

RULE OF LAW

MALTA'S INPUT TO THE 2022
ANNUAL RULE OF LAW
REPORT

January 2022



GOVERNMENT OF MALTA
MINISTRY FOR FOREIGN
AND EUROPEAN AFFAIRS
EU COORDINATION DEPARTMENT

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Introduction

As set out in the European Commission’s Communication titled *Strengthening the rule of law within the Union – A blueprint for action* adopted in July 2019, ‘standing up for our fundamental values is a shared responsibility of all EU institutions and all Member States, and all should play their part’.

The Government of Malta expressed its support for a Rule of Law Mechanism as a preventive tool which should be efficient, objective, impartial and evidence based. Apart from the national input, bilateral meetings and country visits, the Government continues to keep the Commission and the European Parliament regularly updated on key developments.

The implementation of the reforms carried out since the beginning of this EU process continues to yield results in proving the strengthened effectiveness and governance of Malta’s institutions. Going forward, Rule of Law and Governance remain a top Government priority. The European Commission and the Venice Commission are amongst the key stakeholders which had a crucial supportive role in this success.

Before delving into the details of Malta’s contribution, it is pertinent to explain the starting point of this contribution. The national input takes off from where it left in March 2021 and seeks to provide the very latest updates. Therefore, every effort has been made to avoid repeating developments which took place during the first and second quarters of 2021.

Abstract

The reforms addressing institutional capacity and efficiency of the judiciary, anti-corruption, and anti-money laundering in the Recovery and Resilience Plan (RRP) set the scene for the most significant developments in 2021 in relation to two of the four pillars of the Rule of Law mechanism.

Some of the reforms have already been implemented; others, such as the new National Digital Justice Strategy was launched in December 2021, are still work in progress. Work on this Strategy is both backward and forward looking. Its launch was the culmination of 18 months of work supported by EU-funded expertise. As a Strategy, it also offers a forward-looking perspective for the period up to 2027. Other reforms in the Recovery and Resilience Plan which offer a similar perspective, include the continued gradual taking over of prosecution responsibility of serious crime by the Office of the Attorney General; the reinforcement of the institutional framework capacity to fight against corruption as foreseen in the National Anti-Fraud and Corruption Strategy (NAFCS), and the commitment undertaken for an independent review to assess the independence of the specialised tribunals. The implementation of reforms is having an impact in building a positive track record in terms of prosecution. The prosecution statistics for the period covering April 2021 (that is, following the data submitted in the 2021 national input) till the end of the judicial year in September 2021 represent a 25% increase in the prosecution of money laundering as a stand-alone crime and 70% increase when accompanied by another offence.

In relation to the Media Chapter, the most notable development was the presentation of the report by the Board of Inquiry into the assassination of Daphne Caruana Galizia published on 29 July 2021. The recommendations encompass measures requiring immediate action as well as measures that necessitate more time including the requirement of the setting up of a group of independent experts tasked to look into and develop further the thinking on the other reforms. The Committee of Experts on Media has been set up and has already commenced its work for the consolidation of ideas for future action. One may recall that the Government immediately and publicly recognised the need for reforms considering the respective recommendations contained in the Report. The Government is giving importance to both substance and process, while considering expert advice, and the need for ownership by the relevant stakeholders. The Malta Police Force has already put in place ‘Standard Operating Procedures (SOPs) for providing adequate and timely protection to Journalists, Media Actors and Public Figures at risk of physical violence’. The said Committee of Experts will review key legislative amendments submitted by the Government.

Regarding the last chapter, emphasis must be made on the efforts and the track record of the Public Service when it comes to accountability, which is one of the three guiding principles set out in the new 5-year plan launched on 4 November 2021. As reported in the Governance Action on Public Accounts 2019 and other NAO reports 2020, published on 28 October 2021, 90% of recommendations by the NAO have been implemented by the Public Service. This is an improvement from previous years (80% in 2019 and 78% in 2018). Moreover, as indicated in the ‘Governance Action on the Parliamentary Ombudsman’s Annual Report 2020’ publication, adopted in December 2021, almost 97.5% of the 329 cases the Public Service received from the Ombudsman in 2020 are closed, with only six (2.5%) of the recommendations being rejected or could not be implemented.

In addition, August 2021 marked the launch of a number of multi-faceted reforms within the voluntary organisations sector, both in terms of changes within the Office of the Commissioner for Voluntary Organisations, legal amendments which regulate the sector that were backed by stakeholders, as well as the creation of an environment more conducive to a more inclusive dialogue and outreach within the sector. The consultation process for a wider reform within the sector, known as the ‘VO Plus’ Convention, was launched in December 2021 under the patronage of the President of the Republic.

I. Justice System

I.I Independence

Significant developments

It is worth mentioning that a component of the Recovery and Resilience Plan (RRP) for Malta approved in October 2021 is targeted towards a number of institutional and governance challenges. The objective is to improve the capacity and governance of the justice system, reinforce the institutional framework to fight against corruption, strengthen the anti-money laundering regime and target aggressive tax planning. Several elements of this component have already been implemented in 2020 and early 2021 as part of the implementation of recommendations by international institutions such as the Venice Commission, Moneyval and the Group of States against Corruption (GRECO)

1. Appointment and selection of judges,¹ prosecutors, and courts presidents (including judicial review)

Judicial appointments, including the Chief Justice

The procedure introduced through Acts XLV and XLIII of 2020 has been put into effect for the appointment of four Judges and four Magistrates in 2021. These Acts provide for:

- the appointment of the Chief Justice with the approval of two-thirds of all Members of the House of Representatives while also changing the composition of the Judicial Appointments Committee (JAC) so that more than half of its members are members of the judiciary;
- vacancies in the judiciary are filled after a public call for expressions of interest and through a competitive process organised by the JAC.

Following the main amendments enacted through ACT XLI of 2020, there were no further changes to the respective legislation in terms of judicial review during 2021.

It is pertinent to note that Case 234/2021 – *Mallia Anna Avukat Dr vs Il-Kumitat dwar il-Hatriet tal-Gudikatura et*, whereby a lawyer is challenging the selection procedure adopted by the JAC, is pending before the First Hall of the Civil Court (Constitutional jurisdiction). In a preliminary judgment, the Court has held that even though the plaintiff wasn't one of the applicants for the judicial posts she had legal standing to file the case.

Prosecution

As outlined in the national input submitted in March 2021, the transfer of prosecutions of the more serious crimes before the Court of Magistrates from the Malta Police Force (MPF) to the Office of the Attorney General has been following a phased transition. It began in October 2020 and shall be fully completed in 2025 through close collaboration between the MPF and the Office of the Attorney General and the establishment of Standard Operating Procedures between the two entities. By 2025, the prosecution of all offences shall be transferred to the Office of the Attorney General in a phased approach. This phased approach will see the Office of the Attorney General taking over additional cases every 1st October of each year with the last transfer envisaged for 1 October 2025.

In order to ensure the smooth transition of the prosecutorial function, amendments were introduced through Act No. XXVIII of 2021 - Criminal Code (Amendment No. 5) Act which was published and entered into force on 4 June 2021. This Act further clarifies the fact that the Attorney General may, along with the Executive Police, prosecute before the Court of Magistrates, apart from being

¹ The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts.

competent to prosecute before the Criminal Court. It also details proceedings by the Attorney General and the Executive Police *ex officio* before the Court of Magistrates as a Court of criminal judicature.

Following up on the national input submitted in 2021, as indicated above, it is good to note that Bill No. 195 has now become Act No. XXVIII of 2021 entitled Criminal Code (Amendment No.5) Act, which entered into force on 4 June 2021. It provides for the necessary changes to be made to the Criminal Code in order to provide more legal clarity following the taking over of prosecutions of the more serious offences before the Court of Magistrates by the Attorney General. This is also a milestone included in the RRP.

This major reform (prosecutions before the inferior courts by the Office of the Attorney General) is complemented by the recruitment of additional prosecutors as well as the training of new prosecutors and continuous training for all prosecutors within the Office of the Attorney General. This recruitment seeks to ensure that the Office of the Attorney General has the additional staff required to take on the increased workload at the Office of the Attorney General. During 2021, eight (8) new prosecutors were recruited so that the Office of the Attorney General is now composed of thirty-seven (37) prosecutors; an increase of almost 28%.

The second phase of the transitory period was carried through the publication of the Prosecution of Offences (Transitory Provisions) (Amendment) Regulations (Legal Notice 367 of 2021) whereby with effect from 1 October 2021 the Office of the Attorney General became empowered to take the decision to prosecute and started to prosecute in front of the inferior courts the following offences:

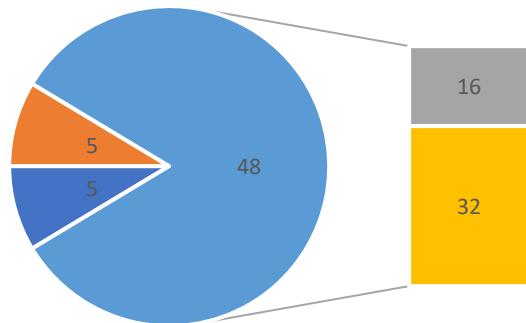
- (a) trafficking of persons under sub-title VIII Bis of Title VIII of Part II of Book First of the Criminal Code;
- (b) piracy under sub-title IVB of Title IX of Part II of Book First of the Criminal Code;
- (c) rape, abduction, defilement of minors and instigation, encouragement or facilitation of defilement of minors under sub-title II of Title VII of Part II of Book First of the Criminal Code;
- (d) causing or permitting an elderly or a dependent adult to suffer under circumstances likely to produce bodily harm or death; grievous bodily harm followed by death; offences relating to crimes against property and public safety under sub-title XI of Title VIII of Part II of Book First of the Criminal Code;
- (e) computer misuse under sub-title V of Title IX of Part II of Book First of the Criminal Code;
- (f) wilful damage or destruction of cultural property under article 70 of the Cultural Heritage Act;
- (g) endangering safety at airports under article 8 of the Airports and Civil Aviation (Security) Act;
- (h) attempts or conspiracy to commit or complicity in the offences mentioned in paragraphs (a), (b), (c), (d), (e), (f) and (g).

