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## Financial Reporting in Maltese Voluntary Organisations

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**Abstract:**

*In this paper we analyse the adequacy and effectiveness of the legal aspects of the current Maltese voluntary organisations' (VOs) regulatory framework, the guidelines and best practices being adopted by Maltese charities in compiling their financial reports.*

*In doing this we also look at the key operational internal control and other challenges being faced by such VOs in complying with the existing regulatory framework.*

*Data is also gathered through the responses of an online questionnaire, which we distributed to enrolled VOs and through responses of semi-structured interviews carried out with the financial administrators of eleven large charities.*

*Findings reveal that while the existing VO regulatory framework was a considerable improvement, changes are still necessary since gaps still remain and need to be resolved.*

*This study contributes to the enhancement of the Maltese VO regulation by identifying and highlighting these gaps and providing recommendations to mitigate and resolve them.*

**Keywords:** *Voluntary Organisations and Charities, Guidelines, standards and Regulations, Maltese Regulatory Framework, Accountability and Responsibility, Operational Internal Controls, IFRS and GAPSME.*

**JEL code:** *L30, L31.*

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## **1. Introduction**

Not so long ago, Not-For-Profit-Entities (NFPEs) operated in a sanctified sector, which proved to be above all type of possible criticism (Christensen & Ebrahim, 2004). However, today things have changed. Gone are the times when it was enough that an established voluntary organisation had a strong mission partnered with non-profit status. Nowadays, justification solely based on mission is not enough; it must be “supported through a demonstration of programmatic and fiscal accountability” (Christensen & Ebrahim, 2004, p.3). Over the years, different types of legislation together with multiple systems of accountability were introduced in order to ensure transparency in the financing and the decision-making of voluntary organisations. The accountability of voluntary organisations was improved through the use of enhanced reporting, auditing and monitoring activities (Edwards & Hulme (1996b), Kearns (1996), Najam (1996). Such mechanisms helped provide the required accountability to the donors, contributors and funders of NFPEs.

From their very own nature, charities prove to be a very particular and delicate type of organisation. In most cases, Voluntary Organisations (VOs) are set up as a person, or group of persons, becoming aware of an arising need for the provision of some kind of service within the community. Irrespective of the fact that many charities are voluntarily-managed, the professional attitude of the volunteers and management must still be demonstrably present (Baldacchino *et al.*, 2017a; 2017b).

With this article our main objective is to analyse the legal aspects of the current Maltese VO regulatory framework, the guidelines and best practices being adopted by Maltese charities in compiling their financial reports; identifying the key operational internal control challenges being faced by Maltese charities in complying with the existing VO regulatory framework and recommending changes to mitigate them. The analysis is limited to the regulatory framework operative as at 30 June, 2018.

To do this we first conducted an analysis of the current regulatory framework, administered an online questionnaire among all Maltese enrolled VO's, with a 95% response rate and carried out semi-structured interviews with the financial administrators of eleven large Maltese charities. The participants were free to respond on the following areas in a structured and open manner; without restriction on time and number of words and were allowed not to provide a response on any of the following areas being questioned on:

- The Regulator's Authority;
- The applicability of IFRS or General Accounting Principles for Small and Medium Enterprises (GAPSME);
- The applicability of the Statutory Audit;
- Category 3 VOs and Audits;

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- The Scope for Auditing;
  - Annual Report Format;
  - Accountability;
  - Standardising Reporting Deadlines;
  - Category 3 Internal Auditing;
  - Government Aid;
  - A Maltese-adapted Statement of Recommended Practice (SORP);
  - Public involvement.

## **2. An Overview of the Maltese VO Regulatory Framework**

Prior to 2007, the Maltese voluntary sector was practically unregulated. There was no specific legislation which regulated such organisations. An official register of Maltese charities was inexistent, and there were no particular financial, or other, requirements which such organisations had to satisfy. It was simply at the discretion of the particular VO whether or not to give a detailed, adequate account of its operations, donations, fundraising activities and financial results. Also, since, no legal framework existed, there was no obligation on VOs to maintain financial records.

