

The Journal of Law, Social Justice & Global Development

Is Civil Society Self-Regulation Effective? The case of Roman Third-Sector and the “Mafia Capitale” Scandal

Domenico Carolei

Article Information

Issue 24: 2019: *Special Issue ‘Development, Democracy and Culture’*, Clammer, J. and Vickery, J. eds.

This article was published on: 20th January 2020.

Keywords: Democracy; Social Culture; Civil Society; Self-Regulation; Effectiveness; Italian CSOs; Accountability

Journal ISSN: 1467-0437 **Article DOI:** <https://doi.org/10.31273/LGD.2019.2407>

Abstract

The purpose of this article is to measure the effectiveness of an exemplary civil society self-regulation against its own objectives, and to map out reasons behind non-compliance. It focuses on a checklist of indicators (CDV) developed by Italian Civil Society Organizations (CSOs) in the aftermath of the “Mafia Capitale” scandal when threatened by strict government regulation and by critical public opinion. Methodologically, this test of effectiveness is performed employing the blueprint designed by the One World Trust. To preview the outcome of this test of effectiveness, it will be concluded that self-regulation has been effective primarily in protecting the sector’s autonomy against hypothetical legislative interferences. Even if quantitative findings indicate a medium compliance rate, qualitative findings suggest that there can be many reasons behind non-compliance which sometimes do not depend entirely on CSO’s commitment to comply with voluntary standards. In this context, a distinction between objective and subjective reasons of non-compliance is drawn.

Author

Domenico Carolei (LMG, LL.M, PhD) is currently lecturing and module coordinator in Human Rights and Public Law at the Law Division of the University of Stirling (UK): domenico.carolei@stir.ac.uk

Copyright: *Journal of Law, Social Justice & Global Development*, University of Warwick, UK
<http://www.lgdjournal.org/article/issue-24-article-07>

Introduction and Research Aims

There have been calls for a greater accountability of civil society organisations (CSOs), due to their rapid growth in terms of size, visibility and political influence, coupled with a series of high-profile scandals (Edwards, 2000). One of the ways to deal with accountability is self-regulation: voluntary norms (e.g. codes of conduct, accreditation schemes, peer-assessment etc.) defined by CSOs for CSOs at sectoral level to regulate their behavior (Gunningham & Rees, 1997). Over the past decades, there has been a proliferation of self-regulatory instruments worldwide (Warren & Lloyd, 2009). Self-Regulation is currently evolving and emerging in several contexts both at a national and international level. At the international level, the Core Humanitarian Standard on Quality and Accountability (2014) has merged the Humanitarian Accountability Partnership International with People in Aid, integrating also The Sphere Project (The Sphere Project, 2014). In December 2017, the Global Standard for CSO Accountability was launched which has the ambition of serving as a point of orientation to improve accountability of CSOs working in the global south and north (Accountable Now, 2017). In November 2018, British charities developed the first ever Charity Digital Code of Practice (Charity Digital Code of Practice, 2018) whereas, in January 2019, the National Council for Voluntary Organisations (England and Wales) released the Ethical Principles for the Charity Sector (NCVO, 2019; Carolei, 2019).

The importance of self-regulation emerges from numerous factors, the most important being its purpose of institutionalising best accountability practices and rendering them systematic among CSOs. In that respect, self-regulation is more than a simple tool of accountability, it is a process linked to civil society identity and normative views on organisational behavior (Ebrahim, 2003). But, self-regulation is also used to avoid restrictive state policies, especially when CSOs operate in hostile political environments (Bies, 2010). Similarly, self-regulation can occur when the State structure is collapsed and CSOs are operating in a 'vacuum of regulation' (Harris-Curtis, 2009). So, self-regulation, as a normative institution of (and

for) civil society, reflects the nature of CSOs as civil agency in terms of self-determination, hence democracy, in setting regulatory norms for themselves at grassroots level, and in terms of normative developments as civil society autonomy in devising forms of progressive change within the law. Consequently, that the subject of self-regulation is central to discourses of democracy and development as well as to academic discourse about the nature and role of civil society.

Despite the increasing popularity, a sizable portion of self-regulatory instruments have been criticised due to systematic monitoring and sanctioning disfunctions (Hammad & Morton, 2011). The spectre of non-compliance cast doubts not only on self-regulation as a means of accountability, but it does also increase scepticism on self-regulation effectiveness.

Researchers have developed two approaches under which the matter of effectiveness can be assessed: the economic approach (also known as 'club theory') and the institutional approach (also known as 'constructivist approach'). On the one hand, the economic approach suggests that self-regulation arises as a response to mitigate perception of opportunism within the sector and CSOs create and/or join 'voluntary clubs' to send a reputational signal of quality to the principal(s): donors, lawmaker, and other targeting stakeholders (Gugerty & Prakash, 2012). In terms of institutional architecture, two conditions typify credible self-regulatory initiatives: clear standards of behavior and stringent enforcement mechanisms (Prakash & Gugerty, 2010). Under this approach, a self-regulation is effective if a high number of CSOs comply with voluntary standards (which are, in turns, adequately enforced) and, simultaneously, a successful signalling is sent to the initiative's principal/targeting stakeholder, resulting either into an increase of public trust/funding for CSOs or into a decline of intrusive State regulation (Gugerty & Prakash, 2012).

On the other hand, the institutional approach sees CSOs as normative institutions that collaborate to define self-regulatory standards with the aim of setting principles and practices that define the "right conduct" and such a process spells out the

sector's public commitment to moral restraint and aspiration (Gunningham & Rees, 1997; Feeney, 1997). According to the institutional theory, a self-regulatory instrument is effective when it creates an institutional setting that promotes social learning and norm-compliant behaviour, encouraging CSOs to internalise behavioural norms (Crack, 2018).

So far, these approaches have been applied by scholars to analyse whether self-regulation is effective in relation to various empirical and theoretical tasks. First, there is a body of the literature that has employed the economic and the institutional approach to explore drivers and motivations behind the emergence of different self-regulation models in Europe (Bies, 2010), Asia (Sidel, 2010), Africa (Gugerty, 2008) and across the three continents (Gugerty et al, 2010). Comparative scholars have lately studied the interplay between State-based regulation and self-regulation (or co-regulation) looking at different jurisdictions (Breen et al, 2017). Drawing upon the economic approach, scholars have laid down an analytical framework to identify the ideal institutional architecture — in terms of monitoring and sanctioning — that typifies credible voluntary clubs (Prakash & Gugerty, 2010). Using the economic and the institutional approach as a theoretical outline, a recent study has investigated the perception of effectiveness of the INGO Accountability Charter exploring the motivations of NGOs in joining the Charter and to what extent participant NGOs perceive it as effective in enacting accountability (Crack, 2018). Similarly, a scholar has gathered perceptions of self-regulation effectiveness looking at USA-based instruments asking why CSOs adhere to voluntary regulation and whether the subsequent regulatory experience matches their initial expectations (Kennedy, 2018). The institutional approach was deemed more appropriate than the economic one in explaining how International Non-Governmental Organisations (NGOs) defined and institutionalised voluntary standards of accountability within the context of the Humanitarian Accountability Partnership (Deloffre, 2016). The same approach was also employed to prove that self-regulation arises as a response to environmental and institutional

pressures (Bromely & Orachard, 2016).

As to norm-compliance, researchers have put much of their intellectual efforts in understanding what factors account for the variation in the strength of monitoring and sanctioning mechanisms (Boire, Prakash & Gugerty, 2016), while, other scholars have measured to extent to which NGOs comply with regulatory standards focusing on the Global Reporting Initiative: findings point out low level of norm-compliance (Traxle, Greiling & Hebesberger, 2018). On a theoretical level, it was argued that non-compliance might result from willful/strategic shirking and from mere confusion or ignorance (Prakash & Gugerty, 2010). However, there is scant empirical research that investigates the reasons behind non-compliance. Recognising this gap, Crack has investigated the challenges faced by CSOs in complying with self-regulatory standards gathering data in the field. In that respect, Crack argues that 'there has been an overwhelming proliferation of initiatives, that observance of the standards can be excessively bureaucratic, the initiatives may not adequately accommodate the organizational diversity in the sector, and the extent to which the standards are sufficient to embed a culture of accountability to affected populations is doubtful' (2016: 41-42). However, Crack's investigation is limited to a few self-regulatory instruments of which only international NGOs can be part.

In light of this, the list of the challenges faced by CSOs in complying with self-regulation cannot be considered exhaustive, neither can it be said that the effectiveness of self-regulation has been adequately investigated especially in terms of verifying whether self-regulatory instruments meet their expected outcomes/objectives. Despite their tremendous contribution to the literature, none of above-mentioned studies has tried to examine the matter of effectiveness against self-regulation's own objectives/expected outcomes. Indeed, prominent scholars have warned that 'future efforts should begin to assess the effectiveness of self-regulatory systems in achieving their desired outcomes and improving nonprofit performance' (Gugerty et al, 2010:10).

To sum up, there is still a question within the literature that remains largely unanswered: is self-regulation effective in achieving its own objectives? When assessing the effectiveness of self-regulation, one must ask not only whether — and to what extent — CSOs comply with voluntary standards but also why they fail to do so. This article aims to provide an answer to these questions.

2: Rationale for the Case-Study and Methodological Framework

To answer to the research questions formulated above, this research has looked into the practices of Italian CSOs. Italy has been chosen as a case study for three reasons. First, the “Mafia Capitale” scandal (December 2014) has undermined the credibility of CSOs revealing a network of corrupted relationships between CSOs, criminal gangs and political parties.

Secondly, the Italian government has recently reformed the third sector through the ‘Riforma del Terzo settore, dell’impresa sociale e per la disciplina del Servizio civile universale’ (Third Sector Reform 2014-2017). Thirdly, a new wave of self-regulatory initiatives is currently emerging to restore the credibility of the third-sector, thus providing an invaluable opportunity to analyse the genesis of self-regulation. In particular, this research has looked at *La Carta dei Valori* (‘CDV’) developed by *Forum Terzo Settore Lazio* (‘FTS’). As better documented in section 3 of this article, The CDV is a checklist of indicators with a focus on digital transparency requiring CSOs to disclose a series of information on their webpages.

