

27 January 2023

**Positive preliminary assessment of the satisfactory fulfilment of milestones and targets related to the first payment request submitted by Malta on 19 December 2022, transmitted to the Economic and Financial Committee by the European Commission**

**Executive summary**

In accordance with Article 24(2) of Regulation (EU) 2021/241, on 19 December 2022, Malta submitted a request for payment for the first instalment of the non-repayable support. The payment request was accompanied by the required management declaration and summary of audits.

To support its payment request, Malta provided due justification of the satisfactory fulfilment of the 19 milestones and targets of the first instalment of the non-repayable support, as set out in Section 2.1 of the Council Implementing Decision of 5 October 2021 on the approval of the assessment of the recovery and resilience plan for Malta<sup>1</sup>.

Upon receipt of the payment request, the Commission has assessed on a preliminary basis the satisfactory fulfilment of the relevant milestones and targets. Based on the information provided by Malta, the Commission has made a positive preliminary assessment of the satisfactory fulfilment of all 19 milestones and targets.

The milestones and targets positively assessed as part of this payment request demonstrate significant steps in the implementation of Malta's Recovery and Resilience Plan. This includes, among others, reforms in the areas of construction, environment, waste management, mobility and urban planning, research and innovation, education, rule of law, anti-corruption, and taxation. The milestones and targets also confirm progress towards the completion of investment projects related to the renovation of public schools and digitalisation of law courts.

By the transmission of this positive preliminary assessment and in accordance with Article 24(4) of Regulation (EU) 2021/241, the Commission asks for the opinion of the Economic and Financial Committee on the satisfactory fulfilment of the relevant milestones and targets.

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<sup>1</sup> Council Implementing Decision of 5 October 2021 on the approval of the assessment of the recovery and resilience plan for Malta (ST 11941/2021 INIT; ST 11941/2021 ADD 1).

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## Non-repayable support

<b>Number:</b> 1.1	Related Measure: (1.1) C1.R.1 Develop a long-term renovation strategy	
<b>Name of the Milestone:</b> Entry into force of the Building and Construction Authority Act		
<b>Qualitative Indicator:</b> Entry into force of the Building and Construction Authority Act		<b>Time:</b> Q2 2021
<p><b>Context:</b></p> <p>The objective of the reform is to strengthen the institutional framework and ensure the availability of skilled workforce in the building and construction industry. The reform measure is included in Malta’s long term renovation strategy, adopted by Malta in June 2021.</p> <p>This milestone (the first of the reform) requires the entry into force of the Building and Construction Act, which establishes the Building and Construction Authority as responsible for the regulation, improvement and sustainable management of the building and construction industry in Malta. A second milestone 1.2 requires the Authority to be fully staffed and operational by Q1 2023. The reform is to be completed by a training and certification programme of professionals in the construction industry (enshrined in milestone 1.3 (Q4 2022) and target 1.4 (Q2 2023)).</p>		
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) A <b>summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) Copies of Act No. XIV of 2021, <b>Building and Construction Authority Act</b>, (both in English and Maltese) published in the Supplement of the Government Gazette No.20,602 on 6 April 2021 and a link to the website where they can be accessed: (<a href="https://legislation.mt/eli/act/2021/14/mlt">https://legislation.mt/eli/act/2021/14/mlt</a>) and (<a href="https://legislation.mt/eli/act/2021/14/eng">https://legislation.mt/eli/act/2021/14/eng</a>).</li> <li>iii) Copy of the notification of Act No. XIV of 2021 published in the Government Gazette No 20,602 of 6 April 2021, notifying Act No. XIV of 2021 as published in the Supplement of the same Gazette, and a link to the website where it can be accessed (<a href="https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/04/Government%20Gazette%20-%206th%20April.pdf">https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/04/Government%20Gazette%20-%206th%20April.pdf</a>).</li> <li>iv) Copies of <b>Legal Notice 201 of 2021</b> (both in English and Maltese) entitled “Commencement Notice” published in the Supplement of the Government Gazette No. 20,616 of 30 April 2021 and the link to the website where they can be accessed. (<a href="https://www.gov.mt/en/Government/DOI/Government%20Gazette/LN/Documents/2021/LN%20201.pdf">https://www.gov.mt/en/Government/DOI/Government%20Gazette/LN/Documents/2021/LN%20201.pdf</a>).</li> </ul>		
<p><b>Analysis:</b></p> <p>The Building and Construction Authority Act (Act No. XIV of 2021) was published in the Supplement of the Government Gazette on 6 April 2021. Article 5 and Article 7 (which are relevant for this milestone) of the Building and Construction Authority Act entered into force through Legal Notice 201 of 2021 on 30 April 2021.</p> <p>In line with the requirements of the Council Implementing Decision, the Building and Construction</p>		

Authority Act (Art 5 and Art 7) stipulates that:

- The Building and Construction Authority is established as regulator for buildings, and it is responsible for the regulation, improvement and sustainable management of the building and construction industry in Malta (Article 5: *“There shall be an Authority, to be known as the Building and Construction Authority, which shall be responsible for the regulation, improvement and sustainable management of the building and construction industry in Malta.”*)
- The Building and Construction Authority has the following responsibilities:
  - issuance and enforcement of good practices guidelines and methodologies, policies and regulations (Article 7(2) d) *“to issue and enforce good practice guidelines and methodologies, policies and regulations aimed towards the improvement and sustainable management of building and construction practices in Malta”*);
  - providing a centralised office for receipt and processing of complaints (Article 7(2) f) *“provide a centralized office for the receipt and processing of complaints, reports and assessment of information related to alleged breaches of the provisions made by or under this Act, and, if need be, co-ordinate investigations with other competent authorities”*);
  - monitoring the performance, safety and quality of buildings and construction works in Malta (Article 7(2) j) *“to monitor the performance, safety and quality of buildings and constructions in Malta”*).

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 1.5	Related Measure: (1.5) C1.R.2 Fostering effective waste management through a robust waste governance framework including reforming the waste collection system
<b>Name of the Milestone:</b> Entry into force of the updated Environment Protection Act	
<b>Qualitative Indicator:</b> Provision in the Act indicating the entry into force of the Act	<b>Time:</b> Q4 2021
<p><b>Context:</b></p> <p>The objective of this reform is to improve waste management and further the transition towards a circular economy.</p> <p>This milestone is the first one of the reform and requires the entry into force of the updated Environment Protection Act, which prohibits the importation, production, sale and distribution of certain single use plastic items, namely plastic bags, cutlery, straws and plates.</p> <p>This is the first step for the implementation of this reform and it will be followed by eight other milestones concerning: the expansion of extended producer responsibility obligations to additional waste streams (milestones 1.6 (Q4 2024), and 1.7 (Q4 2025)), the adoption and implementation of a Construction and Demolition Waste Strategy (milestones 1.8 (Q4 2021) to 1.11 (Q4 2022)) and the reorganisation of the waste collection system (milestones 1.12 (Q4 2022) and 1.13 (Q4 2022)).</p>	
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) A <b>summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) Copy of <b>Subsidiary Legislation 549.139</b>, ‘Restrictions on placing on the market of lightweight plastic carrier bags’, introduced by Legal Notice 480 of 2020, and a link to the website where it can be accessed (<a href="https://legislation.mt/eli/sl/549.139/eng">https://legislation.mt/eli/sl/549.139/eng</a>).</li> <li>iii) Copies (both in English and Maltese) of the <b>Legal Notice 480 of 2020</b> and links to the websites where they can be accessed (<a href="https://legislation.mt/eli/ln/2020/480/eng">https://legislation.mt/eli/ln/2020/480/eng</a>) and (<a href="https://legislation.mt/eli/ln/2020/480/mlt">https://legislation.mt/eli/ln/2020/480/mlt</a>).</li> <li>iv) Copy of <b>Subsidiary Legislation 549.140</b>, ‘Restrictions on Placing on the Market of Single-Use Plastic Products Regulations’, introduced by Legal Notice 481 of 2020 and amended via Legal Notice 499 of 2021, and a link to the website where it can be accessed (<a href="https://legislation.mt/eli/sl/549.140/eng">https://legislation.mt/eli/sl/549.140/eng</a>).</li> <li>v) Copies (both in English and Maltese) of <b>Legal Notice 481 of 2020</b> and links to the websites where they can be accessed (<a href="https://legislation.mt/eli/ln/2020/481/eng">https://legislation.mt/eli/ln/2020/481/eng</a>) and (<a href="https://legislation.mt/eli/ln/2020/481/mlt">https://legislation.mt/eli/ln/2020/481/mlt</a>).</li> <li>vi) Copy of the <b>notifications</b> of Legal Notice 480 of 2020 and of Legal Notice 481 of 2020 published in Government Gazette No. 20,758 of 28 December 2021 and a link to the website where it can be accessed (<a href="https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/12/Government%20Gazette%20-%2028th%20December.pdf">https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/12/Government%20Gazette%20-%2028th%20December.pdf</a>), notifying that Legal Notice 480 and Legal Notice 481 of 2020 were published in the Supplement to the Government Gazette No 20,547 of 30 December 2020.</li> <li>vii) Copies (both in English and Maltese) of <b>Legal Notice 499 of 2021</b> and links to the websites</li> </ul>	

where they can be accessed (<https://legislation.mt/eli/ln/2021/499/eng>) and (<https://legislation.mt/eli/ln/499/mlt>).

- viii) Copy of the **notification** of Legal Notice 499 of 2021 published in Government Gazette No. 20,758 of 28 December 2021 and a link to the website where it can be accessed ([https://www.gov.mt/en/Government/DOI/Government Gazette/Documents/2021/12/Government Gazette - 28th December.pdf](https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/12/Government%20Gazette%20-%2028th%20December.pdf))), notifying that Legal Notice 499 was published in the Supplement to the Government Gazette No 20,757 of 24 December 2021.

**Analysis:**

The Environment Protection Act (Chapter 549 of the laws of Malta) was updated by Subsidiary Legislation 549.139 and 549.140.

In line with the requirements of the Council Implementing Decision:

- i) Subsidiary Legislation 549.139, ‘Restrictions on Placing on the Market of Lightweight Plastic Carrier Bags Regulations’, was introduced via Legal Notice 480 of 2020 published in the Supplement to the Government Gazette on 30 December 2020. The date of entry into force of Subsidiary Legislation 549.139 corresponds to the date of publication in the Supplement to the Government Gazette of Legal Notice 480 of 2020, by virtue of the provisions of Article 72 of the Constitution of Malta, Chapter 0 of the Laws of Malta, and Articles 5 and 16 of the Interpretation Act, Chapter 249 of the Laws of Malta which provide that the entry into force of a legal act takes place at the moment of the publication in the Government Gazette if not stipulated otherwise. Article 4 of Subsidiary Legislation 549.139 sets restrictions on placing plastic carrier bags on the market, whereby the importation and production (intended to be placed on the local market) of plastic carrier bags are prohibited as from 1 January 2021 and their sale and distribution as from 1 January 2022.
- ii) Subsidiary Legislation 549.140, ‘Restrictions on Placing on the Market of Single-Use Plastic Products Regulations’, was introduced via Legal Notice 481 of 2020, published in the Supplement to the Government Gazette of Malta No. 20,547 on 30 December 2020. The date of entry into force of the Subsidiary Legislation 549.140 corresponds to the date of publication in the Supplement to the Government Gazette of Legal Notice 481 of 2020, by virtue of the provisions of Article 72 of the Constitution of Malta, Chapter 0 of the Laws of Malta, and Articles 5 and 16 of the Interpretation Act, Chapter 249 of the Laws of Malta which provide that the entry into force of a legal act takes place at the moment of the publication in the Government Gazette if not stipulated otherwise. Article 4(1) of Subsidiary Legislation 549.140 prohibits the importation and production (with the intention of placement on the local market) of other single use plastic products (including cutlery, straws, and plates) as from 1 January 2021. Article 4(1) of Subsidiary Legislation 549.140 was subsequently amended via Legal Notice 499 of 2021 to prohibit the distribution, consumption and use in commercial activities of the same products. The latter disposition entered into force as of 24 February 2022 by virtue of Article 1(2) of Legal Notice 499 of 2021.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 1.8	Related Measure: (1.8) C1.R.2 Fostering effective waste management through a robust waste governance framework including reforming the waste collection system
<b>Name of the Milestone:</b> Adoption of the Construction and Demolition Waste Strategy for Malta	

<b>Qualitative Indicator:</b> Online publication of the Construction and Demolition Waste Strategy for Malta	<b>Time:</b> Q4 2021
<p><b>Context:</b></p> <p>The objective of the reform is to improve waste management and further the transition towards a circular economy.</p> <p>This milestone requires the adoption of a Construction and Demolition Waste Strategy in line with the EU waste legislation and EU Construction and Demolition Waste Protocol. Subsequent milestones provide for the implementation of the Construction and Demolition Waste strategy, notably with regards to the adoption of standards for the construction industry (milestone 1.9 (Q4 2022)), the entry into force of a new regulatory framework for the management of construction and demolition waste (milestone 1.10 (Q4 2023)), and the recovery of construction and demolition waste through backfilling void spaces (milestone 1.11 (Q4 2022))</p>	
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) A <b>summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) A copy of the published <b>Construction and Demolition Waste Strategy</b> and a link to the website where it can be accessed (<a href="https://era.org.mt/wp-content/uploads/2021/10/Construction-and-Demolition-Waste-Strategy-for-Malta-2021-2030-Managing-Construction-Demolition.pdf">https://era.org.mt/wp-content/uploads/2021/10/Construction-and-Demolition-Waste-Strategy-for-Malta-2021-2030-Managing-Construction-Demolition.pdf</a>).</li> <li>iii) A <b>letter</b> of the Minister for Environment, Climate Change and Planning, dated 9 November 2021, to the Chairperson of the Environment and Resources Authority, on the approval of the Construction and Demolition Waste Strategy in terms of Article 51 of the Environment and Protection Act (Chapter 549 of the Laws of Malta).</li> </ul>	
<p><b>Analysis:</b></p> <p>The Construction and Demolition Waste Strategy was formally adopted by the Government on 9 November 2021 via the letter of the Minister of Environment, Climate Change and Planning to the Chairperson of the Environment and Resources Authority, in line with Article 51 of the Environment Protection Act (Chapter 549 of the Laws of Malta), and published on the website of the Maltese Environment and Resources Authority.</p> <p>In line with the requirements of the Council Implementing Decision, the Construction and Demolition Waste Strategy (notably its Section 3.1) identifies specific measures as options for the management of waste arising from construction and demolition activities, in the following four areas:</p> <ul style="list-style-type: none"> <li>i) Planning and design. The measures contributing to this policy area concern the establishment and incorporation of construction standards in the regulatory framework (Measure 1), the introduction of a regulatory framework for management of construction and demolition waste (Measure 3), the setting of reuse and recycling targets (Measure 11), the promotion of innovation through research and development including the set-up of a national research and development scheme targeted to recycling/recovery and reuse of construction and demolition waste (Measure 2) and setting a price differentiation for planning applications (Measure 5). These measures contribute to tackling the construction and demolition waste management problem at source by demolishing or constructing in a sustainable manner, particularly by improving building design to increase the recyclability of the material at the design stage and by improving the market for recycled construction and</li> </ul>	

demolition material.

