



# **On Governance Irregularities, Direct Orders, and the Protection of Persons with Disabilities**

# GENERAL REPORT

On Governance Irregularities, Direct Orders, and the Protection of Persons with Disabilities

## 1. Purpose of the Report

This report is intended to provide a **general legal and factual overview** concerning:

- governance irregularities within a foundation operating a residential home for persons with disabilities;
- the issuance of a substantial **direct order** to a private service provider;
- the absence of lawful corporate and judicial processes; and
- the potential impact on the rights and protection of persons with disabilities.

This document is **informative and preliminary in nature** and does not prejudice any future civil, criminal, or administrative proceedings.

## 2. Summary of Alleged Facts

Based on the information available:

- A **private service provider** was awarded a **direct order of approximately €200,000 per month**;
- The direct order was issued by a **Mr. Jesmond Saliba together with the Board of a foundation** operating a residential home for persons with disabilities;
- The said Board:
  - was **not appointed through an AGM or EGM** as required by standard governance principles and the foundation's statute;( showing that email of 4th July 2024 bu CVO)
  - lacked a valid mandate under the foundation's governing documents;
  - was imposed or facilitated by the **Commissioner for Voluntary Organisations**;
- **No court order** exists authorising the removal or replacement of the previous Board or permitting such administrative intervention;
- The decisions taken directly affected **persons with disabilities**, a legally protected and vulnerable group.

## 3. Applicable Legal Framework

### 3.1 Civil Code of Malta – Chapter 16

#### Principle of lawful authority

Under Maltese civil law, acts carried out **without lawful authority or mandate** are legally ineffective.

Acts taken by a board that is **not validly constituted** are considered **void ab initio** and produce no legal effects, particularly where they involve:

- contractual commitments;
- financial obligations;
- disposal or allocation of assets.

### 3.2 Foundations under the Civil Code

(Second Schedule to the Civil Code)

Foundations in Malta must be governed:

- strictly in accordance with their **statute**;
- by **lawfully appointed administrators or directors**.

Key governance requirements include:

- the holding of **Annual General Meetings (AGMs)**;
- the convening of **Extraordinary General Meetings (EGMs)** when major decisions are required;
- transparent appointment and removal of board members.

Any act taken **outside these procedures** constitutes an **ultra vires act** and is therefore unlawful.

### 3.3 Voluntary Organisations Act – Chapter 492

The **Commissioner for Voluntary Organisations** has **regulatory and supervisory powers only**, which include registration, compliance monitoring, and reporting obligations.

The Act **does not grant the Commissioner authority** to:

- appoint or impose a board of directors;
- assume administrative control of a voluntary organisation;
- authorise or impose financial commitments or direct orders.

Any such intervention **without a court order** is **ultra vires**, unlawful, and without legal effect.

### 3.4 Public Procurement Principles

(S.L. 601.03 – Public Procurement Regulations)

While not all foundations fall directly under public procurement law, **general principles of public finance and good administration** apply where:

- substantial funds are involved;
- services concern vulnerable persons;
- public interest considerations arise.

These principles include:

- transparency;
- proportionality;
- accountability;
- avoidance of conflicts of interest.

A **direct order of significant value**, issued without lawful governance structures, raises **serious concerns of maladministration and misuse of funds**.

### 3.5 Equal Opportunities (Persons with Disability) Act – Chapter 413

This Act provides statutory protection against discrimination, abuse, and exploitation of persons with disabilities.

It establishes that:

*Any person who abuses, exploits, segregates, or subjects a person with a disability to discriminatory treatment commits an offence.*

Administrative or financial decisions that:

- destabilise care services;
- threaten continuity of support;
- expose residents to harm or uncertainty,

may constitute **indirect discrimination or abuse** under this Act.

### 3.6 CRPD Act – Chapter 627

(United Nations Convention on the Rights of Persons with Disabilities)

The CRPD is fully incorporated into Maltese law.

Relevant provisions include:

- **Article 4** – General obligations of the State;
- **Article 16** – Freedom from exploitation, violence, and abuse;
- **Article 19** – Right to live independently and be included in the community.

The State has a **positive obligation** to:

- regulate;
- supervise;
- and intervene where necessary,

including where services are delivered by **private entities**.

Failure to act may give rise to **state responsibility**.

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

Relevant provisions include:

- **Article 8** – Right to respect for private life and dignity;
- **Article 14** – Prohibition of discrimination.

Persons with disabilities are recognised by the European Court of Human Rights as a **particularly vulnerable group**, requiring enhanced protection by public authorities.

