

Benefits and challenges of the partnership model between local authorities and not-for-profit/social economy organisations based on the Third Sector Legislation in Italy

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«In implementation of the principles of subsidiarity, cooperation, effectiveness, efficiency and cost-effectiveness, homogeneity, financial and capital coverage, responsibility and uniqueness of the administration, organizational and regulatory autonomy, the public administrations referred to in article 1, paragraph 2, of the legislative decree 30 March 2001, n. 165, in exercising their functions of planning and organizing interventions and services at a territorial level in the sectors of activity referred to in article 5, ensure the active involvement of Third Sector bodies, through forms of co-programming and co-planning and accreditation, implemented in compliance with the principles of law 7 August 1990, n. 241, as well as the rules governing specific procedures and in particular those relating to local social planning.»

Art. 55 Code of Third Sector

«2. Co-programming is aimed at identifying, by the proceeding public administration, the needs to be satisfied, the interventions necessary for this purpose, the methods for implementing them and the available resources.

3. Co-planning is aimed at the definition and possibly the implementation of specific service or intervention projects aimed at satisfying defined needs, in light of the programming tools referred to in paragraph 2

4. For the purposes referred to in paragraph 3, the identification of the Third Sector bodies with which to activate the partnership also takes place through forms of accreditation in compliance with the principles of transparency, impartiality, participation and equal treatment, subject to definition, by the public administration proceeding, the general and specific objectives of the intervention, its duration and essential characteristics as well as the criteria and methods for identifying the partner bodies»

Art. 55 Code of Third Sector

«Third-sector entities are voluntary organisations, associations for social promotion, philanthropic organisations, social enterprises, including social cooperatives, association networks, mutual aid societies, associations, whether recognised or not, foundations and other private entities other than companies set up for the pursuit of not-for-profit, civic, solidarity and socially useful purposes by carrying out, exclusively or principally, one or more activities of general interest in the form of voluntary action or the provision of money, goods or services free of charge, or mutuality or the production or exchange of goods or services, and registered in the single national register of the Third Sector.»

Art. 4 Code of Third Sector


«[.]Moreover, Union law itself - also according to the recent Directives 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, as well as according to the relevant case-law of the Court of Justice (in particular Court of Justice of the European Union, Fifth Chamber, judgment of 28 January 2016 in Case C-50/14, CASTA and Others. and Court of Justice of the European Union, Fifth Chamber, judgment of 11 December 2014, in Case C-113/13, Azienda sanitaria locale no. 5 'Spezzino' and Others, which tend to dampen the conflicting dichotomy between the values of competition and those of solidarity) - maintains, on closer inspection, the possibility for Member States to provide, in relation to activities with a marked social value, an organisational model inspired not by the principle of competition but by that of solidarity (provided that non-profit organisations contribute, under conditions of equal treatment, in an effective and transparent manner to the pursuit of social aims)..»

Ruling 131/2020 Corte Costituzionale

«implementing the principles of social solidarity and horizontal subsidiarity, the public administration may provide, in relation to activities with a marked social value, organisational models of shared administration, without synallagmatic relations, based on the sharing of the administrative function with the Third Sector entities referred to in the Code of the Third Sector referred to in Legislative Decree No. 117 of 3 July 2017, provided that the same contribute to the pursuit of social purposes on equal terms, in an effective and transparent manner and on the basis of result-oriented principles. Facts governed by Title VII of the Code of the Third Sector, referred to in Legislative Decree No. 117 of 2017, do not fall within the scope of this Code.»

Art. 6 Code of public contracts (D.lgs. N. 36/2023)

- Creation of a «council for welfare»
- Involvement of all possible kinds of social entities on the ground
- Transforming this into the place for co-programming in welfare policies



A concrete implementation?



- Definition of a system of suppliers' register, list of qualified operators, accreditation and co-projecting:
 - Preliminary consultation to finalise qualification and accreditation standards
 - Always open tenders
 - Implementation of a different system of controls
 - Definition and approval of specific regulations for trials



The system



Thank you