- ii) Waste management. The measures contributing to this policy area concern the establishment and incorporation of construction standards in the regulatory framework (Measure 1), the introduction of a regulatory framework for management of construction and demolition waste (Measure 3), setting a price differentiation for planning applications (Measure 5), the improvement of waste classification and source separation, including through mandatory pre-demolition audits for certain developments and mandatory record keeping on development sites (Measure 6), promotion of resource and recovery depots for off-site Construction and Demolition waste separation derived from small scale development (Measure 7), exploration of ways of applying the polluter pays principle (measure 8), promotion of extraction of resources at development sites (Measure 9), promotion of markets for secondary raw materials including through incentives and recycling infrastructures (Measure 10), setting re-use and recycling targets (Measure 11), enforcing recovery through restoration of void spaces (Measure 12), discouraging landfilling of Construction and Demolition waste (Measure 13), exploring the viability for land reclamation (Measure 14) and setting standards in tenders published by government entities (Measure 15). These measures contribute to improving the management of waste both at the development site as well as off-site, because they reduce the amounts of construction and demolition waste generated, including by offering incentives for rehabilitation and restoration works thereby reducing the number of abandoned buildings, while increasing the separate collection of construction and demolition waste, and supporting the innovation process of the construction and demolition waste management industry.
- iii) Quality management. The measures contributing to this policy area concern the establishment and incorporation of construction standards in the regulatory framework (Measure 1), the promotion of innovation through research and development including the set-up of a national research and development scheme targeted to recycling/recovery and reuse of construction and demolition waste (Measure 2), the introduction of a regulatory framework for management of construction and demolition waste (Measure 3), the provision of training and the development of the National Occupational Standards (Measure 4), the promotion of resource and recovery depots for off-site Construction and Demolition waste separation derived from small scale development (Measure 7), exploration of ways of applying the polluter pays principle (Measure 8), the promotion of markets for secondary raw materials including through incentives and recycling infrastructures (Measure 10) and the setting of re-use and recycling targets (Measure 11). These measures contribute to increasing the confidence in Construction and Demolition waste management practices as well as to improving the quality of construction and demolition recycled materials by developing technical standards for the construction and demolition waste sector, ensuring better trained workforce and improving the infrastructure needed for the recycling of raw materials.
- iv) Policy and regulatory framework. The measures contributing to this policy area concern the establishment and incorporation of construction standards in the regulatory framework (Measure 1), the introduction of a regulatory framework for management of construction and demolition waste (Measure 3), the exploration of ways of applying the polluter pays principle (Measure 8) and the setting of re-use and recycling targets (Measure 11). These measures improve the policy and framework conditions in order to the break of the link between development and waste generation because they introduce targets for re-using and recycling construction and demolition waste set construction standards and strengthen incentives for re-use, recycling and better waste management.

The measures identified, the policy areas that they contribute to and their expected timeline are



reported in pages 24-27. Section 3.2 (pages 28-31) provides a more detailed description of each measure presented.

In line with the requirements of the Council Implementing Decision, the Construction and Demolition Waste Strategy does not lead to a significant increase in the disposal of waste, nor does it create disincentives to preparing for reuse and recycling of waste, and is in line with the Waste Framework Directive (2008/98/EC) and with the EU Construction and Demolition Waste Protocol. Specifically:

- i) the Construction and Demolition Waste Strategy does not create disincentives to preparing for reuse and recycling of waste, and it contains certain measures promoting the reuse and recycling of various materials. In particular, Measure 1 provides for standards in the construction industry to be incorporated in the regulatory framework for making recycling easier. Measure 6 provides for the introduction of mandatory submission of pre-demolition audits and sets out various requirements for such audits, including information on the management of non-hazardous and hazardous waste; Measure 10 is promoting the development of secondary markets for raw materials, including the required infrastructure to sustain them; and Measure 11 provides for reuse and recycling targets.
- ii) in line with the requirements and aims of Directive 2008/98/EC (more specifically Article 1, Article 4, Article 11, Article 13, Article 17), the Construction and Demolition Waste Strategy aims to reduce consumption of raw minerals, decrease the amount of construction and demolition waste that is disposed, increase the quality and quantities of construction and demolition waste recycled, and in general to promote options that are higher up in the waste hierarchy and protect the environment and human health from waste-related pollution. In particular, Measure 6 provides for the mandatory submission of pre-demolition audits and sets various requirements for such audits, including information on the management of hazardous and non-hazardous waste and a detailed methodology for hazardous waste separation to prevent waste, improve separation and prevent or limit the potential negative effects on the environment and on human health due to inappropriate management; Measure 1 provides for standards for the construction industry including best practices for construction and demolition and classification of construction and demolition waste by type, material, composition and weight, aimed to encourage on-site separation as well as to improve the quality of waste streams for subsequent re-use and recycling; Measure 10 is promoting the development of secondary markets for raw materials including the required infrastructure to sustain them; and Measure 11 sets preparing for reuse and recycling targets as mandatory national criteria for road construction, office building design as well as construction and management procured by the government, which reduces the disposal of waste and, thereby, protecting the environment from waste related pollution. The assessment of compliance with Article 1, Article 4, Article 11, Article 13, Article 17 of the Waste Framework Directive (2008/98/EC) for the purposes of payments from the Recovery and Resilience Facility does not prejudice the assessment by the Commission in any other proceedings regarding the conformity of the Strategy with the aforementioned legislation.
- iii) in line with the EU Construction and Demolition Waste Management Protocol Principle 3 “Transparency and traceability throughout the construction and demolition waste management process”, Principle 4 “Promoting certification and audits throughout the entire process (enforceability)”, Principle 7 “Respecting environment, health and safety rules and standards), the Construction and Demolition Waste Strategy aims to improve waste identification, source separation and collection, to improve waste logistics both at the development site as well as off site, to increase the demand for construction and demolition recycled materials and the processing of construction and demolition waste. In particular: Measure 6 provides for the submission of pre-demolition audits stipulating

various requirements including information on the management of hazardous and non-hazardous waste and a detailed methodology for hazardous waste separation. This measure particularly contributes to Component 1 of the Protocol (waste identification, source separation and collection) and Component 3 (Waste processing and treatment), specifically regarding improving transparency and traceability, promoting re-use and recycling, promoting certification and audit throughout the process and preventing or limiting the potential negative effects on the environment and on human health due to inappropriate management. Furthermore, Measure 1 provides for standards for the construction industry including best practices for de(construction) and classification of construction and demolition waste by type, material, composition and weight, aimed to encourage on-site separation of waste. This measure contributes in particular to Component 1 of the Protocol (waste identification, source separation and collection), Component 2 (waste management) and Component 5 (quality management and assurance), in particular regarding transparency and traceability, promoting re-use and recycling and promoting the use of construction standards. Measure 10 is promoting the development of secondary markets for raw materials including the required infrastructure to sustain them, which contributes to Component 2 of the Protocol (waste management), in particular by supporting the preparation for re-use and recycling; Measure 3 provides for the enactment of a new regulatory framework regulating construction and demolition waste, with the aim to: (i) properly manage construction and demolition waste; (ii) promote a transition towards a circular economy; and (iii) promote the development of secondary markets for end-of-life resources, which is in line with the aims of Component 2 (waste management) and Component 5 (quality management and assurance) of the Protocol.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 1.22	Related Measure: (1.22) C1.I.3 Investment in the renovation, deep retrofitting and renewable energy in public schools
<b>Name of the Milestone:</b> Energy Performance Audit of two Public Schools	
<b>Qualitative Indicator:</b> Completion of assessment of overall Energy Performance and Energy Audit of two public schools	<b>Time:</b> Q4 2021
<p><b>Context:</b></p> <p>The objective of the investment is to improve energy efficiency, reduce energy demand, lower carbon emissions and limit energy waste in two public schools.</p> <p>This milestone concerns the completion of the energy performance audit of two public school buildings (St. Benedict College Ghaxaq Primary School and Gozo College Nadur Primary School) in compliance with Directive 2010/31/EU on the energy performance of buildings, to establish their Energy Performance Certificate (EPC) class and identify applicable Energy Efficiency renovation measures. This milestone precedes milestone 1.23 (Q1 2022) and target 1.24, which require the signature of the contracts for and the completion of the renovation of these two public schools.</p>	
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) <b>Audit report of St. Benedict College Ghaxaq</b> establishing existing energy performance certificate class (29 October 2021) – certificate reference number N 0028 00002 2910/2021.</li> <li>iii) <b>Audit report of St. Benedict College Ghaxaq energy audit</b> identifying applicable energy efficiency renovation measures as well as performance certification expected upon completion of said renovations (target date Q4 2023) – certificate reference number N 0028 00003 2910/2021.</li> <li>iv) <b>Audit report of Gozo College Nadur Primary School</b> establishing existing energy performance certificate class (29 October 2021) – certificate reference number N 0028 00004 2910/2021.</li> <li>v) <b>Audit report of Gozo College Nadur Primary School energy audit</b> identifying applicable energy efficiency renovation measures as well as performance certification expected upon completion of said renovations (target date Q4 2023) – certificate reference number N 0028 00005 2910/2021.</li> </ul>	
<p><b>Analysis:</b></p> <p>The energy performance audits of the two public school buildings (St. Benedict College Ghaxaq Primary School and Gozo College Nadur Primary School), including energy performance certifications, were completed on 29 October 2021 as evidenced by the audit reports with certificate reference numbers N 0028 00002 2910/2021, N 0028 00003 2910/2021, N 0028 00004 2910/2021, and N 0028 00005 2910/2021.</p> <p>In line with the requirements of the Council Implementing Decision, the audit is in compliance with Article 11 of Directive 2010/31/EU of the European Parliament and of the Council on the energy performance of buildings, as the Energy Performance Certifications establish the energy performance class of both schools, provide the relevant data and identify the applicable energy efficiency renovation measures, as detailed below.</p> <ul style="list-style-type: none"> <li>i) St. Benedict College, Ghaxaq Primary School</li> </ul>	

- Energy Performance Certificate class – existing – 128 EPC rating placing it in the C class range (101-150);
- Energy Performance Certificate class – when renovated – 45 EPC rating placing it in the A class range (0-50);
- Percentage reduction in building primary energy use: 65%;
- Percentage carbon dioxide emission savings: 65%;
- Indication of the applicable energy efficiency renovation measures: insulation of the roof and walls; double glazing; sun control measures (including shading devices); heat pump water heaters; high efficiency lighting luminaries; optimum start/stop to cooling and heating systems and weather compensation controls for the latter; solar photovoltaics.

The content of the energy performance certificate for Benedict College, Ghaxaq Primary School is in line with Article 11, Paragraphs 1 and 2 of Directive 2010/31/EU on the energy performance of buildings, as it contains (1) the energy performance of the building and reference values such as minimum energy performance requirements; (2) recommendations for the cost-optimal or cost-effective improvement of the energy performance of the building.

ii) Gozo College Nadur Primary School

- Energy Performance Certificate class – existing – 143 EPC rating for the existing building placing it in the C class range (101-150);
- Energy Performance Certificate class – when renovated – 58 EPC rating for the existing building placing it in the B class range (51-100);
- Percentage reduction in building primary energy use: 59%;
- Percentage carbon dioxide emission savings: 59%;
- Indication of the applicable energy efficiency renovation measures: insulation of the roof and walls; double glazing; sun control measures (including shading devices); heat pump water heaters; high efficiency lighting luminaries; optimum start/stop to cooling and heating systems and weather compensation controls for the latter; solar photovoltaics.

The content of the energy performance certificate for Gozo College Nadur Primary School is in line with Article 11, Paragraphs 1 and 2 of Directive 2010/31/EU on the energy performance of buildings, as it contains (1) the energy performance of the building and reference values such as minimum energy performance requirements; (2) recommendations for the cost-optimal or cost-effective improvement of the energy performance of the building.

The assessment of compliance with Article 11 of Directive 2010/31/EU of the European Parliament and of the Council on the energy performance of buildings for the purposes of payments from the Recovery and Resilience Facility does not prejudice the assessment by the Commission in any other proceedings regarding the conformity of the audits with the aforementioned legislation.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 2.1	Related Measure: (2.1) C2.R.1 Stimulating the adoption and implementation of policies promoting the sustainability of the transport sector, including by encouraging the use of collective and multimodal transport
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<b>Name of the Milestone:</b> National Household Travel Survey	
<b>Qualitative Indicator:</b> Completion of the National Household Travel Survey	<b>Time:</b> Q4 2021
<p><b>Context:</b></p> <p>This reform aims at supporting the decarbonisation of the transport sector. It consists of: (i) the completion of a study, Malta’s National Household Travel Survey (milestone 2.1 (Q4 2021)), and (ii) an awareness raising campaign to promote sustainable transport (milestone 2.2 (Q4 2025)).</p> <p>This milestone provides for the completion of the National Household Travel Survey (NHTS). The National Household Travel Survey aims at quantifying current travel patterns, behaviour, and gauge public opinion on new potential measures to be included in an updated Transport Master Plan. Completion of the survey refers to the moment where the data collection and analysis for the survey have been carried out and findings have been identified in a written report.</p> <p>This milestone is the first out of two milestones for the implementation of this reform. The next and final milestone requires the completion of an awareness raising campaign on sustainable zero and low carbon transport (milestone 2.2 (Q4 2025)).</p>	
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the milestone (including all the constitutive elements), was satisfactorily fulfilled.</li> <li>ii) Copy of the written report summarising the methodology and findings of the National Household Travel Survey. The two parts of the report were submitted: <ul style="list-style-type: none"> <li>a. NHTS Report Part 1 – Methodological Report - a methodological report (December 2021); and</li> <li>b. NHTS21 Report Part 2 – Survey Results - a report of the findings of the Survey (December 2021).</li> </ul> </li> </ul>	
<p><b>Analysis:</b></p> <p>The data collection related to the National Household Travel Survey was carried out in 2021 (as indicated in the NHTS Report Part 1 – Methodological Report, pages 4 – 8 and 11- 12). Following the analysis of the data, the findings were identified in a report completed in December 2021 (NHTS Report Part 1 – Methodological Report, page 1 and NHTS21 Report Part 2 – Survey Results, page 1).</p> <p>In line with the requirements of the Council Implementing Decision, the Survey:</p> <ul style="list-style-type: none"> <li>i) was structured in two parts: (i) gathering socio-demographic information about respondent households, including vehicular information; (ii) a “trip diary”, with respondents documenting/responding to questions regarding trips carried out on a selected “travel day” (17 of November 2021, which represents a typical weekday). The questions asked about travel patterns and behaviour are contained in the NHTS Report Part 1 – Methodological Report (pages 57 - 73). The quantification of the results/findings regarding travel patterns and behaviour are contained in the NHTS21 Report Part 2 – Survey Results (most notably in pages 19, 22 – 29, 32 – 45, 47 and 60-61).</li> <li>ii) gauged public opinion on the free public transport measure as a new potential measure to be included in the updated Transport Master Plan, with a planned introduction in October 2022. Questions asked in this regard are indicated in NHTS Report Part 1 – Methodological Report (question 5 on page 72 and question 3 on page 75). The findings are presented in NHTS21 Report Part 2 – Survey Results (page 41). The survey also generated the necessary</li> </ul>	

data, based on responses by the public, to enable tailoring of other potential measures to be included in the updated Transport Master Plan (most notably, pages 26 – 40; 42-45; 50; 54 – 56; 60 – 61 of NHTS21 Report Part 2 – Survey Results).