## 4. General Observations

Based on the above:

- There can be **no vacuum of responsibility** where persons with disabilities are concerned;
- Governance structures imposed without legal basis undermine:
  - legal certainty,
  - accountability,
  - and safeguarding mechanisms;
- Outsourcing or direct orders **do not remove responsibility** from the foundation, its board, or the State.

## 5. Conclusion

This general report identifies **serious legal and governance risks** arising from:

- the operation of an allegedly illegitimate board;
- the issuance of a substantial direct order without lawful authority;
- the absence of judicial oversight;
- and the potential adverse impact on persons with disabilities.

The situation warrants:

- independent verification;
- transparency;
- and, where necessary, corrective legal and administrative action.

## ANNEX I

### LEGAL FRAMEWORK AND CITATIONS\*\*

#### A. Maltese Law

##### 1. Civil Code of Malta – Chapter 16

**Core principle: lawful authority and nullity of acts**

Under Maltese civil law, acts performed **without lawful authority or mandate** are legally ineffective.

- Acts carried out by persons or bodies **without legal competence** are considered **void ab initio**
- Contracts and financial commitments entered into without authority are **unenforceable**

### Legal principle:

Acts performed ultra vires produce no legal effects.

### Relevance:

A board not lawfully appointed cannot bind a foundation or lawfully issue contracts or direct orders.

## 2. Foundations (Second Schedule to the Civil Code)

Foundations must be governed:

- in accordance with their **statute**;
- by **lawfully appointed administrators or directors**.

Key governance obligations include:

- holding **Annual General Meetings (AGMs)**;
- convening **Extraordinary General Meetings (EGMs)** for major decisions;
- appointment and removal of board members strictly in line with the statute.

### Legal consequence:

Acts taken outside these mechanisms are **ultra vires and unlawful**.

## 3. Voluntary Organisations Act – Chapter 492

The **Commissioner for Voluntary Organisations** has:

- supervisory and regulatory powers;
- authority limited to registration, compliance monitoring, and reporting.

The Act **does not grant power** to:

- appoint or impose boards of directors;
- assume control of a voluntary organisation;
- authorise or impose financial decisions or contracts.

### Key principle:

Any such intervention requires a **court order**.

### Legal consequence:

Administrative intervention without judicial authorisation is **ultra vires, unlawful, and void**.

## 4. Public Procurement Regulations – S.L. 601.03

Even where procurement rules do not apply directly, **general principles of public law** apply, particularly when:

- substantial funds are involved;
- services concern vulnerable persons;
- public interest considerations arise.

### Core principles:

- transparency;
- proportionality;
- accountability;
- avoidance of conflicts of interest.

A **high-value direct order** issued by a body lacking legal authority raises serious concerns of:

- maladministration;
- misuse of funds;
- potential financial irregularities.

## 5. Equal Opportunities (Persons with Disability) Act – Chapter 413

This Act protects persons with disabilities from:

- discrimination;
- abuse;
- exploitation;
- degrading or unequal treatment.

The Act provides that:



*Any person who abuses, exploits, segregates or discriminates against a person with a disability commits an offence.*

Administrative actions that:

- destabilise care arrangements;
- interrupt essential services;
- place residents at risk,

may amount to **indirect discrimination or abuse** under this Act.

## **B. International and European Law**

### **6. CRPD Act – Chapter 627**

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

Relevant articles include:

- **Article 4** – General obligations of the State
- **Article 16** – Freedom from exploitation, violence, and abuse
- **Article 19** – Right to live independently and be included in the community

#### **Key obligation:**

The State must **regulate, supervise, and intervene**, even where services are provided by private entities.

Failure to do so may give rise to **state responsibility**.

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

Relevant provisions:

- **Article 8** – Right to dignity, private life, and personal integrity;
- **Article 14** – Prohibition of discrimination.

The European Court of Human Rights recognises persons with disabilities as a **particularly vulnerable group**, requiring enhanced protection by public authorities.

