

Standing and operational space of non-governmental organisations (NGOs) in contributing to respecting and promoting fundamental rights in EU Member States

Italy 2017

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1 Regulatory environment for the work of non-governmental organisations

Title of legislation and reference	Topic (please make reference to categories A-F see guidelines)	Effect on civil society (positive or negative) Please include reference to source of information
<p>1. Law No. 125 of 11 August 2014 on "General Discipline of International Cooperation for Development" (<i>Legge n. 125 del 11 agosto 2014, "Disciplina generale sulla cooperazione internazionale per lo sviluppo"</i>)¹</p>	<p>C; E</p>	<p>This Law establishes a new national regulatory framework for cooperation activities. It introduced a Inter-ministries Committee for for development cooperation (<i>Comitato interministeriale per la cooperazione allo sviluppo - CIS</i>) whose aim is to foster coordination among the different Ministries engaged in cooperation activities and enhance consistency of the different implemented projects both at national and international level. This Law also created the Italian Agency for Development Cooperation (<i>Agenzia Italiana per la Cooperazione allo Sviluppo</i>)² which is the monitoring and financing agency for Italian cooperation.³ The aim of</p>

¹ The Law is available at: www.cooperazioneallosviluppo.esteri.it/pdgcs/download/legge%2011%20agosto%202014%20n.%20125%20-.pdf.

²The Agency official website: www.agenziacooperazione.gov.it/.

³Information available at: www.esteri.it/mae/it/politica_estera/cooperaz_sviluppo/la-riforma-della-cooperazione.html.

		<p>this Law was to create a more efficacious coordination system between NGOs active both at national and international level in cooperation projects and Italian national authorities, avoiding cooperation issues to be managed by different ministries in an inconsistent way. In May 2015, the NGO "ActionAid" published a report titled "Italian Cooperation: barriers to overcome" (<i>Cooperazione italiana: gli ostacoli da superare</i>),⁴ stressing the limits of the abovementioned legislation and suggesting some policy recommendations: implementing effective policies aimed at turning development cooperation as an integral part of Italian foreign policies; providing the Ministry of Foreign Affairs and Cooperation with the necessary financial and governance instruments to implement Italian cooperation; overcoming the fragmented nature of financial resources distribution among different national authorities and ministries; establishing a clear competences distribution</p>
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⁴The report is available at:

www.actionaid.it/app/uploads/2015/06/CoopIta_Ostacoli_da_Superare.pdf.

		among the different public stakeholders; guaranteeing the transparency of funds distribution and allocation.
2. Law No. 106 of 6 June 2016 on "Mandate to the Italian Government for the reform of the Third Sector, of Social enterprises and of the universal civil service" (<i>Legge 6 giugno 2016, n. 106 "Delega al Governo per la riforma del Terzo settore, dell'impresa sociale e per la disciplina del servizio civile universale"</i>) ⁵	A, B, C, E	Through this Law the Italian Parliament delegated the Italian Government to approve – within 12 months – a thorough reform of the Italian third sector system. According to the Law, the "third sector" is considered to include all private subjects and bodies engaged in the promotion of solidarity and socially useful activities through voluntary actions and the exchange of goods and services. Trade unions, political parties, professional associations and banking foundations are consequently excluded from this definition. The general principles guiding the Government's regulation activity are considered to be the protection of the right of assembly and association, the promotion of private economic initiatives, the protection of private bodies' autonomy and the simplification of in force-legislation. The Government will also regulate and create the

⁵The Law is available at: www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2016-06-06;106.

		<p>Official registry of Third Sector subjects and bodies as well as the criteria of registration. The impact of such reform on the work of NGOs in Italy will depend on the criteria that the Italian Government will impose to organisations to be officially included in the Italian third sector. If such criteria will be too strict they might compromise the position of smaller NGOs in favour of bigger ones. Art. 10 of the abovementioned Law created the "Social Italy Foundation" (<i>Fondazione Italia Sociale</i>) whose aim is to support, foster and organise voluntary activities implemented by the Italian third sector. The Government has to approve the Parliament's mandate within June 2017.</p>
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2 EU Member State government funding for non-governmental organisations – trends and developments 2011-2016

2.1 Overall amount of government funding

According to the latest ISTAT census on the industrial and service sectors and of the non-for-profit institutions (2011),⁶ the overall income of NGOs was € 64 billion, with expenditures amounting to € 57 billion: two Regions – Lombardy and Latium – represent the half of such income. Among the NGOs included in the census, 86.1 % reported that their main source of fundings is the private sector. Considering the 2011 balance sheet of NGOs, 5 % of the resources comes from free-of-charge public aid and contributions, whereas 29 % comes from contracts and agreements with public institutions.

