

Report by

The Malta Council for the Voluntary Sector

Re:

L.N. 371 of 2020 VOLUNTARY ORGANISATIONS ACT (CAP. 492) Voluntary Organisations (Public Collections) Regulations, 2020

L.N. 390 of 2020 VOLUNTARY ORGANISATIONS ACT (CAP. 492) Voluntary Organisations (Charity Shops) Regulations, 2020

19th April 2021

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Executive Summary

The Malta Council for the Voluntary Sector, which represents the Voluntary Organizations, needs to be consulted by policy makers and authorities on issues affecting the Voluntary Sector as established in the National Strategy for Volunteering signed with the Government and committing all public entities. The Strategy stresses that there should be "(a) opportunities for ongoing discussion between Voluntary Organizations and the interests of volunteering and Government Departments to foster early understanding and involvement in the development of politics" and that there are "(b) consultation arrangements that normally allow adequate time for wider consultation with networks and service users." (Representation - 06, page 17).

It was unfortunate that the Council was presented with the proposed regulations days prior to their being tabled in Parliament where it requested that these are withheld and consultation undertaken. In this brief period the Council could not initiate any level of real consultation with the Sector, which consultation would have supported the Council's position on its proposals for amendments. In this respect the Council issued a statement informing the Sector of the situation. (<https://maltacvs.org/wp-content/uploads/2021/04/Ittra-lill-Ghaqdiet-tal-Volontarjat-Regolamenti.pdf>)

Consultation was the key factor in constituting the first Voluntary Organisations Act in 2007 and to the required Amendments of the same Act in 2018. As a result of these consultation processes the Voluntary Sector, which was engaged fully, has a sense of ownership towards the same legislation. The VO Act itself had introduced procedures which address good governance, transparency and accountability, procedures which in themselves require a level of administrative work from the Sector.

In the absence of consultation on the two regulations, the Council took the initiative to initiate the discussion with the Voluntary Organisations requesting their feedback on the same regulations and facilitating replies to their queries by the Office of the Commissioner for VOs.

The Council on behalf of the 2000+ VO's enrolled with the Commissioner for Voluntary Organizations is asking the Legislator to suspend the two regulations with immediate effect, receive the Council Report addressing the issues brought up by the Sector, and initiate consultation in its true meaning to address concerns raised by the Voluntary Sector in recognition of the sterling work they undertake in the various aspects of life in our community.

Introduction

The Voluntary Sector is currently made up of over 2000 Voluntary Organizations coming from the various aspects of the Sector. The Voluntary Sector is considered as the third pillar both with regards to the economy, but most importantly, within the Maltese communities. As the third sector, Voluntary Organizations have a commitment to transparency and accountability according to local legislation, and this should be expected of the sector no less, but not more, than other economic or social operator.

The new legislation introduced in September 2020 without the possibility of appropriate and timely consultation with the Voluntary Sector departs on the presumption that all Voluntary Organizations are of the same nature, of the same risk and of the same capacity. The same regulations seem to depart from the point that VOs have a dubious motivation for raising funds. VOs are distinguished in their service, for the level of flexibility and creativity in their operation, including the initiatives to generate funds, yet such regulation shall impact drastically fundraising opportunities that are spontaneous and sometimes at very short notice so as to address fast developing situations or guaranteeing unexpected opportunities.

The Malta Council for the Voluntary Sector, as the legitimate representative of the Voluntary Sector as established by the Voluntary Organizations Act, on behalf of the same Sector, endorses and promotes transparency and accountability; and denounces any illicit activity.

As a result of the Amendments enacted in 2018 in the Voluntary Organisations Act new obligations and regulations have been put in place to safeguard that Voluntary Organisations are accountable and transparent, with various obligation of Annual reporting to the Commissioner for Voluntary Organisations. It is through these 'returns' that the appropriate and rigorous monitoring of submitted documentation should take place, possibly identifying and investigate Voluntary Organisations that may raise suspicion. There is no scope of issuing a set of regulations of 'one size fits all' potentially putting a logistical and financial burden of Voluntary Organisations already undertaking a marked increase in administrative work.

Voluntary Organisations, by their very nature, depend upon various sources of funding to support their operation, the main income source being funds generated from fundraising events and initiatives, public collections and donations. Most of these organisations, without such sources of funding, would not sustain their operation which would impact severely their beneficiaries, clients and the events they manage. The operation of the most part of Voluntary Organisations depends on volunteers, which at times are already hard to find and retain, giving a restricted number of hours. The new regulations further require human capacity to sustain administrative operation which in itself may push away volunteers.

With the present regulations Voluntary Organisations that depend on fundraising for their main source of financial income, which is the majority irrespective of their size, shall find

difficulty to undertake such obligations based on volunteers. Voluntary Organisations shall have to turn to potentially engaging personnel to guarantee a continuous flow of activity to sustain their option, which for many VOs is not an option. For small VOs that run strictly on volunteers this situation will translate potentially in less fundraising activity resulting loss of revenue, thus less activity.

Apart from the overarching comments above, MCVS is also forwarding the below specific issues which, also from the feedback received from a large number of Voluntary Organizations, arise from the Public Collections and Charity Shops Regulations.

