



Italy

Expert: Raffaella Rametta

Institutional Affiliation: University of Teramo

With contributions from staff at the Indiana University Lilly Family School of Philanthropy

QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Foundation, Trust, Society, Other(s): Social cooperative, Corporation of registered as social enterprise, Limited Liability Company, if registered as social enterprise, Company limited by guarantee if registered as social enterprise

Additionally, under the newly enacted Third Sector Code (Legislative Decree n. 117/2017), any private entity (except for corporations/companies not registered as social enterprise) that pursues public-benefit purposes in the sectors listed by the law and is bound by the non-distribution constraint rule, can register with the Third Sector national register and obtain the “Third Sector entity” status for tax purposes. Public administrations, political associations, labor unions, professional associations and employers’ associations are not eligible for the “Third Sector entity” status.

Five main social issues addressed by these organizations: Higher Education, Primary and High School Education, Arts and Culture, Health and Medical Research, Basic Needs, Religion

Average time established by law to register a philanthropic organization: More than 90 days

31-60 days: 60 days under the Third Sector Code enacted in 2017, which applies to all nonprofit entities registering with the Third Sector national register in order to obtain the “Third Sector entity” status for tax purposes. This term can be shortened up to 30 days if the creation of documents comply with standard models approved by the Ministry of Labor and Social Policy.

More than 90 days: 120 days, under the Presidential Decree (n.361/2000), associations and foundations other than the Third Sector associations/foundations obtain the legal personality through the registration in the Legal Persons register that is kept by Prefectures and Regions.

Average cost for registering a philanthropic organization: US \$20

Costs for registration with the Legal Persons register: EUR €16 (US \$20) (revenue stamp) except for certain tax-exempt entities (e.g., volunteering organizations). Costs for registration with the Third Sector register: still unknown.

Government levels primarily regulating the incorporation of philanthropic organizations:
Central

National laws and Government regulations primarily regulate the matter.

Philanthropic Environment Scores:

Year	Ease of Operating	Tax Incentives	Cross-Border Flows	Political Environment	Socio-Cultural Environment	OVERALL SCORE
2018	4.8	4.5	4.5	5.0	4.5	4.67

I. Formation/Registration, Operations, Dissolution of a Philanthropic Organization (PO)

The three questions in this section pertain to the laws and regulations governing philanthropic organizations (POs). The scoring questions for this category cover three aspects of regulations: (A) formation and registration, (B) operations, and (C) dissolution.

Question 1: To what extent can individuals form and incorporate the organizations defined?

Score: 5.0

The Italian Constitution guarantees the fundamental freedoms of peaceful assembly (art. 17), association (art. 18), religion (art. 19), expression (art. 21), establishment of trade unions (art. 39) and establishment of parties (art. 49). Additionally, the Italian law permits the formation and operation of both organizations recognized as legal persons and unrecognized organizations (which have not applied for the recognition or have not received it). To date, most of the Italian nonprofit organizations operate as unrecognized associations (Nonprofit Census by the National Statistics Institute, 2017). Moreover, under the constitutional principle of “horizontal subsidiarity” (art. 118, par. 4.), the citizens (both as individuals and as members of associations), rather than the state and local administrations, are vested with primary responsibility in carrying out activities aimed at public-benefit goals (e.g., education, research, health, culture, arts, etc.) In accord with this principle, the newly adopted Third Sector Code (Legislative Decree n. 117/2017) aimed at harmonizing and incentivizing the Italian Third Sector, recognizing the social value of Third Sector organizations as expressions of participation, solidarity and pluralism, and encouraging the sector growth and contribution to the common good (art. 2).

According to latest Nonprofit Census by the Italian National Statistics Institute (ISTAT, 20 December 2017), most of the Italian nonprofit organizations are constituted in the form of association (85.3%). This legal form is followed by social cooperatives (4.8%), foundations (1.9%), and other legal forms (8%). Currently, the formation, registration, operation and dissolution of Italian nonprofit organizations are regulated by several sources of law:

- the Civil Code provisions of 1942 on private legal persons,
- the Presidential Decree n. 361/2000 on recognition of legal personality (D.P.R. n. 361/2000),
- the new Third Sector Code (Legislative Decree n. 117/2017) regulating all nonprofit entities registered in the Third Sector national register for tax purposes, and eventually
- Several special laws that regulate peculiar philanthropic entities created by the law (e.g., foundations of banking origins, lyric foundations, cultural foundations, university foundations, etc.).

