



***“L-OMM LI TATNA  
ISIMHA”***

**Doninu (Malta) International**

# Introduction

We, the members of **Doninu (Malta) International**, hereby submit this **new legislative framework proposal “*L-OMM LI TATNA ISIMHA*”** for Malta’s voluntary sector. This proposal aims to establish a just, transparent, and inclusive legal structure that truly reflects the sector’s invaluable contribution to society, and ensures it receives the recognition, protection, and autonomy it rightfully deserves.

Upon careful and critical review of the current legislative draft, particularly the proposed reforms presented under the title “*Bl-Ghola Dawl Libies*”, we have identified serious and fundamental concerns. That document, in our considered legal and policy assessment, appears designed not to empower the voluntary sector, but to centralise **control entirely in the hands of the State**, concentrating disproportionate power in the Office of the Commissioner for Voluntary Organisations (CVO). It proposes a regulatory regime that risks becoming a **super-authority** over civil society — a development we believe to be undemocratic, disproportionate, and incompatible with Malta’s constitutional and international legal obligations.

We further believe that the ***Hon. Minister Julia Farrugia Portelli*** was not fully informed of the implications of this draft legislation (“*Bl-Ghola Dawl Libies*”), as her speech during its presentation clearly contradicted many of the measures and intentions embedded in the document itself. This suggests a significant disconnect between public declarations and the substance of the proposed policy.

In contrast, this proposal we now present offers a **revised and constructive legal framework** that is fully aligned with:

- **The Constitution of Malta;**
- **Chapter 492 of the Laws of Malta;**
- **European Union law**, including the Charter of Fundamental Rights;
- **The European Convention on Human Rights;** and
- **International treaties**, including the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

We respectfully propose naming this initiative:

## **A New Legal Framework for a Just and Independent Voluntary Sector in Malta ‘L-OMM LI TATNA ISIMHA’**

Before concluding this introduction, we wish to express our sincere gratitude to the many **professionals from various sectors** who offered their time, expertise, and guidance in shaping this framework. We especially honour the fact that all contributions were made **voluntarily and without compensation**, driven solely by a shared vision: to ensure that **voluntary organisations in Malta are supported—not restricted—and are free to serve the common good with dignity, integrity, and autonomy.**

# **Professional Report on the Proposed Legal and Administrative Framework for the Voluntary and Non-Profit Sector in Malta ‘L-OMM LI TATNA ISIMHA’**

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## **Executive Summary**

This document presents a thorough and innovative proposal for the establishment of a new legal and administrative framework intended to regulate, support, and enhance the voluntary and non-profit sector in Malta. The initiative, led by **Doninu (Malta) International**, responds to the growing consensus among civil society actors that the current regulatory regime, particularly as defined under **Chapter 492 of the Laws of Malta**, requires substantial reform to reflect present-day realities, both legal and social.

The proposed framework is **rooted in constitutional principles, aligned with the European Union’s Charter of Fundamental Rights, and compliant with international instruments** such as the **European Convention on Human Rights**, the **UN Sustainable Development Goals (SDGs)**, and the **UN Convention on the Rights of Persons with Disabilities (UNCRPD)**. It promotes a modern, fair, and proportional approach to the regulation of voluntary organisations, removing unnecessary bureaucratic constraints and establishing a **rights-based model** that encourages **autonomy, transparency, and inclusive civic participation**.

### ***Key aims of the framework include:***

- Ensuring that **voluntary organisations and community initiatives**, regardless of size or legal status, are **free to operate autonomously** without fear of unjustified interference, discrimination, or excessive administrative burden.
- **Classifying voluntary organisations into levels** based on size, structure, and function, thereby applying differentiated legal and financial obligations proportionate to their capacity.

- **Transforming the Commissioner for Voluntary Organisations (CVO)** into a **National Volunteer Authority (ANV)** with a supportive, non-punitive mandate focused on mediation, capacity-building, and the promotion of civic engagement.
- Establishing a **National Council for the Voluntary Sector (KNSV)** as an independent body to represent the sector's interests, facilitate policy dialogue, and ensure active participation in national and international fora.
- Introducing a **Voluntary Organisations Charter of Rights** to formally recognise the legal, administrative, and operational protections due to voluntary associations, both registered and unregistered, in accordance with domestic and international law.
- Enabling **inclusive access to justice**, fair investigation protocols, and transparent appeal mechanisms for organisations subject to regulatory action.
- Promoting **fiscal accountability** through tiered and proportional financial reporting requirements, with clearly defined thresholds and simplified obligations for smaller organisations.

The proposal also includes a set of **draft legislative articles** intended for incorporation either as a comprehensive amendment to **Cap. 492** or as the basis for a **new, stand-alone law**. These articles reinforce principles of **equality, legal clarity, governance ethics, and supportive collaboration** between public authorities and civil society actors. The text underlines the need for the framework to be **written in plain, accessible language**, ensuring legal comprehension by all stakeholders, including non-professionals and grassroots organisations.

In conclusion, this proposal lays the groundwork for a **sustainable and democratic reform** of Malta's voluntary sector. It champions a **decentralised, empowering approach** to civic engagement that protects fundamental freedoms, encourages active participation, and establishes a culture of mutual respect and collaboration between the State and its citizens.

# 1. Objectives and Guiding Principles

The proposed legal and administrative framework for the regulation of voluntary organisations and the non-profit sector in Malta is founded on a robust set of **legal, civic, and democratic principles** that aim to uphold the constitutional freedoms of individuals and civil society, while ensuring transparency, good governance, and proportionate oversight. These principles are designed to modernise and strengthen the relationship between the State and the voluntary sector, enabling organisations to flourish in a climate of trust, respect, and legal certainty.

## *Core Objectives of the Framework*

1. **To establish a coherent and transparent legal infrastructure** that recognises, supports, and guides the establishment, registration, and operation of voluntary and non-profit organisations in Malta, irrespective of their size, resources, or formality.
2. **To safeguard the fundamental rights and freedoms** of individuals and groups engaged in voluntary activity, in line with national constitutional guarantees and international human rights obligations.
3. **To reduce administrative burdens** and procedural barriers for small or informal civic initiatives while preserving accountability and legal compliance for larger entities.
4. **To introduce mechanisms for proportional monitoring**, classification, and regulation, ensuring that the legal expectations placed upon an organisation correspond to its operational scale and public impact.
5. **To reinforce public confidence** in the voluntary sector by promoting a culture of transparency, ethical governance, and responsible financial management.

## *Guiding Principles*

The following legal and civic principles form the philosophical and operational backbone of the proposed framework:

### *1. Freedom of Association and Civic Initiative*

This principle ensures the **unhindered right of individuals and communities to form, join, and operate voluntary organisations**, with the purpose of pursuing

shared goals, defending legitimate interests, or contributing to the public good. Voluntary organisations must be free from undue interference, politically motivated restrictions, or discriminatory limitations. This freedom is a cornerstone of democratic society and is protected under both the **Constitution of Malta (Art. 42)** and international law.

## ***2. Legal Stability, Transparency, and Accessibility***

The legal framework must provide a **clear, stable, and accessible regulatory environment** that offers certainty to all actors within the sector. Legal requirements should be:

- Clearly defined and publicly available,
- Easy to interpret without the need for specialised legal counsel,
- Flexible enough to adapt to evolving societal realities.

This guarantees that civil society actors, regardless of their legal sophistication or financial means, can participate fully and confidently in public life.

## ***3. Proportional Administrative and Legal Obligations***

Administrative and regulatory obligations must be **proportionate to the nature, size, and activity level** of each organisation. The framework rejects a one-size-fits-all approach in favour of a **tiered classification system**, ensuring that smaller, grassroots initiatives are not overburdened with requirements designed for larger, professionally run NGOs or state contractors. This principle promotes fairness, inclusiveness, and administrative justice.