Relevant statistical information in relation to prosecution by the Office of the Attorney General (1 October 2020 – 30 September 2021)

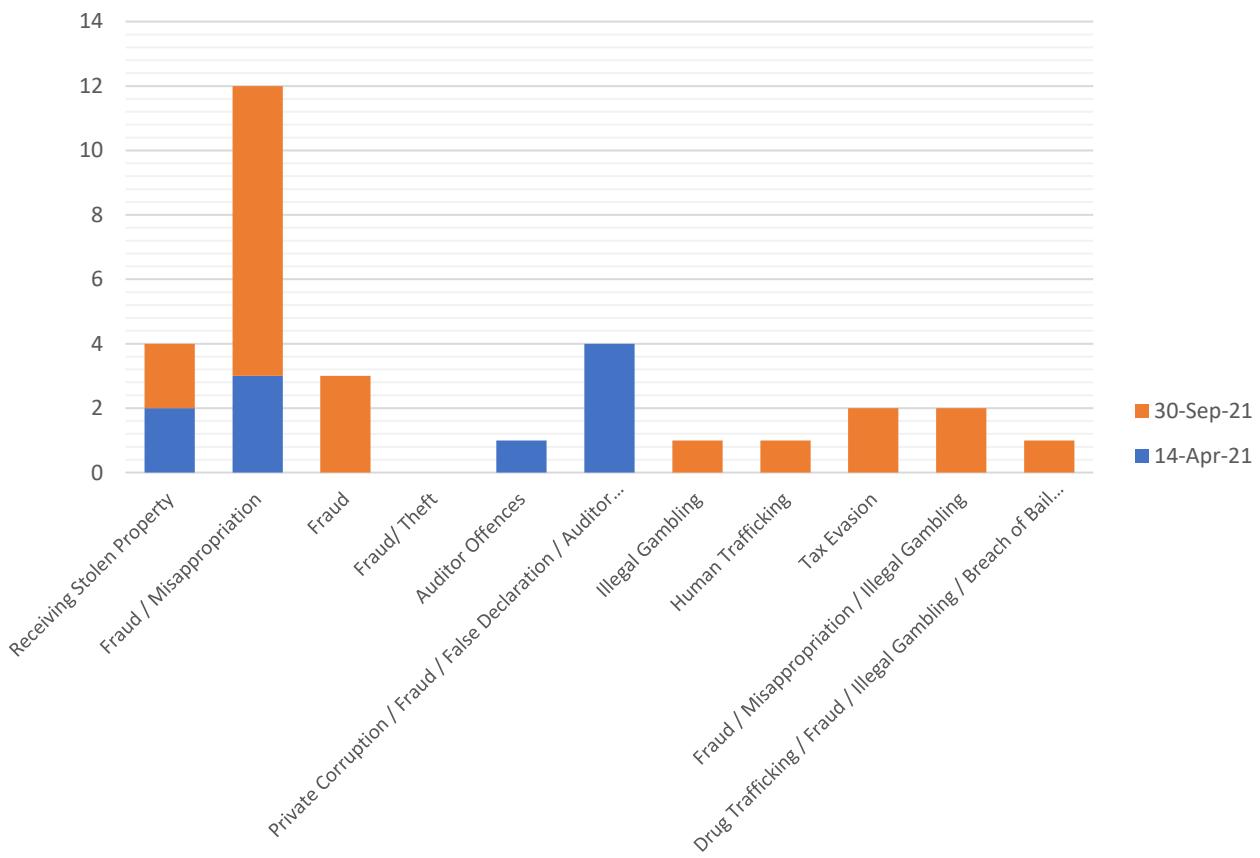
From 1 October 2020 to 30 September 2021 there have been a total of 59 prosecutions initiated by the Office of the Attorney General. The below figures provide more detailed statistics with some comparisons to the latest figures that were provided in April 2021. The period covered (1 October 2020 – 30 September 2021) corresponds to the latest forensic year. The statistics, albeit this being only the very initial phase, clearly show that reforms are already having an impact.

Prosecutions from 1 October 2020 to 30 September 2021

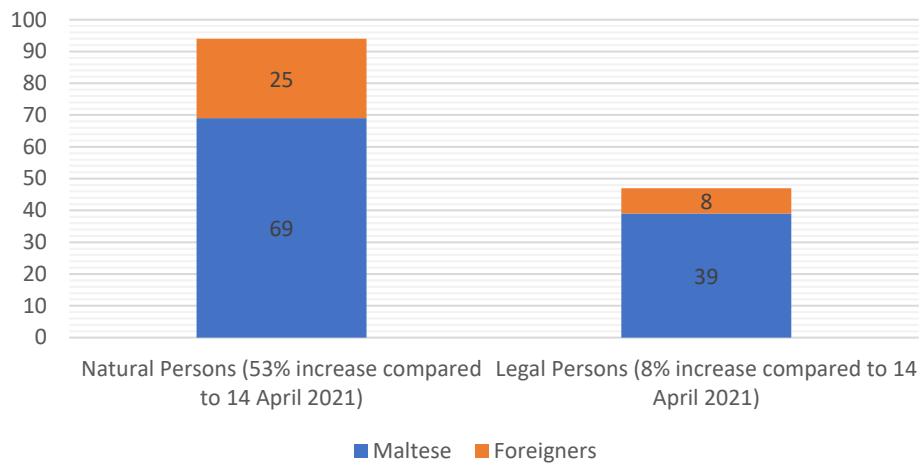
- Homicide (40% increase since 14 April 2021)
- Attempted homicide (40% increase since 14 April 2021)
- Money laundering (stand alone) (25% increase since 14 April 2021)
- Money laundering (accompanied by another offence) (70% increase since 14 April 2021)



Accompanying offences to the money laundering cases from 1 October 2020 - 30 September 2021



**Number of natural and legal persons involved in
these prosecutions from
1 October 2020 - 30 September 2021**



Other: Specialised tribunals

The method of appointment and governance of specialised tribunals differs from that of the ordinary judiciary.

In accordance with one of the milestones provided in Malta's RRP, a review of the independence of specialised tribunals shall be carried out in cooperation with the Council of Europe's Venice Commission. The report shall include:

- I. an assessment of the guarantees of independence for the appointment of members of specialised tribunals.
- II. an assessment of the guarantees which provide for the tribunals' decisions to be fully reviewed by the ordinary courts of appeal.
- III. concrete and precise policy recommendations.

Legislative amendments shall be introduced in line with the study's recommendations and taking due account of the 2018 opinion of the Council of Europe's Venice Commission on Malta.

In 2024, an independent contractor shall be engaged through public procurement procedures, in order to assess the independence of the specialised tribunals at national level. This assessment shall be carried out in communication with the Council of Europe's Venice Commission. This reform shall be implemented by 31 March 2026.

2. Irremovability of judges, including transfers (including as part of the judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (including judicial review)

Transfers

There are no updates to report during this period. The system on subrogation of judges and magistrates and to the assignment of duties of judges and magistrates remains regulated by Article 101A(13) of the Constitution as amended by Act No. XLV of 2020 – Various Laws (Removal from Office) (Amendment) Act (published on 7 August 2020) and as per the respective articles within the Code of Organisation and Civil Procedure. It is also to be noted that the strengthening of the

independence of the judiciary is also reflected in the composition of the Commission for the Administration of Justice which as from August 2020 is composed of a clear majority of members of the judiciary.

Dismissal

There are no updates to report since the unanimous approval by the House of Representatives on Act No. XLV of 2020 – Various Laws (Removal from Office) (Amendment) Act (published on 7 August 2020) which revised the composition of the Commission for the Administration of Justice to ensure that the removal of members of the judiciary is made by a body which is not political, and to provide for an appeal before the Constitutional Court from decisions of the Commission for the Administration of Justice.

Retirement

No significant development since the last report since Act No. LV of 2020 entitled an Act to further amend the Constitution relative to the age of retirement of judges and magistrates which was published on 17 November 2020.

Judicial Review

There were no changes to the respective legislation in terms of judicial review during 2021.

3. Promotion of judges and prosecutors (including judicial review)

Judiciary: There are no developments to report further to Malta's 2021 national input. It is pertinent to recall that the members of the judiciary in Malta are not promoted but rather appointed to a post. Both the Senior Administrative Judge and the Senior Magistrate continue to be so designated by the Chief Justice on the basis of seniority. The Chief Justice also continues to designate the Presidents of chambers or sections of a court.

Prosecutors: Once a vacancy occurs at the Office of the Attorney General, a public call is issued and a Selection Board is appointed tasked with interviewing the candidates. A ranking is published. In so far as internal progression / promotion of prosecutors is concerned, internal calls are issued for prosecutors to progress from one grade to the next. There is an Agency agreement with Government which defines the eligibility requirements for prosecutors in different grades. Currently, negotiations are underway in order for a new collective agreement to be entered into with the union representing the prosecutors which will also revisit conditions.

Judicial Review

There were no changes to the respective legislation in terms of judicial review during 2021.

4. Allocation of cases in courts

There are no significant developments to report. The assignment of cases to the judiciary remains regulated by Article 11(3) of the Code of Organisation and Civil Procedure. The registrar assigns cases as directed by the Chief Justice.

5. Independence (including composition and nomination and dismissal of its members) and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

Please refer to related information under Section 1.

6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal / civil (where applicable) liability of judges (including Judicial review)

Judiciary

There are no significant developments to report; the role of Parliament was abolished from the procedure of dismissal of judges and magistrates. This in effect means that the Commission for the Administration of Justice would be in charge of judicial discipline including the removal of judges and magistrates, subject to a right of appeal to the Constitutional Court. In October 2020, the Venice Commission acknowledged that this appears to be in line with existing standards.²

Moreover, it is good to note that there is no law which grants members of the judiciary immunity from criminal or civil liability. Any person who commits an offence in Malta, or on the sea in any place within the territorial jurisdiction of Malta, including a member of the Bench is, in line with Article 5 of the Criminal Code (Chapter 9), subject to criminal liability.

Prosecution

There are no significant developments to report. The Prosecution remains bound by the recently adopted Code of Ethics for Advocates and Legal Procurators at the Office of the Attorney General as published in the [Government Gazette on 27 December 2019](#). It is also pertinent to point out that, like any other warranted lawyer, the prosecutors at the Office of the Attorney General are also subject to the Code of Ethics applicable to lawyers in Malta.

As provided for in the Inquiries Act (Chapter 273) an appointed Board shall carry out any inquiry or inquiries into any of the following matters: (a) the conduct of public officers, or of officers or servants of a statutory body, or of anyone or more of such public officers or officers or servants; (b) the conduct or management of any department of Government or of any statutory body; (c) any matter falling within the functions or responsibility of any such department or body, or otherwise concerning or affecting a service of the government. In order to address the recommendation made by the Board of Inquiry in the case of the former junior public prosecutor (back in 2020), the Office of the Attorney General has revised the contracts of employment relative to new recruits that join the office in order to ensure that public prosecutors do not enter into any negotiations on their terms of retention as lawyers by a private client and to ensure that public prosecutors do not prior to tendering their resignation make any preparations to act on behalf of any private client. This contractual clause survives the termination of employment and also includes a penalty clause.

Once signed and put into effect, the collective agreement will also include a disciplinary regime that will be applicable to all public prosecutors and not just new ones.

Judicial Review

There were no changes to the respective legislation in terms of judicial review during 2021.

² Opinion on the Ten Acts and Bills implementing Legislative Proposals subject of Opinion (CDL-AD(2020)006), Adopted by the Venice Commission at its 124th Plenary Session (Online, 8-9 October 2020), Para 48, page 11

7. Remuneration / bonuses / rewards of judges and prosecutors, including changes (significant increase or decrease over the past year), transparency on the system and access to the information

Judiciary

In accordance with the recommendations contained in the Final Report of the Commission for the Holistic Reform of the Justice Sector, the salaries of the judiciary are kept at a very high level in relation to public service salaries. Apart from salaries, members of the judiciary also receive allowances during their tenure. In this respect, the salaries of the judiciary continued to be revised upwards in terms of Legal Notice 2 of 2022 - Judges and Magistrates (Revision of Salaries) Order, 2022, published on 7 January 2022, which was issued under the Judges and Magistrates (Salaries) Act (Chapter 175 of the Laws of Malta). Apart from the salaries, members of the judiciary also receive allowances.