According to *Infocontinuatorzosectore* (a web portal jointly provided by the main umbrella organisations of Italian NGOs to share technical/management /administrative information), the overall amount of government funding for the whole Italian third-sector in general can be calculated from the Stability Laws,⁷ which envisage the annual contribution to the third sector in different national funds: € 733,120 in 2011; € 629,373 in 2012; € 1,166,780 in 2013; € 1,564,887 in 2014; € 2,583,931 in 2015; € 3,821,685 in 2016.

As to development cooperation, the Ministry of Foreign Affairs and Italian Cooperation together with the Italian Agency for Development Cooperation (*Agenzia Italiana per la Cooperazione allo Sviluppo*) developed a central database concerning the overall amount of funding provided to finance Italian cooperation policies with beneficiary third-states.⁸ According to this database, the overall amount of funding actually supplied was € 3,315,362,153 in 2011; € 2,202,373,070 in 2012; € 2,663,254,424 in 2013; € 3,087,446,602 in 2014; € 3,657,132,915 in 2015.

Data for 2016 is not available yet. The website of the “Open Cooperazione” project – committed to the promotion of transparency and accountability of Italian NGOs – reports 2015 data concerning the NGOs (around 125) which registered to the website and inserted data concerning their activities.

According to this project’s database, in 2015, public funding provided for 62 % of the overall amount of financial resources at the disposal of Italian

⁶ISTAT (2011), 9° *Censimento industria e servizi e Censimento istituzioni non profit*, available at: http://censimentoindustriaeservizi.istat.it/istatcens/wp-content/uploads/2014/04/Report-16-aprile_maggio_corretto.pdf.

⁷This historical trend is available at: www.infocontinuatorzosectore.it/wp-content/uploads/2015/10/stabilita.pdf.

⁸The database is available at: <http://openaid.esteri.it/>.

NGOs: 27.8 % of the funds came from local public authorities (the so-called "decentralised cooperation"); 26.5 % from the Ministry of Foreign Affairs and Italian Cooperation; 25.2 % from the EU; 13.2 % from the UN; 7.3 % from the European Commission's Humanitarian aid and Civil Protection department (ECHO).⁹

Eventually, Art. 1.375 of the Law No. 208 of 28 December 2015 (Stability Law 2016)¹⁰ increased the funds for Italian cooperation to be destined to the Italian Agency for Development Cooperation: the envisaged increase was of € 120 mil for 2016, € 240 mil for 2017 and € 360 mil for 2018.

2.2 Distribution of government funding

According to the latest ISTAT census on the industrial and service sectors and of the non-for-profit institutions (2011)¹¹, the NGOs' that benefit the most from government funding are those operating in the healthcare and social assistance sector. Considering the 2011 NGOs balance sheet and the two main types of government funding (free-of-charge aid and contributions; contracts and agreements with public institutions), the NGOs providing healthcare services depend on such resources for 68.3 % of their income; the NGOs active in the social assistance sector for 56.5 %. Considering the historical trend of the annual Stability Laws¹², in 2016 the sectors of activity of NGOs that received more government resources were: the social policies fund (€ 312,590, similar to the amount received in 2011, € 273,880); the fund for non-self-sufficient persons (€ 400,000 in 2016, compared to € 100,000 received in 2011); the natality fund (€ 607,000 in 2016); the fund to contrast poverty (€ 600,000 in 2016); resources for immigration and reception policies (€ 400,000 in 2016). Specific resources to finance the abovementioned reform of the Italian third sector have been introduced in 2015.

Funding for NGOs dealing with gender based violence services have to be considered separately. According to the Italian Court of Auditors,¹³ the Italian legislator has allocated every year the same amount of funding to the implementation of the Law No. 119 of 15 October 2013, on "Urgent

⁹ Source: www.open-cooperazione.it/web/Dati-Risorse-Economiche.aspx?anno=2015.

¹⁰ Legge 28 dicembre 2015, n. 208, Disposizioni per la formazione del bilancio annuale e pluriennale dello Stato (legge di stabilità 2016), available at: www.gazzettaufficiale.it/eli/id/2015/12/30/15G00222/sq.

¹¹ ISTAT (2011), *9° Censimento industria e servizi e Censimento istituzioni non profit*, available at: http://censimentoindustriaeservizi.istat.it/istatcens/wp-content/uploads/2014/04/Report-16-aprile_maggio_corretto.pdf.