Under the D.P.R. n. 361/2000, any association, foundation and private institution pursuing a lawful and possible purpose and equipped with adequate assets can acquire legal personality through registration in the register of Private Legal Persons that is kept by the Prefectures or Regions. The registration authority must decide upon registration by 120 days; in case of denial for lack of legal conditions, the entity has the right to appeal. The legal personality allows the separation of the assets of the organization from those of the individual members and board members.

The application forms and details on the documentation are publicly available on the Prefecture and Region websites. The registration fee amounts to EUR €16 (US \$20) (revenue stamp), except for certain tax-exempt organizations.

Under the new Third Sector Code, any nonprofit private entity carrying out activities of general interest in the fields listed in the law and pursuing civic, solidarity and social utility purposes, can obtain the “Third Sector entity” status (for tax purposes) registering with the Third Sector national register administered by the Ministry of Labor and Social Policy. The Third Sector Register Office must review and decide upon registration within 60 days; this term can be shortened up to 30 days if the creation documents (i.e., articles of incorporations and bylaws) comply with standard models approved by the Ministry of Labor and Social Policy. In case of denial, the law recognizes the right to appeal before the competent administrative tribunal. In order to simplify the process, the Third Sector Code also allows Third Sector associations and foundations to acquire legal personality through single registration with the Third Sector national register; the minimum amount of capital required for the incorporation is EUR €15,000 (US \$18,400) for associations and EUR €30,000 (US \$36,800) for foundations. Upon request filed by the notary responsible for the association/foundation’s deed, the Third Sector Register Office incorporates the entity, subject only to a control over the formal regularity of the documentation.

Costs for registration with the Third Sector register is still unknown as the implementing decrees of the Third Sector reform of 2017 have not been approved yet.

Question 2: To what extent are POs free to operate without excessive government interference?

Score: 4.5

According to the Civil Code of 1942, the rules on governance and operation of private legal persons must be stated in their bylaws; a few provisions regulate general meetings, members’ rights and directors’ liability. The governmental authority is vested with broad controlling powers over the administration of recognized organizations (particularly foundations). Such provisions, that were approved as far back as 1942, are obsolete (and indeed not used in practice), as they are based upon a cultural and political approach that recognizes neither full autonomy nor the strength of the principle of subsidiarity (see below). Finally, within the Civil Code, unrecognized associations and committees enjoy larger organizational freedom, as the entity is governed by agreements among members.

Aimed at ensuring the fulfillment of public-benefit goals by tax-exempt entities, the new Third Sector Code of 2017 regulates in detail the governance of Third Sector associations and foundations. It covers matters such as mandatory governance structures and legal auditing of accounts (with different requirements depending on net assets, income and the number of employees); competences of assembly; conflicts of interests; liability of board members; and others.

Third Sector organizations must engage exclusively in nonprofit activities of general interest; specific limits are set for activities other than those of general interest, which are admitted only if they remain as secondary and instrumental activities. The distribution of funds, income or other assets of Third Sector organizations is prohibited.

Within these boundaries, nonprofit organizations are allowed to communicate and cooperate with partners from private and public sectors (both inside and outside the country), and to participate in networks such as “Assifero”, association of philanthropic entities, “ACRI”, association of foundations of banking origins, and “DAFNE”, donors and foundations network at European level.

The 2011 Nonprofit Census by the Italian National Statistics Institute gathered information about the level of innovation reached by nonprofit institutions in using different types of communication tools, either traditional communication or innovative tools. “The nonprofit institutions using at least one communication tool are 205,792, equal to 68.3 percent of NPIs. On average nonprofit institutions use two communication tools, while 72.8 percent of them uses at least an interactive communication tool such as blog, forum, chat, social network and website ” (ISTAT, 2014, p. 14).