Specific Issues – Public Collections Regulations

Article 2(2)

"public collection" shall have the same meaning assigned to it in the Public Collections Act and includes any form of collection, whether in cash or in kind, tangible or intangible, corporate or incorporate, movable or immovable, by any means or in any manner whatsoever;

There is no distinction in definition and procedure between 'public collections' and 'fund raising events'. Also, the definition of "crowd funding" is unclear since it encompasses any "deposits and transfers made by the general public". This would mean that all donations made through electronic means are automatically considered as "crowd funding", since these necessarily involve some form of deposit or transfer.

Recommendation

There needs to be a clear distinction between public collections and fundraising events where the fundraising events remain as part of the annual returns reporting to OCVO.

Article 4

A "call for collections" is not an episode or an event, but may be an open, continuous, process. The same applies to the selling of merchandise as a means of fundraising since this is rarely confined to a specific event or timeframe.

(4) The authorisation requirement contained in sub-regulation (3) shall be valid for three (3) months.

(3) An individual who performs a public collection may be considered as a collector in terms of these regulations upon obtaining authorisation by means of a permit issued by the Commissioner in accordance with the provisions of the Public Collections Act and the Public Collections Regulations:

Sub-Articles 4(2) and 4(3) do not set a requirement for a permit for all forms of public collections. This requirement is only established in 4(4), and not in relation to all public collections, but only in relation to "collectors", that is, when there are physical persons collecting donations.

Recommendation

Public Collections regulations are to refer only to enrolled VOs and not individuals. Individuals doing requesting to undertake public collections should not fall under regulations emanating from the VO Act. VOs shall be responsible to issue identification to their volunteers and inform on a quarterly basis OCVO on the list of current volunteers acting as collectors.

Article 4(2)

(2) Fundraising activities shall be carried out for voluntary organisations either for a general or specific purpose and voluntary organisations shall ensure that fundraising materials do not imply that the money collected is for a restricted purpose, where it may be used for different purposes or for funding in general.

An organization which is raising funds for a specific project should be able to promote it as such.

Recommendation

'and voluntary organisations shall ensure that fundraising materials do not imply that the money collected is for a restricted purpose, where it may be used for different purposes or for funding in general' to be repealed.

Article 4(3)

(3) ...Provided that the Commissioner shall have the discretion to authorize or refuse an application for such permit submitted by an individual and shall determine the grounds for granting such a permit, which grounds shall have a social and philanthropic purpose:

Effectively this Article gives the Commissioner the power to stop the activities of a Voluntary Organisation, because on his own authority he/she may deem that a collection does not have a social and philanthropic purpose.

Recommendation

If the Commissioner has the right to refuse a permit, however the grounds for refusal need to be specified. There needs to be a process where such refusal can be appealed.

Article 4(3) & 4(5)

(5) An individual or a non-enrolled voluntary organisation which fails to obtain a permit from the Commissioner when this is required shall guilty of an offence and shall, on conviction, be liable to the penalties established under article 10 of the Public Collections Act.

These regulations under the VO Act should not be considering 'individuals' but Voluntary Organisations.

Recommendation

Individual permits should not be considered under these regulations.

Article 4(7)

(7) A voluntary organisation shall monitor the financial good standing and reputation of the collector before engaging a collector, who shall have a good-standing conduct certificate and shall not be declared bankrupt:

Provided that collectors shall be at least sixteen years of age prior to carrying out any public collection:

In various instance and with various organisations such as Scouts, Girl Guides, Sports Nurseries etc. members under sixteen contribute through fund raising schemes such as 'sponsor sheets'. This Article is prohibiting such practice.

Recommendations

This age limit should be removed since this would be eradicating the participation of young volunteers in the sense of active participating and support of the voluntary organisation. One may include that in cases of 'minors' such collections should be supervised by adults.

Article 5(1) & 5(2)

VOs conducting any form of collections, fundraising, appeals etc. shall have added logistical burden to apply for each event, having opportunities which may arise and have not been applied for possibly lost. Some organizations may need to engage a person to work specifically on these procedures.

Recommendations

Enrolled VOs should have an annual permit for its fundraising for the whole year where every enrolled and compliant VO shall simply inform in writing the OCVO of such event fifteen (15) calendar days before. An additional annual return template for public collections should be added to the present returns indicating each public collection event and amount.

Article 6

6. (1) Collectors shall be in possession of a tag issued by the Commissioner.

Voluntary Organisations, in their large part, use volunteers who are loyal to the organisations to help in fund raising/public collections. Depending on volunteers, VOs cannot forecast availability and commitment of volunteers and if these need to be listed weeks before to apply for individual permit, many such public collections may not take place.

Furthermore, the logistics related with this article is enormous and time consuming for voluntary organisations who may not have the capacity to support.

Recommendations

Enrolled VOs should issue their own identification tags, copy of which is to be logged with OCVO. Each VO tag is to be numbered and a record of volunteer collectors and the respective tag number is to be kept for each public collection event.

Article 6(7) and 6(8)

(6) The tag issued by the Commissioner shall be made visible at all times during the public collection and be kept in a clean and legible state. Tags shall be displayed on the upper body of the public collector, made visible and identifiable and shall not be obscured in any way.

