



FACTUAL REPORT AND PROPOSED SOLUTION

REPORT

Administration, Assets, and Rights of Residents of Fondazzjoni Wens

Introduction

This report documents and analyzes, on a factual and legal basis, the administration of funds, assets, and properties of Fondazzjoni Wens, in light of:

- the imminent dissolution of the foundation and its board;
- the transfer of residents to Agenzija Sapport;
- the fundamental rights of residents as persons with disabilities under Maltese and international law.

The report is based on internal administrative information, established foundation practices, and applicable legal principles.

Factual Framework

1. Internal Accounts of Residents

- Each resident had an individual internal account within Fondazzjoni Wens, into which were deposited:
 - 100% of the disability pension;
 - any wages earned by the resident;
 - any unspent funds accumulated for subsequent months.
- From these accounts, funds were deducted for:
 - personal purchases;
 - daily pocket money;
 - other expenses directly for the benefit of the resident.

2. Provision Fund (20%)

- 20% of each resident's pension was allocated to a Provision Fund to cover:
 - extraordinary needs;
 - additional care;
 - funeral expenses.

3. Investment in Immovable Property

- Residents' funds were invested in properties worth approx. €7,000,000;
- These were investments for the benefit of the residents;
- Current market value is estimated conservatively at a minimum of €8,000,000.

4. Bank Funds

- In addition to properties, bank accounts held approx. €3,000,000;
- These included residents' private funds and the Provision Fund.

5. Current Situation

- The current board allegedly mismanaged or misappropriated these funds, which are now depleted;
- There are serious allegations of theft and corruption;
- The foundation is being dismantled;
- Residents are being transferred under Agenzija Sapport.

Applicable Legal Framework

1. Maltese Law

(a) Civil Code (Cap. 16)

- Trustees and fiduciary duties: anyone administering another's funds must act with loyalty, prudence, and transparency;
- Any use against the beneficiary's interest constitutes a breach of fiduciary duty.

(b) Voluntary Organisations Act (Cap. 492)

- Obligation of good governance;
- Use of funds according to the organization's purpose;
- Prohibition of misappropriation or unauthorized use.

(c) Criminal Code (Cap. 9)

- Relevant to embezzlement, abuse of trust, fraud, and offenses against vulnerable persons.

2. Rights of Persons with Disabilities – International Law

UN Convention on the Rights of Persons with Disabilities (CRPD) – Malta is a State Party

- **Article 12 – Legal Capacity:**
 - Persons with disabilities have rights over their property and assets;
 - The State must protect them from financial abuse.
- **Article 19 – Living Independently:**
 - Right to live in the community;
 - Prohibition of forced institutionalization.
- **Article 28 – Adequate Standard of Living:**
 - Protection of financial means and social security.

3. European Law and Policy

- Principle of de-institutionalisation;
- Protection of funds of vulnerable persons;
- Personal liability of administrators.

Legal Analysis

1. Legal Nature of Funds

- Pensions, wages, and accumulated funds are private property of the residents;
- The foundation acted only as custodian/trustee;
- These funds could not become foundation assets.

2. Properties as Trust Assets

- Properties purchased are held in trust for residents' benefit;
- In case of dissolution, they must revert to residents or be liquidated for their benefit.

3. Right to Restitution

- Residents have an absolute right to full restitution of their funds upon dissolution;
- Any refusal or delay constitutes a serious legal violation.

4. Proportional Calculation

- If properties are worth €8,000,000 and there are 40 residents:
 - Each resident would have an approximate share of €200,000;
 - This can be used to purchase housing, ensuring independent living in the community with Aġenzija Sapport's care;
 - Fully compliant with UN CRPD.

Alleged Board Breaches

- Breach of fiduciary duties;
- Violations of Cap. 492 (governance and fund use);
- Breaches of relevant articles in the Criminal Code;
- Failure to protect vulnerable persons' rights under CRPD.

Conclusion

- Residents have legal and moral rights to reclaim their private funds;
- Assets and funds should accompany residents under Aġenzija Sapport's care;
- Residents are entitled to independent living in the community;
- Any action or omission prejudicing these rights is illegal and unjust.

Recommendations

- Immediate independent accounting and audit;
- See audit accounts 2023 signed by auditor Mr. Savior Agius, copies in OCVO office and MBR
- Freeze all assets;
- Full restitution to residents;
- Criminal investigation into board and other responsible parties;
- Implementation of a de-institutionalisation model in compliance with UN CRPD.

PROPOSED SOLUTION

Immediate Protection of Residents of Fondazzjoni Wens and Transfer of Assets

1. Purpose of the Document

This document presents the best practical, legal, and human solution to protect the interests and rights of residents with disabilities at Fondazzjoni Wens without further delay that could lead to:

- loss or dissipation of assets;
- theft or further abuse;
- irreparable harm to residents.