## ***4. Protection Against Arbitrary Control or Interference***

Voluntary organisations should be protected from **arbitrary or politically motivated regulatory intervention**, including unjustified deregistration, suspension, or excessive audits. Mechanisms for **independent oversight, appeal, and legal remedy** are essential to preserve the integrity, autonomy, and vibrancy

of civil society. Public authorities must act within the bounds of the law, guided by principles of legality, proportionality, and due process.

## ***5. Alignment with European and International Standards***

The framework is fully aligned with **binding and non-binding international legal instruments** that affirm and reinforce civil society freedoms and participation. These include:

- **European Convention on Human Rights (ECHR)** – particularly Article 11, which guarantees the freedom of assembly and association.
- **Charter of Fundamental Rights of the European Union** – including Articles 12 (Freedom of Association), 21 (Non-Discrimination), and 41 (Right to Good Administration).
- **United Nations Sustainable Development Goals (SDGs)** – notably Goal 16 (Peace, Justice and Strong Institutions), which promotes inclusive societies and accountable institutions.
- **UN Convention on the Rights of Persons with Disabilities (UNCPRD)** – particularly Articles 4 and 29, which call for the active inclusion of persons with disabilities in public and civic life, including through their representation in voluntary organisations.

By aligning with these instruments, the proposed framework ensures that Malta remains fully compliant with its **international legal obligations**, while empowering local civil society in accordance with best practices recognised across Europe and globally.

*In conclusion, these guiding principles are not only theoretical foundations but also practical tools for shaping a fair, supportive, and democratically sound regulatory environment for voluntary and non-profit organisations. Their full implementation will help position Malta as a model jurisdiction for civic freedom and inclusive development within the European and international community.*



## 2. Classification of Voluntary Organisations

A central pillar of the proposed legal and administrative framework is the **classification of voluntary organisations into distinct levels**, according to their **size, structure, scope of operations, funding mechanisms, and public impact**. This approach is designed to replace the current one-size-fits-all regulatory model with a **proportionate, differentiated system of governance** that recognises the diversity of the voluntary and non-profit sector in Malta.

***This classification serves multiple purposes:***

- **Ensures regulatory fairness and equity.**
- **Aligns obligations with the capacity and function** of each organisation.
- **Provides legal clarity** to the authorities and the public regarding the status of each entity.
- **Facilitates the development of targeted support and monitoring mechanisms** by the proposed National Volunteer Authority (ANV).

***Organisations are therefore grouped into four regulatory levels, as outlined below:***

### ***Level 0 — Informal Community Initiatives (Non-Registered, Non-Financial)***

#### **Definition:**

Small-scale, grassroots efforts led by individuals or communities who act voluntarily to support social, environmental, or humanitarian causes on a **non-commercial, non-institutional basis**.

#### ***Key Characteristics:***

- Operate without any formal legal structure or registration.
- Do not engage in monetary fundraising, banking, or commercial activities.
- Typically function through mutual aid, spontaneous donations in kind (e.g., food, clothing), or voluntary time contributions.
- Operate solely within a **local or neighbourhood context**.

### ***Regulatory Approach:***

- **Registration is not mandatory**, but voluntary notification may be encouraged for the purpose of visibility, access to training, or collaboration with other groups.
- Not subject to financial audits or administrative reporting obligations.
- Must comply with general laws (e.g., public order, safety), but enjoy **maximum operational freedom**.

## **Level 1 — Community Voluntary Associations (Low-Threshold Legal Entities)**

### **Definition:**

Small, typically volunteer-run organisations with a **social, cultural, educational, or environmental mission**, operating on a **non-profit basis** and without regular access to public funds.

### ***Key Characteristics:***

- May adopt a simple legal structure (e.g., informal statute or founding document).
- Can choose to register with the relevant authority for recognition and participation in public initiatives.
- May receive small donations or support in kind but do not operate on a large financial scale.
- Activities are generally low-risk and community-focused.

### ***Regulatory Approach:***

- **Optional registration**, enabling access to certain public resources or official recognition.
- Subject to **minimal administrative requirements** such as annual activity summaries or financial declarations, proportionate to their size.
- May benefit from **guidance and training** by the National Volunteer Authority (ANV).

## ***Level 2 — Non-Governmental Organisations (NGOs) and Third Sector Entities***

### ***Definition:***

Formally constituted non-profit organisations operating in areas of **public interest**, such as human rights, environmental protection, cultural promotion, humanitarian aid, education, and health.

### ***Key Characteristics:***

- Typically have a registered statute and governance structure.
- May employ limited staff and conduct campaigns or outreach activities.
- May receive **donations, project-based public funding, or private sponsorships**.
- Have a broader national or sectoral focus, often engaging with specific policy or advocacy goals.

### ***Regulatory Approach:***

- **Mandatory registration** and classification under ANV.
- Subject to **standard financial reporting**, governance disclosures, and periodic compliance assessments, adapted to their financial turnover and scale.
- Eligible for **voluntary certification schemes** on quality standards.
- Encouraged to participate in **public policy consultation mechanisms**.

## ***Level 3 — Public Service Providers and Contracted Entities***

### ***Definition:***

Established non-profit organisations that provide **essential services** directly to the public or the State, including social welfare, healthcare, education, disability services, and housing, often under **public or EU-funded agreements**.

### ***Key Characteristics:***

- Operate on a **professional scale**, often with salaried staff and structured governance.
- Typically manage **significant budgets** and are contracted by government bodies through mechanisms such as Public Social Partnerships (PSPs).
- Engage in long-term service delivery, infrastructure management, and specialised care for vulnerable populations.

### ***Regulatory Approach:***

- **Full legal registration** is required.
- Obligated to submit **audited financial statements**, including:
  - Annual budgets and expenditure breakdowns.
  - Reports on use of public or EU funds.
  - Performance evaluations and operational risk assessments.
- Must comply with **national accounting standards (e.g., GAPSME)** and any sector-specific obligations.
- Subject to enhanced **governance, ethical conduct, and transparency requirements**.

### ***Impact of Classification***

Each organisation's level determines its:

- **Registration or notification requirements.**
- **Extent of financial and administrative reporting.**
- **Governance responsibilities.**
- **Level of supervision or support by the ANV.**

The classification system is designed to be **dynamic and reviewable**, with the competent authority periodically updating criteria in consultation with the sector to reflect changes in practice, risk, and capacity.

***This four-tiered system ensures that smaller civic initiatives are not overburdened, while larger organisations that hold public responsibilities or access state funds are held to higher standards of***

*accountability—thus achieving both regulatory efficiency and democratic integrity.*

### 3. Registration and Notification Process

A transparent, accessible, and proportionate **registration and notification system** is fundamental to the credibility and functionality of the voluntary sector. The proposed framework adopts a **tiered approach**, where the **extent of regulatory obligations is directly tied to the classification level** of each organisation, as defined in the previous section. This system balances the **need for public accountability** with the **imperative to preserve civic autonomy and simplicity**, particularly for smaller or informal initiatives.

*The overarching goals of the registration process are to:*

- Ensure legal recognition for organisations that seek it.
- Protect the public interest and enhance sector-wide transparency.
- Provide a legal basis for access to resources, funding, and partnership.
- Enable the collection of data for policy development and sectoral support.
- **Avoid overregulation** of grassroots, non-financial civic initiatives.

#### *Registration Protocol by Classification Level*

##### *Levels 0–1: Informal and Community-Based Organisations*

##### *Voluntary Notification Rather Than Mandatory Registration*

Organisations classified under **Level 0 (Informal Community Initiatives)** and **Level 1 (Community Voluntary Associations)** may **operate legally without the requirement to formally register**, provided they do not engage in:

- Regular or large-scale monetary fundraising.
- Commercial or contractual service provision.
- Activities that require formal legal personality (e.g. litigation, employment contracts).

##### *Optional Notification Process*

- Organisations may **voluntarily notify** the National Volunteer Authority (ANV) of their existence and activities.
- Notification enables:

- Inclusion in civil society networks.
- Access to capacity-building resources, training, or peer learning.
- Participation in national or local consultative processes.

