

COMMISSION DECISION (EU) 2022/2425**of 5 December 2022****on the consistency of the performance targets contained in the revised draft performance plan submitted by Malta pursuant to Regulation (EC) No 549/2004 of the European Parliament and of the Council with the Union-wide performance targets for the third reference period***(notified under document C(2022) 8743)***(Only the English and Maltese texts are authentic)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) ⁽¹⁾, and in particular Article 11(3), point (c), thereof,Having regard to Commission Implementing Regulation (EU) 2019/317 of 11 February 2019 laying down a performance and charging scheme in the single European sky and repealing Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013 ⁽²⁾, and in particular Article 15(2) thereof,

Whereas:

GENERAL CONSIDERATIONS

- (1) Pursuant to Article 10 of Implementing Regulation (EU) 2019/317, Member States are to draw up performance plans, either at national level or at the level of functional airspace blocks ('FABs'), which have to include binding performance targets for each reference period of the performance scheme for air navigation services and network functions. Those performance targets have to be consistent with the Union-wide targets adopted by the Commission for the reference period concerned.
- (2) Union-wide performance targets for the third reference period ('RP3') were originally set out in Commission Implementing Decision (EU) 2019/903 ⁽³⁾. Since those Union-wide performance targets and the draft RP3 performance plans subsequently submitted in October 2019 by Member States were drawn up before the outbreak of the COVID-19 pandemic in March 2020, they did not take account of the considerable reduction in air traffic due to the measures taken by the Member States and third countries to contain the pandemic.
- (3) In response to the impact of the COVID-19 pandemic on the provision of air navigation services, exceptional measures for RP3, which derogate from the provisions of Implementing Regulation (EU) 2019/317, were set out in Commission Implementing Regulation (EU) 2020/1627 ⁽⁴⁾. The Commission adopted, on 2 June 2021, Implementing Decision (EU) 2021/891 ⁽⁵⁾ setting revised Union-wide performance targets for RP3. On this basis, Member States submitted to the Commission, in October 2021, draft performance plans containing revised local performance targets for RP3.

⁽¹⁾ OJ L 96, 31.3.2004, p. 1.

⁽²⁾ OJ L 56, 25.2.2019, p. 1.

⁽³⁾ Commission Implementing Decision (EU) 2019/903 of 29 May 2019 setting the Union-wide performance targets for the air traffic management network for the third reference period starting on 1 January 2020 and ending on 31 December 2024 (OJ L 144, 3.6.2019, p. 49).

⁽⁴⁾ Commission Implementing Regulation (EU) 2020/1627 of 3 November 2020 on exceptional measures for the third reference period (2020-2024) of the single European sky performance and charging scheme due to COVID-19 pandemic (OJ L 366, 4.11.2020, p. 7).

⁽⁵⁾ Commission Implementing Decision (EU) 2021/891 of 2 June 2021 setting revised Union-wide performance targets for the air traffic management network for the third reference period (2020-2024) and repealing Implementing Decision (EU) 2019/903 (OJ L 195, 3.6.2021, p. 3).