In 2005, the Maltese Government issued a White Paper (GOM, 2005) on strengthening the voluntary sector, wherein the move from self-regulation to coordinated regulation aimed at harmonising VO policies and procedures was proposed. Furthermore, two years later, the Parliament of Malta unanimously enacted the Voluntary Organisations Act (VOA, 2007), the main aim of which was to regulate charities and their administration.

This fundamental legislation also paved the way for the establishment of two important government institutions, namely, the Office of the Maltese Commissioner for Voluntary Organisations (OCVO) and the Malta Council for the Voluntary Sector (MCVS), and their respective duties. However, as the VOA was simply the tool through which the Maltese VO regulatory background was set, the need for further charity regulation was felt. As a result, in 2012, the Voluntary Organisations (Annual Returns and Annual Accounts) Regulations – Malta, (VOR) 2012 were issued.

The most important innovation present in these regulations related to the introduction of three category classifications, namely, Categories 1, 2, and 3. As things stand, those charities whose annual revenue does not exceed €20,000 fall under Category 1, those VOs whose annual revenue lies between €20,001 and €200,000 fall under Category 2, and those charitable organisations whose annual revenue exceeds €200,001 fall under Category 3. Apart from establishing such category classifications, the VOR (2012) have also specifically set out the annual

statutory financial reporting requirements which all enrolled charities ought to follow. The main distinctive requirement between the three category classifications relates to the audit of financial statements. While Category 1 and Category 2 charities are not required to perform an audit of financial statements, Category 3 VOs are required “to submit to the Maltese Commissioner for Voluntary Organisations (CVO), audited accounts compiled under the International Financial Reporting Standards (IFRS) duly audited by an auditor” (L.N. 379, 2012).

### **2.1 The Voluntary Organisations Act**

As stated by Pace (2012), the enactment of the VOA (2007) has helped strengthen the relationship between Maltese charities and the government. Furthermore, the VOA has clarified the internal structures, and explained the roles, of the OCVO and of the MCVS.

### **2.2 The Commissioner for Voluntary Organisations**

The VOA (2007) requires the appointment of a Commissioner for Voluntary Organisations (CVO). As laid down in Article 7 of the VOA, the CVO’s duties involve ensuring high standards of transparency and accountability within the Maltese charity sector. Other CVO functions include the provision of enrolment facilities, the monitoring of charity activities, the provision of information to VOs about the benefits and responsibilities derived from enrolment with OCVO, and the investigation of complaints relating to VOs (VOA, 2007).

### **2.3 The Malta Council for the Voluntary Sector**

The Malta Council for the Voluntary Sector (MCVS) assists the CVO in nurturing the co-operation and co-ordination present between central government and Maltese VOs (VOA, 2007, Art. 35). One ancillary function of the MCVS is the administration of the Voluntary Organisations Fund; a fund responsible for assisting and supporting OCVO-enrolled VOs (VOA, 2007, Art. 37).

### **2.4 Enrolled VOs**

By the beginning of 2016, the number of VOs that applied for enrolment stood at 1,228 (OCVO Annual Report, 2015). This is a considerably high amount, given that there are other VOs that are still yet to be registered. Enrolled charities range from small VOs with only a handful of members, to complex, sophisticated charities that employ full-time staff, and generate large amounts of revenue.

Enrolled VOs are classified according to their social purpose, with some charities having multiple classifications. Table 1 below, shows the breakdown of enrolled

VOs into their various social purpose classifications, as at end of December 2015. The below figures highlight the possibility that some charities fall under more than one classification.

**Table 1:** Enrolled VOs classified according to their social purpose

Classification	No. of VOs	% of the Total VOs
Philanthropy	219	17.8%
Education and Sport	506 (Sports 104)	41.2%
Religion	62	5.0%
Health	173	14.1%
Social and Community	561	45.7%
Culture, Arts and National Heritage	475 (Band Clubs 82)	38.7%
Environment and Animal Welfare	131 (Animal Welfare 32)	10.7%
Promotion of Human Rights	122	9.9%

*Source:* OCVO 2015.

