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The 2022 Global Philanthropy Environment Index Region Report: Southern Europe

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SUMMARY

The COVID-19 pandemic crisis since 2020 was listed as the main challenge for philanthropy in the region but also as an opportunity in terms of the need to respond to this crisis and to develop new ways of working, being more flexible, and collaborating with government and other actors to create synergies. New informal philanthropic initiatives are becoming more prominent in the region, and established actors need to assess how they collaborate with those informal groups.

Laws are not always keeping up with the constant evolution of philanthropy's toolbox of actions, and it is not yet clear how much of the pandemic-related new ways of working will be there for the longer term. For instance, with regard to impact investing and new tools of operations, the legal frameworks in the concerned countries appear to be slow to respond.

Philanthropy seems to have a relatively stable legal environment in Southern Europe compared to other parts of the world. Clear legal requirements exist to establish philanthropic organizations (POs), though requirements may differ for the legal type of the organization whether association, foundation, or other. Under the Italian Third Sector Code, any entity (other than companies) set up for the pursuance of a public benefit activity can register with the Single National Register of the Third Sector ("RUNTS").

Tax incentives exist for POs themselves and to encourage giving by individual and corporate donors, though they differ in scope. It appears that governments generally want to encourage philanthropy. They grant tax concessions for POs and provide tax incentives for individual and corporate donors. Greece saw an increase of tax incentives for donors in 2019.

There is, however, concern that anti-money laundering and anti-terrorism legislation has introduced more reporting requirements on the Southern European philanthropic sector and that there are cases of overly rigid implementation of the European Union (EU) Money Laundering Directive at Member State level (foundations are treated as obliged entities in the Spanish context).

Old and new barriers exist to cross-border philanthropic and foundation action. While governments have introduced tax incentives to stimulate philanthropic activity, this is still not always the case in cross-border contexts. Tax-effective cross-border philanthropy does not yet work. Despite groundbreaking decisions of the European Court of Justice, which have introduced the non-discrimination principle, laws remain complex, and, in some cases, even discriminatory (Spain is just now amending its tax laws in this regard) (Philea, 2021). Barriers also remain for cross-border action of POs. While it is easy for goods and services to move freely across Europe, it remains a challenge for POs also in Southern Europe to move their headquarters and for individual and corporate donors to give across borders (Philea, 2021).

Self-regulation, codes of conduct, and quality labels are being discussed as effective approaches towards internal and external governance alongside state supervision. In general, authorities have no discretion in the setting up process of legal entities, but discretion may exist in the interpretation of certain legal terms (Philea, 2021).

Trends Observed at the Regional Level between 2014-2017 and 2018-2020

Ease of Operating	Tax Incentives	Cross-Border Philanthropic Flows	Political Environment	Economic Environment	Socio-Cultural Environment	Overall
stable	Stable	Mixed – slight decrease	Stable	Mixed	Positive	Stable

Source: Indiana University Lilly Family School of Philanthropy, 2022 *Global Philanthropy Environment Index*

KEY FINDINGS

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

To what extent can individuals form and incorporate the organizations defined
 To what extent are POs free to operate without excessive government interference?
 To what extent is there government discretion in shutting down POs?

Philanthropy seems to have a **relatively stable environment** in Southern Europe. Clear legal requirements exist to establish POs. The Greek expert stated concern of the lack of solid regulatory framework. The Italian Third sector reform appears to have provided a new framework for the entire sector. A new law on foundations is in the pipeline in Portugal.

POs are relatively **free to operate without excessive government interference**, though in some countries, the spirit of historical political regimes may still play a role. In Portugal, the creation of foundations requires government approval but without use of discretionary power. Amendments to the Foundation Law in Portugal may permit dissolution by court decision due to an action of the Public Ministry but only in clearly defined cases: a) When the foundation's goal is systematically pursued by illegal or immoral means; or b) When its existence becomes contrary to public order. According to the Spanish Constitution, associations and foundations can only be dissolved involuntarily by a court decision (articles 22 and 34). As of the 2000 reform of the procedure for

recognition of the legal personality in Italy, the governmental authority no longer has ex-officio powers to declare the termination of a legal person. However, the involuntary termination of an Italian Third Sector entity by the Third Sector Register Office can occur in case of failure to comply with reporting requirements if a requested correction has not occurred. In the case of such a dissolution of a Third Sector entity, the organization can continue to operate under the Civil Code rules on associations or foundations, but the remaining assets must first be transferred pursuant to Third Sector rules.

The supervisory authorities in several countries are said to be interested in developing the sector and supporting it by providing services and support.

From conversations with national experts, we see that **more reporting requirements and stronger due diligence policies for POs and philanthropy** have been introduced over the past years. POs are subject to **new international, EU, and national policies developed to fight money laundering and terrorism financing as well as tax evasion** (Philea, 2021). In some cases, there is overregulation happening in the name of the security agenda. This is also illustrated by a recent study by the European Union Fundamental Rights Agency (FRA), which collected evidence that the application of rules on combating money laundering and terrorist financing reportedly continues to disproportionately affect the civil society sector.