Finally, all Third Sector entities are subject to reporting requirements, in particular: all organizations are required to file annual financial reports with the Third Sector Register Office. Besides, Third Sector entities with annual income exceeding EUR €1,000,000 (US \$1,200,000) are required to file a social statement in accordance with uniform guidelines issued by the Ministry of Labor and Social Policies. Third Sector entities with annual income exceeding EUR €100,000 (US \$120,000) are required to publish on their websites any form of emolument, compensation or payment granted to board members, directors and members (art.14.2).

The Ministry of Labor and Social Policies has the ultimate responsibility to monitor, oversee, and control Third Sector entities; moreover, the Tax Administration Authority is vested with autonomous controlling powers for tax exemption purposes.

Question 3: To what extent is there government discretion in shutting down POs?

Score: 5.0

Under the Civil Code of 1942, the dissolution and liquidation of private legal persons occur only for causes set forth in the founding acts and bylaws, or in the case of voluntary termination decided by a three-fourths majority vote of members (associations). Dissolution can also occur if the organization has achieved its scope or it has become impossible to achieve its purpose (Civil Code, art. 27), or upon the death of all members (associations). As of 2000, the governmental authority has no longer ex-officio powers to declare the termination of a legal person.

After dissolution has been officially declared, the liquidation procedure is implemented under the supervision of the tribunal. Only in the absence of specific provisions contained in the foundation acts, bylaws or members resolution, the governmental authority will transfer the remaining assets to other nonprofit organizations pursuing similar purposes.

Under the new Third Sector Code of 2017, the involuntary termination of a Third Sector entity by the Third Sector Register Office can occur in case of failure to comply with the reporting requirements; if a requested correction of the violation has not occurred (minimum duration of the correction period is 180 days); or in case of failure to comply with the legal requirements for registration with the Third Sector national register.

The involuntary termination and dissolution is subject to judicial supervision by the competent administrative Tribunal.

If the Third Sector organization is dissolved or otherwise ceases to exist, the remaining assets are transferred to other Third Sector entities in accordance with the bylaws or board's resolution, or the Fondazione Italia Sociale (a foundation created by the law to support the activities of Third Sector entities).

II. Domestic Tax and Fiscal Issues

The two questions in this section pertain to laws and regulations governing the fiscal constraints of giving and receiving donations domestically.

Question 4: To what extent is the tax system favorable to making charitable donations?

Score: 4.5

Over the last decades, several reforms have gradually disrupted the not particularly beneficial tax treatment that Italian nonprofit organizations have received traditionally in terms of both income tax exemption and deductibility of charitable contributions.

In 2017, the newly adopted Third Sector Code provided a reorganization and harmonization of tax reliefs and regulations applicable to Third Sector entities (e.g., review of the definition of non-commercial entity for tax purposes, rationalization of tax benefits, new measures for raising venture capital and, more generally, for funding the Third Sector).

Under the Third Sector Code, thus, Italian law provides for several tax incentives for donors and receiving entities. In particular,

- Individual donors can deduct 30 percent of cash or in-kind contributions to non-commercial Third Sector organizations and social cooperatives, up to a maximum of EUR €30,000 (US \$36,000) for each tax period from their gross income tax. The percentage is raised to 35 percent for cash contributions to volunteering organizations (art. 83.1). Alternatively, individual donors can deduct from their total declared income cash and in-kind contributions to non-commercial Third Sector entities and social cooperatives, for an amount not exceeding 10 percent of the total declared income (art. 83.2);
- Corporate donors can deduct from their total declared income cash and in-kind contributions to non-commercial Third Sector entities and social cooperatives, for an amount not exceeding 10 percent of the total declared income (the excess can be deducted up to the fourth subsequent tax period) (art. 83.2); and
- Individuals and corporations also have access to tax credits (65 percent for individuals and non-commercial entities, up to a ceiling of 15 percent of declared income; 50 percent for corporations, up to a ceiling of 5 per thousand of annual income) when making cash donations to support projects of Third Sector entities aimed at the renovation of unused public buildings

and any assets confiscated from organized crime that will be devoted to non-commercial activities (art. 82-1 and 2).

Other tax benefits for charitable donations to specific nonprofit entities are provided under special laws.

Question 5: To what extent is the tax system favorable to POs in receiving charitable donations?