## 2.5 Benefits and Duties of Enrolled VOs

Through their enrolment, charities qualify for a number of benefits. These include that (1) there is no need for them to seek authorisation and licensing from the Police Commissioner to make public collections or engage in fundraising activities. Furthermore, (2) enrolled VOs may be eligible to receive government funding, (3) EU funding in the form of grants, or enter into co-operation contracts with the central government. In addition, after its successful enrolment, a charity (4) may use the 'VO' status in its name, logo and letterheads, and use its assigned VO enrolment number as evidence of enrolment (OCVO Annual Report, 2008).

## 2.6 Proposed Amendments to the VOA

In 2016, the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties launched a White Paper (GOM, 2016) regarding the proposed amendments to the VOA. The reason behind such amendments was "to address the difficulties which have arisen in the interpretation and application of the Act and ancillary legislation in the light of practice since its coming into force in 2007" (GOM, 2016:5).

Of the various proposed amendments, the most important changes revolve around (1) the mandatory enrolment of Maltese charities with the OCVO, (2) the strengthening of the powers of the CVO in relation to defaulting charities, (3) clearer rules on VOs' ability to engage in commercial activities, and (4) a more detailed and comprehensive definition of 'non-profit making'.

Although, the voluntary sector in Malta is deemed to be fairly regulated, Malta still lags behind when compared to other European Union (EU) jurisdictions, especially in terms of enforcement. In the 2013 annual report, the CVO emphasises that 45% of enrolled charities did not submit their annual return for 2012 during 2013. The lack of, or delay in, annual return submissions is not simply a result of negligence on the VOs' behalf, because as stated in the 2014 CVO Annual Report, "organisations have encountered difficulties in compiling and submitting documents" (CVO Annual Report 2014 p.11). It is important to note that delayed annual return submissions may arise as a result of the particular challenges, specific to the voluntary sector that charity accountants and auditors face during the course of their work. Therefore, it is only in such cases that delayed submissions are justified (CVO Annual Report, 2013).

### **2.7 The Voluntary Organisations: Annual Returns and Annual Accounts Regulations**

VOR (2012) requires that the following documents are annually submitted to the OCVO by every enrolled VO; (1) an annual report, (2) an organisational chart, (3) a list of administrators, (4) an administration report, (5) the financial accounts, and (6) the statute (only if amended). Furthermore, L.N. 379 (2012) requires that the charity accounts filed with the OCVO are approved at an annual/bi-annual VO general meeting. Other than this, there is no provision within L.N. 379 (2012) which specifically requires Maltese VOs to organise and hold an Annual General Meeting (AGM). These regulations were crucial in assisting the CVO to identify defaulters, and to regularise the submission of annual returns and accounts by VOs (OCVO Annual Report, 2013). Moreover, such regulations helped facilitate the preparation of annual returns and accounts submitted to the OCVO. All returns and accounts submitted are reviewed by personnel within the OCVO, and any issues that are considered to be non-compliant with the regulations are highlighted and brought to the attention of the specific VOs for rectification. The CVO is empowered to take all the necessary measures against defaulting VOs (L.N. 379, 2012). Such measures may even include court action through the Administrative Review Tribunal (ART).

It is paramount to note that the law does not prescribe any requirements for non-enrolled charities. This means that there is a large number of non-enrolled VOs which are literally unregulated, and thus, not legally accountable. In the CVO's words, this situation creates "a deficit of public accountability" (OCVO Annual Report, 2012, p.8) which negatively affects the whole Maltese charity sector.

### **2.8 Annual Submissions to the OCVO**

In the annual reports, the CVO repeatedly mentions the lack of annual returns' submission in all the three categories of enrolled VOs (OCVO, 2013; OCVO, 2015).