- (4) Commission Implementing Decision (EU) 2022/728 ⁽⁶⁾ was addressed to Belgium, Germany, Greece, France, Cyprus, Latvia, Luxembourg, Malta, the Netherlands, Romania, and Sweden. In that Decision, the Commission found that the *en route* cost-efficiency performance targets included in the draft performance plan for RP3 of Malta are not consistent with the Union-wide performance targets and issued recommendations for the revision of those targets.
- (5) In response to Russia's war of aggression against Ukraine, which started on 24 February 2022, the Union has imposed restrictive measures which prohibit Russian air carriers, any Russian-registered aircraft and any non-Russian-registered aircraft which is owned or chartered, or otherwise controlled by any Russian natural or legal person, entity or body, from landing in and taking off from, or overflying the territory of the Union. Those restrictive measures and the counter-measures adopted by Russia have led to changes in air traffic in European airspace. Certain Member States have been severely affected by a significant reduction in the number of overflights in the airspace under their responsibility. However, at Union-wide level, the observed impact on the number of flights has been limited in contrast with the sharp reduction of air traffic across Europe which resulted from the outbreak of the COVID-19 pandemic.
- (6) On 13 July 2022, Malta submitted a revised draft performance plan for RP3 (the 'revised draft performance plan') for assessment to the Commission.
- (7) The performance review body, assisting the Commission in the implementation of the performance scheme pursuant to Article 11(2) of Regulation (EC) No 549/2004, has submitted to the Commission a report containing its advice on the assessment of the revised draft performance plan of Malta.
- (8) In accordance with Article 15(1) of Implementing Regulation (EU) 2019/317, the Commission has assessed the consistency of the local performance targets contained in the revised draft performance plan of Malta on the basis of the assessment criteria laid down in point 1 of Annex IV to that Implementing Regulation, and taking account of local circumstances. In respect of each key performance area and the related performance targets, the Commission has complemented its assessment by reviewing the elements set out in point 2 of Annex IV to that Implementing Regulation.
- (9) The Eurocontrol Statistics and Forecast Service ('STATFOR') base traffic forecast published in June 2022 takes account of the changed circumstances referred to in recital 5. Based on that forecast, the Commission notes that Malta is not foreseen to experience adverse changes in traffic over RP3 as a result of Russia's war in Ukraine.

COMMISSION ASSESSMENT

Assessment of performance targets in the key performance area of safety

- (10) Concerning the key performance area of safety, the Commission has assessed the consistency of the targets submitted by Malta regarding the effectiveness of safety management of air navigation service providers ('ANSPs') based on the criterion laid down in point 1.1 of Annex IV to Implementing Regulation (EU) 2019/317.
- (11) The local safety performance targets proposed by Malta in respect of the effectiveness of safety management, broken down per safety management objective and expressed as a level of implementation, are as follows:

⁽⁶⁾ Commission Implementing Decision (EU) 2022/728 of 13 April 2022 on the inconsistency of certain performance targets contained in the draft national and functional airspace block performance plans submitted by Belgium, Germany, Greece, France, Cyprus, Latvia, Luxembourg, Malta, the Netherlands, Romania, and Sweden pursuant to Regulation (EC) No 549/2004 of the European Parliament and of the Council with the Union-wide performance targets for the third reference period and setting out recommendations for the revision of those targets (OJ L 135, 12.5.2022, p. 4).

Malta	Targets on the effectiveness of safety management, expressed as a level of implementation, ranging from EASA level A to D				
Air navigation service provider concerned	Safety management objective	2022	2023	2024	Union-wide targets (2024)
MATS	Safety policy and objectives	C	C	D	C
	Safety risk management	C	C	D	D
	Safety assurance	C	C	D	C
	Safety promotion	C	C	D	C
	Safety culture	C	C	C	C

- (12) The safety targets proposed by Malta for MATS are consistent with the Union-wide performance targets and even outperform, for 2024, the Union-wide performance targets in the areas of ‘safety policy and objectives’, ‘safety assurance’, and ‘safety promotion’.
- (13) The Commission notes that the revised draft performance plan submitted by Malta sets out measures for MATS for the achievement of the local safety targets, such as the introduction of a security operations centre and a network operations centre, the implementation of new safety software, the hiring of cyber security specialists to improve risk management, and the training of staff to comply with the change management requirements set out in Implementing Regulation (EU) 2017/373.
- (14) On the basis of the findings set out in recitals 11 and 13, and considering that the Union-wide safety performance targets set in Implementing Decision (EU) 2021/891 are to be achieved by the final year of RP3, namely 2024, the targets included in the revised draft performance plan of Malta should be considered consistent with the Union-wide performance targets in the key performance area of safety.