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 2.6	Related Measure: (2.6) C2.R.4 Reducing the socio-economic and environmental impact of vehicles in urban areas
<b>Name of the Milestone:</b> Agreement with Local Councils Association on the regeneration areas in urban areas	
<b>Qualitative Indicator:</b> Signed agreement for regeneration areas in urban areas	<b>Time:</b> Q2 2021
<p><b>Context:</b></p> <p>This reform is aimed at establishing car free spaces across Malta and Gozo that are open to the public. The aim of this reform is to promote the regeneration of public squares and community spaces of village and town cores and reduce the dependency on private vehicles. The reform consists of the completion of at least three regeneration areas in urban areas over a span of three years, with at least one area per year. A regeneration area is a car-free area where Local Councils promote walking, cycling and public transport, in parallel with other educational campaigns to avoid unnecessary travel.</p> <p>This milestone is the first step of this measure. Milestone 2.6 provides for the signature of an agreement between the Authority for Transport in Malta and the Local Councils Association for the selection of regeneration areas in urban areas. The next and final step under this reform is target 2.7 (Q2 2025), concerning the completion of three regeneration areas in urban areas.</p>	
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary Document</b> duly justifying how the milestone (including all the constitutive elements), was satisfactorily fulfilled.</li> <li>ii) Three documents indicating the location of each selected regeneration area and containing a brief description of each project: <ul style="list-style-type: none"> <li>a. <b>Swieqi Regeneration Area Document</b> (November 2020), which describes in detail the selected regeneration areas, the aims and the strategy for achieving regeneration areas in Swieqi;</li> <li>b. <b>Safi Regeneration Area Document</b> (October 2020), which describes in detail the selected regeneration areas, the aims and the strategy for achieving regeneration areas in Safi;</li> <li>c. <b>Zejtun Regeneration Area Document</b> (December 2020), which describes in detail the selected regeneration areas, the aims and the strategy for achieving regeneration areas in Zejtun.</li> </ul> </li> <li>iii) <b>Memorandum of Understanding</b> between the Local Councils Association and the Authority for Transport in Malta signed on 17 June 2020 (hereinafter referred to as ‘Memorandum of Understanding’).</li> <li>iv) Copy of <b>Malta’s Transport Master Plan, 2025</b>, published by the Authority for Transport in Malta (hereinafter ‘Transport Malta’) on its website, <a href="https://www.transport.gov.mt">https://www.transport.gov.mt</a>).</li> </ul> <p>The authorities also provided:</p> <ul style="list-style-type: none"> <li>v) <b>Slow Streets Document</b>, 1 June 2020, explaining that the Local Councils Association, together with the Ministry for Transport and the Authority for Transport in Malta, are working on an a “Slow Streets” action plan aiming to promote walking, cycling and public transport, in parallel with educational campaigns to avoid unnecessary travel. The Document describes possible interventions, such as pedestrianisation schemes and contains</li> </ul>	

information on criteria for the selection of regeneration areas in urban areas.

**Analysis:**

In line with the requirements of the Council Implementing Decision, a Memorandum of Understanding was signed by Transport Malta and the Local Councils Association on 17 June 2020. This Memorandum of Understanding contains the agreement between the two bodies on their working relationship with respect to the “Slow Street Sustainable Mobility Project”, as well as with respect to setting up a fund to cover part of the project implementation costs (paragraphs 2 and 3 of the Memorandum of Understanding). The aim of that project, as described in the Slow Streets Document, is “to promote walking, cycling and public transport, in parallel with educational campaigns to avoid unnecessary travel” (page 5), so as “to provide additional free and unencumbered open public space” (page 10). The Slow Streets Document also describes possible Slow Street interventions, such as pedestrianisation schemes and contains information on criteria for the selection of regeneration areas in urban areas, indicating that “*Slow Streets should be done in high density neighbourhoods, especially in communities that lack open space*” (page 13). In that context, and in line with the Council Implementing Decision, regeneration areas have been selected in three urban areas, namely: the town of Swieqi, the village of Safi, and the city of Zejtun (Swieqi Regeneration Area Document; Safi Regeneration Area Document; Zejtun Regeneration Area Document). As will be described in more detail in the following paragraphs, the selected regeneration areas within these localities, the aims and the strategy (interventions) for achieving regeneration areas are detailed in the Swieqi Regeneration Area Document, Safi Regeneration Area Document and Zejtun Regeneration Area Document respectively.

The selection of the regeneration areas and of the tailored strategies/interventions for achieving the regeneration areas are guided by the particular challenges that each of the localities and areas within the locality face, and by the main aim of reducing traffic and promoting pedestrian and cyclist use of the local streets, while retaining important bus routes through the localities (Swieqi Regeneration Area Document, pages 9 and 37; Safi Regeneration Area Document, pages 37 and 73; Zejtun Regeneration Area Document, pages 6 and 42). For example, as regards Swieqi, challenges include (i) deterring “through traffic” (that is, vehicular traffic which passes through a particular locality or area, rather than stopping there, solely in order to arrive at another destination) and diverting drivers onto more peripheral routes and (ii) ensuring safer and improved links between residential areas and open spaces (Swieqi Regeneration Area Document, page 20). Interventions in this regard include (i) designation of one-way roads/re-routing of traffic to deter through traffic within a specific area of Swieqi and to make streets more attractive for pedestrian and cyclist use (page 28); and (ii) signage and floor markings to limit car speeds, alert street users that in particular streets, pedestrians and cyclists take priority over vehicles, and to provide for safer pedestrian crossings (page 22 and 30). As regards Safi, challenges include congestion of the narrower local streets. Interventions in this respect include reconfiguration of roads into one-way roads (Safi Regeneration Area document, page 27). As regards Zejtun, challenges include connecting residential areas with the centre and promoting walking and cycling. Interventions in this regard include designating a street connecting a residential area to the centre as a “slow street” using street branding/markings, reducing the traffic speed and ensuring more space for pedestrians (Zejtun Regeneration Area Document, page 24).

The interventions in Swieqi promote walking/pedestrianisation (Swieqi Regeneration Area Document pages 38, 40, 44, 46, 49, 51-54, 57, 59, 61, 70-72, 74 and 75), cycling (pages 20, 22, 34, 51, 54, 55, 56, 57, 74, 75) and public transport (page 45), reducing the number of private cars (page 61) to avoid unnecessary travel, which is expected to result in additional free and unencumbered open public space and decrease the socio-economic and environmental impact of vehicles in the Swieqi urban area. The interventions in Safi promote walking/pedestrianisation (Safi Regeneration Area Document pages 39-43, 45-52, 54, 57-59, 61, 68-75), cycling (36, 39, 40-42, 49, 50, 51, 59, 72) and public transport (pages 9, 44, 69), as well as a reduction in the number of private cars (pages



39, 41, 48) to avoid unnecessary travel, which is expected to result in additional free and unencumbered open public space and reduce the socio-economic and environmental impact of vehicles in the Safi urban area. The interventions at Zejtun promote walking/pedestrianisation (Zejtun Regeneration Area Document pages 9, 37, 38-40, 42-53, 55-56, 59, 61-65, 78-85), cycling (pages 34-36, 38, 40-43, 46, 54-55, 57, 59, 61, 80-85) and public transport (pages 53, 77) and a reduction in the number of private cars (pages 38-39, 41-42, 48) to avoid unnecessary travel which is expected to result in additional free and unencumbered open public space and reduce the socio-economic and environmental impact of vehicles in the Zejtun urban area.

The interventions in the three localities are phased in implementation and monitoring stages, and include: signage for lower speed; re-routing of traffic, reallocation of space and reconfiguration of streets to have more space for pedestrians and cyclists (as explained above); play streets closed off to cars temporarily (for example, Swieqi Regeneration Area Document, page 41; Safi Regeneration Area Document, page 52; Zejtun Regeneration Area Document, page 27); and improving bus stop areas to encourage public transport use (Swieqi Regeneration Area Document, page 24).

The selection of regeneration areas is consistent with the measures outlined in Malta's Transport Master Plan, which includes the following objectives and measures:

- i) Objective 2.2.2 "Provide alternatives to private vehicles to encourage sustainable travel patterns and reduce private vehicular demand in the congested 'Hub' area" (that is, local centres of activity). The information regarding this objective explains that there is the need to promote and strengthen the quality of the pedestrian and cycling facilities and services within and around town centres (Master Transport Plan document, page 97).
- ii) Objective 2.2.3 "Reducing the role of the car in busy, congested urban hub" (page 111);
- iii) Objective 2.2.4 "Develop a cycling strategy focusing in the hub" (page 106);
- iv) Objective 2.2.5 "Reduce the impact (social, environmental and economic) of vehicles in urban areas" (page 123);
- v) Measure 2.2.1.6 "Develop a framework to ensure that transport projects are developed by interdisciplinary teams to maximise opportunities for sustainable development" (page 93);
- vi) Measure 2.2.1.7 "Improve coordination and planning with service utility infrastructure authorities" (page 94);
- vii) Measure 2.2.5.1 "Develop a policy framework and design guidelines to create a balanced approach to different modes in urban streets and public space" (page 126); and
- viii) Measure 2.2.5.4 "Develop design guidelines for the development of shared space and home zones" (page 127).

The above-described criteria and considerations for the selection of the regeneration areas, the aims of the regeneration areas and the tailored strategies/interventions for achieving the regeneration areas are consistent with these objectives and measures included in Malta's Transport Master Plan. Indeed, they encourage sustainable travel patterns and thereby seek to reduce private vehicular demand in hub areas, they seek to create a more balanced approach in the allocation of street space between the provision for vehicles and the space needed for walking and cycling, they seek to tame traffic by encouraging slower vehicle speed and they seek to strengthen the quality of pedestrian and cycling facilities, and contribute to reducing the social environmental and economic impact of vehicles in urban areas.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 2.9	Related Measure: (2.9) C2.R.5 Promoting remote working in the public service		
<b>Name of the Target:</b> 15 office facilities that enable remote work for public service officials across the Maltese Islands operational			
<b>Quantitative Indicator:</b> Number	<b>Baseline:</b> 0	<b>Target:</b> 15	<b>Time:</b> Q4 2021
<p><b>Context:</b></p> <p>This reform's objective is to enhance remote working in the public sector. The possibility to work from home or through regional hubs is expected to reduce journeys to and from work and therefore traffic congestion.</p> <p>This target, the first step of the measure, consists of the establishment of 15 office facilities that enable remote work for public service officials across the Maltese Islands with at least 140 workstations in total across the 15 office facilities.</p> <p>The related milestone 2.8 (Q1 2022) consists of the publication of the Remote Working Policy for Government Employees outlining the eligibility criteria, conditions, requirements for approval and application guidelines governing this initiative that promotes work-life balance and contributes towards sustainability.</p>			
<p><b>Evidence Provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the target (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) <b>Press release</b> issued by the Office of the Principal Permanent Secretary on 7 October 2021 regarding the possibility of public service employees to work remotely.</li> <li>iii) <b>Newsletter No. 28</b> issued by the Communications Office of the Public Service in October 2021 regarding the possibility of public service employees to work remotely.</li> <li>iv) <b>Certificates of provisional acceptance</b> demonstrating that the office facilities have been completed and are operational.</li> <li>v) <b>Certificate signed by the contractor and servizz.gov regarding the office in Zurrieq</b> (27 September 2021), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (3).</li> <li>vi) <b>Certificate signed by the contractor and servizz.gov regarding the office in Santa Venera</b> (11 January 2021), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (43).</li> <li>vii) <b>Certificate signed by the contractor and servizz.gov regarding the office in Siggiewi</b> (25 September 2021), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (6).</li> <li>viii) <b>Certificate signed by the contractor and servizz.gov regarding the office in San Gwann</b> (27 September 2021), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (5).</li> <li>ix) <b>Certificate signed by the contractor and servizz.gov regarding the office in Rabat</b> (27 September 2021), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (3).</li> <li>x) <b>Certificate signed by the contractor and servizz.gov regarding the office in Siggiewi</b> (9</li> </ul>			

- December 2020), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (2).
- xi) **Certificate signed by the contractor and servizz.gov regarding the office in Qawra** (27 September 2021), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (4).
  - xii) **Certificate signed by the contractor and servizz.gov regarding the office in Msida** (27 September 2021), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (6).
  - xiii) **Certificate signed by the contractor and servizz.gov regarding the office in Luqa** (27 September 2021), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (2).
  - xiv) **Certificate signed by the contractor and servizz.gov regarding the office in Fgura** (27 September 2021), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (4).
  - xv) **Certificate signed by the contractor and servizz.gov regarding the office in Birkirkara (B'Kara)** (4 December 2020), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (8).
  - xvi) **Certificate signed by the contractor and servizz.gov regarding the office in Birgu** (27 September 2021), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (5).
  - xvii) **Certificate signed by the contractor and servizz.gov regarding the office in Valletta** (8 March 2021), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (18).
  - xviii) **Certificate signed by a *perit* and servizz.gov regarding the office in Xewkija** (28 October 2021), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (32).
  - xix) **Certificate signed by a *perit* and servizz.gov regarding the office in Mosta** (18 November 2020), demonstrating that the office facilities at this site have been completed and are operational and indicating the number of workstations at the site (14).

The authorities also provided:

- xx) Photos of the facilities at each of the 15 offices; and
- xxi) A copy of the Government of Malta's **Remote Working Policy** and Guidelines on its implementation.

#### **Analysis:**

In line with the requirements of the Council Implementing Decision, 15 offices located across the Maltese Islands (Mosta, Qormi, Birkirkara, Zurrieq, Msida, Rabat, Luqa, Qawra, Fgura, Birgu, San Gwann, Siggiewi, Santa Venera, Valletta (all on the Island of Malta), and Xewkija (on the Island of Gozo)), are operational with facilities that enable remote working by public service employees across all Ministries. For 13 offices (Qormi, Birkirkara, Zurrieq, Msida, Rabat, Luqa, Qawra, Fgura, Birgu, San Gwann, Siggiewi, Santa Venera and Valletta), certificates signed by the contractor and the competent authority (servizz.gov) evidence that the office facilities at each of these sites have been completed and are operational. As regards the offices in Xewkija and Mosta, certificates signed by a *perit* and the competent authority (servizz.gov) evidence that the office facilities at each of these sites have been completed and are operational.

The 15 certificates indicate that the projects were completed by Q4 2021. Every certificate

indicates the total number of workstations that have been completed and are operational: three for the office in Zurrieq (page 1 of the document containing the 15 certificates); 43 for the office in Santa Venera (page 2 of the document containing the 15 certificates); six for the office in Siggiewi (page 3 of the document containing the 15 certificates); five for the office in San Gwann (page 4 of the document containing the 15 certificates); three in the office in Rabat (page 5 of the document containing the 15 certificates); two in the office in Qormi (page 6 of the document containing the 15 certificates); four in the office in Qawra (page 7 of the document containing the 15 certificates); six for the office in Msida (page 8 of the document containing the 15 certificates); two for the office in Luqa (page 9 of the document containing the 15 certificates); four for the office in Fgura (page 10 of the document containing the 15 certificates); eight for the office in Birkirkara (page 11 of the document containing the 15 certificates); five for the office in Birgu (page 12 of the document containing the 15 certificates); 18 for the office in Valletta (page 13 of the document containing the 15 certificates); 32 for the office in Xewkija (page 14 of the document containing the 15 certificates); 14 for the office in Mosta (page 15 of the document containing the 15 certificates).The total number of workstations for all office facilities is therefore 155. The possibility of applying for remote work (including in alternative office locations) is open to all eligible public service employees, and there are no exceptions to this general policy for personnel from any particular ministry (Remote Working Policy, page 7). The possibility of working remotely - including the possibility to work from an alternative office location - was notified to employees via the press release issued by the Office of the Principal Permanent Secretary and Newsletter No. 28 issued by the Communications Office of the Public Service (pages 3-4).