¹² This historical trend is available at: www.infocontinuatorzosectore.it/wp-content/uploads/2015/10/stabilita.pdf.

¹³ The 2016 Court of Auditors' report on the allocation of the resources destined to the contrast to gender-based violence is available at: www.corteconti.it/export/sites/portalecdc/documenti/controllo/sez_centrale_controllo_am_m_stato/2016/deliberazione_9_2016_g.pdf.

measures on public security and to contrast gender-based violence” and of the Extraordinary Plan against sexual and gender-based violence. The total amount allotted between 2013 and 2015 was € 57 million. In 2016 the allocation to contrast gender based violence amounted to € 20 million. Nonetheless, as the responsibilities in the field are distributed among different public actors at different governance levels, and given the complexity of the bureaucratic machinery a considerable share of these funding has not been destined to specific activities, as yet. According to NGOs managing shelters and other reception facilities or assistance centres, the resources allocated since 2012 have not been actually distributed. They claim that the resources allocated for the period 2012-2013 have been transferred to Regions by the Central government in 2014 but most of them have not been spent by Regional authorities. There is infact an issue about the criteria on how to spend the resources¹⁴ and many associations had to rely only on private donations or other sources of funding.¹⁵ As a result, during the year 2016 many associations active in this field had to close the services they provided to victims due to the lack resources.

As to development cooperation, the Ministry of Foreign Affairs and Italian Cooperation released the data concerning the distribution of funds in 2015.¹⁶ According to the official database, € 960,838,878 were destined to projects for refugees living in the donor country; € 365,553,600 to projects destined to infrastructures and social services; € 157,114,807 to projects concerning cross-cutting actions; € 89,415,730 to humanitarian aid; € 87,386,165 to finance productive sectors; € 78,675,283 to projects destined to economic infrastructures and other services; € 33,061,689 to finance the administrative costs of the donors; € 19,721,017 to non-specified purposes; € 6,559,458 to the support to the country’s balance sheet and imports.

2.3 Restrictions (or other changes) on NGO funding from other sources

No specific information to be reported on this issue.

¹⁴www.direcontrolaviolenza.it/ai-centri-antiviolenza-solo-le-briciole-dei-finanziamenti-stanziati-e-il-resto-dei-fondi-a-chi/.

¹⁵Information on this issue is available at: www.linkiesta.it/it/article/2016/06/17/femminicidio-tante-parole-ma-lo-stato-chiude-i-centri-antiviolenza/30794/; www.repubblica.it/cronaca/2016/07/10/news/centri_antiviolenza_donne-143773143/; <http://27esimaora.corriere.it/articolo/i-centri-per-le-donne-lasciati-senza-fondi/>.

¹⁶ Source: <http://openaid.esteri.it/>. Data concerning 2016 is not available yet.

3 Access to the decision-making process for non-governmental organisations working on fundamental rights

Title of legislation/policy	Reference	Short summary (max 500 characters)
National Council for Development Cooperation	Art. 16 of Law No. 125 of 11 August 2014 on "General Discipline of International Cooperation for Development" (<i>Legge n. 125 del 11 agosto 2014, "Disciplina generale sulla cooperazione internazionale per lo sviluppo"</i>)	The Law reformed the Italian cooperation system. It introduced this policy instrument aimed at enhancing participation in decision-making process of NGOs and other private subjects engaged in socially useful activities both at national and international level. The Council was created through a Decree of the Ministry of Foreign Affairs and International Cooperation of 28 November 2014 ¹⁷ and it is composed by: several members of the different Ministries; a spokesperson of the National Association of Italian Municipalities; a spokesperson of the Conference of Italian Universities' Deans; 8 members of the most representative NGOs engaged in

¹⁷ The Decree is available at: www.cooperazioneallosviluppo.esteri.it/pdgcs/Documentazione/NormativaItaliana/DM%201002-714-BIS%20Consiglio%20nazionale%20cooperazione%20allo%20sviluppo.pdf.

