



# COMPARATIVE LEGAL-POLICY ANALYSIS

*BL-OHLA DAWL LIBBIST (Government Reform)*

*VS.*

*L-OMM LI TATNA ISIMHA (Doninu (Malta)  
International Proposal)*

## SECTION 1: Philosophical and Legal Foundations

This section examines the foundational legal philosophy and civic orientation underlying both legislative frameworks. It evaluates the models' underlying assumptions about the voluntary sector, their tone and regulatory posture, and how these elements align with national and international law.

### *Comparative Legal Table*

Criterion	<i>BL-OHLA DAWL LIBBIST</i>	<i>L-OMM LI TATNA ISIMHA</i>
<b>Regulatory Philosophy</b>	Centralised and control-oriented. Regulatory authority is concentrated in a single body (the CVO), which exercises executive-like enforcement powers over all voluntary actors.	Decentralised and enabling. Proposes a multi-level model that respects the diversity of voluntary initiatives and distributes oversight through transparent and independent institutions.
<b>Tone of Law</b>	Coercive and prescriptive. The language and structure of the law emphasise surveillance, reporting, and punitive compliance, even for small, non-financial groups.	Empowering and accessible. The text is written in plain, inclusive language, and promotes voluntary engagement through dialogue, transparency, and supportive mechanisms.
<b>Legal and Administrative Culture</b>	Based on institutional mistrust. Presumes that voluntary organisations must be tightly controlled to ensure legality and transparency. Introduces mechanisms to discipline rather than support.	Based on legal trust and civic legitimacy. Recognises voluntary organisations as democratic actors contributing to the common good. Emphasises fairness, proportionality, and partnership with the State.
<b>Civic Freedom Orientation</b>	Conditional. Civic activity is permitted only within the strict confines of State-defined registration and approval. Informal or non-registered groups are excluded from recognition or support.	Unconditional, within the limits of just and democratic law. Guarantees freedom of association for all individuals and groups, regardless of their legal or financial status, as a natural constitutional right.

### *Legal Risks and Violations in BL-OHLA DAWL LIBBIST*

The philosophical framework adopted by *BL-OHLA DAWL LIBBIST* is legally problematic, as it introduces **State-centric control mechanisms** that undermine core rights. The following legal instruments are **breached or threatened**:

## *Constitution of Malta*

- **Article 42 – Freedom of association**  
The Constitution guarantees the right of individuals to freely associate for lawful purposes. *BL-OHLA DAWL LIBBIST* restricts this right by making registration compulsory for all civic activity, even when no financial transactions are involved.

## *European Convention on Human Rights (ECHR)*

- **Article 11 – Freedom of assembly and association**  
The European Court of Human Rights has consistently ruled that the **State cannot make registration a condition for legal existence** (e.g., *Tebiet v. Italy*, *Bączkowski v. Poland*). The government proposal contravenes this principle by denying legal space to unregistered civic actors.

## *EU Charter of Fundamental Rights*

- **Article 12 – Freedom of assembly and association**
  - *BL-OHLA DAWL LIBBIST* imposes a blanket administrative obligation on all voluntary groups, without regard to scale or public impact, violating the Charter’s protection of organisational freedom.

## *Legal Compliance in L-OMM LI TATNA ISIMHA*

In contrast, the Doninu (Malta) International proposal is **fully compliant** with both domestic and international legal standards. It:

- **Affirms Article 42 of the Constitution** by recognising civic association as an inherent right—not a privilege granted through registration.
- **Respects Article 11 ECHR**, ensuring that informal or spontaneous initiatives can operate legally without bureaucratic constraint.
- **Implements Article 12 of the EU Charter** by explicitly recognising and protecting the legitimacy of voluntary action at all levels.

## *The document also references and aligns with:*

- **Articles 21 and 41** of the EU Charter (non-discrimination and good administration),

- **Articles 4 and 29 of the UN Convention on the Rights of Persons with Disabilities**, which require inclusive access to civic participation and representation.

## ***Conclusion of Section 1***

*BL-OHLA DAWL LIBBIST* adopts a restrictive, enforcement-heavy philosophy that undermines constitutional freedoms and violates international legal obligations relating to freedom of association.

In contrast, *L-OMM LI TATNA ISIMHA* is grounded in a rights-based legal framework that upholds civil liberties, aligns with European and UN norms, and promotes a participatory, democratic civil society in Malta.

## SECTION 2: The Role and Powers of the Commissioner for Voluntary Organisations (CVO)

This section examines the legal powers, oversight mechanisms, and accountability structures granted to the Commissioner for Voluntary Organisations (CVO) under each proposed legislative model. The comparative analysis evaluates whether the CVO's role respects fundamental legal safeguards, ensures impartiality, and complies with Malta's constitutional and international obligations.

### *Comparative Institutional Analysis*

Feature	<i>BL-OHLA DAWL LIBBIST</i>	<i>L-OMM LI TATNA ISIMHA</i>
<b>CVO Authority</b>	Grants the CVO sweeping, unilateral powers to: <ul style="list-style-type: none"><li>• deregister voluntary organisations;</li><li>• suspend or block their activities;</li><li>• initiate investigations without threshold justification;</li><li>• impose sanctions and withhold access to funding or public infrastructure.</li></ul>	Abolishes the CVO's current executive and disciplinary role.  Proposes the creation of an <b>independent National Volunteer Authority (ANV)</b> , focused on: <ul style="list-style-type: none"><li>• support and training;</li><li>• mediation and conflict resolution;</li><li>• monitoring civic freedoms and promoting sectoral development.</li></ul> Guarantees a <b>robust, multi-tier appeal process</b> , including: <ul style="list-style-type: none"><li>• right to receive written notice and reasoning for any adverse action;</li><li>• access to independent appeal bodies and courts;</li><li>• referral to the Social Sector Ombudsman;</li><li>• application of natural justice principles throughout all proceedings.</li></ul>
<b>Appeals Mechanism</b>	Provides <b>little or no clear pathway for appeal</b> against decisions made by the CVO. Administrative decisions affecting the rights of organisations may be implemented <b>without independent review</b> , undermining legal certainty and procedural fairness.	
<b>Judicial Oversight</b>	Judicial review of CVO decisions is <b>absent or extremely limited</b> . The office acts as investigator, decision-maker, and executor—raising <b>serious separation of powers concerns</b> .	Requires that <b>any coercive or disciplinary action</b> against voluntary organisations must: <ul style="list-style-type: none"><li>• be grounded in law;</li><li>• be subject to independent</li></ul>

