



Brussels, 6.5.2024  
C(2024) 3118 final

**COMMISSION IMPLEMENTING DECISION**

**of 6.5.2024**

**on the authorisation of the disbursement of the second instalment of the non-repayable support for Malta**

(Only the English and Maltese texts are authentic)

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## on the authorisation of the disbursement of the second instalment of the non-repayable support for Malta

(Only the English and Maltese texts are authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility<sup>1</sup>, and in particular Article 24(5) thereof,

Whereas:

- (1) According to Article 4(2) of Regulation (EU) 2021/241, the specific objective of the Recovery and Resilience Facility is to provide Member States with financial support with a view to achieving the milestones and targets of reforms and investments as set out in their recovery and resilience plans.

Council Implementing Decision of 5 October 2021 on the approval of the assessment of the recovery and resilience plan for Malta<sup>2</sup> (the ‘Council Implementing Decision’) provides that the Union is to release instalments in accordance with the Financing Agreement conditional on a decision by the Commission, taken in accordance with Article 24(5) of Regulation (EU) 2021/241, that Malta has satisfactorily fulfilled the relevant milestones and targets identified in relation to the implementation of the recovery and resilience plan.

- (2) On 21 December 2023, Malta submitted a request for payment, accompanied by a management declaration and a summary of audits. The request concerned the second instalment of the non-repayable support. Pursuant to Article 24(3) of Regulation (EU) 2021/241, the Commission assessed on a preliminary basis whether the relevant milestones and targets set out in the Council Implementing Decision had been satisfactorily fulfilled. For the purpose of this assessment, the operational arrangements concluded between the Commission and Malta<sup>3</sup> in accordance with Article 20(6) of Regulation (EU) 2021/241, were taken into account.
- (3) The Commission made a positive preliminary assessment of the satisfactory fulfilment of all 34 relevant milestones and targets related to the non-repayable support and, in accordance with Article 24(4) of Regulation (EU) 2021/241, provided its findings to

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<sup>1</sup> OJ L 57, 18.2.2021, p. 17.

<sup>2</sup> ST 11941/2021; ST 11941/2021 ADD 1 as amended by ST 11202/23; ST 11202/23 ADD 1, not yet published.

<sup>3</sup> Recovery and Resilience Facility Operational arrangements between the European Commission and Malta, entered into force on 30 September 2022, as amended on 20 March 2024.

the Economic and Financial Committee asking for its opinion on the satisfactory fulfilment of the relevant milestones and targets. In accordance with Article 25(4) of that Regulation, the Commission provided the competent committee of the European Parliament with an overview of its preliminary findings concerning the satisfactory fulfilment of the relevant milestones and targets. The Economic and Financial Committee agreed with the Commission's positive preliminary assessment and was of the opinion that Malta had satisfactorily fulfilled all the milestones associated with the payment request. The Commission has taken the opinion of the Economic and Financial Committee into account for its assessment.