Score: 4.5

Changes in the law have also created a more beneficial environment for philanthropic organizations in relation to tax exemptions. In 2017, the newly adopted Third Sector Code implemented several tax incentives for donors and receiving entities. In particular, under the Third sector code, the Third sector organizations enjoy the following tax benefits (art. 79 and 82):

- Exemption from corporate income tax, limited to Third Sector organizations (other than social enterprises) assuming non-commercial status (i.e. with non-commercial activities prevailing over the commercial ones). In this case, profits from commercial activities are taxed with an optional flat rate system. Resources derived from fundraising as well as public funds are not considered taxable income;
- exemption from gift and inheritance taxes, mortgages and cadastral taxes on free-of-charge transfers of assets destined to general interest activities (extended to social cooperatives);
- fixed rate registration, mortgages and cadastral taxes on transfers for consideration of real properties destined to general interests activities (extended to social enterprises);
- real estate tax exemption for properties of non-commercial Third Sector organizations that are exclusively devoted to non-commercial activities in certain fields (e.g., social assistance, health, scientific research, culture recreation and sport, religion);
- exemption or reduction (based on regional regulations) from regional taxes on productive activities;
- other exemptions (e.g., stamp duty tax, entertainment tax, taxes on government concessions); and
- Especially favorable tax provisions for volunteering organizations and social promotion associations (e.g., VAT exemptions).

Other tax benefits for specific types of receiving entities are provided for under special laws.

Please note:

1. The tax benefits provided for under the new Third Sector Code are still being reviewed by the EU Commission to assess their compatibility with the EU State Aid Regime

2. Information on the process of receiving tax exemption is not available since the implementing decrees have not been adopted yet.

III. Cross-Border Philanthropic Flows

The two questions in this section concern laws and regulations governing the fiscal constraints of giving and receiving cross-border donations. The scoring for these questions pertains to the donor and receiving entities.

Question 6: To what extent is the legal regulatory environment favorable to sending cross-border donations?

Score: 4.5

EU Treaties provide for the free movement of capital between Member States and freedom of establishment; therefore, it is a breach of those provisions for a Member State to refuse tax deductions on gifts to charitable organizations within other Member States simply on the basis that they are not established in the Member State in question.

On this legal basis, three key rulings by the European Court of Justice called for a favorable and non-discriminatory tax treatment for donors and philanthropic organizations throughout the EU Member States: the “Stauffer”, the “Persche” and the “Missionswerk” cases. These judgments altered the ground rules for the tax deductibility of charitable donations throughout the European Union, by establishing that Member States must award equal tax concessions to charities based in other Member States where the foreign charities can be shown to be “comparable” to domestic organizations holding charitable tax status. More specifically:

1. In Centro di Musicologia Walter Stauffer v Finanzamt München für Körperschaften (EU ECJ C-386/04), an Italian foundation claimed tax relief in Germany on rental income arising from property which it owned in Germany. It was held that the German tax authority was in breach for refusing to grant the tax exemption that would have been available to a domestic charity because the claimant charity was based abroad;
2. In Hein Persche v Finanzamt Lüdenscheid (EU ECJ C-318/07), a German donor claimed relief on a gift to a Portuguese charity and, as in Stauffer, the German tax authority refused to grant the tax relief that would have been available had the charity been German, because it was based abroad. As in Stauffer, the Grand Chamber of the CJEU declared this to be in breach of EU law; and
3. In Missionswerk Werner Heukelbach eV v Etat Belge (EU ECJ C-25/10), a German foundation claimed relief on the excess succession duties that it had been required to pay on a legacy from a Belgian national, over and above what it would have paid had the foundation been based in Belgium. The CJEU confirmed that EU legislation precluded a Member State from creating legislation that reserves reliefs for nonprofit making bodies operating in that Member State.

A number of large European foundations have established a partnership to make tax-exempt cross-border cash donations within Europe possible (Transnational Giving Europe-TGE). The TGE network enables donors, both corporations and individuals, residing in one of the participating countries, to financially support nonprofit organizations in other member countries, while benefiting directly from the tax advantages provided for in the legislation of their country of residence. A 5 percent fee is taken on the donated amount for gifts up to EUR €100,000 (US \$120,000), for higher gifts 1 percent of the amount in excess of the EUR €100,000 (US \$120,000) is charged; the maximum fee is EUR €15,000 (US \$18,000). This contribution helps the TGE mission “enabling philanthropy across Europe” through activities such as finding new partners in all the Member States of the EU, providing free practical information concerning cross-border philanthropy in Europe or attending small amount donations.