Feature	<i>BL-OHLA DAWL LIBBIST</i>	<i>L-OMM LI TATNA ISIMHA</i>
		oversight; <ul style="list-style-type: none"> <li>• be challengeable before a competent court or tribunal;</li> <li>• respect the right to a fair and timely hearing.</li> </ul> Introduces strict standards of <b>institutional transparency and independence</b> , including: <ul style="list-style-type: none"> <li>• public call for applications for the ANV leadership;</li> <li>• fixed term limits (4+1 years);</li> <li>• mandatory conflict-of-interest disclosures;</li> <li>• oversight by an independent Monitoring and Ethics Committee.</li> </ul>
<b>Impartiality and Ethical Controls</b>	Lacks structural safeguards to guarantee impartiality. No <b>term limits</b> , <b>public scrutiny</b> , or <b>conflict of interest declarations</b> are required for the CVO or staff. Risk of unchecked administrative power and regulatory capture.	

## *Legal Breaches and Risks in BL-OHLA DAWL LIBBIST*

The current government proposal grants **quasi-judicial and enforcement powers** to a single administrative authority (the CVO), without providing necessary checks and balances. These powers **violate or risk violating the following legal standards**:

### *Constitution of Malta*

- **Article 38 – Right to a fair hearing**  
The CVO's ability to take unilateral decisions affecting legal rights without providing adequate procedural safeguards contravenes this constitutional right.

### *European Convention on Human Rights (ECHR)*

- **Article 6 – Right to an independent and impartial tribunal**  
By concentrating investigative and decision-making functions within the same office, the draft law undermines the requirement for a **neutral and external authority** to adjudicate legal disputes.

### *EU Charter of Fundamental Rights*

- **Article 41 – Right to good administration**

This article guarantees individuals and organisations the right to:

- be heard before any adverse decision is taken;
- access reasoning for any administrative decision;
- obtain effective remedies.

These principles are largely absent under the proposed CVO model.

## ***Treaty on European Union (TEU)***

- **Article 2 – Rule of Law as a founding value of the EU**

The rule of law requires that public authorities be subject to legal constraints, judicial oversight, and transparent accountability. The powers granted to the CVO under *BL-OHLA DAWL LIBBIST* are **incompatible** with these standards.

## ***Legal and Democratic Compliance in L-OMM LI TATNA ISIMHA***

Doninu (Malta) International’s proposal takes a **rights-based approach to regulation**, ensuring that any institutional authority over the voluntary sector operates:

- Within **legal limits**;
- Under **independent oversight**;
- With **guaranteed access to appeal and legal redress**;
- Subject to **regular public reporting and ethical standards**.

The proposed **National Volunteer Authority (ANV)** is expressly **non-punitive**, and its role is to **support rather than control** voluntary organisations. All regulatory and disciplinary functions are clearly separated from its mandate, in full compliance with:

- **Article 38 of the Constitution of Malta**
- **Articles 6 and 11 of the ECHR**
- **Articles 41 and 47 of the EU Charter**
- **Best practices outlined by the Council of Europe’s Venice Commission and the European Union Agency for Fundamental Rights (FRA)**

## ***Conclusion of Section 2***

The *BL-OHLA DAWL LIBBIST* reform draft seeks to empower the CVO with unchecked, unilateral, and enforcement-based authority over civil society. In doing so, it breaches multiple fundamental rights and international legal norms.

In contrast, *L-OMM LI TATNA ISIMHA* replaces this regime with a transparent, accountable, and legally constrained institutional model (ANV), designed to uphold due process, democratic legitimacy, and the autonomy of civil society actors.



## SECTION 3: Registration and Legal Recognition of Civic Actors

This section examines the fundamental question of **how the law defines and treats civic actors**, including registered voluntary organisations and informal, unregistered community groups. It evaluates the **legality, proportionality, and human rights implications** of the registration and recognition systems proposed under each legislative framework.

### *Comparative Legal Analysis*

Feature	<i>BL-OHLA DAWL LIBBIST</i>	<i>L-OMM LI TATNA ISIMHA</i>
Registration Requirement	<b>Mandatory for all entities</b> , including non-financial, informal groups such as neighbourhood associations, support circles, and awareness movements. No distinction is made based on size, activity, or risk level.	<b>Tiered registration framework.</b> Registration is <b>optional</b> for Level 0 and Level 1 groups (non-monetary or micro-activity). It becomes <b>mandatory only for organisations</b> that: <ul style="list-style-type: none"><li>• hold funds;</li><li>• offer contractual services;</li><li>• conduct formalised operations beyond a defined legal threshold.</li></ul>
Legal Recognition of Informal Groups	<b>Excluded unless registered.</b> Informal civic activity is rendered invisible under the law unless it undergoes registration. This risks criminalising grassroots initiatives and penalising vulnerable communities that operate informally by necessity.	<b>Formally recognised under Level 0.</b> The law expressly affirms the legality and legitimacy of informal civic groups, provided their activity is lawful and non-commercial. These groups are granted access to basic rights such as peaceful assembly, communication, and public presence.
Sanctions for Non-Compliance	<b>Administrative or legal penalties may apply.</b> Civic activity without registration could result in: <ul style="list-style-type: none"><li>• suspension by the CVO;</li><li>• fines or deregistration proceedings;</li><li>• denial of access to public funds or venues.</li></ul>	<b>No sanctions for informal activity.</b> Provided they do not breach public order or commercial law, unregistered groups are <b>free to operate</b> without fear of penalty, enabling the flourishing of spontaneous, inclusive civic action.
Access to Banking and Fundraising	<b>Strictly prohibited unless registered.</b> Even basic forms of fundraising (e.g., community raffles, donations in kind) or opening a bank	<b>Proportional access based on activity.</b> Groups can engage in <b>limited community fundraising</b> or hold basic assets <b>once they exceed a defined legal threshold</b> (e.g., €1,000/year). Full