- (4) Section 2(1)(1.2) of the Annex to the Council Implementing Decision provides the relevant milestones and targets that are to be satisfactorily fulfilled for the second instalment of the non-repayable support for an amount of EUR 78 055 270.
- (5) Milestone 1.3 provides for launching an open call for applications for a training and certification program for professionals and tradesmen of various levels in the buildings and construction industry to enhance the capacity for renovation courses and targeting an array of professionals and tradesmen at various levels within the local construction eco-system. The evidence provided by Malta demonstrates that three public calls were launched by Malta in 2022 and 2023 for professionals, non-professionals and tradesmen. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (6) Milestone 1.9 provides for the adoption of standards for the construction industry with the aim to reduce the construction and demolition waste generated and ensure that the waste generated is suitable for treatment in line with the waste hierarchy. The evidence provided by Malta demonstrates that the standards concern(i) best practices for (de)construction, aimed at reducing the Construction and Demolition (C&D) waste generated and ensuring waste generated is suitable for treatment in line with the waste hierarchy provided in the Article 4 of the Directive 2008/98/EC on waste; ii) the classification of C&D waste by type, material, composition and weight, aimed to encourage on-site separation as well as improve the quality of the waste streams for subsequent re-use or recycling; iii) appropriate excavation works; and iv) dimensions of internal and external apertures of residential dwellings. The standards were incorporated within the regulatory framework while their compliance is an essential requirement prior to the issuance of an executable Development Permit. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (7) Milestone 1.11 provides for establishing the appropriate conditions for the recovery of construction and demolition waste through backfilling of void spaces (quarries), including: i) identifying the quarries, which have been declared as partly exhausted, exhausted or inactive and determine their available volume ii) drafting a set of terms of reference for the restoration of void spaces to their original state and iii) identifying mechanisms to incentivise the crushing of material prior to backfilling. The evidence provided by Malta demonstrates that: (i) the partly exhausted, exhausted or inactive quarries were identified in a study carried out and published in June 2022 including the evaluation of the volume contained therein, (ii) a set of terms of reference for the restoration of void spaces to their original state were published in June 2022 and (iii) a call to set up a new financial incentive through a grant scheme with the aim to encouraging operators to crush material which cannot be reused or recycled, prior to back filling, was launched on 22 December 2022 and remained opened until 30 June 2023. The potential incentives were consulted with potential beneficiaries and other

primary stakeholders while an economic assessment was carried out demonstrating that the measure shall not lead to a significant increase in the disposal of waste or create disincentives to preparing for reuse and recycling of waste. Finally, a variation was introduced in the environmental permits of quarries that are currently permitted to backfill material. Such variation aims to ensure that only suitable inert waste substituting non-waste materials was used in line with Article 3(17a) of Directive 2008/98/EC on waste. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (8) Milestone 1.12 provides for the shifting of the responsibility of waste collection from 68 Local Councils to six regional bodies across Malta and Gozo. The evidence provided by Malta demonstrates that waste collection services were shifted from the local councils to the six Regional Council and are fully operational and managed by the respective Regional Council starting with 2022. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (9) Milestone 1.13 provides for the entry into force of revised legislation on packaging material to allow for the regional collection of packaging waste. The evidence provided by Malta demonstrates that revised legislation on packaging material, which allows for the regional collection of packaging waste, was published in the Supplement to the Malta Government Gazette No 20,982 on 27 December 2022 and entered into force on 1 January 2023. The revised legislation stipulates that Regional Councils are responsible for the logistics while the authorised Producer Responsibility Organisations (PROs) are obliged to finance the overall system for regional collection of packaging waste according to their market share and to ensure maintenance of the recycling points at the expected quality standards. The regionalisation of the packaging waste management is consistent with the regionalisation of municipal waste collection stipulated in the Regulation 37B of the Local Government Act (Chapter 363 of the Laws of Malta). On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (10) Milestone 1.17 provides for the launching of a call for applications for the selection of applicants for grants targeting the renovation of private sector buildings for retrofitting and energy efficiency (including commercial/non-residential buildings), ensuring that the area financed under this investment shall be of at least 40 605 m<sup>2</sup>. The evidence provided by Malta demonstrates that the call for applications targeting the renovation of private sector buildings for retrofitting and energy efficiency entitled “Renovation of Private Sector Buildings Grant Scheme” was launched on 13 June 2022 and extended on 22 September 2022. The evidence further demonstrates that the allocated budget for this scheme is set at EUR 20 000 000 to cover 40 605 m<sup>2</sup> of private sector buildings (including commercial buildings). On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (11) Milestone 1.19 provides for the completion of the Energy Performance Audit at Mount Carmel Hospital in compliance with Directive 2010/31/EU to establish the Energy Performance Certificate class of the respective hospital blocks and identify the applicable energy efficiency renovation measures. The evidence provided by Malta demonstrates that the energy performance audit of Mount Carmel Hospital blocks, including energy performance certifications, was completed as evidenced by audit reports. The audit is in compliance with Directive 2010/31/EU on the energy performance of buildings, as the Energy Performance Certifications establish the energy performance class of all hospital blocks, provide the relevant data and identify