Self-regulation, codes of conduct, and quality labels are being discussed as effective approaches towards internal and external governance alongside state supervision. In general, authorities have no discretion in the setting up process of legal entities, but discretion may exist in the interpretation of certain legal terms (Philea, 2021).

II. Domestic Tax and Fiscal Issues

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

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

Tax incentives exist to encourage giving by individual and corporate donors, though they differ in scope. Greece saw an increase of tax incentives for donors in 2019, but red tape with regard to tax authorities was mentioned as a barrier. Spain is undergoing some changes in tax law, including removing discrimination of cross-border philanthropy.

III. Cross-Border Philanthropic Flows

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

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

Although there are no substantial restrictions on cross-border donations, the laws do not provide substantial tax benefits or it is complex and costly to obtain them, which discourages most donors.

While governments have introduced tax incentives to stimulate philanthropic activity, this is still not always the case in cross-border contexts. **Tax-effective cross-border philanthropy does not yet work.** Despite groundbreaking decisions of the European Court of Justice, which have introduced the non-discrimination principle, laws remain complex, and, in some cases, even discriminatory (Spain is just now amending its tax laws in this regard) (Philea, 2021).

All countries are part of Transnational Giving Europe (TGE), which seeks to encourage the secure and tax-effective cross-border giving framework in terms of donations and fundraising at the national and international level.

IV. Political Environment

To what extent is the political environment favorable for philanthropy?

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

The relationship between governments and the Third Sector appears open, and there are not many tensions in this region—though increased reporting requirements have been mentioned. POs are also collaborating with governments (a development which has potentially increased during the pandemic). POs also receive public national and/or EU funding and act as intermediaries in occasions. More active involvement of POs in terms of “co-programming” or “co-planning” with public actors is evolving and codified, for example in the Italian case. The COVID-19 crisis highlighted the need for a stronger recognition of the nonprofit sector by the state and for an enhancement of its role as a co-protagonist and not as a substitute.

Positive impact of government programs was mentioned in Greece (with volunteers) and in Portugal (with the Partnerships for Impact initiative). Under the Italian Third Sector Code, the government determines annually, through policy acts, general objectives, priority areas of intervention, and the activities that can be financed within the limits of the resources available. In the implementation of policy acts, the Ministry identifies the beneficiaries among entities registered with the Single National Register of the Third Sector.

In recent years, there has been a greater dynamism in the sector with new ideas around participatory philanthropy, assessment of the impact of projects on beneficiaries, training of entities in the nonprofit sector, diversification of funding sources, and collaboration among public and philanthropic actors.

V. Economic Environment

To what extent is the economic context favorable for philanthropy?

The economic context is very much influenced by the pandemic scenario. Responses in combating the pandemic, namely restrictions on circulation and confinements, have influenced the economy in the region. There is great uncertainty regarding socio-economic developments, and all social problems have worsened. Philanthropy, POs, and the Third Sector will have to play a central role in addressing these challenges. However, the pandemic also limited the capacity of some POs.

National recovery and resilience plans (which are developed for all EU Member States) open up new opportunities for the engagement of POs, but not all plans foresee such engagement.

VI. Socio-Cultural Environment

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

The COVID-19 crisis has shown an increase of trust and has positively affected the perception of the sector in Southern European countries, though this could be a temporary situation.

The Third Sector and philanthropy in Southern Europe have been influenced by the role of the state, private actors, and the church, which have changed throughout history. Over the last decades, the size and the role of the nonprofit sector have undergone deep transformations along with the crisis of the welfare state.

Governments in all the surveyed countries are interested in promoting collaborations and partnerships with different organizations. There seems to be an understanding that societal challenges require different actors and a welcoming approach towards philanthropy. In Italy, there is talk of a “rediscovery of philanthropy”. Yet, although there is more willingness also in the Italian context for a collaborative relationship between the Third Sector and public authorities through forms of co-programming and co-project planning, in the management of the COVID-19 emergency, Third Sector entities continued to cover a function of simple support (although very useful) to the decision-making powers.

Institutionalized philanthropy is increasing, to a certain extent pressured by other actors and initiatives such as social impact investors or social entrepreneurship. Some initiatives to promote philanthropy among wealthy families and individuals have arisen.

Informal groups and POs play a role in democratic/citizenship movement tradition.

VII. Future of Philanthropy

Summary of the future development trends in the philanthropic landscape

The pandemic was listed as the key crisis that will have a longer-term impact on the role of the sector and the way it operates. See more below.

More organizations are interested in participating, together with the government, in defining policies and measures to address societal issues.

There is more networking and collaboration across sectors—including civil society organizations, companies (via Corporate Social Responsibility or social entrepreneurship), and governments.