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 3.3	Related Measure: (3.3) C3.R.2 Finalise and implement Malta's Smart Specialisation Strategy, with a particular focus on fostering business R&I and strengthening public-private cooperation
<b>Name of the Milestone:</b> Adoption of Malta's Smart Specialisation Strategy	
<b>Qualitative Indicator:</b> Online publication of the strategy	<b>Time:</b> Q4 2021
<p><b>Context:</b></p> <p>The objective of this reform is to establish and implement a new policy framework for smart specialisation, with a focus on fostering business R&amp;I and strengthening public-private cooperation.</p> <p>This milestone, which is the first of this reform, requires the publication of a national Smart Specialisation Strategy, which focuses on a number of key initiatives including:</p> <ul style="list-style-type: none"> <li>- investment in research infrastructure;</li> <li>- supporting internationalisation, including through participation in Horizon Europe;</li> <li>- promotion of inter-agency collaboration in support of enterprises; and</li> <li>- incentives for industry stakeholders to innovate.</li> </ul> <p>In addition to milestone 3.3 (Q4 2021), this reform comprises one target 3.4 related to the support of 50 enterprises through inter-agency account management, to be achieved by Q4 2024.</p>	
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) A copy of the published <b>Malta's Smart Specialisation Strategy 2021-2027</b>, including the link where it can be accessed (<a href="https://mcst.gov.mt/psi/ri-strategy-post-2020/">https://mcst.gov.mt/psi/ri-strategy-post-2020/</a>), and a copy of an article announcing its publication.</li> </ul>	
<p><b>Analysis:</b></p> <p>Malta's Smart Specialisation Strategy 2021-2027 was published on the website of the Malta Council for Science and Technology on 7 December 2021 (<a href="https://mcst.gov.mt/psi/ri-strategy-post-2020/">https://mcst.gov.mt/psi/ri-strategy-post-2020/</a>). Malta's Smart Specialisation Strategy 2021-2027 takes into consideration the experience gained from the implementation of Malta's Smart Specialisation Strategy 2014-2020, the changing economic and social landscape, R&amp;I policy developments, and emerging local and international trends. The preparation of Malta's Smart Specialisation Strategy 2021-2027 leveraged the experience of existing R&amp;I coordinating bodies and was based on the feedback received during workshops, bilateral meetings, online surveys and focus groups.</p> <p>The document identifies six smart specialisation areas for the period 2021-2027:</p> <ol style="list-style-type: none"> <li>1. Health and Well-being;</li> <li>2. Sustainable Use of Resources for Climate Change Mitigation and Adaptation;</li> <li>3. Smart Manufacturing;</li> <li>4. Marine &amp; Maritime Technology;</li> <li>5. Aviation and Aerospace;</li> <li>6. Future Digital Technologies.</li> </ol>	

In line with the requirements of the Council Implementing Decision, the Strategy notably focusses on:

- i) investment in research infrastructure: Malta's Smart Specialisation Strategy 2021-2027 discusses investment in research infrastructure in the aforementioned six smart specialisation areas (pages 37-40, 44-45, 47-48, 55, 57-58, 64-67). Malta's Smart Specialisation Strategy 2021-2027 includes a recommendation to support the public sector and higher education institutions in investing in research infrastructure that would serve the needs of the identified smart specialisation areas, including digital technologies, health services and marine and maritime technology. Malta's Smart Specialisation Strategy 2021-2027 states that the infrastructure must serve to foster better industry-academia interactions and knowledge transfer, build R&D capacity and address shortcomings in the current R&I ecosystem in Malta (pages 71-72);
- ii) supporting internationalisation, including through participation in Horizon Europe: Malta's Smart Specialisation Strategy 2021-2027 recognises the importance of internationalisation of R&I activities, in particular given the small size and insularity of Malta. It recommends supporting internationalisation initiatives using both EU structural funding (European Regional Development Fund ("ERDF"); page 72) and national funding (page 73). The Strategy notably identifies the scope for Malta's participation in European-level partnerships under Horizon Europe (page 72). Selection of partnership should be in line with the six smart specialisation areas of the Strategy. Malta's Smart Specialisation Strategy 2021-2027 describes the relevance of the international dimension for the six smart specialisation areas, identifying, for example, a significant potential for internationalisation in the planned development of cellular therapy (page 39), opportunities for international collaboration in the R&I activities related to sustainable use of resources (page 43), and promotion of research collaboration by the Institute of Aerospace Technology (page 58). At the same time, Malta's Smart Specialisation Strategy 2021-2027 points to the insufficiently structured framework for international collaboration in the area of digital technologies (page 63);
- iii) promotion of inter-agency collaboration in support of enterprises: Malta's Smart Specialisation Strategy 2021-2017 calls for the promotion of inter-agency collaboration in support of enterprises and inter-agency coordination in order to ensure simplification of access to funding support and to raise awareness on R&I funding schemes (page 73);
- iv) incentives for industry stakeholders to innovate: Malta's Smart Specialisation Strategy 2021-2027 highlights access to finance for R&I as a struggle for private companies. Among the hurdles to innovation, the Strategy identifies the lack of awareness of funding opportunities among companies, insufficient support during the application process, and difficulties to commercialise and diffuse innovation (page 72). The Strategy recommends increasing incentives for industry stakeholders to innovate, notably through the ERDF support (page 72) and national funding (page 73). In particular, the Strategy suggests evaluating the current take-up of funds and adapting the funding mechanisms. This includes creating a funding mechanism that can support the private sector to bring new products and services to market.

In addition, in line with the measure description in the Council Implementing Decision, one of the key initiatives included in Malta's Smart Specialisation Strategy 2021-2027 is the simplification of procedures related to application for funding and provision of guidance to potential beneficiaries in a more targeted and effective manner (page 73). This initiative falls under the objective of obtaining complementary funding sources to reach the goals of smart specialisation and envisages the simplification of procedures for businesses applying for support for projects targeting innovation, industry transformation and digitalisation. Moreover, Malta's Smart Specialisation Strategy 2021-

2027 encourages the public-private cooperation to transform research results into market-ready solutions, building on existing instruments such as FUSION, a national R&I funding programme (page 73). The strengthening of public-private cooperation is also foreseen through complementary initiatives, emanating from participation within co-funded partnerships of Horizon Europe.

Additionally, Malta's Smart Specialisation Strategy 2021-2027 envisages a dedicated implementation structure (Section 5.1.5) with an improved governance system to support its implementation. For this purpose, Malta's Smart Specialisation Strategy 2021-2027 provides for the setting up of six thematic committees, reporting to the Minister responsible for R&I, and bringing together representatives of the government, industry, academia and civil society.

Finally, in line with the description of measure C3.R.2 in the Council Implementing Decision, Malta's Smart Specialisation Strategy complements the efforts in R&I undertaken through the Union's cohesion policy funds. Hence, Malta's programme under ERDF, Cohesion Fund and Joint Transition Fund foresees R&I investments for both public and private sector under Policy Objective 1. Public sector investments in R&I will focus on creating an enabling environment for the public sector to be a direct contributor towards R&I. Specifically, in line with Malta's Smart Specialisation Strategy, ERDF will support investment in research infrastructure and equipment to enable research, enhance capacities within existing/new research facilities, promote centres of excellence, and knowledge transfer and develop R&I capacities across academia, educational and public institutions and industry, which may include support for European Partnerships, as well as pitching research outcomes to entrepreneurs to bring innovation to market. Regarding the support for the private sector, grant schemes will be aimed at assisting the industry to generate R&I and increase capacities in the six areas of the Smart Specialisation Strategy. Specifically, ERDF will support financial incentives for the provision of necessary equipment, technology, infrastructure, products, processes, and expertise.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 5.8	Related Measure: (5.8) C5.R.3 Enhancing quality education and fostering socio-economic sustainability		
<b>Name of the Target:</b> Setting up of two autism units (physical spaces equipped with equipment and trained education personnel) in middle schools			
<b>Quantitative Indicator:</b> Number	<b>Baseline:</b> 0	<b>Target:</b> 2	<b>Time:</b> Q4 2021
<p><b>Context:</b></p> <p>The objective of this reform is to enhance quality inclusive education. The reform consists of the roll out of multi-sensory learning rooms for students with severe needs in colleges and the setting up of two autism units in middle schools to allow for further integration of pupils with special needs into the mainstream school environment. There is a parallel, continuous training in inclusive pedagogy for teachers and learning support educators. The reform also entails the implementation of at least twenty measures (accounting for at least 50% of all measures) of the updated National Inclusion Policy Strategy leading to the achievement of smart targets identified in the Strategy.</p> <p>This target, which is the first of this reform, is about the setting up of two new autism units in middle schools. In addition to target 5.8 (Q4 2021), this reform has one more target 5.9 (Q1 2022), regarding the setting-up of two new multi-sensory learning rooms in colleges as well as one milestone 5.10 (Q4 2025), on the implementation of measures of the updated National Inclusion Policy Strategy.</p>			
<p><b>Evidence Provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the target (including all the constitutive elements) was satisfactorily fulfilled;</li> <li>ii) <b>certificate of completion</b> of the two autism units signed by the Logistics Department within the Ministry of Education, Sport, Youth, Research and Innovation and the National School Support Services within the Ministry for Education, Sport, Youth, Research and Innovation, demonstrating that the two autism units have been completed and are operational;</li> <li>iii) <b>detailed list of the new operational equipment</b>, such as water bed, bubble tube, and location where it was installed;</li> <li>iv) anonymised <b>individual certificates</b> proving that the training programmes for the <b>teachers and Learning Support Educators</b> have been completed, indicating the number of training actions/hours completed and their content; and</li> <li>v) <b>list of courses being taught</b> and activities being organised in the newly set up autism units with at least one teacher and two Learning Support Educators in each class, including anonymised list of students benefitting from the autism units.</li> </ul>			
<p><b>Analysis:</b></p> <p>In line with the requirements of the Council Implementing Decision:</p> <ul style="list-style-type: none"> <li>i) two new autism units have been completed and are operational in middle schools that benefit a maximum of 16 students, as demonstrated by the certificate of completion. The certificate of completion also shows that one autism unit (white room and sensory room) has been completed and is operational in Ta' Paris Middle School and the second one (also including white room and sensory room) has been completed and is operational in Handaq Middle School, and that each autism unit can host a maximum of eight students, a</li> </ul>			



teacher and three Learning Support Educators;

- ii) the units are available for student usage (white room - water bed and bubble tube). The detailed list of the new operational equipment proves that the autism units have been equipped as required. The equipment at both sites includes in the sensory room, an inflatable barrel kit, a peanut ball, a gym ball, three bean bags; and in the white room, mats, a musical water mattress, a water mattress platform, a bubble tube corner kit, a projector, a half-round balance beam, and a leaf chair;
- iii) two teachers and six Learning Support Educators receive additional training in inclusive pedagogy and in the delivery of a functional curriculum delivered in-house by practitioners at the National School Support Services (NSSS) as proven by the individual certificates issued by the National School Support Services. A total of 12 hours of training were delivered to the two teachers and six Learning Support Educators between 27 and 29 September 2021. The training was focused on inclusive pedagogy and covered topics such as the autism unit curriculum; the emergent curriculum; strategies for supporting young people on the autism spectrum; resources to support young people on the autism spectrum; and the role of the autism unit educator in schools; and
- iv) in each class there is one teacher and three Learning Support Educators (LSEs), as shown by the list of courses being taught (pages 3 and 12, the Ta' Paris autism unit is staffed by Teacher 1 and LSEs 1, 2, and 3 and the Tal-Handaq autism unit is staffed by Teacher 2 and LSEs 4, 5, and 6).

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 6.1	Related Measure: (6.1) C6.R.1 Reform the method of appointment and dismissal of the judiciary
<b>Name of the Milestone:</b> Entry into force of Act XLV of 2020; and Act XLIII of 2020	
<b>Qualitative Indicator:</b> Provision in the law indicating the entry into force of Act XLV of 2020 and Act XLIII of 2020	<b>Time:</b> Q3 2020
<p><b>Context:</b></p> <p>The objective of the reform is to strengthen the independence of the judiciary.</p> <p>This milestone is the first of four milestone and targets set for this reform. This milestone relates to the amendment of the Constitution for the purpose of providing for the appointment of the Chief Justice with the approval of two-thirds of all the Members of the House of Representatives; for a change in the composition of the Judicial Appointments Committee so that the majority of its members are members of the judiciary; and to provide for the issuing of public calls for vacancies within the judiciary. Moreover, the milestone requires the establishment of a new procedure through which members of the judiciary may be removed from the Bench or undergo disciplinary procedures by the Commission for the Administration of Justice.</p> <p>The subsequent milestones and targets under this reform relate to recruiting additional members of the judiciary (target 6.2 (Q2 2021)), undertaking an independent review of the independence of specialised tribunals (milestone 6.3 (Q4 2024)), and implementing the legislative changes deemed necessary by this independent review (milestone 6.4 (Q1 2026)).</p>	
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) Copies (both in English and Maltese) of <b>Act No. XLIII of 2020</b>, the Constitution of Malta (Amendment Act), 2020, and links to the websites where they can be accessed (<a href="https://legislation.mt/eli/act/2020/43/eng">https://legislation.mt/eli/act/2020/43/eng</a>) and (<a href="https://legislation.mt/eli/act/2020/43/mlt">https://legislation.mt/eli/act/2020/43/mlt</a>).</li> <li>iii) Copies (both in English and Maltese) of <b>Act No. XLV of 2020</b>, the Various Laws (Removal from Office) (Amendment) Act, 2020, and links to the websites where they can be accessed (<a href="https://legislation.mt/eli/act/2020/45/eng">https://legislation.mt/eli/act/2020/45/eng</a>) and (<a href="https://legislation.mt/eli/act/2020/45/mlt">https://legislation.mt/eli/act/2020/45/mlt</a>).</li> <li>iv) Copy of the <b>notifications</b> of Act No. XLIII of 2020 and Act No. XLV of 2020 in Government Gazette No. 20,456 of 7 August 2020 and a link to the website where it can be accessed (<a href="https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2020/08/Government%20Gazette%20-%207th%20August.pdf">https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2020/08/Government%20Gazette%20-%207th%20August.pdf</a>), notifying that Act XLIII of 2020 and Act XLV of 2020 were published in the Supplement to that Government Gazette.</li> <li>v) Copy of the <b>amended Commission for the Administration of Justice Act</b> (Chapter 369 of the Laws of Malta) and a link to the website where it can be accessed (<a href="https://legislation.mt/eli/cap/369/eng">https://legislation.mt/eli/cap/369/eng</a>).</li> <li>vi) Copy of the <b>amended Constitution of Malta</b> (Chapter 0 of the Laws of Malta) and a link to the website where it can be accessed (<a href="https://legislation.mt/eli/const/eng">https://legislation.mt/eli/const/eng</a>).</li> </ul>	
<p><b>Analysis:</b></p> <ul style="list-style-type: none"> <li>i) <u>Act No. XLIII of 2020</u>, amending the Constitution of Malta relative to the appointment of judges and magistrates was published in the Supplement to the Government Gazette No.</li> </ul>	

20,456 on 7 August 2020. The date of entry into force of Act No. XLIII of 2020 corresponds to that date of publication by virtue of the provisions of Article 72 of the Constitution of Malta, Chapter 0 of the Laws of Malta and Articles 5 and 16 of the Interpretation Act, Chapter 249 of the Laws of Malta, which provide that the entry into force of a legal act takes place at the moment of the publication in the Government Gazette if not stipulated otherwise.