Feature	<i>BL-OHLA DAWL LIBBIST</i>	<i>L-OMM LI TATNA ISIMHA</i>
	account are banned unless the group is formally registered.	banking rights apply to Levels 2–3 and Categories B–D, ensuring fair access and accountability.

## ***Legal Breaches and Human Rights Violations in BL-OHLA DAWL LIBBIST***

The mandatory, all-encompassing registration system proposed by the Government risks breaching multiple legal protections at the national, European, and international levels. Key legal concerns include:

### ***Constitution of Malta***

- **Article 42 – Freedom of Association**  
*BL-OHLA DAWL LIBBIST* effectively **conditions the exercise of this right on State registration**, thereby restricting citizens from forming or joining unregistered civic initiatives. This contradicts the Constitution’s guarantee of freedom to associate **for any lawful purpose**.

### ***European Convention on Human Rights (ECHR)***

- **Article 11 – Freedom of Assembly and Association**  
The **European Court of Human Rights has ruled** in multiple cases (notably *Tebieti v. Italy*) that **registration cannot be a precondition for the lawful existence of a group**. *BL-OHLA DAWL LIBBIST* contravenes this settled case law.
- **Article 14 – Non-Discrimination**  
The law indirectly discriminates against smaller or marginalised communities that may lack the resources to formalise. It creates a **two-tier system of legality**, excluding those unable or unwilling to register from full civic participation.

### ***EU Charter of Fundamental Rights***

- **Article 21 – Non-Discrimination**  
Excluding unregistered actors from fundraising or legal standing constitutes indirect discrimination based on socio-economic status, language, and disability—often affecting those most reliant on informal support networks.

## ***UN Convention on the Rights of Persons with Disabilities (UNCRPD)***

- **Article 29 – Participation in Public and Political Life**  
Disabled persons' groups often operate informally due to access or communication barriers. The draft reform may **exclude these actors from full participation**, in violation of UNCRPD obligations, especially where legal status is tied to registration.

## ***Legal Compliance and Inclusion in L-OMM LI TATNA ISIMHA***

The alternative framework proposed by Doninu (Malta) International is **designed to uphold legal protections and promote accessibility**. It:

- Recognises the **diversity of civil society**, from informal neighbourhood collectives to formal registered organisations.
- Complies with **Constitutional guarantees** by affirming association as a right, not a privilege.
- Aligns with **ECHR and EU law** by ensuring that registration is **voluntary** for informal groups and **mandatory only where necessary** to ensure financial accountability.
- Protects the rights of **marginalised, disabled, and under-resourced communities**, as required by the **UNCRPD and SDG 16** (inclusive societies and institutions).

The system is tiered, accessible, and **non-punitive**, ensuring that all civic actors have a space in Malta's democratic landscape.

## ***Conclusion of Section 3***

The Government's draft (*BL-OHLA DAWL LIBBIST*) introduces a rigid, coercive registration system that criminalises informal civic action, violates constitutional and international rights, and discriminates against marginalised communities.

By contrast, *L-OMM LI TATNA ISIMHA* offers a **legally sound, proportionate, and inclusive framework** that respects the autonomy of civic actors while maintaining appropriate safeguards for transparency and accountability.

## Section 4: Financial Accountability and Reporting Obligations

This section provides a comparative analysis of the financial accountability frameworks under **BL-OHLA DAWL LIBBIST** and **L-OMM LI TATNA ISIMHA**, highlighting their impacts on voluntary organisations, particularly focusing on proportionality, legal fairness, and practical support mechanisms.

Feature	BL-OHLA DAWL LIBBIST	L-OMM LI TATNA ISIMHA
Financial Thresholds	Implements a uniform, one-size-fits-all financial reporting and audit threshold irrespective of organisation size or turnover. This approach imposes disproportionate burdens on smaller organisations, creating unnecessary administrative and financial strain.	Adopts a graduated four-tier reporting model (Categories A to D) based explicitly on an organisation's turnover. This tiered structure ensures that financial obligations are proportionate to the scale of the organisation's operations, thereby reducing undue strain on smaller entities.
Audit Requirements	Mandates potential compulsory audits for all registered organisations regardless of turnover or funding source. This blanket audit requirement disregards organisational capacity and financial impact, increasing operational costs unnecessarily.	Restricts mandatory audit requirements to organisations exceeding a turnover threshold of €500,000 or those that handle public funds. This targeted approach ensures audit obligations align with financial risk and public accountability.
Legal Proportionality	Largely disregards the principle of proportionality, leading to overly rigid enforcement that fails to consider the diversity and capacity of voluntary organisations.	Embeds proportionality as a central legal principle within its framework, ensuring that financial accountability measures are fair, reasonable, and commensurate with organisational size and resources.
Support Offered	Provides no clear or structured support mechanisms, training, or resources to assist organisations in meeting reporting and audit obligations, thereby increasing administrative barriers.	The Authority for Non-Profit Voluntary Organisations (ANV) proactively offers comprehensive support, including standardized templates, training workshops, and accessible online tools to facilitate compliance and build organisational capacity.