Methodologically, the test of effectiveness on the CDV was performed employing the blueprint of the One World Trust (London) (Obrecht, 2012). This blueprint has been employed in this research because it indicates precisely how to measure the effectiveness of civil society self-regulation in the light of its own objective(s). The alternative would have been to opt selectively for either the economic or institutional approach. In that respect, the blueprint provides a multidimensional account to assess self-regulation effectiveness accommodating both the economic and the institutional approach. Within this blueprint, self-regulation effectiveness is conceptualised as

follows: a) successful signalling (change in the perception of initiative’s targeting stakeholder); b) authenticity (CSOs comply with standards set by self-regulation); c) improved quality (changes in the CSO, its relationships, or its programmatic effectiveness, outside of the standards set by self-regulation). Based on the drivers motivating the adoption of a given self-regulatory instrument, researchers can choose which one, among the three conceptualisations of effectiveness, would fit more their investigation. Additionally, the blueprint indicates that there are two factors that influence the effectiveness of self-regulation: a) the robustness of the regulatory architecture that oversees norm-compliance; b) the operational context (in terms of political restrictiveness of civil society freedoms) in which the instrument is adopted.

The test of effectiveness on the CDV has been performed into two complementary steps. In Step I, the analysis was focused on regulatory body, drivers and regulatory structure of the CDV (Figure 1). First, the investigation has looked into the regulatory body (FTS) that developed the CDV (*Who made it?*). Despite the blueprint does not contemplate this sub-step, it is important to ascertain whether the regulatory agent has structural capacities to enact self-regulatory norms within the sector. Subsequently, this study has identified the motivational drivers which have influenced the adoption of CDV (*Why was it adopted?*). This sub-step is vitally important to determine the CDV’s expected benefits and to guide the definition of effectiveness towards one or more understandings of the concept. After that, it was critically assessed the CDV’s regulatory structure (*How does it work?*). As to the operational context, it was taken from granted that Italy has no political restrictions on civil society as it stands from the Freedom House measurement of political and civil freedoms (Freedom House, 2018). It is for this reason that self-regulation is likely to take place in any sort of model or form.⁽¹⁾

In Step II, the effectiveness of the CDV was measured focusing on expected benefits (shaped based on drives as emerging in Step I) and expected outcomes (how benefits are achieved) using appropriate and measurable indicators to

verify behavioural changes in terms of successful signalling, authenticity and improved quality (Figure 2). For this investigation, improved quality – which is a broad category supported by flexible indicators within the One World Trust blueprint – was narrowly understood as mere conformance with the CDV’s standards, overlapping with the conception of effectiveness as authenticity. The rationale behind this choice is that CDV was adopted primarily to send a positive signalling to public opinion and to the legislator. Consequently, conceptualising and measuring effectiveness as a successful signalling was of primary importance. Basically, it is the self-regulatory instrument itself, through its drivers, that guides the researcher towards the adoption of a specific understanding of effectiveness, excluding the other conceptions available. In addition to this, this study has extensively dealt with the concept of effectiveness as authenticity, exploring not only whether – and to what extent – CSOs comply with self-regulatory standards, but also why CSOs fail to do so.

2.1: Data Gathering and Analysis

Considering the numerous questions addressed both in Step I and Step II, a wide range of empirical data have been gathered and analysed. All the data was gathered during extensive fieldwork that took place in Rome between April and September 2017.

Qualitative Interviews with Network’s Representatives

In order to develop an in-depth understanding of both the genesis and the way the CDV works, and due to the lack of documentary sources on the drafting process and on the sanctioning and monitoring system of the CDV, a semi-structured interview was conducted with the former spokesman of FTS Lazio, Mr. Gianni Palumbo together with an informal recorded chat with Professor Antonietta Cosentino (University of ‘La Sapienza’ Rome), who was member of the Panel of Experts (*Comitato Scientifico*) that drafted the CDV.

Quantitative Data: The Edelman Trust Barometer, EURISPES Report and Data on Donations

In terms of successful signalling, the main aim of the CDV was to increase public trust in civil society

targeting public opinion in general, rather than a specific stakeholder.⁽ⁱⁱⁱ⁾ Public trust was measured through two indicators: a) public opinion’s perception of civil society and b) rate of donation (whether it is increased or decreased). The Edelman Trust Barometer (2016) together with the 2016 Annual Report on Italy released by The Institute for Political, Social and Economic Studies (EURISPES) has been acquired to assess public trust in civil society. As to the rate of donation, the latter was measured relying on the Annual Report (2017) of the Italian Institute for Donations (*Istituto Italiano Donazione*).

Legal Analysis of Third-Sector Reform

The second aim of the CDV was to send a successful signalling to the legislator, who had been drafting the Third-Sector Reform for almost three years (2014-2017) with the “Mafia Capitale” scandal occurring in the middle of the drafting process in December 2015. An assessment of the final text of the Third-Sector Reform was necessary to evaluate whether CDV has been effective in sending a positive signalling to the Italian Government in declining a strict State regulation for CSOs. In order to evaluate the strictness of national regulation of CSOs, scholars have designed an index that takes into account the three factors: 1) barriers to entry; 2) the ability to engage in advocacy and political activity; 3) the scope of economic activity (Bloodgood et. al., 2014). Other scholars have also considered an additional factor to the ones mentioned above, that is, the level of State supervision over CSOs (Sidel & Moore, 2006). The higher the bar is within these key four factors, the stricter the regulatory environment is for CSOs. Based on this, a strict government regulation consists, either jointly or separately, in an intrusive legislative inference with the right to freely form and run a CSO, in policy measures imposing conditionalities on CSOs to engage in legitimate advocacy and/or economic activities, tax policies aimed at deterring donors from supporting CSOs, and limiting the supervision functions over CSOs only to governmental bodies. To understand whether the Italian Third-Sector Reform represents a strict legislation for CSOs, focus has been brought on new norms that deal with registration, transparency and reporting duties as well as on

those rules that define the subjects called to exercise monitoring functions both at a sectoral and at an organisational level. To do so, a legal analysis between abolished and new norms was performed focusing on nature, content and aim of these core rules.

Compliance Rate: CSO Websites Quantitative Analysis

As to authenticity and improved quality, the effectiveness of a self-regulatory instrument depends on its compliance rate, which is determined by the extent to which CSOs comply with set standards. The CDV asks CSOs to publish a series of information online. 25 websites out of 27 CSOs belonging to the FTS Lazio were scrutinised using the relevant checklist of indicators to calculate the overall compliance rate. Two CSOs were excluded from the investigation as the first one recently joined the network, whereas, the second one did not have a webpage. If the item was disclosed online, the relevant box on the checklist was ticked with a “Y”. Otherwise, the box was marked with an “N”. On the one hand, the compliance rate for each CSO is given by the sum of the items that appears online [those marked with a “Y”] which is then divided by total number of items that should appear online [24] multiplied by 100. On the other hand, the compliance rate for each indicator is given by the sum of the same items disclosed online [“Y”] on various websites divided by the total number of CSOs [25] multiplied by 100. Webpages were scrutinised in April 2017 and then again in September/October 2017. No substantive change was reported during the first and the second scrutiny. Names of CSOs were withheld, and they have been assigned a random number from 1 to 25.

Non-compliance and Sanctioning System: Qualitative Questionnaires and gathering Data in CSOs Network

The analysis on authenticity would incomplete without knowing the reasons faced by CSOs in disclosing information online and without knowing if (and how many) CSOs have been subjected to sanctions for non-compliance. Due to the lack of documentary sources on the sanctioning system of the CDV, Mr. Palumbo (former spokesmen of FTS Lazio) was asked a few interview questions on the matter. In order to

map out the reasons behind the non-compliance, a series of qualitative questionnaires have been distributed among delegates during three network meetings organised between April and June 2017. The questionnaire was anonymised and was composed of two simple questions aimed at providing rich qualitative information on ‘which indicators were the most difficult to comply with’, and ‘why’ this would be the case. In total, eight questionnaires were filled by delegates who attended the three meetings. In that respect, it is important to note that the attendance rate was very low. The number of delegates for each meeting was between three and seven, each of them representing one organisation, despite the network being composed by 27 CSOs in total. The reason behind such a low participation was due to the fact that FTS Lazio was in a transitional phase: a new spokesman was recently appointed at beginning of April 2017 and new board members were appointed at the beginning July 2017.

According to my informants within FTS Lazio, the network was profoundly divided on the nomination of board members (including the spokesman) and such division resulted in an internal fragmentation. Consequently, a special sampling strategy was adopted to ensure that all sides of the network were represented: two representatives of CSOs, who were not attending meetings, were deliberately sought and interviewed individually (Morse, 1991). This was done in order to ensure that the analysis would not be distorted towards one perspective: that of the more active and sympathetic CSOs who were attending all meetings and filled in questionnaires. The total sample comprises of eight questionnaires (cited with the letters A to H) and two interviews (cited with the letters I-J) representing 37% of FTS Lazio membership. As to data analysis, evidence emerging both from questionnaires and interviews was organised and grouped based on the two question categories: a) ‘what’ indicators were the most difficult to comply with and b) ‘why’ this would be the case. During this analytical stage, emerging evidence was read, considering notes and other materials gathered during FTS meetings when the questionnaires were filled. Themes and sub-themes were subsequently developed in light of the findings

emerging from the CSO websites quantitative content analysis (considering both the compliance rate per organization and per requirement) and from the interviews conducted with Mr. Palumbo and Prof. Cosentino.

2.2.: Article Structure and Preview of the Findings

Because the test of effectiveness is performed into two successive steps, this paper is structured accordingly. Section 3 focuses on drivers, regulatory body and structure of the CDV (Step I). In section 4, the test of effectiveness (Step II) on the CDV takes place, measuring the expected benefits (shaped based on the drives as emerging in Step I) and expected outcomes (how benefits are achieved) to verify behavioural changes in terms of successful signalling, authenticity and improved quality.