In line with the requirements of the Council Implementing Decision, Act No. XLIII of 2020 made the following amendments to the Constitution of Malta:

- a. the appointment of the Chief Justice with the approval of two-thirds of all the Members of the House of Representatives

Article 2(b) of Act No. XLIII of 2020 amended Article 96(3) of the Constitution of Malta as follows: *“The Chief Justice shall be appointed by the President acting in accordance with a resolution of the House supported by the votes of not less than two-thirds of all the members of the House”*.

- b. a change in the composition of the Judicial Appointments Committee so that a majority of its members are members of the judiciary

Article 3 of Act No. XLIII of 2020 amended Article 96A of the Constitution of Malta as follows: the *“Judicial Appointments Committee [...] shall be composed as follows: (a) the Chief Justice; (b) two (2) members elected for a period of four (4) years by the judges of the superior court from among themselves; (c) one member elected for a period of four (4) years by the magistrates of the inferior courts from among themselves, (d) the Auditor General, (e) the Commissioner for Administrative Investigations (Ombudsman), and (f) the President of the Chamber of Advocates [...]”* Through this amendment, the majority of the members of the Judicial Appointments Committee (4 out of 7 – namely (a), (b) and (c) above) are members of the judiciary.

- c. issuing of public calls for vacancies within the judiciary

Article 4 of Act No. XLIII of 2020 added new Article 96B to the Constitution: *“Vacancies in the office of member of the judiciary. 96B. (1) Whenever a vacancy occurs in the office of judge or magistrate, the Minister responsible for justice shall issue a public call for applications open to persons who have the necessary qualifications and experience required to be appointed to the office of judge or magistrate. [...]”*

- ii) Act No. XLV of 2020, amending the Constitution of Malta and the Commission for the Administration of Justice Act, Chapter 369 of the Laws of Malta, relative to the removal from office of judges and magistrates, was published in the Supplement to the Government Gazette No. 20,456 on 7 August 2020. The date of entry into force of Act No. XLV of 2020 corresponds to that date of publication by virtue of the provisions of Article 72 of the Constitution of Malta, Chapter 0 of the Laws of Malta, and Articles 5 and 16 of the Interpretation Act, Chapter 249 of the Laws of Malta, which provide that the entry into force of a legal act takes place at the moment of the publication in the Government Gazette if not stipulated otherwise.

In line with the requirements of the Council Implementing Decision, Act No. XLV of 2020 established a new procedure through which members of the judiciary may be removed from the Bench or undergo disciplinary procedures. The new procedure ensures that the removal of members of the judiciary is made by the Commission for the Administration of Justice and provides for the possibility of lodging an appeal against the decisions of the Commission for the Administration of Justice before the Constitutional Court.

In particular, Article 8 of Act No. XLV of 2020 amended paragraph (c) of sub-article (10) of Article 101B of the Constitution as follows: *“(c) if it considers that the breach is of such a*

*serious nature as to merit the removal of the judge or magistrate from office [...] it shall report its findings to the Commission for the Administration of Justice which shall consider whether the evidence proves the case prima facie and, if it considers that there is such degree of proof, the Commission shall suspend the judge or magistrate concerned and shall proceed with the hearing of the case. [...] In the event that the Commission for the Administration of Justice considers that the breach under investigation merits the removal of the judge or magistrate from office, it shall proceed to advise the President to remove the judge or magistrate from office for proven misconduct [...]."*

Act No. XLV of 2020 also amended the Commission for the Administration of Justice Act, Cap. 369, notably specifying in Part II of Act No. XLV of 2020 the details of the new procedure to be followed in cases where members of the judiciary may be removed from the Bench or undergo disciplinary procedures.

The Commission for the Administration of Justice is predominantly composed of members of the judiciary. Article 101A of the Constitution delineates the composition of the Commission for the Administration of Justice by identifying its members. Article 7 of Act No. XLV of 2020 amended Article 101A(1) of the Constitution of Malta by altering the composition of this body and included a consequential change to Article 101A(2). To this effect, the Attorney General no longer sits on the Commission for the Administration of Justice. Consequently, five out of the nine members are members of the judiciary, namely the Chief Justice, two judges and two magistrates. The other members not occupying judicial roles include the President of the Commission for the Administration of Justice, one member appointed by the Prime Minister, one member appointed by the Leader of the Opposition, and the President of the Chamber of Advocates. Considering the composition of the Commission for the Administration of Justice, these legal amendments contribute to the overall objective of the reform of strengthening the independence of the judiciary, notably by reducing the political influence in the appointment and dismissal of judges.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 6.2	Related Measure: (6.2) C6.R.1 Reform the method of appointment and dismissal of the judiciary		
<b>Name of the Target:</b> Additional members of the judiciary			
<b>Quantitative Indicator:</b> Number	<b>Baseline:</b> 42	<b>Target:</b> 47	Time: Q2 2021
<p><b>Context:</b></p> <p>The objective of the reform is to strengthen the independence of the judiciary.</p> <p>This target is the second of four milestone and targets set for this reform. The target relates to an increase in the number of members of the judiciary.</p> <p>Other milestones relate to amending the procedure for appointment and removal of members of the judiciary (milestone 6.1 (Q3 2020)), carrying out an independent review of the independence of specialised tribunals (milestone 6.3 (Q4 2024)), and the entry into force of legislative changes deemed necessary by the findings/recommendations made in the independent review of the independence of specialised tribunals (milestone 6.4 (Q1 2026)).</p>			
<p><b>Evidence Provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled;</li> <li>ii) A copy of and a link to the <b>call for applications for the appointment of four judges</b> published in Government Gazette No. 20,571 on 12 February 2021 (pages 1252-1253; <a href="https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/02/Government%20Gazette%20-%2012th%20February.pdf">https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/02/Government%20Gazette%20-%2012th%20February.pdf</a>);</li> <li>iii) A copy of and a link to the <b>call for applications for the appointment of four magistrates</b> published in Government Gazette No. 20,610 on 20 April 2021 (page 3782; <a href="https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/04/Government%20Gazette%20-%2020th%20April.pdf">https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/04/Government%20Gazette%20-%2020th%20April.pdf</a>);</li> <li>iv) Copies of the letters of appointment of four judges and four magistrates: <ul style="list-style-type: none"> <li>a. letter of 22 April 2021 concerning the appointment of Audrey Demicoli as judge;</li> <li>b. letter of 22 April 2021 concerning the appointment of Neville Camilleri as judge;</li> <li>c. letter of 22 April 2021 concerning the appointment of Christian Falzon Scerri as judge;</li> <li>d. letter of 22 April 2021 concerning the appointment of Ian Spiteri Bailey as judge;</li> <li>e. letter of 3 June 2021 concerning the appointment of Lara Lanfranco as magistrate;</li> <li>f. letter of 3 June 2021 concerning the appointment of Elaine Mercieca as magistrate;</li> <li>g. letter of 3 June 2021 concerning the appointment of Noel Bartolo as magistrate;</li> <li>h. letter of 3 June 2021 concerning the appointment of Leonard Caruana as magistrate.</li> </ul> </li> <li>v) <b>Official declaration</b> signed by the Ministry responsible for Justice of 15 July 2022 certifying the net increase of the headcount of judges by three and of headcount of magistrates by two (that is a net increase of five members of the judiciary), including (as an annex) a seniority <b>list of members of the judiciary</b> as of 31 December 2021, confirming that there were 47 members of the judiciary serving in the Courts of Law of Malta at that date.</li> </ul>			

**Analysis:**

In line with the requirements of the Council Implementing Decision, a call for applications for the appointment of four judges was published in the Government Gazette on 12 February 2021. As a result of this call, four judges were appointed to the Bench on 22 April 2021, as demonstrated by the letters of appointment of four judges. The official declaration signed by the Ministry responsible for Justice explains that since one other judge retired from the Bench in March 2021, the appointments led to an overall increase in the headcount of judges by three.

In addition, the call for applications for the appointment of four magistrates was published in the Government Gazette on 20 April 2021. As a result of this call, four magistrates were appointed on 3 June 2021, as demonstrated by the letters of appointment of four magistrates. The Official declaration signed by the Ministry responsible for Justice explains that because two members of the newly appointed judges had previously been occupying the position of magistrates, the appointment of magistrates has consequently led to an overall increase in the headcount of magistrates by two.

Therefore, as confirmed by the official declaration signed by the Ministry responsible for Justice, these appointments resulted in a net increase of five members of the judiciary (three judges and two magistrates), which resulted in a total number of 47 members of the judiciary. The increase in the number of members of the judiciary by five members is further confirmed by the seniority list of members of the judiciary provided by the Maltese authorities, which substantiates that on 31 December 2021 there were 47 members of the judiciary serving in the Courts of Law of Malta.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 6.9	Related Measure: (6.9) C6.R.2 Create a separate prosecution service
<b>Name of the Milestone:</b> Entry into force of Act No. XXVIII of 2021 entitled Criminal Code (Amendment No.5) Act	
<b>Qualitative Indicator:</b> Provision in the law indicating the entry into force of Act No. XXVIII of 2021 entitled Criminal Code (Amendment No.5) Act	<b>Time:</b> Q2 2021
<p><b>Context:</b></p> <p>The objective of this reform is to strengthen the functioning of the prosecution services in Malta.</p> <p>This milestone is the first of five milestones and targets of this reform and provides for the necessary changes to be made to the Criminal Code in order to ensure more legislative clarity with respect to the role of the Attorney General in prosecuting, along with the Executive Police, before the Court of Magistrates, apart from being competent to prosecute before the Criminal Court.</p> <p>Other milestones and targets for the implementation of this reform include the hiring of additional staff in the Office of the Attorney General (target 6.7 (Q4 2022)) and the transfer of all non-summary (serious) cases from the Police to the Attorney General to be completed in 2024 (milestone 6.8 (Q4 2024)). An independent assessment will then be carried out to gauge how all other less serious crimes could be shifted from the Police to the Attorney General's office (milestone 6.5 (Q4 2024)). Finally, legislative amendments stemming from this review will also be implemented (milestone 6.6 (Q1 2026)).</p>	
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) Copies (both in English and Maltese) of <b>Act No. XXVIII of 2021</b>, the Criminal Code (Amendment No 5) Act, 2021 and links to the websites where they can be accessed (<a href="https://legislation.mt/eli/act/2021/28/eng">https://legislation.mt/eli/act/2021/28/eng</a>) and (<a href="https://legislation.mt/eli/act/2021/28/mlt">https://legislation.mt/eli/act/2021/28/mlt</a>).</li> <li>iii) Copy of the <b>notification</b> of Act No. XXVIII of 2021 in Government Gazette No.20,639 of 4 June 2021 and a link to the website where it can be accessed (<a href="https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/06/Government%20Gazette%20-%204th%20June.pdf">https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/06/Government%20Gazette%20-%204th%20June.pdf</a>), notifying that Act No. XXVIII of 2021 was published in the Supplement to that Government Gazette.</li> <li>iv) Copy of the <b>amended Criminal Code</b> (Chapter 9 of the Laws of Malta) and a link to the website where it can be accessed (<a href="https://legislation.mt/eli/cap/9/eng">https://legislation.mt/eli/cap/9/eng</a>).</li> <li>v) A copy of the Internal Guidelines for Prosecutors on delegation of prosecutorial functions of 15 July 2022.</li> <li>vi) A copy of an <b>email</b> (19 July 2022) sent by the Attorney General's office to prosecutors verifying the distribution of the Internal Guidelines.</li> <li>vii) A copy of the <b>publicly available summary</b> of the Internal Guidelines and a link to the website where it can be accessed (<a href="https://attorneygeneral.mt/en/Pages/Prosecutions.aspx">https://attorneygeneral.mt/en/Pages/Prosecutions.aspx</a>).</li> </ul>	
<p><b>Analysis:</b></p> <p>Act No. XXVIII of 2021 was published in the Supplement to the Government Gazette No. 20,639 on 4 June 2021. The date of entry into force of Act No. XXVIII of 2021 corresponds to that date of publication by virtue of the provisions of Article 72 of the Constitution of Malta, Chapter 0 of the</p>	

Laws of Malta and Articles 5 and 16 of the Interpretation Act, Chapter 249 of the Laws of Malta, which provide that the entry into force of a legal act takes place at the moment of the publication in the Government Gazette if not stipulated otherwise. The changes provide the Attorney General with competence over the prosecution and decision of prosecution also in the Inferior Courts (Court of Magistrates), in addition to the Attorney General's prosecutorial powers in the Criminal Court.

In line with the Council Implementing Decision, Act No. XXVIII of 2021 provides for the necessary changes to be made to the Criminal Code in order to provide more legislative clarity following the taking over of prosecutions of serious offences by the Attorney General. It delineates the fact that the Attorney General may, along with the Executive Police, prosecute before the Court of Magistrates, apart from being competent to prosecute before the Criminal Court:

- Article 12 of Act No. XXVIII of 2021 amends article 430(1) of the Criminal Code to allow for the Attorney General to be able to prosecute in the inferior courts (Court of Magistrates) alongside the Police, in addition to the Attorney General being competent to prosecute before the Criminal Court. It reads as follows: *"The Attorney General may, along with the Executive Police, prosecute before the Court of Magistrates, and shall be the prosecutor before the Criminal Court."*
- Article 6 of Act No. XXVIII of 2021 amends the Criminal Code adding "Attorney General" to the provisions prescribing the exercise of prosecutorial functions, where solely the "Police" was previously mentioned as the competent authority. These amendments were necessary to eliminate procedural obstacles in the conduct of prosecutorial functions by the Office of the Attorney General and to make it possible for the Attorney General to institute criminal proceedings alone without the need to do so together with the Police. In particular, Article 6 of Act No. XXVIII of 2021 replaces Article 375 of the Criminal Code to clarify that proceedings may be instituted *"by the Attorney General or the Executive Police ex officio"* and delineates the provisions that would apply including that, according to Articles 375(c) and (d), *"the Attorney General or the officer of the Executive Police in charge of the prosecution and the accused or his advocate or legal procurator shall be heard in the order set out in paragraph (i) of Article 374 of the Criminal Code (Cap. 9) and that "it shall be lawful for the court to require that the charges be read out by the Attorney General or the officer of the Executive Police and the report is confirmed on oath by the officer of the Executive Police"*.
- Article 9 of Act No. XXVIII of 2021 substitutes Article 405(5) of the Criminal Code to clarify the procedure in case of re-examination of witnesses or examination of new witnesses upon the demand of the accused in proceedings brought before the Court of Magistrates: *"In such cases, the demand shall be communicated to the Attorney General who, not later than the day following, shall forward to the court the record of inquiry. The court shall then cause the Attorney General or the Commissioner of Police to be notified of the day appointed for the hearing of the witnesses in order that they or any other officer under their charge may if they so desire, appear and cross-examine the witness."*
- Act No. XXVIII of 2021 (through Articles 2, 7-8, 10-11, 13-16) also provides for amendments to other Articles of the Criminal Code (Articles 30, 390, 397, 410, 412A, 517, 533, 550 and 597) to refer to the Attorney General wherever such reference is made to the Police in the context of initiating and conducting prosecutions before the inferior courts. These amendments were necessary to eliminate procedural obstacles in the conduct of such prosecutions on the part of the Office of the Attorney General.