***Legal Principles Breached by BL-OHLA DAWL LIBBIST:***

- **Proportionality:** The uniform financial thresholds and mandatory audit obligations imposed on all organisations, regardless of size, contravene the fundamental legal principle of proportionality enshrined in both EU law and the European Convention on Human Rights (ECHR). Measures must be appropriate, necessary, and balanced relative to the objective pursued.
- **Accessibility and Administrative Fairness:** The lack of differentiated thresholds and support mechanisms violates the right to good administration and fairness as guaranteed under Article 41 of the EU Charter of Fundamental Rights. It creates unequal access and burdensome procedures for smaller voluntary organisations.
- **Equality Before the Law:** The indiscriminate application of financial and audit requirements disregards the constitutional principle of equality before the law, articulated in Article 45 of the Maltese Constitution, by disproportionately disadvantaging smaller and less-resourced organisations.

### *Summary Evaluation:*

**L-OMM LI TATNA ISIMHA** exemplifies a legally sound, operationally feasible, and financially accessible framework for voluntary organisations. By adopting a proportional, tiered approach to financial reporting and audit requirements, alongside robust institutional support through ANV, it ensures:

- Fairness and equity in compliance obligations,
- Enhanced administrative efficiency for smaller organisations,
- Compliance with EU and Maltese legal principles,
- Facilitation of sector growth and sustainability.

Conversely, **BL-OHLA DAWL LIBBIST** imposes disproportionate and legally questionable obligations that risk undermining the viability and inclusiveness of the voluntary sector.

## Section 5: Rights Protection, Legal Safeguards, and Participation

This section presents a detailed comparative evaluation of the frameworks under **BL-OHLA DAWL LIBBIST** and **L-OMM LI TATNA ISIMHA** with respect to protection of organisational rights, legal safeguards, and the promotion of active participation—core pillars for empowering voluntary organisations and ensuring compliance with international and domestic human rights standards.

Feature	BL-OHLA DAWL LIBBIST	L-OMM LI TATNA ISIMHA
<b>Charter of Rights</b>	Absent. There is no formal or explicit charter guaranteeing the fundamental rights of voluntary organisations within the regulatory framework, leading to ambiguity and potential rights infringements.	Contains a clearly articulated and binding Charter of Rights applicable to all voluntary organisations, setting out explicit entitlements and protections to uphold organisational autonomy, dignity, and participation.
<b>Right to Appeal</b>	Vague and largely internalised. Appeal mechanisms are either undefined or confined within the administrative authority, lacking independence and transparency, which undermines trust and due process.	Guarantees mandatory, independent, and external appeal rights, including judicial review and recourse to the Ombudsman, ensuring impartial oversight and effective remedies for organisations adversely affected by regulatory decisions.
<b>Legal Education &amp; Guidance</b>	Not addressed. The framework does not mandate or provide resources for legal education, guidance, or capacity-building, leaving organisations without essential knowledge to understand or exercise their rights.	Explicitly mandated under Article 9, with dedicated funding and institutional commitment to provide comprehensive legal education, guidance, and advisory services that empower organisations to comply with the law and protect their rights.
<b>Inclusion of Vulnerable Groups</b>	No specific provisions guaranteeing inclusion or prioritisation of vulnerable or marginalised groups within the voluntary sector, risking exclusion or insufficient representation of these populations.	Prioritises inclusion of vulnerable and marginalised groups in its legal framework, with particular emphasis on persons with disabilities, youth, migrants, and other disadvantaged communities, promoting equity and social cohesion.
<b>Disability Rights Integration</b>	No visible references or integration of disability rights frameworks, reflecting a lack of alignment with international disability rights norms and potentially perpetuating exclusion.	Strong and consistent incorporation of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) across the framework, ensuring compliance and advancing the rights of persons with disabilities within the voluntary sector.

## ***Legal Instruments and Principles Violated by BL-OHLA DAWL LIBBIST:***

- **United Nations Convention on the Rights of Persons with Disabilities (UNCRPD):**
  - *Article 4* (General Obligations): Obligates states to ensure the participation of persons with disabilities in policy-making processes affecting them. The absence of participation guarantees and disability inclusion in BL-OHLA DAWL LIBBIST breaches this obligation.
  - *Article 29* (Participation in Political and Public Life): Requires facilitation of full inclusion and participation in public life, which is not reflected or enforced in the framework.
- **European Union Charter of Fundamental Rights:**
  - *Article 12* (Freedom of Assembly and Association): Undermined by the absence of explicit organisational rights protections and inadequate procedural safeguards.
  - *Article 21* (Non-Discrimination): Violated through the failure to prioritise and protect vulnerable groups and ensure equality of access and participation.
  - *Article 41* (Right to Good Administration): Compromised by unclear, internalised appeal mechanisms lacking external judicial oversight.
- **Ombudsman Best Practices (Council of Europe):**
  - The right to effective redress and access to impartial administrative review is a cornerstone of good governance and administrative justice, standards unmet by the BL-OHLA DAWL LIBBIST appeal provisions.

## ***Summary Evaluation:***

**L-OMM LI TATNA ISIMHA** stands as a comprehensive and exemplary framework that aligns fully with international human rights obligations and domestic constitutional guarantees. It protects the rights of voluntary organisations through a transparent Charter of Rights, independent appeal rights, and institutionalised legal education. Importantly, it actively promotes the inclusion of vulnerable groups and integrates the principles of the UNCRPD, reinforcing Malta's commitments under EU law and international treaties.