Prosecution

Salaries in the prosecution service (the Office of the Attorney General) are also kept at a high level in relation to public service salaries. The same salary structure applies to the Office of the State Advocate who is the chief legal adviser to Government. A new collective agreement is currently under negotiation with the trade union representing prosecutors. The annual salaries of the Attorney General and the State Advocate have continued to be revised upwards in terms of Legal Notice 1 of 2022 - President of Malta and other Officers (Revision of Salaries) Order, 2022, published on 7 January 2022 which was issued under the President of Malta and other Officers (Salaries) Act (Chapter 186 of the Laws of Malta).

8. Independence/autonomy of the prosecution service

Please refer to the information under section 1 above.

9. Independence of the Bar (chamber/association of lawyers) and of lawyers

The Malta Chamber of Advocates remains a private self-regulated independent entity.

Act No. XIX of 2021 - Legal Profession (Reform) Act published on 20 April 2021, has the objective to address recommendations made by Moneyval relative to the regulation of the legal profession. The Act provides for revisions to a number of provisions such as those concerning causes of disqualification from the legal profession and the introduction of regulatory provisions relative to law firms. The Chamber of Advocates nominates a majority of members on the Committee for Advocates and Legal Procurators of the Commission for the Administration of Justice, which Committee is the official disciplinary body of the legal professions. As set out in the Constitution, the President of the Chamber of Advocates also sits *ex officio* on the Commission for the Administration of Justice and on the Judicial Appointments Committee. The Chamber of Advocates is regularly consulted by Government in matters affecting the legal professions.

10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

The implementation of reforms and the support of key stakeholders have an important bearing on the perception of the general public. Such reforms feature extensively in the news and contribute to raise awareness as well as expectations. The extension and digitalisation of the Courts of Malta (further information below) aid in improving the overall efficiency of the justice process thereby enhancing the perception of the public with respect to the judiciary and the justice system. Moreover, as explained further below, plans to strengthen the courts' efficiency would also affect the general public's perception for the better.

I.II Quality of Justice

Significant developments

11. Accessibility of courts / legal (e.g. court/legal fees, legal aid, language)

Court / legal Fees

Information on cost structure is summarised [here](#). There were no developments in this regard in 2021.

Legal Aid Malta Agency

On 9 April 2021, Legal Aid Malta in collaboration with the Malta Police Force signed a Memorandum of Understanding to establish the terms and conditions under which the Police and Legal Aid Lawyers are to assist the accused person before, during and after their arraignment and proceedings at the Courts of Justice.

During April – May 2021, Legal Aid Malta proceeded to restructure the administrative aspect of the Agency. During the same time, it also employed a Legal Procurator to hasten court processes relating to the provision of legal aid services both in civil and criminal matters. A manager was also employed to oversee that eligibility criteria and administrative matters, regulated by law, for civil and criminal legal aid services.

Moreover, during these months, Legal Aid Malta also embarked on a new project for the digitization of legal aid services. Following a call for tenders at the end of December 2020, in April 2021 the selected contractor presented its report on the auditing of the services presently provided by the Agency and its recommendations on the proposed digitization of legal aid services. This new project was announced as [per paragraph 8.3 of the Budget Speech for 2022](#) on the 11 October 2021. During the fourth quarter, the Legal Aid Malta Agency together with the Information Management Unit within the relevant Ministry (MFJG) worked extensively on the tender document for the digitization project in order to be able to publish it in the beginning of the year 2022.

As part of the continual restructuring process, a new director was appointed in August 2021, following an internal call.

On 9 September 2021, Legal Aid Malta signed a declaration of intent with Victim Support Agency (MHSE) to assist and cooperate with each other in support to victims of crime. This declaration enables a referral system between both entities to refer victims requesting services by the respective entities.

On 15 September 2021, Legal Aid Malta signed a Memorandum of Understanding with the Foundation for Social Welfare Services in order to delineate the provision of services by both entities relating to cross-border disputes in relation to maintenance obligations as per Council Regulation (EC) 4 of 2009 and the Hague Convention of 23 November 2007.

In November 2021, Legal Aid Malta proposed updating the net asset value for legal aid eligibility in order to enable more people a fairer, more reasonable means testing law which would reflect the current cost of living of poorer people in society. To this effect, [Bill 258 of 2022 \(Code of Organization & Civil Procedure \(Amendment No. 5\) Bill\)](#) was tabled in Parliament on 10 January 2022. The Government [announced](#) on 11 January 2022 that for a person to be eligible to benefit from Legal Aid the threshold of one's net assets will be increased from €7,000 to €13,000. This reform will have effect following the necessary legislative procedure.

Language

There were no significant developments in 2021.

12. Resources of the judiciary (human / financial / material)

Last year's report mentioned that the Judiciary was to be allocated a common room within the building to serve as a recreational area where it can meet and discuss issues informally. This common room was inaugurated on 1 October 2021 and has been used regularly ever since.

The recruitment of deputy registrars and clerical staff referred-to in the 2021 report is still ongoing. As stated in the 2021 national input, the objective is to increase the deputy registrars by around 14% and the clerks by around 28%.

Developments concerning the Family Court

The existing videoconferencing facilities make it possible for remote hearing of evidence. Moreover, an existing remote witness facility room, with a separate entrance is also available and is fully equipped to hear minors.

The concept of the "Children's House" established under the Minor Protection (Alternative Care) Act (Chapter 602 of the Laws of Malta) has been implemented by means of Legal Notice 467 of 2021 (Children's House Regulations). This concept of the Children's House in Malta was introduced with the aim of providing a child-friendly, safe and calm environment for children victims and, or witnesses of significant harm, to give their testimony and subsequently receive the necessary support to meet their best interests.

13. Training of justice professionals (including judges, prosecutors, lawyers, court staff)

Judicial Studies Committee (JSC)

The Judicial Studies Committee (JSC) is the body responsible for the ongoing training of the members of the judiciary and is composed of four (4) members, two appointed by the Chief Justice and two members appointed by the Minister responsible for justice. It acts under the general direction of the Chief Justice. For the first time, the Judicial Studies Committee has been allocated a specific budget of €50,000 for seminars. The funds are managed by the said committee. This amount will be revised yearly according to the Committee's needs.

Training and professionalisation for court staff

Training is organised from time to time for court staff. The Court Services Agency has once again allocated a yearly budget of €20,000 for the training of court staff. Training of court staff during 2021 included:

- customer care for staff members with direct/indirect contact with customers including:
 - o Overview of the various sections within the Courts;
 - o The provisions of Directive 4.1 regarding Standards for Service of Excellence;
 - o Data protection and Privacy;
 - o 'Once-only' principle. This principle is an e-government concept that aims to ensure that citizens, institutions, and companies only have to provide certain standard information to the authorities and administrations once.

- induction courses for recruited deputy registrars with regard to court procedure.

Moreover, the standard practice is for newly recruited Deputy Registrars to be assigned with an experienced Deputy Registrar as a mentorship experience during their first weeks of employment.

Prosecutors' office

Continuous training is provided for prosecutors at the Office of the Attorney General which covers a multitude of topics both with in-house and foreign trainers and speakers. To this end, a specific budget is allocated for training. Webinars organized by ERA (Academy of European Law) are attended by prosecutors and other webinars are being organised in collaboration with NCC³. Some examples of training provided included topics, such as, legal instruments (attachment orders, freezing orders and confiscation orders), an overview of the Proceeds of Crime Act, tax evasion as a predicate offence and AML principles in relation to taxation. These were delivered by the NCC. Briefing and debriefing sessions are also organized every fortnight.

Assistance by the World Bank in relation to the strengthening of the Office of the Attorney General and the Office of the State Advocate

As part of a Structural Reform Support Service Programme, which was launched in 2021, World Bank experts are assisting the Government in addressing specific reforms particularly with regard to the strengthening of the functioning of Office of the Attorney General and the Office of the State Advocate. This phase of reforms includes strengthening internal structures, enhancing administrative procedures and improving the organisation of the Offices.

The initial meetings kick-starting the project were held in June 2021. The project has an 18-month lifetime during which the World Bank experts will seek to identify and make recommendations for the overall improvement in the operational efficiency of both Offices and is due to be concluded by December 2022.

14. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)

Increase in fully digitalised court chambers

Since 2021, all court halls in both Malta and Gozo are fully equipped to provide for virtual / remote sittings. Projects are underway to continue upgrading the present system.

Launch of the Digital Justice Strategy for Malta 2022 - 2027

The public consultation process was concluded, and the feedback received was integrated into the first national Digital Justice Strategy for Malta 2022 – 2027 that was launched on 3 December 2021.

There is also a component in Malta's RRP specifically on the Digitalisation in the justice system. The objective of this measure is to achieve a more efficient administration of justice.

The investment aims to implement a number of secure digital solutions and tools to support justice sector users through collaboration and integration, increased accessibility to justice and strengthened efficiency, in line with the Digital Justice Strategy. The primary stakeholders are the

³ National Coordinating Committee on Combating Money Laundering and funding of Terrorism

Law Courts, Malta Police Force, State Advocate, Attorney General, Legal Aid and Asset Recovery Bureau.

In preparation for the investment outlay, legal acts on the digitalisation of the law courts have entered into force to make it possible for civil proceedings to be held via live video conferencing facilities and for criminal judicial acts to be filed electronically.

The investment shall consist of two parts (a) mapping and redesign of processes towards end-to-end digital processes, project management, legal and overall consultancy and cost-benefit analysis support - this covers the horizontal requirements to support the investment including supporting software as well as outsourcing services to guarantee that adequate resources, skills and expertise are ensured; and (b) a number of digital solutions for the justice system. The latter shall include: (i) digital case journey integration and interoperability solution, (ii) judicial portal with dashboards, (iii) Courts of Justice Agency: laptops for increased mobility of users, (iv) Courts of Justice Agency: virtual sittings solution, (v) Courts of Justice Agency: Wi-Fi, (vi) certificates of conducts through a National Criminal Records Information System, (vii) Department of Justice victim support platform integrations with national stakeholders, (viii) 'I Belong' e-learning centre (Human Rights Directorate), (ix) Attorney General and State Advocate case management systems, (x) legal aid case management system, (xi) freedom of information system, (xii) asset recovery system, (xiii) Notary to the Government termination of mandates solution, (xiv) integrated closed circuit television and security system with advanced features, (xv) conference and training rooms equipment and software, (xvi) experimentation and specialisation initiatives complimenting video-conferencing additional equipment and possible scanning related matters. The investment shall be implemented by 30 June 2026.

Submitting judicial acts electronically

A Press Release dated 16 December 2021, announced that the online filing system of judicial acts will be expanded to add two new categories in the Civil Court; that is the family section and the voluntary jurisdiction section. This amendment will be giving more flexibility to lawyers and legal procurators who are authorized to submit applications in the register of civil courts. These professionals will be able to do this from the comfort of their legal office without attending in person at the registry. They will also be able to pay online any fees due for the electronic submission of these applications.

Online Publication of Court Judgements

The Online Publication of Court Judgments (Data Protection) Conferment of Functions Regulation, 2021 (LN 456 of 2021), adopted on 30 November 2021 provide that "The Director General (Courts) shall, subject to the provisions of the Data Protection Act, have the function and power to determine whether a person has valid grounds to exercise the right of erasure of personal data in respect of the content of a court judgment published online on the website of the Court Services Agency." The Legal Notice also establishes the manner of exercise of the right of erasure and the discretion of the Director General (Courts). Furthermore, a set of Guidelines on the application of the Legal Notice was published on the website of the Courts.⁴

⁴ <https://ecourts.gov.mt/onlineservices/RightToBeForgotten>

15. Use of assessment tools and standards⁵

Act No. XXXII of 2021 - Justice Reform (Civil Procedure) Act was published on 18 June 2021 and addresses the recommendations relative to the Court of Appeal. More information on this Act can be found in the section entitled Length of proceedings.

16. Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation, in particular, specific courts or chambers within courts to deal with fraud and corruption cases

There were no developments in relation to the geographical distribution and to the ‘judicial map’, apart from the specialized Court as established by the Proceeds of Crime Act (Chapter 621 of the Laws of Malta). The Chief Justice assigned a particular Judge to this Court.

Some changes were made to the assignment of cases to judges and magistrates. Two magistrates were assigned cases of money laundering and a judge was assigned to hear money laundering cases in the appellate court.

⁵ (e.g. ICT systems for case management, court statistics, monitoring, evaluation, surveys)

I.III Efficiency of the justice system

Significant developments

17. Length of proceedings

As mentioned previously, as a result of the recommendations made by the 2019 SRSS project entitled ‘Enhancing the efficiency of justice in Malta’, a set of reforms addressing the compilation of evidence proceedings have been put together and presented to the authorities. The Bill will provide reforms in procedure that will ensure that the length of the compilation of evidence procedure is drastically shortened, and that the new process respects more fully the rights of victims and vulnerable persons who have to unwillingly go through the justice process. Currently, the Ministry is involved in discussions with stakeholders prior to presenting the Bill in Parliament.

Act No. XXXII of 2021 - Justice Reform (Civil Procedure) Act was published on 18 June 2021 and is another step in the wide-scale justice reform in view of the endeavour to strengthen the judicial system. Reference is made to the Third Chamber of the Court of Appeal which was referred to in the last report. Appeals from judgements and decrees of the Civil Court (Family Section), and appeals from judgements and decrees in causes for the eviction from immovable property and from decisions of the Land Arbitration Board, are to be assigned to the Third Chamber.

The Third Chamber differs from the other two Chambers of the Court of Appeal in that it is not presided by the Chief Justice but by another Judge who also sits on the Court of Appeal.

Since its first sitting which was on 22 November 2021, this Third Chamber terminated 186 cases. At present there are 83 pending cases.

There are 1208 applications (December 2021) pending before the three Chambers of the Court of Appeal when in 2018 (November) there were 1537 pending applications. Therefore, the setting up of the Third Chamber has been instrumental in tackling the backlog of pending applications before the Court of Appeal.

Other

Administrative penalties

On 29 March 2021, the Government requested an urgent Opinion of the Venice Commission on “a constitutional reform on the subject of the fair trial requirements in proceedings which may lead to the imposition of substantial administrative penalties and on the implications of judgments of the Maltese Constitutional Court (hereinafter CCM) with regard to Malta’s obligations under Article 53 of the European Convention on Human Rights”. The opinion was requested in relation to two alternative Bills:

- Bill No. 166 of 2020 proposing amendment to Article 39 of the Constitution of Malta; or, alternatively;
- Bill No. 198 of 2021 proposing amendments to the Interpretation Act, Chapter 249 of the Laws of Malta.

The Venice Commission adopted on 1 June 2021. Since then, the Government presented alternative amendments to Bill 166 of 2020 - Constitution of Malta (Amendment 4) in line with the said Opinion, which amendments were still deemed unacceptable to the Opposition. The Government remains committed to settle this recurring issue in order to ensure that its supervisory authorities have the necessary legal tools to impose proportionate, dissuasive and effective sanctions.

Role of the Commissioners for Justice

On 21 July 2021, the Minister for Justice and Governance announced that the Commissioners for Justice will start presiding over cases which are considered as minor offences, more specifically contraventions such as the disturbance of public peace, affecting other persons or others' property. The announcement was made in a [Press Release](#). Draft legislation is due to be tabled in Parliament. The decriminalization of such offences will lead to the classification of certain offences as administrative and non-criminal. This is another step to be taken to further enhance the efficiency of the justice system by allowing the Court of Magistrates to focus on the more serious criminal offences without burdening the system with petty offences.

II. Anti-corruption framework

II.I The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

Significant developments

Work has continued on the broad project which has been launched to address gaps and strengthen the institutional anti-corruption framework, including law enforcement and prosecution. The focus has been on achieving progress in relation to the 'Fifth Evaluation Round - Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies Evaluation Report'.

18. List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention, detection, investigation, and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources relevant) including the cooperation among domestic authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable).

The national authorities remain the same. The National Anti-Fraud and Corruption Strategy (NAFCS) adopted in May 2021 provides an overview, including in terms of cooperation with OLAF and the EPPO. Information on specific significant reforms is included below.

Permanent Commission Against Corruption

A number of reforms committed by Malta in its Recovery and Resilience Plan relate to the Permanent Commission Against Corruption (PCAC). The PCAC's organisational capacity is to be strengthened in the following ways:

1. The adoption of a three-year budget and human resources plan;
2. The creation of a digital registry of information of corruption cases;

The reform should be fully implemented by the end of 2024.

Malta Police Force

An Internal Audit Office (IAO) within the Malta Police Force has been set up and a new Internal Auditor has been appointed. The work here is on-going.

The Malta Police Force's Code of Ethics was also updated in May 2021 so as to address comments made by GRECO:

1. There is now a clearer link between the Code of Ethics, the Constitution and the Police Act in terms of consequences;
2. A specific reference to the Integrity Officer has been included.

The Malta Police Force has also amended the specific role of the Integrity Officer, so as to include the giving of advice, even in a confidential fashion, in the case of ethical dilemmas. It should be clarified that it is already being carried out in practice but has now been explicitly included in writing. The Malta Police Force has also updated the Anti-Fraud and Corruption Policy (POL-AFC) to be in line with GRECO's recommendations by including a clearly defined indicator of what is considered "a minor courtesy gift". Minor courtesy gifts are defined as those gifts the economic value of which is not in

excess of EUR 100 (either separately or jointly adding up different gifts or courtesies extended / received within one year).

Anonymous reporting

In 2020, an online procedure for anonymous reporting was introduced, which goes by the name of *Break The Silence*. This procedure allows the reporting of circumstances, by third parties (member of the force) without divulging their identity. This is carried out through a secure email service (proton mail) where the communication is encrypted in such a way as the sender is never identified.

A recent internal survey carried out by PwC on behalf of the Malta Police Force found that 95% of police personnel are aware of this procedure, with 65% of respondents replying that they feel confident and ready to use this system if required.

Important amendments were carried out in the Police (Amendment No. 2) Act, 2021 (Act No. LVII of 2021), which was enacted on 3 August 2021. This amendment provides for an appeal mechanism for minor disciplinary offences that are heard by the Disciplinary Board. It provides for the establishment of the Police Disciplinary Appeals Board. This Board shall be composed of three members, one of whom shall be the Chairperson appointed by the President of Malta acting on the advice of the Cabinet of Ministers. The Chairperson of the Board shall be a person who has practiced as an advocate in Malta for a period or periods amounting, in the aggregate, to not less than seven years. The other members of the Board shall be retired public officers. It should be noted that a member of the Board shall be removed from office by the President acting on the advice of the Cabinet of Ministers on the ground of inability to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause or for misbehaviour.

This amendment also grants a member of the Force the right of appeal to the Police Disciplinary Appeals Board, against a recommendation of a finding of guilt and any corresponding penalty imposed by the Commissioner of Police relating to minor offences set out in the Second Schedule, or where the member of the Force can prove that there has been a gross disregard of the procedures laid down in this Title and such disregard had prejudiced his interests.

Amendments were also carried out to the Police Act (Chapter 164 of the Laws of Malta) by virtue of Act LVI of 2021, which came into force on 27 August 2021. This amendment brings the Police Act and the Business Interests and Additional Occupations Policy Document in sync, namely by specifying that officers wishing to undertake parallel interests must obtain the Permanent Secretary responsible for the Force's consent, in writing. The Permanent Secretary then is to inform the Police Commissioner if such request was acceded or denied.

Another update concerns the introduction of training related to Media Relations. During this In-Service Training (Continuous professional development), officers will be provided training on the Police Media Relations Policy (SOP-MER) as well as an awareness session held by the Institute of Maltese Journalists (IGM). MPF is also currently in the process of signing a Memorandum of Understanding with IGM.

Financial Crimes Investigations Department

The Financial Crimes Investigations Department (FCID), is made up of various units, including the Financial Crimes Analysis Unit (FCAU). A Fiscal Crime Unit was set up in September 2020 to focus on Tax related investigations; this has a complement of three (3) investigating officers together with seven (7) officers. It should be noted that in 2021 two new set-ups were also established, the Online Fraud office and the International Unit. The aim of the former is to investigate cyber-enabled reports and an officer has been assigned to focus on these investigations. With regard to the latter, an Inspector has been assigned together with two officers to assist foreign counterparts and to execute Letters Rogatory. This office also coordinates with EPPO. As a department, it has specialised investigating officers on serious Fraud, complex money laundering cases, terror financing, asset discovery and recovery, Organised Criminal Groups, Cryptocurrency, Excise Fraud, Corruption, Online Fraud and National Counterfeit and intellectual property rights.

The following table provides an overview of the increase in Staff complement and related costs:

Date	FCID Staff complement	Percentage increase in staff complement	Yearly total FCID Gross Pay in (in €)	Percentage increase in expenditure
31 December 2018 ⁶	53	-	1,151,227	-
31 December 2021	107	102%	3,253,288	193%

The Department's staff complement as at end of December 2021, represents an increase of around 102% **in capacity since the 2018 MONEYVAL onsite visit**. The Department has several financial analysts, some of which are sworn officers, while others are civilians.

FCID	2018	2019	2020	2021 Jan 2021 – Dec 2021
Operational expenditure (including Emoluments)	€894,718	€1,414,994	€2,295,138	€3,518,331
Capital expenditure	NA	NA	€1,253,482 ⁷	€134,093

⁷ The 2020 capital expenditure was extraordinary since it included one-off major expenses related to the relocation to the current FCID premises such as new furniture, software and IT equipment, hence the difference between 2020-2021.

National Coordinating Committee on Combating Money Laundering and Funding of Terrorism

The Financial Action Task Force has provided an evaluation of Malta's AML framework in June 2021. Malta is committed to implement, including through legislation and risk-based supervision, regulation and enforcement, all recommended actions provided by FATF by December 2023. The milestones require that all measures necessary to address all shortcomings identified by FATF are entered into force and/or are fully operational.

In Malta's Recovery and Resilience Plan, the Government undertook the commitment to implement the eighty-two actions listed under seven Policy Goals defined in the new national anti-money laundering/combating terrorist financing / targeted financial sanctions (AML/CFT/TFS) strategy and action plan for the years from 2021 to 2023. These have been endorsed and are publicly available online on the NCC website. Following the complete implementation of these policy goals, the National Coordinating Committee on Combating Money Laundering and Funding of Terrorism (NCC)'s secretariat is to draft a report on this. This report is to be then endorsed by the NCC Board, after consultations with the main stakeholders⁸ are carried out. This is expected to be completed by end of year 2023.