### ***Administrative Simplification***

- **No legal fees**, complex documentation, or statutory obligations.
- Basic information to be submitted:
  - Organisation name.
  - Contact details.
  - Broad mission or scope.
  - Operating locality or region.
  - Voluntary statement of activity.

### ***Levels 2–3: Formal NGOs and Public Service Providers***

#### ***Mandatory Legal Registration***

Organisations operating at **Level 2 (NGOs and Third Sector Bodies)** or **Level 3 (Public Service Providers)** are **required by law to register** with the National Volunteer Authority (ANV) in order to:

- Secure formal legal status.
- Access public or EU funds.
- Employ staff and enter into service contracts.
- Benefit from tax exemptions or public tenders.

#### ***Registration Requirements Include:***

- Certified **statute or founding document**.
- Names and roles of **governing board members** or legal representatives.
- Defined **mission, scope, and geographic area of activity**.
- Summary of planned **activities and operational methods**.
- Financial category declaration based on anticipated annual income.
- Identification of applicable **classification level (2 or 3)**.

#### ***Two-Tier Process:***

- **Regulatory Notification** – For organisations not engaged in large-scale fundraising or public service provision.
- **Full Registration** – For organisations accessing public funds, providing statutory services, or handling sensitive beneficiary data.

## *National Register of Voluntary Organisations*

### *Transparency and Accountability*

- A **centralised National Register** shall be maintained and published by the ANV.
- The register shall include:
  - Name and registration number.
  - Legal status and classification level.
  - Public contact information and declared objectives.
- Registration status shall be publicly accessible for transparency, research, and partnership building.

### *Data Protection and GDPR Compliance*

- The National Register will **strictly adhere to the General Data Protection Regulation (GDPR)**.
- Sensitive data (e.g. personal identifiers of members, addresses, financial accounts) will be protected from public disclosure.
- Voluntary organisations retain the right to access, rectify, or remove their personal data, in line with data protection law.

### *Proportionality and Accessibility of the Process*

The entire registration and notification system will be governed by the principles of **proportionality, simplicity, and accessibility**:

- **Digital first**: Online platforms will be the primary medium for registration, notification, and updates.
- **Low-barrier entry**: No complex legal language or excessive documentation will be required, especially for Levels 0–1.



- **Support and guidance:** The ANV will provide templates, guidance notes, and direct assistance to new or transitioning organisations.
- **Adaptable forms:** Standardised but adaptable forms will allow organisations of different scales and scopes to meet legal requirements in a way that reflects their operational realities.

*In summary, the proposed registration and notification process strikes a balance between legal certainty and civic freedom. It ensures that formal entities contributing to the national social infrastructure are properly documented and monitored, while protecting the operational autonomy of grassroots initiatives that serve the public good without engaging in regulated financial or commercial activity.*

## 4. Establishment of the National Volunteer Authority (ANV)

The proposal envisions a strategic institutional reform in the governance of Malta's voluntary and non-profit sector through the **establishment of a new public authority**: the **National Volunteer Authority (ANV)**. This entity is designed to replace the current **Office of the Commissioner for Voluntary Organisations (CVO)** and act as a **modern, independent, and non-executive authority** that promotes, supports, and safeguards the voluntary sector in line with best practices in democratic governance and civil society development.

The transformation reflects a shift in philosophy—from a **compliance-focused, punitive structure** to a **supportive, participatory, and enabling institution**—committed to fostering a vibrant, transparent, and autonomous civil society in Malta.

### *4.1 Legal and Institutional Framework*

- The ANV shall be established as a **statutory authority** by law, operating **independently of the executive branch**, but subject to **parliamentary oversight**.
- It shall be governed by a **non-political mandate**, focusing exclusively on:
  - Promoting civil engagement.
  - Facilitating responsible self-regulation.
  - Protecting the rights of voluntary organisations.
- The **head of the ANV** will be appointed following a **transparent public selection process**, based on professional merit and subject to a non-renewable term limit, to ensure **integrity and independence** (see Section 12.8 of the proposal).

### *4.2 Core Functions of the ANV*

*The National Volunteer Authority will carry out the following five core functions:*

## ***1. Promotion and Support***

- Actively promote **volunteering as a civic value** and integral component of Malta's democratic and social fabric.
- Coordinate **national campaigns, educational initiatives, and outreach programmes** to encourage public participation in voluntary work.
- Provide **technical assistance, training, templates, and administrative support** to new or existing voluntary organisations.
- Facilitate **capacity-building programmes**, including:
  - Organisational development.
  - Fundraising strategies.
  - Legal and financial compliance.

## ***2. Mediation and Consultation***

- Serve as a **neutral forum for dialogue and conflict resolution** between voluntary organisations, and between organisations and government bodies.
- Organise **sector-wide consultation mechanisms**, including:
  - Public fora.
  - Focus groups.
  - Sector-specific roundtables.
- Collect feedback from the sector and formulate **policy recommendations** to Parliament and government entities, ensuring that legislation reflects the realities and needs of the field.

## ***3. Legal Protection of Voluntary Associations***

- Ensure the **legal recognition, protection, and operational freedom** of all voluntary organisations, including unregistered initiatives acting within the limits of the law.
- Monitor any cases of **arbitrary interference, discrimination, or disproportionate regulation**, and intervene when necessary by:
  - Issuing guidance to public bodies.
  - Referring matters to the Ombudsman or relevant judicial authority.
- Ensure all organisations receive **due process** in any investigation or enforcement action (as per Section 5).

*The ANV shall not itself exercise punitive or enforcement powers, except where explicitly mandated by law or under judicial instruction.*

#### ***4. Quality Certification (Voluntary)***

- Offer **voluntary quality certification schemes** to organisations seeking to:
  - Demonstrate administrative excellence.
  - Adopt recognised standards of governance, transparency, and service delivery.
  - Enhance their credibility with donors, partners, and the public.
- Certification will remain **optional**, and will not affect legal standing, access to registration, or rights.

#### ***5. International Representation and Collaboration***

- Represent Malta's voluntary sector within:
  - **European Union networks** on civil society and volunteering.
  - **Council of Europe committees** focused on civic space and human rights.
  - **UN-based platforms** on sustainable development and inclusion.
- Foster **international exchange, project partnerships, and joint capacity-building** initiatives.

#### ***4.3 Governance and Accountability of the ANV***

To ensure public trust and sectoral credibility, the ANV will be held to the following standards of transparency and accountability:

- Submit an **annual report to Parliament**, detailing:
  - The state of the sector.
  - Challenges and reforms.
  - Policy recommendations and impact assessments.
- Publish **all guidelines, criteria, procedures, and decisions** on its public platform.

- Operate with the input of a **Consultative Council**, composed primarily of elected representatives from the voluntary sector itself, ensuring **bottom-up participation** and **autonomous sectoral governance**.
- Adhere to principles of:
  - **Impartiality and fairness** in operations.
  - **Equal treatment** of all organisations, regardless of registration status, size, or area of activity.
  - **Strict data protection** and GDPR compliance.

#### ***4.4 Non-Regulatory and Non-Enforcement Mandate***

The ANV is not a law enforcement or regulatory authority in the traditional sense. It **does not have powers to suspend, dissolve, or sanction organisations unilaterally**. Instead, it works in cooperation with competent regulatory bodies, such as:

- The Social Care Standards Authority (SCSA),
- The Commissioner for the Rights of Persons with Disability (CRPD),
- The Tax Authorities,
- The Civil Court (Voluntary Jurisdiction),
- The Ombudsman for the Social Sector.

Any disciplinary action must follow **due process**, respect the organisation's right to representation, and comply with national and international legal standards.

***In summary, the National Volunteer Authority (ANV) is envisioned as a pivotal, enabling institution that supports civil society through guidance rather than control, partnership rather than punishment, and innovation rather than bureaucracy. Its establishment marks a transformative step toward ethical governance, participatory democracy, and the long-term sustainability of the voluntary and non-profit sector in Malta.***

## 5. Rights and Protections for Voluntary Organisations

A robust, vibrant voluntary sector depends not only on legal recognition but also on the effective **protection of the rights and freedoms** of the organisations that comprise it. The proposed legal and administrative framework seeks to enshrine a **rights-based approach** to the regulation of voluntary and non-profit entities, grounded in the principles of **democratic participation**, **legal equality**, and **procedural fairness**.