The primary goal is to ensure that assets rightfully belonging to persons with disabilities are used for their benefit and **not diverted to third parties**.

2. Fundamental Principle

The foundation and its board:

- are **not owners of the assets**;
- act as **fiduciary administrators**;
- have an **obligation to hold and manage assets** on behalf of and for the benefit of residents.

All decisions must be:

- in the **best interests of the residents**;
- **compliant with Maltese law** (Civil Code, Cap. 16, Cap. 492);
- **compliant with the UN Convention on the Rights of Persons with Disabilities (CRPD)**.

3. Proposed Solution (Step by Step)

3.1 Transfer of All Properties and Assets

- All properties and assets of Fondazzjoni Wens must be **formally transferred to Aġenzija Sapport**, as the national agency responsible for persons with disabilities.
- This ensures that the assets remain **legally and exclusively dedicated to the benefit of persons with disabilities**.
- The transfer must be:
 - **legally transparent**;
 - accompanied by **full and verified accounting**;
 - **without any reduction or allocation to third parties**.

Legal Basis:

- Cap. 16 Civil Code – fiduciary duty;
- Cap. 492 Voluntary Organisations Act – proper fund use and governance;
- CRPD Articles 12, 19, 28 – protection of property and rights of persons with disabilities.

3.2 Residents' Personal Funds (up to December 2025)

- All funds in **individual internal accounts** (pensions, wages, personal accumulation) must be **fully transferred to Aġenzija Sapport**.
- Funds must:
 - remain in individual accounts in the **resident's name**;
 - **not be reduced**;
 - be used **exclusively for the resident's needs and welfare**.

3.3 "Provision for Persons Liability Fund"

- This fund must also be transferred to Aġenzija Sapport to ensure:
 - **secure and protected use**;
 - coverage of **extraordinary needs, long-term care, and funeral expenses**. (or now as the new agreement)
- The fund remains dedicated to residents, including ex-Wens residents and other Sapport residents, **in accordance with law and regulations**.

4. Protection Against Misuse and Third-Party Enrichment

- **No third party** may benefit from these assets;
- **Board members** may not treat assets as their own;
- Any misuse or misappropriation constitutes a **breach of fiduciary duty** and potentially a **criminal offense** (Criminal Code, Cap. 9).
- Assets remain **in the name of and for the benefit of residents**.

5. Operational Framework under Agenzija Sapport

- Upon transfer to Sapport:
 - **Sapport may take 60% of pensions (from now)** for operational expenses, care, support, and services;
 - **40% of the pension remains in the resident's internal account**, used for personal needs and accumulated for the future and add with other money that they have.
- This model ensures:
 - **transparency**;
 - **sustainability**;
 - **real protection of residents' rights**.

Legal References:

- UN CRPD Articles 12, 19, 28;
- Maltese Civil Code, Cap. 16;
- Voluntary Organisations Act, Cap. 492.

6. Conclusion

- This solution **immediately protects persons with disabilities**;
- **prevents theft or dissipation of assets**;
- **respects Maltese law and international obligations**;
- places **dignity, autonomy, and welfare of residents at the center**.

All assets and funds rightfully belonging to persons with disabilities must **remain theirs, be used for their benefit, and accompany them under Sapport care**.

PERSONAL RESPONSIBILITY FOR MISUSE OF RESIDENTS' FUNDS – FONDAZZJONI WENS

1. Overview

Responsibility for any person who misuses, mismanages, or interferes with residents' funds is **personal**, not abstractly held by the foundation. Each individual involved can be held personally liable under Maltese law, international law, and regulatory frameworks.

2. Categories of Responsible Persons

2.1 Board Members (Collectively and Individually)

- Any board member who:
 - approved;
 - accepted;
 - turned a blind eye; or
 - failed to intervene;

is **personally responsible** for:

- mismanagement of funds;
- theft;
- improper administration;
- use of residents' funds for other purposes.

Legal Principle:

- Being on the board implies a **duty to know and act**. Ignorance is not a defense (Cap. 16 Civil Code – fiduciary duty).

2.2 Chairperson / President

- The Chairperson has **heightened responsibility** because:
 - they had control and direction;
 - they were responsible for good governance;
 - they should have prevented abuse.

- Failure to act = **direct personal liability**.

2.3 Executive Director / Administration

- Any person who:
 - managed funds;
 - authorized payments;
 - ordered transfers;
 - implemented illegal decisions;

is **civilly liable** (restitution) and **potentially criminally liable**.

