

Report on Case No CEP-25-5884

Complaint regarding the exclusion of the Malta Chamber of Geologists from membership in the Building and Construction Consultative Council.

Abbreviations:

Act	Building and Construction Authority Act (Chapter 623 of the Laws of Malta)
BCA	Building and Construction Authority
BCCC	Building and Construction Consultative Council
CEP	The Commissioner for Environment and Planning
CMP	The Complainant
MCG	The Malta Chamber of Geologists
MJRC	The Ministry for Justice and Reform of the Construction Sector
Regulations	Building and Construction Consultative Council Regulations (Subsidiary Legislation 623.10 under the Act)

Case history

CMP explained that MCG is the national association of geologists in Malta and is a registered professional organisation VO/2329. The role of the geologist in the building and construction industry has been highlighted in the Jean Paul Sofia Inquiry Report and hence MCG wants to be a member of the BCCC.

MCG was informed by the BCCC that it can only participate occasionally in the BCCC as a 'guest member'. The BCA also upheld the BCCC decision and MCG is still being denied full membership of the BCCC. CMP added that this decision damages the interests of the geologists in Malta and discriminates against MCG.

CEP heard CMP, the Chairman of the BCCC and the Permanent Secretary at MJRC. The latter informed CEP that as part of the reform being undertaken in the construction industry, an internal review is also being undertaken on the functions and responsibilities of the BCCC and as it is not excluded that changes in the BCCC are also expected, it is more appropriate to await the outcome of this review before any recommendations are made.

CEP did not accept to await the outcome of this review as the Ombudsman Act does not allow for the suspension of this investigation, just as the BCCC Regulations do not provide for the inclusion of guest members, particularly in light of CGM's longstanding challenge on this matter. MJRC was informed that CEP will await comments on the matters raised in the complaint and why CGM was not provided with copies of the BCCC meeting minutes dated 31 July 2024 and 2 October 2024, as requested by MCG on 3 December 2024.

MCG submitted further evidence on why geologists should be involved from the preliminary demolition stages by presenting a method statement for demolition works concerning a particular site where a collapse occurred, which method statement identifies properties of the rock strata below as one of the risks during demolition.

MJRC replied that *"The BCCC identifies the main stakeholders as contractors, developers, professionals, importers of building materials, educational institutions, and workers' representatives."*

The BCCC considers geologists as being secondary stakeholders, as they provide advisory services on ground conditions to structural and geotechnical engineers, who then design the building structure. This role was clearly illustrated during a presentation by Dr. Gatt of the Malta Chamber of Geologists, invited by the BCCC. Given their specialized role and relatively small organizational size, the BCCC proposed that geologists attend meetings as guest members when relevant topics are discussed. Although the Chamber of Geologists has been invited to such meetings, they have not yet participated, as they continue to request full membership.

With regard to your statement that “the BCCC Regulations do not provide for the inclusion of ‘guest members,” I would like to draw your attention to Article 10 of LN 255 of 2023, which states:

“The Council may, in the exercise of its functions and, or in its deliberations on specific issues or cases, ask for submissions from public entities, as well as for the opinion or knowledge of experts from the industry or from the NGOs, as it deems appropriate.”

This provision allows the Council to include other stakeholders in meetings where their input is relevant.

As previously stated, the Chamber of Geologists was invited to participate as guests in discussions where their industry expertise could contribute meaningfully, however, these invitations have consistently been declined.

At this stage and in view of the internal review being undertaken on the functions and responsibilities of the Building Construction Consultative Council (BCCC), which does not excluded that there will be changes in the present structure of the BCCC, I again reiterate that it would be premature to act on any recommendations or on any legal amendments until this review is concluded.”

MJRC also included copies of the BCCC meeting minutes dated 31 July 2024 and 2 October 2024 as requested.

CMP replied that the MCG is a professional organisation consisting of professionals elected following scrutiny by the MCG's Membership Committee. MCG is categorised as an organisation of professionals and, therefore, according to the BCCC's own definition, eligible to be a member of the BCCC as in the case of the other professional organisations that are already members.

