

RULE OF LAW

MALTA'S INPUT TO THE 2021
EUROPEAN RULE OF LAW
ANNUAL REPORT

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

Foreword by the Minister for Foreign and European Affairs



Actions speak louder than words. A rhetorical cliché, which however best fits Malta's year of change. The Government has not simply expressed desire to implement positive change, but showed resolve and stayed true to its commitment to bring about meaningful institutional reforms. Not change for the sake of change, but significant and unprecedented reforms that have strengthened the rule of law framework in Malta.

Today, we are not simply committed, but best placed to share our experience with fellow Member States within the European Rule of Law Mechanism. That is not to say that we have reached our destination or even more important, that we intend to preach. We want to listen as much as we are ready to share our best practices with humility and that good governance is an ongoing process that requires perpetual commitment by all governments.

Good governance is a journey, not a destination. There is no single rule of law framework that works wonders across the bloc. Whilst we ought to be guided by the same core principles, we must also respect, recognize and appreciate the constitutional heritage and particular reality and eco-system of each peer. Failure to do so would render the whole process futile. While having common values, a one size fits all approach is impractical and does not work. It is only in such context that one can truly deliver a just and objective assessment of the efforts (or otherwise) of a State to strengthen and uphold the rule of law. This ensures mutual respect, which is the keystone for the successful desired outcome to which Malta remains fully committed.

Over the past months, we have knuckled down to translate this pledge into outcome. The Prime Minister has relinquished his powers to appoint officials to key posts such as the Police Commissioner and the Attorney General, which, for the first time ever, were appointed following a public call. We strengthened the composition of the Judicial Appointments Committee where more than half of the members are members of the judiciary. Furthermore, Malta supplemented the continuous public call for vacancies in the judiciary by a public call for individual vacancies. The Chief Justice will be appointed by a Parliamentary resolution supported by a two-thirds majority, as will the next and subsequent Presidents of the Republic of Malta.

The above is by no means an exhaustive list of the reforms we intend to implement to ensure good governance and to strengthen Malta's reputation. Nor is it an exercise of self-admiration or angling for compliments. The reforms speak for themselves; yet recognition, including their significance in the specific context must be appropriately recognised. As should the expediency of the process, bearing in mind its unprecedented nature on which previous administrations showed reluctance, to say the least.

This is the crux of the European Rule of Law Mechanism to which we remain fully committed - a just, evidence-based approach which is founded upon the respect for the specific legal, societal, and political context of each Member State. In this regard, I reiterate Malta's determination to contribute to the process and exchange lessons learnt, as we continue to bring about the positive change our people deserve.

I look forward to further progress in a spirit of honest cooperation and sincere dialogue among equals.

Hon. Evarist Bartolo
Minister for Foreign and European Affairs
Government of Malta

A handwritten signature in blue ink that reads 'Evarist Bartolo'.

Foreword by the Minister for Justice, Equality and Governance



The strongest and most important words in any democratic country are the words of its laws. It is on this premise that the Government of the day has shown resolve and determination to implement reforms wheresoever necessary, this has been done by amending dispositions of the laws including the most supreme law of our land, the Constitution of Malta, together with other legislation.

Notwithstanding the fact that over the past fourteen months Government faced unprecedented challenges in the global plight created by the COVID-19 pandemic we still stood firm to pass legislation through the House of Representatives and ensure its implementation. The latter being of equal importance to what is penned down, since we cannot have truly aim for a strong good governance model, based on the democratic principles of the Union, if we or any other Member State fails to put its legislation into practice.

Rule of Law, Democracy and Fundamental Human Rights are a basic foundation of everything else: the efficiency of our Courts, the access to fair and equitable justice, our rights as citizens, and the independence of our institutions. For this reason, Government has undertaken all efforts to ascertain that we as a nation work together to have institutions which are effective and functional, and laws which reflect the concerns of the many and not the few.

Our Commitment is defined by our resilience to effect change, by clamping down on criminals and by drafting real legislative amendments which strengthen our justice system and our judicial bodies. From the split in the Office of the Attorney General, the enactment of the Proceeds of Crime Act which fights Money Laundering and the Financing of Terrorism, the appointment of the Chief Justice and the President of the Republic of Malta by a two-thirds majority vote of the House of Representatives, to further digitalisation of our Courts, and other unprecedented legislative amendments. This is only a summary of the many Bills that have become Acts, and others that are still in the pipeline. For this year, Government plans on further strengthening the Courts of Malta and Gozo, by creating mechanisms and procedures which set the seal on efficient and effective justice provided to citizens within a reasonable time.

In full respect to the European Framework of Rule of Law, we remain keen to more exchange of views with European Institutions through which we can raise the bar for other Member States, and even ourselves. We remain resolute to perform at our best in the months ahead, thereby creating more trust and credibility in our institutions.

I look forward to reaching all overarching and common goals together in the fora of Rule of Law and Good Governance, which is only possible whenever we continue to work together in a spirit of brotherhood as one united European Union.

Hon. Edward Zammit Lewis
Minister for Justice, Equality and Governance
Government of Malta

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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. On its part, following the submission of the national input in May 2020, the Government took the initiative to keep the Commission regularly updated throughout the past months with over twelve updates ranging from weekly to monthly updates, apart from the virtual country visit organised by the European Commission in June 2020.

The implementation of last year's reforms continue to yield results in proving the strengthened effectiveness of Malta's institutions. Going forward, the Rule of Law and Governance continue to be a top Government priority. The European Commission and the Venice Commission are amongst the 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 report. The national input takes off from where it left in May 2020 and seeks to provide the very latest updates, including in 2021. The report also includes additional information which was not included in the 2020 report.

Abstract

The year 2020 marked a year of unprecedented reforms, including reforms of the judicial appointments and dismissal. These reforms, some of which have been a decade in the making, are amongst the most significant in terms of the Maltese legal and judicial system since Independence. In the past months, the focus has been the implementation and operationalisation of the reforms which also require substantial investment – both in infrastructure and equipment as well as human resources. Such investment, including digitalisation of the justice system, measures to reinforce the anti-corruption framework, and the continued transformation of the Malta Police Force has continued to be a priority even against the background of a global pandemic as Government strongly believes in implementing the commitments made.

The **Prosecution Service**, under the authority of the Office of the Attorney General and fully separate from the State Advocate, was set up. The completion of the transfer of prosecution responsibilities for specified serious crimes¹ from the police to the Attorney General took place in October 2020, in line with commitments made. More important reforms are under way, as regards the **efficiency of the justice system**, not least the development of Malta's first Digital Justice Strategy which should lead to business process re-engineering, supported also by Next Generation EU. The new appointment procedure paved the way to reinforce the capacity of the courts. It is planned that this reform will lead to an increase in the number of the judiciary by up to 18% by the first half of 2021 in line with the timeframes set out in the Constitution.

In terms of **investigating and prosecuting corruption cases** is improving, 11 high profile individuals and a number of companies were charged with money laundering and corruption offences as recently as mid-March 2021. A broad reform project is under way to further strengthen the institutional anti-corruption framework, including law enforcement and prosecution. A National Anti-Fraud and Corruption Strategy (NAFCS) was finalised in March 2021. Significant resources have gone in the training and development of the Malta Police Force which is implementing a number of strategies and policies, including a Transformation Strategy for the years 2020-2025 and a new Code of Ethics. The Strategy seeks to transform the Malta Police Force into a flexible, efficient, data-driven, community centric, outcome focused organisation. Apart from the statutory reinforcement of the Permanent Commission Against Corruption (PCAC) by way of Act No. XLVI of 2020 - Permanent Commission Against Corruption (Amendment) Act, investments have been made to provide this entity the necessary funds and resources requested by the Permanent Commission Against Corruption (PCAC), including new premises. The PCAC is consequently undergoing a capacity building process. Significant resources were also invested in the Financial Intelligence Analysis Unit (FIAU) and the Malta Financial Services Authority, including an increase of 128% and 41% respectively in human resources between 2018 and 2020.

Developments on the investigation into the assassination of Daphne Caruana Galizia mark another important milestone towards establishing the full truth for the Caruana Galizia family and for the country. The recent chain of events is proof that the reforms are effective and that continued investment ensures that institutions have the necessary resources. **Media freedom and pluralism** are an integral part of Malta's democracy and an important tool in enhancing freedom of expression. Against the background of the challenges posed by the pandemic, the Maltese Government provided the necessary assistance, including financial assistance, so that media, television, radio, newspapers, and news portals, continue to operate. The Broadcasting Act was amended to transpose the Audiovisual Media Services Directive into Maltese Law. Investigations of hate speech and hate crime have been assigned to the Vice Squad of the Malta Police Force, which was reinforced and received specialised training. A Victim Support Agency was set up, consolidating and upgrading the services offered to victims of crime. The ball was set rolling in March 2021 for Malta to join the Media Freedom Coalition.

As regards **checks and balances**, complementing the reforms adopted by Parliament in 2020 on the election and removal of the President of the Republic, as well as reforms reinforcing the role of the Ombudsman, other draft legislation on the appointment of a number of independent bodies, such as the Governor and Deputy Governor of the Central Bank, the Chairperson of the Malta Financial Services Authority, and the Information and Data Protection Commissioner, has been approved by the House of Representatives in March 2021.

Civil society organisations play an important role in public debate. The government provides financial incentives to support civil society organisations engagement in activities with other organisations not only at a local level but also at a European level with the aim of encouraging the exchange of best practices, knowledge and information amongst organisations. Funding opportunities, which are regularly published on a dedicated portal, cover employment, skills, emergency funding, operational assistance, co-financing, and environmental initiatives. Government also assists civil society in accessing EU funding by providing dedicated support.

¹ Including wilful homicide, terrorism, money-laundering, bribery, corruption, fraud and misappropriation.

I. Justice System

I.I Independence

Significant developments

The year 2020 was characterised by historical and unprecedented reforms in relation to judicial independence as part of wider governance reforms that reinforced the separation of powers, resulting in the six Bills **unanimously** approved by the House of Representatives on 29 July 2020 and published on 7 August 2020. These reforms were taken into account in the first Rule of Law Report issued by the Commission due to regular updates submitted by the Maltese authorities and the engagement retained throughout between both sides.

1. Appointment and selection of judges, prosecutors, and courts presidents

Judicial appointments, including the Chief Justice

Following unanimous approval by the House of Representatives, Act No. XLIII of 2020 - An Act to amend the Constitution of Malta relative to the appointment of judges and magistrates, was published on 7 August 2020. The Constitution was amended for the purpose of providing for the appointment of the Chief Justice with the approval of two-thirds of all the Members of the House of Representatives; for a change in the composition of the Judicial Appointments Committee so that a majority of its members are members of the judiciary; and to provide for the issuing of public calls for vacancies within the judiciary, as opposed to having a system of rolling open calls for applications. Under this new system, when a judicial vacancy arises the Judicial Appointments Committee will propose the three most suitable candidates for appointment to the judiciary directly to the President of Malta. The President will make the selection from amongst those candidates. The proposal of the Judicial Appointments Committee will be accompanied with a detailed report expressing the Committee's views on the suitability of each of the proposed candidates. The final choice will rest with the President. Thus, there is no involvement of the Prime Minister, Cabinet or politicians throughout this process.

This procedure has been put in action in order to provide for the appointment of eight additional members of the judiciary; four judges and four magistrates. The call for application for the appointment of four judges was issued in the Government Gazette on 12 February.³ The deadline for letters of application was 1300hrs of 26 February 2021. The call for application for the appointment of four magistrates will be issued after the completion of the recruitment of the four judges.⁴

Depending on the outcome of the process, this could lead to a 16% increase in judges and up to a 18% increase in magistrates.⁵

This level of recruitment is unprecedented in the sense that it will lead to the highest number of sitting judges and magistrates. This is directly linked to measures related to the resources of the judiciary (also with reference to section 12 below and part I.III on the Efficiency of the Justice System).

Another important development concerns the preliminary ruling (Case C-896/19) from the Qorti Ċivili Prim'Awla – Sede Kostituzzjonali (First Hall of the Civil Court (Constitutional Jurisdiction) relative to the 2016 reform on the appointment of the members of the judiciary. On 17 December 2020, Advocate-General Hogan gave his Opinion in relation to this case, and stated that EU law does not preclude national constitutional provisions under which the executive power or one of its members, such as the Prime Minister, plays a role in the process of the appointment of members of the judiciary. Advocate General Hogan also found that the procedure for the appointment of Maltese judiciary in the specific case cannot be called into question under Article 19(1) TEU, interpreted in the light of Article 47 of the Charter. Advocate General Hogan said that a review of the method of judicial appointments in Malta, particularly after the 2016 reform did not conflict with European law. Advocate General Hogan remarked that the fact that a person had an association or affiliation with a political party before his/her appointment to the judiciary does not mean in any way that the said person is unable to function independently and impartially in the fulfilment of one's role as part of the judicial corp. The opinion by Advocate General Hogan that the method of appointment of the members of the

² The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts.

³<https://www.gov.mt/en/Government/DOI/Government%20Gazette/Documents/2021/02/Government%20Gazette%20-%2012th%20February.pdf>

⁴ <https://www.gov.mt/en/Government/DOI/Press%20Releases/Pages/2021/February/11/pr210304en.aspx>

⁵ For example, depending on whether magistrates are appointed to judges.

judiciary in Malta prior to the 2020 reforms already did not conflict with European law was welcomed. The appointments were after all carried out in accordance with the Constitution.

Prosecution

Amendments to the Attorney General Ordinance (Chapter 90) by way of Act XXV of 2019 introduced provisions for the taking over of prosecutions by the Office of the Attorney General. The police will remain responsible for investigative work. This with the exception of summary cases being contraventions or else all crimes punishable with a fine (*multa*) or a maximum of two years' imprisonment or less. The law provided for the possibility of transitory periods for this shift in prosecutorial duties from the Police Force to the Office of the Attorney General based on a gradual approach, by allowing the taking over of prosecutions of specific crimes on different dates. The implementation of this process started early in 2020 with the phased recruitment of 20 new lawyers to the Office of the Attorney General in order to enable the said Office to handle the workload more efficiently. This transition process is expected to take around four years; and in any case, expected to conclude by the end of 2024.

On 1 October 2020, the first phase of the transitory period ended by virtue of the Prosecution of Offences (Transitory Provisions) Regulations, 2020 (L.N. 378 of 2020), the Attorney General took over the decision to prosecute and the institution of prosecutions of specified serious crimes. These include crimes such as wilful homicide, terrorism, money-laundering, bribery, corruption, fraud and misappropriation where the financial loss caused is of at least fifty thousand euro (€50,000), and evasion of customs duty. There is very close collaboration between the investigation (the Police) and the prosecution teams within the Attorney General's Office especially during this transitory phase. To this end, Standard Operating Procedures between the Police and the Attorney General's Office are in place between the two entities to ensure the smooth taking over of these duties by prosecutors at the Office of the Attorney General.

Bill No. 195 entitled Criminal Code (amendment No 3) was published on 18 February 2021. The Bill provides for changes to the Criminal Code in order to provide more clarity relative to prosecutions conducted by the Office of the Attorney General. The Bill is expected to be enacted in the second quarter of 2021.

Separate Prosecution Service

Therefore, it must be emphasised that:

- **the Prosecution Service, under the authority of the Office of the Attorney General is fully separate from the State Advocate**, legally, physically, and operationally;⁶
- **the transfer of prosecutorial functions from the Police to the Attorney General has taken place** in relation to key areas, which include those areas identified by the Commission in its 2020 Country Report.⁷ The transition is expected to be completed over a period of four years;
- **the handling of summary cases** can only be revisited once the transition process is completed.

Consideration should be given to ongoing legislative stakeholder consultations which are currently underway to depenalize crime wherever it is possible to do so.

Appointment procedure of the Attorney General

"Checks and balances in the future appointment procedure of the Attorney General" were identified as a possible challenge, which "may therefore persist until the reform is complete and there is an established positive track record".⁸ The reform has been completed and implemented. In accordance with the new appointment procedure set out in Act XXV of 2019, the Prime Minister accepted the unanimously recommended candidate by the Appointments Commission as Malta's new Attorney General. It is pertinent to recall that this reform was carried out in line with the 'Compilation of Venice Commission Opinions and

⁶ OPINION ON PROPOSED LEGISLATIVE CHANGES Adopted by the Venice Commission on 19 June 2020 by a written procedure replacing the 123rd Plenary Session, Page10, Para 55, "The main goal (i.e. separation of the dual function of the AG) is achieved,"

⁷ European Commission Country Report Malta 2020, SWD(2020) 517 final, page 6, "the prosecution of crimes related to corruption, abuse of power and money laundering".

⁸ European Commission Country Report Malta 2020, SWD(2020) 517 final, page 41.

Reports concerning Prosecutors,⁹ and needs to be seen in the context of other checks and balances, including:

- Constitutionally **enshrined eligibility criteria¹⁰ and security of tenure¹¹** which are equivalent to the judiciary – the same provisions on security of tenure in fact apply mutatis mutandis for the Attorney General;
- the implementation of the **judicial review reform of decisions not to prosecute and other decisions of the Attorney General**, by way of Act No XLI of 2020 and Legal Notice 377 of 2020, titled ‘Judicial Review (Decisions not to prosecute and other decisions of the Prosecution)’ which entered into effect on 1 October 2020. The Act amended the Constitution, the Criminal Code, and the Code of Organisation and Civil Procedure for the purpose of providing for judicial review of decisions not to prosecute on the ground of illegality or unreasonableness. In addition, the Permanent Commission Against Corruption (PCAC), the Ombudsman, the Commissioner for Standards of Public Life and the Auditor General have all been given the status of injured party at law when they report a corrupt practice (as defined in the PCAC Act) to the Attorney General. These institutions may therefore also seek judicial review individually in cases referred by them to the Attorney General in the same manner as the injured party. This is an important exception to the rule that judicial review of a decision not to prosecute may only be demanded by the injured party.