To preview the outcome of this test of effectiveness in terms of successful signalling, it will be concluded that the CDV has been effective in protecting the sector's autonomy against hypothetical legislative interferences. At the same time, it could not be determined whether the CDV has been effective in increasing public trust, as public trust depends on many factors that are independent from the development of a self-regulatory instrument. As to authenticity and improved quality, it will be submitted that even if quantitative findings indicate a medium/low compliance rate, qualitative findings suggest that there can be many reasons behind non-compliance that sometimes do not depend entirely on a CSO's commitment to comply with voluntary standards. In this context, a distinction between objective and subjective reasons of non-compliance is drawn. Finally, the conclusive section outlines the paper's contribution to academic and societal discourse on self-regulation, an agenda for future research and research limitations.

3: Step I: Regulatory Body, Drivers and Structure of the CDV

3.1.: *Who made it?*

FTS Lazio is a regional network of CSOs belonging to the biggest Italian umbrella organisation (*Il Forum Nazionale del Terzo Settore*) which

represents 81 national CSOs operating across the Italian territory (*Forum Terzo Settore, Chi Siamo*). Founded in 1997, FTS is the oldest civil society network established in Italy. FTS Lazio is a pluralist network which brings together different kinds of CSOs in terms of size, nature, mission and actives. This diversity often results into polar types of CSOs (e.g. ecclesiastical and secular associations; national and international CSOs). In 1998, FTS obtained the observer status in several State institutions and it has been consulted by the Italian legislator to draft and negotiate third-sector policies. In light its characteristics, FTS Lazio can certainly be considered a network with structural capacities to define self-regulatory norms.

3.2.: *Why was it adopted?*

There are typically three drivers to self-regulation: low stakeholders trust, restrictive State regulation and need for capacity building and learning (Obrecht, 2012). In this specific instance, the scandal "Mafia Capitale" triggers widespread skepticism in CSOs and the need for capacity learning as confirmed by Mr. Palumbo:

"The CDV was primarily developed to safeguard the reputation of the third-sector which was damaged by the 'Mafia Capitale' scandal... the credibility of the third sector was drastically undermined even if allegations of corruption concerned few CSOs compared to the majority that operate transparently and legally. Usually it takes up to several years to build a solid reputation but few seconds can be sufficient to ruin it: one bad apple spoils the whole barrel."

Therefore, a detailed account of the facts characterising the scandal "Mafia Capitale" is indispensable. In December 2014, the Attorney General of Rome issued an arrest warrant against 44 people (Tribunale Roma, Ufficio VI GIP). According to the police, a criminal network of politicians, criminals and CSO's managers took advantage of recent influx of immigrants through its political connections within the City Council of Rome, securing lucrative public contracts to manage several migrant's centers of the Italian capital city. In an intercepted phone call released by investigators, the head of a social enterprise was quoted saying: 'Do you have any idea how

much I make on these immigrants? (...) drug trafficking is less profitable! We closed this year with turnover of 40 million but our profits all came from the gypsies, on the housing emergency and on the immigrants!’ (Noack — *The Washington Post*, 2014).

Public trust is obviously a key component for the third-sector and when it is compromised by public scandals, this leads to two consequences: tighter government regulation and low stakeholder trust, especially donor scepticism (Obrecht, 2012).

Indeed, the scandal ‘Mafia Capitale’ pushed the Italian Government to address the issue of accountability of CSOs through the Third-Sector Reform (August 2017) which was already a key point of the government’s agenda before the scandal. Before the scandal, the main aim of the Reform was to implement coherent legal policies among Italian CSOs, because the legislation was profoundly outdated and fragmented into several acts (Vaccario, & Barbetta, 2017). After the scandal, issues of accountability and supervision over the sector could no longer be ignored by the legislator and therefore were incorporated into the reforming agenda. The second driver that led to the adoption of the CDV was the Third-Sector Reform that – while was being drafted – was characterised by numerous uncertainties regarding the way in which the Government intended to address issues of accountability, transparency and supervision of the third-sector.

3.3.: *How does it work?*

Immediately after the scandal, the Spokesman of FTS Lazio appointed a Panel of Experts (*Comitato Scientifico*), composed by academics and well-established practitioners, so that they could find the most appropriate solution to address the widespread lack of trust in the sector. The Panel of Experts opted for a code of conduct, focused on digital transparency, namely the CDV. This was subsequently approved by the General Assembly of the network on the 15th of July 2015.

Considering that the main driver behind the genesis of the CDV was to send a successful signalling to public opinion, this self-regulatory instrument frames accountability primarily as a matter of transparency, demanding CSOs to disclose a series of items on their websites.

In terms of normative content, the CDV is structurally divided into two parts. Part I affirms a set of principles (such as non-discrimination, participation, transparency, fair-competition), whereas, Part II consists of a checklist which requires CSOs to disclose various items on their websites such as financial budget, meetings with stakeholders, performance reports and board directors’ CVs. The CDV states that the checklist represents a “minimum standard”, as the items are normally available to all CSOs. As to its scope, the CDV targets all 27 CSOs belonging to FTS Lazio: if a CSO is part of the network, then it is expected to comply with it.

Concerning the nature of the CDV, the latter is formally a checklist of indicators. This could wrongly imply that this self-regulatory instrument is merely a self-assessment tool and there is no monitoring system set to verify norm-compliance. Instead, an independent committee (*Commissione di Garanzia*) within FTS Lazio was empowered to verify *motu proprio* whether CSOs comply with the checklist conducting periodical assessments (at least once every two years) of their websites.

Aside from this monitoring mechanism, the CDV is equipped with a sanctioning system. In the case of non-compliance, the committee invites CSOs to redress their omission within 30 days. Otherwise, the following disciplinary measures may be taken: a) recall, b) disapproval, c) suspension, or d) expulsion. These measures are governed by the principle of progressive sanctions, according to which an organisation must be properly warned, through recall or disapproval, prior to being suspended or expelled by the network. With regard to expulsion, the committee has to submit a motivated proposal to the Board of Directors of FTS Lazio. The expulsion can be appealed to the General Assembly of FTS that decides on the basis of an inquiry formulated by Board of Directors.

As to the drawing-up process of the CDV, Prof. Cosentino explained that each group of items (Part II) corresponds to a principle stated in Part I. Essentially, the checklist of indicators operationalises the principles. She also made clear that the items contemplated in the checklist come in pairs, and consequently they are not on their own. On a practical level, this implies that the

items can be crosschecked: basically, if an item appears online (e.g. in a financial budget), then a subsequent item should appear as well (e.g. source of funding). During her interview, Prof. Cosentino clarified that a useful source of inspiration in drafting the checklist of indicators was the first-ever performance report published online by Italian business companies. As it will be shown later in this paper (section 4.4.4), there is a deliberate effort of the Panel of Experts to change the institutional culture of CSOs by bringing an accountability paradigm that did not develop fundamentally from CSOs' activities. Prof. Cosentino also stressed that the checklist of indicators was then adapted to the third-sector dimension and its requirements were made sufficiently generic in order to be applicable to all the different CSOs, in light of the diversity of the network. However, research findings (section 4.4.1) will demonstrate that a few voluntary requirements contemplated in the checklist fail to accommodate organisational diversity.

4: Step II — Testing the Effectiveness of the CDV

4.1: *Successful Signalling: Increasing Trust in Civil Society?*

According to EURISPES Report (Table 1), public trust in voluntary associations (*associazioni di volontariato*) declined to the lowest point since 2010, the year in which it had reached its peak (82%), prior to increasing again in the following year (2015). Despite the negative trend in 2014 due to the scandal, it is important to highlight that voluntary associations remained the most trusted entity compared to other actors over nine years (2007-2016). Similarly, the Edelman Barometer (Table 2) shows that the perception of trust in NGOs among the informed public fell dramatically between 2012 and 2014, losing more than ten percentage points (from 74% to 62%) and then began to rise in the following years (2015-2016) gaining those ten percentage points lost previously (from 62% to 71%). Just as the EURISPES Report, the Edelman Barometer confirms that, despite public trust in CSOs was very low in 2014, civil society was still the most trusted actor compared to public institutions, media and business sector.

According to data of the Italian Institute of Donation (Table 3), the rate of donation remained stable (23%) for four consecutive years (2011-2014) and then it dropped down in 2015 after the scandal (21%) until it reached its lowest level ever in 2017 (19%). The chart reports a constant negative trend indicating that Italian third-sector lost more than six million of donors in 12 years.

Overall, trust in civil society did increase a little after the CDV was adopted, whereas the rate of donation is dramatically dropping year on year. Consequently, if one tries to understand whether the CDV has succeeded in restoring public trust in CSOs based on the above data, the answer would not be entirely positive.

Realistically, it takes many years to build up a good sectoral reputation and only one bad move can be enough to lose it (Marschall, 2014). Public trust in civil society is influenced by many factors which are independent from the development of self-regulatory instruments such as good organisational performance or the integrity of CSOs' leaders. Similarly, there are many reasons why the Italian third sector lost six million donors in the last twelve years, the most important of which was the economic recession that affected many Italian families.

Another important factor is dictated by the limits of the current accountability agenda that relies primarily on information-based regulation. For instance, previous research has found that charity ratings did not considerably influence donations (Szper & Prakash, 2011) and that positive ratings have a slight positive effect on donations, but bad ratings have no effect at all (Sloan, 2009). Other researchers have shown that most donors do not rely on charity watchdog rating (Cnaan et al, 2011), while earlier studies have documented that even if there is a correlation between the adherence to self-regulation initiatives and increased donations, this correlation is dependent on pre-existing levels of public trust (Bekkers, 2003). Consequently, donations tended to increase when CSOs had high a degree of trust prior to the development (or adherence) to self-regulatory standards (Bekkers, 2003).

