Zug'daki bir protokol vakfı için amaç hükmü

Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland and Germany),
Solicitor (England & Wales and Hong Kong)
Of Counsel, KGP Legal LLC
alexander.ressos@kgplegal.com.sg
www.ressos.com.sg

İsviçre vakfı (Stiftung), bir kurucunun belirli bir amaca özgülediği, tüzel kişiliğe sahip bir malvarlığıdır. Vakıf yönetim kurulu bu amacı gerçekleştirmekle yükümlüdür, denetim makamı da buna nezaret eder.[1] Amaç hükmü vakfın anayasasıdır. Yalnızca İsviçre Medeni Kanunu (ZGB/CC) md. 85 ve 86 uyarınca ve denetim makamının onayıyla değiştirilebilir. Çok dar bir amaç vakfı boğar. Çok geniş bir amaç ise makamı, vakfın aslında kurucuların ticari çıkarlarına hizmet eden bir araç olup olmadığını sormaya davet eder. Aşağıdaki hüküm, çeşitli varyasyonlarıyla birçok kez denetim incelemesinden geçmiştir. Unsurları; kamu yararı niteliği (açık bir protokolün desteklenmesi), dağıtım yasağı ve ticari faaliyete getirilen sınırlardır.

> **Purpose.** The purpose of the Foundation is to promote and support the development, security, decentralisation and adoption of the [Name] protocol, an open-source, permissionless software protocol for [function], for the benefit of its users and of the public. In pursuit of this purpose the Foundation may in particular: (a) fund, commission and publish research and software development; (b) award grants to developers, researchers and organisations; (c) organise and fund

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education, events and community programmes; (d) hold, manage and deploy [Name] tokens and other assets, including by participating in the governance and validation of the protocol; (e) protect intellectual property associated with the protocol and license it on open terms; and (f) engage with public authorities, standards bodies and other stakeholders.

Limits. The Foundation pursues no commercial purpose and does not seek to make a profit. It may carry on economic activities only in so far as they serve the Purpose and are subordinate to it. The Foundation does not grant loans, guarantees or benefits to the founder, to members of the Foundation Board or to persons closely connected with them. The Foundation does not distribute its assets or income to any person except in furtherance of the Purpose.

Assets. The founder endows the Foundation with [amount in Swiss francs] and [number] [Name] tokens. The Foundation may accept further contributions that are compatible with the Purpose. Tokens held by the Foundation shall be managed in accordance with the Foundation's investment and treasury regulations, which the Foundation Board adopts and may amend with notice to the supervisory authority.

Dissolution. On dissolution the remaining assets shall be transferred to a tax-exempt entity with its seat in Switzerland pursuing the same or a similar purpose, and may not revert to the founder or to any member of the Foundation Board.

Vakfın vergisel durumu amaç hükmüne ve fiilî davranışa bağlıdır. DBG md. 56 b. g kapsamında vergi muafiyeti, kamu yararına veya hayır amaçlı bir amacın münhasıran ve geri alınamaz biçimde izlenmesini ve kişisel çıkar bulunmamasını gerektirir. Kurucular tokende ekonomik çıkarlarını koruduğu için pek çok protokol

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vakfı bu şartı karşılayamaz.[2] Hüküm, muafiyet talep edilebilecek ancak muafiyete bağlı olmayacak şekilde kaleme alınmıştır. Tasfiye hükmü, vergi idaresinin standart şartını izler.

Notlar

1. Civil Code md. 80 vd.; md. 84 (denetim); ulusal veya uluslararası faaliyet alanına sahip vakıfları, Zug'daki protokol vakıflarının neredeyse tamamı dahil olmak üzere, Federal Vakıf Denetim Otoritesi (ESA) denetler; bkz. P. Kısım, II. Bölüm. ↩
2. DBG md. 56 b. g; Zug vergi dairesinin protokol vakıflarına ilişkin uygulaması G. Kısım, IV. Bölüm'de ele alınmaktadır. ↩

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Author contact: Dr Alexander Ressos, TEP · contact@ressos.com