Relevant statistical information

During the period covering 1 October 2020 to 31 March 2021 (and therefore following the above-mentioned end of the transitory period (first phase)), there were 18 money laundering cases, 8 of them are stand alone, and 10 of them are money laundering as a main offence plus a predicated offence.

The following is a table of arraignments by the Office of the Attorney General (covering the period from 1 October 2020 to 31 March 2021):

Prosecuted persons in various cases ¹²	
Number of Natural Persons	44
Number of Legal Persons	38
Total	82

Important opinions in this regard include the following:

- Opinion on proposed legislative changes - Adopted by the Venice Commission on 19 June 2020 by a written procedure replacing the 123rd Plenary Session
- 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).

2. Irremovability of judges, including transfers, dismissal and retirement regime of judges, court presidents and prosecutors

Transfers

The system on subrogation of judges and magistrates and to the assignment of duties of judges and magistrates is 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.

Article 101A (13) now reads:

⁹ Pages 18-21.

¹⁰ Article 91(2) of the Constitution, “(2) A person shall not be qualified to hold office as Attorney General unless he is qualified for appointment as a judge of the Superior Courts”.

¹¹ Articles 91 and 97 of the Constitution.

¹² Crimes include: attempted homicide, money laundering, fraud, misappropriation and wilful homicide.

The powers of the President under any law with regard to the subrogation of judges and magistrates and to the assignment of duties of judges and magistrates shall be exercised on the recommendation of the Chief Justice: Provided that where the Chief Justice fails to make a recommendation to the President, the President shall exercise this power on the advice of the Minister responsible for justice: Provided further that in any such case the Minister responsible for justice shall immediately publish in the Gazette, a notice of that fact together with the reasons therefore, and he shall make a statement of such fact in the House not later than the second sitting immediately after he has so advised the President.

Dismissal

Following unanimous approval by the House of Representatives, [Act No. XLV of 2020](#) - Various Laws (Removal from Office) (Amendment) Act, (published on 7 August 2020), 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. The Maltese authorities removed the public prosecutor from the composition of the Commission for the Administration of Justice so that the prosecutor will not be involved in the removal of any member of the judiciary. The Attorney General has been substituted by the State Advocate. Article 101A of the Constitution of Malta sets out the composition:

Article 101A (1) There shall be a Commission for the Administration of Justice which shall consist of the President, who shall be the Chairman, and nine other members as follows:

(a) the Chief Justice who shall be Deputy Chairman and shall preside over the Commission in the absence of the Chairman;

(b) two members elected for a period of four years by the judges of the Superior Court from among themselves;

(c) two members elected for a period of four years by the magistrates of the Inferior Courts from among themselves;

*(d) two members appointed for a period of four years as to one by the Prime Minister and as to the other by the Leader of the Opposition, being in each case, a person of at least forty-five years of age, and who enjoys the general respect of the public and a reputation of integrity and honesty;**(e) the President of the Chamber of Advocates, ex officio.*

(2) The President shall have an original vote.

...

Retirement

[Act LV of 2020](#) - An Act to further amend the Constitution relative to the age of retirement of judges and magistrates was published on 17 November 2020, following unanimous approval by the House of Representatives on 12 November 2020. Article 97 and Article 100 of the Constitution, concerning judges and magistrates respectively, were amended to allow judges and magistrates to inform the Chief Justice and the President of Malta of their decision before reaching the age of sixty-five years once they choose to remain in office until reaching the age of sixty-eight. This constitutional amendment is aimed at also increasing the efficiency of the justice system allowing seasoned members of the judiciary for a longer period if they express their wish to do so.

3. Promotion of judges and prosecutors

Judiciary: There are no developments to report further to Malta's 2020 national input. It is pertinent to recall 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 which defines the eligibility of prosecutors. Currently, negotiations are underway in order for a collective agreement to be entered into with the union representing the prosecutors which will also revisit conditions.

4. Allocation of cases in courts

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 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 the important developments described under Section 1.

6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges

Judiciary

In the June 2020 Opinion, the Venice Commission welcomed that the Maltese Government's commitment to remove the role of Parliament 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.¹³

The above-mentioned and unanimously approved Act No. XLV of 2020 - Various Laws (Removal from Office) (Amendment) Act, published on 7 August 2020, revised the composition of the Committee for Judges and Magistrates, 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 from decisions of the Commission for the Administration of Justice. Through this amendment, the members of the judiciary will be judged by their peers. The reform described in last year's national input has been implemented. In October 2020, the Venice Commission acknowledged that this appears to be in line with existing standards.¹⁴

Moreover, judicial immunity from criminal liability is not a concept that is found under our legislation. 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

The Prosecution remains bound by the recently adopted Code of Ethics for Advocates and Legal Procurators at the Office of the Attorney General which were published in the Government Gazette on 27 December 2019.

Also relevant is the aforementioned implementation of the judicial review reform of decisions not to prosecute and other decisions of the Attorney General, by way of Act No XLI of 2020 and Legal Notice 377 of 2020, titled 'Judicial Review (Decisions not to prosecute and other decisions of the Prosecution) which entered into effect on 1 October 2020.

New safeguards protecting the image of correctness of both the office and lawyers transitioning into private practice

On 12 May 2020, an independent inquiry was established in terms of the Inquiries Act (Chapter 273) concerning the actions of a former junior public prosecutor. The independent inquiry, conducted by Chief Justice Emeritus Azzopardi, was concluded on 1 June 2020. The terms of reference of the Board of Inquiry and the report of the Board of the Inquiry were published by the Government.

Amongst other issues, the Board of Inquiry recommended new safeguards to protect the image of correctness of both the office and lawyers transitioning into private practice. The Board therefore recommended "that the lawyers employed at the Office be barred for appearing for persons or companies against whom criminal or civil proceedings were instituted during the period in which they were lawyers working at the Office".

¹³ 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 47, page 11

¹⁴ 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

In order to address the recommendation made by the Board of Inquiry, 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.'

7. Remuneration / bonuses of judges and prosecutors

Judiciary

The salaries of the judiciary continued to be revised upwards in terms of the Judges and Magistrates (Revision of Salaries) Order, 2020, issued under the Judges and Magistrates (Salaries) Act (Cap. 175). Apart from the salaries, members of the judiciary also receive allowances.

The wages of the judiciary have increased significantly as follows:

Chief Justice		
	2019	2021
Annual Salary	€64,844	€66,953
Annual Allowances	€43,079	€46,396
Total	€107,923	€113,349
Percentage increase		5%

Judges		
	2019	2021
Annual Salary	€57,790	€59,670
Annual Allowances	€40,921	€44,203
Total	€98,711	€103,873
Percentage increase		5%

Magistrates		
	2019	2021
Annual Salary	€50,965	€52,623
Annual Allowances	€39,898	€43,146
Total	€90,863	€95,769
Percentage increase		5%

It is pertinent to recall that reforms to pensions were carried out in 2018. These changes follow recommendations made in the Final Report of the Commission for the holistic reform of justice sector.

Prosecution

Regarding prosecutors, the salaries were in 2018 updated in line with the Schedule of Grades published each year with the Budget estimates. Negotiations are underway for the conclusion of a new collective agreement for prosecutors. The collective agreement will also provide for long term planning relative to the continued investment in this Office.

8. Independence/autonomy of the prosecution service

Apart from eligibility criteria tantamount to those of a judge of the Superior Courts (Article 91(2) of the Constitution), and security of tenure (Articles 91(4-5) and 97 of the Constitution), Article 91(3) of the Constitution requires that the Attorney General:

91. (3) In the exercise of his powers to institute, undertake and discontinue criminal proceedings and of any other powers conferred on him by any law in terms which authorise him to exercise that power in his individual judgment the Attorney General shall have Constitutional independence and shall not be subject to the direction or control of any other person or authority except insofar as a law may provide:

(a) for the judicial review of a decision not to prosecute or of any other decision taken by the Attorney General, on the grounds of illegality or unreasonableness; or

(b) for the judicial review on the basis of criteria established by law of a decision of the Attorney General that a prosecution should take place in a superior court of criminal jurisdiction where the punishment applicable would be higher than that which would apply had the same offence been tried before an inferior court of criminal jurisdiction.

Thus, the only exception to this general rule is the possibility of judicial review relative to decisions not to prosecute and decisions relative to where prosecution in drug cases should take place (vide article 93 (3) (a) and (b) of the Constitution).

It is also pertinent to recall the reforms carried out in 2019 and 2020 in relation to the separation of the dual role of the Attorney General by entrusting the advisory function to the State Advocate and the taking over of the decision to prosecute and prosecutions from the Police referred to in section 1 above.

In terms of autonomy, Article 4(3) of the Attorney General Ordinance states:

(3) The Office of the Attorney General is hereby designated as a Government Agency¹⁵ and the provisions of sub articles (5) to (9) shall apply to the said agency.

Amongst other things the identified paragraph provides for the following:

- the Office of the Attorney General shall as a government agency be headed by the Attorney General and shall be the medium through which the Attorney General carries out his/her functions according to law;
- the said agency shall be a body corporate having a distinct legal personality and shall be capable of entering into contracts, of employing personnel, of acquiring, holding and disposing of any kind of property for the purposes of its operations and of suing and of being sued;
- the legal and judicial representation of the Office of the Attorney General shall lie in the Attorney General or in any other person who he/she may designate.

These provisions were not amended in 2020.

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

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

Bill no. 181 entitled 'A Bill entitled an Act to amend legislation regulating the legal profession' of 2020 was tabled in the House of Representatives on 4 December 2020, with the objective to address recommendations made by Moneyval relative to the regulation of the legal profession. This bill is in the final stages and is expected to be enacted shortly in April 2021.

As things stand, the Bill would provide for revisions to a number of provisions such as those concerning causes of disqualification of those in the legal profession and the introduction of regulatory provisions relative to law firms.

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

Ongoing 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

¹⁵ The Public Administration Act provides for the creation of "Government agencies".

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 our courts' efficiency would also affect the general public's perception for the better.

Also, the Maltese Government is constantly evaluating the situation to partake / provide information for the Justice Scoreboard. The Maltese Government is an active contributor to the EU Justice Scoreboard which is one of the tools in the EU Rule of Law Toolbox. Furthermore, more detailed data is also provided to the Council of Europe, CEPEJ, in their evaluation cycle that occurs every 2 years. The last evaluation report was launched in 2020.

Other

During the first quarter,¹⁶ one lawyer was suspended from exercising the profession of a lawyer for a period of three months, following a decision made by the Committee for Advocates and Legal procurators of the Commission for the Administration of Justice.

Two lawyers, which form part of the defence counsel of one of the persons charged with complicity in the homicide of Daphne Caruana Galizia, were charged with bribery.

¹⁶ In March 2021.

I.II Quality of Justice

Significant developments

The right to a fair hearing is enshrined under Article 39 of the Constitution and in Article 6 of the European Convention Act (Chapter 319 of the Laws of Malta). Apart from the Courts of Justice, there are a number of statutory specialised tribunals which deal with administrative justice. These tribunals follow the principles of natural justice and the right to a fair trial. The particular advantage of these tribunals which are equipped with experts in the field, and the factor contributing to their expansion is their flexibility or rather informality in the applicable procedure which brings an added degree of expediency. Tribunals have a substantial impact on the accessibility of justice as these operate very efficiently, expeditiously, and inexpensive. The Administrative Review Tribunal, The Immigration Appeals Board, the Public Contract Review Board, the Industrial Tribunal may be appealed before the Courts of Appeal. Other Tribunals may be appealed before the Courts of Magistrates.

Several reforms are under way to improve accessibility, not least in terms of digitalisation where a draft strategy and a draft action plan are being drawn up for public consultation (which is likely to be launched by around mid-2021). This is part of a holistic approach adopted by the Ministry for Justice, Equality and Governance to make justice more efficient and accessible for everyone especially in view of the specific situation which arose due to the pandemic.

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

Court Fees

Information on cost structure is summarised [here](#). There were no development in this regard in 2020.

Legal Aid Agency

The Legal Aid Malta Agency was established by way of Legal Notice 414 of 2014. It provides operational and administrative support to the legal aid lawyer who runs the agency. Legal aid is granted twenty-four hours a day in any case, whether it is criminal or civil in nature. In civil cases, a person must be eligible through the means test. The new premises for the Agency were inaugurated on 1 December 2020 as part of investment of over €1,400,00.

Moreover, on 23-24 December 2020, the Government announced the appointment of twenty-one Legal Aid Lawyers for civil and criminal matters, as well as six Legal Aid Procurators for the next three year period between 1 January 2021 and 31 December 2023. This information was published in a Government Notice. This ensures that the complement of lawyers and legal procurators remains at the same or similar level as the previous period.

Language

Article 5 (3) of the Constitution states:

(3) The language of the Courts shall be the Maltese language: Provided that Parliament may make such provision for the use of the English language in such cases and under such conditions as it may prescribe.

The “Judicial Proceedings (Use of English Language) Act, 1965” (Chapter 189 of the Laws of Malta), was designed to deal with exceptional cases. If a person declares that he/she is English speaking in terms of Article 7 of Chapter 189, the court may order in terms of Article 3 of the aforementioned Act for proceedings to be carried out in English. If the accused declares he/she is a not Maltese nor English speaking, proceedings are carried out in Maltese. An interpreter is appointed to follow all proceedings and documents referred against him/her. One has to ensure that proceedings are instituted in Maltese and they can be turned into the English language.

In the Civil Law field, the Code of Organization and Civil Procedure (Chapter 12 of the Laws of Malta) also contains related provisions, such as:

- On language of the courts:

21.(1) The Maltese language shall be the language of the courts and, subject to the provisions of the Judicial Proceedings (Use of English Language) Act, all the proceedings shall be conducted in that language.

(2) Where any party does not understand the language in which the oral proceedings are conducted, such proceedings shall be interpreted to him either by the court or by a sworn interpreter.

(3) Any evidence submitted by affidavit shall be drawn up in the language normally used by the person taking such affidavit. The affidavit, when not in Maltese is to be filed together with a translation in Maltese, which translation is furthermore to be confirmed on oath by the translator.

- On judicial sales by auction:

313.(1) The Registrar shall publish regularly in two newspapers, one being in Maltese and the other in the English language, lists of the judicial sales by auctions which are about to be held and he shall indicate clearly therein the property in such manner that the public is well informed in order to safeguard the parties' interests

- On employment of an interpreter:

596.(1) If the court does not understand the language in which the evidence is given, it shall appoint a qualified interpreter at the provisional expense of the party producing the witness.

- On taking of answers and questions:

704.(1) The provisions of article 2(e) of the Judicial Proceedings (Use of English Language) Act, shall *mutatis mutandis* apply to the answers to the questions in all courts. (2) Such answers shall be certified by the registrar and shall form part of the record.

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

The 2021 Budget, provides that the premises of the Courts of Malta will be extended. Following this announcement, on 7 November 2020, a Project was announced on the renovation of a building next to the law courts to house 4 new halls and 25 additional offices. The investment amounts to around €5 million and its completion is expected within 2 years' time. This is the most substantial major investment in terms of renovation in the past 5 years.

In the year 2020, judges were allocated a **common room** which is situated within the building where their chambers are to serve as a recreational area where judges can meet and discuss issues informally.

Recruitment is underway for an additional 17 deputy registrars (around 14% increase) and around 30 clerical staff (around 28% increase), taking into account the necessary support structures for **eight additional members of the judiciary** referred to under section 1 of this chapter.

A considerable investment is also taking place with regard to reforming and strengthening of the Asset Recovery Bureau, this to be better equipped to fight organised crime and money laundering. The Human Resources Section of the Asset Recovery Bureau shall be better equipped by means of a 275% increase in staff (from twelve (12) to forty-five (45) HR personnel). Necessary facilities shall also be addressed.

Additionally, an investment of €2.4 million has been secured for a warehouse which will cater for the professional safe keeping of assets recovered. This complements the laws which have just been implemented via the Proceeds of Crime Act (Act No. V of 2021).

Developments concerning the Family Court

Measures have been taken to make way for children to give their statements in a building separate from court away from the perpetrator. The latter system is also used in cases of Domestic Violence, thus protecting the victim and their rights.

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. It assists judges and magistrates in skills training and continued professional development mainly through seminars conducted by both local and foreign experts and speakers. The JSC is composed of four (4) members, two appointed by the Chief Justice and two members appointed by the Minister responsible for

justice, and acts under the general direction of the Chief Justice. Seminars are held once a month and a specific budget is allocated (for example when the GDPR came into force the JSC organized a specific seminar on this topic), ethics, substantive law and procedural law. Academics and foreign speakers are engaged in order to provide this training.

Yearly training is provided. During the year 2020, Chief Justice Emeritus Joseph Azzopardi has been appointed Chair of the JSC and members of the Judicature attended training on topics such as mental health issues and Commercial Law. Moreover, during 2020, members of the judiciary attended seminars via digital means on the following subjects:

1. Waste Legislation and Protection of the Environment through Criminal Law;
2. Computer Forensics in Legal Proceedings;
3. European Prison Rules as a standard setter for European Prison Conditions;
4. Introduction to the environmental law of the European Union;
5. Focus on the role of national prosecutors' judges.