It is for these reasons that a scholar went as far as claiming that 'although transparency has an

important place in a world rapidly moving toward expectations of open data, it alone does not appear to produce significant changes in behavior in (...) donors' (Phillips, 2012: 812). A recent study has also demonstrated that a good portion of existing accountability frameworks are built upon the model of rational trust, according to which CSOs supply information and develop transparency policies to allow donors to rationally assess whether CSOs will keep their accountability commitments, which will affect their decision to donate resources (Keating & Thrandardottir, 2017). However, this model of rational trust explains partially why donors trust CSOs, and therefore social models of trust should be taken into account too (Keating & Thrandardottir, 2017). In a nutshell, social models of trust suggest that where there are common social attributes (such as shared values, or a solidarity feeling of working towards common goals) between donors and CSOs, donors will trust CSOs with far less information than might be otherwise expected (Keating & Thrandardottir, 2017). This in turn explains why CSOs have been consistently seen as highly trustworthy despite a historical lack of full transparency that the current accountability agenda is meant to deliver (Keating & Thrandardottir, 2017). In light of the above reasons, it would be reasonable to claim that the success or failure in restoring public trust cannot be solely attributed to the CDV.

4.2.: Successful Signalling: is the 2017 Third-Sector Reform a strict regulation?

In July 2014, the Council of Italian Ministers approved a bill aimed at reforming the third sector. The main purpose of the Reform was to modernise a fragmented and outdated legal framework. In June 2016, the Italian Parliament issued Law n. 106/2016 delegating to the Government legislative functions to finalise the Third-Sector Reform. In August 2017, the Third-Sector Code finally came into force.

The law-making process lasted for almost three years and it involved contributions from political parties, trade unions, universities, practitioners and CSO networks (including FTS). According to official figures released by the Government, 1,016 subjects were consulted (Ministero delle Politiche Sociali e del Lavoro). Since the beginning of the

drafting process, FTS considered the Reform as a positive step towards the modernisation of the sector (Pavolini, 2014). The Reform contributed to the harmonisation of the Italian third-sector through three key passages. Firstly, it provides a code – one single body of law – that, through its 114 Articles, abolishes the previous overlapping legislations located into different legislative acts. In doing so, the code identifies common characteristics among CSOs and it provides an exhaustive list of activities of public interest (e.g. health care, human rights, social assistance, scientific research, international cooperation and development) locating the entities carrying out such activities between the market and the State. Secondly, the new legislation aggregates various legal definitions of CSOs (e.g. foundations, voluntary associations, social enterprises, philanthropic entities, civic association etc.) under a common umbrella definition: third-sector organisation. Thirdly, it introduces a National Registry of Third Sector, abolishing the regional registries, that is managed by the Ministry of Welfare and Labour. Only those entities complying with the requirements set by the code can be listed into the National Registry and will be consequently entitled to receive tax exemption.

In order to fully understand whether the code represents a strict legislation for CSOs, new transparency and reporting duties were focused upon as well as on subjects called to exercise monitoring functions both at a sectoral and organisational level. As already pointed out in Section 2, a legal analysis between abolished and new norms was conducted focusing on nature, content and aim of core rules. This is succinctly summarised in Figure 3.

As to financial and transparency duties, the Reform extended the duty to the drawn-up annual financial budget to all CSOs with an income above 220,000 Euros (Article 13, 1), establishing a system of financial reporting to the National Registry (Article 13, 7). Instead, those CSOs carrying out predominately business activities to achieve charitable purposes have to report their financial performance to the Chamber of Commerce (Registry of Business Entities). Prior to the Reform, the obligation to the drawn-up financial budget was fulfilled only by some organisations (e.g.

International-NGOs) depending on their legal status and regardless of their income. It should be noted, however, that CSOs still do not have an obligation to publish their financial budget online under the new legislation. Despite this, all CSOs with an income above 100,000 Euros are required to publish the annual salary of board members, managers and employees on their websites (Article 14, 2). Prior to the Reform, there was no such duty.

With regard to performance reporting, CSOs with an income above a one million Euros are obligated to publish an annual performance report called 'Social Budget' (*Bilancio Sociale*), under Article 14, 1. The latter is a descriptive document, originally developed in the area of corporate social responsibility, through which both profit and non-profit entities highlight results achieved (in light of their primary aims and mission) as well as the benefits they produced for each stakeholder, paying particular attention to social and environmental challenges. The publication of this report usually relies on the voluntary commitment of an entity. Under the abolished legislation, there was no reference to Social Budget.

As to the monitoring bodies, the Reform conferred on three agencies supervisory functions, each of which is required to oversee the fulfilment of legal requirements on different levels: a) an inspection/monitoring body (*Organo di Controllo*); b) the Ministry of Welfare and Labour Policies; and c) national networks of CSOs.

At an organisational level, the new law requires CSOs to form an internal inspection/monitoring body (*Organo di Controllo*) that oversees compliance with organisational, legal and financial norms and, simultaneously, assesses whether the organisation is managed efficiently in light of its mission and charitable aims (Article 30, 6). This body can also conduct internal inspections (Article 30, 8). The establishment of this new body is mandatory for those CSOs who have more than five employees and with income above 220,000 Euros for two consecutive tax years. Under the abolished law, CSOs were asked to set up a monitoring body within their own structures only if their income was above 1,032,913.80 Euros for two consecutive tax years. The same duty was

also in place for bank and lyric foundations regardless of their income.

At a sectoral level, the Ministry of Welfare and Labour Policies is now empowered to monitor CSOs registered within the National Registry (Article 92). Initially, the Italian legislator was planning to establish an *ad hoc* independent authority — like the Charity Commission in England and Wales — to exercise supervisory functions over the sector, but such a proposal was subsequently abandoned due to the lack of public funding (Brusini, 2013). The establishment of this authority was deemed too expensive.

Practitioners and representative entities of the sector (including FTS) were considering the establishment of an independent authority as a positive legislative proposal. Basically, the argument in favour of such proposal was that an independent authority would have been more institutionally appropriate and better equipped than a governmental body in exercising supervisory functions over the sector. In the end, attributing supervisory powers to the Ministry of Welfare and Labour Policies did not cause any negative reaction from CSOs, because this political agency was exercising supervisory functions on CSOs before the Reform came into force.

Under Article 93, the Ministry of Welfare and Labour Policies should encourage national networks of CSOs to promote means of self-regulation through which these entities can exercise supervisory functions over their associate organisations. Under Article 96, national networks should possess technical and professional capacities/criteria in order to exercise supervisory functions over their associate organisations. A Ministerial Decree will be issued by the Ministry of Welfare and Labour Policies to determine technical and professional criteria to be met by national networks to exercise supervisory functions. Within the same Decree, the Government will also clarify the application process through which national networks of CSOs can apply to be authorised to exercise supervisory functions. To date, no such decree has yet been issued by the relevant Ministry to clarify these regulatory aspects.

Through the above norm, the legislator has formally recognised and welcomed self-regulation as a complementary means of accountability to supervise CSOs, emphasising the role national networks can play in that respect. Essentially, the Reform has introduced new legal requirements that apply to the clear majority of CSOs and expanded the range of subjects called to exercise supervisory functions, including networks of CSOs. The new legislation has also made existing legal requirements stricter. In fact, CSOs are now subjected to stricter transparency and financial requirements compared to business enterprises, self-employers or political parties. For example, a business entity is required to publish its Social Budget only if it has an income of 20,000,000 Euros (under EU Directive 2014/95) whereas the head of a law firm, who earns more than 100,000 Euros, is not asked to publish his/her annual salary online. However, the Reform cannot be considered as a strict regulation. As already noted section 2 of this article, aggressive State regulation consists, either jointly or separately, in an intrusive legislative interference with the right to freely form and run a CSO, in policy measures imposing conditionalities on CSOs to engage in legitimate advocacy and/or economic activities, tax policies aimed at deterring donors from supporting CSOs, and limiting the supervision functions over CSOs only to governmental bodies. Obviously, this has not been the case of the Italian Reform. The new requirements are certainly strict, but their purpose is to make the whole sector more transparent and responsible. The Italian third sector has grown exponentially in the last two decades in terms of the number of CSOs formed, and it also expanded significantly the range of social services provided. By performing well and by expanding the range of social services provided, the Italian third sector became more exposed to clientelism, corruption and criminal infiltration. The scandal “Mafia Capitale” clearly proved this point. Consequently, the introduction of stricter legal requirements was deemed necessary to avoid similar phenomena in the future.

Overall, the extent to which the CDV has successfully prevented the implementation of undesirable State regulation cannot be adequately

assessed, as the new law cannot be labelled as aggressive legislation neither was there an attempt to implement strict policies while the Reform was being drafted. However, given the numerous uncertainties that characterised the drafting process – especially in terms of how strict the new legal requirements would have been in the final text – the CDV was used strategically as a mechanism of preventive self-defence against hypothetical legislative interferences to the sector’s autonomy, which were not unlikely to be implemented because of the scandal. Essentially, CSOs sent a clear message to the legislator through the definition of self-regulatory norms: the sector is capable of self-supervising itself through non-binding norms aimed at making CSOs more accountable and transparent. Therefore, any attempt of over-regulation aimed at subjecting CSOs to the mere supervision of an external political agency would have been seen by CSOs themselves as an intrusive interference into the sector’s independence. In that respect, the CSOs viewed the introduction of self-regulation within the new legislative framework optimistically and, as soon as the relevant amendment was incorporated in the Reform, FTS released an official statement declaring:

‘We consider the introduction of forms of self-regulation for the third-sector very positively. This was a request we made from the beginning of the legislative consultation and we believe that [self-regulation] is the most suitable instrument for our world. We really like the idea of accountability and transparency that passes through self-regulation for the large networks of associations’ (Tutto Non-Profit, 2015).