Article 4 of Act No. XXVIII of 2021 introduces into the amended Criminal Code a new Article 347A, which provides the following functions and powers to the Attorney General: *"(a) to delegate to the Commissioner of Police prosecutorial functions vested in the Attorney General."* Therefore, while Act No. XXVIII of 2021 allows for the Attorney General to prosecute in the inferior courts, the Attorney General can also choose to delegate the prosecutorial functions back to the Commissioner of Police.



The principles and procedure of delegation of power are set out in the Internal Guidelines for Prosecutors on delegation of prosecutorial functions. The Internal Guidelines set out: (i) the conditions under which the delegation from the Attorney General to the Executive Police can be executed, (ii) the prosecution functions that can be delegated; (iii) and the procedural steps that will be followed for the delegation to take place. The Internal Guidelines were sent by the Attorney General's office to prosecutors and, in order to raise awareness of these rules, a publicly available summary of the Internal Guidelines can be accessed on the website of the Attorney General's office.

In line with the Internal Guidelines, the possibility of the Attorney General to re-delegate the responsibility of prosecution back to the Commissioner of Police is only allowed in two exceptional cases: (i) to safeguard the criminal proceedings that were instituted by the Police (prior to the transfer of the decision to prosecute to the Attorney General) - therefore, such delegation can only take place in the transitory phase whereby the decision to prosecute is being taken in phases by the Attorney General (section 2 of "Internal Guidelines for Prosecutors on delegation of prosecutorial functions"), and (ii) in the event of the necessity to eradicate conflicts of interests and to ensure that the independence of the prosecution service is preserved and safeguarded from apparent or potential bias - the term "conflict of interests" is defined as a prosecution instituted against a public prosecutor or a former public prosecutor (section 4 of "Internal Guidelines for Prosecutors on delegation of prosecutorial functions").

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 6.10	Related Measure: (6.10) C6.R.3 Reinforcing the institutional framework capacity to fight against corruption; Implementation of the National Anti-Fraud and Corruption Strategy (NAFCS)	
<b>Name of the Milestone:</b> Update of the 2008 National Anti-Fraud and Corruption Strategy		
<b>Qualitative Indicator:</b> Online publication of the Updated National Anti-Fraud and Corruption Strategy		<b>Time:</b> Q2 2021
<p><b>Context:</b></p> <p>The objective of this reform is to update the 2008 National Anti-Fraud and Corruption Strategy in order to increase the capacity, authority and public accountability of the State institutions entrusted with regulatory and control functions in relation to the management of public resources, and to implement some of the actions identified by the Strategy.</p> <p>This milestone represents the initial step in the implementation of the reform and requires the online publication of the updated National Anti-Fraud and Corruption Strategy.</p> <p>The online publication of the updated National Anti-Fraud and Corruption Strategy is followed by the national risk assessment and formulation of follow-up strategy on fraud and corruption (milestone 6.11 (Q3 2022)), two targeted training programmes for officials from the National Authorities(target 6.12 (Q1 2024)), the creation of a Central Documentary Repository System to strengthen collaboration between the thirteen institutions forming part of the Coordinating Committee on anti-corruption and fraud (milestone 6.13 (Q4 2024)), and the creation of a database on whistle-blower information (milestone 6.14 (Q4 2024)).</p>		
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) Copy of the <b>updated National Anti-Fraud and Corruption Strategy</b> (in both English and Maltese), including a link to the website where it can be accessed (<a href="https://parlament.mt/media/112436/national-anti-fraud-and-corruption-strategy_en.pdf">https://parlament.mt/media/112436/national-anti-fraud-and-corruption-strategy_en.pdf</a>), and a link to the website where it was tabled in national Parliament on 31 May 2021 (<a href="https://parlament.mt/en/paper-laid/?id=34616">https://parlament.mt/en/paper-laid/?id=34616</a>).</li> </ul>		
<p><b>Analysis:</b></p> <p>The updated National Anti-Fraud and Corruption Strategy (NAFCS) was made public when it was tabled in Parliament on 31 May 2021 (see here: <a href="https://parlament.mt/en/paper-laid/?id=34616">https://parlament.mt/en/paper-laid/?id=34616</a>).</p> <p>The published Strategy presents 23 actions divided into four strategic objectives, namely:</p> <ul style="list-style-type: none"> <li>i) capacity building (page 35) – the NAFCS presents ten actions including the revision of the Terms of Reference of the Coordinating Committee, the creation of sub-committees, software and training needs identification and the development of training programmes, the review of relevant legislation and the analysis and implementation of changes to the Public Financial Control Mechanisms;</li> <li>ii) communication strategy (page 36) – the NAFCS presents five actions concerning the implementation of communications strategies and the creation of communications channels to facilitate the gathering of intelligence;</li> <li>iii) maximisation of national cooperation (page 38) – the NAFCS presents six actions including</li> </ul>		

the creation of a National Risk Assessment and follow-up strategy on fraud and corruption, the enhancement of systems and structures to facilitate and encourage national collaboration, the creation of a Central Documentary Repository System, the signature of Memoranda of Understanding between national authorities and the Coordinating Committee, and the creation of systems to encourage joint investigative initiatives; and

- iv) maximisation of EU and international cooperation (page 40) – the NAFCS presents two actions which focus on ensuring that competent authorities have a strategy that addresses Malta’s international obligations, and the creation of a network for collaboration with international partners.

In line with the requirements of the Council Implementing Decision, the NAFCS aims to ensure a normative, institutional and operational framework for the effective and efficient fight against fraud and corruption in Malta, reflecting local requirements and international obligations as follows:

- i) The Strategy provides for a normative framework ensured through the continuous implementation of various signed international conventions on fraud, bribery, organised crime, money laundering and corruption (pages 15-18, 29-32), as well as through transposing relevant EU legislation on irregularities, fraud, and corruption to Maltese legislation, and through undertaking other legislative initiatives including amending the Criminal Code. The NAFCS (pages 16-18, 22, 32) outlines Maltese legislation that has been amended as a result of these initiatives. In addition, at least 13 codes of ethics have been developed for professional activities (page 18) that determine the standards governing these entities to promote integrity and curb corruption.
- ii) The Strategy (pages 7-15) outlines that Malta’s institutional framework is made up of at least 18 institutions, Departments and Government Entities including the Permanent Commission Against Corruption, the Ombudsman, the Commissioner for Standards in Public Life, and the National Audit Office.
- iii) An operational framework is ensured through the setting up of (at least) seven anti-fraud and corruption units (page 19), designing and implementing specific strategies including the Anti-Fraud Policy and an Anti-Fraud Strategy for the two managing authorities of EU funds (pages 20-21), revised Money Laundering and Financing Terrorism National Risk Assessment (page 22), national Anti-Money Laundering and Combating the Funding of Terrorism Strategy (pages 23-24), whilst adjusting individual Department and Government Entity business plans and budgets. In addition, training initiatives targeting personnel from entities involved in anti-fraud and corruption is envisaged (pages 19-20), with the Financial Intelligence Analysis Unit setting up a guidance and outreach team for this purpose (page 20). Stronger collaboration at national level is also foreseen by the National Coordinating Committee on Combating Money Laundering and Funding of Terrorism (page 23), as well as at EU and international level (referenced below).

The framework outlined above that is established by the NAFCS contributes to the effective and efficient fight against fraud and corruption in Malta. Firstly, by creating a normative framework, the NAFCS allows practices and processes to be standardised, thereby ensuring more clarity in the rules and values that are to be upheld by society. Secondly, clearly identifying the institutions that work together in the fight against fraud and corruption is crucial to ensure credibility and effectiveness. Lastly, ensuring that these entities are adequately equipped with the proper tools, including clear processes, trained personnel and strong collaboration networks, is crucial to ensure efficiency and effectiveness in this endeavour.

The Strategy reflects local requirements by establishing measures to reduce irregularities, fraud and corruption, enable a framework that facilitates deterrence, detection, identification, investigation, sanctioning and prosecution of instances of irregularities, fraud and corruption, and encourage and

facilitate transparency, reporting and whistle-blowing with a focus on the use and protection of national public funds and resources, and the financial interests of the Community (page 35), which are all important to address developments that warranted an update. Measures were drawn up following consultation with all members of the National Coordinating Committee (set up as established under Chapter 461 of the Laws of Malta) that analysed the local background on fraud and corruption, domestic legislation, and the administrative scenario, in addition to defining international obligations (page 3). The measures in the Strategy also adhere to international obligations by observing international conventions on fraud and corruption (such as the UN Conventions against Corruption and International Organised Crime, the Council of Europe's Criminal and Civil Law Conventions, and the Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime) and regulations of the EU on irregularities, fraud and corruption (such as Council Regulation (EC, Euratom) No 2988/95 of 18th December 1995 on the protection of the European Communities financial interests, and Council Regulation (Euratom, EC) No 2185/96 of 11th November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities) that are to be transposed into local legislation (pages 15-16, 29-31).

Additionally, in line with the Council Implementing Decision, the Strategy aims to strengthen the State institutions entrusted with regulatory and control functions in relation to the management of public resources by increasing:

- i) Capacity: through (i) appropriate training addressing identified needs – to this end, the Strategy provides for undertaking a training needs analysis at each national authority, to allow the planning, organisation and carrying out of trainings to address all the specific areas of requirements (pages 35-36); (ii) the creation of a Coordinating Committee and sub-committees as evidenced in the National Coordinating Committee on Combating Money Laundering and Funding of Terrorism (page 23) that created sub-committees for each of the seven key initiatives outlined in the National Anti-Money Laundering and Combating Terrorism Financing Strategy.

Capacity building, through the required training of personnel, strengthens the institutions by ensuring an improved analytical capability of the workforce, thereby increasing their effectiveness and efficiency in the fight against fraud and corruption. In addition, the creation of a Coordinating Committee allows for closer collaboration between the institutions involved, while the sub-committees allow for greater specialisation in fields concerned, thereby bettering their knowledge and efficiency.

- ii) Authority: through stronger involvement at (i) national level (pages 23-24 – national Anti-Money Laundering/Combating the Financing of Terrorism strategy; page 39 – memoranda of understanding between the National Coordinating Committee on Combating Money Laundering and Funding of Terrorism and the national authorities; pages 36, 38 – the setting up of the Financial Investigations Directorate (FID) within the Internal Audit and Investigations Department (IAID) to focus on central co-ordination, co-operation and communication of the National Anti-Fraud and Corruption Strategy, whilst also carrying out investigations), (ii) EU level (pages 36, 40 - the FID within the IAID acts as the Anti-Fraud Coordination Services to the European Anti-Fraud Office and collaborates with all the national and international partners as necessary, and (iii) international level (page 40 – the use of the ARACHNE risk scoring tool in shared management (ESIF) and the directory of the points of contact for the major international and EU partners to facilitate exchange of information).

In addition, the development of tools such as a Central Documentary Repository enables the collection, collating, withholding, analysing, and disseminating of information with national authorities (page 36). Other anticipated tools that contribute to these objectives

include the identification of needs to fight fraud and corruption (page 42), software for analysis and investigations (page 36), project databases to detect fraud (page 38), information systems (page 41) and associated training (page 41).

A stronger networking of state institutions that are entrusted with regulatory and control functions in relation to the management of public resources allows for the timely sharing of information on possible cases of fraud and corruption. The help of IT tools, such as the Central Documentary Repository, increases the efficiency of work streams and the further sharing of information between relevant institutions. This improves the effectiveness of these entities.

- iii) Public accountability: through improved communication within and outside the public sector, providing secure and confidential channels to encourage people to come forward and give information on fraud and corruption. Targeted campaigns are envisaged by the updated Strategy (pages 3-4, 37).

Trust in the institutions responsible for the management of public resources is fundamental to ensure that individuals report wrongdoings. Open communication channels enable State institutions to carry out their functions of fraud and corruption watchdogs more effectively.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 6.15	Related Measure: (6.15) C6.R.4 Reform the Permanent Commission Against Corruption (PCAC)
<b>Name of the Milestone:</b> Entry into force of Act XLVI of 2020	
<b>Qualitative Indicator:</b> Provision in the law indicating the entry into force of Act XLVI of 2020	<b>Time:</b> Q3 2020
<p><b>Context:</b></p> <p>The objective of the reform is to allow for a more independent and effective functioning of the Permanent Commission Against Corruption through legal amendments, capacity building and strengthened operational procedures.</p> <p>This is the first milestone of this reform, and it relates to the entry into force of legislation granting further statutory reinforcement to the Permanent Commission Against Corruption, specifying provisions on how the Chairperson and members of the Commission are appointed and, by specifying that reports of corruption will be transmitted directly to the Attorney General.</p> <p>The reform also includes the adoption of a three-year budget and human resources plan to strengthen the Permanent Commission Against Corruption’s organisational capacity (milestone 6.16 (Q4 2024)), the creation of a digital registry of information cases that is accessible by all other national anti-corruption institutions (milestone 6.17 (Q4 2024)), and the enactment of Standard Operating Procedures to help workers carry out routine operations (milestone 6.18 (Q4 2024)).</p>	
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) Copies (both in English and Maltese) of <b>Act No. XLVI of 2020</b>, the Permanent Commission Against Corruption (Amendment) Act, 2020 and links to the websites where they can be accessed: (<a href="https://legislation.mt/eli/act/2020/46/eng">https://legislation.mt/eli/act/2020/46/eng</a>) and (<a href="https://legislation.mt/eli/act/2020/46/mlt">https://legislation.mt/eli/act/2020/46/mlt</a>).</li> <li>iii) Copy of the <b>notification</b> of Act No. XLVI of 2020 in Government Gazette No. 20,456 of 7 August 2020 and a link to the website where it can be accessed (<a href="https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2020/08/Government%20Gazette%20-%207th%20August.pdf">https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2020/08/Government%20Gazette%20-%207th%20August.pdf</a>), notifying that Act No. XLVI of 2020 was published <a href="#">in the Supplement to that Government Gazette</a>.</li> <li>iv) Copy of the amended <b>Permanent Commission Against Corruption Act</b> (Chapter 326 of the Laws of Malta) and a link to the website where it can be accessed (<a href="https://legislation.mt/eli/cap/326/eng">https://legislation.mt/eli/cap/326/eng</a>).</li> <li>v) Copy of the <b>Criminal Code</b> (Chapter 9 of the Laws of Malta) and a link to the website where it can be accessed (<a href="https://legislation.mt/eli/cap/9/eng/pdf">https://legislation.mt/eli/cap/9/eng/pdf</a>).</li> </ul>	
<p><b>Analysis:</b></p> <p>Act No. XLVI of 2020 was published in the Supplement to the Government Gazette No. 20,456 on 7 August 2020. The date of entry into force of Act No. XLVI of 2020 corresponds to that date of publication by virtue of the provisions of Article 72 of the Constitution of Malta, Chapter 0 of the Laws of Malta and Articles 5 and 16 of the Interpretation Act, Chapter 249 of the Laws of Malta, which provide that the entry into force of a legal act takes place at the moment of the publication in the Government Gazette if not stipulated otherwise.</p>	

Act No. XLVI of 2020 amends the Permanent Commission Against Corruption Act (Chapter 326 of the Laws of Malta).