An induction course will start being provided for new members of the judiciary. In addition, specialised training is planned on domestic violence and organised crime.

Training and professionalisation for court staff

Following the recommendations of the SRSS project carried out in 2019, the Courts Services Agency created for the first time, the position of Director People Management, which position was filled in 2020. One of the central aims behind the creation of this position was explicitly to provide for the training and professionalisation of the court staff in such a way as to ensure an enhanced level of service provision.

In addition, training is organised from time to time for court staff especially for newly recruited deputy registrars. Training of court staff during 2020 included:

- Induction courses for recruited deputy registrars with regards to court procedure;
- Data Protection course for data protection officers of the Court Services Agency;
- Institute for public service (IPS) training for officers in general service grades;
- Toolkit courses for middle to senior management.

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 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 NCC¹⁷. Briefing and debriefing sessions are 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

Government has announced that World Bank experts shall be 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 project will have a timeframe of 18 months during which the World Bank experts will seek to identify and make recommendations for the overall improvement in the operational efficiency of both Offices.

The aim is to ensure that both Offices operate efficiently, transparently, and independently. These two Offices are striving to reach the highest level of professionalism as expected both locally and internationally.

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

There are currently eight chambers fully equipped for digitalised proceedings. By the end of 2021 the plan is to have all chambers fully digitalised. The Courts in Gozo are fully digitalised (e.g. video conferencing capabilities and so on).

¹⁷ National Coordinating Committee on Combating Money Laundering and funding of Terrorism

Launch of a consultation process for a more efficient and accessible justice sector (dated 17 July 2020)

As announced in a Press Release dated 17 July 2020, the Ministry for Justice, Equality and Governance, together with the Parliamentary Secretariat for European Funds, during a Conference held on the same day, launched a public consultation which will be overseen by the European Commission for the Efficiency of Justice (CEPEJ), in order to conduct a digital strategy and an action plan.¹⁸

The main objective behind this strategy is to strengthen the use of technology in the justice system, for it to be more efficient and accessible to all.

Since the launch of the project, the Council of Europe experts engaged for the project, held in-depth discussions with a broad array of justice and IT professionals in order to garner a comprehensive understanding of the digital environment in which the strategy will be eventually embedded. Current and planned digital initiatives within the justice system have also been analysed, and discussions have been held on the governance structures that will sustain the strategy and ensure that it continues to provide the digital vision for the justice sector over time.

In the coming months, the Council of Europe experts will be conducting thematic meetings with a number of stakeholders (over twenty entities related to the judicial sector of our country) in order to debate in more detail, key issues that have been identified. A population survey that will test the perceptions of digital justice with the Maltese population will also be carried out. At the end of this broad consultation process, a draft digital strategy and action plan will be presented to the Ministry for Justice, Equality and Governance. This is envisaged to take place in mid-2021.

This consultation will be funded by centralised European funds through the Social Reform Support Programme.

Malta's plans regarding the Resilience and Recovery Facility (RRF)

Malta intends to use the Resilience and Recovery Facility (RRF) in support of the Maltese justice system, to further smoothen work flows, and improving the timely administration of justice.

Building on Malta's first Digital Justice Strategy, interventions will aim to map the business processes of several justice entities in order to enable the re-design, simplification and digitalization of their business process. Back-end processes will also be optimised to further consolidate digitisation efforts whilst process documentation will also enable the different justice entities to become more collaborative. Through Business Process Re-Engineering, the Maltese Justice System will capitalise further on the use of simplified processes and ICT. Such interventions will primarily aim to improve communication tools, increasing accessibility to services and reduce time lags in the delivery of justice.

The digitalisation of the law courts will complement and build on a number of initiatives which have already been undertaken in recent years, such as, the provision of various online services including databases with information on civil cases, court judgements as well as the possibility to pay fines and fees online. Investment in the digitalisation of the law courts will not only form part of Malta's justice reform but it will also form an integral part of Malta's digital transition over the next decade.

Legislative measure: Digitalisation in the civil law courts

By means of ACT No. LIII of 2020 amending the Code of Organization and Civil Procedure (Amendment No. 4), published on 13 November 2020, the possibility for sittings of civil proceedings to be held through a live video conferencing link has been introduced. In such circumstances, parties shall be considered to be present at court hearings to which this Act applies. This Act provides the necessary legal basis to magistrates and judges who opt to hold virtual court sittings in order to mitigate the risks and limit the spread of COVID-19 at the law courts.

¹⁸ The Conference was also addressed by the Director for the General Directorate for Structural Reform and Support, Kasper Richter and the CEPEJ Executive Secretary, Muriel Decot. They said that this initiative will effectively lead to more accessible justice and explained that the Commission will be working on similar systems in other countries, to establish best practices for judicial systems across the European Union

Legislative measure: Digitalisation in the criminal law courts

By means of [Act No. III of 2021](#) - Criminal Code (Amendment No. 2) Act, published on 2 February 2021, the Minister responsible for Justice has the power vested in him by the Criminal Code as the primary law to enact regulations in order to make it possible for criminal judicial acts to be filed electronically. The Act also provides for the power whereby the Minister may make regulations to enable notifications to be made electronically as well as to keep criminal Court proceedings electronically. The respective legal text is reproduced hereunder for ease of reference:

Article 701. The Minister responsible for justice may make regulations providing for or permitting the:

- (a) making of [criminal] judicial acts by electronic means,
- (b) transmission and notification by electronic means of judicial acts, court proceedings, documentation and notifications, and without prejudice to the generality of the foregoing, those regulations may provide for:
 - (i) the form of [criminal] judicial acts performed by electronic means;
 - (ii) the transmission, filing and service of documents by electronic equipment;
 - (iii) keeping court records by electronic means and the way that such records are to be authenticated and how copies are to be issued and authenticated;
 - (iv) the fees that may be charged in respect of the use of those electronic means in connection with the making, transmission, filing or service of judicial acts, and for the making of copies of records of the court; and
 - (v) anything consequential or incidental thereto including such transitional provisions as the Minister may deem necessary or expedient and relating thereto.

Legislative measure: Commissioners for Justice (Amendment) Bill

[Act No. LVII of 2020](#) entitled the Commissioners for Justice (Amendment) Act published on 7 December 2020 provides for the possibility of informing a person who has committed a scheduled offence that an offence has been committed by a notice leading the offender to view and access the details of the offence through electronic means.

15. Use of assessment tools and standards¹⁹

As a result of the recommendations made by the 2019 SRSS project entitled ‘Enhancing the efficiency of justice in Malta’, and following reports that were issued relative to civil Court of Appeal and the compilation procedures, taskforces were set up in order to implement the recommendations made in the reports into national legislation. The taskforce dealing with the reform of compilation procedures has presented its Bill to the Minister.

The Justice Reform (Civil Procedure) Bill – Bill 169 was published on 9 October 2020 and addresses the recommendations relative to the Court of Appeal. This Bill is expected to be enacted in April 2021. More information on this Bill can be found in the section entitled Length of proceedings.

16. Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation

The courts in Malta are divided into Superior and Inferior courts. Judges sit on the Superior Courts, which, in Malta, are made up of the **Constitutional Court**, the **Court of Appeal**, the **Court of Criminal Appeal**, the **Criminal Court** and the **Civil Court**. The Inferior Courts are the **Court of Magistrates** (Malta) and the **Court of Magistrates** (Gozo). The latter court has both a superior and an inferior jurisdiction.

Malta’s Law Courts are located in Republic Street, Valletta, while Gozo’s Court of Magistrates is housed in the court building at the Citadel, Victoria.

The Administration of the Court Services Agency is the responsibility of the Chief Executive Officer, but the legal responsibility for the implementation of judicial orders is placed on the Registrar of Courts. There is, consequently, a clear divide between the administrative and legal roles.

¹⁹ (e.g. ICT systems for case management, court statistics, monitoring, evaluation, surveys)

There are three registrars namely, the Registrar, Civil Courts and Tribunals, the Registrar, Criminal Courts and Tribunals and the Registrar, Gozo Courts and Tribunals. The Registrars of the Courts are responsible for the registries and the officers attached to them, the filing and service of judicial acts, registration of sitting minutes, execution of executive titles, such as judgements, and warrants through Court appointed marshals, judicial sales by auction, trials by jury and other criminal court procedures.

The Court Services Agency caters for all civil and criminal proceedings. There are also ten Local Tribunals in Malta and Gozo which deal with depenalised offences.

This hyperlinked [document](#) gives a bird's eye view of the relationships between the various courts, and some tribunals, which together form the judicial system in Malta. This document is reproduced from the website of the Association of the Councils of State and Supreme Administrative Jurisdictions of the EU.

Other

Measures taken in the context of COVID-19 and the courts

Maltese Courts and the registries closed on 16 March 2020 and only urgent cases where the Court rules that it would be in the public interest were allowed. This has temporarily provided for the imminent situation with regards to certain actions (wrongful trading) which could be filed against directors if they do not file for insolvency. On 4 May 2020, the Registries of the Courts reopened and on 5 June 2020, the Closure of the Courts of Justice Order 2020 was repealed. All Courts have reopened. Thus, all legal and judicial times, including prescription in civil matters and any peremptory time limits will continue to run. In order to protect the rights of the court users, a short suspension came into force on the 5 June 2020: (i) a twenty day suspension of legal and judicial times for those Tribunals, boards, commissions, committees or entities which do not operate from a building of the Courts of Justice; and (ii) and a seven day suspension of legal and judicial times relative to court or other tribunal, board, commission, committee or other entity which operates from the building of the Courts of Justice.

In this regard, Act No. XIII of 2020 - Legal and Other Time Periods (Suspension and Interruption) Act, published on 2 April 2020 provides the Minister of Justice with specific power to issue regulations relating to the suspension or interruption of legal times when the Superintendent of Public Health issues an order for the closure of certain premises under the Public Health Act.

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.

At the end of November 2020, the Minister for Justice, Equality and Governance announced ongoing work on amendments to speed up magisterial inquiries and criminal proceedings as well as reduce the backlog in the Appeal's Court, which is presided over by three judges and which had one of the longest list of pending cases. With a view to concluding magisterial inquiries, it was acknowledged that the administrative setup of these inquiries should be assessed, among other things.

Moreover, Bill No. 169, the Justice Reform (Civil Procedure) Bill, is another step in the wide-scale justice reform in view of the endeavour to strengthen the judicial system. The new Bill recommends reforms in procedure that will ensure that the length of the compilation of evidence procedure is heavily 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. The Bill principally aims at reducing the backlog of cases before the Court of Appeal by providing the possibility for the appellate court to grant a hearing only in cases when necessary and after given due consideration. The Bill foresees a reduction in the specific stipulated timeframe for payments of security for costs in respect of appeals. In cases where the said security is not provided on time, the appeal will then be declared abandoned. The Bill also provides for a longer time limit for the filing of appeals and replies, thereby allowing for such written pleadings to be more thoroughly prepared. This Bill is at second reading stage in Parliament.

To address the backlog at appellate stage there has also been the introduction of a third chamber session which is composed of a senior judge and two other judges. This session mainly determines appeals of urgent nature, such as, those dealing with family court matters.

Other

Administrative penalties

On 29 March 2021, the Government requested an urgent opinion of the Venice Commission in relation to a reform concerning administrative penalties. The Venice Commission is expected to provide such Opinion by the end of May 2021. The alternative solutions proposed in [Bill 166 of 2020](#) – Constitution of Malta (Amendments 4), and [Bill 198](#) entitled 198 entitled [an Act to amend the Interpretation Act, Cap. 249](#) are subject to this opinion.

Further depenalization

Legislative consultations are currently being undertaken to depenalize crime wherever it is possible to do so.

II. Anti-corruption framework

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

Significant developments

As noted in the 2020 Country Chapter on the rule of law situation in Malta, a broad project has been launched to address gaps and strengthen the institutional anti-corruption framework, including law enforcement and prosecution.

In 2019, the Council of Europe's GRECO adopted the 'Fifth Evaluation Round - Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies Evaluation Report'. This report carried out an evaluation of the anti-corruption framework specifically with regard to Ministers, senior government officials and members of the Police Force. GRECO also made twenty-three recommendations in connection to central governments (top executive functions) and law enforcement agencies. It should be noted that the Maltese Government submitted its Situation Report in December 2020, following an extension of the deadline granted due to COVID-19. GRECO's assessment is envisaged in the first quarter of 2021.

*18. Relevant authorities (e.g. national agencies, bodies) in charge of prevention, detection, investigation, and prosecution of.*²⁰

National Anti-Fraud and Corruption Strategy (NAFCS)

In 2021, Malta updated the 2008 National Anti-Fraud and Corruption Strategy (NAFCS). This work was carried out primarily by the Internal Audit and Investigations Department (IAID). This update takes into consideration the input received from the members of the Coordinating Committee set up in terms of the Internal Audit and Financial Investigations Act, Chapter 461 of the Laws of Malta. The Strategy was finalised and will be published by the end of March 2021.

The main updates result from:

- inclusion of new members;
- update on relevant legal measures taken;
- revision of the definitions where necessary;
- updating of the legal scenario; and
- actions taken and/or to be taken.

Permanent Commission Against Corruption

The Venice Commission identified, in paragraph 72 of its 2018 Opinion, two structural shortcomings in the set up and operation of the Permanent Commission Against Corruption (PCAC) being:

- the appointment of the members by the Prime Minister; and
- the reports with the findings of the PCAC are sent to the Minister responsible for justice.

In order to address these shortcomings, amendments were made to the Permanent Commission Against Corruption Act (Chapter 326 of the Laws of Malta) via Act XLVI of 2020. As per Article 3 of this Act, the appointment of this Commission is now made by the President of Malta who, in appointing the Chairman shall act with a Resolution of the House supported by the votes of not less than two-thirds of all the members of the House. In appointing one of the two other members, the President shall act in accordance with the advice of the Prime Minister and in appointing the other member shall act in accordance with the advice of the Leader of the Opposition. In the case that the Resolution is not supported by two thirds of all the members of the House, the person occupying the office of Chairman shall, in any circumstance, remain in office until the Resolution is supported by the votes of not less than two-thirds of all the members of the House.

²⁰ Please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant), e.g. in table format.

Article 11(a) of the Permanent Commission Against Corruption Act specified that if in the PCAC's opinion the conduct being investigated is corrupt or connected with or conducive to corrupt practices, the report is to be transmitted to the Attorney General.

Moreover, as mentioned in Chapter 1, the PCAC is amongst the entities which has been granted the status of an injured party at law when it reports a corrupt practice (as defined in the PCAC Act) to the Attorney General. The PCAC may therefore also seek judicial review in cases referred by them to the Attorney General in the same manner as the injured party.

Apart from the statutory reinforcement of the Permanent Commission Against Corruption (PCAC) by way of Act No. XLVI of 2020 - Permanent Commission Against Corruption (Amendment) Act, investments have been made to provide this entity the necessary funds and resources requested by the Permanent Commission Against Corruption (PCAC), including new premises. The PCAC is consequently undergoing a capacity building process.

The reforms are starting to bear fruit. Since the enactment of the legislation in summer, the PCAC has already referred one report earlier this week to the Office of the Attorney General, relative to a case regarding procurement. Given that Attorney General's Office does not have any investigative powers, said Office forwarded this report to the Commissioner of Police for the necessary investigations to be undertaken.

Malta Police Force

In June 2020, a new Police Commissioner was appointed as per the new procedure set out in the revised law and further explained below. Following this, in September 2020, the Malta Police Force launched its Transformation Strategy for the years 2020-2025. The desired outcomes are as follows:

- i) increase in trust, confidence, legitimacy and responsiveness externally from the perspective of the community, and internally from that of police officers and staff;
- ii) transformation of the current police organisation into a flexible, efficient, data-driven, community centric, outcome focused and modern Police Force; and
- iii) innovation and sustainment of the positive changes resulting from reform through leadership and management practices that are both effective and efficient.

Eleven strategic objectives have been identified based on the three desired outcomes. The key strategic objectives most relevant to the material scope of the European Rule of Law Mechanism and the overall institutional reforms being undertaken in Malta are the following:

1. To communicate with the public in a clear, consistent and transparent manner. This would be done through holding frequent and open consultation with public interest bodies, holding periodic press briefings, listening to feedback from the public about the service by the police etc. Since June 2020, a number of press conferences on major crimes have been held, handled by the Police Commissioner himself, or the Police Spokesperson or senior Police Officials.²¹
2. Holding itself accountable at all times. This would be done by drawing up internal performance targets, publishing key indicators on the performance of the Force and implementing operational internal audit and quality control measures.
3. Strengthening anti-corruption measures and safeguards. This would be achieved through continuous screening of police officers, offering adequate protection to whistle-blowers and conducting regular drug testing of personnel.

The implementation of the Transformation Strategy will be under the scrutiny of the Board of Governors to ensure concrete deliverables. The use of EU funding was used for the preparation of this Strategy also with a view to add an external level of scrutiny by the European Commission.

As referred-to in Chapter I on the Justice System, as of 1 October 2020, by virtue of the Prosecution of Offences (Transitory Provisions) Regulations, 2020 (L.N. 378 of 2020), the Attorney General took over the prosecutions of specified serious crimes, such as terrorism, money-laundering, bribery, corruption, fraud and

²¹ At least 8 press conference were held on **major crimes** since June 2020. The is not the total number of press conferences. Around 80 press releases were issued in 2021 (up to 8 March 2021), and around 360 press releases in 2020.

misappropriation, and evasion of customs duty. Nonetheless there is still a close collaboration between the Police investigative teams and the Attorney General, particularly during this transitory phase.