This section outlines the **foundational rights and protective measures** that every voluntary organisation in Malta—whether registered, unregistered, formal, or informal—should enjoy under the law. These protections are fully aligned with the **Constitution of Malta**, **EU law**, and **international human rights conventions**.

### *5.1 Right to Organisational Autonomy*

Voluntary organisations have the **inalienable right to autonomy in their internal affairs**, free from arbitrary state interference. This includes the right to:

- **Define their own mission and objectives**, consistent with lawful purposes and public order.
- **Determine their organisational structure**, leadership, and internal rules (e.g. statutes, codes of conduct).
- **Manage their own activities**, fundraising, volunteer engagement, and public communications.
- **Associate freely** with other organisations locally or internationally.

The State and regulatory authorities may not interfere with these activities except under clearly defined and lawful circumstances, such as the prevention of crime, threats to public safety, or violation of third-party rights—**and only through judicial or statutory due process**.

### *5.2 Right to Fair Investigation and Due Process*

In cases where an organisation becomes subject to **administrative review**, **inspection**, or **investigation**, the framework guarantees full adherence to **due process**, including:

- **Written notification** outlining the reasons for the investigation and its legal basis.
- **Reasonable timeframes** to prepare and present a defence or clarification.
- **Access to relevant documents, findings, and procedural information.**
- **Representation by legal counsel or trusted persons**, without obstruction.
- **Opportunity to respond and be heard** before any adverse administrative decision is taken.

***Investigations must be proportionate, objective, and non-discriminatory, and must not be used as a tool for harassment or suppression of dissent. Oversight bodies must act in accordance with the principles of natural justice (audi alteram partem) and transparency.***

### ***5.3 Right to Appeal and Access to Independent Review***

Any voluntary organisation affected by a regulatory or administrative decision shall have the **right to challenge that decision through an independent and effective appeals process**. This includes decisions related to:

- Registration or refusal of registration.
- Suspension or restriction of activities.
- Disputes over classification level or funding eligibility.
- Sanctions or compliance measures.

Appeals must be:

- **Accessible** (financially and procedurally).
- **Heard by a body independent of the executive authority** responsible for the initial decision.
- **Concluded within a reasonable timeframe**, ensuring legal certainty.
- Governed by clearly defined, published procedures.

Judicial review or ombudsman intervention shall remain available where administrative remedies are exhausted or unavailable.

## ***5.4 Legal Guarantees Against Discrimination, Repression, and Arbitrary Action***

Voluntary organisations are entitled to operate in an environment **free from fear of repression, intimidation, or discrimination**. Under this framework, it shall be unlawful for public authorities or private entities to:

- Deny services or opportunities on the basis of an organisation's **social mission, political stance, religious orientation**, or other protected attributes.
- Impose sanctions or restrictions **without legal justification or procedural safeguards**.
- Engage in **retaliatory or selective enforcement actions**.
- Block legitimate public activities (such as peaceful assemblies, awareness campaigns, or advocacy efforts) except where narrowly justified by law and proportionate to the risk posed.

All rights shall be equally protected for organisations regardless of:

- Whether they are registered or not.
- Their financial scale or geographic reach.
- Their thematic area of focus.

## ***5.5 Equal Access to Justice and Administrative Processes***

The framework ensures that all voluntary organisations—especially **small, emerging, or under-resourced groups**—can access justice and administrative recourse **without excessive procedural or financial barriers**. This includes:

- **Simplified complaint and appeal procedures** made available in plain language.
- **Provision of guidance, templates, and advisory support** by the National Volunteer Authority (ANV).
- **Optional legal aid** or pro bono mechanisms for organisations unable to afford representation.
- Clear timeframes and tracking of complaint resolution to ensure **accountability from public authorities**.



Furthermore, organisations shall have the right to submit **feedback, proposals, and formal petitions** regarding regulatory practices, and receive reasoned responses through participatory governance mechanisms.

## ***5.6 Implementation and Oversight of Rights***

The implementation of these rights will be overseen by:

- The **National Volunteer Authority (ANV)** in its role as a promoter and protector of civic freedom.
- The **Social Sector Ombudsman** for complaints related to abuse of authority or denial of due process.
- The **Civil Courts**, in matters of legal challenge or constitutional claims.
- **Independent ethics and review boards**, where applicable.

Statutory enforcement of these rights will be **enshrined in the revised legislation** governing the sector, ensuring that they are not merely aspirational, but legally binding and enforceable.

***In conclusion, the rights and protections laid out in this section are fundamental to the integrity, resilience, and democratic function of Malta's voluntary sector. By embedding these guarantees into the legal framework, the proposal aims to establish a culture of respect, equity, and lawful partnership between voluntary organisations and the State, strengthening civil society's role as a pillar of social justice, inclusion, and public accountability.***

## 6. Proportional Financial Reporting

An effective legal framework for the voluntary and non-profit sector must balance **financial transparency and integrity** with **proportionality and fairness**. The proposed model introduces a **graduated system of financial reporting obligations**, calibrated according to the **annual income and operational scale** of each organisation. This ensures that smaller entities are **not overburdened with excessive bureaucratic requirements**, while larger organisations—particularly those handling public funds or providing essential services—are held to **higher standards of financial accountability**.

The system recognises four **reporting categories (A–D)**, each with **clearly defined thresholds and obligations** aligned to the organisation’s classification level under the framework.

### *Category A — Small Organisations*

**Annual Income: Less than €25,000**

#### *Reporting Requirements:*

- Submission of a **simple financial statement** on a standardised template provided by the **National Volunteer Authority (ANV)**.
- The report must include:
  - A **summary of income and expenditure**.
  - A brief outline of core activities conducted during the financial year.
  - A signed **declaration of compliance** with the organisation’s statute or guiding rules.

#### *Audit Requirement:*

- **No external audit** required.
- ANV may conduct random spot-checks or provide feedback for improved reporting standards.

#### *Rationale:*

- Designed to support **grassroots and community-level initiatives** operating with minimal financial resources.
- Emphasis on **accessibility and education**, not punitive compliance.

## ***Category B — Medium-Small Organisations***

**Annual Income: Between €25,001 and €95,000**

### ***Reporting Requirements:***

- Submission of a **basic financial report**, which includes:
  - An **income and expenditure account** following simplified accounting standards (e.g. **abbreviated GAPSME** format).
  - A statement of **donations and grants received**.
  - Confirmation of alignment with the organisation's objectives and compliance with governance duties.

### ***Audit Requirement:***

- **External audit not mandatory.**
- Audit may be conducted **voluntarily** to enhance credibility or upon request from a funding partner.

### ***Rationale:***

- Appropriate for **voluntary organisations with limited paid staff or infrastructure** but some recurring funding.
- Promotes accountability **without imposing costly reporting burdens**.

## ***Category C — Medium-Large Organisations***

**Annual Income: Between €95,001 and €499,999**

### ***Reporting Requirements:***

- Submission of a **complete financial report** based on **GAPSME (General Accounting Principles for Small and Medium Entities)**.

- The report must include:
  - **Balance sheet and income statement.**
  - Narrative explanation of key financial decisions or operational risks.
  - Information on **funding sources and allocation of resources.**
  - Basic disclosures on reserves, liabilities, and sustainability considerations.

### ***Audit Requirement:***

- **Audit by an external auditor is recommended, but not compulsory.**
- Organisations receiving specific public project funds or EU grants may be **contractually required** to undergo an audit.

### ***Rationale:***

- Applies to more structured NGOs and voluntary bodies delivering **consistent services at a national level.**
- Emphasises **transparency and risk management**, without universally enforcing full audit costs.