2.4 Curators, Guardians, or Legal Representatives

- Where residents had curators, guardians, or representatives:
 - they have a duty to protect residents' interests;
 - they must report abuse;
- Failure = **complicity or gross negligence**.

2.5 Auditors and Professionals (if aware or reasonably should have known)

- If auditors, accountants, or lawyers knew or should have reasonably known of abuse and:
 - failed to report it;
 - signed false accounts;
- They may be liable for **professional negligence** or **complicity**.

2.6 Public Authorities (Institutional Responsibility)

- If authorities were informed or had clear signs and **did not act**:
 - institutional responsibility arises;
 - in certain cases, **personal liability of officials** may apply, especially in cases of gross negligence.

3. Legal Principles

- **Any person touching residents' funds without authority is personally responsible.**
- **Any person who could have prevented abuse but did not is also responsible.**
- Residents are **vulnerable persons**, making offenses more serious.

Official Statement Template:

“Responsibility is not hidden behind the term ‘board.’ Any person who mismanaged or allowed mismanagement of residents’ funds is personally liable before the law.”

4. Types of Responsibility

4.1 Criminal Liability

- Fraud / abuse of trust (Criminal Code, Cap. 9, Malta)
- Conspiracy / complicity: if they assisted or allowed abuse
- Aggravated penalties for abuse of vulnerable persons

4.2 Civil Liability

- Restitution / compensation for damages
- Delay or failure to act can lead to **personal liability**

4.3 Administrative Liability

- Dismissal / disciplinary action for public officials
- Possible legal and regulatory penalties (including fines)

5. International Principles

- **UN Convention on the Rights of Persons with Disabilities (CRPD):**
 - States must protect vulnerable persons;
 - Public officials who fail to protect or who enable abuse can be investigated;
 - Any action or omission allowing corruption of persons with disabilities’ assets constitutes **internationally recognized criminal and moral offense**.

Official Phrase for Public Use:

“Any public official who aided, permitted, or failed to prevent theft or corruption of vulnerable persons’ assets is personally liable legally, criminally, and administratively. They cannot hide behind the title of ‘office.’”

STRUCTURED LIST OF RESPONSIBILITIES – FONDAZZJONI WENS

This document provides a clear and defensible list of personal and public responsibilities based on available facts and applicable Maltese and international law.

1. Members of the Foundation Board

Responsibility: Fiduciary / Criminal / Civil

- Any member who:
 - accepts or consents to acts of theft or corruption;
 - misuses funds without resident approval;
 - takes no action to protect the assets;
- **Is personally legally and criminally liable.**

Legal References:

- Maltese Civil Code, Cap. 16 – Duties of trustees
- Maltese Criminal Code, Cap. 9 – Fraud, Embezzlement, Abuse of Trust
- Cap. 492 – Duties and obligations of voluntary organization boards

2. Chairperson / President of the Board

Responsibility: Aggravated – Leadership / Fiduciary / Criminal

- Responsible for controlling and directing the board;
- Failure to prevent abuse = **direct personal liability.**

3. Executive Director / Administration

Responsibility: Operational / Criminal / Civil

- Signs illegal payments;
- Implements illegal or unauthorized decisions;
- **Civilly liable for restitution and potentially criminally liable.**

4. Curators, Guardians, or Legal Representatives of Residents

Responsibility: Fiduciary / Legal

- Obligated to protect the interests of residents;
- Failure = **complicity or gross negligence**.

5. Auditors and External Professionals

Responsibility: Professional / Civil / Criminal

- Obligated to report irregularities;
- Failure to detect or report = negligence;
- Signing false accounts or approving misappropriation = criminal liability.

6. Public Officials

Responsibility: Public / Criminal / Administrative

- Any official who:
 - assisted, permitted, or failed to intervene against theft/corruption;
 - cannot claim unreasonable ignorance as an excuse;
- **Personally, criminally, and administratively liable.**

References:

- UN CRPD – Articles 12, 19, 28
- Maltese laws on public officials' accountability (Civil Code, Cap. 16; Criminal Code, Cap. 9; relevant administrative laws)

7. General Principle

- Anyone touching residents' funds without authority is responsible;
- Anyone who could have prevented abuse and did not is also responsible;
- Vulnerable persons = aggravating factor in criminal law.

8. Strong Official Phrase for Legal Use

“Any person who mismanaged, allowed, or failed to prevent theft or corruption of vulnerable persons’ assets is personally responsible legally, criminally, and administratively. They cannot hide behind the terms ‘office’ or ‘board.’”