The Malta Police Force is committed to holding frequent and open consultation with public interest bodies, listen to feedback from the public about the Police service, seek a quality award for the service provided and hold periodic scheduled press briefings.

Regular updates are also provided on social media (for instance on the Facebook page of the Malta Police Force) to use a communication channel which is very highly accessible to the Maltese population. This has been formalised through a Standard Operating Procedures document which sets out the way in which the Malta Police Force communicates with the general public via media newsrooms, media houses and their online media outlets. The Malta Police Force created the post of Media Officer. It should be noted that a part of his duties is to act as the Police Spokesperson. However, in serious cases, including those of national interest, Press Conferences are held directly by the Police Commissioner. The aim of such Press Conferences is to keep the public informed of emerging details and developments which are of national interest. Another way that the general public is being kept informed, even with regard to the investigations into corruption cases is via [Press Releases](#).

Press conferences held in relation to serious offences are held both throughout the investigation subject to great caution as well as prior to charging the person(s), with due regard to the requirements of the right of the public to be informed on the one hand, and of the importance to preserve the integrity of investigations and the respect for the presumption of innocence on the other.

Commissioner of Police

The manner of appointment of the Police Commissioner has been overhauled to be in line with the recommendation made by the Venice Commission. This was achieved by an amendment to the [Police Act \(Chapter 164 of the Laws of Malta\)](#) as well as to the Constitution of Malta. These amendments were carried out via [Act XIX of 2020](#). Article 6(2) of the Police Act (Chapter 164 of the Laws of Malta) lays down the procedure as to when there is a vacancy in the office of Police Commissioner. Firstly, the Public Service Commission is to issue a public call for applications, subject to the necessary qualifications and experience required for a person to be eligible to apply for the said post. Following the lapse of the deadline for the submission of applications, the Public Service Commission will evaluate the applications submitted and then draw up a shortlist indicating the two most suitable candidates. Following this step, the Public Service Commission is to refer this shortlist to the Cabinet. The Cabinet is to consider both candidates and then nominate the most suitable candidate for a hearing before the Parliamentary Public Appointments Committee. If this Committee advises in favour of the appointment of the selected candidate, the Prime Minister shall appoint the selected candidate after consultation with the Public Service Commission. The current Police Commissioner has been appointed in accordance with this new procedure.

A new Commissioner of Police was appointed in June 2020.

Economic Crimes Unit

In 2018, the previous Economic Crimes Unit underwent significant restructuring and the Financial Crimes Investigations Department (FCID) was created in its stead. This department is still undergoing major changes. It is now the largest investigative unit within the Force. In July 2020, a new Assistant Commissioner was tasked with the headship of the Financial Crimes Investigations Department. Highly complex investigations were immediately reviewed leading to an increase in prosecutions.

There was a 245% increase in investigations in 2020 compared to 2019. Moreover, compared to 2019, in 2020 there was a 280% increase in number of cases solved; a 50% increase in the number of prosecutions; and a 173% increase in the total number of persons prosecuted. Breakdown of this data is included under section 28 of this report.

The FCID is divided into two squads: (i) the Anti-Money Laundering Squad and (ii) the Economic Crimes Squad. Each squad is supervised by a Superintendent.

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 ²²	53		1,151,227	
31 December 2020	95	79%	2,593,009	125%

In September 2020, the FCID relocated to new premises in Santa Venera, allowing the Department the possibility to further increase its operations by adding additional personnel. The new premises, at a rental cost of €500,000 per annum and at a cost of around €2 million for finishing and equipment, provide for a more adequate working environment for around 120 officers, and also provide the Department with all the necessary facilities including interrogation rooms, better training facilities and improved security.

These investments (salaries, premises, finishing and equipment) need to be seen in the context of the overall efforts in the midst of a pandemic. The area remains a priority because the Maltese Government is committed and will implement what it promised.

In 2020, an internal circular was issued in relation to the streamlining of offences that are to be investigated by the Financial Crimes Investigations Department and those that are to be investigated at a District level. This has enabled and will continue to enable the Financial Crimes Investigations Department to focus more on serious and complex financial crime.

National Coordinating Committee on Combating Money Laundering and Funding of Terrorism

For the past three years, the National Coordinating Committee on Combating Money Laundering and Funding of Terrorism (NCC) has remained the national body charged with the oversight of Malta's efforts in the Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT). The board meets monthly to draw up and decide on policies and to address any necessary changes. In 2020, the NCC has increased its staff by two employees, thus having now an Executive Head, a Chief Economics Officer, a Senior Manager on Implementation, a Senior Manager on Evaluation and a Manager on Administration, and includes highly skilled professionals, with expertise in law, economics and management.

During 2020, the NCC based its work on assessing the implementation of the national AML/CFT strategy 2017-2020 recommendations and the recommendations in the Mutual Evaluation Report (Moneyval) of the Council of Europe. Along with the periodic meetings of the members of the board, the national strategy and action plan highlighted seven initiatives which needed addressing. Several sub-committees were created under the auspices of the NCC to ensure that these actions will be carried out by the end of 2020. These sub-committees are attended by legal and technical officials from various competent authorities and address specific areas through the work block meetings. The purpose of these meetings is to coordinate and support the various actions identified in the risk assessments and action plan, to provide a better platform which targets concerns of money laundering and terrorism financing. Due to the pandemic, the NCC staff worked remotely during 2020, which positively has further enhanced the production of input and reports, and allowed time for additional meetings, and online webinars. The NCC also offered several training opportunities to the stakeholders through virtual training. A webinar was held in July 2020 on forensic accountancy, followed by a webinar in November 2020 on the Financial Action Task Force (FATF) methodology and the importance of adopting a risk-based approach.

The NCC Secretariat coordinated the submissions that were needed for the Moneyval assessment during the evaluation period. Since the publishing of the Mutual Evaluation Report (MER), the NCC has incorporated the 58 recommendations that were in the final report into an action plan which was circulated to the competent

²² Previously known as the Economic Crimes Unit.

authorities so that they would report their plans and give timeframes as to when the deficiencies would be effectively addressed. During 2020, the NCC reached out regularly to all the competent authorities to report on progress made, with a view to being kept updated on what actions have been successfully completed and what actions are still being addressed. On 5 October 2020, Malta presented to Moneyval its first follow-up report following the assessment given in the MER of July 2019. Out of the 40 recommendations under the technical compliance (those found in the 2019 MER), Malta got a rating of partial compliance for nine recommendations, a rating of largely compliant for 21 recommendations and a rating of compliant for ten recommendations. By 5 October 2020, Malta also had to provide a progress report on the level of technical compliance with regard to the nine recommendations for which it got a rating of partial compliance. The technical compliance part presents the tools whereas the effectiveness part highlights the results achieved using such tools. The NCC reported to the FATF on the implementation of these recommendations on 19 March 2021.

In the last few months of 2020, the NCC worked extensively on the new national anti-money laundering/combating terrorist financing/targeted financial sanctions (AML/CFT/TFS) strategy and action plan which will cover the next three years from 2021 to 2023. The Strategy for 2017-2020 has been successfully implemented. This new national strategy and action plan provide a detailed list of the actions which each authority is required to implement. The new action plan was published [online](#).

The new strategy plan is established on seven policy goals, which are:

- **Policy goal I** aims to ensuring that the legislation is constantly updated and is in line with the demands of guidelines of international organisations and with European standards.
- **Policy goal II** centres on the need to have an updated national risk assessment to be completed by 2022, which is crucial to address in view of the fact that ML/TF and proliferation financing (PF) risks are very dynamic in nature and therefore new risks, threats and vulnerabilities are continuously emerging. An updated risk assessment will help all the competent authorities to address the risks effectively.
- **Policy goal III** has as an objective that of addressing the need to ensure that all the necessary outreach is carried out. For this purpose, this goal includes the establishing of a sub-committee that coordinates AML/CFT/CPF outreach initiatives. In addition, this goal also requires the establishment of a sub-committee that focuses on improving the gathering of ML, TF and PF related statistics.
- **Policy goal IV** concentrates on having transparency and accuracy of beneficial ownership information. This goal addresses the need to have effective risk-based supervision and dissuasive sanctioning. This stresses on the importance of public-private cooperation so that Malta ensures effectiveness, and concurrently eliminate the unnecessary de-risking policies thereby ensuring a balance.
- **Policy goal V** has the objective of ensuring that detection, investigations and prosecutions of money laundering offences will increase during 2021-2023.
- **Policy goal VI** concentrates on an effective risk-based approach on the detection and management of all assets, even virtual ones which are subject to confiscation and it will also tackle the collection of taxes from criminal activities.
- **Policy goal VII** will address the monitoring of terrorism financing and sanction evading risks to ensure that Malta's economy is not used for these purposes.

The 2017-2020 AML/CFT national strategy focused on addressing the gaps that impeded the ability to effectively combat ML/TF. The focus of the AML/CFT national strategy for the upcoming three years focuses on using the means and tools that have been implemented to produce concrete results and prove their effectiveness. The NCC's role in the next three years will focus on enhancing the sharing of information and encourage enhanced cooperation amongst the competent authorities to be able to prepare and present holistic reports. The objective is to continuously adopt a risk-based approach since risks are dynamic. This will be addressed by preparing an updated national risk assessment in the coming year so that both the public and private sector have the tools to understand the risks and vulnerabilities to ensure proper mitigation. One main purpose of the NCC for the year to come will be to continue to foster motivation in the competent authorities by giving them support and provide resources and training and to ensure further capacity building with the objective of achieving effectiveness in the combating of AML/CFT.

Financial Intelligence Analysis Unit (FIAU)

The FIAU has completed the second phase of the exercise addressing Moneyval recommendations made in relation to the legal provisions found under the PMLFTR²³. In April 2020 the FIAU issued a consultation paper on the revised version of the PMLFTR). Following this process, amendments were introduced on 22 May 2020 by means of Legal Notice 214 of 2020. These amendments primarily seek to address the technical compliance shortcomings within the PMLFTR that were identified by Moneyval assessors during the 5th Round of Mutual Evaluation of Malta and are aimed at enhancing the legislative framework in place for the prevention of ML/FT. Strengthening the AML regime is also supportive to the fight against corruption since the latter is one of the proceed-generating crimes captured by the all-crime approach of the Maltese AML framework.

It should be noted that between 2018 and 2020 there was an increase of around 128% in the FIAU's human resources.

Commissioner for Revenue

Act VIII of 2021, 'Various Revenue Acts (Amendment) Act', amends a number of provisions in the revenue acts in order to strengthen the powers of the Commissioner for Revenue in the fight against tax evasion by vesting more powers of investigation and allowing for the sharing of information. The said amendments are in line with recommendations made by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).

Prosecution

Please refer to the changes 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

ACT No. XI of 2021, 'An act to provide for the amendment of the Auditor General and National Audit Office Act', Cap. 396, was enacted in March 2021. In the June 2020 Opinion, the Venice Commission welcomed the intention of the Maltese Government to ensure that the Ombudsman, the Commissioner for Standards in Public Life and the Auditor General are able to directly report cases of corruption to the Attorney General (see paragraphs 60 and 106 of the June 2020 Venice Commission Opinion). This act introduces such power in respect of the Auditor General by amending Article 5 of the Auditor General and National Audit Office Act empowering the Auditor General to refer his findings directly to the Attorney General if "during or after any investigation, the Auditor General is of the opinion that there is evidence of any corrupt practice as defined in the Permanent Commission Against Corruption Act".

As is further explained under the fourth pillar of this report, the Auditor General has presented the President of the Republic with various proposals for amendments intended to strengthen the National Audit Office in the context of the public consultation process on the reform of the Constitution. A series of proposals for amendments to the Auditor General and the National Audit Office Act (Chapter 396 of the Laws of Malta), were further made to the Minister for Justice, Equality and Governance, as also explained under the fourth pillar of this report.

Commissioner for Standards in Public Life

By virtue of an amendment to the Standards in Public Life Act (Chapter 570 of the Laws of Malta) which is currently before Parliament, the Commissioner for Standards in Public Life will also be given the power to refer a case directly to the Attorney General in cases where from the investigation '*it appears prima facie that a criminal offence or a corrupt practice has been committed*'. This amendment, included in clause 4 of Bill 159 of 2020, Appointment (Persons of Trust) Bill (this has been approved by the House of Representatives in March 2021 and is pending publication), adds onto the Commissioner's powers at law to refer such cases to the Police or to the Permanent Commission Against Corruption.

Asset Recovery Bureau

Regulation 3 of Legal Notice 357 of 2015 had established the Asset Recovery Bureau which is currently in existence. The Proceeds of Crime Act (Act No. V of 2021), will however reform the Asset Recovery Bureau bringing about the restructuring thereof. This Act re-defines the structure of the said Bureau and outlines its relationship with and reinforces its independence from the Government. This Act also requires the Bureau to

²³ Prevention of Money Laundering and Funding of Terrorism Regulations.

establish relations with equivalent institutions outside Malta, that is, with both European and international bodies.

The Act also provides the basis for the harmonisation of the procedures enacted under various laws in respect of proceeds of crime. In terms of procedures, the Act provides for the identification, tracing, freezing and confiscation of proceeds of crime including laundered property, income and other benefits derived from such proceeds held by criminal defendants, property that is the proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organisations.

Through this Act, measures were taken to ascertain that all assets which are proceeds of crime are recovered, even when there is no criminal conviction – this is known as non-conviction-based confiscation. The Act created a system wherein criminals are not given the possibility to retract and retrieve their assets.

The act also triggers proceedings of *actio in rem*, albeit the Government may institute legal proceedings against an object or asset, whether movable and / or immovable are left unclaimed because they are assets bought through money laundering and the financing of terrorism or other means and methods of organized crime.

Moreover, the Act establishes a section of the Civil Court for the purpose of regulating disputes relative to the confiscation of the proceeds of crime and for civil procedures for the recovery of assets constituting proceeds of crime to be known as the Civil Court (Asset Recovery Section). Provision is also made for in rem proceedings on property consisting of proceeds of crime. Judicial review of confiscations will also be allowed.

The Board of the Bureau shall consist of a Chairperson appointed by the Cabinet of Ministers, after consultation with the Leader of the Opposition from among persons who have held the office of Judge or Magistrate, or who have held senior positions in the public service of Malta, and four (4) other members as follows: (a) The Commissioner of Police or his/her representative; (b) The Commissioner for Revenue or his/her representative; (c) The Chief Executive Officer of the Court Services Agency or his/her representative; and (d) The Director of the Financial Intelligence Analysis Unit or his/her representative.

The Bureau will be obliged to keep proper books of accounts in consultation with the Finance Minister subject to a two-tier audit, that is, by auditors of a company in accordance with the law and by the Auditor General. The Board of the Bureau shall also submit an annual report to be laid on the table of the House of Representatives. To ensure transparency and accountability of its workings, the Bureau will be obliged to gather, manage and process data relating to: (a) suspected persons investigated by the Bureau; (b) the freezing, seizure and confiscation of property including comprehensive data on the effectiveness of the freezing and seizure of property up to confiscation; (c) assistance in the enforcement of sentences involving confiscation of property; (d) the management of assets; (e) the estimated proceeds, the value of seized and confiscated property and the amount realised from the administration or sale of such property; and (f) where property is released, the reasons for the release.

The has been strengthened the Asset Recovery Bureau with the provision of additional resources to further confiscate assets gained from organized crime. This includes the establishment of a warehouse (EUR 2.5 million), which should house the assets recovered until they are sold.

It should be noted that a “*relevant offence*” is defined under this Act as any offence under any law, and not being an offence of an involuntary nature liable to the punishment of imprisonment or detention for a maximum term of at least one (1) year. Consequently, it would also be applicable to corruption and other related offences.

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:

- NAO;
- Ombudsman;
- IAID;

- Commissioner for Standards in Public Life (CSPL).

Increase in budget registered over a five (5) year term (between the year 2015 and 2020):

	2015	2020	Percentage increase in budgets between 2015 and 2020
	Actual Expenditure	Actual Expenditure	
	€	€	%
Ombudsman	1,139,991	1,340,000	17
National Audit Office	2,700,000	3,800,000	41
Commission for Standards in Public Life	---	640,000	--
Internal Audit Investigations Department (IAID)	1,082,524	1,561,000	44

It should be noted that between 2018 and 2020 there has been an increase of around 90% in the Malta Business Registry's human resources.

There has also been an increase of around 41% in the Malta Financial Services Authority (MFSA)'s human resources between 2018 and 2020. Between January and September 2020, MFSA carried out 100 inspections more than it did in the same period of the previous year.

II.II Prevention

Significant developments

19. Integrity framework including incompatibility rules (e.g. revolving doors)

As stated above, the Maltese Government submitted its Situation Report further to GRECO's Mutual Evaluation Report and Recommendations of the Fifth Evaluation Round in December 2020; followed by the submission of additional information. Further updates will follow ahead of the GRECO plenary planned for October 2021.

National Anti-Corruption Integrity Strategy

The development and implementation of the National Anti-Corruption Integrity Strategy is tasked to an Inter-Ministerial Committee set up for the purpose and consisting of representatives from the Office of the Prime Minister; the Ministry for Justice, Equality and Governance; the Ministry for Finance and Employment; the Ministry for Home Affairs, National Security and Law Enforcement; and the Principal Permanent Secretary. The advice of independent consultants may be sought at the committee's discretion. The Committee will complete a risk assessment with a domestic and cross-border perspective and will then proceed to develop the national strategy, including the related roadmaps, targets dates, cost-benefit analysis and training needs.