Assessment of performance targets in the key performance area of environment

- (15) Concerning the key performance area of environment, the consistency of the targets submitted by Malta regarding the average horizontal *en route* flight efficiency of the actual trajectory has been assessed based on the criterion laid down in point 1.2 of Annex IV to Implementing Regulation (EU) 2019/317. Accordingly, the proposed targets contained in the revised draft performance plan of Malta have been compared with the relevant *en route* horizontal flight efficiency reference values set out in the European Route Network Improvement Plan (‘ERNIP’) available at the time of adopting the revised Union-wide performance targets for RP3, on 2 June 2021.
- (16) Concerning the year 2020, the Union-wide performance target for RP3 in the key performance area of environment, which was initially set out in Implementing Decision (EU) 2019/903, before the outbreak of the COVID-19 pandemic, was not revised by Implementing Decision (EU) 2021/891, considering that the period for the application of that target had expired and that its implementation had thus become definitive leaving no possibility for retroactive adjustments. Similarly, the local environment performance targets for the year 2021 set by Member States in the draft performance plans submitted in October 2021 could not be retroactively modified in the revised draft performance plans. Therefore, the consistency of the local environment performance targets with the corresponding Union-wide performance targets should be assessed with regard to the years 2022, 2023 and 2024.
- (17) The performance targets in the key performance area of environment proposed by Malta and the corresponding national reference values for RP3 from the ERNIP, expressed as the average horizontal *en route* flight efficiency of the actual trajectory, are as follows:

Malta	2022	2023	2024
Targets in the key performance area of environment, expressed as the average horizontal <i>en route</i> flight efficiency of the actual trajectory	1,80 %	1,80 %	1,80 %
Reference values	1,80 %	1,80 %	1,80 %

- (18) The Commission observes that the environment targets proposed by Malta are equal to the corresponding national reference values for each of the years from 2022 to 2024.
- (19) The Commission notes that Malta has presented, in the revised draft performance plan, measures for the achievement of the local environment targets which include the implementation of free route airspace above flight level 195, the design of a new terminal manoeuvring area, and new arrival and departure procedures.
- (20) On the basis of the findings set out in recitals 17 to 19, the targets included in the revised draft performance plan of Malta should be considered consistent with the Union-wide performance targets in the key performance area of environment.

Assessment of performance targets in the key performance area of capacity

- (21) Concerning the key performance area of capacity, the consistency of the targets submitted by Malta regarding the average *en route* air traffic flow management (ATFM) delay per flight has been assessed based on the criterion laid down in point 1.3 of Annex IV to Implementing Regulation (EU) 2019/317. Accordingly, the proposed targets contained in the revised draft performance plan of Malta have been compared with the relevant reference values set out in the Network Operations Plan available at the time of adopting the revised Union-wide performance targets for RP3, on 2 June 2021.
- (22) Concerning the year 2020, the Union-wide performance target for RP3 in the key performance area of capacity, which was initially set out in Implementing Decision (EU) 2019/903, before the outbreak of the COVID-19 pandemic, was not revised by Implementing Decision (EU) 2021/891, considering that the period for the application of that target had expired and that its implementation had thus become definitive leaving no possibility for retroactive adjustments. Similarly, the local capacity performance targets for the year 2021 set by Member States in the draft performance plans submitted in October 2021 could not be retroactively modified in the revised draft performance plans. Therefore, the consistency of the local capacity performance targets with the corresponding Union-wide performance targets should be assessed with regard to the years 2022, 2023 and 2024.
- (23) The *en route* capacity targets proposed by Malta for RP3, expressed in minutes of ATFM delay per flight, as well as the corresponding reference values from the Network Operations Plan, are as follows:

Malta	2022	2023	2024
Targets in the key performance area of capacity, expressed in minutes of ATFM delay per flight	0,01	0,01	0,01
Reference values	0,01	0,01	0,01

- (24) The Commission observes that the capacity targets proposed by Malta are equal to the corresponding national reference values for each year from 2022 to 2024.