The TGE network also enables organizations to extend fundraising to foreign countries, without having to set up branches or sister organizations for that sole purpose and without having to master different national laws. Two concrete examples of beneficiaries using TGE are museums having donors abroad and high schools or universities relying on donations from individuals and companies and having a significant number of alumni in other countries. TGE is currently operational for donations from and to Italy.

With specific respect to Italian environment, representatives from the foundation sector confirm the situation not being any easier for donors giving across borders within the EU, observing that *“if you are an individual or corporate donor giving/ donating/legating to a public-benefit organization based in another EU Member State you find it also hard to claim the tax incentives in income tax you are entitled to. What do you have to do? Where do you find information if you get a tax incentive? Can you clarify the situation before making the donation/legacy? No one should end up having made a donation and only then finding out that your tax authority does not consider the recipient organization not comparable. Or you may find out that the tax authority applies a high rate of gift and inheritance tax on your cross-border donation or legacy.”*

Question 7: To what extent is the legal regulatory environment favorable to receiving cross-border donations?

Score: 4.5

Following the “Stauffer”, the “Persche” and the “Missionswerk” case judgments, the Italian tax law no longer makes a distinction based on whether the recipient public-benefit organization is resident in Italy or in another country. In particular, according to the regulation of the Italian Tax authority (Circolare n. 24 of 2006), a foreign-based public-benefit organization is eligible to get in Italy the tax-exempt status provided that it complies with all legal requirements that a resident nonprofit organization has to fulfill (e.g., exclusively pursuing public-benefit purposes, no distribution of profits, reporting requirements, assets devolution, etc.).

However, despite formal compliance with EU law, practical barriers and legal uncertainties continue to exist. Indeed, according to a recent report by TGE and European Foundation Center (Boosting cross-border philanthropy in Europe: towards a tax-effective environment, 2017), while cross-border philanthropy in Europe is growing, *“the fiscal environment for cross-border philanthropy, even within the European Union, is still far from satisfactory. Although the EU’s non-discrimination principle*

(which applies to all areas of activity from the economy to civil rights, clearly also must apply to philanthropy), some legislators and authorities still discriminate against comparable foreign EU-based philanthropic players. And processes to gain equal treatment - where they are indeed available – are burdensome, lengthy and costly. Furthermore, demonstrating comparability and seeking tax incentives can be so complex that it hinders or even deters cross border-philanthropy. The bottom line is that in only a few European countries are cross-border giving and philanthropic investment today as effective as they should be according to European law”.

IV. Political and Governance Environment

The three indicator questions in the next two sections concern the political and governance context, socio-cultural characteristics, and economic conditions that influence the environment for philanthropy.

Question 8: To what extent is the political and governance environment favorable for philanthropy?

Score: 5.0

In 2001, the “horizontal subsidiarity” principle was introduced in the Italian Constitution (art.118, paragraph 4), reshaping the relationships between private and public actors and recognizing the primary competence of citizens (single or associated), rather than the state, in carrying out of activities of general interest. The core idea is that the state should have a subsidiary function, performing only those tasks that cannot be performed effectively at a more immediate or local level by private entities.

Since then, there have been gradual reforms of the legal framework aimed at implementing a governance model that recognizes the social value of nonprofit organizations and subsequently grants them several tax benefits and provides supporting measures.

Based on this fundamental principle, in 2003, two key judgments by the Constitutional Court concerning foundations of banking origin (n. 300 and n. 301 of 2003), declared the use of administrative acts designed to reduce the autonomy of the foundations by the Supervision Authority unconstitutional (e.g. general measures or regulations intended to change the list of sectors where the foundations can pursue their socially-oriented goals).

Finally, in accordance with this constitutional perspective the Third Sector Code entered into effect in 2017 recognizing the social value of Third Sector organizations (e.g., associations, philanthropic foundations, volunteer organizations, social enterprises, mutual societies etc.), as entities that promote solidarity and pluralism in a context of autonomy and cooperation with governmental authorities for programming and implementing public welfare policies.