Public Administration

Persons holding top executive positions in the public service are regulated by the Public Administration Act (Chapter 595 of the Laws of Malta). The said Act, including the Code of Ethics in its Annexes, was re-enacted in 2019 in order to further emphasise the notion of 'integrity' and its ramifications.

Article 4(1) of the Public Administration Act provides that "in the carrying out of their functions or duties public employees shall uphold and promote the following values (a) integrity, (b) respect, (c) loyalty, (d) trust, (e) quality, (f) accountability, (g) impartiality and (h) non-discrimination." According to Article 4(2) of this Act, failure to act in accordance with the said values is a ground for disciplinary proceedings.

It is pertinent to recall that the Public Service Management Code (PSMC), was given the status of a public service Directive, which binds public officers and is enforceable in terms of Article 15(2) of the Public Administration Act (Chapter 595 of the Laws of Malta). This measure which was implemented through Amending Directive No 1-1, means that public officers who fail to comply with the PSMC become liable to disciplinary proceedings.

In terms of **awareness on integrity requirements**, public officers, particularly those considered to hold high risk positions, will be required to follow an Integrity Awareness Programme before sitting for a compulsory assessment. The requirement for an Integrity Maturity Assessment will be assigned the status of Directive in due course. In this way, it will be recognised as legally binding in accordance with the provisions of the Public Administration Act (Cap. 595 of the Laws of Malta).

An Integrity and Ethics Awareness Learning Programme (IEAL) is compulsory prior to public officers taking an Integrity Assessment. Officers on the Sixth Schedule of the Public Administration act will be required to undergo the Integrity Awareness Learning Programme and to do the Integrity Maturity Assessment biennially (every 2 years). The programme provides important highlights of proper conduct. These are based on applicable Codes of Conduct and make particular reference to situations which can give rise to conflicts of interest or serious ethical dilemmas. Both the IEAL and the Integrity Assessment aim at developing good practices and a culture of independence and impartiality in public decision-making based on a sound awareness of ethical obligations.

A special Integrity Unit is planned to be established within the Office of the Prime Minister²⁴ to support public officers who face ethical dilemmas in the taking of particular decisions and who require additional support. Other measures to promote awareness and dissemination of information, such as on-line flyers, webinars, seminars, and in-service courses also involving external and foreign experts and the compilation of an Integrity Information Pack are also planned.

Asset Disclosure rules

Refer to information further below.

²⁴ The Unit shall fall under the directorate for Governance Action, Office of the Prime Minister

Revolving doors

On 18 June 2020, the Principal Permanent Secretary adopted Directive 14 setting out a 'Governing Framework for the Management of the Revolving Door for Public Policy Employees'. The Directive applies to those public employees in posts / positions within the Public Administration that involve regulatory or inspectorate functions and 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). A measure has also been included in relation to Prosecutors as explained in section 6 under Chapter 1.

Control mechanisms in the management of Public Resources

In line with 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 Auditor General, the Internal Audit and Investigations Department, the Office of the Ombudsman, the Permanent Commission Against Corruption and the Office of the Commissioner for Standards in Public Life.

20. General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)

Public Consultation

The Government regularly engages in **public consultation** processes on new legislative measures which are in the process of being proposed. In some areas, such as legislation affecting Small and Medium Sized Enterprises, Planning and the Environment, public consultation processes are mandated by law. In other cases, the launching of a public consultation process is mainly based on the envisaged impact of the proposed legislation. In some cases, such as when Government has to implement EU or international obligations, a further public consultation process may have very limited scope since consultation would have already taken place before those obligations were accepted or came into force.

For all subsidiary legislation, the proposing Ministry has to submit an 'Impact Assessment Form' to the Cabinet Office prior to the enactment of the Subsidiary Legislation, wherein one of the points which has to be clarified is the extent of consultation made before the draft subsidiary legislation was concluded.

Whilst fully appreciating the usefulness of public consultation processes in a democratic society, there are instances where this can have less value added. Such as, when transposing European Union legislation (considering that the Commission would have carried out extensive consultation ahead of issuing a proposal which in most cases is accompanied by an impact assessment), in cases when legislation results from international obligations and when legislating for the corporate organisation of the administration. Other types of legislation, such as laws on national security matters, may also not lend themselves to prior public consultation.

The parameters for Consultation Exercises with Stakeholders have legal force by way of Directives 6 and as updated by Directive 6.1²⁵ issued in terms of the Public Administration Act (Cap. 595 of the Laws of Malta).

Moreover, in February 2021, the Office of the Principal Permanent Secretary issued a circular concerning the process for centralised online public consultations, setting out a standard procedure to be followed when executing an online Public Consultation Exercise through the Ministry. It provides harmonised definitions, sets out the role of the lead entity, the various stages of the consultation process, and eventual archiving.

Please also refer to the information under point 39 under chapter 4 for an update on the eParticipation.

Asset Disclosure rules

The Commissioner for Standards in Public Life has made recommendations with regard to the Asset Disclosure Rules covering Members of the House of Representatives (including Ministers, Parliamentary Secretaries and Parliamentary Assistants). These are currently being discussed in the House of Representatives Standards in the Public Life Committee.

With regard to the Public Service, specifically the Principal Permanent Secretary, Permanent Secretaries, Heads of Department and other members of the higher executive services who are regulated by the Public Administration Act (Chapter 595 of the Laws of Malta), the Government also intends to present a bill to amend this Act. The intention is to establish a Board which will be responsible for examining the statements of assets

²⁵ <https://publicservice.gov.mt/en/people/Documents/Directives/Directive-6-1.pdf>

and interests made by those individuals holding the positions mentioned under the Seventh Schedule annexed to the Public Administration Act, which will also be established by the same amendment.

The procedure will provide that when a person is appointed to an office listed in the Seventh Schedule, that person will be required by the said Board to provide a statement of his or her assets and interests to the Board. In the event that the Board is of the opinion, following the examination of the statement of assets and interests, that the submitted statement is inaccurate or incorrect, it shall refer it with a report of its findings to the Principal Permanent Secretary, unless the findings refer to criminal offences, in which case the statement and the report will be sent to the Commissioner of Police for investigation.

This Board shall also maintain an online register with the name and an updated reference to the category of assets declared. Finally, the Board will make a report to the Prime Minister on its activities and on matters considered by it and may also make such recommendations as it may deem appropriate.

Freedom of information

With reference to recommendation V of the GRECO Fifth Evaluation Round, the Freedom of Information Act (Chapter 496 of the Laws of Malta), is currently the subject of an independent and thorough analysis by an independent contractor. This notwithstanding that it is already properly functioning - as very well witnessed by the substantial number of Freedom of Information requests received. This contractor has been chosen through an open and public call for tenders, issued on 19 November 2020, and which call was made public through on the national Electronic Public Procurement System (as can be viewed via the following [link](#)). Bids were assessed and adjudicated by the Ministry for Justice's Procurement Unit, which awarded the tender on 26 January 2021.

Lobbying

Article 13(1)(f) of the Standards in Public Life Act empowers the Commissioner for Standards in Public Life to "issue guidelines" and "make such recommendations as he deems appropriate" with respect to the regulation of lobbying:

f) to identify those activities which are to be considered as lobbying activities, to issue guidelines for those activities and to make such recommendations as he deems appropriate in respect of the regulation of such activities;

In February 2020, the Commissioner published a consultation paper entitled '[Towards the Regulation of Lobbying in Malta - A Consultation Paper](#)'. The public consultation period ended in May 2020. The Commissioner is yet to present the outcome of the recommendations.

In light of GRECO recommendation VII, the Government has examined a number of proposals setting out the options on the subject of third-party contacts and lobbying regulations. Given the direct link between the subject and the general workings of the democratic system, the Government has already committed that it stands ready to discuss the topic further in the upcoming Constitutional Convention.

21. Rules on preventing conflict of interests in the public sector

The revised Public Administration Act and the Public Service Management Code contain provisions in this regard. Such rules include Article 4 of the Public Administration Act which sets out the values of the public service, the Code of Ethics set out in the First Schedule applies to public employees and board members as well as Article 4(5) on "Public employees holding posts that involve regulatory and inspectorate functions".

On the level of administrative measures, it is noteworthy to note that on 2 November 2020, the Principal Permanent Secretary issued an internal circular to all Permanent Secretaries detailing the fact that Executive Heads and Executive Chairpersons of public entities are not to undertake parallel occupations outside the public sector whilst serving their respective appointments. This is also in line with the *raison d'être* of the principle on revolving doors.

Moreover, prior to being called for the interview, prospective applicants for headship positions are all required to fill a declaration entitled 'Declaration of interests by applicants for headship positions', indicating any possible or potential conflict of interest (e.g. business interests, private work, etc). Applicants who have already submitted such a declaration in the past are expected to confirm in writing that there are no changes and need not resubmit it. In the case where there has been a change, a new declaration would need to be submitted.

Members of Selection Boards interviewing candidates for public employment are also required to declare whether they have any conflict of interest.

Malta Police Force

The Police Force has implemented a policy regulating Business Interests and Additional Occupations. This Policy introduced an Evaluation Board appointed by the Police Commissioner, tasked to determine whether or not a business interest or employment may be allowed or disallowed as it could conflict with the Force's work or negatively affect the Force's reputation or the officer's ability to execute his/her duties impartially.

This Policy also provides a definition of a business interest as well as the procedure which an officer must follow to be granted leave to pursue such business interest. It also includes a guidance for officers, so as to ascertain whether the business interest is allowed or not.

This notwithstanding the fact that the holder of a business interest may be subject to a review at any time. In case of breach of policy, the officer will be liable to disciplinary action.

In line with the policy, a circular²⁶ was issued on 16 November 2020, in relation to a review process of the compatibility of activities for serving officers. Consequently, officers have had to re-apply for permission to carry out any activity and this must be in line with the aforementioned policy.

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

Work is currently ongoing on the transposition of the Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law.²⁷ The Maltese Government is currently assessing the necessary administrative arrangements that need to be made in order to transpose the Directive in the most effective manner possible. That said, Malta had already adopted its national legislation back in September 2013 through the Protection of the Whistleblower Act (Chapter 527 of the Laws of Malta) which provides for procedures in terms of employees in both the private sector and the public administration.

Malta Police Force

The Police Act (Amendment of Second Schedule) Regulations, 2020, published on 14 July 2020, introduced a change in the law to permit members of the Police Force to report any abuse within the Force, even anonymously. Previously the law prohibited anonymous reporting.

The Anti-Fraud and Corruption Policy introduced the position of Integrity Officer.²⁸ This Officer is to receive internal reports of suspected corruption. These reports may be:

1. Open reporting. Police officers and other staff are encouraged to report any concerns about potential corruption, either through their direct supervisors, by direct contact with the Integrity Officer's Office or by sending a report to the Internal Audit and Investigations Unit. The Integrity Officer and/or the Internal Audit and Investigations Unit is required to immediately notify the Commissioner when serious corruption is suspected;
2. Confidential reporting. The Malta Police Force recognises that there may be circumstances where the employee wishes to report confidentially. Employees of the Malta Police Force should contact the Integrity Officer's Office as above and confidentiality will be discussed. All decisions regarding confidentiality will be made by the Integrity Officer and the person making the report will be kept fully informed. It should be noted that the Integrity Officer cannot refuse to grant confidentiality to an officer in internal matters;
3. Anonymous reporting. In cases where employees feel that they cannot report openly they may use anonymous reporting, via the Break the Silence section of the Malta Police Force's extranet. This is a secure method of communication that preserves the anonymity of the sender but allows the Integrity Officer to communicate with the sender. The Integrity Officer will respond to all contacts via the Break

²⁶ GHQ Circular 40/2020

²⁷ The deadline for Member States to bring into force the laws, regulations and administrative provisions necessary to comply with this Directive is 17 December 2021.

²⁸ Further detail will be provided on this policy further on under section 25.

the Silence system within 48 hours and in most cases will seek to develop the original intelligence by further contact with the sender in order to obtain additional information.

Officers may also report directly to the Internal Audit and Investigations Unit. In the case where there is a suspicion that a complaint or internal investigation will result in a charge of corruption, the Police Commissioner is to be notified immediately. While the Policy refers to the Code of Ethics, the Malta Police Force intends to reinforce the link by revising the Code to include a specific reference to the Integrity Officer.

23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken / envisaged for preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, other).

The European Semester 2020 Country Report for Malta makes reference to several sectors, namely, the public procurement as well as the citizenship-by-investment scheme (Individual Investor Programme) and the residence scheme (Malta Residence Visa Programme).

Public Procurement

The Department for Contracts within the Ministry for Finance and Employment (MFE) implemented the Procurement of Property Regulations (S.L. 601.12) which were published on 30 April 2020. Although the procurement of immovable property falls outside the scope of the Public Procurement Regulations (S.L. 601.03 does not apply for procurement of immovable property), the Department of Contracts was commissioned by MFE to draft separate specific regulations that regulate such procurement of immovable property. These regulations (enacted as S.L. 601.12) provide a clear, transparent, and predictable process for the purchase or lease of property by the Public Administration which would otherwise be regulated solely by the guiding principles of public procurement and not by specific and prescriptive regulations.

The Department for Contracts has also implemented a post-contract module within the official Government of Malta public procurement portal (<http://www.etenders.gov.mt>) so as to trigger the necessary database building exercise that as an output will provide the general public with the Open Contracting Data Standard (OCDS) tool, on the live environment. The OCDS tool, once backed by the necessary database and launched on the live environment, will enhance contracting transparency, improve accountability and capture salient statistics, thus, allowing in-depth analysis of contracting data.

The Department of Contracts has also put in place an automated tender evaluation report with an enhanced Conflict of Interest process whereby evaluators can access the submitted offers only upon confirming that they have no conflict of interest stemming from defined relationships / associations with one or more of the relevant bidders. The Department of Contracts, additionally, in its role as Public Procurement Regulator, took a proactive stance and ensured that any resultant impact of the national and international COVID-19 preventive measures taken, in Malta and beyond, would be sufficiently and adequately mitigated so as to ensure full and continued compliance with EU public procurement principles. Clear guidelines were issued through Contracts Circulars (Circular 3, 7 and 15) at different time intervals, to all Contracting Authorities so as to guide same on how to proceed with public procurement operations without allowing the various COVID-19 restrictions to hinder in any way the transparency, predictability and accountability of the named operations.

An ongoing initiative is that of ensuring that through various training programmes and correct communication channels the need and benefits of transparency and accountability in all procurement operations is emphasised and promulgated across all Public Administration.

A new chair of the Public Contracts Review Board was appointed in February 2021.

Public Procurement - Health

The Ministry for Health is conscious of the fact that procurement carried out by entities falling within its portfolio account for a large percentage of the procurement carried out by the Maltese Government. In light of this the Ministry has ensured that its public procurement system is inherently designed to ensure full transparency and also implements a segregation of duties, therefore a system of continuous checks and balances.

Specifications are kept as generic as possible, with the aim of promoting functional requirements, thus promoting fair competition. These specifications are subject to scrutiny by various boards and entities, both internal to the Ministry as well as external.

The transparency of the process is also ensured through the use of a single portal - the Electronic Public Procurement System (EPPS) – which ensures that all steps are adhered to and monitored. In particular this also affords peace of mind to the economic operators that their bids will not be disclosed, given that once the bidder starts to upload his offers these are encrypted to a high level of encryption. In particular the system operates NATO-grade encryption. Once submitted the system ensures that the bids are logged and remain unaltered throughout the evaluation process. Furthermore when an economic operator registers with the EPPS he is asked to choose by contracting authority, by common procurement vocabulary code, or both his preferences with regard to the procurement process of items being supplied by him. Once this process is finalised the economic operator will receive an automatic alert based on his choices when further tenders procuring such items are published.

Another measure taken to ensure transparency is that once the evaluation stage has started all Board Members are required to sign a declaration of confidentiality and impartiality, and in a further bid to ensure impartiality these declarations are now being submitted via the EPPS, before the members gain access to any details of the bids submitted.

Throughout the process all bidders have the option of submitting an objection, should they have any concerns or objections to raise. Following the recommendation for award, disqualification or cancellation, the tendering process is suspended for 10 days, during which an economic operator can file an appeal in front of the Public Contracts Review Board. The Decision of the Board is final and binding on the contracting authority.

Procurement regulations also transposed the ineffectiveness remedy as established under Directive 2007/66EC. Any economic operator who wishes to make use of this remedy has to file a request in front of the Public Contracts Review Board. The decision in any of these remedies is subject to appeal before the Court of Appeal (Superior Jurisdiction).

Additional safeguards

Apart from the above the regulations also afford the Director of Contracts, who is the regulator of the process, the right to cancel any contract that has been awarded in breach of the procurement regulations. The decision of the Director of Contracts is subject to an appeal in front of the Public Contracts Review Board and the Court of Appeal (Superior Jurisdiction).

Additional scrutiny also is imposed upon the various Departments falling within the Ministry for Health portfolio through periodical audits carried out by the National Audit Office and the Internal Audit and Investigations Directorate, apart from complaints raised through the Office of the Ombudsman.

Citizenship-by-investment scheme (Individual Investor Programme) and the residence scheme (Malta Residence Visa Programme)

Following the enactment of the Maltese Citizenship (Amendment No. 2) Act, 2020 (Act XXXVIII of 2020), the provisions concerning the granting of citizenship by means of the Individual Investor Programme are no longer in force.