Relatedly, under the pillar of the same reform, training on anti-money laundering and counter-financing of terrorism is to be provided, according to the needs identified by the NCC sub-committee in charge of training and outreach. This training is to be provided to the members of the same sub-committee.⁹ There have been several training opportunities. During 2021 there were six training sessions to the Office of the Commissioner for Revenue, including also the Financial Intelligence Analysis Unit, and the Financial Crimes Investigations Department; four sessions to the Office of the Attorney General; as well as one session to the Malta Business Registry. The sub-committee meets every quarter and there is a continuous update on the training needs that arise.

Financial Intelligence Analysis Unit (FIAU)

As Malta's Financial Intelligence Unit (FIU), and Malta's single AML/CFT supervisor responsible for the supervision of all subject persons (obliged entities) in the Country, during the past years the FIAU saw an exponential increase in both its allocated annual budget and its staff compliment. The FIAU's annual budget for 2021 is of €8.5 million, a significant increase of 534% from the €1.34 million allocated in 2017. The budget is projected to further increase to €10.9 million in 2022. The FIAU's overall staff complement have nearly tripled from 43 in 2018 to 114 as at 6 December 2021 (that is, a 62% increase). Plans are in place to further increase HR to a total of 158. To accommodate this growth, the FIAU is in the process of moving into new state-of-the-art larger premises in the first quarter of 2022, situated at Trident Park at the Central Business District.

The increases in the FIAU's budget and HR have contributed to improved performance in carrying out its functions at law in a more effective and efficient manner, which led to very encouraging results, as explained in more detail below.

The total of AML/CFT examinations (on-site, and off-site examinations) conducted on subject persons has increased from 41 in 2019 to 206 in 2020 and a further 152 examinations conducted by end of 2021. Enforcement action also increased, from 22 enforcement actions in 2019 to 251 by the end of

⁸ The main stakeholders include the Ministries responsible for Finance, Home Affairs and Justice, the Asset Recovery Bureau, the Central Bank of Malta, the Commissioner for Revenue, Financial Intelligence Analysis Unit (FIAU), Malta Financial Services Authority (MFSA), Malta Gaming Authority (MGA), Malta Police Force and the Attorney General.

⁹ Financial Intelligence Analysis Unit; Malta Financial Services Authority; Malta Gaming Authority; Malta Police Force; Office of the Attorney General; Office of the Commissioner for Revenue; Malta Security Services; Malta Business Registry; - Department of Customs; Asset Recovery Bureau; Office of the Commissioner for Voluntary Organisations; Sanctions Monitoring Board.

December 2021 (1041% increase). Imposition of administrative fines for non-compliant subject persons also saw more than a four-fold increase, as depicted below:

Year	Total administrative pecuniary fines in €
2019	€3.9 million
2020	€4.6 million
2021	€12.3 million

This means that there has been a percentage increase of 136% in total administrative pecuniary fines from 2019 to 2021.

Likewise, the FIAU's Intelligence Analysis Section saw more than a four-fold increase in suspicious reports (STRs/SARs) received, from 1,679 reports received in 2018, to 7,218 reports received in 2021. This translates into a 330% increase in reports during the said period.

Disseminations to foreign counterpart FIUs also exponentially increased from 749 disseminations in 2018 to 7,295 disseminations in 2021 which translates into an 874% increase during the said period. Internal disseminations, that is, to the Malta Police and the Commissioner for Revenue (CfR) also steadily increasing, as depicted below:

Year	Disseminations to Malta Police	Disseminations to CfR
2018	79	198
2019	102	186
2020	173	199
2021	328	703

This translates into a 90% increase in dissemination to the Malta Police and 253% increase in disseminations to the Commissioner for Revenue from 2020 to 2021 period.

It is worth mentioning that money laundering prosecutions based on FIAU reports sent to the Malta Police increased from zero in 2019 to 9 in 2020 and 19 in 2021 (111% increase from 2020 to 2021).

More detailed information on the FIAU's work during the past years can be found in the FIAU's annual reports, which reports can be accessed online, on the FIAU's [website](#).

Prosecution

Please refer to the information related to the prosecution service under the first chapter of this national contribution, particularly sections 1, 2, 3 and 6.

Auditor General and National Audit Office

There were no further significant development since the enactment of Act No. XI of 2021, 'An act to provide for the amendment of the Auditor General and National Audit Office Act' (Chapter 396 of the Laws of Malta), in March 2021, apart from its implementation.

Commissioner for Standards in Public Life

Act No. XLI of 2020 - Judicial Review (Decisions not to Prosecute and Other Decisions of the Prosecution) Act has introduced important provisions in the Criminal Code and the Code of Organization and Civil Procedure which had substantially strengthened the Office of the Commissioner for Standards in Public Life. Building on these amendments, Act No. XVI of 2021 - Appointment (Persons of Trust) Act published on 9 April 2021, introduced amendments to the Standards in Public Life Act (Chapter 570 of the Laws of Malta) that gave the Commissioner for Standards in Public Life the power to refer the findings of his investigation where it appears *prima facie* that a criminal offence or a corrupt practice has been committed. The Act has also introduced an updated definition of “person of trust” in the Standards in Public Life Act, as well as a procedure for the engagement of persons of trust under new Article 6A of the Public Administration Act (Chapter 595 of the Laws of Malta).

On 15 September 2021, the Commissioner for Standards launched a project entitled “Improving the Integrity and Transparency Framework in Malta”. This project will be funded by the European Commission’s Directorate General for Structural Reform Support (DG Reform) and will engage the expertise of the Organisation for Economic Cooperation and Development (OECD).

The project aims to strengthen the Commissioner’s oversight role and to improve awareness of integrity so as to bring about a strengthened public integrity system in Malta. To achieve these objectives, the project will cover six key areas:

- increasing the effectiveness of the Commissioner’s office;
- improving integrity standards to strengthen the Commissioner’s oversight role;
- improving the process for collecting and verifying declarations of assets and conflict of interest declarations by ministers and members of Parliament;
- strengthening the codes of ethics for MPs and ministers, and supporting implementation through tailored guidance;
- improving the policy framework for responsible lobbying; and
- improving communications on integrity.

The project will run for 24 months, and it will be supported by a steering committee comprised of representatives from the Commissioner’s office, the parliamentary group of each of Malta’s two main political parties, the Ministry for Justice and Governance, civil society organisations, DG Reform, and the OECD.

Asset Recovery Bureau

As indicated in Malta’s Recovery and Resilience Plan, so as to strengthen the institutional framework capacity to fight corruption, reforms are being carried out at the Asset Recovery Bureau (ARB). In accordance to the Asset Recovery Bureau Strategy (2021-2023), 45 new officers are to be engaged by the end of 2023. These new officers would encompass various roles, from research officers, administrative and support staff as well as managerial level staff. During 2021, additional officers were recruited, and the current number stands at 12 officers. The ARB is also in the process of issuing a new call for an additional officer to join the team. During 2022, the ARB shall be employing additional officers (both at managerial positions and research officers). So as to fulfil the RRP plan, ARB is envisaging of employing a total of 30 officers in 2022, and an additional 15 officers in 2023.

A new Director acting as the Executive Head of the Bureau was appointed on 25 January 2022.

It should be noted that Act No. LXVIII of 2021 - Proceeds of Crime (Amendment) Act was published on 18 December 2021. The aim of this Act is to provide for clarifications relative to payment of

administrators of a going concern or body corporate in the context of an Attachment Order or Seizing and Freezing Order. This Act also clarifies the mechanism of non-conviction based confiscations.

In March 2021, a €2.5m project relating to new specialised premises was launched. These premises would be able to house various types of confiscated items (such as works of art, boats, vehicles etc.). It is expected that the new ARB premises are to be completed by 2024.

Furthermore, it should also be noted that in March 2021 a police officer was assigned with the Asset Recovery Bureau to review and assess the information and evidence received by the ARB concerning money laundering cases and coordinate with the Malta Police Force in targeting the proceeds of crime on a case-by-case basis.

Other - Statistical data in relation to various entities

The budgetary data below clearly indicates Government's commitment to increase and enhance the capacity, authority and accountability of the respective institutions entrusted with regulatory and control functions in relation to the management of public resources over the past years.

The following data sets out the actual expenditure made by the following entities:

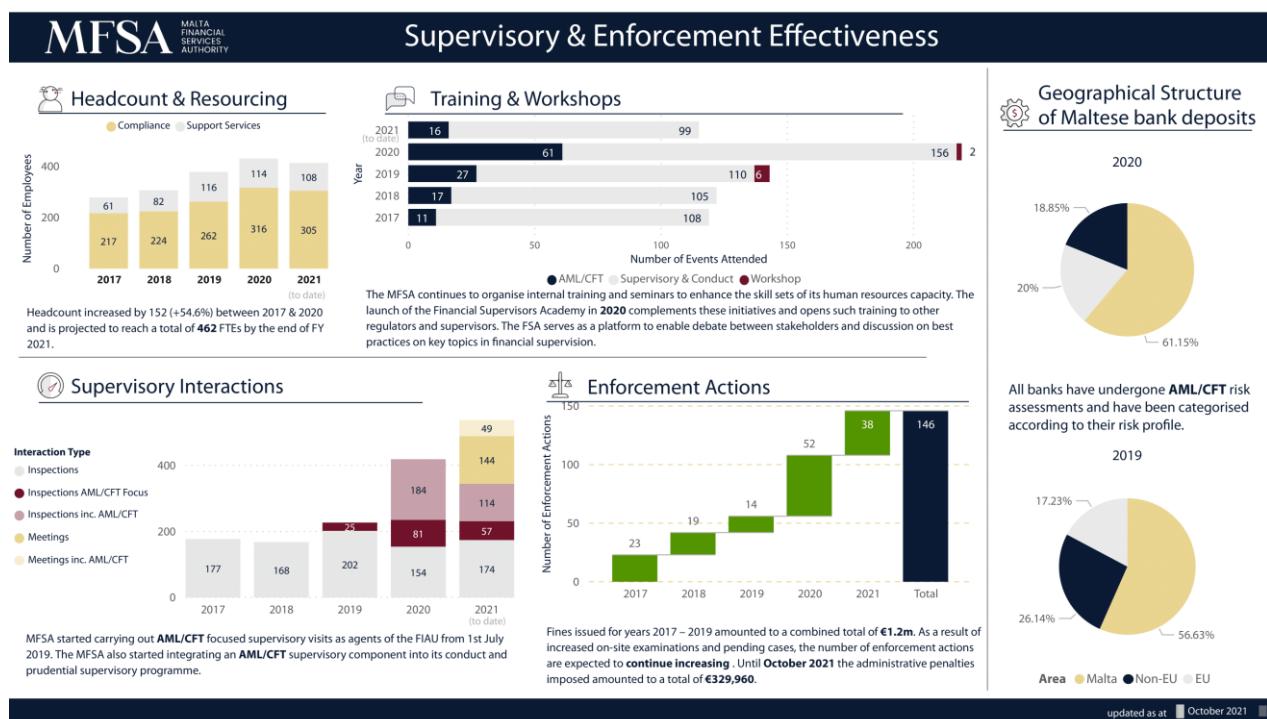
- National Audit Office (NAO);
- Ombudsman;
- Internal Audit Investigations Department (IAID);
- Commissioner for Standards in Public Life (CSPL).