### ***Category D — Large Organisations and Public Service Providers (PSPs)***

**Annual Income: €500,000 or more**

**OR**

**Any organisation operating under a Public Social Partnership (PSP) agreement or similar service contract with the State**

### ***Reporting Requirements:***

- Submission of a **fully audited financial report** based on GAPSME or equivalent national accounting standards.
- The report must include:
  - **Complete audited financial statements** (balance sheet, income statement, cash flow).
  - Detailed **accounting of all public and EU funds** received and used.

- Report on **operational risk**, governance structure, and performance indicators.
- **Efficiency analysis** of services provided to the public (where applicable).

### ***Audit Requirement:***

- **Mandatory audit** by a **licensed and independent external auditor**.
- Auditor's opinion must be submitted as part of the public disclosure process.

### ***Rationale:***

- Ensures **high levels of public accountability** for organisations receiving significant public funding or operating essential services (e.g. in health, education, disability, housing).
- Safeguards **transparency, good governance, and the responsible use of taxpayer funds**.

### ***Additional Provisions for All Categories***

- The **National Volunteer Authority (ANV)** shall:
  - Provide **standardised templates**, model documents, and digital reporting tools.
  - Offer **technical assistance or training** for organisations unfamiliar with reporting standards.
  - Maintain an **online portal** for the submission and public access of annual reports (excluding sensitive personal data).
- **Non-compliance mechanisms** shall be:
  - **Graduated and proportionate**, starting with guidance and warnings.
  - Followed by temporary suspension, public notice, or legal referral only if failure to comply is deliberate and recurrent.
  - All actions must respect the **right to due process and appeal** as detailed in Section 5.

### ***Conclusion***

This proportional financial reporting system ensures that **transparency and accountability** are implemented **without placing undue pressure on smaller organisations**, while also maintaining **robust standards for those that manage significant resources or deliver public services**. It fosters **financial discipline, public trust, and long-term sustainability** in Malta's voluntary and non-profit sector.

## 7. National Council for the Voluntary Sector (NCVS)

To ensure genuine democratic participation, coordination, and oversight within the voluntary and non-profit sector, the proposed framework establishes the **National Council for the Voluntary Sector (NCVS)**. This body shall serve as an **independent, representative, and non-governmental institution** that brings together the collective voice of voluntary organisations operating at all classification levels across Malta.

The NCVS will be the **principal consultative and participatory mechanism** linking civil society with policymakers, national authorities, and international stakeholders. It will embody the values of **transparency, pluralism, and democratic engagement**, contributing to the legitimacy, responsiveness, and sustainability of the sector.

### *7.1 Legal Status and Institutional Independence*

- The NCVS shall be constituted by law as an **autonomous and non-regulatory body**, distinct from any ministry or public agency.
- It shall operate independently of political, governmental, or private influence and be governed by its own **statutory framework** approved through **sector-wide consultation**.
- The Council shall be legally recognised as the **national interlocutor** for voluntary organisations in policy development, sectoral reforms, and international representation.

### *7.2 Composition and Electoral Process*

- The NCVS shall consist of **elected representatives** from voluntary organisations, selected through a **transparent, inclusive, and democratic election process**.
- Representation shall be **proportionate** and reflective of the sector's diversity:
  - All classification levels (Levels 0 to 3) must have designated seats.
  - Thematic representation (e.g., social welfare, environment, youth, disability, education, culture) shall be guaranteed.

- Provisions will be made for the representation of **unregistered but active civic initiatives** under Level 0.
- **Elections** shall be conducted by the National Volunteer Authority (ANV) or an independent electoral board, with **clear eligibility criteria** and **term limits** to ensure accountability and rotation.

### ***7.3 Mandate and Core Functions***

**The NCVS will carry out four essential functions, designed to promote participatory governance, ethical standards, and sectoral coherence:**

#### ***1. Policy Consultation and Legislative Input***

- Serve as the **main consultative body** for the government, Parliament, and public authorities on all matters relating to civil society and volunteering.
- Provide structured **feedback on proposed laws, regulations, reforms**, and national strategies affecting the sector.
- Propose **sector-specific policy recommendations**, based on evidence and field experience.
- Ensure that legislation is shaped with the **active input of practitioners and community actors**, not imposed top-down.

#### ***2. Sectoral Monitoring and Reporting***

- Monitor the **state of the voluntary sector**, including:
  - Emerging challenges and barriers to participation.
  - Trends in organisational development and volunteering.
  - Effectiveness of government policies and funding schemes.
- Publish an **annual report** on the status of civil society in Malta, to be tabled in Parliament and disseminated publicly.
- Collect and analyse **data, case studies, and impact assessments** to support policy advocacy and public awareness.



### ***3. National and International Representation***

- Act as the **official representative body** of the Maltese voluntary sector in:
  - National forums and consultation platforms.
  - European networks (e.g., European Economic and Social Committee, EESC civil society liaison groups).
  - United Nations and Council of Europe platforms related to civil society, sustainability, and governance.
- Facilitate the **involvement of Maltese voluntary organisations in international projects**, exchanges, and solidarity initiatives.
- Promote **cross-border collaboration**, especially in areas related to human rights, community development, and environmental sustainability.

### ***4. Promotion of Ethical Standards and Good Governance***

- Uphold and promote a **voluntary sector code of ethics**, addressing:
  - Integrity in service delivery.
  - Anti-discrimination and inclusiveness.
  - Transparency in operations and financial practices.
  - Internal democracy and member participation.
- Provide **guidelines, capacity-building, and peer-learning initiatives** to assist organisations in adopting best practices.
- Collaborate with the ANV to implement sector-wide initiatives focused on **ethical leadership, self-regulation, and quality assurance**.

### ***7.4 Resources and Operational Support***

- The NCVS shall be funded through a combination of:
  - **Structural support from the ANV** (without interference in internal governance).
  - **EU and international grants** earmarked for civil society strengthening.
  - Optional sectoral contributions or service-based revenue (e.g., training events, publications).
- The Council shall operate from designated premises, ideally within or adjacent to the **National House of Volunteering**, ensuring accessibility to all members.

## ***7.5 Legal and Governance Safeguards***

- Members of the NCVS shall act **exclusively in the public interest**, avoiding:
  - Conflicts of interest.
  - Preferential treatment of specific organisations.
  - Political or commercial influence.
- All processes, decisions, minutes, and budgetary use must be **documented, published, and open to public review**.
- A rotating **Chairperson and Executive Committee** will ensure effective management and institutional continuity.

## ***Conclusion***

The National Council for the Voluntary Sector (NCVS) is designed to be the **collective voice and conscience** of Malta's civil society. By uniting organisations across all sectors and classifications, it ensures that the voluntary sector:

- **Actively shapes its regulatory environment.**
- **Holds public institutions accountable.**
- **Builds bridges across communities and countries.**
- **Upholds the values of democracy, inclusion, and social justice.**

The establishment of the NCVS marks a bold and necessary step toward **institutionalised civil society participation**, contributing to a more open, collaborative, and resilient Maltese democracy.

## 8. Charter of Rights for Voluntary Organisations

A cornerstone of this legal framework is the **formal recognition and protection of the fundamental rights of voluntary organisations**, regardless of their size, classification, or registration status. This is enshrined in a legally binding **Charter of Rights for Voluntary Organisations**, which affirms that civil society actors are entitled to **operate freely and safely** within a democratic society, subject only to lawful, proportionate, and non-discriminatory limitations.

The Charter provides a comprehensive guarantee of **legal status, operational freedom, and access to justice**, ensuring that voluntary organisations can thrive in an environment that respects their independence and contributions to the public good.

### *8.1 Legal Recognition and Right to Existence*

All voluntary organisations, whether formally registered or not, have the **right to exist in law and practice**, provided they operate within the framework of public order, legality, and human rights.

- **Registered organisations** are formally recognised as legal entities with full juridical personality.
- **Unregistered informal groups** (e.g. Level 0) are acknowledged as legitimate civic actors and are **not subject to prohibition or criminalisation** simply due to lack of registration.
- Public authorities shall not obstruct or criminalise **peaceful, lawful association** in any form, including temporary, thematic, or grassroots initiatives.