CMP added that MJRC's assertion that the BCCC considers geologists as secondary stakeholders is an erroneous opinion. CMP's presentation to the BCCC clearly indicated geologists as main stakeholders in matters concerning ground investigation, quality of building materials and environmental issues affecting the built environment. Overall, these issues are fundamental to public safety, which is a very topical issue. Other countries include geologists and their representatives (counterparts of the MCG) within building councils equivalent to the BCCC. A modern building industry requires specialists, including geologists. A generalist to amateur approach can have dangerous consequences for all to see.

CMP also stated that every organisation begins with a small number of members, however, the attitude of the BCA is undermining MCG's growth potential by failing to recognise the importance of geologists in the building and construction industry. MCG refuses to be a 'guest member' because it has a crucial role in public safety in the building and construction industry that needs to be heard and considered during all BCCC meetings. This role is so important, that one cannot wait for 'internal reviews' so that the BCA puts its house in order. Currently, other professionals who are not geologists are taking decisions concerning geology and its applications when they are not competent to do so.

CMP concluded that the mindset of the local building and construction industry needs to change and upgrade to a modern European mindset and standards.

Observations

According to the Regulations, the BCCC shall be appointed by the Minister and shall consist of a Chairperson and a Deputy Chairperson and between 7 to 15 members, being not more than one representative from each of the interested national constituted bodies, recognised by the Minister by means of a notice published in the Gazette. Any entity that is not represented on the Council, may, through a request made to the BCA board, demand to be added in the list of the national constituted bodies and the Minister, after consultation with the BCCC and the BCA board, may accept this request if it is evident that such an entity has an interest in being involved in the discussions according to the objectives of the Act, and the member representative of the entity shall thus be appointed to form part of the BCCC, provided that from time to time, the Minister may add other entities to form part of the BCCC to widen the forum and participation of stakeholders to enhance the scope of the BCCC in terms of the Act.

Currently, the BCCC consists of a Chairperson, a Deputy Chairperson and 12 members as published in Notice 687 of the Government Gazette dated 11 June 2024:

Nru. 687

No. 687

**ATT DWAR L-AWTORITÀ TAL-BINI
U L-KOSTRUZZJONI
(KAP. 623)**

**BUILDING AND CONSTRUCTION
AUTHORITY ACT
(CAP. 623)**

Kunsill Konsultattiv dwar il-Bini u l-Kostruzzjoni

Building and Construction Consultative Council

BIS-SAHHA tal-Artikolu 49 tal-Att dwar l-Awtorità tal-Bini u l-Kostruzzjoni, u s-subregolament 3(1)(b) tar-Regolamenti tal-2023 dwar il-Kunsill Konsultattiv tal-Bini u l-Kostruzzjoni, il-Ministru responsabbli għall-kostruzzjoni qed jelenka l-korpi kostitwiti nazzjonali li għandhom ikunu rappreżentati fuq il-Kunsill Konsultattiv dwar il-Bini u l-Kostruzzjoni hekk kif ġej:

IN terms of Article 49 of the Building and Construction Authority Act, and sub-regulation 3(1)(b) of the Building and Construction Consultative Council Regulations, 2023, the Minister responsible for construction is listing the national constituted bodies to be represented on the Building and Construction Consultative Council as follows:

1. Kamra tal-Periti;
2. Chamber of Engineers;
3. Malta Chamber of SMEs;
4. Malta Chamber of Construction Management;
5. Malta Chamber of Commerce, Enterprise and Industry;
6. Fakultà tal-Ambjent Mibni, Università ta' Malta;
7. The Malta College of Arts, Science and Technology;
8. Malta Development Association;
9. General Workers' Union;
10. UHM Voice of the Workers;
11. Forum Unions Maltin;
12. Assoċjazzjoni Bennejja u Kuntratturi.