Increase in budget registered over a five (5) year term (between the year 2016 and 2021):

	2016	2021	Percentage increase in budgets between 2016 and 2021
	Actual Expenditure	Actual Expenditure	
	€	€	
Ombudsman	1,091,455	1,427,000 ¹⁰	31
National Audit Office (NAO)	2,900,000	3,850,000	33
Commission for Standards in Public Life	N/A	478,000 ¹¹	N/A
Internal Audit Investigations Department (IAID)	1,205,000	4,084,800	239

¹⁰ This is the Financial Estimate for the year 2021. The actual expenditure has not been published so far.

Below please find the Supervisory and Enforcement Effectiveness dashboard published by the MFSA, updated as at October 2021, which provides the latest information available:



19. Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption

There were no additional significant developments for the reporting period.

20. Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators.

As stated above, the NAFCS was adopted in May 2021. Implementation of the NAFCS is expected to continue on the basis of the action plan and timeline contained therein and as per Malta's Recovery and Resilience Plan. The reform shall implement three action points, addressing specified capacity building related measures under objective. The reform will be implemented by 31 December 2024. Milestones include: the online publication of the National Fraud Risk Assessment (quarter 3 of 2022); two training programmes for appointed officials from the National authorities (quarter 1 of 2024); Central Documentary Depository (quarter 4 of 2024).

II.II Prevention

Significant developments

21. Measures to enhance integrity in the public sector and their application including as regards incompatibility rules, revolving doors, codes of conduct, ethics training). Please provide figures on their application.

National Anti-Corruption Integrity Strategy

An Inter-Ministerial Committee was set up in 2021 to develop and implement the National Anti-Corruption Integrity Strategy, which is to report to the Cabinet. The Committee is chaired by the Permanent Secretary for the Ministry for Justice and Governance and is composed of the Permanent Secretary for the People and Standards Division; the Permanent Secretary for the Ministry for the National Heritage, the Arts and Local Government / Ministry for Research, Innovation and the Co-ordination of Post COVID-19 Strategy; the Permanent Secretary for the Ministry for Education; the Permanent Secretary for Ministry for Home Affairs, National Security and Law Enforcement; and the Permanent Secretary for the Ministry for Transport, Infrastructure and Capital Projects.

Public Administration

Directive 15 on the ‘Governing Policy for integrity promotion, awareness and assessment for public employees’, issued in terms of the Public Administration Act (Chapter 595 of the Laws of Malta), was adopted on 20 April 2021. The Government launched its Integrity Awareness Programme via this directive. It is applicable to those posts listed in the Sixth Schedule of the Public Administration Act and prospective candidates for Senior Management positions (Category A- Headship Positions Scales 1-5). Relatedly, the Integrity Awareness Programme announced in the National input submitted in March 2021, has been integrated in the 5-year Strategy for the Public Service “Achieving a Service of Excellence” launched in November 2021. The Strategy provides for an initiative called ‘Leadership Upskilling Programme, which will address the current skills gap as well as the identification of succession planning and preparation for future leaders. The Programme, which will replace the existing Management Toolkit, will include an Integrity Assessment amongst other things, as well as refresher sources in subsequent years. The Programme will become mandatory for all positions appointed through Senior Advisory Appointments Committee (SAAC) and will be open to all prospective leadership candidates (these include for example, Director Generals, Directors and Assistant Directors). The Owner of this initiative is the IPS supported by the Employees Support Programme (ESOP) (P&SD).

The Strategy also provides that Employees as per Schedule 6 of the Public Administration Act are subject to integrity testing. The Strategy sets out a yearly ‘Employee integrity testing (Success rate) of 80% for the years 2022-2026.¹²

Asset Disclosure rules

Please refer to the section related to the Commissioner for Standards in Public life. Revolving doors

Directive 14, titled ‘Governing Framework for the Management of the Revolving Door for Public Policy Employees’ was adopted by the Principal Permanent Secretary on 18 June 2020 and updated on 22 March and 14 September 2021. The Directive applies to those public employees in posts / positions within the Public Administration that involve regulatory or inspectorate functions and

¹² <https://publicservice.gov.mt/en/Documents/Achieving-A-Service-of-Excellence-2021.pdf> (Page 20)

which are identified as designated posts or positions by the Revolving Door Policy Governance Board established under the Public Administration Act (Chapter 595 of the Laws of Malta).

Please refer to the section related to the Commissioner for Standards in Public life for developments in relation to Members of Parliament, Ministers, Parliamentary Secretaries and persons of trust.

22. General transparency of public decision-making (e.g. public access to information, including possible obstacles related to the classification of information, transparency authorities where they exist, and framework rules on lobbying, including transparency on lobbying, asset disclosure rules, gifts and transparency of political party financing)

Freedom of information

An independent review of the current Freedom of Information Act (Chapter 496 of the Laws of Malta) by an external consultant is currently underway. In November 2020, a call for a tender was launched by the then Ministry for Justice, Equality and Governance and it was awarded in January 2021. The brief provided to the external consultant was to:

1. Carry out a comparative study of the Freedom of Information Act and its code of practice;
2. Prepare a review of the Act's effectiveness with regard to transparency and accountability;
3. To propose further amendments, in light of the findings.

The report is currently being discussed by a number of stakeholders. Further updates will follow in due course.

Lobbying

Please refer to the section related to the information relation to the project launched by the Commissioner for Standards in Public life (see section 18 above).

23. Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned, etc...)

As stated further above, according to the new 5-year Strategy for the Public Service, integrity is one of the eight shared values. Apart from other accountability targets, the strategy establishes an 80% employee integrity testing success rate for the years 2022 till 2026.¹³ The Strategy foresees that an enhanced Leadership Upskilling Programme will include Integrity assessment amongst other things.

24. Measures in place to ensure Whistle-blower protection and encourage reporting of corruption

Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law, was transposed by Act No. LXVII of 2021 to amend the Protection of the Whistleblower Act (Chapter 527 of the Laws of Malta) which was enacted on 18 December 2021.

¹³ Employees as per Schedule 6 of the Public Administration Act are subject to integrity testing.

25. List the sectors with high risks of corruption in your Member State and list the relevant measures taken / envisaged for monitoring and preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other).

The European Semester 2020 Country Report for Malta makes reference to some sectors., such as, the public procurement, and the attribution of citizenship-by-investment and the residence scheme (Malta Residence Visa Programme).

Public Procurement

The Department of Contracts has established a Declaration of Absence of Conflict of Interest (published through an Internal Policy Note dated 9 July 2021). The rationale behind this Declaration is to encourage a Culture of Integrity wherein ownership and accountability shall be placed on the Public Officer as the most suited to evaluate one's own specific interests, relationships, associations and contacts. Thus, the Department of Contracts' officers were asked to read and sign the declaration accordingly.

Moreover, the Department of Contracts has also published another two (2) Internal Policy Notes on Fraud and Corruption: Definition and Mitigation Measure (dated 9 September 2021) and Collusive Bidding in Public Procurement (dated 13 October 2021). The aim of these is to provide an overview of the relevant concepts and salient characteristics as well as possible ways to identify and/or mitigate them. In addition, during the Procurement Training Sessions, such phenomena are brought to light and discussed accordingly.

Public Procurement - Health

No significant developments have taken place in the reporting period.

Attribution of Citizenship-by-investment and the residence scheme (Malta Residence Visa Programme)

Malta's Recovery and Resilience Plan provides for reform C6-R12: Mitigating against aggressive tax planning (ATP) risks by individuals. The objective of the measure is to mitigate aggressive tax planning risks stemming from the attribution of citizenship-by-investment. The reform shall implement a due diligence procedure to determine the original jurisdictions of tax residence of applicants of the Citizenship by Naturalisation for Exceptional Services by Direct Investment and inform the tax authorities of the original jurisdictions of tax residence about the applicants being granted Maltese citizenship. The entry into force of the procedure shall be determined by the publication of the respective revised guidelines and application forms. The measure shall be implemented by 31 March 2022.

26. Measures taken to access and address corruption risks in the context of the COVID-19 pandemic

No significant developments since no additional measures were deemed necessary in the context of the COVID-19 pandemic.

27. Any other relevant measures to prevent corruption in the public and private sector

Training within the Malta Police Force

Please refer to the part dealing with the Malta Police Force under Section 18 of this report.

The Malta Police Force has an In-Service Training Course Programme. The new Policies set out in 2020 and the new Code of Ethics are discussed during the session named ‘Internal Policies’, which is a three-hour session per course. The In-Service Training Course is followed by twenty officers every two weeks. Since November 2020, a total of six (6) training sessions have been held so far, with a total of 102 attendees.

Further to the In-Service Training, all New Policies are communicated via email, the Malta Police Force Intranet, and the Official Malta Police Force Employees Facebook Group. The social media interface has proved to be particularly engaging; “extracts” of the Policies are regularly posted in what is known as “Did You Know” series of posts. Such posts help create a healthy debate which in turn helps educate employees in an informal setting.

II.III Repressive measures

Significant developments

28. Criminalisation, including the level of applicable sanctions, of corruption and related offences including bribery

No significant developments.

29. Data on investigation and application of sanctions (criminal and non-criminal) for corruption offences,¹⁴ (including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU Funds

Investigations

The below table provides the data on Corruption cases investigated by the Financial Crimes Investigation Department within the Police Force for the period from 2020 till 2021.

Corruption Cases investigated during 2020 and 2021			
Financial Crimes Investigations Department	Crime	2020	2021
	Totals	38	32

Therefore, the number of investigations in 2021 remained similar to 2020.

The below table provides data on the Corruption cases which were solved and prosecuted by the Financial Crimes Investigation Department within the Police Force, for the period from 2020 till 2021.

Financial Crimes Investigations Department	Crime	2020	2021
	No. of cases solved ¹⁵	19	14
	No. of prosecutions	10	16
	No. of persons (legal and natural) prosecuted	12	18

Therefore, the number of cases solved and prosecutions by FCID in 2020 also remained similar to 2021.

¹⁴ Please include, if available the number of (data since 2019): indictments; first instance convictions, first instance acquittals; final convictions; final acquittals; other outcomes (final) (i.e. excluding convictions and acquittals); cases adjudicated (final); imprisonment / custodial sentences through final convictions; suspended custodial sentences through final convictions; pending cases at the end of the reference year.

¹⁵ Concluded and prosecuted

30. Potential obstacles to investigation and prosecution as well as to the effectiveness of sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, pardoning, etc...)

There have been no significant recent developments in this area during the reporting period.

31. Information on effectiveness of administrative measures in particular recovery measures and administrative sanctions on both public and private offenders

Refer to the information above on Bills 166 and 198.

III. Media pluralism

III.I Media authorities and bodies¹⁶

Significant developments

32. Measures taken to ensure independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

There have been no significant recent developments in this area during the reporting period. The Broadcasting Authority, which is the regulatory body for broadcasting media established by the Constitution, monitors the local media and investigates complaints accordingly.

33. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

There have been no significant recent developments in this area during the reporting period. This remains addressed by way of the Constitution and the Broadcasting Act (Chapter 350 of the Laws of Malta).

34. Existence and functions of media councils or other self-regulatory bodies

There have been no significant recent developments in this area during the reporting period.