Considering that the new legislation accommodates the idea of self-regulation, and because of the key role that both networks and organisations can now play in that respect, the CDV has succeeded in affirming the importance of self-regulation as a tool of accountability in monitoring the sector. This implies that State-based regulation and self-regulation could complement one other when it comes to sector supervision and, more importantly, that self-regulation can be used strategically to send a successful signalling to the legislator while third-sector policies are negotiated and drafted.

4.3.: *Authenticity & Improved Quality: CDV Compliance Rate, Monitoring and Sanctions*

In terms of authenticity and improved quality, the effectiveness of a self-regulatory instrument depends on its compliance rate, which is determined by the extent to which CSOs comply with industry standards. As shown in Table 4, the overall compliance rate stands at 45%. The CSO with the highest individual compliance rate managed to comply with 75% of the items of the CDV, while, the worst performer complies with only 10% of them. Despite cross-national comparisons hardly being able to be performed due to the lack of systematic research on the matter, a study conducted in 2012 about Spanish NGOs that, based on research that used similar requirements to assess their websites, obtained an overall digital transparency level of 30% (Rodriguez et al, 2012). Similarly, a more recent study on British-based NGOs working on international development, dated 2015, revealed that only 41% of them disclose online governance and financial information (BOND, 2015).

As to compliance with individual requirement, Table 5 shows that the lowest scoring requirements are environmental permits and other actions taken to protect the environment (4%). These are followed by CVs of board members and the type of employment contract stipulated with workers (both stand at 8%). Meetings with stakeholders represent the highest-scoring requirement (82%), followed by the disclosure of consultative meetings with public administrations (78%) and publication of Partnership I and II (68%). Given the lack of documentary sources about the number of sanctions issued by the committee in the case of non-compliance, Mr Palumbo was asked to provide such data when interviewed. So far, the committee has not issued any sanctions, and it has never exercised its supervisory functions even if, under the CDV, it is required to do so at least once every two years. Obviously, these dysfunctions in terms of monitoring and sanctioning can cast doubts on the credibility of the CDV as a genuine voluntary club. When questioned about this matter, Mr Palumbo has clarified that issuing sanctions in the case of non-compliance could contradict — as it is almost

antithetical — the whole of concept of network that is, by definition, deeply grounded on the concept of cooperation among members. When it comes to voluntary clubs, scholars have in fact highlighted that the threat of sanctions is normally a good sign of a club's credibility (Prakash & Gugerty, 2010). However, at the same time, voluntary clubs sponsored by CSOs themselves — like FTS Lazio — may not want to acquire a reputation of being severe and adversarial through imposing sanctions to their members (Prakash & Gugerty, 2010). In a similar vein, there can even be a fear that, by issuing a sanction for non-compliance, the reputation of the club as a whole could be weakened, despite the sanction being directed towards a few 'bad apples' (Prakash & Gugerty, 2010). In terms of cohesion and network unity, clubs sponsored by CSOs themselves may have a greater impact if they retain CSOs with imperfect compliance within the club because they can still exercise leverage over CSOs keeping their members together (Prakash & Gugerty, 2010). If the monitor brings any enforcement action for non-compliance, it risks paradoxically diminishing the reputational value of the club to external observers or even to compromise the unity of the club and therefore it was suggested that monitoring could perhaps pledge secret enforcement (Galle, 2018).

4.4.: *Obstacles, Barriers and Challenges to Norm-Compliance*

The analysis will be partial and incomplete without knowing the reasons behind non-compliance as well as practical obstacles faced by CSOs in disclosing information online. As will be shown below, the findings point out that there are many reasons that refrain CSOs from complying with the CDV which do not entirely depend on organisational commitment to adhere to voluntary standards. Basically, non-compliance can be of two sets of reasons: objective and subjective. Non-compliance is due to objective reasons (or obstacles) when it is related to the normative quality of self-regulation, regardless of the organisational commitment to comply with voluntary norms. In this case, non-compliance is dictated by the content of the norms themselves, which fail to apply to some CSOs. On the contrary, non-compliance is due to subjective reasons when

it is exclusively related to an organisational failure to comply with voluntary standards, even if there is a reasonable but intrinsically subjective motive behind it (such as a lack of organisational resources or an ideological hostility towards the idea of self-regulation).

4.4.1.: *Objective Non-Compliance: One Size-fits-all Approach, Lowest Scoring Requirements and Lack of Item*

The CDV applies indiscriminately to all CSOs belonging to FTS, a network that brings together organisations very different from each other in terms of size, area of activity and type. For this reason, the drafters of the CDV decided to accommodate organisational diversity through the definition of '*generic and flexible indicators*' (Prof. Cosentino) that should be applicable to every organisation. Despite this, a couple of self-regulatory norms fail to apply to some organisations or, in most extreme cases, to the vast majority of them. These self-regulatory norms have been drafted following a one-size-fits-all approach, assuming erroneously that they can apply to all CSOs regardless of their nature.

The reference is *in primis* to the lowest scoring requirements (4%) that, as shown in Table 5, are a) environmental permits and b) other actions taken by CSOs to protect the environment. Normally, a non-profit entity must hold environmental permits from a local authority only if it produces goods or carries out activities that could potentially cause pollution. Other than this exceptional case, CSOs are not required to hold any sort of environmental permit. Considering that a small portion of CSOs belonging to FTS Lazio is involved in the production of goods, it is likely that the compliance rate (4%) for this specific requirement is directly proportional to the actual number of CSOs that are required to hold environmental permits under national legislation. With a similar reasoning, it can be argued that a CSO would be in a position to report publicly 'other actions that has taken to protect the environment' only if it is an environmentalist group or alternatively if the organisation produces goods that could have an impact on the environment.

In some instances, the failure to comply with the CDV is associated with the lack of an item at organisational level that needs to be disclosed online. This is typically the case for prizes awarded to CSOs and/or to individuals working for them, in which the compliance rate is slightly higher than 50%. This trend indicates that more than half of the CSOs belonging to FTS received a formal recognition for their work done. Intuitively, it could be argued that the remaining half, or a smaller portion within it, does not comply with this requirement because it was never awarded any prize. In practice, it is likely that recently-formed CSOs or those who are badly managed fall into that category.

4.4.2.: *Subjective Non-Compliance: Lack of Resources and Prioritisation*

Nowadays, CSOs are called to report their actions towards a variety of stakeholders aside from carrying out their charitable works. When it comes to reporting, time and resources available can significantly influence to whom CSOs should report their actions, as different stakeholders require the employment of different means of accountability (Brown & Jagadananda, 2007). Evidence from the field suggests that CSOs prioritise legal and tax reporting over self-regulation and beneficiary accountability, because a failure to do so would result in legal or financial liability:

"We would like to focus more on our charitable work and organise more public meetings with our beneficiaries to plan activities, discuss campaigns or assess the quality of our services.

Unfortunately, we do not have enough time and we have to prioritise disclosure statement and legal reports... these activities take a lot of time off... If we fail to comply with such mandatory requirements, we would be held liable" (Delegate FTS Lazio, I).

This statement essentially re-confirmed (Ebrahim, 2003) that a government which provides the regulatory environment within which CSOs operate, has a significant leverage to guarantee accountability compared to a self-regulatory body or a network such as FTS. In a similar vein, the lack of financial resources forces CSOs to focus primarily on their work:

“Due to the lack of financial resources, we are currently investing more energies, time and human resources on our charitable work rather than focusing on self-regulation” (Delegate FTS Lazio, B).

Another reason for non-compliance is the prioritisation of other self-regulatory instruments over the CDV as it emerges from the following statement:

“Information appears on our organisation’s website regardless of the CDV... we did not publish the financial budget though... we paid more attention to another code of conduct, which was developed in close cooperation with the public administration, focused on performance reporting” (Delegate FTS Lazio, D).

According to this research respondent, a code of conduct developed in co-regulation with the public administration is perceived as more valuable than the CDV. The reason behind this preference rests on the idea that reporting organisational actions to the public administration is more beneficial than disclosing information online to the general public. Essentially, an organisation can prefer one self-regulatory instrument to another on the basis of regulatory structure and the body (or stakeholder) to which actions must be reported. In this specific instance, the public administration is preferred to public opinion, and performance reporting is considered more important than online transparency.

4.4.3.: *Subjective Non-Compliance: Disclosing Managers’ CVs*

Under the CDV, the first item that is supposed to appear online is the CV of people managing the organisation, such as the president, vice-president, director and members of board of directors. CV disclosure enables stakeholders to know the professional background of managers, as the credibility of an organisation is to some extent shaped by the skills and experience of individuals leading it. Table 5 indicates that the overall compliance rate for this requirement is one of the lowest (8%). Rather than publishing CVs, most CSOs provide on their webpages the name and contact details of members of board of directors together with an organisation chart.

To understand the reasons behind the lack of CVs online, focus should be brought on a debate that took place, when the CDV was being drafted, between the governing bodies of the network and CSO representatives. When Mr Palumbo was asked whether FTS Lazio experienced any tension between different organisations in drafting the CDV (and if so, what would he say the main fault lines were), he replied:

“While drafting the CDV we encountered resistance, especially from International-NGOs, in requiring CSO managers to disclose their CVs online. The reason behind such resistance, which we then overcame, was that some practitioners lead CSOs while working for public institutions or having previously served governmental bodies. From a legal perspective, an individual is allowed to work for a public administration and direct a charity simultaneously, as long as he/she does not get paid for his/her charitable work carried out.”

It appears that the failure to disclose CVs is a burning issue among CSOs (especially for international-NGOs) and that CSOs were deliberately obstructing the codification of this disclosure requirement within the CDV checklist, whereas now they are actively sabotaging compliance with it. This trend of non-compliance essentially highlights a long-standing problem within the sector: revolving doors between politics, public administration and the third-sector. In that respect, it is important to note that the phenomena of revolving doors concerned many notable NGOs operating worldwide and consequently it should not be seen as an isolated Italian trend. For example, Human Rights Watch former advocacy director Tom Malinowski, served as a special assistant to US President Bill Clinton prior to his appointment, which he then left after being nominated as Assistant Secretary of State for Democracy, Human Rights & Labour under John Kerry (Alternet, 2014). Similarly, Save the Children former chief executive Justine Forsyth and Oxfam trustee David Pitt-Watson were both former advisors to Labour’s leaders Tony Blair and Gordon Brown respectively (*The New Internationalist*, 2014). Overall, the failure to comply with this requirement is related to a structural feature that appears to be a widespread and systematic trend among CSOs.