In line with the Council Implementing Decision, Article 2 of Act No. XLVI of 2020 amends Article 3 of the Permanent Commission Against Corruption Act by specifying the provisions on how the Chairperson and members of the Permanent Commission Against Corruption are appointed. This would reduce political interference since their appointments are independent from the Government. Sub-article (1) has been substituted as follows: *“The members of the Commission shall be appointed by the President of Malta who, in appointing the Chairman shall act with a Resolution of the House supported by the votes of not less than two-thirds of all the members of the House, in appointing one of the two other members shall act in accordance with the advice of the Prime Minister and in appointing the other member shall act in accordance with the advice of the Leader of the Opposition”*. The sub-article also notes that *“if the Resolution is not supported by the votes of not less than two-thirds of all the members of the House, the person occupying the office of Chairman shall remain in office until the Resolution is supported by the votes of not less than two-thirds of all the members of the House.”*

Article 4 of Act No. XLVI of 2020 amends Article 11(a) of the Permanent Commission Against Corruption Act. Following the amendment, if the opinion of the Permanent Commission Against Corruption is that the conduct being investigated is corrupt or connected with or conducive to corrupt practices, the report is to be transmitted directly to the Attorney General. Article 11(a) of the Permanent Commission Against Corruption Act now reads:

*“11. The Commission shall -*

- a. at the earliest opportunity make a report of the results of every investigation to the Minister responsible for justice: and

Provided that if in the opinion of the Commission, the conduct investigated is corrupt or connected with or conducive to corrupt practices, the report of the results of the investigation shall be transmitted to the Attorney General.”

The part underlined was added by virtue of Article 4 of Act No. XLVI of 2020.

Act No. XLVI of 2020 also enhances the powers of the Permanent Commission Against Corruption by widening the definition of corrupt practices under the Permanent Commission Against Corruption Act. By virtue of Article 3 of Act No. XLVI of 2020, offences under Articles 121A – trading offences, and 121B – accounting offences of the Criminal Code (Chapter 9 of the Laws of Malta), have been added to the list of corrupt practices under Article 6(1)(a) of the Permanent Commission Against Corruption Act (Chapter 326 of the Laws of Malta). This implies that the Permanent Commission Against Corruption has a broader spectrum of categories it can investigate and report to the Attorney General.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 6.20	Related Measure: (6.20) C6.R.5 Reform the Asset Recovery Bureau
<b>Name of the Milestone:</b> Entry into force of the Proceeds of Crime Act V of 2021	
<b>Qualitative Indicator:</b> Entry into force of the Proceeds of Crime Act V of 2021	<b>Time:</b> Q1 2021
<p><b>Context:</b></p> <p>The objective of this reform is to increase the powers and capacity of the Asset Recovery Bureau, whilst reinforcing its independence from the Maltese government, in order to strengthen the role of law enforcement authorities in the fight against money laundering and financial crime.</p> <p>This first milestone of the reform consists of the entry into force of the Proceeds of Crime Act (Act No. V of 2021), which includes legislative amendments to reinforce the independence of the Asset Recovery Bureau from the Government and to require the Bureau to establish relations with equivalent institutions outside Malta. This first milestone is complemented by a target to increase the number of officers at the Asset Recovery Bureau from 11 to 45 by the end of 2023 (target 6.19 (Q4 2023)).</p>	
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) Copies (both in English and Maltese) of <b>Act No. V of 2021</b>, the Proceeds of Crime Act, 2021 and links to the websites where they can be accessed (<a href="https://legislation.mt/eli/act/2021/5/eng">https://legislation.mt/eli/act/2021/5/eng</a>) and (<a href="https://legislation.mt/eli/act/2021/5/mlt">https://legislation.mt/eli/act/2021/5/mlt</a>).</li> <li>iii) Copy of the <b>notification</b> in Government Gazette No. 20,576 of 19 February 2021, and a link to the website where it can be accessed (<a href="https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/02/Government%20Gazette%20-19th%20February.pdf">https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/02/Government%20Gazette%20-19th%20February.pdf</a>), notifying that Act No. V of 2021 was published in the Supplement to that Government Gazette.</li> <li>iv) Copies (both in English and Maltese) of <b>Legal Notice 98 of 2021</b>, Proceeds of Crime Act (CAP. 621) Commencement Notice, and links to the websites where they can be accessed (<a href="https://legislation.mt/eli/ln/2021/98/eng">https://legislation.mt/eli/ln/2021/98/eng</a>) and (<a href="https://legislation.mt/eli/ln/2021/98/mlt">https://legislation.mt/eli/ln/2021/98/mlt</a>).</li> <li>v) Copy of the <b>notification</b> in Government Gazette No. 20,590 of 16 March 2021 and link to the website where it can be accessed (<a href="https://govcms.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/03/Government%20Gazette%20-%2016th%20March.pdf">https://govcms.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/03/Government%20Gazette%20-%2016th%20March.pdf</a>), notifying that <b>Legal Notice 98 of 2021</b> was published in the Supplement to the Government Gazette No 20,588 of 12 March 2021.</li> </ul>	
<p><b>Analysis:</b></p> <p>Act No. V of 2021 was published in the Supplement to the Government Gazette No. 20,576 on 19 February 2021 and entered into force on 12 March 2021 through Legal Notice 98 of 2021 (which was published in the Supplement to the Government Gazette No. 20,588 of 12 March 2021). Act No. V of 2021 includes legislative amendments to reinforce the independence of the Asset Recovery Bureau from the government, to require the Bureau to establish relations with equivalent institutions outside Malta, and to strengthen the capacity of the Bureau by hiring additional staff.</p> <p>In line with the requirements of the Council Implementing Decision, Act No. V of 2021 includes the following legislative amendments:</p>	



Part II of Act No. V of 2021, titled 'The Asset and Recovery Bureau' reinforces the independence of the Asset Recovery Bureau by establishing it as a body independent from the Government. It also redefines the structure of the Asset Recovery Bureau. In particular, Article 6 of Act No. V of 2021 establishes the Asset Recovery Bureau as an independent body. In particular, sub-article 6 (1) specifies that the Asset Recovery Bureau is *“independent of the Government”*, and sub-article 6 (3) further specifies that the Bureau *“shall be a body having a distinct legal personality from that of the Government”*. As such, the Bureau is empowered to enter into contracts, to hold and dispose of property, to sue and be sued and to enter into all other transactions as are incidental or conducive for the exercise of its functions. Furthermore, the Act specifies that the structure of the Bureau consists of a Board and of a Directorate and describes the details in Articles 7 to 9. Specifically, Article 7 of the Act defines the organisation and membership of the Board, which consists of a Chairperson appointed by the Cabinet of Ministers (after consultation with the Leader of the Opposition) and four other members, as prescribed in the Act. Article 8 details the functions of the Board, which is primarily responsible for policymaking, whilst Article 9 defines the supporting Directorate which oversees the overall management and executive action.

Part VII of the Act No. V of 2021 titled *“International cooperation”* requires the Asset Recovery Bureau to establish relations with equivalent institutions outside Malta. In particular, Article 54 of Act No. V of 2021 provides the legal requirement for the Asset Recovery Bureau to establish relations with equivalent institutions outside Malta. To this end, Article 54 prescribes that the Asset Recovery Bureau *“shall in accordance with such rules of European Union law, or in accordance with such applicable treaties, conventions or agreements, by whatever name called, co-operate with such institutions and collaborate and participate in such structure that may be established under such rules, treaties, conventions or agreements.”*

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 6.21	Related Measure: (6.21) C6.R.6 A new appointment procedure of the Commissioner of Police	
<b>Name of the Milestone:</b> Entry into force of Act XIX of 2020 amending the Police Act		
<b>Qualitative Indicator:</b> Entry into force of Act XIX of 2020 amending the Police Act		<b>Time:</b> Q2 2020
<b>Context:</b> This reform envisages strengthening the investigative branch of the justice system by reforming the manner in which the Commissioner of Police is appointed. To this end, this reform includes one milestone (milestone 6.21) which requires the entry into force of Act XIX of 2020 amending the Police Act (Chapter 164 of the Laws of Malta) and Article 92 of the Constitution of Malta that establishes a transparent and competitive process of appointment for the office of Commissioner for Police.		
<b>Evidence provided:</b> In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided: <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) Copies (both in English and Maltese) of <b>Act No. XIX of 2020</b>, the Police (Amendment) Act, 2020 and links to the websites where they can be accessed: (<a href="https://legislation.mt/eli/act/2020/19/eng">https://legislation.mt/eli/act/2020/19/eng</a>) and (<a href="https://legislation.mt/eli/act/2020/19/mlt">https://legislation.mt/eli/act/2020/19/mlt</a>).</li> <li>iii) Copy of the <b>notification</b> in the <b>Government Gazette</b> No. 20,384 of 7 April 2020 and a link to the website where it can be accessed (<a href="https://govcms.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2020/04/Government%20Gazette%20-%207th%20April.pdf">https://govcms.gov.mt/en/Government/DOI/Government Gazette/Documents/2020/04/Government Gazette - 7th April.pdf</a>), notifying that Act No. XIX of 2020 was published in the Supplement to that Government Gazette.</li> <li>iv) Copy of the <b>amended Police Act</b> (Chapter 164 of the Laws of Malta) and a link to the website where it can be accessed (<a href="https://legislation.mt/eli/cap/164/20210827/eng">https://legislation.mt/eli/cap/164/20210827/eng</a>).</li> <li>v) Copy of the <b>amended Constitution of Malta</b> (Chapter 0 of the Laws of Malta) and a link to the website where it can be accessed (<a href="https://legislation.mt/eli/const/eng">https://legislation.mt/eli/const/eng</a>).</li> </ul>		
<b>Analysis:</b> Act No. XIX of 2020 was published in the Supplement to the Government Gazette No. 20,384 on 7 April 2020. The date of entry into force of Act No. XIX of 2020 corresponds to that date of publication by virtue of the provisions of Article 72 of the Constitution of Malta ( <a href="https://legislation.mt/eli/const/eng/pdf">https://legislation.mt/eli/const/eng/pdf</a> ), Chapter 0 of the Laws of Malta, and Articles 5 and 16 of the Interpretation Act ( <a href="https://legislation.mt/eli/cap/249/eng">https://legislation.mt/eli/cap/249/eng</a> ), Chapter 249 of the Laws of Malta, which provide that the entry into force of a legal act takes place at the moment of the publication in the Government Gazette if not stipulated otherwise.  In line with the requirements of the Council Implementing Decision, Article 2 of Act No. XIX of 2020 amended Article 6 of the Police Act, Chapter 164, addressing the process of appointment of a Commissioner of Police and rendering it more transparent and competitive. In particular, under the new process, the Public Service Commission issues a public call for applications (Article 2(2)(a) of Act No. XIX of 2020), evaluates the applications submitted and then draws up a shortlist indicating the two most suitable candidates (Article 2(2)(b) of Act No. XIX of 2020). The Public Service Commission then refers this shortlist to the Cabinet of Ministers (Article 2(2)(b) of Act No. XIX of		

2020). The Cabinet considers both candidates and then nominates the most suitable candidate for a hearing before the Parliamentary Public Appointments Committee (Article 2(2)(b) of Act No. XIX of 2020). If this Committee advises in favour of the appointment of the selected candidate, the Prime Minister appoints the selected candidate after consultation with the Public Service Commission (Article 2(2)(c) of Act No. XIX of 2020). If only one eligible candidate exists, the same steps will be applied, when relevant, to this one candidate (Article 2(2)(d) of Act No. XIX of 2020).

Article 3 of Act No. XIX of 2020, amended Article 92 of the Constitution of Malta (<https://legislation.mt/eli/const/eng/pdf>) by clearly outlining that, while the appointment of the Commissioner of Police will be made by the Prime Minister, this is only possible after consultation with the Public Service Commission as provided in the Police Act.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 6.22	Related Measure: (6.22) C6.R.7 Implementation of the reform concerning the judicial review of decisions not to prosecute and other decisions of the Attorney General. This includes the assignment of the status of injured party at law to specific institutions when reporting a corrupt practice
<b>Name of the Milestone:</b> Entry into force of Act No XLI of 2020 on the judicial review of decisions not to prosecute by the Attorney General	
<b>Qualitative Indicator:</b> Entry into force of Act No XLI of 2020	<b>Time:</b> Q3 2020
<p><b>Context:</b></p> <p>The objective of this reform is to strengthen the prosecution of cases by ensuring that the decisions of the Public Prosecutor, notably the decision not to prosecute, are subject to judicial review.</p> <p>This milestone is the first milestone envisaged for the completion of this reform and concerns the entry into force of Act No. XLI amending the Constitution, the Criminal Code, and the Code of Organisation and Civil Procedure. The Act provides for a judicial review of decisions of the Attorney General not to prosecute on the ground of illegality or unreasonableness and accords the status of injured party at law to a number of bodies responsible for reporting corrupt practices including the Permanent Commission Against Corruption, the Ombudsman, the Commissioner for Standards of Public Life, and the Auditor General. This allows them to seek judicial review in cases referred by them to the Attorney General in the same manner as the injured party.</p> <p>The second part of the reform will assess, through an independent review (milestone 6.23 (Q2 2024)), the effectiveness of the legal provisions of Act No. XLI with a view to widening the Act's scope. The review will assess whether the "injured parties" mentioned in Act XLI of 2020, notably the Permanent Commission Against Corruption, the Ombudsman, the Commissioner for Standards in Public Life and the Auditor General, should also be able to seek judicial review of all cases, not just those cases reported by the parties concerned, as well as for those cases where no prosecution was taken within a reasonable time. The completion of this review is set to pave the way for legislative amendments to be introduced in line with recommendations stemming from the review (milestone 6.24 (Q1 2026)).</p>	
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) Copies (both in English and Maltese) of <b>Act No. XLI of 2020</b>, the Judicial Review (Decisions not to Prosecute and Other Decisions of the Prosecution) Act, 2020, and links to the websites where they can be accessed: (<a href="https://legislation.mt/eli/act/2020/41/eng">https://legislation.mt/eli/act/2020/41/eng</a>) and (<a href="https://legislation.mt/eli/act/2020/41/mlt">https://legislation.mt/eli/act/2020/41/mlt</a>)</li> <li>iii) Copy of the <b>notification</b> in Government Gazette No. 20,456 published on 7 August 2020 and a link to the website where it can be accessed (<a href="https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2020/08/Government%20Gazette%20-%207th%20August.pdf">https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2020/08/Government%20Gazette%20-%207th%20August.pdf</a>), notifying that Act No. XLI of 2020 was published in the Supplement to that Government Gazette.</li> <li>iv) Copies (both in English and Maltese) of <b>Legal Notice 377 of 2020</b>, Judicial Review (Decisions not to Prosecute and Other Decisions of the Prosecution) Act, 2020 (Act XLI of 2020) Commencement Notice and links to the websites where they can be accessed: (<a href="https://legislation.mt/eli/ln/2020/377/eng">https://legislation.mt/eli/ln/2020/377/eng</a>) and</li> </ul>	

<https://legislation.mt/eli/ln/2020/377/mlt>.

- v) Copy of the **notification** in Government Gazette No. 20,494 published on 6 October 2020 and a link to the website where it can be accessed (<https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2020/10/Government%20Gazette%20-%206th%20October%202020.pdf>), notifying that Legal Notice 377 of 2020 was published in the Supplement to the Government Gazette No. 20,490 of 30 September 2020.
- vi) Copy of the **amended Constitution of Malta** (Chapter 0 of the Laws of Malta) and a link to the website where it can be accessed (<https://legislation.mt/eli/const/eng>).
- vii) Copy of **amended Criminal Code** (Chapter 9 of the Laws of Malta) and a link to the website where it can be accessed (<https://legislation.mt/eli/cap/9/eng>).
- viii) Copy of **amended Code of Organisation and Civil Procedure** (Chapter 12 of the Laws of Malta) and a link to the website where it can be accessed (<https://legislation.mt/eli/cap/12/eng>).