In this regard, on 20 November 2020, the Maltese Government published in the Government Gazette of Malta: the Agents (Licences) Regulations, 2020 (Legal Notice 435 of 2020); the Community Malta Agency (Establishment) Order, 2020 (Legal Notice 436 of 2020); the Granting of Citizenship for Exceptional Services Regulations, 2020 (Legal Notice 437 of 2020); the Identity Malta Agency (Establishment) (Amendment) Order, 2020 (Legal Notice 438 of 2020); the Malta Individual Investor Programme Agency (Establishment) (Amendment) Order, 2020 (Legal Notice 439 of 2020); and the National Development and Social Fund (Establishment as an Agency) (Amendment) Order, 2020 (Legal Notice 440 of 2020).

In addition, the Publication of Names of Citizens of Malta and Persons Deprived of Maltese Citizenship Regulations, (Subsidiary Legislation 188.07 of the Laws of Malta) provide that the Minister shall every year publish in the Gazette the names of all the persons who within the previous twelve (12) calendar months had been granted Maltese citizenship by registration or naturalisation, including those persons who were granted Maltese citizenship for exceptional services in accordance with the Granting of Citizenship for Exceptional Services Regulations. The Minister shall as soon as practicable, also ensure that the names of those persons deprived of Maltese citizenship is published by means of a notice in the Gazette.

In this regard, discussions are ongoing.

24. Measures taken to address corruption risks in the context of the COVID-19 pandemic

No additional measures were deemed necessary in the context of the COVID-19 pandemic. The same rigorous procurement processes were implemented. Any risks can continue to be addressed through existing structures, measures and processes.

In terms of vaccine procurement, Malta only participated in the Joint Procurement Exercise on an EU level.

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

It is pertinent to recall that the **Public Administration Act** (Chapter 595 of the Laws of Malta), re-enacted in 2019, introduced the concept of 'high risk posts' in respect of which the Principal Permanent Secretary may issue specific directives. The Sixth Schedule of this Act lists those posts within the public administration that, due to the nature of their role and responsibilities, are considered to be high risk positions.

It should be noted that public officers, particularly those considered to hold high risk positions, will be required to following an **Integrity Awareness Programme** before sitting for a compulsory assessment. An Integrity and Ethics Awareness Learning Programme (IEAL) is compulsory prior to public officers taking an Integrity Assessment. The programme provides important highlights of proper conduct. These are based on applicable Codes of Conduct and make particular reference to situations which can give rise to conflicts of interest or serious ethical dilemmas. Both the IEAL and the Integrity Assessment aim at developing good practices and a culture of independence and impartiality in public decision making based on a sound awareness of ethical obligations. A number of other integrity safeguards consisting of administrative forms, policy documents and non-sector specific measures are in place.

The abovementioned measures were taken in the context of the GRECO recommendations.

In August 2020, the Standards in Public Life Committee of the House of Representatives tasked the Commissioner for Standards in Public Life to present his report regarding a revision of the **Code of Ethics for Members of the House of Representatives and for Ministers and Parliamentary Secretaries**, under Article 13 of the Standards in Public Life Act (Chapter 570 of the Laws of Malta). This report was tabled to the Standards in Public Life Committee on 14 September 2020, where it is being considered. The Committee is chaired by the Speaker of the House of Representatives and there is an equal number of Members from both sides of the House. The Committee, whose sessions are broadcast on the Parliament website, last discussed the proposals by the Commissioner in the beginning of March 2021.

Pending discussions on these recommendations, it is pertinent to recall that the Commissioner commands strong moral authority which cannot be underestimated. An adverse finding by the Commissioner, even if not accompanied by a fine or other material sanction equally grants just satisfaction to society and to the complainant and asserts the authority equally grants just satisfaction to society and to the complainant and asserts the authority of the Code of Ethics. This can be compared to a judgement of a Constitutional Court, or even of the ECHR, which might find a violation but not proceed to order the payment of damages. Such a fact *per se* does not weaken the authority of the judgement.

It is a fact that reputation is the most valuable asset possessed by persons in public life and the reputational damage which can be caused by an adverse finding of the Commissioner can by no means be considered as being of little consequences. This is more accentuated in a small country.

Moreover, the Commissioner's power to refer cases of suspected corruption for further investigation and prosecution and to challenge decisions not to prosecute such cases (a measure introduced on the 1st October 2020) raises the stakes in proceedings under the Standards in Public Life Act considerably.

It would be good to note that the law gives the possibility to the Commissioner to investigate ongoing persistent cases resulting from acts which pre-date the coming into force of the Public Life Act unless the act pre-dating the law was instantaneous and limited to the time when the Act was not in force. This issue is of course subject to an assessment by the Commissioner on a case-by-case basis.

Malta Police Force

It should be noted that in 2020, the Malta Police Force underwent significant major changes. A number of policies have been implemented so as to address GRECO's recommendations in this area, such as the Code of Ethics; Anti-Fraud and Corruption Policy; and the Business Interests and Additional Occupations Policy Document.

The Anti-Fraud and Corruption Policy defines corruption and fraud within the context of policing. It provides a framework for identifying and preventing corruption and detail what actions should be taken by a member of the Force where corruption and / or fraud is suspected or has been committed by colleagues. Any employee found in breach will be liable for disciplinary action for gross misconduct. This Policy also includes rules and guidance on gratuities, gifts and hospitality. This includes a register, within which all offers, whether accepted or declined, must be recorded. This policy assists individuals and their supervisors in ensuring that their actions can withstand scrutiny. The Police Force is to provide training in corruption prevention, ethics, integrity and professional standards. The subjects of Police Ethics and Humans Rights have been prioritised in all recruitment and in-service training. The Police Ethics curriculum has been modelled on CEPOL's Common Curriculum on Ethics and Integrity (2012). With regard to promotion training, these subjects are part of the syllabus and are an examinable subject. Furthermore, important excerpts from the abovementioned documents are frequently communicated through the 'Did You Know' initiative, whereby internal two-way channels of online communications are utilized to constantly update members of the Force about Internal Policies

The Police Force will also be responsible for providing training in corruption prevention, ethics, integrity and professional standards.

The Police Force has also adopted a Horizontal Movement Policy, which provides for merit-based career systems and progression. This will provide for a fair and impartial transfer process to all ranks and positions. All internal vacancies shall be filled after a call for applications, followed by a fair and transparent selection process.

Members of the Force graduating from the Basic Training Course shall start their career at District Policing, saving exceptions, such as officers holding relevant specialisations. During the two-year probationary period, officers are to follow a mandatory Mentorship Programme.

Officers shall become eligible for horizontal transfers to specialist branches after three years in the Force, following the completion of the abovementioned Mentorship Programme.

The Horizontal Movement Policy established the necessary prerequisites:

- a) Calls for applications are to be advertised to all members of the Force and shall not discriminate based on gender;
- b) If the pre-requisites relating to the length of service and discipline are fulfilled, then the officer will be admitted to a selection process which shall comprise a mandatory interview, a mandatory performance review, a mandatory skill review, a mandatory experience review, a physical efficiency test (where applicable) and a firearms proficiency test (where applicable).

A Selection Board will be responsible for the selection process which will be composed of three members: I) Assistant Commissioner Human Resources (or a delegated officer) and II) two gazetted²⁹ officers in charge of the vacant position. The process is to be fair, impartial and non-discriminatory.

A revised Code of Ethics has been introduced and has been embedded in the Police Force's day to day thinking and actions. It also presents an opportunity for the Force to revitalise itself and re-focus its attention on improving levels of confidence and trust in the police. This document binds every sworn officer of the Force, from the Commissioner to the Constable, setting out the standards of behaviour leading to more correct decision making. Additionally, the Code outlines the values which shall guide the principles of policing whilst emphasising the adequate handling of the varied stakeholders, including victims of crime, witnesses, offenders, defence lawyers, the judiciary and the media.

The Code of Ethics specifically states that all Police Officers are to remain unbiased and act consistently in a manner independent of any pressure that might be exerted. Officers cannot take any active part in politics and they cannot discriminate in the execution of their duty. Breaches of the Code of Ethics are dealt with in a manner proportionate to the gravity of the breach. Serious misconduct may require formal action, in line with established disciplinary procedures.

²⁹ As per Article 2 of the Police Act (Chapter 164 of the Laws of Malta), this refers to any Police officer of or above the rank of Inspector.

It will improve the delivery of service and gives a practical focus and benchmark around quality and consistency in order to help the Police Force build public confidence through greater transparency and accountability.

The Code will be a living document which will be reviewed at least every five (5) years and revised as appropriate.

The Police Force's recent transformation strategy includes new initiatives that will lead to better gender balance. Better family-friendly measures, the setting up of a diversity and inclusion strategy, and the revision of existing HR policies are all aimed to have a workforce that reflects better society's realities.

In October 2020, the entry criteria were changed, and the height limitation was removed. While reflecting the modern circumstances of an intelligence-based Force (which is not dependent only on specific physical attributes), more women are expected to join the Force.

It should be noted that Act XXIV of 2020 removed Article 36(1)(h) from the Police Act (Chapter 164 of the Laws of Malta). Article 36(1) used to read as follows: "(h) to hear appeals from decisions of the disciplinary board provided that an appeal from such decision has been filed within fifteen days from the date of notification of the decision." Disciplinary appeals have therefore been excluded from the Police Complaints Board. The function will be taken over by the Police Disciplinary Appeals Board, that is well equipped, resourced and given adequate guarantees of independence. In this regard, it is pertinent to note that Bill 200 of 2021 entitled Police (Amendment) Bill was tabled for first reading on 25 January 2021 and is currently in the second reading stage. The objective of this Bill is to provide for an appeal mechanism for minor disciplinary offences that are heard by the Disciplinary Board and to provide for the removal from office of officers found to be under the influence of alcohol or drugs.

Training

The Malta Police Force have 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.

Tangentially, it should be noted that the University of Malta offers a Diploma in Policing for Inspectors. One of the credits forming part of this diploma is one on Criminal Justice, Ethics and Human Rights, with ethics in policing being one of the components. Whilst this subject is more theoretical in nature, it is still providing training and raising awareness on integrity and professional ethics.

Permanent Secretaries

Section 1 of Part C of the Venice Commission Opinion deals with Permanent Secretaries and the recommendation provides that Permanent Secretaries should be selected upon merit by an independent Civil Service Commission and not by the Prime Minister.

In order to implement this recommendation, the Ministry for Justice, Equality and Governance tabled Bill no. 157 of 2020, Constitution of Malta (Amendment No 3) Bill. This would amend various laws with the aim of reforming the procedure by which the appointments of the Principal Permanent Secretary and Permanent Secretaries are made. The Bill has been approved by the House of Representatives in March 2021 and is pending publication.

Reform of the procedure for the making of various appointments

Bill no. 158 - Reform of Powers of Appointment Bill was tabled in July 2020 and approved by the House of Representatives in March 2021; it is pending publication. It formed part of the package of 10 bills which address various Venice Commission recommendations. More specifically, the Bill addresses the appointment of (i) the Governor, the deputy Governor and the directors of the Central Bank of Malta, (ii) the Chairperson

of the Malta Financial Services Authority, (iii) the members of the Board of the Arbitration Centre, and (iv) the Information and Data Protection Commissioner. In addition, the Bill amends Article 86 of the Constitution to the effect that the powers of the Prime Minister as regards the (temporary) appointment and removal of members of the Employment Commission can only be performed “giving due consideration to such advice as might have been given in that respect by the Cabinet”.

Persons of Trust

Section 2 of Part C of the Venice Commission Opinion deals with Positions and Persons of Trust. The thrust of the recommendation is to introduce a real and clear legal basis which strictly limits the appointments of persons of trust. Moreover, the situation in relation to persons of trust is also subject to Recommendation i of the GRECO First Evaluation Round.

It is pertinent to note that the contents of the Cabinet Manual concerning the engagement of persons of trust essentially reflects the contents of the Manual on Resourcing Policies and Procedures,³⁰ which forms part of the Public Service Management Code. The Code, including the Manual on Resourcing Policies and Procedures was assigned the status of a Directive by virtue of Directive 1³¹ issued under the Public Administration Act (Cap. 595 of the Laws of Malta). It has therefore the force of law and is a binding legal text, recognised as binding by the Public Administration Act (Cap. 595 of the Laws of Malta), which is already in force and publicly available. Details regarding the engagement of “Persons of Trust” are available at Section 7 of the Manual. In section 7.7, the Manual sets out the:

- Maximum Staff complement for the Prime Minister’s Secretariat;
- Maximum Staff Complement for Ministers’ Secretariats;
- Maximum Staff Complement for Parliamentary Secretaries’ / Other designated Offices’ Secretariats.

This is being complemented with a legal basis for the appointment of persons of trust by way of Bill no.159, - Appointment (Persons of Trust) Bill which has been approved by the House of Representatives in March 2021 and is pending publication.

Amongst other things, the Bill gives the Commissioner for Standards in Public Life the power to refer the results of findings of an act of corruption directly to the Attorney General.

It is being proposed that the Article 2 of the Standards in Public Life Act (Chapter 570 of the Laws of Malta) is amended to substitute the definition of persons of trust, namely that:

“person of trust” means any employee or person engaged directly from outside the public service and the public sector to act as consultants and staff in the private secretariat of a Minister or Parliamentary Secretary or in the event that following repetitive public calls for engagement a post remains vacant if such engagement is for a period of less than one year and where the person has been engaged according to the procedure established under article 6A of the Public Administration Act.

It is also being proposed that amendments are made to the Public Administration Act (Chapter 595 of the Laws of Malta). The inclusion of this amendment would provide for a new manner as to how persons of trust are engaged:

6A. (1) Ministers and Parliamentary Secretaries may engage directly, on a persons of trust basis, individuals from outside the public service and the public sector to act as: (a) consultants to a Minister or Parliamentary Secretary; (b) staff of the Secretariat of a Minister or a Parliamentary Secretary; or (c) in the event that following repetitive public calls for engagement, a post remains vacant, if such engagement is for a period of less than one year: Provided that persons of trust shall not be deemed to be public officers or public employees. (2) Persons of trust shall be engaged on a fixed term engagement contract: Provided that a person engaged in this position shall not attain indefinite status if employed in excess of the legal limit stipulated in the Contracts of Service for a fixed term Regulations, on the basis that the engagement is linked to a particular Minister or Parliamentary Secretary where the maintenance of a higher level of trust is necessary by virtue of the nature of the position and where a

³⁰https://publicservice.gov.mt/en/Documents/Public%20Service%20Management%20Code/PSMC%20Manuals/Manual_on_Resourcing_Policies_and_Procedures.pdf

³¹ Pages 126 and 127. <https://publicservice.gov.mt/en/people/Documents/Directives/Directive-1.pdf>

high level of trust is objectively an essential element of the employment relationship. (3) The number of persons that may be engaged and the conditions of employment of persons of trust shall be established in the manual published by Cabinet Office which shall be laid on the table of the House."

The President of Malta

In its Opinion, the Venice Commission stresses on the importance of a qualified majority in the House of Representatives for the appointment and removal of the President and the granting of more powers to the President in order to serve as a player for more checks and balances on the power of the Executive.

This importance was reflected in Act XLIV of 2020, which amended the Constitution of Malta. This amendment changed the manner with which the President is appointed and removed. The President is now to be appointed by Resolution supported by the votes of not less than two-thirds of all the members of the House of Representatives. If that threshold is not reached, the person occupying the office of the President of Malta shall, in any circumstance, remain in office until the Resolution is supported by the votes of not less than two-thirds of all the members of the House of Representatives. The President may be removed upon an address by the House supported by the votes of not less than two-thirds of all the members thereof and praying for such removal on the grounds of proved inability to perform functions of his office (whether arising from infirmity of body or mind or any other cause) or proved misbehaviour. It is pertinent to note that for recent appointments of the President of Malta, although the relevant name was always put forward by the Prime Minister, there was agreement with the Leader of the Opposition. Therefore, given this, to a certain extent there was already a degree of agreement between both sides of Parliament in place.

The Implementation and Transposition of the Fifth Anti-Money Laundering Directive

As of late, the Government took the necessary efforts to ensure that the 5th Anti-Money Laundering Directive is fully transposed, including through legislative amendments to the Prevention of Money Laundering Act (Chapter 373 of the Laws of Malta). The Amendments in themselves provide the court with the prerogative to implement a minimum of maximum terms wherever one commits any criminal action prescribed in the EU Directive.

In line with Article 20a of the 5th Anti-Money Laundering Directive, Malta has notified the Commission of its list of prominent public functions for the purposes of point (9) of Article 3 of the same Directive.

Company Service Providers

Company Service Providers (Amendment) Act amended the Company Services Providers Act in order to further strengthen the regulatory framework in relation thereto.

II.III Repressive measures

Significant developments

26. Criminalisation of corruption and related offences

Given that Malta is one of the participating Member States in the enhanced cooperation for the creation of the European Public Prosecutor's Office (the EPPO), work is being undertaken to ensure that the necessary implementing measures will be in place in fulfilling the obligations laid down in the EPPO Regulation in the fight against crimes against the EU budget. It should be noted that the national implementing legislative measures have been adopted through Act No X of 2021 Criminal Code (Amendment No. 4).

27. Data on investigation and application of sanctions (criminal and non-criminal) for corruption offences (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 2019 till 2020.

Corruption Cases investigated during 2019 and 2020			
Financial Crimes Investigations Department	Crime	2019	2020
	Totals	11	38

Therefore, there was a 245% increase in investigations in 2020 compared to 2019.

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 2019 till 2020.

Financial Crimes Investigations Department	Crime	2019	2020
	No. of cases solved	5	19
	No. of prosecutions	5	10
	No. of persons prosecuted	5	12

Therefore, compared to 2019, in 2020 there was a 280% increase in number of cases solved; a 100% increase in the number of prosecutions; and a 170% increase in the total number of persons prosecuted.