(7) The tag shall be marked with an expiry period of six (6) months.

The term of logistics being that of six months further duplicates while the loss of an ID card VOs shall incur a penalty of €50. Furthermore this also implies that every six months one needs to acquire a new police conduct which is unacceptable.

Recommendations (same as Article 6)

Enrolled VOs should issue their own identification tags, copy of which is to be logged with OCVO. Each VO tag is to be numbered and a record of volunteer collectors and the respective tag number is to be kept for each public collection event.

Article 7(1)

7. (1) Collectors shall have a sealed collection container provided by the Commissioner.

These regulations are assuming one procedure for various models of 'collection' and 'fundraisers' VOs that use collection containers, some of which in the hundreds, have their containers branded, which would be lost. Other VOs use the system of receipts against donations, which cannot function if using collection containers. VOs which have large numbers of containers have policies and staff in place in this respect.

Recommendations

VOs should use either the Enrolled VOs collection containers or request OCVO to provide such containers which are kept for one calendar year. A VO may use a receipt system with numbered receipt books and receipts, a sample of which is to be provided to OCVO.

Article 7(2)

(2) Any containers collected and received directly by voluntary organisations shall be opened in front of two administrators of the voluntary organisation in the presence of a warranted professional person:

Provided that the Commissioner may reserve the right to send a representative or public official acting on his behalf when such containers are opened.

This Article, while in conflict with Article 7(5), states that 'containers collected and received directly by voluntary organisations shall be opened in front of two administrators of the voluntary organisation in the presence of a warranted professional person'. While not stating which type of warrant is required, this is incurring further costs on the VO.

Recommendations

The need to have the presence of a 'warranted professional' should be removed.

Article 7(5)

(5) All donations found in the said container must be counted in the Office of the Commissioner by a public officer within the Office of the Commissioner and a document shall be signed by both the administrator and the public officer, indicating the amount of donations collected and the period during which the collection was made.

This Article, while being in conflict with Article 7(2), will firstly increase a logistical issue where VOs need to send volunteers during office hours to the OCVO, Secondly, depending on the availability of both parties VOs need to hold on to funds and not be in a position to deposit or pay third parties with the related concerns.

Recommendations

This article should be repealed since it conflicts with Article 7(2).

Article 8(2)

8(2) Where collectors leave envelopes at any premises with the intention of collecting money from the public, all envelopes shall be numbered, bear the name, address and contact number of the voluntary organisation and the date of the collection: Provided that the envelopes shall bear instructions for the addressee to send the envelope back to the voluntary organisation, also where such envelopes do not contain any money.

In the case of collection 'envelopes' these are both done on a local or national level. In both cases they are distributed randomly, and it is a logistical nightmare to post by hand envelopes one by one as per address indicated. If this is done on a national level it is even worse since such envelopes are distribute via bulk mailing with publications. In both cases to individually address envelopes to recipients would also mean extra costs.

Recommendations

The envelopes do not need to be numbered since this does not serve any purpose. Money cannot be excluded from envelopes since not every person may issue a cheque, apart from administration costs are incurred on cheques.

Article 8(4)

8(4) Any envelopes collected and received directly by voluntary organisations shall be opened in front of two administrators of the voluntary organisation in the presence of a warranted professional person.

Both in local and nationwide campaigns receipt of envelopes with donations are received over a period of months. It is a logistical issue to send VO representatives on a regular basis at the office of the commissioner to open these envelopes.

Recommendations

The need to have the presence of a 'warranted professional' should be removed.

Article 10(3)

10 (3) Collectors shall not visit residences between 20.30hrs and 08.00hrs.

Restricting collections door to door to 20.30, especially in summer, is a limitation keeping in mind that volunteers may work till 1900. (also applicable for 14(2))

Recommendations

Time should be related to type of event.

Article 10(4)

10 (4) Collectors may not demand and shall not be entitled to any payment or reward or any other form of remuneration for carrying out their services.

Some organizations have collectors as employees.

Recommendations

This should not apply to employees of the VO where such employees may do this as part of their job description.

Article 13(3)

13 (3) Methods of donation may be made in cash or in kind or by means of a cheque or bank transfer or by any other means as may be deemed necessary: Provided that, in case of donations made in kind, these shall be evaluated by a professional person.

Evaluations in kind by a 'professional' is another cost to be incurred when this may rely on an 'invoice' presented by supplier on value of item. (also applicable for 21(2))

Recommendations

The donor should present documentation stating value of item and their source.

Article 15(2)(c)

15 (2)(c) the receipts for every donation received exceeding five euro (€5) per day;

Recommendations

For transparency purpose a receipt is issued for any donation received in person or by any other means.

Article 16(4)

16 (4) Public collectors shall not keep a mailing list, both postal and electronic, in order to urge any person to make donations in a frequent and continuous manner.

If VOs have the proper GDPR procedures in place and authorization from benefactors there should not be an issue. While under the same regulations OCVO is requesting details of donors.

Recommendations

This article should be repealed.

Articles 18, 19 & 20

These are all obligations which are found on the terms of reference/statute of each organization and they all differ from one to another.