**Analysis:**

Act No. XLI of 2020 was published in the Supplement to the Government Gazette of Malta No. 20,456 on 7 August 2020 and entered into force on 1 October 2020 through Legal Notice 377 of 2020 (which was published in the Supplement to the Government Gazette on 30 September 2020).

Act No. XLI of 2020:

- Amends Article 91(3) of the Constitution of Malta through its Article 3;
- Adds Article 541(4) and substitutes 569(6) of the Criminal Code through its Articles 5 and 6;
- Adds article 469B to the Code of Organisation and Civil Procedure through its Article 8.

In line with the requirements of the Council Implementing Decision, Act No. XLI of 2020 provides for:

- i) A judicial review of decisions of the Attorney General not to prosecute on the ground of illegality or unreasonableness through the introduction of: Article 3 of Act No. XLI of 2020 which amends Article 91(3)(a) of the Constitution of Malta, to read as follows: *“the Attorney General shall have Constitutional independence and shall not be subject to the direction or control of any other person or authority except insofar as a law may provide: (a) for the judicial review of a decision not to prosecute or of any other decision taken by the Attorney General, on the grounds of illegality or unreasonableness”*.
- ii) Act No. XLI of 2020 introduces changes to the Criminal Code (through Article 5) and to the Code of Organisation and Civil Procedure (through Article 8) to allow for the Permanent Commission Against Corruption, the Ombudsman, the Commissioner for Standards in Public Life and the Auditor General to be given the status of injured party at law for cases referred by them to the Attorney General.:
- iii) Article 5 of Act No. XLI of 2020 adds a new sub-article 541(4) to the Criminal Code, which provides for any injured party to request the Attorney General to reconsider the decision not to prosecute a criminal action within a month of becoming aware of the Attorney General's decision. This new sub-article also accords the Auditor General, the Commissioner for Standards in Public Life, the Permanent Commission Against Corruption and the Ombudsman the status of injured party for any corrupt practice reported by them as defined in the Permanent Commission Against Corruption Act.
- iv) Article 8 of Act No. XLI of 2020 adds a new Article 469B to the Code of Organisation and Civil Procedure that allows the courts of justice and civil jurisdiction to enquire a decision taken by the Attorney General not to prosecute and to send the matter back to the Attorney

General for review. An action for judicial review may only be filed by the injured party within two months of becoming aware of the decision not to prosecute. By virtue of this article, the Auditor General, the Commissioner for Standards in Public Life, the Permanent Commission Against Corruption and the Ombudsman have been given the status of injured party for corrupt practices reported by them as defined in the Permanent Commission Against Corruption Act.

**Commission Preliminary Assessment:** Satisfactorily fulfilled

<b>Number:</b> 6.30	Related Measure: (6.30) C6.R.10 Specific Transfer Pricing Legislation
<b>Name of the Milestone:</b> Entry into force of the relevant enabling provision for the introduction of transfer pricing rules	
<b>Qualitative Indicator:</b> Entry into force of the relevant enabling provision for the introduction of transfer pricing rules	<b>Time:</b> Q2 2021
<p><b>Context:</b></p> <p>This reform aims to prevent the loss of public revenues through international tax arbitrage.</p> <p>This milestone is the initial step of the reform and requires the entry into force of the relevant legal provision enabling the introduction of transfer pricing in Malta's legislative framework. This will be followed by a series of milestones. A consultation process will take place (milestone 6.31 (Q2 2022)) before specific rules on transfer pricing relating to the arms-length principle and advanced pricing agreements will enter into force (milestone 6.32 (Q4 2022)). Training of involved parties (such as tax administration staff and private tax practitioners and company representatives) will also be carried out (milestone 6.33 (Q2 2023) and milestone 6.34 (Q4 2023)).</p>	
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) Copies (both in English and Maltese) of <b>Act No. XVIII of 2021</b>, the Budget Measures Implementation Act and links to the websites where they can be accessed: <a href="https://legislation.mt/eli/act/2021/18/eng">https://legislation.mt/eli/act/2021/18/eng</a> and <a href="https://legislation.mt/eli/act/2021/18/mlt">https://legislation.mt/eli/act/2021/18/mlt</a>.</li> <li>iii) Copy of the <b>notification</b> in Government Gazette No. 20,609 of 16 April 2021 and a link to the website where it can be accessed <a href="https://govcms.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/04/Government%20Gazette%20-%2016th%20April.pdf">https://govcms.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/04/Government%20Gazette%20-%2016th%20April.pdf</a>, notifying that Act No. XVIII of 2021 was published in the Supplement to that Government Gazette.</li> <li>iv) Copy of the <b>amended Income Tax Act</b> (Chapter 123 of the Laws of Malta) and a link to the website where it can be accessed (<a href="https://legislation.mt/eli/cap/123/eng">https://legislation.mt/eli/cap/123/eng</a>).</li> </ul>	
<p><b>Analysis:</b></p> <p>Act No. XVIII of 2021 was published in the Supplement to the Government Gazette No. 20,609 on 16 April 2021. The date of entry into force of Act No. XVIII of 2021 corresponds to that date of publication by virtue of the provisions of Article 72 of the Constitution of Malta, Chapter 0 of the Laws of Malta, and Articles 5 and 16 of the Interpretation Act, Chapter 249 of the Laws of Malta, which provide that the entry into force of a legal act takes place at the moment of the publication in the Government Gazette if not stipulated otherwise.</p> <p>In line with the requirements of the Council Implementing Decision, Act No. XVIII of 2021 amended the Income Tax Act by introducing a new Article 51A containing the relevant provision enabling the introduction of transfer pricing rules, notably by allowing the Ministry responsible for finance to make rules in relation to transfer pricing. Specifically, Article 19 of Act No. XVIII of 2021 states that <i>"Immediately after article 51 of the principal Act there shall be added the following new article: 51A. The Minister responsible for finance may make rules in relation to transfer pricing generally and may, in particular by such rules, provide for the determination of the arm's length pricing of a transaction or a series of transactions, any adjustments in relation thereto and advance pricing agreements."</i></p>	

**Commission Preliminary Assessment:** Satisfactorily fulfilled



<b>Number:</b> 6.38	Related Measure: (6.38) C6.I.1 Digitalisation in the justice system	
<b>Name of the Milestone:</b> Entry into force of (i) Act No. LIII of 2020 (Amendment No. 4); and (ii) Act No. III of 2021 (Amendment No. 2) on digitalisation of the law courts.		
<b>Qualitative Indicator:</b> Entry into force of (i) Act No. LIII of 2020 (Amendment No. 4) and (ii) Act No. III of 2021 (Amendment No. 2) on digitalisation of Law Courts		<b>Time:</b> Q1 2021
<p><b>Context:</b></p> <p>The objective of this measure is to achieve a more efficient administration of justice. The investment aims to implement secure digital solutions and tools to support justice sector users by simplifying processes, increasing the accessibility to justice (in terms of documentation but also remote testimony), and strengthening the efficiency of the justice system in line with the Digital Justice Strategy. The primary stakeholders are the Law Courts, Malta Police Force, State Advocate, Attorney General, Legal Aid and Asset Recovery Bureau.</p> <p>This milestone is the first of three milestones and targets for this investment and relates to the entry into force of the legal acts that are necessary for civil proceedings to be held via live video conferencing facilities and for criminal judicial acts to be filed electronically.</p> <p>The other two milestones and targets cover specifically the mid-term (target 6.39 (Q4 2023)) and full-term (milestone 6.40 (Q2 2026)) implementation of the IT tools and systems planned by this investment.</p>		
<p><b>Evidence provided:</b></p> <p>In line with the verification mechanism set out in the Operational Arrangements, the following evidence was provided:</p> <ul style="list-style-type: none"> <li>i) <b>Summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactorily fulfilled.</li> <li>ii) Copies (both in English and Maltese) of <b>Act No. LIII of 2020</b>, the Code of Organization and Civil Procedure (Amendment no.2) Act, and links to the websites where they can be accessed: (<a href="https://legislation.mt/eli/act/2020/53/eng">https://legislation.mt/eli/act/2020/53/eng</a>) and (<a href="https://legislation.mt/eli/act/2020/53/mlt">https://legislation.mt/eli/act/2020/53/mlt</a>).</li> <li>iii) Copy of the <b>notification</b> in Government Gazette No. 20,521 of 13 November 2020 and a link to the website where it can be accessed (<a href="https://govcms.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2020/11/Government%20Gazette%20-%2013th%20November.pdf">https://govcms.gov.mt/en/Government/DOI/Government Gazette/Documents/2020/11/Government Gazette - 13th November.pdf</a>), notifying that Act No. LIII of 2020 was published in the Supplement to that Government Gazette.</li> <li>iv) Copies (both in English and Maltese) of <b>Act No. III of 2021</b>, the Criminal Code (Amendment No.2) Act and links to the websites where they can be accessed:(<a href="https://legislation.mt/eli/act/2021/3/eng">https://legislation.mt/eli/act/2021/3/eng</a>) and (<a href="https://legislation.mt/eli/act/2021/3/mlt">https://legislation.mt/eli/act/2021/3/mlt</a>).</li> <li>v) Copy of the <b>notification</b> in Government Gazette No. 20,565 published of 2 February 2021 and a link to the website where it can be accessed (<a href="https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/02/Government%20Gazette%20-%202nd%20February.pdf">https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/02/Government%20Gazette%20-%202nd%20February.pdf</a>), notifying that Act No. III of 2021 was published in the Supplement to that Government Gazette.</li> <li>vi) Copy of the <b>amended Code of Organisation and Civil Procedure</b> (Chapter 12 of the Laws of Malta) and a link to the website where it can be accessed</li> </ul>		

(<https://legislation.mt/eli/cap/12/eng>).

- vii) Copy of the **amended Criminal Code** (Chapter 9 of the Laws of Malta) and a link to the website where it can be accessed (<https://legislation.mt/eli/cap/9/eng>).
- viii) Copies (both in English and Maltese) of **Legal Notice 80 of 2021**, Criminal Procedure (Regulation of Registries, Archives and Functions of Director General (Courts) and Other Court Executive Officers (Amendment) Regulations, 2021 and link to the websites where they can be accessed: (<https://legislation.mt/eli/ln/2021/80/eng>) and (<https://legislation.mt/eli/ln/2021/80/mlt>).
- ix) Copy of the **notification** in Government Gazette No. 20,590 of 16 March 2021 and a link to the website where it can be accessed (<https://govcms.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/03/Government%20Gazette%20-%2016th%20March.pdf>), notifying that Legal Notice 80 of 2021 was published in the Supplement to the Government Gazette No. 20,585 of 9 March 2021.
- x) Copy of **amended Subsidiary Legislation 9.09**, Criminal Procedure (Regulation of Registries, Archives and Functions of Director General (Courts) and Other Court Executive Officers) Regulations, and a link to the website where it can be accessed (<https://legislation.mt/eli/sl/9.9/eng/pdf>).

#### Analysis:

- i) Act No. LIII of 2020 was published in the Supplement to the Government Gazette No. 20,521 on 13 November 2020. The date of entry into force of Act No. LIII of 2020 corresponds to that date of publication by virtue of the provisions of Article 72 of the Constitution of Malta, Chapter 0 of the Laws of Malta, and Articles 5 and 16 of the Interpretation Act, Chapter 249 of the Laws of Malta, which provide that the entry into force of a legal act takes place at the moment of the publication in the Government Gazette if not stipulated otherwise.

Article 2 of Act No. LIII of 2020 adds a new article (Article 199A) to the Code of Organization and Civil Procedure that makes it possible for civil proceedings to enable “*presence through live video conferencing link*”. Article 199A(1) establishes that the court, on application of one of the parties or of its own motion, may allow any party or witness to provide testimony in a remote location, that is, in a location other than the court itself, and that this person is to be treated as being present in the court.

The same Article 2 of Act No. LIII of 2020 introduces the new Article 199A(2) of the Code of Organization and Civil Procedure, specifying the reasons for which the court can decide not to allow the holding of sittings by video conferencing link, namely:

- (a) it is not satisfied with the facilities available to the person(s) in the remote location;
- (b) it feels that this procedure would be unfair to any of the parties involved, or
- (c) it feels that it would be contrary to the interests of justice to do so.

Article 199A(3) also provides that, if for any of these reasons the court decides not to allow the holding of sittings by video conferencing link, it will give its reasons for the refusal.

- ii) Act No. III of 2021 was published in the Supplement to the Government Gazette No. 20,565 on 2 February 2021. The date of entry into force of Act No. III of 2021 corresponds to that date of publication by virtue of the provisions of Article 72 of the Constitution of Malta, Chapter 0 of the Laws of Malta, and Articles 5 and 16 of the Interpretation Act, Chapter 249 of the Laws of Malta, which provide that the entry into force of a legal act takes place at the moment of the publication in the Government Gazette if not stipulated otherwise.

Article 2 of Act No. III of 2021 added a new Article 701 to the Criminal Code that made possible, under Article 701(a), the filing of criminal judicial acts by electronic means. In addition, Article 701(b) of the Criminal Code now allows for criminal judicial acts, court proceedings, documentation, and notifications to be transmitted and notified by electronic means. Article 701 of the Criminal Code also provides that “*the Minister responsible for justice may make regulations*” providing for the filing of the criminal judicial acts by electronic means. Essentially, this article introduced an enabling provision allowing the Minister to issue regulations for filing judicial acts electronically. In exercising these powers conferred by the new Article 701 of the Criminal Code, the Minister responsible for justice issued Legal Notice 80 of 2021 amending Subsidiary Legislation 9.09. Legal Notice 80 of 2021 was published in the Supplement to the Government Gazette No. 20,585 of 9 March 2021 and entered into force on the same date by virtue of the provisions of Article 72 of the Constitution of Malta, Chapter 0 of the Laws of Malta, and Articles 5 and 16 of the Interpretation Act, Chapter 249 of the Laws of Malta, which provide that the entry into force of a legal act takes place at the moment of the publication in the Government Gazette if not stipulated otherwise. It was notified as published in a subsequent Government Gazette of Malta edition, notably No. 20,590 on 16 March 2021.

Articles 3A and 3B together with Schedule 3A of Subsidiary Legislation 9.09 further specified which acts can be filed online. These include the following:

Courts	Judicial Acts
Court of Magistrates (Malta) as a Court of Criminal Jurisdiction Court of Magistrates (Gozo) as a Court of Criminal Jurisdiction	Applications Replies Notes Notes of submissions
Court of Magistrates (Malta) as a Court of Criminal Inquiry Court of Magistrates (Gozo) as a Court of Criminal Inquiry	Applications Replies Notes Notes of submissions Extensions
Criminal Court	Applications Replies Note of pleas Notes of submissions Indictments
Court of Criminal Appeal (Inferior Jurisdiction)	Appeal applications Applications Replies Notes Notes of Submissions
Court of Criminal Appeal (Superior Jurisdiction)	Appeal applications Applications Replies Notes Notes of Submissions

**Commission Preliminary Assessment:** Satisfactorily fulfilled