¹⁶ Cf. Article 30 of Directive 2018/1808

III.II Transparency of media ownership and safeguards against government or public interface

Significant developments

35. Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

On 2 August 2021, the Commissioner for Standards in Public Life issued Guidelines on government advertising and promotional material. This document sets out guidelines that are meant to ensure that ministers do not spend public funds on personal or political publicity. The guidelines also apply to persons of trust. The Commissioner refers to these guidelines when interpreting the relevant code of ethics in cases involving government advertising and promotional material.

36. Safeguards against the state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of governing bodies of public service media governance (e.g. related to appointment, dismissal) and safeguards for their operational independence (e.g. related to reporting obligations)
- procedures for the concession / renewal / termination of operating licenses
- information on specific legal provisions for companies in the media sector (other than licensing), including as regards company operation capital entry requirements and corporate governance

There have been no recent significant developments in this area during the reporting period.

37. Transparency of media ownership and public availability of media ownership information, including on media concentration (including any rules regulating the matter)

There have been no recent significant developments in this area during the reporting period. Information on all media houses established in Malta and gathered in terms of the Media and Defamation Act (Chapter 579 of the Laws of Malta) in relation to registered media is accessible [here](#). Information on the ownership of the respective media companies is accessible [here](#). For example, this includes information on involved parties, contact details, and information on authorised shares.

III.III Framework for journalists' protection

Significant developments

38. Rules and practices guaranteeing journalist's independence and safety

The Report by the Board of Inquiry into the assassination of Daphne Caruana Galizia was published on 29 July 2021. The Maltese Government delivered a commitment on the implementation of the Public Inquiry's recommendations.

Following the publication of this Report, consultations with key stakeholders were held, including the Caruana Galizia family and their legal representatives, the Institute of Maltese Journalists (IGM) and members of international organisations like Article 19. The Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the European Commission, the European Parliament LIBE Democracy, and the Rule of Law and Fundamental Rights Monitoring Group (DFRMG) were also kept abreast of developments.

As recommended by the Board of Public Inquiry, a Committee of Experts on Media was established on 11 January 2022.¹⁷ The Committee's aim is to:

- analyse the journalism and media sector in Malta;
- underline areas which require development;
- make recommendations to the Prime Minister, who will be bound to table a copy in Parliament within 10 days;
- examine the draft legislative amendments prepared by Government following the consultations carried out with key stakeholders.

The Committee is chaired by former Justice Michael Mallia, who also acted as Chair of the Public Inquiry Board. The other experts have a wide knowledge and experience in Malta's media industry.

It should be noted that the Government has submitted the following draft legislative amendments to the abovementioned Committee:

1. An amendment on the protection of journalists against strategic lawsuits against public participation (an anti-SLAPP provision). Further information on this is provided in Section 41 of this Report;
2. An amendment to the Media and Defamation Act which addresses the situation where an author or an editor dies when civil proceedings for defamation have been commenced against the author or editor, or may be commenced or continued against the heirs;
3. An amendment to the Criminal Code, to provide for an increase in punishment for offences against a journalist attributable to the execution of the journalist's functions;
4. A proposed amendment to provide that in actions for defamation filed in terms of the Media and Defamation Act, payment of Court Registry fees will not be due upon the filing of the reply by the defendant but when the final judgment is delivered and only when the case is decided against the defendant;
5. An amendment to Article 41 of the Constitution on the right to freedom of expression to ensure that freedom and pluralism of the media and the importance of the role of journalists are respected.

¹⁷ Refer to the Information Note attached to the Press Release issued by the Office of the Prime Minister: <https://www.gov.mt/en/Government/DOI/Press%20Releases/Publishing/Images/Pages/2022/01/11/pr220024/pr220024a.pdf>

The Committee of Experts has been asked to provide feedback on the abovementioned drafts in the next 2 months. These measures form part of the Government's holistic plan to strengthen journalism and enhance democracy and freedom of expression as part of a just, fair and equitable society.

39. Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists

The relevant provisions in the Criminal Code (Chapter 9 of the Laws of Malta) and the Police Act (Chapter 164 of the Laws of Malta) continue to apply. Improving law enforcement across the board remains a priority for the Government.

It should be noted that MPF has sought the assistance with British and Italian counterparts, as well as from CEPOL so that information, expertise and best practices relating to the safety of journalists is shared.

As noted above, under section 18, MPF is also currently in the process of signing a Memorandum of Understanding with IGM.

Concurrently, MPF has also initiated an SOP titled '*Protection of Journalists, Media Actors and Public Figures at Risk*'. This SOP established a protection provision process flow. It also provides definitions for 'journalist'¹⁸, 'media actor' and 'public figure' as well as the setting up of a Committee for Recommendation of Measures. This body is composed of the Commissioner of Police, or his representative, the Head of the Malta Security Service, or his representative and the Commander of the Armed Forces of Malta, or his representative. This SOP incorporates also the need for training to police officers. MPF has introduced training sessions on media relations, in collaboration with IGM, as part of its in-service training program. The aim of this training is to highlight the contents of the Malta Police Media Relations Policy (POL-MER) as well as to enhance awareness amongst police officers of the role and work of journalists and media actors, including the legitimacy of their presence during protests and assemblies, and measures that can be taken to enhance the protection of their rights. These sessions seek to highlight the risks to journalists and problems they encounter in their practice, as well as the potential threats and attacks they face, both in a physical and digital space. The ultimate aim of this joint training program is to improve police-media relations through the upholding of police values, particularly accountability, fairness, openness and respect.

The Committee of Experts on Media (refer to point 38) will propose amendments that will provide a legal basis for the Committee for the Recommendation of Measures for the Protection of Journalists, Other Media Actors and Persons in Public Life.

40. Access to information and public documents (including procedures, costs/fees, timelines, administrative / judicial review of decisions, execution of decisions by public authorities)

Please refer to Chapter II of this national contribution, with regard to Freedom of Information.

41. Lawsuits (including SLAPP – strategic litigation against public participation) and convictions against journalists (including defamation) and measures taken to safeguard against abusive lawsuits

As mentioned under Section 38 of this report, the Maltese Government has submitted a legislative text to the Committee regarding an amendment on the protection of journalists against strategic lawsuits against public participation (an anti-SLAPP provision) which will be without prejudice to the

¹⁸ Council of Europe 'Recommendation No. R (2000) 7 of the Committee of Ministers to member states on the right of journalists not to disclose their sources of information', adopted by the Committee of Ministers on 8 March 2000.

application of European Union law and of any Treaty to which Malta is a party. The provision will regulate situations where the execution of a judgment on defamation delivered by a court outside Malta is demanded in Malta and the judgment is executable in Malta under the other legal provisions on the enforcement of foreign judgments in Malta.

It will provide that the Court shall, if it considers that the action which gave rise to the judgment was substantially based on claims related to Malta and that the action could have been filed in Malta but was probably not so filed as part of a strategy intended to inflict an undue financial burden on the defendant, limit the execution of the judgment to such amount which the Court considers as an amount which would have been due as damages and, or costs, under the Media and Defamation Act had the action been filed in Malta. Based on this amendment the Court will also be empowered to refuse the execution of such judgment if it considers that the execution of the judgment would violate the right to freedom of expression as protected under the Maltese legal system.

Also, as stated in Section 38 of this Report, the Government has submitted to the Committee of Experts on Media an amendment to the Media and Defamation Act which addresses the situation where an author or an editor dies when civil proceedings for defamation have been commenced against the author or editor, or may be commenced or continued against the heirs. It will be provided that in deciding the case on the merits, the Court shall not award any damages against the heirs of the deceased editor or author. The Court shall also be empowered to order that the proceedings be discontinued upon the demand of the heirs under such conditions as it may determine. The Court will also be empowered to order the discontinuance of the proceedings where it considers that legal responsibility for the alleged defamation cannot be determined after the death of the author or editor in their absence.

Other

[LOVIN MALTA LIMITED \(C75368\) ET vs L-AVUKAT TAL-ISTAT](#)

Proceedings in relation to the Court Case filed by Lovin Malta Limited in February 2021 are ongoing.

Media Freedom Coalition

Efforts continue for Malta to join the [Media Freedom Coalition](#).

[Cyber Security Awareness activities](#)

Spoofing and related activity has been going on for a number of years. This is one of the topics which the National Cyber Security Steering Committee, composed of the major national cyber security stakeholders, has specifically discussed in recent months. Short- and long- term plans have been identified. Specifically, on awareness, Cyber Security Malta, the national cyber security awareness and education campaign led by the Malta Information Technology Agency (MITA), has periodically raised awareness on this domain. Tips on how to recognise fake news and training to specific target audience has been delivered in this respect.

Platforms used were various including both online and traditional, example television and newspapers. In view of the latest activity that has been going on in Malta (spoofed news portals), MITA once again used the Cyber Security Malta channels to raise awareness. More specifically, awareness sessions with Members of Parliament and journalists are in progress. Articles and infographics have also been published on social media, whilst clips were also posted on social media and aired on television.

IV. Other institutional issues related to checks and balances

IV.I The process for preparing and enacting laws

Significant developments

Malta is committed to increase the digitalisation across the public and private sectors. In fact, Malta's RRP addresses a number of challenges and commits to improving the resilience, capacity and security of the government digital backbone, access to digital technology, range and quality of e-government services, uptake of those services by citizens and businesses, and digitalisation of the private sector.

The first reform in this component concerns developing and implementing the initiatives regarding the following three main aspects of Malta's Digital Strategy 2021-2027: to reduce the digital divide, to promote digital skills, and to improve digital public services. The component contributes to addressing the country-specific recommendations related to the digital transition (country-specific recommendation 3 2020) and to research and innovation (country-specific recommendations 3 2019 and 3 2020). This Strategy has been approved and shall be adopted in Q1 of 2022.

Another reform is to facilitate the seamless delivery of public services across mobile and web, foster the use of emerging technologies, provide open access to public government databases and cultivate an ecosystem conducive to digitalisation. The reform shall be implemented by 31 December 2023.

42. Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary and other stakeholders on judicial reforms), and transparency and quality of the legislative process

As explained in previously provided information, all subsidiary legislation (namely legal notices) must be accompanied by a mandatory impact assessment report (based on an established template / form which must be duly stamped and revised by the Legislation Unit within the Office of the State Advocate) before they are transmitted to the Cabinet Office, along with the relative Memorandum.

This requirement has been extended to primary legislation by virtue of Act No. XXII of 2021, which amended the Small Business Act (Chapter 512 of the Laws of Malta).

The template for the mandatory Impact Assessment Report has also been amended, inter alia, to include a new Pillar concerning the processing of Personal Data.

A systemic procedure applies to subsidiary legislation which has now also been extended to primary legislation as explained above. A mandatory impact assessment report is drawn up for each draft subsidiary legislation upon presentation to the Cabinet of Ministers. The report is based on a predefined template that ensures consistency in the approach. The report split in four pillars depicted below.

43. Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions).

Emergency and Fast Track procedures

As previously stated, the Emergency Powers Act (Chapter 178) was amended (Act X of 2020) to provide for public health situations; however, this provision has not yet been used. Article 27 of the Public Health Act (Chapter 465 of the Laws of Malta) has been used 38 times between March 2021 and December 2021 to address the ongoing pandemic.

44. Regime for constitutional review of laws

The Strengthening of the Office of the Law Commissioner

The Government has strengthened the Office of the Law Commissioner by providing it with additional resources to work with. For instance, the expenditure for 2021 is around three times as much as that of the year 2020. This is pertinent if one is to ensure that the Law Commissioner has all tools at his disposal to present clear and concise reports which may in turn lead to important legislative amendments to the dispositions of the law.