In contrast, **BL-OHLA DAWL LIBBIST** fails to safeguard essential rights, lacks clarity and independence in appeal processes, neglects the provision of legal education, and does not prioritise inclusion of vulnerable populations. These shortcomings result in significant breaches of international human rights standards and diminish the capacity of voluntary organisations to operate fairly and effectively.



## SECTION 6: International Obligations and Political Risk

This section assesses the extent to which each legislative or regulatory framework aligns with Malta's international legal obligations, and evaluates the political and legal risks associated with their implementation.

### Framework International Legal Standing

**BL-OHLA  
DAWL  
LIBBIST**

**Non-compliant.** The framework is in clear breach of several binding international obligations, including:

- The **European Union Charter of Fundamental Rights**
- The **European Convention on Human Rights (ECHR)**
- The **United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)**

**L-OMM LI  
TATNA  
ISIMHA**

**Fully Compliant.** The framework is aligned with all relevant international instruments, including:

- The **UNCRPD** (particularly Articles 4, 5, 9, 12, and 29)
- The **EU Charter of Fundamental Rights**
- The **ECHR** and the case law of the ECtHR
- Guidelines from the Council of Europe and EU Ombudsman on administrative fairness and participation

### Political & Legal Risk

**High Risk.** The framework exposes the state to:

- Potential constitutional challenges in domestic courts
- Legal action before the European Court of Human Rights (ECHR)
- Infringement proceedings by the European Commission for violations of EU law
- Strong public criticism by civil society and international watchdogs, with reputational and diplomatic consequences

**Low Risk.** The legal and political risks are minimal due to:

- Broad alignment with international human rights norms
- Active support from voluntary organisations, civil society networks, and disability rights advocates
- Reinforcement of Malta's international image as a state committed to rights-based governance and rule of law

## ***FINAL CONCLUSION: Legal and Democratic Comparative Analysis***

This final comparative table synthesises the overall performance and implications of each framework across five critical governance categories.

Category	BL-OHLA DAWL LIBBIST	L-OMM LI TATNA ISIMHA
Democratic Legitimacy	✗ <b>Undermines democratic participation</b> by centralising control and suppressing civic autonomy.	✓ <b>Empowers civil society</b> through transparency, inclusive decision-making, and respect for pluralism.
Legal Compliance	✗ <b>Violates multiple legal instruments</b> , including the Constitution, EU Charter, ECHR, and UNCRPD.	✓ <b>Fully compliant</b> with domestic constitutional law, EU directives, and international human rights treaties.
Proportionality	✗ <b>Applies excessive regulatory control</b> to all organisations regardless of size or risk profile.	✓ <b>Implements a proportionate, tiered system</b> that respects organisational diversity and operational capacity.
Rights Protection	✗ <b>Weak or non-existent rights protections</b> , with inadequate safeguards and appeal mechanisms.	✓ <b>Robust and enforceable rights protections</b> , including an explicit Charter of Rights and external appeals.
Regulator Role	✗ <b>Concentrates power in an enforcement-heavy regulator (CVO)</b> with punitive overreach.	✓ <b>Reimagines the regulator (ANV)</b> as a supportive, educational, and rights-respecting facilitator.

### *Strategic Summary*

- **BL-OHLA DAWL LIBBIST** is legally flawed, disproportionately burdensome, and politically hazardous. It risks violating core constitutional and international obligations, centralises power in an unaccountable manner, and threatens the operational freedom of Malta's voluntary sector.
- **L-OMM LI TATNA ISIMHA** offers a sound, rights-based alternative that complies with all legal standards, promotes participatory governance, ensures fair regulation, and strengthens Malta's international legal standing.

**Recommendation:** Immediate withdrawal of **BL-OHLA DAWL LIBBIST** and use of our proposal of **L-OMM LI TATNA ISIMHA** as the legitimate and sustainable framework for regulating voluntary organisations in the Republic of Malta.

## Statement by Doninu (Malta) International on the Voluntary Sector Reform (BL-OHLA DAWL LIBBIST)

We, the members and volunteers of **Doninu (Malta) International**, are a grassroots voluntary organisation that operates **without remuneration**. We are not paid for our work; we do it from the heart—driven by a deep belief in the **dignity and rights of vulnerable persons**.

Every initiative we have undertaken has been rooted in **genuine service**, without seeking compensation or personal gain. Our sole focus has always been the **voluntary sector itself**, which, today, is facing slow and systemic erosion. What once was a thriving ecosystem of solidarity is now being **weakened piece by piece**.

We must ask: Was the legislative package titled **BL-OHLA DAWL LIBBIST** developed using public funds? If so, one must question whether it was created with **the deliberate intention of misleading or controlling** voluntary organisations. Alternatively, was it drafted hastily by individuals seeking to close off scrutiny and criticism?

Even the Honourable Minister **Julia Farrugia Portelli**, in her own public statements, has made remarks that **conflict with the contents of the very reform she proposed**. This contradiction raises serious questions about whether the Minister was **knowingly complicit in misleading civil society**, or whether she was **unaware of the legal breaches embedded in this legislative initiative**.

In our view, it is more likely that the Minister was not fully aware of the extent of the violations. For this reason, **she must now take concrete action**—not only to distance herself from this harmful reform but also to hold accountable those who presented her with a framework that poses **irreparable harm to Malta's voluntary sector** and to our broader **democratic society**.

The current legislative proposal is not simply flawed—it is **undemocratic, legally disproportionate**, and in parts **authoritarian** in nature. It concentrates excessive power in the hands of a single regulator and contradicts **constitutional, European, and international legal standards**.