In order to assure the fulfillment of public-benefit goals by autonomous organizations that are granted tax breaks, the Third Sector Code requires transparency and reporting of activities, as well as social impact assessment for Third Sector organizations (Third Sector Code, art. 13 and 14.) Social impact assessment is defined as “qualitative and quantitative evaluation of the effects of activities promoted

on the local community over the short, medium and long term, with respect to the target groups identified”.

Question 9: To what extent are public policies and practices favorable for philanthropy?

Score: 5.0

In accordance with the political approach described above (see question 8), the recent reform of Third Sector organizations promotes the Third Sector culture, and particularly the culture of volunteering among young people (e.g., establishing that universities may recognize academic credits for volunteering activities carried out at Third Sector organizations).

Moreover, under the new Third Sector Code, all levels of governments (State, regions and provinces) are required to provide Third Sector entities with free access to their facilities (e.g., buildings) for temporary events or initiatives organized by Third Sector organizations. Unused public buildings can be assigned (by loan contracts of up to 30 years term) to Third Sector organizations for non-commercial purposes. Eventually, public cultural buildings can be given in concession to Third Sector entities at a lower rate in accordance with renovation and development projects implemented by Third Sector entities.

Donors are free to support any philanthropic cause. Indeed, the new Code provides an open list of general interest activities that are granted tax benefits, including, beyond social services, health, education and research, arts and heritage, several other sectors such as social housing, social agriculture, fair trade, micro-loans, humanitarian reception of migrants, development of disused public buildings and property confiscated from organized crime organizations, etc.

A monitoring system is administered by the Ministry of Labor and Social Policies through the regional Offices of the Third Sector Register. The national/territorial control organizations are entrusted with specific monitoring functions over local service centers for volunteering. Autonomous oversight powers are granted to the Tax Administration Authority. Moreover, the National Council for the Third Sector (a representative body of Third Sector organizations established by the Third Sector Code) is assigned an advisory function for policymaking and is also involved in the monitoring and control functions of the Ministry of Labor together with network organizations of the Third Sector.

V. Socio-Cultural Environment

Question 10: To what extent are socio-cultural values and practices favorable for philanthropy?

Score: 4.5

One of the most significant features of Italy’s social and civic landscape today is certainly the phenomenon referred to as the “rediscovery of philanthropy” (M. Demarie and A. Monteverdi, 2007). In fact, philanthropy has a longstanding history in Italy; as observed by leading representatives of the foundation sector, “much of what has happened can be described as the unveiling and the recasting in different institutional forms of a deep philanthropic structure of Italian society”.

Yet, in the last century, some cultural and structural obstacles (i.e., the ideology of an all-encompassing role for the State) overshadowed the concept of philanthropy and brought it into almost complete disuse. The historical roots of these obstacles go back to the nation and state-building processes, which took place between the 1860s and the 1890s (based on a conflict between the secular political institutions and the Catholic Church), causing the destruction of large portions of Italian civil society which were religiously inspired.

As of the early 1990s, the rediscovery of philanthropy has been occurring in the context of a Third Sector which itself has been reaching remarkable size and social impact. Giving has emerged as a socially praiseworthy activity and step-by-step the idea of philanthropy is gaining a renewed and widespread legitimacy.

Overall, Italy is experimenting with new and updated ways of promoting philanthropy, following trends developed in countries like the US and UK which possess a longer and more established tradition in the management of philanthropy. Individuals, corporations and foundations are understating that giving responsibly requires competence and knowledge. As a result, although a donors' community is not yet in place, certainly the culture of giving has been gaining momentum over last decades.

VI. Future of Philanthropy

These questions are used to provide a general picture of the future of philanthropy in this country as well as recommendations to improve the philanthropic environment.

Current state of the philanthropic sector

Over the last decades, the size and the role of the Italian nonprofit sector have undergone dramatic transformations along with major changes in the legal framework (including both civil law and tax law) and the crisis of the welfare state.