the applicable energy efficiency renovation measures. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (12) Milestone 1.23 provides for all contracts to be signed for the procurement of the renovation of two public school buildings (St. Benedict College Ghaxaq Primary School in Malta and Gozo College Nadur Primary School), covering a total area of more than 9 710 m<sup>2</sup>, while the renovation shall achieve a reduction of primary energy demand of at least 30%. The evidence provided by Malta demonstrates that renovation works at St. Benedict's College Ghaxaq Primary School and Nadur Primary School, in accordance with the signed contract agreements, covers a total area of circa 12 300m<sup>2</sup> and is expected to achieve a reduction of primary energy demand above 30% for each school, through the implementation of various energy efficiency measures. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (13) Milestone 1.25 provides for the signing of the contracts for the procurement of construction works for the near carbon neutral school in Msida, ensuring that the construction results in a primary energy demand that is at least 20% lower than the near-zero energy building requirement. The evidence provided by Malta demonstrates that, in accordance with signed contracts, the new St. Theresa College Msida Primary School is expected to obtain a primary energy demand of 57.93 kWh/m<sup>2</sup>/year, which is 75.3% lower than the derived near-zero energy building level for schools, which is set at 235 kWh/m<sup>2</sup>/year, through the implementation of various energy efficiency measures. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (14) Milestone 2.4 provides for the online publication of the Sustainable Urban Mobility Plan for the Valletta Region, setting out eligible interventions to be implemented through the Sustainable Urban Mobility Plan. The evidence provided by Malta demonstrates that the Sustainable Urban Mobility Plan for the Northern and Southern Harbour (Valletta Region) was published on the website of the Ministry of Transport on 31 December 2022 and covers all constitutive elements of the milestone. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (15) Milestone 2.8 provides for the publication of the Remote Working Policy for Government Employees. The policy is required to outline the eligibility criteria, conditions, requirements for approval and application guidelines governing this initiative that promotes work-life balance and contributes towards sustainability. The evidence provided by Malta demonstrates that the Remote Working Policy for Government employees, including all required elements, has been published on the relevant government website. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (16) Milestone 2.15 provides for an open call for applications for electric vehicles and bicycles in the private sector, including scrappage scheme. The evidence provided by Malta demonstrates that the call for applications was published by way of a notice in the Government Gazette of the Government of Malta No. 20 817 on 29 March 2022. It relates to a grant scheme that supports the purchase of new electric passenger cars, goods carrying vehicles, minibuses, coaches, quadricycle, motorcycles, and pedelecs. The call also covers a scrappage scheme intended to provide further financial support to applicants who, while purchasing and registering a new electric vehicle or pedelecs, deregister a vehicle of any category which is older than 10 years. Furthermore, the