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For example, in 2015, out of a total of 1,056 enrolled VOs, the OCVO only received 645 submissions. This demonstrates that almost 39% of charities have not submitted their annual accounts and returns for 2015 (OCVO Annual Report, 2015).

The 2013 OCVO report, highlights that some charity administrators, particularly those involved in Category 1 VOs, may lack the skills and abilities required to understand the necessary statutory requirements, and to compile information which satisfies such requirements. Also, many VOs openly stated that they regard the statutory requirements listed in L.N. 379 (2012) as “a waste of time” (OCVO, 2013, p.18), while others feel that the OCVO should not be concerned about the way in which their VO is managed and run. Moreover, the CVO further emphasises that any clarifications required from such charities are not forthcoming (OCVO, 2013).

A possible reason for the lack of, or delay in, submission is due to the delay of professionals in auditing or compiling the financial accounts of VOs. Especially in the case of Category 2 and 3 charities. Accounting professionals and auditors tend to treat VOs as secondary to their for-profit business customers. This issue primarily arises as a result of the fact that, very often, professionals charge charities reduced prices for their services (OCVO Annual Report, 2013).

### **3. Providing an Improved Legal Framework for Maltese Charities**

Although the VOA (2007) and L.N. 379 (2012) are two significant landmarks in the history of Maltese VO regulation, the changing circumstances of the Maltese VO sector have given rise to the need for the enactment of an improved legal framework which addresses the specific deficiencies as yet present. As it was the first of its kind, the original VOA addressed issues which were particularly relevant at the time of its introduction. Given that since then ten years have elapsed, the VO sector is no longer at an infant stage and is slowly, but steadily, entering into a healthy youthful phase of its life, which involves a serious consideration about its future.

#### **3.1 The Regulator’s Authority**

Article 12 of the VOR (2012) requires that the CVO applies to the Administrative Review Tribunal (ART) to (1) prohibit public collections, (2) request the disqualification of administrators, or (3) cancel the enrolment of VOs in accordance with Article 19 of the VOA. Although, the CVO is the regulator of the VO sector entrusted with ensuring it’s smooth-running, the role does not empower him/her to take any corrective or legal action against VOs not adhering to the legal framework. Applying to the ART is a lengthy process and, as a result, the CVO cannot take immediate action against such non-conforming VOs. In actual fact, the lack of legislative power granted to the CVO is resulting in low levels of enforcement. Thereby, although several VOs do not actually fulfil their regulatory annual

obligations, no legal action is taken against them. This is instilling an unacceptable laissez-faire attitude among local VOs.

As things currently stand, the VOA does not specifically require all Maltese VOs to be enrolled with the OCVO. VOs have the option to choose whether to enrol or not. Such an option puts enrolled VOs at a disadvantage when compared to their unenrolled counterparts, as the latter benefit from having no reporting requirements with which to abide. Rendering enrolment with the OCVO compulsory would guarantee that all VOs abide by the same regulatory framework, and in this manner, all organisations would operate on a level playing field. Furthermore, compulsory enrolment with the OCVO would help improve the levels of adherence with the regulation and enforcement, as the cancellation of the VO's enrolment would serve as a deterrent to non-adhering charities.

Participants in the study specifically referred to instances wherein local unenrolled VOs were granted public funds through the application of the ministerial exemption. The use of such exemption defeats the whole charity regulatory system as it conveys the idea that unenrolled VOs may still benefit from government aid. The elimination of such an exemption would help enkindle public trust both in the regulatory framework and in the public authorities.

The regulator can only duly perform his duties as stipulated by the VOA if his office is adequately equipped with qualified, technical personnel. Therefore, it would be easier for the OCVO to fulfil its responsibilities if it were to be allocated a larger financial budget. The allocation of increased government funds would make the hiring of accountants, lawyers, and other professionals specialising in various aspects of the VO sector possible.