4.4.4: Subjective Non-compliance: Lack of Participation in Drafting the CDV and Ideological Hostility towards Self-Regulation

Another challenge to norm-compliance is related to the way in which this self-regulatory instrument was developed. As noted in section 3.3, the CDV was drafted by a Panel of Experts who identified the requirements applicable to CSOs. During the drafting stage, CSO representatives were consulted sporadically, and subsequently they ratified the final version of the CDV. This way of working was seen negatively by some CSOs who complained about their lack of participation in the drafting process:

“Empowering a panel of experts to define self-regulatory norms took power away from the ruling bodies of our network. Even if there have been moments of consultation between the panel and the network during the drafting process, the experts left a technocratic imprint on self-regulatory norms. Empowering a panel of experts of such important function made practitioners think that their contribution to the CDV was pointless and, in the end, we [practitioners] did not realise how much each of us should have committed in drafting this instrument” (Delegate FTS Lazio, J).

The lack of involvement of the CSOs in drafting the CDV is viewed as a sort of “expropriation of functions”, as the body empowered to draft the CDV should have been composed by practitioners or alternatively, it should have been one of the ruling bodies of the network (e.g. network assembly). This is why self-regulatory norms are labelled as “technocratic”. The lack of involvement of practitioners in setting self-regulatory standards undermines the idea of self-regulation in addition to highlight an obstacle for norm-compliance; basically, the CDV is viewed by the research respondent as an instrument for CSOs but not as a code of conduct written by CSOs.

Finally, there was a practitioner who considered the definition of common standards of behaviours as the product of professional elite of activists, which can be hardly accepted by the most traditionalist of Italian associative culture:

“The increasing attention on defining common standards of behaviour can be seen as the triumph

of certain ‘aristocratic activists’, who want to report their actions primarily to institutions and public opinion... [such a way of thinking] neglects the mass popular association culture that developed at a grassroots level and left its mark in history” (Delegate FTS Lazio, I).

Rather than identifying practical obstacles to norm-compliance, this research respondent pointed out an ideological refusal to self-regulation that, due to its “aristocratic roots”, is incompatible with history and culture of certain CSOs. Both respondents suggest however, that there can be resistances in bringing an accountability culture in the third sector that has an obvious expert’s identity, who was deeply influenced by the business world in the drawing up process of the CDV (see section 3.3), and that did not genuinely develop from CSO’s activities.

Conclusion

This paper contributes to academic and societal debate on self-regulation in many ways. First, it represents the first systematic academic study on CSO’s self-regulation in Italy. To my knowledge, a systematic and comprehensive study on CSO self-regulation in Italy has never before been conducted. Despite the narrow geographical scope, findings would be relevant not only to Italian CSOs but also to those countries where CSOs are under pressure because of their weak accountability performance, and to those contexts where civil society self-regulation is still an emerging trend. The research findings would be equally important for those contexts in which CSOs are exposed to criminal infiltrations (e.g. Mexico). Beyond the analysis on the effectiveness of self-regulation, the magnitude of Mafia Capitale scandal shows that CSOs can be exposed to corruption despite civil society is regarded, by definition, as an antidote to corruption (UNODC, 2019). The “Mafia Capitale” scandal also revealed the cultural and social dimension of organised crime, which operated within a wide institutional and civil relational context, and the complexity of how organised crime works in practice, given that local gangs were able to interact with, penetrate and manipulate the Roman civil society to achieve illicit purposes. At the same time, the accountability narrative of the “Mafia Capitale”

scandal helps us to develop a better understanding of how accountability standards are negotiated in the aftermath of a charity scandal.

In that respect, this paper also contributes to the academic discourse studying the inter-play between State-based regulation and self-regulation from a comparative perspective (see, for example, Breen et. al., 2017) as findings indicate that the self-regulation can be employed as a tool to protect the sector's autonomy against hypothetical legislative interferences while third-sector policies are negotiated and drafted. The new Italian legislation accommodates the idea of self-regulation, emphasising the key role that CSOs networks can now play in self-monitoring the sector. On the contrary, self-regulation has been heavily criticised in the aftermath of charity scandals that took place elsewhere in the world, especially in the case of Oxfam GB in Haiti 2018, in which self-regulation was labelled as ill-suited in providing adequate oversight of what emerged as the central problem in the Oxfam case (Phillips, 2019). In its report on the sexual exploitation and abuse in the British aid sector, The House of Commons International Development Committee concluded that the sector and the legislator should move beyond self-regulation, because it failed to ensure that safeguarding standards are being upheld by CSOs (House of Commons International Development Committee, 2019).

Secondly, the paper enriches the academic debate by providing a theoretical model to explain non-compliance, drawing a distinction between objective and subjective reasons of non-compliance. Findings suggest that there are many reasons behind non-compliance which, in some instances, do not depend solely on a CSO's commitment to comply with voluntary standards (objective reasons of non-compliance). The most important policy implication arising from this theoretical distinction is that the overall compliance rate should be adequately calculated, or even discounted, when it comes to objective non-compliance. In other words, the overall compliance rate (which currently stands at 45%) would be higher if it was recalculated, exempting from the calculation those voluntary requirements that are grouped under the category of objective

non-compliance as they fail to be applicable to CSOs. This theoretical model can be further tested and applied to other self-regulatory instruments.

Lastly, this paper represents the first academic attempt to apply the One World Trust blueprint to test the effectiveness of self-regulation considering its own objectives. In doing so, it provides a methodological paradigm that can be used by other researchers to measure self-regulation effectiveness in other settings. Even if quantitative data (e.g. data on compliance and those on public trust and donations) can be generalised statistically, qualitative data on non-compliance are limited to a small sample of CSOs belonging to FTS Lazio (37% of FTS Lazio membership). This is the main research limitation that has been attenuated by purposefully selecting respondents to represent all the diverse sides of the network under investigation.

Figure 1: Step I, CDV: Regulatory Body, Drivers and Regulatory Structure

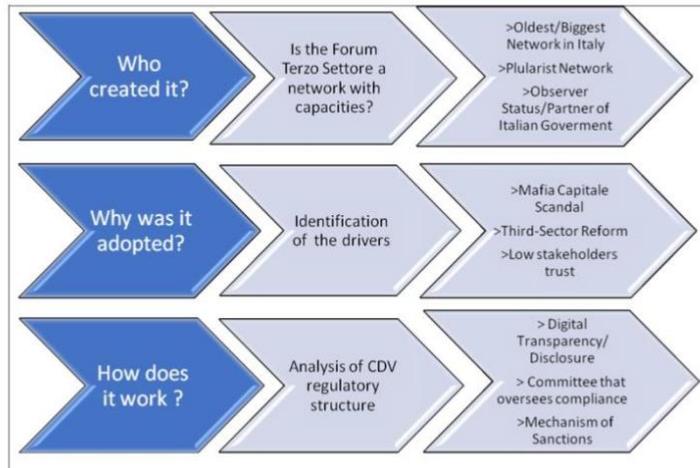


Figure 2: Step II, Testing the Effectiveness of CDV

Drivers of CDV	Conception of Effectiveness	Expected Benefits (Measures of Efficacy)	Indicator to be measured	Expected outcomes (Are benefits achieved?)	Method Analysis Data
Low Public Trust (scandal)	Successful Signalling	Improved Public Trust	Public Perception of Civil Society and Donation Rate	Increased Public Trust, Increased Donation	Edelman Trust Barometer, EURISPES Report on Italy, Data National Institute of Donation
State Regulation (Third-Sector Reform 2014-17)	Successful Signalling	Discourage Undesirable State Regulation	Content of New Regulation	Decline of Aggressive State Regulation	Legal Analysis of Reform
Improving Capacity Building & Learning	Authenticity and Improved Quality	Self-Regulatory Standards are complied with, Obstacles, Barriers and Challenges to norm-compliance	Compliance Rate, Number of Sanctions issued by the committee and Reasons behind non-compliance	High Overall Compliance Rate	Assessment of CSOs' Websites + qualitative surveys, FTS' meetings notes and recorded interviews.

Figure 3: Differences between abolished and new legislation

Legal Norm	(Before) Abolished Legislation	(Now) Third-Sector Code 2017
Duty to Drawn-up Financial Budget	Yes, Certain CSOs (depending on legal type)	Yes, all CSOs (income above 220,000 Euros)
Duty to Publish online Manager's Salary	—	Yes, all CSOs (income above 100,000 Euros)
Duty to Publish online 'Social Budget' (Performance Report)	—	Yes, all CSOs (income above 1,000,000 Euros)
Ministry of Welfare and Labour Policies exercises monitoring functions over the sector	Yes	Yes
Establishing an internal monitoring body, organisational level.	Yes, certain CSOs (income above 1,032,913.80 Euros) + Bank Foundations and Lyric Foundations	Yes, all CSOs (income above 220,000 Euros)
Self-Regulation within Networks of CSOs as a means to monitor the sector	—	Yes

Table 1: Trust in Civil Society I - Source: Eurispes Annual Report on Italy 2016.