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11.5 ta' Ġunju, 2024

5th June, 2024

Whilst the BCCC acts as an adviser to the BCA in line with the Act, according to the minutes of the BCCC dated 31 July 2024 and 2 October 2024, four members of the BCA attend the BCCC meetings, including its Chairman and CEO.

Following MCG's presentation to the BCCC on the importance of the geologists in the construction industry, on 27 September 2024 MCG was accepted as a guest member of the BCCC. MCG was informed that as a guest member a representative of MCG would be invited to attend the BCCC meetings whenever a topic or an issue is to be discussed for which MCG can contribute to the discussion. Indeed, MCG was invited for the meeting of 2 October 2024 when the Jean Paul Sofia Inquiry Report was going to be discussed.

Following a preliminary investigation by CEP on the same issue, on 18 November 2024 CEP concluded that MCG's request was premature and recommended that MCG first submits a formal request to the BCA Board in line with the Regulations.

MCH complied, and on 13 March 2025 it was informed by the BCA Chairman that *"The BCA Board, cognisant of the BCCC's decision relative to the membership of the MCG on the same BCCC (which at the instant was considered not advisable, albeit welcoming the possibility of being attendees to the same BCCC meeting when the circumstances are deemed necessary) has acted in full respect of the same, given that such a decision falls within the remit of the same BCCC."*

Whilst CEP concurs with MJRC that the Regulations allow the BCCC, in the exercise of its functions, to seek the opinion or expertise of industry specialists as it deems appropriate, CEP firmly disagrees that this equates to granting such experts the status of guest members. Furthermore, CEP strongly opposes the notion that geologists should be regarded as secondary stakeholders within the construction industry. This position is reinforced by the findings of the Jean Paul Sofia Public Inquiry Report, dated 28 February 2024 - an authoritative document guiding the ongoing construction industry reform - which clearly states:

"Meta jkun qed isir tħaffir għal kull tip ta` żvilupp, mal-method statement għandu jiġi preżentat rapport ta` geologu sabiex qabel biss jibda t-tħaffir ikun magħruf l-istat tal-blat fis-sit."

"Il-Bord jirrakkomanda li l-investigazzjonijiet geologiċi jsiru tassattiv i fl-Avviż Legali 136/2019 kif kienu fl-Avviż Legali 72/2013 li kien gie sostwit bl-istess Avviż Legali 136/2019. Meta jkun se jsir skavar, il-method statement għandu jkollu l-input ta` geologu speċjalment f`żoni topografiċi tal-pajjiż fejn il-fragilità tas-sottoswol hija magħrufa."

Furthermore, CEP highlights the significant distinction between being a guest member and serving as an expert, as defined by the Regulations. A guest member is invited to attend meetings solely as an observer, without voting rights - similar to the role currently held by the four BCA representatives on the BCCC. In contrast, an expert is invited by the BCCC to provide advice, strictly in accordance with the Regulations.

It is important to note that MCG is requesting full membership in line with the Regulations. It is not seeking to provide expert advice (a role that, under the Regulations, can only be initiated by the BCCC), nor is it requesting guest member status - something the Regulations do not even contemplate.

Notwithstanding the decision of the BCCC and any eventual decision by the BCA, the Minister is not bound by the BCCC or the BCA decision as the Minister “*May add other entities to form part of the Council to widen the forum and participation of stakeholders to enhance the scope of the Council in terms of the Act*” in line with the Regulations.

Conclusion and recommendation

The complaint raised by the Malta Chamber of Geologists regarding its unjust exclusion from membership of the Building Construction and Consultative Council is deemed to be well-founded.

It is therefore recommended that the Minister proceed without delay to include the Malta Chamber of Geologists as a member of the Building Construction and Consultative Council. This inclusion will strengthen and broaden the Council’s

remit in alignment with the objectives set out in the Building and Construction Authority Act and the Jean Paul Sofia Inquiry Report.



Perit Alan Saliba
Commissioner for Environment and Planning
Office of the Ombudsman

14 July 2025