Recommendations

This article should be repealed from the regulations and issued as Guidelines/Codes of Good Practice.

Article 23 & 25

This Article give powers to the Commissioner for Voluntary Organisations to act as prosecutor, judge and jury, allowing him/her, among other powers, to stop fundraising initiatives. No due process is outlined in the law. This is of utmost seriousness. A state appointed official should not have the power to, single-handedly, stop the activities of a voluntary organisation. Should there be suspicion of misconduct or criminal offences, there are already other institutions (such as the Financial Intelligence Analysis Unit and the Economic Crimes Unit) that are empowered to act according to set procedures.

Recommendations

This article should be repealed from the regulations and issued as Guidelines/Codes of Good Practice

Article 23(6)

23 (6) Collectors may not be stationed in the entrance of a shop or similar establishment, on a pedestrian crossing, within three (3) meters of an ATM machine, market stall or street performers.

Why not if permissions are in place from rightful owners.

Recommendations

Only the part stating ***'three (3) meters of an ATM machine'*** shall remain in force.

Article 24

This Article does not distinguish between 'crowd funding', 'online donation buttons' and other digital systems.

Recommendations

To be addressed.

Article 24(5)

24(5) Bulk emails shall not be permissible unless the prior consent of the donor is obtained and each email shall have a simple opt out option which is clearly explained.

Bulk emails are a procedure in place for major VOs and stopping this is a drastic financial lifeline. This is also permissible by law via sms.

Recommendations

This article should be clarified to address today's reality.

Article 24(8)

24(8) All generated revenue and other income raised through the crowd funding shall be recorded by means of bank statements, where the crowd funding is easily distinguished and traceable. Donations exceeding twenty euro (€20) each day made by the same donor shall not be permissible.

The capping of online donations of €20 is extremely low and unrealistic. In fact there should not be a capping. Shall this capping also apply for 'teletons' and if yes state they also apply to other entities such as the Malta Community Chest Fund Foundation (MCCF) for events such as 'L-iStrina'?

Recommendations

The part of the article stating *'Donations exceeding twenty euro (€20) each day made by the same donor shall not be permissible'* is to be repealed and OCVS is to issue Guidelines/Codes of Good Practice in relations to the undertaking of due diligence and reporting of donations in excess of a stipulated amount.

Article 28

28. (1) Any individual or voluntary organisation which is in breach of these regulations is guilty of an offence and shall, on conviction, be liable to the penalties established under article 31 of the Act.

PART VII OFFENCES Penalties. 31. Where any person acts in breach of any of the provisions of this Act or any regulations made thereunder, and a specific penalty is not provided for the offence under this Act or any regulations made thereunder, such person shall, on conviction, be liable to a fine (multa) of not less than one hundred and sixteen euro and forty-seven cents (116.47) but not more than two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) or to a term of imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

Breaches under these regulations also contemplate imprisonment which is an extreme step. Imprisonment is effective should a situation is in breach of criminal law and thus steps are taken accordingly.

Recommendations

This Article needs to address proportionality of offence to penalty. Imprisonment from the main Act should be removed. This cannot be left to interpretation. There also needs to be implemented a right of appeal.

Specific Issues – Charity Shops Regulations

Article 3

3. These regulations shall apply to all enrolled voluntary organisations.

(2) The objectives of these regulations include:

(d) to increase donations to charity shops;

(e) to generate positive publicity for charity shops;

(f) to promote awareness of legitimate charity shops;

(g) to support the work for charities

These regulations shall not be supporting or promoting the work of Charity shops but possibly creating structures that might mean the closure of such outlets.

Recommendation

Sub Articles (d), (e), (f) and (g) to be repealed.

Article 4.

4(1) Any charity shop shall be registered with the Office of the Commissioner who shall in return grant a permit to the voluntary organisation establishing such charity shop.

Why does an enrolled VO with the Commissioner for VOs need to register the shop when we the same VO already declares such activity with OCVO and gives returns accordingly?

Recommendation

Enrolled VOs should declare the operation of a Charity Shop by informing OCVO.

Article 5

5. (1) Applications by voluntary organisations for the operation of such charity shops shall be received by the Commissioner.

(2) In the application to obtain a permit to open a charity shop, the voluntary organisation shall provide to the Commissioner:

(a) a contract of purchase or lease of the premises, or a document confirming a valid legal title;

(b) a valid planning permit of the premises and where such premises were built before 1967, an architect's declaration to this effect;

(c) the name of any person who is entrusted with the management of the charity shop, including but not limited to volunteers, who shall be at least sixteen (16) years of age;

(d) an updated police conduct certificate of the applicants and of the persons mentioned in paragraph (c);

(e) a resolution declaration signed by all administrators of the voluntary organisation declaring that such voluntary organisation will be opening and operating a charity shop; Cap. 424.

(f) a valid certificate certifying that the premises are registered as compliant with the rules and regulations issued by the Health and Safety Authority in terms of the Occupational Health and Safety Authority Act;

(g) any other necessary and ancillary information which the Commissioner may from time to time require in terms of these regulations.