This right aligns with **Article 42 of the Constitution of Malta**, **Article 11 of the European Convention on Human Rights (ECHR)**, and **Article 12 of the EU Charter of Fundamental Rights**.

### *8.2 Right to Organisational Autonomy*

Voluntary organisations shall enjoy **full autonomy** in defining, structuring, and conducting their internal and external affairs. This includes the freedom to:

- **Set their own objectives, values, and strategies.**
- **Establish and modify internal governance structures**, such as statutes, boards, and advisory bodies.
- **Appoint their leadership and representatives** without external interference.
- **Develop and manage programmes, projects, and partnerships** in line with their mission.
- **Refuse funding or collaboration** if it conflicts with their principles.

***State bodies or regulatory authorities shall not interfere with internal decision-making, policy orientation, or leadership elections, except where serious legal violations are lawfully established and due process is observed.***

### ***8.3 Right to Freedom of Expression and Civic Initiative***

All voluntary organisations and their members have the **right to freedom of thought, opinion, expression, and initiative**, including the right to:

- Advocate for social, political, cultural, environmental, or economic causes.
- Organise awareness campaigns, education initiatives, or peaceful public assemblies.
- Publish opinions, research, and critiques of public policy or governance.
- Engage in civic dialogue at national and international levels.

These rights shall be protected **regardless of the organisation's orientation**, provided the expression remains within the bounds of the law and does not incite violence or hatred.

No organisation shall be penalised, denied access to public support, or subjected to regulatory discrimination on the basis of its **views, advocacy positions, or lawful initiatives**.

### ***8.4 Right to Access Justice and Appeals Mechanisms***

Voluntary organisations have the right to **challenge any administrative or regulatory decision** that adversely affects their existence, registration, operations, funding, or reputation. This right includes:

- **Access to an independent and impartial appeals body**, separate from the authority that issued the decision (e.g. ANV).
- The right to **judicial review** before the Civil Court or the Ombudsman for the Social Sector, as appropriate.
- The right to **legal representation or assistance**, including through legal aid or pro bono mechanisms.
- **Transparent, time-bound appeal procedures** with clearly stated outcomes and reasoning.

This ensures protection from abuse of authority, political pressure, or arbitrary enforcement.

## ***8.5 Enforcement and Public Responsibility***

The Charter of Rights shall be:

- **Codified in national legislation** as part of the amended or new legal framework for voluntary organisations.
- Enforceable in court and administrative proceedings.
- **Monitored by the National Volunteer Authority (ANV)** and supported by the NCVS (National Council for the Voluntary Sector).
- Subject to **regular review** in consultation with the sector to ensure its relevance and applicability.

Public officials and regulatory authorities shall be **legally obliged to uphold and respect** these rights in the execution of their duties. Failure to do so may constitute grounds for disciplinary action, appeal, or judicial intervention.

## ***Conclusion***

The **Charter of Rights for Voluntary Organisations** establishes a legal and ethical foundation for **freedom of association, civic participation, and institutional integrity** in Malta. It affirms the essential role of voluntary

organisations as **guardians of democracy, social justice, and community cohesion**, and guarantees their ability to act independently, voice dissent, and pursue change within the rule of law.

By adopting this Charter, Malta will not only align its voluntary sector governance with **European and international standards**, but also **strengthen civil society as a key partner in national development and democratic resilience**.

## Article 9 — Legislative Implementation and Accessibility

### 1. *Legal Foundation and Reform Pathways*

The proposed legal and administrative framework for the voluntary and non-profit sector shall be formally enacted either through:

- the **adoption of a new primary legislative act**, or
- the **substantial and comprehensive reform of Chapter 492** of the Laws of Malta (Voluntary Organisations Act), ensuring full alignment with current social realities, constitutional guarantees, and international obligations.

### 2. *Clarity, Simplicity and Public Accessibility*

The law must be drafted in **clear, precise, and accessible language**, ensuring it is understandable by citizens, volunteers, and civil society stakeholders without requiring advanced legal expertise. Particular attention must be given to the use of inclusive, non-technical terminology that facilitates:

- effective understanding of rights and obligations,
- informed participation of all stakeholders,
- community-led compliance with regulatory standards.

### 3. *Participatory and Transparent Legislative Process*

The legislative drafting, consultation, and approval process shall:

- be guided by principles of **transparency, open participation, and public accountability**;
- ensure **effective and meaningful consultation** with voluntary organisations, sectoral representatives, legal experts, community leaders, and persons with lived experience;
- involve **inclusive stakeholder forums**, both at national and local level, during pre-legislative and post-legislative phases.

### 4. *Integrated Monitoring and Evaluation Mechanisms*

The law shall establish **concrete mechanisms** to guarantee its effective and consistent application over time, including:

- a **National Observatory or Review Panel** responsible for periodically assessing the implementation of the law;
- **independent performance audits** and feedback tools accessible to voluntary organisations;
- **annual review reports** submitted to Parliament summarising findings, challenges, and progress indicators.

## 5. *Legal Education and Capacity Building*

To ensure compliance and empower community actors, the law must mandate:

- **structured legal education initiatives**, workshops, and capacity-building programs delivered in collaboration with universities, NGOs, and legal experts;
- the publication of **user-friendly legal guides**, templates, FAQs, and toolkits in Maltese, English, and accessible formats;
- **ongoing training and support** for regulatory personnel and public officials dealing with civil society, to guarantee they operate in line with the principles of fairness, proportionality, and good governance.

## 6. *Digital Access and Support Tools*

In line with technological best practices and environmental sustainability, the implementation process shall prioritise:

- **digitalisation of procedures**, including registration, reporting, appeals, and information requests;
- the creation of a **central online platform** for voluntary organisations to access all relevant legal information, submit forms, participate in consultations, and receive regulatory updates;
- **technical assistance channels** (e.g., helpdesk, live chat, video consultations) to support smaller organisations and digitally excluded groups.

## 7. *Alignment with International Law and Best Practices*

The legal implementation strategy must be fully compatible with:

- the **Constitution of Malta**, particularly its provisions on freedom of association and equal protection under the law;
- the **EU Charter of Fundamental Rights**, the **European Convention on Human Rights**, and relevant **UN instruments** (including the Convention on the Rights of Persons with Disabilities);
- international standards on the enabling environment for civil society, as promoted by the **Council of Europe**, **UN Special Rapporteurs**, and **OECD/DAC Principles**.

## 8. *Continuity, Review and Long-Term Vision*

Finally, the law shall include:

- a **statutory review clause** requiring evaluation and possible amendment at least every five (5) years;
- clear guidelines for the **transition of existing organisations** under the new regime with minimum disruption;



- a commitment to fostering a **long-term democratic culture** where the voluntary sector is a recognised pillar of social justice, solidarity, and participatory governance.

## Article 10 — Streamlined Governance and Operation Guidelines

### 1. *Simplified and Proportional Registration System*

The governance framework for voluntary and non-profit organisations shall be based on a **graduated and simplified registration process** that respects organisational diversity, including size, scope, and operational capacity.

Specifically:

- **Level 0 and Level 1 organisations** (informal initiatives and small community groups) shall not be required to register by law but may **voluntarily notify their existence** for networking, support, or visibility purposes.
- **Level 2 and Level 3 organisations**, particularly those receiving public funding or offering structured services, shall be subject to **mandatory registration** through proportionate and accessible administrative procedures.
- All registration and notification procedures shall be **digitally enabled**, with standardised forms, minimal documentation, and the option of multilingual support.

### 2. *Legal Recognition for Non-Registered but Legitimate Initiatives*

Informal community-led initiatives that **do not collect monetary donations, do not engage in commercial activity, and operate solely for non-profit public interest purposes**, shall:

- be **permitted to operate legally** within the limits of applicable national laws;
- be encouraged to **collaborate with registered bodies** or local authorities where appropriate;
- retain the right to **freedom of association and expression**, consistent with the Constitution and international law.