### **3.2 The applicability of IFRS or General Accounting Principles for Small and Medium Enterprises (GAPSME)**

Schedule 2 to the VOR (2012) requires that the financial statements prepared and submitted by Category 3 charities are prepared in accordance with IFRS as adopted by the EU. However, a more recent Legal Notice dealing with General Accounting Principles for Small and Medium-Sized Entities was enacted in 2015 (GAPSME,2015). This was the result of ED 2013/34/EU on financial statements being transposed into Maltese legislation. This new law became effective for financial periods beginning on or after 1 January 2016, and is considered to set out the default financial reporting framework for the preparation of financial statements for Maltese small- and medium-sized entities.

Participants noted that, as the sizes of their VOs fit within GAPSME's eligibility thresholds, they prepare audited financial statements in accordance with GAPSME.



The main benefit in preparing financial statements in accordance with GAPSME is that this financial reporting framework requires fewer disclosures than the disclosure requirements of IFRS as adopted by the EU.

However, in order to satisfy the VOA's requirements, Category 3 VOs that prepare financial statements in accordance with GAPSME must also prepare financial statements in accordance with IFRS as adopted by the EU. This is resulting in double work, and a double expense, for those charities that want to take advantage of the decreased disclosure requirements, and, at the same time, satisfy their regulatory obligations. Therefore, a change to the article within Schedule 2 of the VOR (2012) requiring the preparation of Category 3 financial statements solely in accordance with IFRS as adopted by the EU is recommended and could be revised to introduce a provision allowing the preparation of financial statements in accordance with GAPSME.

### **3.3 The Applicability of the Statutory Audit**

Schedule 2 to the VOR (2012) requires that the Category 3 financial statements submitted to the OCVO are audited. It is alarming to note that some VOs pay specific attention not to fall within Category 3 status so as not to be obliged to perform the annual audit. One reasonable motive behind such efforts could be the cost of engaging an auditor. Another more worrying motive could be the lack of accountability present within such VOs. Either way, some VOs regard the prospect of having to undergo an audit negatively. If the issue revolves around the cost of the audit, reaching out and trying to find audit firms willing to sponsor the audit may be one sensible solution.

However, one reasonable consideration relates to the potential involvement of the National Audit Office (NAO) in the auditing of VOs. Many local charities generate parts of their revenue from government grants and service agreements with central government. As such grants involve the distribution of public funds, the involvement of the NAO within the VO auditing process is probably justifiable. The introduction of such a possibility would require an amendment to the VOA, 2007 and the Auditor General and National Audit Office Act, 1997. Provisions contained within the amended laws would specify that charities required to perform an annual statutory audit and which generate parts of their revenue through public funding may choose whether to have their audit conducted by the NAO or a private auditing firm. The involvement of the NAO in Category 3 VO audits would help reinforce public trust, especially in large local charities.

### **3.4 Category 3 VOs and Audits**

An analysis of the Maltese VO regulatory requirements demonstrates that out of all

the three VO category classifications, only Category 3 charities are subjected to a formal audit. In contrast, UK literature reveals that while larger charities are required to perform an annual audit, smaller charities are required to choose whether to perform an independent examination of accounts or an audit. Those UK VOs whose revenue does not exceed £25,000 are neither obliged to carry out an audit, nor an independent examination of accounts.

While a formal audit provides reasonable assurance that the financial statements are free from material misstatements, an independent examination of accounts involves the provision of negative assurance, wherein the accountant declares that nothing came to his/her attention that might lead him/her to believe that the financial statements are materially misstated. Although an independent examination of the accounts, commonly referred to as a review engagement, provides a lower level of assurance than a full-blown audit, it still contributes to improved levels of VO accountability.

It is therefore recommended that legislator ought to consider amendments to the local regulatory framework requiring Category 2 charities to perform an annual independent examination of accounts. This would help foster a greater sense of professionalism within the local VO sector.