IAID holds data on financial investigations carried out by the office in line with the IAFI Act (Chapter 461 of the Laws of Malta). With regard to the disclosure of investigation reports conducted by IAID, Article 22 (2) of the IAFI Act states that "The Director shall treat internal audit reports and reports of financial investigations as strictly confidential and shall, except for the purpose of any criminal investigation or prosecution, only disclose their contents to the Permanent Secretary or, as the case may be, the Chairman of the Audit Committee of the Central Bank of Malta, and, if necessary, to the Board, or to the Auditor General." Additionally, IAID is the Anti-Fraud Co-ordinating Service (AFCOS) as the designated interlocutor of OLAF in Malta, in this regard all irregularities relating to EU Funds (including Corruption offences) are reported to AFCOS Malta by all the Managing Authorities and Paying Agency respectively. AFCOS Malta reports to OLAF EU funds irregularities in line with the EC's reporting obligations through an Information Management System.

It should be noted that there are eight on-going cases which are scheduled to be sentenced in April and May 2021.

Significant developments concerning high profile individuals charged with money laundering and corruption offences

On 20 March 2021, 11 persons and a number of companies were charged before the Court with money laundering, corruption offences and various financial crimes, following the conclusion of two separate magisterial inquiries. Amongst the people charged were the former Chief of Staff of the Prime Minister, and a former chairman of the publisher of a major independent media house. Another individual from the same major media house is yet to be charged upon being extradited back to Malta from the United Kingdom.

On 30 March 2021, the Prime Minister wrote to the Commissioner of Police requesting him to immediately investigate all allegations contained in newspaper articles³² of 29 March 2021.

28. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

There have been no significant recent developments in this area. Under Maltese law no distinction is drawn between high level corruption and corruption. Therefore, the abovementioned sections dealing with corruption apply across the board.

Whilst Malta has some form of immunity regime, this is very restricted. Article 65 of the Constitution of Malta lays down the form of immunity applicable with regard to Members of the House of Representatives. These powers are in themselves limited. The proviso of Article 5 of the Criminal Code (Chapter 9 of the Laws of Malta) establishes that the President of the Republic of Malta is exempted from criminal prosecution with respect of acts done in the exercise of his office.

Other

Proceeds of Crime Act (Act No. V of 2021)

Please refer to development described under point 18, under the sub-heading concerning the Asset Recovery Bureau.

Limits on the use of Cash Transactions

A Legal Notice entitled 'Use of Cash (Restriction) Regulations, 2021', which limits the use of cash transactions (€10,000) in respect to the purchase or sale of specified good and provides for relevant fine ('multa'), was published on 9 March 2021.

Other

The Chief Executive Officer and the Chief Legal Officer of the Malta Financial Services Authority suspended themselves and later resigned in the period October - November 2020. The Chief Legal Officers also resigned from the FIAU Board.

A former Chief Executive Officer of the Malta Gaming Authority was charged following investigations into trading in influence with one of the individuals charged with complicity in the homicide of Daphne Caruana Galizia.

³² <https://timesofmalta.com/articles/view/revealed-china-energy-negotiator-is-behind-macbridge.861229>
<https://timesofmalta.com/articles/view/who-is-chen-cheng-and-what-are-his-links-to-malta.861334>
<https://timesofmalta.com/articles/view/how-the-macbridge-mystery-was-finally-unravelling.861304>

III. Media pluralism

III.I Media authorities and bodies³³

Significant developments

29. Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

The Audiovisual Media Services Directive has been transposed into Maltese Law via Act No. LVI of 2020. This act amended the Broadcasting Act, Chapter 350 of the Laws of Malta.

Subsequently, on 28 January 2021, the Government announced the establishment of the Media Literacy Development Board under the powers of the Broadcasting Law Act. This panel consists of a number of media experts and in consultation with the Broadcasting Authority and other governmental entities and has the aim of drawing up a plan, promoting and taking any measures to ensure the development of literacy skills in the media field. The panel will also ensure that measures are put in place to ensure that citizens have advanced media literacy skills and that they have access to information to use, access and create content securely and responsibly. The panel also aims to ensure that the measures taken are not only limited to learning about tools and technologies, but must ensure that citizens can exercise the power of judgment, analyse complex realities as well as distinguishing between opinion and facts.

30. 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. This remains addressed by way of the Constitution and the Broadcasting Act (Chapter 350 of the Laws of Malta).

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

The Institute of Maltese Journalists (IGM) was founded as The Malta Press Club on 3 November 1989. The IGM (Institute of Maltese Journalists) endeavours to promote the highest standards of journalism in Malta. It should be noted that on 26 June 2020, the IGM's members unanimously approved several amendments to their statute, bringing it in line with the Voluntary Organisations Commission's requirements. The main changes were the following:

1. Increase of members on the IGM Council, from seven to nine members;
2. The change in the nomenclature, i.e. from Chairperson to President;
3. The abolition of proxy votes in general meetings;
4. The holding of annual general meetings;
5. The appointment of two reviewers, to better scrutinise/ audit the IGM's finances.

³³ Cf. Article 30 of Directive 2018/1808

III.II Transparency of media ownership and government interface

Significant developments

The applicable law on media ownership is Article 10 of the Broadcasting Act.

It is pertinent to recall that in 2018, the House of Representatives enacted the Media and Defamation Act (by way of [ACT No. XI of 2018](#)), which requires the maintenance of a Media Register. Information is publicly accessible [here](#).

32. The transparent allocation of state advertising (including any rules regulating the matter; other safeguards against the state / political interference)

There have been no recent significant developments in this area.

33. Rules governing transparency of media ownership and public availability of media ownership information

There have been no recent significant developments in this area. Information gathered in terms of the Media and Defamation Act (Chapter 579 of the Laws of Malta) in relation to registered media is accessible [here](#).

Other

Malta's 2020 National Input referred to the launch on 3 April of support for news media providers during the COVID-19 outbreak. The Government provided assistance, including financial assistance, so that during this difficult period of COVID-19, media such as television, radio, newspapers, and news portals continue to operate. This is being done in the firm belief that media is an integral part of Malta's democracy and an important tool in enhancing freedom of expression. This measure was introduced to provide monthly grants intended to support beneficiaries and cover part of the additional operational costs incurred due to the COVID-19 outbreak. The first period covered was from 1 March 2020 until 30 June 2020. This measure was then extended to cover costs incurred during the period from September 2020 till 31 December 2020, and subsequently further extended to cover the period from 1 January 2021 until 31 March 2021. Up to January 2021, this financial aid amounted to €1,201,000.

This incentive is open to undertakings active in the provision of local, daily news services via television, radio, printed media and/or online platforms intended mainly for persons living in Malta, employing at least four (4) full time journalists.

The aid provided was further capped as follows:

- TV media providers - up to €45,000 per month;
- News print media providers - up to €10,000 per month;
- Online news portals media providers - up to €5,000 per month;
- Radio media providers - up to €3,500 per month;
- Providing a news service on more than one portal and/or channel – up to €10,000 per month.

The Malta Institute of Journalists has dissociated itself from a [report published by the International Press Institute](#) on the press situation in Malta. The report claimed that COVID-19 funds was threatening media independence in Malta. The main news organisations in Malta described it as “a vicious and dishonest claim” disputed by a number of independent news organisations in Malta.³⁴ The editors of the independent media ‘The Times’, ‘The Malta Independent’ and ‘MaltaToday’ filed a formal complaint with the International Press Institute on its report.

³⁴ [Institute of Journalists dissociates itself from Shift News ‘report’ on Maltese press \(maltatoday.com.mt\)](#)
[Institute of Maltese Journalists dissociates itself from Shift News ‘report’ on Maltese press - The Malta Independent](#)
[Institute of Journalists dissociates itself from Shift News \(timesofmalta.com\)](#)

III.III Framework for journalists protection

Significant developments

The main piece of legislation protecting journalists' independence is the Media and Defamation Act (Chapter 579 of the Laws of Malta). This law abolished criminal libel, introduced the concept of the 'citizen journalist', introduced the concept of mediation, introduced various provisions which strengthen freedom of the media and prohibited the multiplicity of libel lawsuits in Malta on the same journalistic report. At the same time, the new law added no new burdens on journalists and owners of media houses in terms of civil libel damages.

Moreover, 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.

Public Inquiries may also take place in terms of the Inquiries Act (Chapter 273 of the Laws of Malta). The Maltese Government notes and looks forward to the initiatives announced by the Commission in the European Democracy Action Plan, namely in relation to the upcoming recommendation on the safety of journalists, along with the anti-SLAPP initiatives which will be presented later on this year.

Malta has also commenced the process to join the Media Freedom Coalition.

Significant developments concerning the ongoing investigation into the assassination of investigative journalist Daphne Caruana Galizia

One of the three individuals who were arrested in 2017 for the assassination of Daphne Caruana Galizia has pleaded guilty and sentenced to 15 years imprisonment.

On 23 February 2021, Vincent Muscat pleaded guilty and was sentenced to 15 years imprisonment by the Maltese Courts of Justice for his involvement in the homicide of journalist Daphne Caruana Galizia in October 2017.

Mr Muscat was one of three men arrested for perpetrating the murder of Daphne Caruana Galizia in December 2017.

In a separate and distinct case – concerning the homicide of lawyer Carmel Chircop in October 2015, the Maltese Cabinet decided on 22 February 2021 to accept the joint advice given to it by the Attorney General and the Commissioner of Police to recommend the granting of a Presidential Pardon to the same Vincent Muscat. This was endorsed by the President of the Republic of Malta on 23 February 2021 and is subject to satisfying a number of conditions, primarily aimed at securing the necessary convictions in this case.

A number of persons have subsequently been arrested in relation to this case.

It has also led to the intensification of the investigations related to the homicide of the late Daphne Caruana Galizia and several arrests in this regard. Several individuals were subsequently charged in relation to the homicide of Daphne Caruana Galizia and in relation to the homicide of lawyer Carmel Chircop. While investigations remain ongoing, the Commissioner of Police stated that every person, allegedly involved in the assassination of Daphne Caruana Galizia were charged or in custody.

These events mark an important milestone towards establishing the truth, for the Caruana Galizia family and for the country. The Prime Minister described the recent chain of events as proof of the effectiveness of Malta's institutions, noting that the Maltese Government has always supported the institutions in their pursuit of justice and has implemented unprecedented reforms to ensure that they are equipped with the necessary resources.

The alleged mastermind had asked for a Presidential pardon in 2020 which was rejected.

The President of the Republic has also received three requests for Presidential pardons from two alleged executioners and the convicted executioner on 10 March. The advice of the Commissioner of Police and the Attorney General on these requests are also pending.

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

The work of the Public Inquiry into the assassination of the Daphne Caruana Galizia is still ongoing.

35. Law enforcement capacity 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.

Related to ensuring journalists' safety it should be noted that investigations of hate speech and hate crime have been assigned to the Vice Squad. Two additional investigative teams have been added to this Squad. Specialised training was delivered throughout to the officers regarding effective interaction with victims of hate crime upon first contact.

Moreover, the Cyber Crime Unit within the Technical Support Department of the Malta Police Force provides technical assistance in the detection and investigation of crime involving digital technology. The Unit's involvement is not limited to criminal acts commonly associated with technology *per se* but extends to investigations such as fraud and threats. The Unit also analyses the digital evidence seized in connection with investigations as well as in identifying persons who are committing crimes over the internet. Any other threats reported to the Police are actioned immediately.

The setting up of a Victim Support Agency was announced was announced in July 2020, which incorporates the services offered to victims of crime, while closely working with non-government organisations. The Victim Support Agency (Establishment) Order (L.N. 418 of 2020) was published on 3 November 2020. The website of the agency can be accessed here. This Agency has started operating and will be officially inaugurated in April 2021. It should also be noted that Bill 197 Victims of Crime (Amendment) Bill has passed through parliamentary procedure and is awaiting publication.

36. Access to information and public documents

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

37. Lawsuits against journalists (including defamation) and safeguards against abuse

It is pertinent to recall that Media and Defamation Act (Chapter 579 of the Laws of Malta) introduced various provisions which strengthen freedom of the media and prohibited the multiplicity of libel lawsuits in Malta on the same journalistic report. At the same time, the new law added no new burdens on journalists and owners of media houses in terms of civil libel damages.

As stated above, the Maltese Government welcomes the Commission's intention to launch an initiative against abusive litigation targeting journalists and rights defenders, found in the 2021 Work Programme.

Other

LOVIN MALTA LIMITED (C75368) ET vs L-AVUKAT TAL-ISTAT

In February 2021, Lovin Malta Limited, a local news portal filed a Court case against the State. This case was filed so as to challenge the constitutional validity of one of the provisos of Article 13 of the Broadcasting Act (Chapter 350 of the Laws of Malta). Lovin Malta is arguing that this proviso is unconstitutional and contrary to Article 119 of the Constitution of Malta. This case will now follow the due process in the Courts.

Media Freedom Coalition

Malta has in March 2021 commenced the process to join the Media Freedom Coalition. The Media Freedom Coalition was formed in July 2019 at the Global Conference for Media Freedom and is a partnership of countries working together to advocate for media freedom and safety of journalists and hold to account those who harm journalists for doing their job. The Coalition's *raison d'être* is to defend media freedom where it is under threat. Members of the Coalition sign up to the Global Pledge on Media Freedom, a written commitment to improving media freedom domestically and working together internationally. The Coalition promotes media freedom by lobbying on individual cases, working to hold abusers to account, supporting members of the Coalition and other countries to improve protections for the media and making collective statements in multilateral fora.

IV. Other institutional issues related to checks and balances

IV.I The process for preparing and enacting laws

Significant developments

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

Please refer to the information under point 20 under chapter 2, as well as point 39 under chapter 4 for an update on the eParticipation tools.

Constitutional Convention

This is a good example of a major public consultation which would include consultation of judiciary on judicial reforms.

As noted in section B of the Venice Commission Opinion of October 2020, the Constitutional Convention will be able to propose its recommendations. It will not have executive powers and the final decision to adopt any recommended constitutional or legislative amendments would be decided at Parliament.

The first phase of the public consultation is now concluded and all submissions made by the public are made available [online](#). The Office of the President of the Republic of Malta published a report which analysed the outcome of the public consultation process on the Constitutional Reform. The report can be found [here](#).

The Office of the President of the Republic of Malta is envisaging that the Convention would be tentatively composed of 120 members. Around of 40% of delegates would represent institutional bodies and organs, education organisations, work related organisations and academia, whereas around 60% of the delegates would represent civil society. In this regard a process to select representatives from 1700 civil society organisations in Malta is necessary.

As also noted in paragraph 21 of the Venice Commission Opinion of October 2020, Parliament would need to call the Convention through a resolution.

The President has also announced that the Constitutional Reform Committee chaired by himself had resumed its meetings, through teleconferencing due to the current circumstances.

Following the conclusion of the six-month public consultation process, discussions are ongoing between the President of Malta, the Prime Minister and the Leader of Opposition on the question of leadership of the Constitutional Convention.

On its part, the Government has identified a number of areas that could be discussed in the context of the Convention. These include:

- The discussion whether Members of Parliament should be given the choice between working full-time or part-time will be taken forward within the broader picture of constitutional reform
- In light of GRECO recommendation VII, the Government has examined a number of proposals setting out the options on the subject of third-party contacts and lobbying regulations. Given the direct link between the subject and the general workings of the democratic system, the Government stands ready to discuss the topic further in the upcoming Constitutional Convention.

39. 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).

eParticipation

As part of the Government's commitment to promote development of public policy, boost public trust and help persuade citizens and businesses to collaborate effectively with Government a new website will be developed as a sub site of the current gov.mt website to replace the current public consultation website. The new website will inherit the branding of the gov.mt website and will feature consultations. It will maintain the current public facing functionality but will transform the feedback mechanism and will replace the current conventional email method with a CRM backend. The workflow of the whole process shall be streamlined in the backend from consultation upload stage to final report.

The Ministry responsible for Social Consultation³⁵ will maintain moderator rights for quality control checks and standardisation. Each department/entity will have a focal point with back end access to the respective publications, get notified about feedback received and reply directly from the website backend. Notifications will be sent via email with link to respective feedback, but communication for all stakeholders will be restricted via the website backend. The citizen, unless submission is anonymous, shall be continuously notified about the feedback given and the status changes of the consultation. The CRM mechanism will introduce governance via automated pre-set reminders for replies to feedback, central monitoring of all exchange of correspondence and the inclusion of audit mechanisms. The new system will also introduce more detailed statistical information about the kind of feedback being provided from the departments/entities and reports about each consultation may be automatically generated from the backend.

European eGovernment Action Plan 2016-2020

The Maltese Public Service ranked first again for e-government in Europe among the participating 36 countries. Significant measures have been taken to make public administration and public institutions more open, efficient and inclusive as well as borderless access to all citizens and businesses in the EU. More information can be found here.

Servizz.gov agency headquarters relocated to new premises. More information can be found here.

These announcements were made as part of the Public Service Week in October 2020. The Government will resume its work to strengthen the accessibility of citizens and businesses to the Maltese Public Service with a view to enhance democratic engagement and civic participation.

Emergency and Fast Track procedures

As explained above, 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 \(Cap. 465\)](#) has been used 53 times between January and May 2020, 61 times between June and December 2020 and twice so far (January and February) in 2021 to address the ongoing pandemic.