structure of the grant scheme was designed taking into consideration all the factors required to ensure an increase of the share of electric vehicles among the total vehicle fleet. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (17) Milestone 2.20 provides for a Memorandum of Understanding (MoU) that agrees to the purchase of 102 fully electric buses for the part replacement of the Malta public transport fleet. The evidence provided by Malta demonstrates that the MoU for the purchase of 102 fully electric buses was signed by Malta Public Transport Services (Operations) Limited and the Authority for Transport in Malta (Transport Malta) on 28 December 2022. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (18) Milestone 3.1 provides for the launch of a scholarship scheme to encourage students to pursue a career in niche Information and Communication Technology (ICT) areas. The evidence provided by Malta demonstrates that the authorities launched two scholarship schemes for students to undertake post-graduate studies in ICT areas. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (19) Target 3.10 provides for at least EUR 2 500 000 to be paid out for contractual obligations relating to measures in relation to the modern digital workplace for public officers and solutions to improve the front-end customer experience. The evidence provided by Malta demonstrates that the authorities paid out over EUR 2 500 000 for the acquisition of software and hardware to further develop the modern digital workplace for public officers, as well as for the upgrade of the ICT infrastructure across the government agency's physical hubs. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (20) Milestone 3.14 provides for the launch of calls for applications for business to receive grant support for digitalisation, including wholesale and retail, tourism (including culture) and manufacturing sectors. The evidence provided by Malta demonstrates that the authorities launched three grant schemes to support companies, including SMEs, in digitalising their operations. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (21) Milestone 4.1 provides for the publication of a study, which identifies issues that impact the attraction, integration, and retention of foreign healthcare workers, including relevant policy recommendations. The published study included: (i) an analysis of barriers and facilitators for a better integration and well-being of foreign workforce (including expectations, concerns, relationship with peers), (ii) the consultation of all relevant stakeholders (including JobsPlus and Identity Malta), and (iii) proposed policy recommendations about measures to improve integration and well-being of foreign workforce. The study was carried out by an independent contractor who was selected through public procurement procedures, closed on 1 March 2022. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (22) Milestone 4.5 provides for a report on obesity prevalence amongst 4–5-year-olds in the Maltese population. The report feeds into the obesity surveillance programme among children and provides a set of policy recommendations. The evidence provided by Malta demonstrates that the report on obesity in the Maltese population was published online, and covered 4–5-year-old children and 5–16-year-old children. The report also included a correlation table linking the findings, the policy

recommendations and the respective stakeholders. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (23) Milestone 4.7 provides for a review of the regulatory framework related to the Blood Bank, Tissue and Cell Centre. This milestone concerns a review carried out by an independent contractor that: (i) scrutinises the regulatory framework related to blood, tissues and cells; and (ii) identifies the legal changes required to remove any regulatory barriers and bottlenecks that may affect the functioning of the Centre. The evidence provided by Malta demonstrates that the review has been published online and covers all of the defined regulatory areas. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (24) Milestone 4.11 provides for the tendered and signed contract for the procurement of a Magnetic Resonance Linear Accelerator (MR Linac) equipment solution at Sir Anthony Mamo Oncology Centre. This measure concerns the acquisition of modern equipment able to provide superior imaging quality combined with improved therapy delivery. The evidence provided by Malta demonstrates that the contract was signed on 6 December 2022, following a public procurement procedure. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (25) Milestone 4.13 provides for a signature of contracts for the digital pathology services at the histopathology department at Mater Dei Hospital. The energy efficient digital pathology workstations and conference room equipment include: (a) software to handle the pre-analytical phase and provide seamless automation of specimen processes, (b) specimen imaging facilities and enabling software, (c) high throughput digital slide scanners and digital case management system and (d) networking server solutions, to facilitate real-time online storage facilities and archiving. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (26) Milestone 5.6 provides for the setting up of an e-College, offering at least ten online courses covering differing subject areas. The e-College shall possess at least a learning management system, a mentoring and guidance unit, as well as an online hub, consisting of the support from the help desk and online coaches. The e-college shall further be complemented by a hub facility providing physical space with technical equipment and in-person coaching for adults. The evidence provided by Malta demonstrates that (i) the e-College is legally and practically operational; (ii) it possesses a learning management system and offers a minimum of ten online courses in different subject areas; (iii) it possesses a mentoring and guidance unit as well as an online hub, consisting of the support from the help desk and online coaches, which assist learners; and (iv) the e-college is complemented by a hub facility providing physical space with technical equipment and in-person coaching for adults who are lacking digital skills or equipment to access courses online. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (27) Target 5.9 provides for the setting up of two new multi-sensory learning rooms in colleges including new operational equipment and trained personnel to allow for further integration of pupils with special needs into the mainstream school environment. There is a parallel, continuous training in inclusive pedagogy for teachers and learning support educators. The evidence provided by Malta demonstrates that (i) two new multi-sensory learning rooms have been completed and are operational in colleges; (ii) the units are available for student usage and have been

equipped as required; (iii) in each class there is one teacher; (iv) two teachers received additional training in inclusive pedagogy and in the delivery of a functional curriculum, which was delivered in-house by practitioners at the National School Support Services; and (v) continuous training in inclusive pedagogy for teachers and learning support educators is provided. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.