### **3.5 The Scope for Auditing**

Within a Maltese mind-set, the term ‘audit’ tends to automatically refer to the statutory financial audit of financial statements required from companies and Category 3 charities alike. However, there exist different types of audits, such as the social audit, which deals with other equally-important aspects of organisations. The execution of a social audit entails determining whether the operations of the organisation are leading to the efficient and effective achievement of its aims and objectives.

The idea of performing a social audit is particularly relevant within the charity sector context. It could be the case that the auditor expresses an unqualified opinion on the financial statements of a particular VO, but findings from the social audit highlight certain areas of attention. As such, there would be no specific irregularities embedded within the charity’s finances, but the possible lack of strategic vision may compromise the future achievement of the organisation’s objectives, or its existence. An improvement to the current VO regulatory framework would be the introduction of a social audit requirement for Category 2 and 3 VOs.

Therefore, it is recommended that such social audits are to be executed by qualified personnel who are experts in the various areas of the Maltese society within which such charities operate. This legal requirement would ensure that professional

opinions regarding the most important aspects of local large VOs are made available to all the stakeholders involved.

### **3.6 Annual Report Format**

Article 3 of L.N. 379 (2012) requires that all categories of Maltese charities prepare an annual report to be submitted to the OCVO together with the annual returns. However, the law does not provide any guidance as to what items are to be discussed and included within the annual report. Given this anomaly, there is no one format which is used by all VOs and, as a result, charities have developed their own unofficial way of presenting the annual report.

Although the quality of the annual reports presented demonstrates that significant amounts of time and resources are dedicated to their preparation, there are specific areas of the annual report which require particular attention. Respondents have indicated that although the annual report is successful in providing a summary of activities and achievements, there is a lack of information regarding the risks and uncertainties being faced by organisations, the internal structures of VOs, corporate governance and management issues, and plans regarding the future. The objectives behind the preparation of the annual report are to provide an overview of what happened during the year, to establish a plan which sets the future direction of the charity, and to describe how current experiences will lead to better decisions on how to apply future resources.

Therefore, while Maltese VOs are already doing a good job in summarising the activities and transactions of the year, yet, they have much to improve when it comes to describing their plans for the future, listing their aims and objectives, and disclosing details of activities planned to achieve such objectives.

By following in the footsteps of the UK Charity Commission, the Maltese VO regulator should ensure that the law sets down a comprehensive list of items which are to be included in the annual report of Maltese charities. Items of highest importance to be included in the annual report are probably (1) strategic aims and objectives, (2) administrative details, (3) a financial review, (4) policies regarding governance, (5) VO structure, (6) management, achievements and performance, (7) plans for the future, and (8) a summary of the principal risks and uncertainties being faced by the organisation and how these threats are to be managed. A detailed commentary of what is to be included under each of these headings may also be prepared in order to simplify and facilitate adoption by VOs.

### **3.7 Accountability**

Officials entrusted with the management of VOs must ensure that they are

accountable to the organisation's funders. As a relatively large percentage of VO income is generated from public donations, the general public at large is the principal stakeholder to whom charities should be accountable. However, respondents indicated that only a relatively small percentage of local charities openly distribute their annual report to the general public. In light of such a reality, the general public is not yet adequately aware of its rights, and those charities that do not publish their annual report are not being fully accountable to their stakeholders. This calls for an amendment to the current VO regulatory framework which would require the mandatory publication of the annual report, either in soft and/or hard copy format.

### **3.8 Standardising Reporting Deadlines**

VOR (2012) require that Category 1 annual returns be submitted by 15th March, Category 2 annual returns be submitted by 30th April, and Category 3 annual returns be submitted by 31st August. However, given the low level of commitment towards such deadlines, the regulator should consider the replacement of the current three deadline dates with one single, but later, deadline. This, according to interview and survey participants would result in better adherence levels. One jurisdiction that has opted for this sort of deadline is the UK, wherein the Charity Commission obliges all categories of charities falling within its remit to submit their annual returns within 10 months from year end.