This Article puts on Voluntary Organisations obligations which are in some cases not even required under a Trading Licence, may not be a reality to premises used by VOs and surely will create more bureaucracy. Furthermore, the responsibility of the administrators and the volunteers giving services in the Charity Shop are the responsibility of the VO and not OCVO, thus the issue of police conduct does not stand.

Recommendation

The Sub-Articles 5 (2) should be reviewed and in most instances repealed.

Article 6

6. (5) Saving the provisions of the Development Planning Act, charity shops shall have on the facade of their premises the words "Charity Shop" both in the Maltese and the English Language, together with the voluntary organisation's name and the voluntary organisation's number.

This Article in itself contradict Article 5 by confirming that responsibility and registration of the Charity Shop is directly the responsibility of the Voluntary Organization as enrolled with OCVO.

Article 8

8. (1) Annual returns shall be duly filled by administrators Annual returns. and submitted to the Commissioner in terms of the Annual Returns Form prescribed in Schedule 1, including the details of the selling items of the charity shop and the value added tax (VAT) registration number.

Items donated are considered as converted to donation thus VAT is in most cases not applicable.

Recommendations

The part related to VAT should be repealed

8(2) Saving the provisions of sub-regulation (1), annual returns shall include but are not limited to:

(a) the charity registration documents including:

(i) the purpose and activities of the charity shop; and

(ii) the names, titles, designated role and addresses of charity operators;

(b) name or type of charity;

Why are such information requested when the Charity Shop's purpose is to support the Voluntary Organisation under which it falls, of which purpose, aims and objectives are listed in its statute deposited at OCVO?

Recommendations

These Sub-Articles should be repealed.

8(2)(d) name of donee; and

(e) receipts to donors specifying the list of goods and items being donated; and

This requirement shall be flawed since most donations to Charity Shops are anonymous and done cannot and will not be identified. In most cases donors of items to Charity Shops are unknown, unidentified, or simply not interested in giving their personal information when donating items to charity shops thus both details of and receipt to donors in most cases may result to be impossible to support.

Recommendations

The phrase 'where the doner is known' should be added to this article or repealed.

8(3) Administrators shall include clear contact details for their charity on all requests made for donations. Details of the personnel representing the charity, whether operators, employees, member or volunteers, and where possible of their vehicles shall be clearly identifiable.

Donations to Charity Shops are offered/voluntarily donated and not 'requested'.

Recommendations

These Sub-Articles should be repealed.

8(4) For the purpose of this regulation, any information regarding the trading activities carried out by charity shops shall provide an actual and transparent analysis of the generated revenue, income, expenditure, assets and liabilities for the respective financial year.

Technically Charity Shops cannot engage in 'trading'.

Recommendations

This Sub-Articles should be reworded.

Article 10(1)(2)

10. (1) Any person who operates in a charity shop, whether against remuneration or not, being a helper, member, volunteer and, or charity operator shall be in possession of a tag issued by the Commissioner.

(2) The tag shall include: (a) the name and surname of the person; (b) the identity card number or passport number of the B 2667 person; (c) the voluntary organisation's number of the enrolled voluntary organisation; (d) the name of the charity shop; (e) the signature of the Commissioner or a representative acting on his behalf and any administrator of the voluntary organisation.

Such obligations are not even required in the legislations governing retail outlets as per local Trade regulations where the burden of responsibility of 'employees' falls on the owner/administrator of the retail outlet.

Recommendations

The persons working in the charity shop are the responsibility of the VO and tags are to be issued by the same VO.

Article 10(5)(6) & (7)

10 (5) The tag shall be marked with an expiry period, which period shall be at the discretion of the Commissioner.

(6) Failure to exchange a tag upon its expiry period, or to return it to the Commissioner, upon his request, or upon termination of a collection, shall be subject to a penalty of twenty euro (€20).

(7) Every person shall be responsible for the safe custody of his tag and shall return the tag to the Commissioner immediately upon ceasing to be a collector, and in case a tag is lost, the Commissioner shall issue a declaration to that effect in the Gazette and one local newspaper.

Further to the above the Article puts both administrative and logistical burden related to unknown expiry of tags, penalties relates to non-returned/lost tags and responsibility put on volunteers referred to as collectors.

Recommendations

The persons working in the charity shop are the responsibility of the VO and tags are to be issued by the same VO.

Article 11

11. (1) Any price which is tagged to an item or good shall be made clearly visible to customers or the public in general who shall be aware of the final price.

Many items in a Charity Shop are not given a price but a donation is solicited from the buyer. Items may possibly be groups in areas according to price range.

Recommendations

Items may be grouped according to price.

Article 15

15(1) Administrators of a voluntary organisation shall ensure that collections of donations are being carried out within the requirements of the relevant legislation and that the charity shop is appropriately licensed.

The Charity Shop is not 'licensed' but 'registered with OCVO through the VO.

Recommendations

The Sub-Article to be re-worded.

15 (2) Administrators shall be aware that the donation of goods for sale shall meet the charity retail objectives and requirements, to the extent that such donation shall be intended to obtain the primary purpose and objectives of the voluntary organisation and shall not be used to increase the income for the charity itself

The scope of any VO's income generating operation is intended to "be used to increase the income for the charity itself". This is counter-productive to what a Charity Shop aims to do.