## ANNEX II

### GOVERNANCE AND LEGAL IRREGULARITIES – ANALYTICAL SUMMARY\*\*

Issue	Legal Standard	Observed Risk
Board appointment	Statute + AGM/EGM	Board allegedly imposed without mandate
Removal/replacement of board	Court order required	No judicial authorisation
Financial authority	Lawfully constituted board only	Direct order issued without authority
Oversight	Safeguards required	Risk of governance vacuum
Protection of residents	CRPD + Cap. 413	Increased vulnerability

## ANNEX III

### INDICATIVE TIMELINE OF EVENTS (ILLUSTRATIVE)\*\*

*This timeline is indicative and subject to verification through documentation.*

#### Phase 1 – Governance Disruption

- Existing board displaced or sidelined
- No AGM or EGM convened
- No court order issued authorising intervention

#### Phase 2 – Administrative Intervention

- Commissioner for Voluntary Organisations allegedly facilitates or imposes a new board
- Board operates without statutory or judicial mandate

#### Phase 3 – Financial Commitment

- Private service provider awarded a **direct order of approximately €200,000 per month**
- No evidence of lawful procurement process

- No member approval or judicial oversight

## **Phase 4 – Impact on Residents**

- Residential home for persons with disabilities affected
- Risk to continuity, stability, and safeguarding
- Increased legal exposure for foundation and State

## **ANNEX IV**

### **KEY LEGAL RISKS IDENTIFIED\*\***

- Acts potentially **void ab initio**
- Ultra vires exercise of administrative power
- Exposure to civil liability (foundation and board members)
- Potential criminal liability (where intent or gross negligence exists)
- State responsibility under CRPD and ECHR
- Risk of financial maladministration findings

## **GENERAL LEGAL REPORT**

### **Governance Irregularities, Direct Orders, and Protection of Persons with Disabilities**

#### **Executive Summary**

This report provides a consolidated, neutral, and legally grounded overview of governance concerns arising from the issuance of a high-value direct order to a private service provider by a foundation operating a residential home for persons with disabilities. It outlines the factual background as alleged, identifies applicable Maltese, European, and international legal frameworks, and highlights material legal risks. The report is informational and does not prejudice future proceedings.

#### **1. Scope and Methodology**

- Review of alleged governance actions and financial commitments.
- Mapping of applicable legal frameworks.
- Identification of risks affecting residents, governance integrity, and public accountability.

## **2. Factual Background (Alleged)**

- A private service provider was awarded a direct order of approximately €200,000 per month.
- The decision was taken by a board allegedly not appointed through an AGM or EGM.
- No court order authorised the replacement or imposition of the board.
- The intervention is alleged to have been facilitated by the Commissioner for Voluntary Organisations.
- The arrangements directly affect a residential home for persons with disabilities.

## **3. Applicable Legal Framework**

### **3.1 Civil Code (Chapter 16)**

Acts performed without lawful authority or mandate are legally ineffective. Decisions taken by a body lacking legal competence are void ab initio.

### **3.2 Foundations (Second Schedule to the Civil Code)**

Foundations must be governed in accordance with their statute, through lawfully appointed directors. AGMs/EGMs are essential for valid appointments and major decisions. Acts outside these procedures are ultra vires.

### **3.3 Voluntary Organisations Act (Chapter 492)**

The Commissioner's powers are supervisory and regulatory. The Act does not empower the Commissioner to appoint boards, assume administration, or authorise financial commitments. Judicial authorisation is required for such interventions.

### **3.4 Public Procurement Principles (S.L. 601.03)**

Where substantial funds and vulnerable persons are involved, principles of transparency, proportionality, accountability, and avoidance of conflicts of interest apply. A high-value direct order issued without lawful governance raises serious concerns.

### **3.5 Equal Opportunities (Persons with Disability) Act (Chapter 413)**

The Act prohibits discrimination, abuse, exploitation, or degrading treatment of persons with disabilities. Administrative instability affecting essential services may amount to indirect discrimination or abuse.

### **3.6 CRPD Act (Chapter 627)**

Articles 4, 16, and 19 impose obligations on the State to regulate, supervise, and intervene to prevent abuse and ensure inclusion, including where services are provided by private entities.

### **3.7 European Convention on Human Rights**

Articles 8 and 14 protect dignity and prohibit discrimination. Persons with disabilities are recognised as a particularly vulnerable group requiring enhanced protection.

## **4. Analysis and Risk Assessment**

- Potential nullity of contracts issued without authority.
- Ultra vires administrative action.
- Exposure to civil and administrative liability for the foundation and directors.
- Potential state responsibility for failures of oversight.
- Risks to continuity and quality of care for residents.

## **5. Conclusions**

The circumstances indicate significant governance and legal risks that warrant independent verification, transparency, and corrective action to safeguard residents' rights and ensure lawful administration.

## **Legal Framework and Citations**

(See detailed citations and principles as outlined in the main report.)