### **3.9 Category 3 Internal Auditing**

Gaining meaningful assurance over a VO's risk management, internal controls and governance processes is of critical importance in discharging the responsibilities of charity officials. The modern world has created new challenges that impact the way in which VOs operate, the controls they need to put in place, and the way resultant risks are managed. The extent to which errors happen can negatively affect the organisation, especially if such errors are relevant to key organisational processes. Therefore, a valued Internal Audit Function (IAF) which involves the process of perfecting internal charity controls may be required. In this manner, ensuring that complex and diversified organisations can still fulfil their strategic long-term objectives in an efficient and effective manner.

Feedback from respondents indicates that none of the Category 3 charities employ, or intend to employ, a formal IAF. They further commented that local charities do not afford to have qualified personnel specifically employed within a formal IAF. Such an argument highlights the fact that local charities are not yet fully aware of the potential benefits which could be reaped from a fully-fledged IAF.

Furthermore, the lack of financial acumen and professionalism present within VO

roles is holding back the sector from developing further in this area. As awareness is the first step towards improvement, the introduction of a new legal requirement which obliges Category 3 VOs to prepare a Risk Management Statement (RMS) is a possible tool through which charities could become more acquainted with the benefits of internal auditing. Such a RMS would include (1) an overview of the VO's systems and processes for identifying and managing risks, (2) an indication of what major threats have been identified and assessed, and (3) a written acknowledgement of the management's responsibility to identify, assess and manage risks.

### **3.10 Government Aid**

Respondents to the study argued that the delayed receipt of public funds due from government grants and service agreements emanating from various government ministries is a huge concern. Such delays result in adverse effects on the organisation's liquidity, and given their common frequency, affected charities are unable to make effective use of the cash budget. Apart from augmenting the cash flow risks faced by charities, such delays demonstrate that public authorities are not sufficiently appreciative of the vital services being offered by the local VO sector. In their opinion, VOs feel that they are not being dealt with in a respectful manner. In view of such unpredictability, the establishment of, and strict adherence to, specific periodic deadlines which determine the precise timing of the receipt of funds is paramount to ensure that charities do not end up bankrupt. Irrespective of the possibility that the due funds are not received on time, essential expenses such as personnel wages and salaries would still have to be paid on time.

Another issue involving central government relates to income tax and Value Added Tax (VAT) exemptions. Tax benefits are inherently designed to assist VOs by augmenting their financial resources and providing them with a supporting environment in which to achieve their objectives. Currently, all enrolled VOs are income tax exempt, and they hold the 'exempt without credit' VAT status. One consideration could be that of granting enrolled VOs the 'exempt with credit' VAT status in order for them to be able to recover VAT paid. Such an amendment would result in a boost for local charities as the VAT element paid when purchasing goods and services would be 're-invested' back into the organisation. Moreover, VAT expense recovery is particularly relevant for charities that dedicate significant amounts of funds to the building and/or maintenance of VO, or other premises. In addition, the CVO needs to frequently update the Commissioner for Inland Revenue (CIR) with the list of 'exempt with credit' VOs.

### **3.11 A Maltese-adapted Statement of Recommended Practice (SORP)**

Ten years have passed since the first law regulating charities was enacted.

Therefore, the provision of adequate guidance and advice is the next natural step towards ensuring that the sector continues to progress. However, such guidance and advice should be well thought out, and specific to the particular circumstances of local VOs.

Respondents to the study proposed that Malta follows in the footsteps of other European jurisdictions in developing a SORP applicable to the local context. There are two main contrasting views as to how such guidance may be introduced. (1) One may select a foreign jurisdiction and adapt its SORP to the Maltese VO sector, or (2) on the other hand, given the unique characteristics of the local charity sector, one may introduce professional guidance which is specifically designed for Malta. However, a well-constructed and careful combination of these two viewpoints would result in a Maltese-adapted SORP which blends in well with the distinctive attributes of the local sector.