Other: Parliamentary & Electoral Reforms

An update from last year's report is that Bill No. 119, the Constitution of Malta and Various Laws (Amendment) Bill, became Act No. XX of 2021 - Constitution of Malta and the General Elections (Amendment) Act and was published on 20 April 2021.

The Act amended the Constitution of Malta to introduce temporary positive measures necessary and reasonable in a democratic society to ensure de facto equality between men and women in politics and also the amendment of the General Elections Act to increase the number of electoral commissioners and ensure equal representation between sexes.

A new Electoral Commission was appointed by the President of Malta, acting on the advice of the Prime Minister, in accordance with the provisions of Section 60 of the Constitution of Malta and Section 7(2) of the General Elections Act (Chapter 354 of the Laws of Malta), for a period of three years with effect from 30 August 2021. It is worth noting that, in view of these appointments, for the first time, the Electoral Commission is made up of ten Commissioners under the Chairmanship of the Chief Electoral Commissioner, with four Commissioners being women.

The Civil First Hall (Constitutional Jurisdiction) on 11 January 2020 in CASSOLA ARNOLD vs AVUKAT TAL-ISTAT has turned down a case filed by the plaintiff who argued that these new gender quota amendments are discriminatory in favour of women who are affiliated with the two major political parties and against all other women who are not affiliated with them.

45. COVID 19: update on significant developments with regard to emergency regimes in the context of the COVID-19 pandemic

- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic
- oversight (including ex-post reporting / investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic

A state of emergency in the context of public health and in terms of the Emergency Powers Act (Chapter 178 of the laws of Malta) was not declared. Nonetheless, as mentioned in last year's contribution, Parliament amended this Act to provide a legal basis. There are no further updates to provide in this context.

In terms of judicial review, there are no updates for this reporting period.

Parliamentary work carried on 'business-as-usual' during the pandemic, in the sense that the agenda of Parliament has been very busy and remained fully functional.

IV.II Independent authorities

Significant developments

46. Independence, resources, capacity and powers of national human rights institutions (NHRIs), of ombudsman institutions if different from NHRIs, of equality bodies if different from MHRIs, of equality bodies if different from NHRIs and courts of auditors / national audit offices

In line with the Government's commitment and strategy to increase the capacity, authority and public accountability of State institutions entrusted with regulatory or control functions, the Budget allocations for these State institutions have been progressively increased. These institutions are the Office of the Ombudsman, the Office of the Auditor General, the Internal Audit and Investigations Department, the Permanent Commission against Corruption and the Office of the Commissioner for Standards in Public life.

Ombudsman

No developments apart from the implementation of recommendations by the Ombudsman as indicated in section 47 below.

Auditor General and the National Audit Office

In June 2021, the National Audit Office published the National Audit Office Annual Report and Financial Statements 2020 and can be found on this [link](#).

Multiple audits and reports made throughout 2021 can be found on this [link](#).

Upcoming Human Rights and Equality Commission

The upcoming Commission for Human Rights and Equality will be Malta's first National Human Rights Institution (NHSI) in full line with the United Nations Paris Principles. It will be replacing the existing equality body – in other words, the National Commission for the Promotion of Equality (NCPE).

The body will be established by way of Bill 97 '[Human Rights and Equality Commission Bill](#)', which was tabled in Parliament in July 2019. Discussion on this Bill are expected to resume once [Bill 96 'Equality Bill'](#) is enacted by Parliament. Both Bills are currently at Committee stage. One must note that the lengthy Parliamentary process on these Bills is due to the continuous dialogue with stakeholders.

The setting up of the Human Rights and Equality Commission will mean that for the first time, Malta will have an independent national human rights and equality institution, in line with the United Nations Paris Principles. Adequate resources will be put in place to implement its wide mandate.

National Commission for the Promotion of Equality (NCPE)

The National Commission for the Promotion of Equality (NCPE) is Malta's national equality body and works to ensure that Maltese society is a society free from any form of discrimination based on:

- i. sex/gender and family responsibilities, sexual orientation, age, religion or belief, racial or ethnic origin, and gender identity, gender expression or sex characteristics in employment; banks and financial institutions, as well as education;
- ii. (ii) racial / ethnic origin and gender in the provision of goods and services and their supply; and
- iii. (iii) freedom of movement for workers in the EU.

With respect to resources, in 2020, besides the government funding received by the NCPE amounting to €403,431, the NCPE received an additional budget with respect to the funding of two EU-funded projects. The NCPE continued to implement and completed the EU co-funded project 'Preparing the Ground for Economic Independence' (September 2018 to August 2020) with a 20% Malta share and VAT amounting to €63,405. Additionally, in April 2020, the NCPE commenced the EU co-funded project 'Empowerment for Diversity' that will end by the end of November 2022. The additional budget with respect to the project E4D amounts to €60,348 which includes 20% MT share and VAT. This is the latest available information at this stage.

As of July 2021, NCPE and HRID form part of Ministry of Equality, Innovation and Research.

47. Statistics / reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years.

Follow up of Ombudsman Recommendations

As indicated in the 'Governance Action on the Parliamentary Ombudsman's Annual Report 2020' publication, adopted in December 2021, almost 97.5% of the 329 cases the Public Service received from the Ombudsman in 2020 are closed, with only six (2.5%) of the recommendations were rejected or could not be implemented. From the 74 cases which are still pending from 2020, 68% are still at Ombudsman, while another 8% are in Court. Apart from these, 13 cases were withdrawn either by Ombudsman or by the complainant.

Follow up of recommendations by the National Audit Office

On 28 October 2021, the Office of the Principal Permanent Secretary, issued its publication on Governance Action on Public Accounts 2019 and other NAO reports 2020. The following are some relevant statistics which were confirmed by the Auditor General:

- 90% of NAO recommendations were implemented by the Public Service;
- this is an improvement in the rate of implementation compared to 80% in 2019 and 78% in 2018;
- From 331 recommendations by the Auditor General, 319 were implemented through 714 actions (643 of which were implemented).

IV.III Accessibility and judicial review of administrative decisions

Significant developments

48. Transparency of administrative decisions and sanctions (including their publication and rule on collection of related data)

Article 469A of the Code of Organization and Civil Procedure (Chapter 12 of the Laws of Malta) provides for the judicial review of administrative actions. The definition of what is considered to be administrative action is found in sub-article (2). It is pertinent to point out that there is also the possibility of an *ad hoc* review by specialized Boards and Tribunals where an administrative decision may be challenged for example before the Immigration Appeals Board in the case of decisions taken by the Principal Immigration Officer. Apart from the said provisions, the courts of civil jurisdiction retained a residual power to conduct the examination of legality of official acts and decisions which are not subject to judicial review under any specific provision of law. This is done through an interpretation of the general jurisdiction of such courts in Article 32 (2) of the Code of Organisation and Civil Procedure. An unprecedented review was introduced in 2020 relative to decisions not to prosecute by the Attorney General. A new provision was added to Chapter 12 of the Laws of Malta - Article 469B. There were no further developments for this reporting period.

49. Judicial review of administrative decisions:

- short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)

Article 469A of the Code of Organization and Civil Procedure (Chapter 12 of the Laws of Malta) provides for the judicial review of administrative actions by the courts of justice of civil jurisdiction. The definition of what is considered to be “administrative action” and a “public authority” is found in sub-article (2). The provisions of this article shall not apply where the mode of contestation or of obtaining redress, with respect to any particular administrative act before a court or tribunal is provided for in any other law.

It is pertinent to point out that there is also the possibility of an *ad hoc* review by specialized Boards and Tribunals where an administrative decision may be challenged for example before the Immigration Appeals Board in the case of decisions taken by the Principal Immigration Officer.

Moreover, Article 469B provides for the judicial review of the Attorney General who takes a decision:

- (a) not to prosecute in accordance with the powers conferred upon him by any law;
- (b) not to allow the inspection or the issuing of copies of a procès-verbal or of any depositions or documents filed therewith in terms of the proviso to article 518 of the Criminal Code. There were no developments to this regime during the reporting period.

There were no further developments for this reporting period.

50. Follow-up by the public administration and State institutions to final (national / supranational) court decisions, as well as available remedies in case of non-implementation

Public entities and authorities, wherever party to judicial proceedings instituted before the Courts of Law, ensure to follow and respect the final and definitive judgement delivered in such proceedings between the parties to the case, regardless as to whether such judgement is delivered in favour of the respective public entity/authority or otherwise.

IV.IV The enabling framework for civil society

Significant developments

51. Measures regarding the framework for civil society organisations (e.g. access to funding, legal framework, including, registration rules, measures related to dialogue between authorities and civil society, participation of civil society in policy development, measures capable of affecting the public perception of civil society organisations, etc...)

A new Commissioner for Voluntary Organisations was appointed on 3 August 2021.

Since August 2021, the Office of the Commissioner for Voluntary Organisations (OCVO) adopted a number of initiatives, both within the office and also within the voluntary sector and society at large. These initiatives included the implementation of a number of changes within the OCVO which focused on strengthening the regulatory function and creating an environment for all stakeholders to embark on an inclusive national reform within the voluntary sector.

The OCVO engaged in an effective comprehensive dialogue with the Malta Council for the Voluntary Sector (MCVS), which is the official recognised representative body of the Voluntary Sector and the voluntary organisations. One of the first efforts was related to a review and amendments of the Public Collections and Charity Shops Legal Notices.

In fact, two legal notices were published on 9 November 2021 in terms of the Voluntary Organisations Act (Chapter 492 of the Laws of Malta) after coming to a consensus amongst all parties:

- Voluntary Organisations (Public Collections) (Amendment) Regulations, 2021 ([LN424/21](#));
- Voluntary Organisations (Charity Shops) (Amendment) Regulations ([LN425/21](#)).

These came into effect on 7 January 2022.

Regarding funding, all the latest VO funding opportunities can be found on the following [link](#).

A process, entitled VO Plus Convention, has been launched under the patronage of the President of Malta, His Excellency George Vella. Through this Convention, the OCVO embarked on a national consultative process that together with all major stakeholders will not only see a new legislative framework but will aim to build a sustainable voluntary sector. Apart from the consultative element, the reform will also include research by Malta's University Faculty for Social Wellbeing, which will work on anticipating the needs of the country and where the VO sector can be empowered further to fill in the important roles.

In addition, part of the reform process is the alignment with other national strategies, the UN Sustainable Development Goals and the overall EU direction to further strengthen the Non-Profit Organisations (NPO) sector.

52. Rules and practices guaranteeing the effective operation of civil society organisations and rights defenders

Kindly refer to the above explanation.

IV.V Initiatives to foster a rule of law culture

Significant developments

53. Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, etc...)

A public inquiry is a tool for growth in a democracy and a means to document and learn lessons from events and/or actions taken. The fact that the Government intends to implement all the recommendations by the Public Inquiry into the assassination of journalist Daphne Caruana Galizia shows respect towards the principle of the Rule of Law. The Report of the Inquiry was also debated in Parliament.

Furthermore, there are public debates almost daily on national television and radio programmes which involve rule of law matters. Countless number of articles are freely published online and on newspapers.

A Constitutional Convention is yet to be launched as soon as the pandemic situation permits.