- (28) Milestone 5.12 provides for the online publication of a study assessing the adequacy and coverage of unemployment benefits, including recommendations for policy options to achieve better adequacy and coverage of benefits, both in terms of duration and effective access, whilst enhancing the incentives to work. The evidence provided by Malta demonstrates that (i) a study assessing unemployment benefits in Malta has been completed and published online; and (ii) the study assesses the situation and makes concrete and detailed recommendations to the Government on how to improve effective coverage and achieve better adequacy of benefits, both in terms of duration and effective access, as required. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (29) Milestone 5.16 provides for the online publication of an Action Plan outlining policy proposals, including legislative changes where relevant, as a follow-up to the Pensions Review Report and the post-consultation feedback. The evidence provided by Malta demonstrates that the Action Plan was published on the website of the Department of Social Security in November 2022. There are 14 measures included in the Pension Action Plan which address the adequacy of the pension system including pension increases, higher social security pension for service pensioners, increase in tax exemption cap for pensioners, higher rates of Supplementary Assistance and an increase of the Senior Citizen Grant. In addition, significant measures included in the Action Plan (8 measures) address primarily sustainability and, in some cases, adequacy through various channels, including by discouraging early retirement, extending working life and sustaining revenue diversification, thereby reducing pressures on public expenditures and thus improve fiscal sustainability. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (30) Target 6.7 provides for the recruitment of 31 additional staff members, notably lawyers, legal procurators, managers – including senior managers, ICT officers, as well as administrative and support staff that are required to take on the increased prosecutorial responsibilities at the Attorney General’s (AG) office, to bring the total number of people employed by the office of the AG up to 87. In their request for payment, the Maltese Authorities made reference to the existence of a clerical error in the Council Implementing Decision, with respect to the baseline of target 6.7. While the target requires that the total number of people in employment at the Attorney General’s office increases from 56 in May 2020 to 87, the database extracted from Malta’s Public Employment Service agency (Jobsplus) dated May 2020 shows that there were only 37 people in employment at that date. The Commission considers that this is a clerical error and has undertaken the assessment on this basis. The evidence provided by Malta demonstrates that a total of 91 people were in employment in December 2023 exceeding the target of 87. This accounts for 54 additional staff members in employment at the end of the assessment period, including 44 lawyers, 1 manager and 8 administrative and support. On legal procurators, while their non-addition constitutes a minimal substantive deviation from the requirement of the Council Implementing Decision, the addition of a surplus of lawyers (notably 44



versus 30 required by the AG's HR Plan (2021)), offers a superior alternative to the addition of legal procurators since they are able to, and already do, plead in superior courts in addition to the inferior courts, whereas legal procurators are only able to plead in the inferior courts. As of this, this minimal deviation does not change the nature of the measure and does not affect the progress towards achieving the reform that the target represents. On this basis, it is considered that this constitutive element of the target is satisfactorily fulfilled. On senior managers, the Maltese authorities have contracted the services of consultancy firm PwC on 27 April 2023 to provide additional support to the AG's office for the key tasks required by a Senior Manager. This is evidenced on p. 126 of Government Gazette No. 21,131 of 13 October 2023. Whilst this constitutes a minimal substantive deviation from the requirement of the Council Implementing Decision, the efforts made by the Maltese authorities to provide analysis and assistance to the prosecutors, ensure that the AG has additional support to perform its duties. As of this, this minimal deviation does not change the nature of the measure and does not affect the progress towards achieving the reform that the target represents. On this basis, it is considered that this constitutive element of the target is satisfactorily fulfilled. Lastly, while one ICT systems manager was recruited in September 2020, the person resigned in 2023. Pending further recruitment, any ICT tasks that require attention are being addressed by the Ministry responsible for Justice. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.