40. Regime for constitutional review of laws

The Strengthening of the Office of the Law Commissioner

The [Statute Law Revision Act](#), 1980 established the Law Commission and its appointment, role, duties and powers. The Law Commission is currently working on an exercise that should lead to a consolidation of the Laws of Malta. It has also worked on proposals to speed up criminal trials and magisterial inquiries.

The Government has strengthened the Office of the Law Commissioner by providing it with additional resources to work with, including a newly refurbished building (this is the first time that the Commission has a permanent building) and additional staff. [The expenditure for 2021 is around three times as much as 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. Currently, the Law Commissioner is Justice Emeritus Antonio Mizzi.

Other: Parliamentary & Electoral Reforms

On 27 July 2020, the second reading of Bill No. 119, the Constitution of Malta and Various Laws (Amendment) Bill, was debated in Parliament on 27 July 2020 and now pending discussion in the Consideration of Bills Committee.

The purpose of this Bill is to amend 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.

³⁵ Currently falls within the portfolio of the Minister within the Office of the Prime Minister.

41. 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 by Parliament of emergency regimes and measures in the context of COVID-19 pandemic

- measures taken to ensure the continued activity of Parliament (including possible best practices)

By virtue of Act X of 2020, Article 4 (1) of the Emergency Powers Act (Chapter 178 of the Laws of Malta) was amended in order to provide for the possibility for a declaration of a public emergency by the President of Malta in the context of a public health. This Act gives unlimited power to the President to enact regulations in a situation of emergency, however, in such a situation the regulations shall cease to have effect after two months from the date of operation unless approved by resolution of the House of Representatives. Government is constantly monitoring the COVID-19 pandemic and is taking a pro-active approach to maintain the proper balance between the protection of public health and the safeguard of access to justice and other services. In this context, a number of legal notices were passed under the Public Health Act (Chapter 465 of the Laws of Malta) and a new Act was specifically passed – the Legal and Other Time Periods (Suspension and Interruption) Act (Chapter 609 of the Laws of Malta) to ensure that all rights of litigants are safeguarded at law.

In terms of judicial review, it is pertinent to point out that the legal notice relative to the closure of courts was constitutionally challenged on the basis of alleged arbitrary detention. The applicant was successful before the First Hall of the Civil Court in its Constitutional Jurisdiction but the Constitutional Court acceded to the appeal filed by Government and decided that there was no violation of the accused’s fundamental human rights through the operation of the legal notice issued under Chapter 465 (*Yorgen Fenech vs State Advocate et – constitutional application number 67/2020*).

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. In fact, during the pandemic Malta underwent historic reforms, which we referred to earlier, consisting of six Bills which address the Venice Commission’s Recommendations of 2018, and which were approved by the House of Representatives on 29 July 2020 and published on 7 August 2021. Other bills, which address recommendations of Moneyval and GRECO and other reforms enhancing good governance have also been ongoing.

Having said this, at committee stage sittings, the MP’s would be present in parliament while experts would attend virtually, in order to reduce physical interaction.

IV.II Independent authorities

Significant developments

42. independence, 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.

President of Malta

Act No. XLIV of 2020 - Constitution of Malta (Amendment No. 2) Act, published on 7 August 2020 provides for the provision for the strengthening of the executive authority of the President of Malta by providing for the President to be appointed by a resolution of the House of Representatives enjoying the support of at least two thirds of the Members of the House. The Act also provides for an anti-deadlock mechanism for the appointment of the President.

Ombudsman

In terms of legislative amendments, Section B of Part IV of the Venice Commission Opinion deals with the office of the Ombudsman wherein at paragraph 101 the Venice Commission recommends the raising of the rules on appointment and dismissal of the Ombudsman as well as the powers of the Ombudsman to the constitutional level, and that Parliament should be obliged to debate reports addressed to it by the Ombudsman. In order to implement these recommendations, legal amendments passed whereby the provisions dealing with the appointment, removal and suspension of the Ombudsman have been included in the Constitution. The proposed amendments also provide for the mandatory obligation for Parliament to debate the annual report prepared by the Ombudsman. The Ombudsman is now appointed and removed by a two-thirds parliamentary majority.

Moreover, the Ombudsman has been granted the power to refer the results of their investigations directly to the Attorney General in suspected cases of potential corruption.

These amendments relating to the Ombudsman and to the Permanent Commission against corruption received positive comments in the Venice Commission Opinion "On Ten Act and Bills Implementing Legislative Proposals Subject of Opinion CDL- AD (2020) 006" of 9 October 2020. However, the commission appears to suggest a number of clarification and practical measures on some aspects relating to the ombudsman (vide October 2020 Opinion Sections F (pages 12-13) and H (pages 14-15)).

Ombudsplan 2021

On 14 September 2020, the Parliamentary Ombudsman presented the Ombudsplan 2021 to the President of the House of Representatives. The Ombudsman positively acknowledges the positive effects and the extensive scope of the reforms, particularly amendments carried out by Act XLII of 2020 as important steps forward which substantially reflect the Venice Commission's recommendations.

The Report notes that the fact that these amendments were agreed unanimously in the House of Representatives is a positive step. The Report also notes that Ombudsman's role has been strengthened and appointment and removal require a two-thirds majority vote. In this report, the Ombudsman states that the level of Constitutional protection in Malta is amongst the best in Europe, guaranteeing a high level of autonomy and independence.

Auditor General

[ACT No. XI of 2021](#) entitled 'An act to provide for the amendment of the Auditor General and National Audit Office Act', Cap. 396 was published on 18 March, 2021. This streamlined the Auditor General and National Audit Act, Cap 396, with the new power mentioned below.

By virtue of Act XLVI of 2020 entitled the Permanent Commission Against Corruption Act, has provided the power to the Auditor General to refer their investigation directly to the Attorney General in suspected cases of potential corruption.

On 5 November 2020, Auditor General Charles Deguara, presented to the Minister for Justice, Equality and Governance with a series of proposals for amendments to the Auditor General and the National Audit Office Act. The proposed amendments are meant to better equip the National Audit Office in its work intended to further contribute towards the improvement of governance and performance of the public sector.

As stated in Chapter 2, the revision of the National Anti-Fraud and Corruption Strategy was finalised on the basis of the input of a Coordinated Committee set up in terms of the Internal Audit and Financial Investigations Act to which the above institutions (Ombudsman, Auditor General, the Internal Audit and Investigations Department, Permanent Commission against Corruption and the Office of the Commissioner for Standards in Public Life) contributed.

National Audit Office

Multiple audits and reports made throughout 2020 and 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 (NHRI) 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. This Bill is currently at Committee stage.

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.

Commissioner for Standards in Public Life

The Commissioner too has the power to refer cases of suspected corruption for further investigation and persecution and to challenge decisions not to prosecute such cases (a measure introduced on the 1st October 2020) raises the stakes in proceedings under the Standards in Public Life Act considerably.

Please also refer to section 25 under Chapter 2 of this report.

A number of the Commissioner's latest publications can be found [here](#).

IV.III Accessibility and judicial review of administrative decisions

Significant developments

43. Transparency of administrative decisions and sanctions (including their publication and rule on collection of related data) and judicial review (including scope, suspensive effect)

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. 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.

44. Implementation by the public administration and State institutions of final court decisions

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

45. Measures regarding the framework for civil society organisations (e.g. access to funding, registration rules, measures capable of affecting the public perception of civil society organisations, etc...)

Civil Society Organisations (CSOs) are considered to be the backbone of any democratic society. The European Commission [glossary](#) identifies the following examples:

- social partners (trades unions & employers' groups);
- non-governmental organisations (e.g. for environmental & consumer protection);
- grassroots organisations (e.g. youth & family groupings).

The [Malta Council for Economic and Social Development \(MCESD\)](#) is an advisory council that issues opinions and recommendations to the Maltese government on matters of economic and social relevance. Under the remit of the MCESD, there are two committees: the [Civil Society Committee \(CSC\)](#) and the Gozo Regional Committee (GRC), both of which, through their respective Chairpersons, have a seat on the MCESD. This ensures that the interests of civil society groups and Gozitan citizens are considered. The Civil Society Committee is unique in terms of its identity since it represents all NGOs in Malta divided into 12 sectors each representing a specific sector of Malta's NGOs. It engages in timely and effective debates and discussions on matters that are of interest to the various groups involved. MCESD facilitates the discussions. A new chairman of the Civil Society Committee was appointed. The dedicated [webpage](#) contains regular updates on the work of the Committee. MCESD also maintains a [register](#) of Voluntary Organisations which can be publicly accessed. Once these organisations are registered with MCESD, they can then participate in elections to form part of the civil society committee.

Funding

CSOs often fail to adopt an active role at European Union (EU) level primarily because of financial restraints. As a result, the government is committed to provide financial incentives to support CSOs engagement in activities with other organisations not only at a local level but also at a European level with the aim to encourage the exchange of best practices, knowledge and information amongst organisations at a local and at an international level.

Voluntary Organisations, which can include civil society organisations, can access various funding opportunities.

The Malta Council for the Voluntary Sector (MCVS) works to ensure that Voluntary Organisations are informed of all the funding opportunities which they may benefit from. A [portal](#) has been designed which is dedicated to bring together all the relevant funding opportunities for VOs, both local as well as European and Third Country opportunities. The links in the portal direct the interested parties to the main funding and support opportunities available for volunteers and Voluntary Organisations, listing calls for application and funding priorities under the various Fund Operators. Moreover, the MCVS has its Mobile App '[VO Funding Malta](#)' as part of the Mobile Government Strategy. This App also provides funding and news related to the various funding opportunities. In terms of Article 4(7) of the Voluntary Organisations Act, the Government shall, from time to time, at least once a year, declare when funds for grants, sponsorships or other financial aid from the Government are available to the voluntary sector.

Funding opportunities cover employment, skills, emergency funding, operational assistance, co-financing, environmental initiatives. Now opportunities are published regularly.

Nonetheless, it is pertinent to highlight that there is also a dedicated [Civil Society Fund](#) (issues yearly calls, including in 2020). It provides financial assistance for the purpose of facilitating their affiliation with and participation in European groupings, associations, federations, confederation networks, and training related to EU Policy/Programmes.

In addition, such organisations may use the facilities (including IT equipment) at the Regional Hubs, Local Council offices.

EU-Funding for social inclusion and social dialogue is also promoted by the Malta-EU Steering and Action Committee (MEUSAC) now known as Servizzi Ewropej f'Malta (SEM).³⁶

COVID-19 financial schemes: An emergency fund set up in 2020 to help voluntary organisations overcome the challenges of COVID-19 has been extended until March 2021 by another €150,000. Some 125 groups benefited from the first stage of the scheme, which was launched in May with a €125,000 pot. This fund is administered by the Malta Council for the Voluntary sector in collaboration with the Parliamentary Secretariat for Sport, Recreation and Voluntary Organisations. Applications can be filled in and submitted online on <https://www.vofunding.org.mt/>.

Other developments concerning the legal framework

It is pertinent to recall that over the past months, the capacity of Office of the Commissioner for Voluntary Organisations (VOs) was strengthened in various ways, including in terms of human resources, as well as from a legal standpoint. A number of investigations were also carried out in terms of the respective legislation. Some of these developments were mentioned in the 2020 national contribution, while others happened following the submission or were not mentioned as in the case of Act No. XXXV of 2018 on the Prevention of Corruption in Sport Act.

It is pertinent to recall that as submitted in the 2020 national input, the Voluntary Organisations (Amendment) Act, which was unanimously approved, was promulgated on 6 November 2018 to achieve various goals and address new developments in the area, including developments on the prevention of money laundering and the financing of terrorism, new proposals on religious and political organisations, a new focus on the classification of organisations and clarifications on terminology used. These amendments followed an extensive consultation process from April to July 2016 on the basis of a White paper and a draft Bill, the outcome of which was registered in a dedicated report. These amendments were considered increasingly necessary by the Commissioner for Voluntary Organizations who reiterated their need and urgency including in the 2017 annual report, and by the Council for Voluntary Sector in view of practical experiences over previous year. Their necessity was also due to recent laws and judgments of the Court, and also considered increasingly necessary by the Financial Intelligence Analyses Unit in view of the review of Malta by Moneyval and the importance of action to avoid being negatively assessed. Their implementation in relation Recommendation 8 – 'Non-profit organisations' was registered in the Fifth Round Mutual Evaluation Report published in July 2019.³⁷

In addition to the legal amendments carried out and notified in the national input submitted in May 2020, it is worth noting that Bill 153 Voluntary Organisations and other Laws (Amendment) Bill was approved by the House of Representatives on 29 July 2020. Act No. XXXIX of 2020 - Voluntary Organisations and other Laws (Amendment) Act, published on 4 August 2020. The objective was to substitute the definition "Minister" in the Voluntary Organisations Act and to provide for consequential amendments, as well as to identify further certain provisions regarding private interest foundations in the Second Schedule to the Civil Code and in the Trusts and Trustees Act.

Major amendments to the Voluntary Organisations Act (Chapter 492 of the Laws of Malta) which are now in force include wide-ranging powers of the Commissioner, including the powers to investigate VOs and to obtain information from and disclose information to other relevant entities such as the FIAU, especially vis-à-vis Moneyval regulations as explained above.

The Government is committed to ensure that the vulnerability of VOs is addressed holistically by means of various legislative instruments which have been enacted during the year 2020. It is worth noticing that without effective regulation, voluntary organisations may be subject to abuse leading to a harmful environment for the VOs to operate. Subsidiary legislation 492.02 regarding the Voluntary Organisations (Annual Returns and Annual Accounts) Regulations have entered into force by means of Legal Notice 317 of 2020. Moreover, further subsidiary legislations under the VO Act, including the Voluntary Organisations (Public Collections) Regulations (S.L. 492.03), and the Voluntary Organisations (Charity Shops) Regulations (S.L. 492.04) have also entered into force by means of Legal Notice 371 of 2020 and Legal Notice 390 of 2020 respectively. The Voluntary Organisations (Tax and Duty Exemption) Regulations are also finalised; however, they been

³⁶ For example: <https://meusac.gov.mt/2020/08/eu-funding-for-social-inclusion-and-social-dialogue/> and <https://meusac.gov.mt/funding-programme/civil-society-projects/>

³⁷ <https://rm.coe.int/moneyval-2019-5-5th-round-mer-malta/16809737c0>, point 293 in page 78 and point 95 in page 152.

forwarded to the Ministry for Finance and the respective Department for their approval prior to being tabled in Parliament.

Monitoring and checks:

To strengthen the monitoring aspect of enrolled organisations the Office of the Commissioner for Voluntary Organisations embarked on the ambitious project of carrying out its internal due diligence through open sources as well as by purchasing a Know Your Client (KYC) software that would allow for real-time monitoring of every individual. Basically, all the details of the organisation and the individual administrators are inputted within the software, which in turn sends the data to an international screening software every twenty-four (24) hours. If there are any new adverse remarks on an individual, the system would send a notification to the officer to analyse the hit. The software is also equipped with a scoring system, based on country of origins, country of operations and nature of work done by the organisation, which score would then give a final risk assessment of the organisation. High Risk organisation will be flagged to the officer every six months informing him that a due diligence review is due.

Thus, assessments on already enrolled organisations are being made with constant monitoring. The process is being re-visited from the start and evaluations of the due diligence procedures including those of compliance is ongoing and under continuous development.

Statistics on monitoring and investigations

- The Office of the Commissioner for Voluntary Organisations has also been carrying out routine administrative checks in order to ensure that the statutes of organisations already registered with it, as well as those which apply for Voluntary Organisation status, are in line with the Voluntary Organisations Act.
- In 2020 and 2021 the Office of the Commissioner for Voluntary Organisations contacted over 200 Voluntary Organisations regarding issues pertaining to their respective statutes.
- In 2020 alone 124 organisations had to amend their statutes before being accepted as registered Voluntary Organisations, whilst 31 organisations had their application rejected because they failed to amend their statute so as to align it with the Voluntary Organisations Act.
- The Investigations and Monitoring Unit section within the Office of the Commissioner for Voluntary Organisations investigated nine (9) cases throughout 2019 and five (5) cases throughout 2020 regarding various complaints on different VO's.

Other

No further issues.

IV.V Initiatives to foster a rule of law culture

Significant developments

46. 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. Currently Malta as a whole, if not all the EU/ Worldwide, is following and reading online about the Public Inquiry currently taking place regarding the assassination of Mrs Daphne Caruana Galizia. Every detail of the court sitting is being put in writing by journalists and therefore the public is well informed. This is the epitome of fostering a rule of law culture in Malta.

Developments on the investigation already highlighted above under chapter 2, also mark an important milestone towards establishing the truth, for the Caruana Galizia family and for the country. Malta's Prime Minister, Robert Abela, described the recent chain of events as proof of the effectiveness of Malta's institutions, noting that the Maltese Government supports the institutions in their pursuit of justice and has implemented unprecedented reforms to ensure that they are equipped with the necessary resources.

Besides this, there are public debates almost daily on our national programmes and on our radio, which involve rule of law issues. Countless, articles are freely published online and on newspapers.

The landmark legislation passed in 2020, along with ongoing work and plans for a Constitutional Convention mentioned above has promoted the rule of law and has given an opportunity to the public to share their views and ideas on a major platform.

The position of the Maltese Government on the Commission 2020 Rule of Law Report was on the agenda of the Foreign and European Affairs Committee of the House of Representatives in March 2021. The Minister for Justice, Equality and Governance delivered a presentation to the Committee. The Report was also discussed with European Commissioner for Justice, Didier Reynders, at the Committee meeting held on 24 March 2021.