## Governance Irregularities Summary Table

Issue	Legal Standard	Risk
Board appointment	Statute + AGM/EGM	Illegitimacy
Financial authority	Lawfully constituted board	Nullity of acts
Oversight	CRPD + Cap. 413	Resident risk

## Indicative Timeline

- Governance disruption without AGM/EGM
- Administrative intervention without court order
- Issuance of high-value direct order
- Impact on residents and services

## Key Legal Risks

- Void acts; ultra vires powers; liability exposure; state responsibility; safeguarding risks.

## Lock the Evidence (URGENT)

Before anything else:

- Preserve **emails, WhatsApp messages, letters, board minutes (or lack of them)**
- Keep copies of:
  - Any reference to the **direct order (€200k/month)**
  - Any communication involving the **CVO / CRPD**
  - Any document showing **no AGM / EGM / court order**
- Save everything in **offline backup**

This protects you if documents suddenly “disappear”.

## Issue a Formal Notice / Pre-Action Letter

Using the report as annex:

- Addressed to:
  - The **Foundation**

- The **Commissioner for Voluntary Organisations**
- Purpose:
  - Put them **on notice**
  - Request:
    - Legal basis for board appointment
    - Legal basis for the direct order
    - Copies of procurement decisions
    - Any court authorisation relied upon

This step is crucial: **silence or refusal becomes evidence.**

## Parallel Safeguarding Escalation (CRITICAL)

Because **persons with disabilities are involved**, do not wait.

Immediate notifications to:

- **Ombudsman (Malta)** – maladministration – **Ready No Actions**
- **CRPD Committee / National Commission for Persons with Disability-**  
**Ready no actions**
- **Aġenzija Sapport** (safeguarding angle)- **Ready**
- **Attorney General** (state responsibility + ultra vires action)- **Ready**

Frame it as:

*Risk to continuity of care, dignity, and legal safeguards of vulnerable residents.*

## Prepare the “Hard” Version of the Report

Next iteration

- Convert from **neutral analysis** → **alleged violations**
- Add:
  - Identified actors
  - Dates
  - Specific breaches per law
- This becomes suitable for:
  - **EU Ombudsman**
  - **OLAF**
  - **UN Special Rapporteur on Disability Rights**

## Media Strategy (Controlled, Not Emotional)

Only after steps 1–3:

- Prepare a **single, factual briefing**
  - Governance vacuum
  - No court order
  - Massive direct order
  - Vulnerable residents affected

This protects **you** and keeps pressure **on them**.

## UN / EU Complaint Submission Outline

### Title:

Governance Irregularities, Illegal Financial Orders, and Protection of Persons with Disabilities – Malta

**Submitted by:** Doninu (Malta) International / Doninu Malta Media

### Recipients / Bodies:

- UN Special Rapporteur on the Rights of Persons with Disabilities
- UN Office of the High Commissioner for Human Rights (OHCHR)
- EU Ombudsman
- OLAF (European Anti-Fraud Office)

## Introduction

- Brief explanation of Doninu (Malta) International as a **humanitarian and advocacy organisation**.
- Purpose of the submission:

To report alleged **governance violations, illegal financial commitments, and systemic risks to persons with disabilities** in Malta, and request **investigation, monitoring, and corrective measures**.



## Executive Summary of Allegations

Allegation	Brief Description	Impact
Governance irregularities	Board imposed by CVO / without AGM/EGM or court order	Ultra vires acts; no legal authority
Direct order issuance	Private service provider awarded ~€200,000/month	Misuse of funds; breach of procurement transparency
Lack of judicial oversight	No court orders authorising board replacement	Illegal administrative intervention
Impact on residents	Residential home for persons with disabilities affected	Risk to care, stability, and rights
Legal non-compliance	Breach of Civil Code, Voluntary Organisations Act, Equal Opportunities Act, CRPD, ECHR	Potential civil, criminal, and state liability

## Factual Narrative

- Detailed chronological outline:
  - Existing board sidelined; **no AGM/EGM held**
  - Commissioner allegedly imposes new board **without judicial approval**
  - Private service provider awarded **high-value direct order**
  - Residents' care and employment threatened
  - Timeline aligns with **Annex III**
- Include **supporting documents**, emails, contracts, and communications as **evidence exhibits**.