L.N. 379 (2012) establishes the rules with which enrolled charities are required to abide. However, there is no official guidance as to how such requirements are to be fulfilled. Therefore, the next step forward may be the publication of a SORP which provides guidance on how specific issues faced by local charities, especially Category 2 and 3 VOs, are to be tackled. Issues on which future clearer guidance is required include the treatment of (1) donations, (2) legacies, (3) gifts in kind, (4) support costs, and (5) the recognition and disclosure of government grants within charity accounts.

Furthermore, a Maltese-adapted SORP ought to also include guidance relating to the structure and contents of the annual report and the AGM. Therefore, a Maltese-adapted SORP would serve as a handbook which elaborates on how VOs are to fulfil their regulatory requirements.

Also, prior to writing up the SORP, the regulatory authorities ought to organise public consultation meetings through which valuable feedback on the nature of the guidance required by VOs is collected. It is essential for the authorities to appreciate the importance of having a staggered-phased SORP implementation (such as periodic publication of guidance notes and policy summaries). Such an implementation approach allows a much easier follow-up process, especially if the implementation is divided into well-defined phases.

### **3.12 Public involvement**

Making the general public aware of the charity sector requirements and responsibilities is nearly as important as regulating it. It is worrying that none of the interview respondents have ever received requests from members of the general public to view their annual report. This shows that there exists an unhealthy level of

blind trust between charities and the public at large. Increased awareness about the rights of the general public, especially with respect to requests for information, can be achieved through educational campaigns which encourage the general public to take a more active part in the local VO sector. Additionally, increased awareness about the VO registration number would make the public more knowledgeable about the distinction between enrolled and non-enrolled VOs.

VOR (2012) do not specifically require Maltese VOs to organise an AGM. However, it requires that charity accounts are approved at an annual/bi-annual general meeting. Therefore, in an indirect manner, VOR (2012) oblige all enrolled charities to organise an annual/bi-annual general meeting. Other than this, there are no requirements as to what items are to be included or discussed during the AGM. By amending the regulatory framework, the regulator should ensure that the law sets out a comprehensive list of items to be included in the AGM agenda. Such a list could possibly include (1) the reading of the minutes of the previous meeting, (2) the appointment of the charity's management team, and (3) an ending question-and-answer session. Furthermore, in an effort to reach a wider audience, the AGM of Category 2 and 3 charities ought to be publicised as if it were a press conference for which the general public is encouraged to attend, rather than as a private meeting between the members of the VO. This openness on the part of charities is likely to result in increased interest from the general public. Moreover, the presence of OCVO representatives at AGMs may foster and increase trust between VOs and their regulator.

Respondents indicated that the financial departments of many local VOs, especially Category 1 charities, are managed by volunteers who have some sort of accounting knowledge and who are not accountants by profession. This highlights the lack of financial professionalism present in the sector, and calls for immediate action to ensure that qualified accountants and financial professionals are more involved in the local charity sphere. Possible courses of action which might help improve such a low level of financial professionalism include (1) the provision of courses by the MCVS which specialise in VO financial administration and which are aimed at helping financial administrators better fulfil their roles, (2) the introduction of an elective within the University of Malta's Master in Accountancy degree which specifically deals with VO finance issues, and (3) the introduction of Continuing Professional Education (CPE) courses which tackle matters related to charity accounting for qualified accountants.

Apart from creating more awareness about the growing need for more professional accountants in the charity sector, such initiatives would also encourage and inspire more accountancy students and professionals to become volunteers.

#### **4. Conclusion**

As noted above, while the existing regulatory framework has been a considerable improvement, gaps still exist in the regulatory framework of Maltese VOs. One fundamental flaw in the current framework is that it does not specifically require the mandatory enrolment of charities. Furthermore, professional guidance offered to charities and increased levels of financial professionalism are as yet still required within the local Maltese VO sector.

Therefore, it is conceded that the recommendations and amendments emanating from this study are highly challenging and demanding. However, although legislative amendments do contribute to progress, it is through the overcoming of current struggles that VO growth can be achieved, as growth is not in the easy things, but in the challenging ones.

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