- (31) Milestone 6.11 provides for the implementation of Action Point 3 of the National Anti-Fraud and Corruption Strategy, namely the undertaking and publishing of a National Risk Assessment by the Co-ordinating Committee with the aim to (i) maintain an effective risk-based regime to combat fraud and corruption; (ii) prioritise and allocate public sector resources efficiently; (iii) help National Authorities to assess the adequacy of their controls and strengthen them where necessary; (iv) increase awareness among the general public; and (v) update the present Action Plan which is an integral part of the NAFCS. The evidence provided by Malta demonstrates that all the constitutive elements of the milestone description have been addressed. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (32) Target 6.26 provides for the provision of 10 Anti-Money Laundering/Counter Financing of Terrorism (AML/CFT) trainings in 2021 to members of the National Coordinating Committee on Combating Money Laundering and Funding of Terrorism (NCC), tailored based on the training needs identified by the NCC subcommittee overseeing AMLCFT and Combating Proliferation Financing (CFP) training and outreach initiatives. The evidence provided by Malta demonstrates that a total of 10 different trainings were provided over the course of 2021 to members of the NCC comprising various key entities including the Financial Intelligence Analysis Unit, Malta Financial Services Authority, Malta Police Force, Office of the Attorney General, Office of the Commissioner for Revenue, and others involved in combating financial crime. On the basis of the due justification provided, the target should be considered as satisfactorily fulfilled.
- (33) Milestone 6.28 provides for the entry into force of a revised corporate tax return for the fiscal year 2021, through which data relative to dividends derived from bodies of persons resident in jurisdictions listed in the Code of Conduct Group list of non-cooperative jurisdictions shall be requested. The evidence provided by Malta demonstrates that the corporate tax return, which includes the new attachment in

question, was made available for download on the Commissioner for Revenue online services portal on 31 May 2022. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.

- (34) Milestone 6.29 provides for the assignment of two full-time investigators to scrutinise taxpayers' holdings in entities situated in jurisdictions listed in the Code of Conduct Group list of non-cooperative jurisdictions. The evidence provided by Malta demonstrates that two full-time investigators were appointed following a call for expression of interest for the position of revenue inspectors disseminated through Circular No. HR/MFE 12/2021 on 27 August 2021. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (35) Milestone 6.31 provides for the consultation of stakeholders, drafting of specific transfer-pricing rules, and transmission of the legal notice to the Cabinet for approval. The evidence provided by Malta demonstrates that the Office of the Commissioner for Revenue initiated a public consultation on the proposed Transfer Pricing Rules in late 2021, which consultation was published widely and was open to all stakeholders, including accountants, lawyers and other tax practitioners. The evidence further demonstrates that the consultation also aimed to obtain information that has relevance to the scope and the procedure relating to advance pricing agreements, that the draft legal notice was transmitted to Cabinet for approval. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (36) Milestone 6.32 provides for the entry into force of specific transfer pricing rules in Malta pertaining to the arm's-length principle and advanced pricing agreements, effective from the first quarter of 2024. The evidence provided by Malta demonstrates that on 18 November 2022, the Minister for Finance and Employment issued Legal Notice 284 of 2022 which provides for the formal introduction of specific transfer pricing rules in Malta as of 1 January 2024. Legal Notice 284 of 2022 was thereafter amended by Legal Notice 9 of 2024 and supplemented by the published Guidelines of 19 January 2024. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (37) Milestone 6.35 provides for the completion of an independent study to analyse the state of play and provide recommendations for legal measures necessary to address outbound and inbound dividend, interest and royalty payments, between companies established in Malta and related companies established in jurisdictions that either form part of the EU list of non-cooperative jurisdictions or that are considered to be zero-tax or low-tax jurisdictions. The evidence provided by Malta demonstrates that the study was commissioned following public procurement rules, with the call for tender issued on 5 May 2022 and closed on 6 June 2022. The study was drawn up responding to the objectives outlined in the Terms of Reference of the tender document. The Executive Summary was published on the government's website and the full study was shared with the European Commission. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled.
- (38) Milestone 6.37 provides for the entry into force of a spontaneous exchange of information mechanism, whereby Malta's tax authorities exchange information with original jurisdictions of tax residence of successful applicants of the Citizenship by Naturalisation for Exceptional Services by Direct Investment (Citizenship Regulations) that are party to the OECD Convention on Mutual Assistance in Tax Matters and to other jurisdictions that are not party to this Convention but with which Malta has a bilateral exchange of information mechanism in place, about persons that