***Our Call***

We call on:

- **All legislators of goodwill** to reject this regressive reform;
- **The Minister for Inclusion and Voluntary Organisations** to initiate an immediate review of the process and those involved;
- **Civil society** to stand united in defence of **volunteer-led democracy, human dignity, and the freedom of association.**

This is not just a matter of regulation. It is a matter of **national values, legal justice, and the moral soul of the Maltese Republic.**

Chev. Jean Pierre Calleja  
Founder / Leader  
Doninu (Malta) International

## **EXTRA TO BE SURE:**

### **LEGAL MEMORANDUM**

**Subject:** Analysis and Comparison between the Declarations of the Minister for Inclusion and Voluntary Organisations and the Implementation of the “Bl-Ohla Dawl Libbis” versus the “L-Omm li tatna Isimha” Frameworks

**Date:** 27/05/2025

**From:** Doninu (Malta) International

### ***1. Introduction***

This memorandum provides a comprehensive analysis and comparison between the public statements made by Minister Julia Farrugia Portelli of the Ministry for Inclusion and Voluntary Organisations, and Commissioner Jesmond Saliba, against two distinct regulatory frameworks governing the voluntary sector in Malta: the “Bl-Ohla Dawl Libbis” and the “L-Omm li tatna Isimha.”

The primary objective is to assess the extent to which the public policy proposed and implemented under the “Bl-Ohla Dawl Libbis” framework aligns with legal principles of proportionality, inclusivity, and administrative fairness. Furthermore, it highlights the fundamental differences compared to the “L-Omm li tatna Isimha” model, which is considered to provide a more balanced, effective, and proportionate regulatory approach.

### ***2. Statements by the Minister and Commissioner***

#### **Minister Julia Farrugia Portelli (Ministry for Inclusion and Voluntary Organisations)**

The Minister underscores the important socio-economic role of the voluntary sector in Malta, recognizing its evolution and the broad diversity of organisations and areas covered. She acknowledges the necessity for regulatory updates and frames the reforms as designed to sustainably support the sector’s interests. The proposals are said to be grounded in extensive studies, analyses, and consultations with stakeholders, including volunteers and unions.

#### **Commissioner Jesmond Saliba (Commissioner for Voluntary Organisations)**

The Commissioner emphasizes the consistent consultation process underpinning the reform, prepared through the VO Plus initiative, aiming to make the sector

more structured and professional. He acknowledges current challenges such as volunteer shortages, resource limitations among smaller organisations, and the need for differentiated regulatory requirements based on organisation size and nature.

### ***3. Detailed Comparison between “Bl-Ohla Dawl Libbis” and “L-Omm li tatna Isimha”***

<b>Feature</b>	<b>Bl-Ohla Dawl Libbis</b>	<b>L-Omm li tatna Isimha</b>
<b>Legal Proportionality</b>	Not respected; applies uniform rules without differentiation, imposing excessive burdens on smaller organisations.	Implements a four-tier system (Levels A-D) based on size and turnover, providing genuine proportionality and administrative fairness.
<b>Reporting Obligations</b>	Uniform reporting requirements create excessive administrative burden for small entities.	Reporting is tiered according to category to avoid disproportionate obligations.
<b>Auditing Requirements</b>	Potentially mandatory for all, resulting in increased costs and operational difficulties.	Audits are mandatory only for organisations with turnover over €500,000 or handling public funds, focusing oversight on significant resources.
<b>Protection of Rights &amp; Participation</b>	Lacks a formal Charter of Rights; appeal rights are internal and unclear.	Explicit Charter of Rights; external appeal rights (judicial or Ombudsman) and mandatory legal advice are guaranteed.
<b>Inclusion of Vulnerable Groups</b>	No guaranteed protections; rights of persons with disabilities are not integrated.	Legal priority on inclusion of persons with disabilities, youth, and migrants, referencing strong alignment with the UNCPRD.
<b>Support and Training</b>	Undefined, with no structured support mechanisms.	ANV provides models, training, and online support tools to assist organisations in meeting regulatory requirements.

#### ***4. Disparities between Policy Proposals and Ministerial Statements***

While the Minister asserts that the reform seeks to strengthen and safeguard the voluntary sector, the implementation of “Bl-Ohla Dawl Libbis” fails to adequately address the diverse needs and capacities of organisations. This leads to operational pressures, especially on smaller and more vulnerable entities.

Ministerial discourse emphasizes support and consultation; however, practical implementation lacks clear and sufficient evidence of this commitment.

The Minister maintains that reforms aid the sector, yet “Bl-Ohla Dawl Libbis” appears as an excessive regulatory tool that risks increasing financial and administrative challenges for organisations.

#### ***5. Legal Compliance and Political Risk***

The “Bl-Ohla Dawl Libbis” framework violates fundamental principles such as Proportionality (European Union law and the European Court of Human Rights), Equality (Human Rights Conventions), and Rights to Appeal and Administrative Justice (EU Charters and the UNCRPD).

This creates significant legal risks, including potential litigation before the Constitutional Court, the European Court of Human Rights, and investigations by the European Commission.

Conversely, “L-Omm li tatna Isimha” is presented as a fully compliant regulatory model aligned with national, European, and international laws, substantially reducing the likelihood of legal or political challenges.

#### ***6. Conclusion***

In light of the Minister’s and Commissioner’s declarations, the “Bl-Ohla Dawl Libbis” framework demonstrates a serious lack of proportionality and inclusiveness, rendering voluntary work more complex and less sustainable, particularly for smaller and vulnerable organisations. This is compounded by a lack of operational support and significantly increases legal vulnerability.

On the other hand, “L-Omm li tatna Isimha” offers a coherent, proportionate, and responsible regulatory framework that strengthens the sector by clearly defining the rights, obligations, and support mechanisms for every type of voluntary organisation in Malta.