Based on the International Classification of Nonprofit Organizations - ICNPO system, the latest Nonprofit Census published by the Italian National Institute for Statistics (ISTAT, December 2017), shows that on 31 December 2015 the Italian nonprofit sector had 336,275 nonprofit organizations (with a growth of 11.6 percent since the last census of 2011), relying on the working contribution of more than 5.5 million volunteers (with an increase of 16.2 percent since 2011), and 788,000 paid workers (with an increase of 15.8 percent since 2011, demonstrating that the sector is increasingly an important source of employment to the country). Even though other legal forms have become more common (especially foundations and social cooperatives), associations are still the main legal form adopted by nonprofit institutions (amounting to 286,942).

According to the Nonprofit Census (ISTAT, December 2017) the primary sector of activity is culture, sports and recreation (64.9 percent of total nonprofit institutions active in Italy). Followed by Social services (9.2%), business and professional associations, unions (6.1%), religion (4.3%), education and research (4.0%), health (3.4%), and other sectors (8.0%). With respect to the type of beneficiaries of provided services, 63.3 percent of Italian nonprofit institutions surveyed qualify as public-benefit organizations (more active in the sectors of international cooperation, religion, social assistance and civil protection, economic development and social cohesion, philanthropy and

promotion of volunteering, health), with 36.7 percent classified as mutual organizations (more active in the sectors of business and professional associations and unions, culture, sport and recreation). However, much more than the sheer number of organizations involved, it is noteworthy that the sector is experiencing growth in professionalism as well as in the scope of the issues targeted for action (e.g., social welfare and cohesion, education, culture and heritage, and research), all of them crucial for national and local development. Moreover, while traditionally dependent on government funding, the nonprofit sector is beginning to deploy more sophisticated techniques of fundraising, making efforts to engage the public at large as well as corporations and foundations or other nonprofit grant making institutions. At the same time, as already pointed out (see Tax law section), Italian legal and fiscal framework has slowly become more favorable to donations, including the introduction of a supportive tax treatment of charitable donations provided by the new Third Sector Code.

Finally, foundations of banking origins are certainly the most innovative and fastest growing element that brought Italian philanthropy into the European and international scene. These 88 foundations are philanthropic entities, private in nature, which engage solely in socially oriented and economic development undertakings. Originally, they were created in the early 1990s from the privatization of formerly public banks, which in turn were the final result of private philanthropic initiatives coming into being at the beginning of the nineteenth century during the critical phase of the passage from an agricultural to an industrial society (with some of them established between 1400 and 1500: so-called “Monti di Pietà”). According to the report published by the Association of Italian savings banks and foundations with banking origin (ACRI, 2017), on 31st December 2016, the book value of the net assets of the foundations of banking origin amounted to EUR €39.7 billion (US \$47.8 billion) (accounting for 86 percent of total assets which added up to EUR €46.3 billion (US \$55.7 billion). Through the quality and quantity of their philanthropic resources, these foundations are a fundamental force shaping Italian philanthropy, by developing highly professionalized grant making management tools, formulating mid-term action strategies and looking for transnational connections. Besides the universe of foundations of banking origins providing a major source of philanthropic funding in Italy, the last decades have seen the creation of other types of philanthropic foundations: the lyric-symphonic foundations and the cultural foundations that originated from the privatization of formerly publicly-owned cultural institutions; the community foundations and the so-called “fondazioni di partecipazione”. These are foundations with a participatory structure created with the aim of facilitating public-private cooperation (particularly in the fields of cultural activities and heritage management).

This seems to be the state of Italian philanthropic environment: becoming larger, more self-conscious, more professional and more open to the sharing of good practices and collaborative work. This state does not constitute a new phenomenon, as Italian philanthropic tradition began in the 15th century. As pointed out by leading representatives of the sector, current Italian philanthropy is largely tapping into the resources of a rich and articulated past, which material and immaterial legacy has made present scene much better.