shall be granted citizenship under this scheme in future. The evidence provided by Malta demonstrates that since 1 January 2022, Malta is implementing a spontaneous exchange of information mechanism for its Citizenship by Naturalisation for Exceptional Services by Direct Investment programme. The entry into force of the new mechanism is determined by the entry into force of a Memorandum of Understanding between Community Malta Agency (English for ‘Agenzija Komunita’ Malta’) and Malta’s Commissioner for Revenue, and the corresponding Tax Residency Jurisdiction Declaration form that applicants must fill. On the basis of the due justification provided, the milestone should be considered as satisfactorily fulfilled. This reform concerns exclusively the exchange of information for tax purposes regarding successful applicants to the citizenship scheme. Therefore, this reform does not concern the establishment, the operation or the conditions to benefit from that scheme. The Commission’s assessment on satisfactory fulfilment of this milestone is without prejudice to the Commission’s claim that the scheme is not in line with Union law, as presented in the action brought before the Court of Justice on 21 March 2023.

- (39) Furthermore, the Republic of Malta has also confirmed that previously satisfactorily fulfilled milestones and targets have not been reversed.
- (40) Following the fully positive assessment concerning the Republic of Malta’s payment request, in accordance with Article 24(5) of Regulation (EU) 2021/241, the disbursement of the financial contribution for the second instalment of the non-repayable support should be authorised.
- (41) In accordance with Article 2(3) of the Council Implementing Decision, as specified in the Financing Agreement, the pre-financing of the financial contribution shall be cleared by being proportionally deducted against the payment of the instalments. As Malta received EUR 55 123 459 of the financial contribution as pre-financing, an amount of EUR 11 572 791 of the payment should be utilised to clear the pre-financing, of which EUR 4 073 158 to clear the pre-financing for the REPowerEU chapter. Additionally, in accordance with Article 13(3) of Regulation (EU) 2021/241 and Article 5 of the Financing Agreement, this payment shall also be reduced to offset the excess amount of pre-financing of EUR 7 556 587.
- (42) This Decision should be without prejudice to procedures relating to distortions of the operation of the internal market that may be undertaken, in particular under Articles 107 and 108 of the Treaty on the Functioning of the European Union. It does not override the requirement for Member States to implement the measures in accordance with Union and national law and, in particular, to notify instances of potential State aid to the Commission under Article 108 of the Treaty on the Functioning of the European Union.
- (43) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 35(1) of Regulation (EU) 2021/241,

HAS ADOPTED THIS DECISION:

#### *Article 1*

#### *Authorisation of the disbursement of the non-repayable support*

The disbursement of the second instalment of the non-repayable support as laid down in Section 2(1)(1.2) of the Annex to the Council Implementing Decision of 5 October 2021 on

the approval of the assessment of the recovery and resilience plan for Malta for an amount of EUR 78 055 270 is authorised.

In accordance with the Financing Agreement concluded pursuant to Article 23(1) of Regulation (EU) 2021/241 between the Commission and the Republic of Malta, EUR 19 129 378 shall be utilised to clear the pre-financing of the financial contribution and offset the excess amount of pre-financing paid. EUR 58 925 892 shall be provided to Malta by means of payment to the bank account indicated in the Financing Agreement.

*Article 2*  
*Addressee*

This Decision is addressed to the Republic of Malta.

Done at Brussels, 6.5.2024

*For the Commission*  
*Paolo GENTILONI*  
*Member of the Commission*