EURISPES	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Indice Fiducia										
Presidente Repubblica	63,2	58,5	62,1	67,9	68,2	62,1	44,7	44,2	45,3	52
Parlamento	30,5	19,4	26,2	26,9	15	9,5	9	16	10,1	20
Governo	30,7	25,1	27,7	26,7	14,6	21,1	19,2	16	18,9	28,6
Magistratura	39,6	42,5	44,4	47,8	53,9	53,9	42	41,4	28,8	35,3
Pubblica amministrazione	26,9	20	22,5	25,1	19,1	17,0	17,5	21	26,9	22,6
Carabinieri		57,4	69,6	75,3	72,6	75,8	77,3	69,9	73,4	69,9
Polizia		50,7	63,3	67,2	66,8	71,7	75	61,8	63	73
Guardia di Finanza		46,3	62,7	66,9	64,1	63,3	71	58,8	66,8	66,8
Partiti	12,6	14,1	12,8	12,1	7,1	6,8	7,3	6,5	15,1	11,9
sindacati	26,7	19,5	21,5	22	21,3	17,2	19,5	19,2	33,9	21,4
Chiesa	60,7	49,7	38,8	47,3	40,2	47,3	36,6	49	62,8	52,5
volontariato	78,5	71,6	71,3	82,1	79,9	77,4	75,4	74,5	78,8	73,8

Table 2: Trust in Civil Society II – Source: Edelman Trust Barometer 2016.

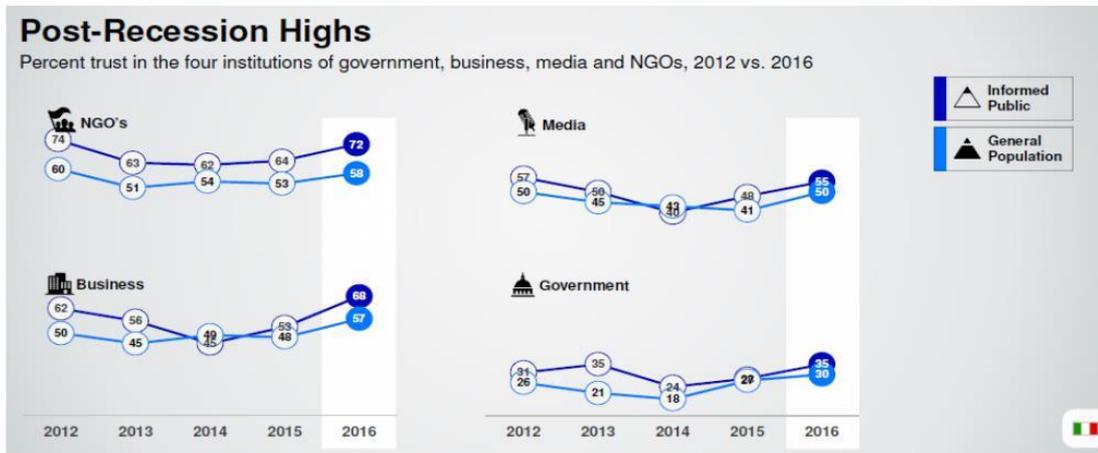


Table 3: Rate of Donation – Source: Italian Institute for Donation 2017.

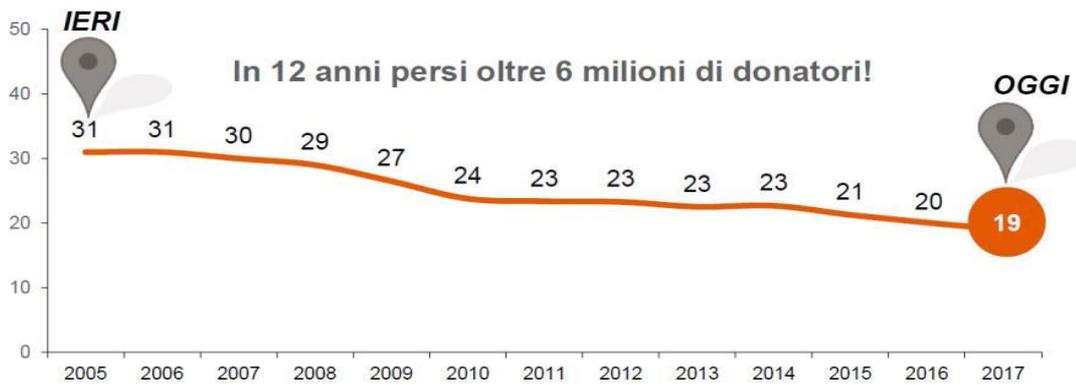


Table 4: Compliance Rate by Organisation

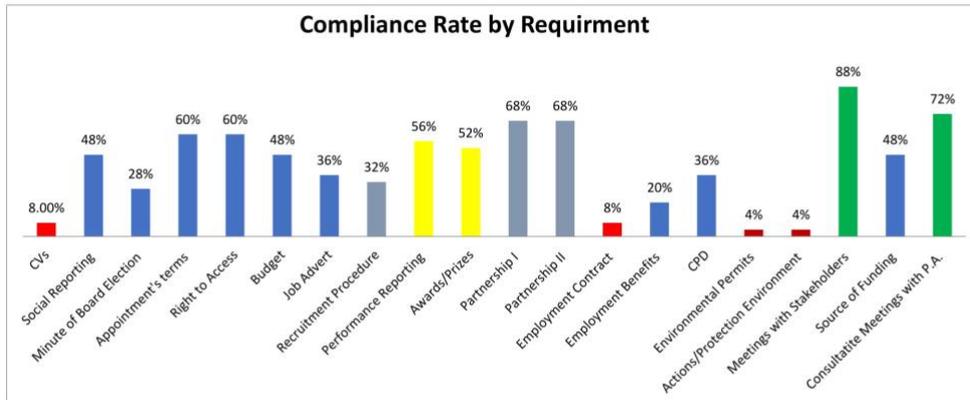


Overall Compliance Rate: 45%

Top Performer: CS0 25 [75%] Worst Performer: CS0 17 [10%]

Number of Sanctions issued by the Committee: 0 [period 2015-2017]

Table 5: Compliance Rate by Requirement



Highest Scoring Requirements

- Meeting with Stakeholders [82%]
- Consultative Meetings with P.A. [72%]
- Partnership I [68%]
- Partnership II [68%]

Lowest Scoring Requirements

- Environmental Permits [4%]
- Actions taken to protect the Environment [4%]
- CVs [8%]
- Type of Employment Contract [8%]

Endnotes

(i): Based on an extensive review of existing instruments developed worldwide, the One World Trust blueprint (Obrecht, 2012; 20-21) indicates that, in a hostile political environment, it is likely that CSOs adopt initiatives with no formal system of enforcement and reporting, as the presence of the latter might require too many resources in contexts where CSOs already struggle to operate. In supportive operational contexts, characterised by no policy restriction on CSOs, self-regulation can instead take place in all different models.

(ii): “Public Trust” is a controversial concept and there is room for contestation over its exact definition, and yet it is a key concept contemplated in the accountability agenda of many watchdogs. On this particular aspect, see Keating and Thrandardottir (2017) where the authors make a lengthy list of examples. For instance, the Charity Navigator (2016) emphasises that “charities that are accountable and transparent are more likely to act with integrity and learn from their mistakes because they want donors to know that they’re trustworthy.” Similarly, State regulatory institutions, such as the Charity Commission of England and Wales (2016) are tasked with inspiring “public trust and confidence in charities’ and ‘[enhancing] the accountability of charities to donors, beneficiaries and the general public.” The Edelman Trust Barometer – which is actually employed in this research to measure public trust in civil society – emphasises how “trust is critical as a driver of [organisational] reputation.” All of these statements stress ‘why’ trust is relevant for private and institutional actors and ‘why’ people should care about it. However, none of them define the concept of trust itself. In the social sciences, a well-packed scholarly definition of trust is the one provided by Sapsford et al (2015; 2017): “Trust is a feeling of confidence in those around you and/or in things unseen – in the abstract ‘other people’ who are not named or visualised but whose assumed reliability underlies transactions outside the sphere of immediate family and friends. It is also a cognitive state, the perception of socioeconomic and sociopolitical systems and relations as regularities on which one may depend.” This definition was employed by researchers to measure trust in post-Soviet countries as well as in the Middle East (together with corruption and social cohesion).

References

- Accountable Now, Global Standard for CSO Accountability – An initiative of nine well-established CSO accountability networks from across the world. Available at <<https://accountablenow.org/future-accountability/global-standard/>> Accessed 12 October 2018.
- Alternet (2014) ‘Nobel Peace Laureates to Human Rights Watch: Close Your Revolving Door to U.S. Government’, available at www.alternet.org/world/nobel-peace-laureates-human-rights-watch-close-your-revolving-door-us-government (accessed 2 October 2017)
- Bekkers, R. (2003) ‘Trust, accreditation, and philanthropy in the Netherlands’, *Nonprofit and Voluntary Sector Quarterly*, 32 (4): pp. 596-615.
- Bies, A. L. (2010) ‘Evolution of nonprofit self-regulation in Europe’, *Nonprofit and Voluntary Sector Quarterly*, 39(6): pp. 1057–1086.
- BOND. (2015) *Transparency Review: Cohort Report* available at: <https://www.bond.org.uk/resources/transparency-review-2015> (accessed 3 September 2018).
- Bloodgood, E.A., Tremblay-Boire, J. & Prakash, A. (2014) ‘National Styles of NGOs Regulation’, *Nonprofit and Voluntary Sector Quarterly*, 43 (4), 716-736.
- Breen, O. B., Dunn, A., & Sidel, M. (2016) *Regulatory Waves: Comparative Perspectives on State Regulation and Self-Regulation Policies in the Nonprofit Sector*, Cambridge: Cambridge University Press.
- Bromley, P., & Orchard, C. D. (2016) ‘Managed Morality: The Rise of Professional Code in the USA nonprofit Sector’, *Nonprofit and Voluntary Sector Quarterly*, 42 (2): pp. 351-374.
- Brown, L.D., & Jagadananda, S. (2007) ‘Civil Society Legitimacy and Accountability: Issues and Challenges’, Hauser Center for Nonprofit Organizations Harvard University & World Alliance for Citizen Participation and Center for Youth and Social Development.
- Brusini, C. (2, December 2013) ‘Terzo settore, sfuma l’idea dell’authority indipendente. Per governo ‘costa troppo’. Il Fatto Quotidiano’, available at www.ilfattoquotidiano.it/2015/03/13/settore-sfuma-l-idea-dellauthority-indipendente-per-governo-costa-troppo/1502372/ (accessed 3 September 2018).
- Charity Digital Code of Practice (adopted on 15/11/18), available at <https://doit.life/charity-digital-code> (accessed 18 December 18).
- Carolei, D. (2019) ‘Charity self-regulation: a commentary on the NCVO’s Code of Ethics 2018’, *Voluntary Sector Review*, 10 (1): pp. 59-67.