		international cooperation;12 members of the most relevant civil society organisations operating both inside and outside the EU chosen according to their long-time experience and activity.
National Council of the Third Sector	Art. 5 of Law No. 106 of 6 June 2016 on "Mandate to the Italian Government for the reform of the Third Sector, of Social enterprises and of the universal civil service" (<i>Legge 6 giugno 2016, n. 106 "Delega al Governo per la riforma del Terzo settore, dell'impresa sociale e per la disciplina del servizio civile universale"</i>)	The Parliament's law, which delegates the Italian Government to reform the discipline ruling the Italian Third Sector, envisages in its art. 5 the creation of the National Council of the Third Sector. This institution - which has to be actually implemented yet - is meant to be a national permanent consulting body including all subjects engaged in this field whose activity should foster the coordination between national public authorities and Third Sector's entities and the enhancement of networks among them.
National Observatory on gender-based violence	Extraordinary Action Plan against sexual and gender-based violence, envisaged by art. 5 of Law No. 119 of 15 October 2013 on "Urgent Dispositions on security and contrast to gender-based violence"	The Extraordinary Action Plan against sexual and gender-based violence, adopted in 2015, envisaged the creation of a National Observatory in charge of supporting national public authorities in

	<p>(<i>Legge 15 Ottobre 2013, n. 119 "Conversione in legge, con modificazioni, del decreto-legge 14 agosto 2013, n. 93, recante disposizioni urgenti in materia di sicurezza e per il contrasto della violenza di genere, nonchè in tema di protezione civile e di commissariamento delle province"</i>) and adopted with the Decree of the President of the Italian Government of 7 July 2015.</p>	<p>the policy-making process to contrast gender-based violence and to monitor the implementation of the Action Plan in cooperation with regional observatories. The members of the abovementioned Observatory are chosen from public institutions and associations/NGOs which are committed to contrast gender-based violence and to provide assistance to women who are victims of violence. In recent times, the Observatory has been fully and actively included in the process of reform of the abovementioned Action Plan which is still ongoing.¹⁸ For example, the "D.I.R.E" network – which gathers almost all the territorial non-governmental services supporting women who are victims of gender-based violence – is a member of the abovementioned observatory.¹⁹</p>
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¹⁸Information available at: www.pariopportunita.gov.it/notizie/23032017-piano-straordinario-contro-la-violenza-sessuale-e-di-genere-nuovo-incontro-dellosservatorio-presieduto-dalla-sottosegretaria-boschi/.

¹⁹www.direcontrolaviolenza.it/verso-piano-nazionale-antiviolenza/.

4 Further information

A central issue under discussion among NGOs and other non-for-profit organisations concerns the criteria to be registered in the Ministry of Foreign Affairs and Cooperation's list of non-for-profit organisations. The Ministry's guidelines have been published after the approval of the Law No. 125 of 11 August 2015²⁰. According to several NGO umbrella organisations – such as Aoi (*Associazione delle organizzazioni italiane di cooperazione e solidarietà internazionale*– Association of the Italian organisations for cooperation and international solidarity), Cipsi, Link 2007 – the new criteria introduced with the abovementioned law are far too restrictive and end up recognising only big NGOs with a long tradition of activity to the detriment of smaller but still important organisations²¹. In fact, some of these criteria include at least a three-year activity in the cooperation field; the implementation of projects in third countries for a total amount of financing of at least € 150,000 and at least a project worth € 40,000; the possibility to attest that in the three previous years at least 5 % of the financial resources at the disposal of the organisation concerned was funded by private resources.

As to the other NGOs operating in Italy, the main innovation has been introduced by the abovementioned reform of the Italian Third sector (Law No. 106 of 6 June 2016): the art. 4.1 envisages the introduction of a Unique National Register of Third-sector organisations (*Registro Unico Nazionale del Terzo Settore*) which is meant to replace the different national registers existing so far and to provide a consistent framework to overcome the difficulties due to the overlapping of national and regional registers. In fact, there are at least 4 registers currently existing at national level: the national register of social promotion associations; the national register for cooperative societies; the national register of NGOs; and the national register for volunteering organisations; besides all the different regional registers. Considering this complex situation, the Unique National Register of Third-sector organisations is meant to create a common registration procedure that will be mandatory for those organisations relying on public funding. These organisations will have to demonstrate that they comply with the requirements envisaged by art. 4 of the abovementioned legislation only once. This Register will be ruled in

²⁰The Ministry's guidelines are available at: www.cooperazioneallosviluppo.esteri.it/pdgcgs/Documentazione/DocumentiNew/Linee_Guida_elenco_non_profit.pdf.

²¹Information available at: www.ilfattoquotidiano.it/2016/03/20/cooperazione-internazionale-le-ong-la-societa-civile-tenuta-fuori-dai-bandi/2560600/.

details by the Italian Government's legislative decree which still has to be approved: in fact, the abovementioned Law entered into force on 3 July 2016 and explicitly imposes a 12-month-period for the Government to approve the implementation Legislative Decree.