Recommendations

The part stating '**and shall not be used to increase the income for the charity itself**' shall be repealed.

Article 20(a)(b) &(c)

20 (a) on a first conviction, to a fine (multa) of not less than twenty-three euro and twenty-nine cents (€23.29), but not exceeding one thousand and one hundred and sixty-four euro B 2670 and sixty-nine cents (€1,164.69);

(b) on a second or subsequent conviction, to a fine (multa) of not less than forty-six euro and fifty-eight cents (€46.58), but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37);

(c) in the case of a continuing offence, to a fine (multa) of twenty-three euro and twenty-nine cents (€23.29) for every day during which the offence continues.

There is no weight given to fines and possible related articles but may be issued even for the most innocuous of articles. Furthermore, why are fines still tied in value to the conversion of the Euro from the Maltese Lira?

Recommendations

This Article needs to round up fines to today's practice and remove indirect reference to conversion from lira, and address proportionality of offence to penalty. This cannot be left to interpretation. There also needs to be implemented a right of appeal.

Further remarks and recommendations

- It is positively noted that the fees relation to applications, which were not listed in the regulations, but the sector informed via a communication by OCVO were withdrawn by the same Commissioner.
- It must be noted that there is a lack of clarity on activities such as dinners, concerts, car washes and other regular events organized by VOs and which are all put under these regulations and with much being left for interpretation. Such events and activities were already being reported in the annual returns presented by VOs to the Commissioner for VOs. Considering the number of activities which are held throughout the year, such activities should be included clearly in addition to the annual financial statements submitted to the commissioner for VO, a report should be compiled clearly indicating the donations acquired and segregating them according to each activity held. There is already a regime of returns reporting and Public Collections, now also including Fund Raising Events, should be included with the Financial Returns presented to Office of the Commissioner for VOs (OCVO) at the end of the financial year, with a return entry for each collection event within the Annual Returns/Accounts to be submitted to the OCVO.
- Apart from the detail of logistics arising from specific articles which shall burden the VOs already strained in their human resource capacity, the fact that the services given to the VO Sector in relation to these regulations by OCVO are delivered during office hours only up to 1500hrs, makes it more difficult and less customer friendly for VOs which fully depend on volunteers.
- The issue related to the police conduct every six months is both a logistical issue as well as an added cost for VOs. Apart from the fact that when undertaking an event run by volunteers a VO must work with volunteers that are available on the day, the same volunteers are ultimately the responsibility of the VO. In case of any irregularities the VO shall act accordingly under already standing criminal legislations.
- Instead of establishing unrealistic low donation thresholds through such regulations, OCVS should issue protocols and procedures for VOs in relation to receipt of large donations and related due diligence. It is then that OCVO should effectively monitor VO annual returns and, where deemed necessary audit and investigate. In this respect donors who do not surpass such threshold issued should have their confidentiality protected as per GDPR Act.
- Voluntary Organisation have frequent *ad hoc* public appeals, as a reaction to an occurrence or a situation, which events shall not be practically possible under these regulations.

- The requirement to submit donors names to Government should be removed from both regulations, and/or a ceiling set for cash/goods-in-kind donations for the requirement for further information to set in, as is the current practice in standard trade transactions.
- The requirement to acquire authorized Volunteer Tags, (Art. 6.(1)), for any collections that take place at fund-raising events is unsustainable. Information about who is going to volunteer, and for which event, cannot be forecast, making it difficult for this information to be submitted to the OCVO, and the necessary police certificates acquired, in time before the events.
- Having to acquire authorization from a Public Entity to act as a volunteer during fundraising activities, and provide a police good conduct certificate, when volunteers give society their time and effort altruistically, is demeaning, demotivating and discouraging to volunteers, and will be detrimental to the volunteer movement.
- Specific to Charity Shops regulations exemptions for pre-1967 historic sites, from the requirements to have disabled access/facilities, should be made, although every endeavor should be made to provide this access/facility by the VO operating such shops.
- VOs may have volunteers, local students, and visiting Erasmus students, who assist with the running of its Charity Shops as part of their overall training program. In these instances, it is not possible to submit their information to the OCVO to get authorized voluntary tags, or to get police certificates for all these.

Concluding Remarks

The Malta Council for the Voluntary Sector reiterates that it strongly advocates transparency and accountability and is certain that the majority of Voluntary Organizations act in good faith and have at heart the reputation of their organization and shall not act in such a way to tarnish such the reputation of the same VO and the Sector at large since the ability to fund raise depends entirely on retaining the public's trust.

One must also stress the fact that not all VOs have the same capacity and thus there should not be any equal administrative burden which in principle also reflects the three categories established by the same VO Act with reference to financial capacity.

Instead of being burdened by regulations VOs should be supported by protocols and procedure guidelines which would enable them to sustain their VO.

In the present COVID 19 situation VOs have become more relevant both by their ongoing operation, in certain areas, as well as by the lack of it, in other areas. This is even more important in the re-opening phase when Society shall be turning to VOs in the various Sectors to bring a sense of normality to the Maltese community.