Usage

This document can be used as a legal annex before:

- Ombudsman / EU Ombudsman
- SCSA (Social Care Standards Authority)
- Attorney General of Malta
- Police / Olaf
- CVO (Commissioner for Voluntary Organisations)
- European / UN bodies

It provides a **structured legal framework of personal and public responsibility** for acts of theft, abuse, or corruption at Fondazzjoni Wens, covering:

- Board and Chairperson
- Executive Directors
- Curators and Guardians
- Auditors and external professionals
- Public officials

In this case, the property considered an **asset of Fondazzjoni Wens** is currently estimated to have a **market value of approximately €8,000,000**.

Legally:

- The property was purchased **using funds accumulated by the residents**, so it is **an asset belonging to the residents**, not to the board or the foundation as an abstract entity.
- Under Maltese law (Civil Code, Cap. 16 – fiduciary duties) and the CRPD (Articles 12, 19, 28), **the financial benefit and use of the property must remain for and with the persons with disabilities**.

- In the event of a transfer or liquidation of the foundation, the property must **be allocated to the residents or to Aġenzija Sapport to continue being used for their well-being.**

If you want, I can also make a **proportional calculation to show how much would go to each resident** based on the current market value of €8 million and 40 residents. Do you want me to do that now?

Ref	Property	Purchased
A	Dar il-Wens Kalkara	28/06/2001
B	1 Dar l-Abilita, Triq il-Luzzu Kalkara	27/06/2011
C	Garage, Sacred Heart Street Paola	
D	Azalea l-Ammiljarat Paola 9A	16/05/2012
E	Azalea l-Ammiljarat Paola 9 B	29/05/2012
F	35 Merhba, Mahatma Gandhi Fgura	27/11/2012
G	Garage Ta' Maggi	22/03/2016
H	Garage u/l Dar l-Abilita Kalkara	15/06/2016
I	37 Cova Mahatma Gandhi Fgura	28/11/2019
J	198 Garage Ninu Cremona Paola	12/02/2020
K	7 Triq Karmnu Cospicua	24/02/2021
L	Triq l-Ahhar Hbit tat-Toroq Zejtun	22/08/2022
M	1-2 Triq il-Luzzu Kalkara	24/11/2022
N	45 Triq tas-Silg Mxlokk	31/10/2023

In 2024, the **bank accounts of Fondazzjoni Wens** held approximately **€3,000,000**.

HSBC	Current	312536.93
HSBC	Savings	106171.85
HSBC	Fixed	1398
HSBC	Fixed	5079.16
BOV	Current	96096.73
BOV	Savings	2741783.01
petty Cash		1410
		3264475.68

Re: Request for Investigation into the Sale of Properties Belonging to Persons with Disabilities



Saliba Jesmond 4 at OCVO<jesmond.saliba.4@gov.mt>

Lil: Int; Rhoda Garland; Bernard A. Busuttil; Denise Zammit; Annmarie Xuereb; Customer Care; +3 ohrajn



Gim 09 Jan 2026 12:42

Wegibt nhar Gim 09 Jan 2026 16:34.

Ara l-konverżazzjoni

Mr Callejja,

This office is informed there are police investigations underway. All measures to safeguard the beneficiaries and the protection of their assets have been taken not to further prejudice the investigations by the police.

No property was sold and/or negotiated or transferred to anyone since June 2024.

All assets will be under the custody of a curator board of legal experts, while the administration of the organisation as a foundation is also assigned to an audit firm to ensure that what is being alleged here does not happen. This will remain in force until investigations by police are complete.

At this point we can't provide any further information until all police investigations are finalised so as no investigations.

If you have any evidence or information you are kindly being requested to present it directly to the police, you are kindly requested to speak directly to the Financial Crimes Investigations Department of the Malta Police Force.

Jesmond Saliba
Commissioner

Legal and Practical Implications of the Email by Jesmond Saliba (OCVO)

Formal Acknowledgement of Police Investigations

Implication:

- The OCVO **formally confirms** that police investigations are underway.

Serious Concerns Regarding Selective Police Investigation and Failure to Investigate Other Responsible Parties

Commissioner Jesmond Saliba has informed us that a police investigation is underway. However, based on the information available to us, **only Mr Ronald Galea is currently being investigated.**

This raises serious legal and institutional concerns, for the following reasons:

The Police Investigation Was Triggered One Year Late

- Commissioner Saliba submitted a report or letter to the police **in June 2025**, which appears to have triggered the current investigation.
- This was done **one full year after** the Commissioner himself stated that he had already carried out an investigation and took control of Fondazzjoni Wens on **4 July 2024**.
- At that time, the Commissioner **took over the foundation without any court order**, placing it under his authority.

Pierre Calleja

“Protect the residents now. Investigate later. No one escapes responsibility.”