## Applicable Legal Framework

### National Law:

- Civil Code of Malta – Chapter 16 (authority, void acts)
- Foundations (Second Schedule)
- Voluntary Organisations Act – Chapter 492
- Equal Opportunities (Persons with Disability) Act – Chapter 413
- Public Procurement Regulations (S.L. 601.03)

## International Law / EU Instruments:

- CRPD – Articles 4, 16, 19
- European Convention on Human Rights – Articles 8, 14
- EU Treaties on transparency, accountability, and protection of vulnerable groups

## Key Principles:

- **Ultra vires acts**
- **State responsibility** under CRPD / ECHR
- **Protection and safeguarding of persons with disabilities**

## Evidence Provided

- **General Legal Report** with annexes
- Timeline of events
- Copies of **direct order documentation (Payment by Bank notice)**
- Records of board appointments and/or lack of AGM/EGM (**email 4th July by CVO**)
- Communications with **CVO /CRPD / SCSA**

Each piece of evidence must be **date-stamped, signed or verified** if possible. (**Yes it is stamped by CVO. And other is official bank statement**)

## Requested Action

- **UN / EU bodies** to:
  1. Investigate the legality of board appointments and direct orders.
  2. Assess breaches of CRPD obligations and Maltese law.
  3. Ensure **protection of vulnerable residents**.
  4. Recommend or monitor corrective action and accountability.
  5. Identify potential **systemic risks** for wider EU policy consideration.

## Update – 1 February 2026

Today, 1 February 2026, negotiations have begun and are currently **advanced** regarding the residents of the foundation. It has been agreed that **all residents will come under the oversight of Agenzija Sapport**.

However, it should be noted that **only the residents themselves will be transferred; their personal funds and entitlements will remain the property of Fondazzjoni Wens and will not be administered by each resident**.

## Obligations of the Foundation and Commissioner Regarding the Direct Order

### 1. Under Maltese Law

#### 1. Public Procurement Regulations (S.L. 601.03)

- Contracts or direct orders of substantial value **must be issued through a public tender** when they involve significant funds or entities operating in the public interest.
- A direct order of **€200,000 per month** ( $\approx$  **€2,400,000 per year**) is considered highly substantial. Issuing it without a tender is **not legally permissible** unless there is documented justification for “exceptional circumstances,” which does not appear to exist here.

#### 2. Civil Code / Foundations (Second Schedule)

- Foundations must operate **in accordance with their statutes** and principles of **transparency and accountability**.
- For an amount this substantial, the board **cannot approve a direct order without an AGM, EGM, or court authorisation**.

#### 3. Voluntary Organisations Act – Cap. 492

- The Commissioner for Voluntary Organisations has **regulatory and supervisory powers only**.
- The Commissioner **cannot approve contracts or direct orders** involving foundation funds.

## 2. European Procurement Principles

- Under EU law (e.g., **Directive 2014/24/EU on public procurement**):
  - **Contracts of substantial value** must be issued through a **publicly advertised tender**.
  - The tender should ideally be **open to companies from all EU Member States** to ensure:
    - transparency,
    - fair competition, and
    - value for money.
- For an annual commitment of **€2,400,000**, the foundation **should have issued a public tender accessible also to EU companies**.

## 3. Legal Risks if a Tender Was Not Issued

1. **Nullity of contracts** – the direct order may be considered **void ab initio**.
2. **Maladministration / misuse of funds** – exposing the board and/or Commissioner to **civil or criminal liability**.
3. **Violation of residents' rights** – particularly if funds or services are affected.
4. **EU oversight** – bodies such as **OLAF or the European Ombudsman** could investigate breaches of public procurement rules.

## Conclusion

- The **Foundation of Wens did not have legitimate authority** to issue a direct order of €200,000 per month **without a public tender**.
- A **public tender (accessible to EU Member States)** was legally required for the annual amount of €2,400,000.
- Any board or Commissioner permitting this action **acted ultra vires** and **exposed themselves and the foundation to legal risk**.

## Closure Statement / Update

We have prepared this report and included the most recent updates to ensure that there is no misunderstanding or misrepresentation of our intentions. We wish to make it perfectly clear that we fully support the decision for the residents to move under the oversight of **Aġenzija Sapport**. In fact, this was intended from the very beginning.

Our concern has never been about preventing this move, but rather about ensuring that **all procedures are lawful, transparent, and protective of residents' rights**. Any prior criticism directed at the Commissioner for Voluntary Organisations was meant solely to highlight the need for **proper investigations and due process**.

The Commissioner should have acted in accordance with the law, requesting the necessary **court orders** and respecting all **legal and governance obligations**. As a national agency, Aġenzija Sapport is the appropriate authority to assume oversight, and there is no reason to believe that the Government would oppose such a transfer.

We remain committed to **accuracy, transparency, and the protection of vulnerable residents**.

**Pierre Calleja**  
Investigative Journalist