While the Malta Council for the Voluntary Sector, on behalf of all the Voluntary Sector, emphasizes the commitment of the Sector in favor of transparency accountability and good governance, it urges that these regulations are urgently reviewed and the concerns of the Sector addressed. MCVS urges the legislator to engage in urgent consultation in its true meaning with Council and the Sector at large to agree on the best way forward which would strike the balance between the enabling of the Voluntary Sector to operate while achieving the ultimate objectives of transparency, accountability and good governance of VOs and preventing issues of money laundering.

Malta Council for the Voluntary Sector

Annex 1 – List of VOs that participated in online meetings/submitted input

University of Malta Rowing Club	VO/1358
Sezzjoni żgħażaġh Pawlini Munxarin	VO/1350
St Jeanne Antide Foundation	VO/0005
Home Away from Home	VO/0774
Fondazzjoni Sebħ	VO/1622
YMCA Malta	VO/0028
Soc. Filar. Santa Marija	VO/0238
Għaqda Nazzjonali Każini tal-Banda	VO/0055
Soċjeta Mużikali Santa Margerita	VO/1102
Għaqda Mużikali Marija Bambina Banda Vittorja	VO/0749
St Pio X Band Club	VO/0597
Fondazzjoni Patrimonju Malti	VO/1762
Soċjeta' Mużikali La Stella Levantina	VO/0203
Soċjeta Filarmonika San Pietru, Birżebbugia	VO/0381
Għaqda Mużikali San Guzepp Hal Ghaxaq	VO/0323
Għaqda Mużikali Imperial	VO/0841
Għaqda Mużikali Immakulata Kuncizzjoni - Hamrun	VO/0194
Għaqda Mużikali San Pietru fil-Ktajjen Birżebbuga	VO/0278
St Gabriel Band Club	VO/0127
Soc Fil Marija mtellgħa s sema Mgarr	VO/0577
Għaqda Mużikali Mount Carmel-Gzira	VO/0229
Siggiewi Festival Brass Band	VO/0196
Soċjeta Filarmonika Pinto Banda San Sebastjan	VO/0479
Għaqda Mużikali Santa Marija, Hal Ghaxaq	VO/0351
Soċjeta' Filarmonika "Sliema"	VO/0332
Soċjeta' Mużikali San Ġużepp	VO/0761
Soċjeta Filarmonika King's Own	VO/1376
The Good Sheperd Sister – Dar Merħba Bik Foundation	VO/0007
Kopin	VO/0200
Malta Fancy Poultry and Pigeon club	VO/1388
Ghana Mission Foundation	VO/0486
Allied Rainbow Communities	VO/1136
BirdLife Malta	VO/0052
Fondazzjoni Belt Victoria	VO/0762
Animal Guardians Malta	VO/1063
Mission4Changes Foundation	VO/1847
Baden Powewll Scouts Malta	VO/0652
National Council of Women	VO/0020
Għaqda Mużikali Marija Annunzjata A.D.1862	VO/0502
Soc. Fil. G.M. Fra Antoine De Paule Banda Kristu Re	VO/1434
Għaqda Sidien Boathouses-Ramlet il-Qortin	VO/1968
Duke of Connaught's Own Band Club	VO/0563

Soċjetà Mużikali Santa Marija Qrendi	VO/0214
Emergency Fire & Rescue Unit	VO/0018
Dar Hosea	VO/1365
Moviment Missjunarju Gesu fil-Proxxmu	VO/0140
Gozo NGOs Association	VO/0145
Inspirasia Foundation Malta	VO/1299
St.Paul's Bay Charity	VO/0499
Grupp Armar Parrocča Zabbar	VO/1988
Soċjeta' Mużikali Trinita' Qaddisa AD1949 Marsa	VO/0935
Soċjeta Mużikali Sant' Antnin	VO/1844
Għaqda Mużikali San Gużepp Kalkara	VO/0713
Opening Doors Association	VO/0664
Richmond Foundation	VO/0017
Heal and Teach Foundation	VO/1492
Għaqda Mużikali Beland A.D. 1861 Zejtun	VO/0501
Flimkien għal Ambjent Aħjar	VO/0101
Ronald McDonald House Charities Malta Foundation	VO/0778
St Nicholas Band Club	VO/0764
Fgura Band Club	VO/0181
Island Sanctuary Association	VO/0038
RMJ Horse Rescue	VO/1225
Malta Judo Federation	VO/0201
Azzjoni Kattolika Malta	VO/1743
Id-Dar tal-Providenza	VO/1066
Europa Donna Malta	VO/0118
OASI Foundation	VO/0072
ADHD Malta	VO/0041
MSPCA	VO/0035
SOS Malta	VO/0033
Inspire Foundation	VO/0199
Fondazzjoni Opri Socjali	VO/1415
The Malta Hospice Movement	VO/0062
Missio	VO/1178
Għaqda Mużikali Viżitazzjoni	VO/0443
Fondazzjoni għall-Patrimonju Kulturali tal-Arcidjocesi ta Malta	VO/1288
Gozo Crafty Ladies	VO/1904
CSR Malta Association	VO/1757
Gozo SPCA	VO/0069
Migrant Women Association Malta	VO/1127
Għaqda Mużikali San Girgor Ta' Kercem	VO/0402
Luxol Handball Club	VO/2069
Malta Red Cross	VO/0086
CCIF	VO/0628
Żgħażaġh Azzjoni Kattolika	VO/1051