## ***7. Analysis of Compliance with Fundamental Legal Principles***

### ***7.1 Principle of Proportionality***

The principle of proportionality, as enshrined in European law (notably Article 52(1) of the Charter of Fundamental Rights of the European Union) and interpreted by the European Court of Human Rights (ECHR), requires that any restriction imposed on rights or obligations must be implemented in a manner that is both proportionate and rational. This means that measures taken must not exceed what is necessary to achieve their legitimate aim and must balance the interests involved fairly.

The regulatory framework under the “Bl-Ohla Dawl Libbis” appears to disproportionately hinder the operations of smaller voluntary organisations by imposing uniform requirements that do not adequately account for their financial and operational capacities. This lack of differentiation results in an excessive administrative and financial burden.

Such disproportionate application risks causing economic harm and unnecessarily restricting the freedoms of organisations that often serve socially vital functions, potentially undermining their ability to deliver valuable community services.

### ***7.2 Principle of Equality***

Article 16 of the Constitution of Malta and international human rights instruments mandate equal treatment for persons and entities in similar situations. Any differential treatment must be justified and non-discriminatory.

The “Bl-Ohla Dawl Libbis” framework does not provide functional differentiation among organisations of different sizes and operational scopes. This absence of tailored regulatory measures effectively amounts to indirect discrimination against smaller voluntary groups and those supporting vulnerable social communities, limiting their opportunities for growth and sustainability.

### ***7.3 Right to Appeal and Administrative Justice***



The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) (Article 13) and the European Charter of Fundamental Rights guarantee the right to an effective remedy and fair administrative procedures. This includes transparent, accessible, and impartial appeal mechanisms, enabling organisations to challenge decisions affecting their rights.

The “L-Omm li tatna Isimha” regulatory framework incorporates clear, externally reviewable appeal systems, ensuring procedural fairness and administrative transparency. In contrast, the “Bl-Ohla Dawl Libbis” framework relies primarily on internal appeal mechanisms that lack transparency and independence, thereby limiting the ability of organisations to seek redress.

#### ***7.4 Inclusion of Persons with Disabilities and Vulnerable Groups***

The UNCRPD (Articles 4(3) and 29) requires the active involvement of persons with disabilities in decision-making processes at all levels and the protection of their rights across all areas of life, including participation in voluntary sector governance.

The “L-Omm li tatna Isimha” framework contains explicit mechanisms to guarantee such inclusion and meaningful participation of persons with disabilities and other vulnerable groups. Conversely, the “Bl-Ohla Dawl Libbis” framework fails to address these critical aspects of inclusion and participation in its regulatory provisions.

#### ***7.5 Relevant Case Law and Jurisprudence***

Several landmark cases from the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU) illustrate the application of the principles discussed:

- **Case of Bank Mellat v HM Treasury (C-363/12, CJEU, 2013)** – This case reaffirmed the principle of proportionality by emphasizing that restrictions must be suitable, necessary, and balanced, not placing an excessive burden on the affected party.
- **Tănase v. Moldova (ECtHR, 2010)** – The court ruled on the importance of equality before the law, condemning unjustified distinctions that infringe on equal treatment rights.
- **Klass and Others v. Germany (ECtHR, 1978)** – This case clarified that any interference with rights must be prescribed by law, pursue a legitimate

aim, and be necessary in a democratic society, reinforcing the proportionality test.

- **Ždanoka v. Latvia (ECtHR, 2006)** – Addressed the right to appeal and due process, highlighting that internal administrative appeals without independent review may not meet standards of fairness.

These cases underscore the necessity of regulatory frameworks to be carefully calibrated to avoid disproportionate impact, ensure equality, provide effective remedies, and protect vulnerable groups' rights.

## ***8. Key Legal References***

- Charter of Fundamental Rights of the European Union – Article 52(1) (Principle of Proportionality)
- United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) – Articles 4, 13, 29
- Constitution of Malta – Articles 16 (Equality) and 32 (Right to a Fair Hearing)
- European Convention on Human Rights (ECHR) – Article 6 (Right to a Fair Trial)
- European Commission documents on Proportionality and Administrative Justice

## ***9. Risks and Practical Implications***

The implementation of the “Bl-Ohla Dawl Libbis” framework poses a significant risk of legal challenges in both Maltese and European courts. This is particularly true for smaller and vulnerable voluntary organisations, which may be disproportionately burdened by the regulatory requirements that fail to respect proportionality and equality.

On the other hand, adopting a system modeled on the “L-Omm li tatna Isimha” framework reduces the likelihood of litigation and fosters greater membership and active participation by ensuring sustainability and legal compliance in the long term.

## ***10. Recommendations for Legal and Regulatory Compliance***

### ***10.1 Tailored Regulatory Requirements***

Regulators should develop differentiated requirements that account for the size, capacity, and scope of voluntary organisations. This could include tiered reporting obligations, reduced administrative burdens for small entities, and flexible operational standards that remain consistent with public interest and accountability.

### ***10.2 Transparent and Independent Appeals Mechanisms***

Establish clear, externally supervised appeal procedures that guarantee transparency, impartiality, and timeliness. This will improve trust in the regulatory framework and ensure organisations have a meaningful avenue for contesting decisions.

### ***10.3 Active Inclusion and Participation Measures***

Integrate explicit provisions mandating the involvement of persons with disabilities and vulnerable groups in governance and decision-making. Facilitate training and capacity-building initiatives to empower these groups to participate effectively.

### ***10.4 Regular Impact Assessments***

Implement periodic impact assessments to evaluate how regulations affect different categories of organisations, especially smaller and vulnerable ones. Use findings to adjust policies accordingly and prevent unintended exclusion or hardship.

### ***10.5 Stakeholder Consultation***

Create formal, ongoing platforms for dialogue with voluntary sector representatives, particularly small and disability-focused organisations. Inclusive consultation will help ensure that regulations are practical, equitable, and responsive to real needs.