### 3. *Limitations on Financial and Commercial Functions for Non-Registered Entities*

To safeguard financial transparency, consumer protection, and public trust, unregistered organisations shall be subject to the following legal limitations:

- **Fundraising and solicitation of monetary donations** are strictly prohibited unless the organisation is registered with the competent authority;
- Unregistered initiatives **may not open bank accounts** in the name of the group or entity, nor engage in any **monetary transactions** representing the collective;

- **Commercial activities**, including the sale of goods or services for profit or organisational revenue, are not permitted unless the organisation is duly registered.
4. ***Promotion of Ethical Conduct and Organisational Integrity***  
All voluntary organisations, whether registered or not, shall be expected to uphold a minimum code of conduct grounded in:
- **Ethical governance**, transparency in activities, and fair treatment of beneficiaries and volunteers;
  - **Internal democratic decision-making**, especially in groups involving public participation or community representation;
  - A clear commitment to **human rights, equality, and non-discrimination** in all actions and communications.
5. ***Encouragement of Digital Governance and Operations***  
In order to modernise administration, reduce bureaucratic burden, and enhance accessibility:
- Organisations shall be encouraged to adopt **digital tools** for internal governance (e.g., virtual meetings, e-voting, digital records);
  - A **centralised online portal** shall be developed by the National Authority for Voluntary Organisations (ANV) to facilitate:
    - Registration and notification;
    - Document submission and compliance reports;
    - Access to training, guidelines, and templates;
  - Organisations lacking digital infrastructure shall be supported through targeted **technical assistance** programs and community outreach.
6. ***Transparency, Accountability, and Educational Support***  
Transparency obligations shall be tiered by organisational scale, and include:
- **Basic public disclosure** of mission, structure, and non-sensitive activity data via the central platform;
  - Simplified **annual activity or financial declarations**, depending on the organisation's legal status and level of operation;
  - Access to **non-punitive educational support** from the ANV and related agencies to foster voluntary compliance, legal literacy, and good governance.
7. ***Safeguards Against Arbitrary Interference***  
No organisation—registered or otherwise—shall be subjected to arbitrary control, dissolution, or administrative interference by public authorities, unless:
- in clear violation of national law;
  - following due legal process and independent review;

- respecting the principles of **natural justice**, including the right to be heard, appeal, and legal representation.

# Article 11 — Roles and Legal Boundaries of the Commissioner for Voluntary Organisations (CVO)

## 1. *Legal Mandate and Purpose*

The Office of the Commissioner for Voluntary Organisations (CVO) shall operate strictly **within the scope of its legal powers as defined by Chapter 492 of the Laws of Malta** and any subsequent legislative reforms. The primary mandate of the CVO is:

- to **promote legal compliance** among voluntary organisations through education, support, and supervision;
- to **ensure the protection of fundamental rights**, organisational autonomy, and equitable treatment across the voluntary sector;
- to act as a **facilitator of good governance**, transparency, and accountability, rather than as an enforcement or disciplinary authority.

## 2. *Non-Punitive and Supportive Function*

The CVO **shall not function as a punitive body**, and may not, under its own authority:

- unilaterally suspend, dissolve, or restrict the activities of a voluntary organisation without **due process of law**;
- impose sanctions or penalties **except as expressly permitted** under the law and in coordination with independent authorities;
- interfere in the internal governance or strategic direction of organisations, unless there is a clear and substantiated breach of statutory obligations.

Instead, the Commissioner's functions shall prioritise:

- the **provision of legal and administrative guidance** to organisations;
- **capacity building, compliance assistance, and mediation** in case of disputes;
- the development and dissemination of **public resources**, including best practice models, ethical frameworks, and explanatory guidelines.

## 3. *Referral to Competent Authorities*

Where the CVO identifies a matter that potentially involves a serious breach of law or public trust, the Commissioner shall:

- **refer the issue** to the appropriate judicial or administrative authority, such as:
  - the **Ombudsman** (where public maladministration is suspected),

- the **Civil Courts** (for legal interpretation or enforcement),
  - the **Tax Authorities** (in cases involving financial irregularities),
  - the **Commission for the Rights of Persons with Disability (CRPD)** or the **Social Care Standards Authority (SCSA)** where relevant;
  - refrain from acting as judge or prosecutor in any such matter, preserving the principle of **separation of powers and due process**.
4. ***Transparency, Independence, and Impartiality***
- The Office of the CVO must operate with the highest standards of **administrative transparency and professional integrity**, including:
- the **publication of annual reports** detailing all non-confidential investigations, referrals, and sector-wide activities;
  - maintenance of **internal documentation and justifications** for all decisions or recommendations;
  - adherence to a publicly declared **code of ethics**, ensuring impartial treatment of all organisations regardless of their mission, size, registration status, or ideological stance.
5. ***Legal Safeguards Against Abuse of Power***
- To protect the voluntary sector from overreach or misuse of regulatory authority:
- any decision by the CVO that negatively affects the legal status, funding access, or operational rights of an organisation must be:
    - **clearly justified in writing**,
    - **notified to the affected organisation** with full reasons,
    - **subject to independent appeal**, including judicial review or administrative challenge;
  - organisations shall retain the right to **legal representation, external mediation**, and **access to documentation** relevant to any inquiry.
6. ***Educational and Advisory Role***
- The CVO is entrusted with:
- promoting **legal awareness and rights education** within the voluntary sector;
  - offering structured **training sessions, workshops, and consultations** to organisations and their leadership;
  - engaging in **public dialogue and sectoral consultation**, particularly when drafting new guidance, regulations, or strategic policies.
7. ***Conflict of Interest and Ethical Standards***
- The individual appointed as Commissioner must:

- be **independent and free of conflicts of interest**, including recent involvement in the governance of any voluntary organisation;
- **declare any past affiliations or interests** publicly prior to appointment;
- be held accountable to a **Monitoring and Ethics Committee**, which shall have the authority to investigate and report on the Commissioner's conduct in office.

## Article 12 — Proposed Legal Amendments to Chapter 492 of the Laws of Malta

In the spirit of democratic reform, social inclusion, and institutional accountability, the following **new articles are proposed for inclusion or amendment within Chapter 492 of the Laws of Malta (Voluntary Organisations Act)**. These provisions aim to modernise the governance of the voluntary sector, strengthen public trust, and align Maltese law with European and international standards.

### *12.1 – Promotion of Inter-Organisational Collaboration and Solidarity*

1. The Commissioner for Voluntary Organisations shall have a **duty to promote collaboration, solidarity, and mutual support** among all voluntary and non-profit entities, regardless of registration status.
2. The Commissioner shall organise and facilitate **forums, roundtables, and joint initiatives** aimed at enhancing sector-wide cooperation, knowledge exchange, and shared advocacy.
3. **Discriminatory practices or preferential treatment** that hinder cooperation between organisations are strictly prohibited.

### *12.2 – Regulation of Fundraising Activities through a National Calendar*

1. A **National Fundraising Calendar** shall be established and maintained by the Commissioner, in collaboration with the National Authority for Voluntary Organisations (ANV).
2. All fundraising activities requiring public space or media campaigns shall be **registered in advance** to avoid duplication, competition, or disruption.
3. No organisation shall be permitted to conduct **more than two (2) major public fundraising campaigns per calendar year**, unless justified by exceptional need and approved in writing by the Commissioner.
4. The Commissioner shall ensure **equal access to public fundraising opportunities** for small and emerging organisations.

### *12.3 – Free and Equitable Access to Public Facilities*



1. Public facilities under the remit of the state, including **community halls, training rooms, meeting spaces, and public schools**, shall be made **available free of charge** to registered voluntary organisations for non-commercial, community-serving purposes.
2. Use of these facilities shall be **scheduled transparently and equitably**, based on availability and social impact, and without political or ideological discrimination.
3. These spaces shall collectively constitute a **National House of Voluntary Organisations**, open to all duly recognised entities.