More work is expected on impact assessment of programs and projects for beneficiaries, especially efforts to analyze effectiveness and efficiency.

There seems to be greater dynamism in the sector. More informal organizations and groupings have appeared, and their regulation is still a bit unclear. Emerging forms of philanthropy are clearly a trend for traditional philanthropy but also an opportunity for new forms for funding and new partnerships.

Digital transformation and new technological tools such as blockchain provide opportunities and challenges. New technologies are also redefining the models and practices of philanthropy and collaboration opportunities, favoring new forms of participatory financing, greater attention to investment policies, and an increase in the use of digital technologies and big data.

Globalization remains a challenge for the philanthropic sector.

Key recommendations to improve the environment for philanthropy in the region

Conversations with experts revealed that, among others, the following recommendations could be considered:

- 1) A better recognition by policymakers and a roadmap for philanthropy at the national and international levels are needed, especially in cases of European projects and next-generation funds, including financing and technical support for smaller initiatives.
- 2) Also needed are clear and simple legal and tax frameworks that define philanthropic activities and regulate different aspects of the operations of POs (tax regulations, funding rules, volunteering, etc.); an official registry of POs; enhancements to the fiscal framework for tax-effective cross-border philanthropy; and improvements to the process of checking comparability of foreign EU-based POs.
- 3) The philanthropic infrastructure, academia, and/or consultants could provide philanthropic and nonprofit management education and impact assessment. The measurement of the social impact of philanthropic actors can improve their public perception.

VIII. Philanthropic Response to COVID-19

What are the areas where the nonprofit sector and philanthropy play a role in responding to COVID-19 in the region?

What are the innovations and new trends in the nonprofit sector and philanthropy related to COVID-19 responses?

What have been the main impacts of COVID-19 on the philanthropic environment in the region?

What are the anticipated impacts of COVID-19 on the philanthropic environment in 2021?

The nonprofit sector and philanthropy have played a key role in responding to COVID-19 through donating money and health/sanitary material (from foundations, companies, and individuals) as well as building awareness and providing psychological support, health services, and sanitary material to people in need. POs have had a clear role in **attending to basic social needs**. The sector has also had an important role in **education**, connecting vulnerable students during the lockdown and beyond. POs aid many of the nursing homes for **elderly people**, which are very affected by the COVID-19 pandemic. Endowed foundations have had a crucial role by supporting many other POs with their new and urgent needs, being **flexible enough to fund** these new projects.

Because of the economic and **migrant crises** of the previous years, many **Greek POs** have changed their strategy and focused their activities on the mitigation of these crises in order to remain relevant and survive. Many have now **adapted to the COVID-19 crisis**. The pandemic-related lockdown and several restrictions changed day-by-day operations of philanthropic services in the entire region.

COVID-19 has impacted all sectors of society in the region with instability and uncertainty. All Third Sector organizations have had to readapt, but there is still no coherent diagnosis of their resilience (since they have also been affected by the same changes as society: teleworking, precarious working conditions, inability to work with some beneficiaries or take on programs). The pandemic has worsened socio-economic conditions, poverty, unemployment, and social exclusion. At the moment, there is still no effective response, either by governments or by civil society organizations. The crisis also triggered **more flexibility** with regard to urgent or new needs as well as **innovation** in many cases as well as **new partnerships**.

The pandemic provided an opportunity to reflect on new philanthropic practices and tools. Groups came together and worked in a more coherent and cohesive way, given the limited availability of resources. Organizations worked together to optimize resource and knowledge sharing, update project-based funding practices, and support POs in maintaining and adapting their capacity. Some foundations are focusing more on their investment strategies and how they align with their mission. Others are engaging with digital tools and supporting their organisations to make use of these tools to work effectively in a remote environment. Finally, some funders are also considering how philanthropy could better support and learn from academic research and are looking for new and innovative ideas for addressing the challenges that lie ahead.

The pandemic experience could have a significant impact on the organizational models that guide the operation of POs, calling the boards for a responsible commitment towards the implementation of skills that could favor greater resilience (i.e., enhancing technology and digitization, coordinating internally and with other organizations, collaborating with other actors in shared areas, strengthening networks, exploring the transformations underway and in the offing, prefiguring evolutions and new critical issues, designing innovations and new chances, mobilizing creative energies, and building prospects for stability and development).

The current crisis has improved the perception of POs, but it has to be observed if it is only a temporary change in the region.

References

- Philea. (2021). *Comparative Highlights of Foundations Laws: The Operating Environment for Foundations in Europe 2021*. Available at :<https://philea.issuelab.org/resource/comparative-highlights-of-foundation-laws-the-operating-environment-for-foundations-in-europe-2021.html>
- European Union Agency for Fundamental Rights (2021). *Protecting civic space in the EU*. Available at: <https://fra.europa.eu/en/publication/2021/civic-space-challenges#TabPubKeyfindingsandFRAopinions1>