOs and their donors acting across borders within the EU are entitled to the same tax incentives as would apply in a wholly domestic scenario.

However – *in practice* – we have found that barriers still exist. The 2014 joint EFC-TGE study, "Taxation of cross-border philanthropy in Europe after Persche and Stauffer – From landlock to free movement?", as well as 2016 follow-up research, outlines how several Member States have not yet removed this discrimination – and even where they have, practical or legal problems persist. Across the EU no formal or uniform approach exists. Member States have developed different approaches to check if a foreign EU based organisation is comparable to a domestic one (however in the majority of countries no rules or even procedural guidelines for the tax au-

Funds channelled through Transnational Giving Europe 2010-2016

Year	Total amount of gifts in €	Gifts / donors (individual and corporate)	Beneficiaries
2010	4,164,751	6625	174
2011	4,885,991	6547	215
2012	7,170,561	3693	241
2013	8,767,454	5001	259
2014	12,055,641	5398	333
2015	7,906,892	4487	314
2016	6,380,054	5084	334

thorities appear to exist). The criteria/reference point for the “comparability test” is generally the national tax law of the Member State from which the tax incentives are sought, but the crucial question is how the fulfilment of this criteria is checked.

Streamlining the comparability test, and shifting to a functional approach

What can be done to enhance and clarify the fiscal framework for tax effective cross-border philanthropy in Europe? Firstly, what probably will not work are treaties and automatic exemptions, for a variety of reasons.

However, what we think will work – in addition to more and clearer information sharing – is streamlining processes for the comparability test. **The existing practice for the comparability test in some countries such as Luxembourg and the Netherlands is clear and straightforward, and could potentially serve as a blueprint for other countries with the aim of administering tax effective cross-border philanthropic actions faster and more cost effectively.**

And following this, we recommend shifting how the notion of comparability is tested and taking a more

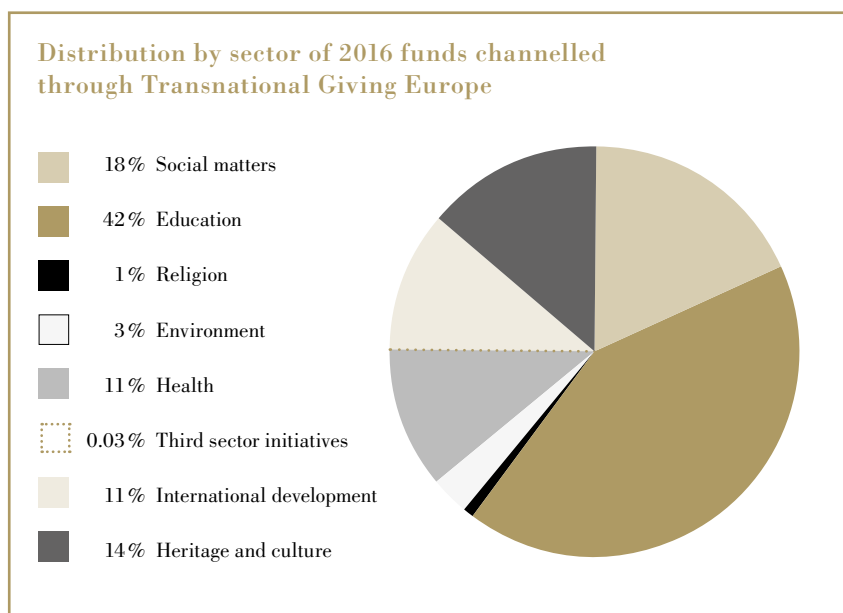
functional approach. Having in mind the Netherlands and Luxembourg scenarios for cross-border donations as well as recent court cases in different European countries, a potential approach could be for Member States to base comparability on a set of common principles around a public-benefit concept, rather than requiring comparability in all details. Recent EFC/TGE tax law mappings have revealed that the tax law requirements for tax exemptions of PBOs and their donors differ in the details but appear to be based on broadly the same principles.

Our new report suggests that the following core public-benefit requirements could potentially form the backbone of a national comparability test:

1. Tax-exempt status in the home country
2. Pursuance of a public-benefit purpose
3. Exclusive usage of assets for the public-benefit purpose

Moving forward with this approach

We are now hoping that discussions among tax experts and various other stakeholders – including philanthropic actors and their beneficiaries; fiscal authorities; and relevant national and EU-level authorities, including the European Commission – can take place to see if Member States would be willing to consider this kind of approach.



# What strategy do you recommend for a foundation's investments?

Dr. Yves Wagner – Director  
BCEE Asset Management



Foundations may have different investment strategies, depending on their long-term missions. Nevertheless, investments should provide a steady income stream in view of the foundation's objective. As long-term investors and by following the "prudent investor rule", foundations have traditionally favored investment-grade bonds. However, in the current low-inflation and low interest rate environment, they offer historically low returns. To increase the return, foundations have to seek portfolio diversification. This implies investments in other asset classes that can carry a higher level of risk. Achieving the right balance between risk and long-term inflation-adjusted value of a foundation's assets is key, and a continuous monitoring of the risks is thus required.

Charles de Lamaestre – Portfolio Manager  
BGL BNP Paribas



With the risk-free rate hovering around zero, a foundation needs to take risks in its investment portfolio to reach the desired return. However, as John M. Keynes put it, "the market can stay irrational longer than you can stay solvent": withdrawals may occur when risk assets are experiencing a drawdown, thereby crystallizing a loss. The challenge when choosing a strategy in the current environment is thus to find uncorrelated assets. Even if valuations have been fuelled by a lengthy period of benign financing conditions, the environment is still conducive to risk taking and we recommend getting exposure to a diversified portfolio of risk premia, with a consideration for volatility evaluated at the portfolio level.

Nora Lemhachheche – Head of Entity Activity  
for the Philanthropy business line  
CA Indosuez Wealth Management (Europe)



Just like for any wealth management investor, we recommend the foundation first to identify its specific requirements and share its expectations with our Markets and Investment Solutions team,

entrusted to manage the foundation's dedicated assets. As different asset classes can meet these expectations, the main objective of the foundation would be to schedule the liquidity needs, the currency exposure depending on the projects and the time horizon during which the founders expect to deploy their project. Once this preliminary step carried out, the investment managers accompany the foundation with advice in terms of building a tailor made portfolio and managing it through the economic cycle, or by undertaking through a discretionary management mandate the strategy based on the defined requirements according to the level of risks accepted.

Philippe Depoorter – Membre du Comité de  
Direction, responsable conseil en philanthropie  
Banque de Luxembourg



Foundations of today face a double challenge: an increasing number of missions and classical investment strategies, which do not provide the same returns as in the past. Even though equity investments appear as the sole alternative for achieving expected returns, it would be inappropriate to design a one-for-all investment strategy for foundations. In a universe that ranges from mission-related investments to active and opportunistic strategies, there are as many ways as there are different foundations. This is why at Banque de Luxembourg, we insist on analyzing and discussing with each foundation representative their profile and financing needs, such as: expectations regarding returns, general insight in financial products, sensitivity to risk exposure and also the investment horizon in view of the foundation's mission.