### ***12.4 – Formal Collaboration with Local Councils***

1. The Commissioner shall actively **coordinate with all Local Councils** to identify and address the needs of community-based voluntary organisations operating within their locality.
2. Local Councils shall be **encouraged and empowered** to:
  - provide logistical and administrative support;
  - facilitate access to community premises and resources;
  - collaborate with both registered and non-registered civic initiatives in accordance with the law.
3. All **collaboration agreements** between the Commissioner and Local Councils must be **documented, transparent, and published** on the official registry.

### ***12.5 – Participation in Educational, Civic, and Training Activities***

1. The Commissioner and the ANV shall participate in and support **educational, civic, and capacity-building activities**, when requested by voluntary organisations or community networks.
2. This shall include representation in **workshops, conferences, schools, universities, and public events** promoting civic engagement and voluntary service.
3. Special emphasis shall be placed on **inclusive participation**, especially involving persons with disabilities, youth, and minority communities.

## ***12.6 – Ethical Standards Governing the Office of the Commissioner***

1. The Commissioner and all associated staff must adhere to **principles of equality, impartiality, integrity, and transparency** in the performance of their duties.
2. All organisations must be treated **fairly and without discrimination**, irrespective of their mission, leadership, or past history.
3. **Internal processes and decisions** shall be recorded, accessible, and reviewable through **public audit or judicial oversight** where necessary.

## ***12.7 – Term Limits and Independence Requirements for the Commissioner***

1. The Commissioner for Voluntary Organisations shall be appointed for a **single, non-renewable term of four (4) years**, with a possible one-time extension of **no more than one (1) additional year** in exceptional cases.
2. To safeguard impartiality:
  - the appointed person must not have held an executive or senior role in any voluntary organisation for at least **three (3) years** prior to appointment;
  - the Commissioner shall **declare any past affiliations** publicly and sign an **annual conflict of interest statement**.
3. The appointment must be made through an **open, public call for applications**, based on merit, independence, and professional qualifications.
4. A **Monitoring and Ethics Committee** shall oversee the conduct, independence, and accountability of the Commissioner and publish regular assessments of the office.

***These amendments are designed to enhance the legal infrastructure of the voluntary sector, ensure proportionality and fairness in regulatory actions, and foster an inclusive civic space. They reflect international best practice in good governance, rights protection, and democratic participation.***

## Article 13 — Legal Compliance Analysis

This proposal for the reform and modernisation of the legal framework governing voluntary and non-profit organisations in Malta has been meticulously drafted in full conformity with national, European, and international legal standards. The following compliance analysis outlines its alignment with applicable instruments of law and affirms its foundation in democratic, rights-based governance.

### *I. Compliance with Maltese Law*

#### 1. **Chapter 492 of the Laws of Malta (Voluntary Organisations Act)**

The proposed framework upholds and strengthens the foundational principles of Chapter 492 by:

- reaffirming the right of individuals and communities to freely associate for non-profit and public interest purposes;
- promoting proportionality and transparency in registration and governance requirements;
- respecting the limits of administrative power granted to the Commissioner for Voluntary Organisations (CVO) and enhancing mechanisms for independent appeal and legal protection.

#### 2. **The Constitution of Malta**

The framework is consistent with the Constitution of Malta, particularly:

- **Article 38** – ensuring the right to a fair hearing and due process in all regulatory or investigative proceedings;
- **Article 41** – safeguarding freedom of expression;
- **Article 42** – protecting the fundamental right to freedom of association;
- **Article 45** – guaranteeing equality before the law and protection from discrimination based on political, social, or associative grounds.

### *II. Compliance with European Union Law*

#### 1. **Charter of Fundamental Rights of the European Union**

The proposal is aligned with the following core articles of the EU Charter:

- **Article 12** – Freedom of assembly and association: the framework protects both registered and informal civic initiatives;
- **Article 21** – Non-discrimination: the law explicitly prohibits arbitrary or unequal treatment by authorities;

- **Article 41** – Right to good administration: transparency, impartiality, and the right to be heard are institutionalised across all decision-making mechanisms.

### ***III. Compliance with the European Convention on Human Rights (ECHR)***

#### **1. Article 11 – Freedom of Assembly and Association**

The framework respects and enables the free and autonomous operation of voluntary organisations, whether registered or informal, by:

- avoiding mandatory registration for non-commercial civil society initiatives;
- preventing any form of unjustified interference in internal governance;
- providing fair and proportionate regulatory oversight only where necessary and legally justified.

#### **2. Article 14 – Prohibition of Discrimination**

The proposed law ensures that no individual or organisation is subject to discriminatory treatment on the basis of affiliation, belief, size, or legal status, particularly in access to public support, facilities, and legal protections.

### ***IV. Compliance with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)***

#### **1. Article 4 – General Obligations**

The framework obliges all public authorities, including the CVO, to:

- promote the full development, participation, and inclusion of persons with disabilities in the civic and voluntary sectors;
- consult and involve representative organisations of persons with disabilities in all stages of legislative and policy development affecting them.

#### **2. Article 29 – Participation in Political and Public Life**

The law guarantees the right of all persons, including those with disabilities, to:

- freely associate and form organisations;
- be represented in public consultations and civic institutions;

- access public platforms and funding on an equal basis with others.

## ***V. Institutional Guarantees and Protections***

The proposed framework includes clear structural and procedural safeguards to ensure:

### **1. Protection from Arbitrary Control**

No organisation may be dissolved, suspended, or restricted without:

- a lawful basis;
- prior notification and explanation;
- access to legal remedies, including independent appeals.

### **2. Equal Access, Participation, and Representation**

The law guarantees fair access to public spaces, participation in consultative forums, and inclusion in decision-making processes, regardless of organisational size, funding, or registration status.

### **3. Support-Oriented and Proportional Governance**

Regulatory authorities are mandated to act as facilitators, educators, and supporters rather than punitive enforcers. Emphasis is placed on:

- dialogue, technical assistance, and mediation;
- education over sanction;
- proportionality in all compliance and reporting obligations.

***The proposed reform represents a legally sound, constitutionally compliant, and internationally aligned framework for the regulation of voluntary organisations in Malta. It prioritises dignity, freedom, transparency, and legal certainty—ensuring a sustainable and participatory civic ecosystem that reflects the highest standards of democratic governance and human rights.***

# Conclusion

This legislative proposal constitutes a **visionary and principled reform** of Malta's voluntary and non-profit sector, anchored firmly in the values of **democratic governance, legal justice, social solidarity, and sustainable civic development**.

It is designed not merely as a regulatory revision, but as a **strategic transformation** of the legal and institutional landscape that governs civil society in Malta. The framework presented is:

- ***Legally robust***, aligning with the Constitution of Malta, Chapter 492 of the Laws of Malta, the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights, and the United Nations Convention on the Rights of Persons with Disabilities;
- ***Socially responsive***, reflecting the real and evolving needs of diverse voluntary organisations, community initiatives, and vulnerable groups;
- ***Democratically rooted***, developed on the basis of wide consultation, civic engagement, and transparent policy-making.

## ***The proposal prioritises:***

- ***Autonomy***: safeguarding the right of individuals and communities to associate freely, organise voluntarily, and operate without arbitrary interference;
- ***Transparency and accountability***: instituting proportionate reporting mechanisms, public oversight, and ethical governance standards for both organisations and authorities;
- ***Support over sanction***: shifting the role of regulators from punitive overseers to facilitators of growth, education, and compliance;
- ***Collaboration and equity***: ensuring inclusive access to public resources, participation in decision-making, and mutual respect across all levels of civic engagement.

By replacing rigid and outdated controls with **streamlined governance, digital facilitation, and inclusive legal structures**, this reform empowers both formal and informal civic actors to contribute meaningfully to Malta's social fabric, economic resilience, and democratic life.

In doing so, it establishes a **strong, modern, and just legal foundation** for the voluntary sector—one that protects fundamental rights, encourages innovation and cooperation, and reinforces the vital role of civil society as a cornerstone of national development and democratic accountability.

## **Doninu (Malta) International**