Child Evangelism Fellowship Malta Foundation	VO/1428
Għaqda Soċjo-Mużikali Anici	VO/0130
Soċjeta Mużikali San Lawrenz	VO/0230
Grand Commandery of the Castello	VO/1558
Maltese National Federation of Past Pupils & Friends of Don Bosco	VO/1250
Għaqda Filantropika Talent Mosti	VO/0226
i-HELP	VO/1470
Soċjeta Filarmonica La Vittoria	VO/0374
Smiling with Jerome Foundation	VO/1564
National Association of Pensioners	VO/0255
Għaqda Soċjali Mużikali Kristu Sultan	VO/0449
Stella Maris Band Club	VO/0373
Mission Fund	VO/0015
Stray Animals Support Group	VO/0134
SPYS - Salesian Pastoral Youth Service	VO/0078
Real Animal Rights (RAR)	VO/1976
Royal British Legion Malta branch	VO/0452
Franciscan Welfare Association (FWA)	VO/1747
Women for Women Foundation	VO/1961
Don Bosco Foundation	VO/1725
Għaqda Każin Banda San Filep AD1851	VO/0037
Dreams of Horses	VO/1617
Soċjeta Filarmonika Victory - Xaghra	VO/0338
Soċjeta' San Pawl Banda Konti Ruggieru	VO/0612
Kummissjoni Festa Esterna Fgura	VO/1053
Għaqda Mużikali Sant'Elena	VO/0128
Każin San Gużepp u Banda de Rohan	VO/0283
Din l-Art Hełwa	VO/0008
Grupp tal-Armar 6 ta' Dicembru Siggiewi A.D. 1997	VO/1721
Fondazzjoni Patrimonju Siggiewi	VO/0394
Arthritis and Rheumatism Association Malta	VO/0425
Soċjeta Santa Marija u Banda Re Gorg V l-Imqabba	VO/0260
Għaqda Madonna Tal-Grazzja banda San Mikiel Zabbar AD 1883	VO/0415
St. John Ambulance (First Aid and Nursing)	VO/1399
Aikikai Malya	VO/0668
The Scout Association of Malta 1st Cospicua Scout Group	VO/0311
Circolo San Giuseppe Filarmonica Sagra Familja	VO/0228
Għaqda Mużikali Mount Carmel-Gzira	VO/0229
Civil Society Network	VO/2010
Manna Foundation	VO/0328
Soċjeta' Filarmonika Vilhena A.D.1874	VO/0686
Society of Medical Radiographers	VO/0648
Soċjeta' Mużikali Santa Katarina V.M.	VO/0671
Fondazzjoni Beraħ	VO/1880

The Scout Association Of Malta	VO/0311
Soċjeta Mużikali Madonna tal-Gilju	VO/0204
Aditus Foundation	VO/0512
Għaqda Mużikali San Leonardo	VO/0266
MGRM	VO/0039
Għaqda Banda Zejtun	VO/0362
Soċjeta' Filarmonika L-Unjoni	VO/0653
Wirt iż-Żejtun	VO/0517
Għaqda Muzikali San Gorg Martri	VO/0412
Malta Photographic Society	VO/0457
Lions Club Sliema Malta	VO/0146
Gluecksfall	VO/1953
Għaqda il-Milied fix-Xaghra	VO/1749
Sezzjoni Zgħazagh Pawlini Munxarin	VO/1350
Soċjeta Mużikali Santa Margerita	VO/1102
Soċjetà Mużikali San Ġużepp Ħal Klirkop A.D. 1886	VO/0237
Church Schools Children's Fund	VO/1319
Arka Foundation	VO/0032
La Vincitrice	VO/0359
CAPERS Malta	VO/1478
Gabriel Caruana Foundation	VO/1236
Soċjeta Filarmonika Santa Marija Mosta	VO/1605
SSEAM (Social Entrepreneurs Association Malta)	VO/1971
Għaqda Karmelitana Banda Queen Victoria Zurrieq.	VO/0352
Grupp Armar Festa Immakulata Kuncizzjoni Hamrun AD 1982	VO/2056
Malta Parkinson's Disease Association	VO/0061
Soċjeta' Mużikali San Ġużepp	VO/0761
Athleta Basketball Nursery	VO/0587
St John Rescue Corps	VO/0223
Soċjeta Filarmonika Lourdes	VO/0667
Confederation of Filipinos in Malta	VO/1189
Soc Fil San Bartilmew Gharghur	VO/0611
St John Association	VO/0919
Real Animal Rights (RAR)	VO/1976
Deloitte Foundation	VO/1751
Din l-Art Ħelwa	VO/0008
Malta Association of Sports Lawyers	VO/1647
Soċjeta Filarmonica La Vittoria	VO/0374
Repubblika	VO/1670
Soċjeta Mużikali San Lawrenz	VO/0230
Malta Muslim Association	VO/1919
Malta Historical Society	VO/0722
JCI (Malta)	VO/0208