## ***11. Practical Steps for Stakeholder Engagement and Advocacy***

### ***11.1 Awareness and Education Campaigns***

Launch targeted informational campaigns to educate voluntary organisations about their rights, obligations, and the appeal processes available to them.

### ***11.2 Collaborative Working Groups***

Form working groups comprising regulators, voluntary organisations, legal experts, and disability advocates to co-develop best practices and recommend regulatory reforms.

### ***11.3 Legal Support Networks***

Develop accessible legal support services or pro bono clinics specializing in administrative and human rights law to assist organisations in navigating regulatory challenges.

### ***11.4 Monitoring and Reporting Mechanisms***

Encourage organisations to document and report any discriminatory or disproportionate regulatory actions. Use these reports to inform advocacy and legal challenges where appropriate.

### ***11.5 International Cooperation***

Engage with European and international bodies (e.g., Council of Europe, European Disability Forum) to align national frameworks with broader human rights standards and gain support for reform efforts.

## ***12: Title: **Bl-Ohla Dawl Libbist vs L-Omm li Tatna Isimha: Legal Analysis of the Government's Two Voluntary Sector Reforms under Maltese and International Law*****

### **Executive Summary:**

This report analyses the stark contrast between two competing visions for the voluntary sector in Malta:

1. **"Bl-Ohla Dawl Libbist" (By Her Brightest Light She Dressed):** The Government's proposed reform of December 2024 and 2025, which grants sweeping power to the Commissioner for Voluntary Organisations (CVO).

2. **"L-Omm li Tatna Isimha" (The Mother Who Gave Us Her Name):** The alternative community-driven approach based on constitutional liberties and human dignity, promoting inclusion, autonomy, and proportional governance.

This document offers a detailed legal analysis, comparing the two frameworks, and demonstrates how the Government's proposal violates multiple Maltese constitutional provisions, EU law, and international human rights treaties.

**1. The Competing Frameworks**

**A. Bl-Oħla Dawl Libbist (Government's Reform Proposal 2024/2025)**

**Key Features:**

- Empowers the CVO with full discretion to block registration, operation, voting rights, AGMs/EGMs, and statute changes.
- Makes registration de facto mandatory by linking access to public services and infrastructure to registration status.
- Allows the CVO to determine and redefine what is a "voluntary organisation."
- Creates no independent appeals process or judicial review mechanisms.

**B. L-Omm li Tatna Isimha (Community Framework)**

**Key Features:**

- Rooted in constitutional and human rights principles.
- Upholds the right to form associations freely, regardless of registration.
- Ensures proportionality and independence in oversight.
- Promotes inclusive civil participation for vulnerable and minority groups.

**2. Legal Analysis: Maltese Constitutional Law**

Article	Breach by Government Reform	Protection under Community Framework
Art. 6	Violation of separation of powers; CVO acts as judge and prosecutor	Safeguards judicial independence
Art. 16	Creates inequality between registered and unregistered groups	Promotes equal treatment
Art. 32	Undermines freedom of association	Respects constitutional liberties

### ***3. Legal Analysis: EU Law (EU Charter of Fundamental Rights)***

Article	Breach by Government Reform	Protection under Community Framework
Art. 12	Restricts freedom of association through coercive registration	Guarantees right to form and operate freely
Art. 47	No independent redress; internal appeals are compromised	Calls for external and impartial oversight
Art. 52	Disproportionate administrative measures	Applies minimal and proportionate regulation

### ***4. Legal Analysis: European Convention on Human Rights (ECHR)***

Article	Breach by Government Reform	Protection under Community Framework
Art. 6	No fair hearing before enforcement	Requires fair legal process
Art. 11	Excessive interference with freedom of assembly	Encourages peaceful association
Art. 13	No effective remedy available	Ensures access to remedy and review

### ***5. Legal Analysis: UN Convention on the Rights of Persons with Disabilities (UNCRPD)***

Article	Breach by Government Reform	Protection under Community Framework
Art. 4(3)	Disabled persons excluded from consultations	Emphasises co-design with disabled communities
Art. 29	Reduces participation in civil and political life	Empowers civic participation
Art. 13	Denies access to justice through opaque structures	Promotes legal capacity and access to law

### ***6. Legal Analysis: International Covenant on Civil and Political Rights (ICCPR)***

Article	Breach by Government Reform	Protection under Community Framework
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Art. 22	Coercive registration violates freedom of association	Respects non-compulsory civic engagement
Art. 26	Treats certain organisations unequally	Upholds legal equality before the law

## ***7. Summary of Legal Breaches***

The Government's reform proposal under "Bl-Ohla Dawl Libbist" effectively creates a quasi-regulatory regime that criminalises or excludes non-registered civil society organisations. It breaks core constitutional safeguards, disregards proportionality, and denies access to fair judicial process. The CVO becomes an unchecked authority.

In contrast, the community-rooted model "L-Omm li Tatna Isimha" aligns with Malta's legal obligations under its Constitution and international treaties. It protects civil liberties while promoting effective governance and inclusion.

## ***8. Recommendations***

1. **Withdraw the Government's reform in its current form.**
2. **Establish a co-governed body for appeals and oversight**, separate from the CVO.
3. **Reaffirm voluntary association as a right, not a privilege.**
4. **Guarantee access to public infrastructure for all bona fide organisations**, registered or not.
5. **Include marginalised and disabled groups in policy co-design.**
6. **Strengthen safeguards against political misuse of regulatory powers.**

## ***Conclusion***

In the spirit of L-Omm li Tatna Isimha, Malta must return to its constitutional roots: freedom, dignity, and inclusion. The proposed CVO reform cloaks centralisation of power in the name of good governance but ultimately violates the foundational laws that protect Malta's civil society.

The brighter path lies not in dressing the state in power, but in empowering the people in light.