- Cnaan, R., Jones, K., Dickin, A. and Salomon, M. (2011). 'Nonprofit watchdogs: Do they serve the average donor?', *Nonprofit Management & Leadership*, 21 (4): pp. 381-392.
- Curtis, H. E. (2009) 'NGO Codes of Conduct: An Exploration of the Current Debate', International NGOs Training and Research Centre.
- Crack, A. M. (2016) 'Reversing the telescope: Evaluating NGO peer regulation initiatives', *Journal of International Development*, 28(1): pp. 40–56.
- Crack, A. M. (2018) 'The regulation of international NGOs: Assessing the effectiveness of the INGO accountability charter', *Voluntas*, 29 (2): pp. 419–429.
- Deloffre, Z. M., (2016) 'Global Accountability Communities: NGO self-regulation in the Humanitarian Sector', *Review of International Studies*, 42 (4): pp. 724-747.
- Ebrahim, A. (2003) 'Accountability in Practice: Mechanisms for NGOs', *World Development*, 31(5): pp. 813-829.
- Edwards, M. (2000) 'NGO rights and responsibilities: A new deal for global governance', London: The Foreign Policy Centre.
- Feeney, S. (1997) 'Shifting the prism: Case explications of institutional analysis in nonprofit organizations', *Nonprofit and Voluntary Sector Quarterly*, 26: pp. 489-490.
- Forum Terzo Settore Lazio. Carta dei Valori (15 Luglio 2015), available at www.terzosettorelazio.it/site/la-carta-dei-valori-del-forum-ts-lazio (accessed 28 September 2018).
- Forum Terzo Settore. Chi Siamo. Available at www.forumterzosettore.it/chi-siamo. Accessed 10 September 2018.
- Freedom House, Freedom in the World – Country Profile: Italy (2014-2018), available at <https://freedomhouse.org/report/freedom-world/2018/italy> (accessed 28 September 2018).
- Galle, B. (2018) 'Design and Implementation of Charitable Regulation Regime', in Harding M. (ed.) *The Research Handbook on Not-for-Profit Law*, Edward Elgar.
- Gunningham, N., & Rees J., (1997) 'Industry Self-Regulation', *Law & Policy*, (19) 4: pp. 363- 414.
- Gugerty, M. K. (2008) 'The effectiveness of NGO self-regulation: Theory and evidence from Africa', *Public Administration and Development*, 28 (2): pp. 105–118.
- Gugerty, M. K., Sidel, M., & Angela, L. Bies (2010) 'Introduction to Minisymposium: Nonprofit Self-Regulation in Comparative Perspective—Themes and Debates', *Nonprofit and Voluntary Sector Quarterly*, 1-12.
- Gugerty, M. K., & Prakash, A. (2012) *Voluntary Regulation of NGOs and Nonprofit: An Accountability Club Framework*, Cambridge: Cambridge University Press.
- Hammad, L., & Morton, B. (2011) 'Greater Influence, Greater Responsibility: are INGOs' Self-Regulatory Accountability Standards Effective?', Ottawa: The North-South Institute.
- House of Commons, International Development Committee (October 2019) 'Follow-up: sexual exploitation and abuse in the aid sector. First Report of Session 2019–2020'. <https://www.parliament.uk/business/committees/committees-a-z/commons-select/international-development-committee/inquiries/parliament-2017/sexual-exploitation-follow-up-17-19/> (accessed 28 September 2018).
- Keating, V.C., Thrandardottir, E. (2017) 'NGOs, trust, and the accountability agenda', *The British Journal of Politics and International Relations*, 19 (1): pp. 134-151.
- Kennedy, D. (2018) 'America Standards: Definition and Differentiation through nonprofit regulation', *Journal of Civil Society*, 14 (3): pp. 257-274.
- Marschall, M. (2002) 'Legitimacy and Effectiveness: Civil Society Organisations' Role in Good Governance', Paper presented at the Poverty Reduction Strategies Forum (Baden, Austria).
- Ministero delle Politiche Sociali e del Lavoro. Consultazione pubblica sulla Riforma del Terzo Settore Chi ha risposto e come ha risposto, available at www.retesicomoro.it/Resource/riforma%20terzo%20sette%20consultazione.pdf. (accessed 28 September 2018).
- Morse, J. M. (1991) 'Strategies for sampling', In M. Morse (ed.) *Qualitative Nursing Research: A Contemporary Dialogue*, London: Sage Publication.
- NCVO, Charity Ethical Principles (adopted in January 2019), available at https://www.ncvo.org.uk/images/documents/policy_and_research/ethics/Charity-Ethical-Principles.pdf. (accessed 28 September 2018).
- Noack, R. (5, December 2014) 'For Rome's mafia, more refugees means more money', *The Washington Post*, available at www.washingtonpost.com/news/worldviews/wp/2014/12/04/for-romes-mafia-more-refugees-means-more-money (accessed 28 September 2018).
- Obrecht, A. (2012) 'Effective accountability? The drivers, benefits and mechanisms of CSO self regulation', London: One World Trust.
- Pavolini, E. (2014) 'Il terzo settore in Italia tra disegni di riforma e caratteristiche del fenomeno', *Politiche Sociali / Social policies - Il Mulino*, 3: pp. 485-488.
- Phillips, S. D. (2019) 'Putting Humpty Together Again: How Reputation Regulation Fails the Charitable Sector',

- Non-Profit Policy Forum*, 10 (3): pp. 1-11.
- Phillips, S. D. (2012) 'Canadian Leapfrog: From Regulating Charitable Fundraising to Co-Regulating Good Governance', *Voluntas*, 23 (3): pp. 808-829.
- Prakash, A., & Gugerty, M. K. (2010) 'Trust but verify? Voluntary regulation programs in the nonprofit sector', *Regulation & Governance*, 4 (1): pp. 22-47.
- Rodriguez, M., Perez, M., & Godoy, M.L. (2012) 'Determining Factors in Online Transparency of NGOs: A Spanish Case Study'; *Voluntas*, 23: pp. 661-683.
- Sapsford, R., Abbott, P. A., Haerpfer, C., Wallace, C. (2015) 'Trust in Post-Soviet Countries, Ten Years On', *European Politics and Society*, 16 (4), 523-539.
- Sapsford, R., Tsourapas, G., Abbott, P.A. & Teti, A. (2017) 'Corruption, Trust, Inclusion and Cohesion in North Africa and the Middle East', *Applied Research Quality Life*, pp. 1-21.
- Sidel, M. (2010) 'The promise and limits of collective action for nonprofit self-regulation: evidence from Asia', *Nonprofit and Voluntary Sector Quarterly*, 39 (6): pp. 1039-1056.
- Sidel, M., & Moore, D. (2006) 'The Law Affecting Civil Society in Asia: Developments and Challenges for Nonprofit and Civil Society Organizations – Report prepared by the International Center for Not-for-Profit Law (ICNL)', available at [http://www.icnl.org/The%20Law%20Affecting%20Civil%20Society%20in%20Asia%20\(final\).pdf](http://www.icnl.org/The%20Law%20Affecting%20Civil%20Society%20in%20Asia%20(final).pdf). (accessed 28 September 2018).
- Sloan, M. F. (2009). The effects of nonprofit accountability ratings on donor behaviour. *Nonprofit and Voluntary Sector Quarterly*, 32 (2), 220-236.
- Szper, R., & Prakash, A. (2012) 'Charity watchdogs and the limits of information-based regulation', *Voluntas*, 22: pp. 112-141.
- The New Internationalist* (December 2014). 'NGOs: Do they really help?' N° 478.
- 'The Sphere Project, The Core Humanitarian Standard and Sphere: Where does the CHS come from?' Available at <http://www.sphereproject.org/handbook/the-chs-and-sphere-frequently-asked-questions/#Q2> (accessed 28 September 2018).
- Traxler, A. A., Greiling, D., & Hebesberger, A. (2018). 'GRI Sustainability Reporting by INGOs: A Way Forward for Improving Accountability?' *Voluntas*. doi: <https://doi.org/10.1007/s11266-018-9976-z>
- Tremblay-Boire, J., Prakash, A., & Gugerty, M. K. (2016). 'Regulation by reputation: Monitoring and sanctioning in nonprofit accountability clubs', *Public Administration Review*, doi:10.1111/puar. 12539.
- Tribunale di Roma — Ufficio VI GIP. (2014). Ordinanza di applicazione di misure cautelari – procedimento penale N. 30546/10 R.G.N.R.
- Tutto Non-Profit, Riforma Terzo Settore: Autocontrollo per Associazioni e SSD (11 March 2015) available at <http://www.tutto nonprofit.com/2015/03/riforma-del-terzo-settore-autocontrollo-per-associazioni-e-ssd.html> (accessed 28 September 2018).
- UN Office on Drugs and Crime (2019) 'Civil Society for Development: Opportunities through the United Nations Convention against Corruption (Vienna)'. https://www.unodc.org/documents/NGO/Fast-tracking/18-06316_eBook.pdf (accessed 28 September 2018).
- Vaccario, C., & Barbetta, G.P. (2017) 'Legal Aspects of Civil Society Organisations and Their Relationship with Government: Italy', in Van der Ploeg, T.J., van Veen, W.J.M & Versteegh C. (eds.) *Civil Society in Europe. Minimum Norms and Optimum Conditions of Its Regulation*, Cambridge: Cambridge University Press.
- Warren, S., & Lloyd, R. (2009) 'Civil Society Self-Regulation: The Global Picture - Briefing paper n. 119', London: One World Trust.