Three major recent events affecting the philanthropic landscape between January 2014 and December 2017

- During the last decades, the expected adoption of a substantial reform of the Italian Third Sector failed to occur on several occasions for various political reasons, causing the legislative process to restart again. Finally, in June 2016, the Italian Parliament approved the

Reform Law n. 106/2016 delegating powers to the Government to implement (through one or more decrees) the reform of the Third Sector and social enterprise (and also the discipline of universal civil service). In accordance with the constitutional principle of “horizontal subsidiarity”, one of the key features of the reform is the establishment of collaborative relationships between government and the Third Sector in providing social services (with a new role of Third Sector organizations in the design of public policies in the area of welfare, not only in the implementation of those policies). This must be accompanied with the development of public and private support to the Third Sector through rationalization of tax benefits and new measures for raising venture capital and more generally for funding the Third Sector. By August 2017, the implementing **Legislative Decree n. 117/2017** introduced the Third Sector Code, which throughout its 104 articles seeks to reduce the fragmentation of laws traditionally affecting the various entities of the Italian Third Sector and harmonize the core characteristics of the “Third Sector entities” status that allows them to receive tax incentives and other benefits;

- Another important achievement is the enactment of the **reform law of social enterprises** (Legislative Decree n. 112/2017, abolishing the Legislative Decree n. 155/2006), introducing greater flexibility for social enterprises. In fact, social enterprises, if incorporated as companies, will be entitled to distribute dividends within certain limits. This reform favors new sources of funding through investments (as opposed to the mere search for grants). Within the reforming law, such interception of private capital is incentivized by tax advantages, which will be granted to investors, together with the possibility for new social enterprises to gain capital also through equity-based crowdfunding platforms; and
- In terms of self-regulation, a major event has been the **adoption of the Charter of the Foundations of Banking Origins** (a code of ethics) launched in 2012, followed by the Memorandum of Understanding of the Association of Foundations of Banking Origin (ACRI) and the Ministry of Economy and Finance (the authority supervising the foundations of banking origins) in 2015. Such Memorandum commits the foundations associated with ACRI to change their statutes in accordance with the principles outlined within the Memorandum, agreeing to reinforce the diversification of investments, enhance transparency in disbursements, and introduce more rigorous governance guidelines. On the other side, the Supervisory Authority accepted to enforce the newly implemented statutory provisions in the carrying out of its monitoring tasks over the sector.

Future development trends in the philanthropic landscape

Several changes are affecting the Italian nonprofit sector in recent times. Please find listed below the most significant trends:

1. Above all, there is a trend towards an entrepreneurial approach that promotes growth, innovation and employment. In fact, one of the most important innovations implemented by the recent Third Sector reform of 2017, concerns social enterprises, which are defined as private enterprises that serve the general interest and whose main goal is to have a positive social impact by means of the production or trade of goods or services of public interest, and which prevalently use profits to reach social objectives and adopt transparent and responsible management models that involve employees, users and relevant stakeholders as much as

possible. According to the Legislative Decree n. 112/2017, social enterprises may have access to forms of capital-raising through website portals (crowdfunding), just like innovative startups; they will be able to distribute profits, appoint representatives of private businesses and public administrations to their boards of directors as well as one or two statutory auditors within supervisory bodies; and they will have access to tax incentives and a specific, ad hoc revolving fund.

2. Moreover, the recent legislative developments are strengthening the value of transparency on Third Sector organizations' goals, governance model and financial data as well as the measurement of social impact of the organizations' activities. To these purposes, the recent reforms enhance the self-regulatory role of network organizations of the Third Sector.
3. Finally, a key innovation implemented by the Third Sector reform is the provision of new formats of fundraising (crowdfunding), and new social finance tools (so-called "solidarity bonds").

Three key recommendations to improve the environment for philanthropy

- The enactment of a Third Sector Code certainly represents a turning point within the legislative evolution of the Italian nonprofit sector, as it finally introduced a common regulatory framework with specific features for "the complex of private entities constituted for the pursuit of nonprofit, civic, solidarity and social utility purposes and which, in pursuance of the principle of subsidiarity and in accordance with their respective statutes or constitutive acts, promote and carry out activities of general interest by means of voluntary and free forms of action, mutuality or production/exchange of goods or services" (Law n. 106 of 2016, art. 1.); and
- Yet, the Italian landscape of nonprofit organizations is a very fragmented world comprising diverse entities with very different structures: e.g., foundations, recognized and unrecognized associations, volunteer organizations, social enterprises, social cooperatives, nongovernmental organizations, mutual benefit societies, foundations created by the law (e.g., foundations of banking origins, lyric foundations, university foundations, cultural foundations etc.), etc. Thus, a more comprehensive reform is still necessary in an aim to simplify and harmonize a relevant set of special (often overlapping) laws that still remain into force outside the new Third Sector Code.