- (25) The Commission notes that Malta has presented in the draft performance plan measures for the achievement of the local *en route* capacity targets. Those measures include an increase in the number of air traffic controller full time equivalents by the end of RP3 and the implementation of free route airspace.
- (26) On the basis of the findings set out in recitals 23 to 25, the targets included in the revised draft performance plan of Malta should be considered consistent with the Union-wide performance targets in the key performance area of capacity.

Review of draft capacity targets for terminal air navigation services

- (27) With regard to airports which fall within the scope of Implementing Regulation (EU) 2019/317 as set out in Article 1(3) and (4) of that Regulation, the Commission has complemented its assessment of *en route* capacity targets by reviewing the capacity targets for terminal air navigation services in accordance with point 2.1.(b) of Annex IV to Implementing Regulation (EU) 2019/317. Those targets were not found to raise concerns in respect of Malta.

Assessment of revised performance targets in the key performance area of cost-efficiency

- (28) The Commission concluded in Implementing Decision (EU) 2022/728 that the *en route* cost-efficiency targets included in the draft performance plan of Malta submitted in 2021 were inconsistent with the Union-wide performance targets. Malta has proposed revised *en route* cost-efficiency targets as part of its revised draft performance plan.
- (29) The table below shows the initial RP3 *en route* cost-efficiency performance targets for the charging zone of Malta, as contained in the draft performance plan submitted in 2021, and the corresponding revised performance targets contained in the revised draft performance plan submitted in 2022.

<i>En route</i> charging zone of Malta	2014 baseline value	2019 baseline value	2020 -2021	2022	2023	2024
Initial <i>en route</i> cost-efficiency targets (contained in the draft performance plan submitted in 2021), expressed as determined <i>en route</i> unit cost (in real terms in 2017 prices)	21,50 EUR	22,98 EUR	44,08 EUR	31,85 EUR	24,83 EUR	24,85 EUR
Revised <i>en route</i> cost-efficiency targets (contained in the revised draft performance plan) , expressed as determined <i>en route</i> unit cost (in real terms in 2017 prices)	21,50 EUR	22,98 EUR	44,08 EUR	27,44 EUR	21,61 EUR	22,09 EUR

- (30) The Commission observes that Malta has revised its local cost-efficiency targets for the time period from 2022 to 2024, which results, in comparison with the draft performance plan submitted in 2021, in an overall determined unit cost ('DUC') lower by 12,3 % over those three years and lower by 8,7 % over RP3 as a whole. Those DUC reductions result both from the updated traffic assumptions used in the revised draft performance plan for each of the years from 2022 to 2024 and from the downward revision of the determined costs expressed in real terms in 2017 prices for those years.

- (31) The changes to the traffic forecast for each of the years from 2022 to 2024 are presented in the table below. The Commission notes that the traffic forecast used in the revised draft performance plan is based on the Eurocontrol STATFOR June 2022 base traffic forecast.

En route charging zone of Malta	2022	2023	2024
<i>Initial traffic forecast (contained in the draft performance plan submitted in 2021), expressed in thousands of en route service units</i>	714	957	1 002
Updated traffic forecast (contained in the revised draft performance plan), expressed in thousands of en route service units	811	1 006	1 044
Difference	+ 13,6 %	+ 5,1 %	+ 4,3 %

- (32) The revised determined costs for each of the years from 2022 to 2024, expressed in real terms in 2017 prices, are shown in the table below.

En route charging zone of Malta	2022	2023	2024
<i>Initial determined costs in real terms in 2017 prices (contained in the draft performance plan submitted in 2021)</i>	23 M EUR	24 M EUR	25 M EUR
Revised determined costs in real terms in 2017 prices (contained in the revised draft performance plan)	22 M EUR	22 M EUR	23 M EUR
Difference	- 2,2 %	- 8,5 %	- 7,4 %

- (33) The revised draft performance plan comprises an updated inflation forecast for Malta for each of the calendar years from 2022 to 2024, as outlined in the table below.

En route charging zone of Malta	2022	2023	2024
<i>Initial inflation index, with forecasted year-on-year change in inflation in parenthesis (data contained in the draft performance plan submitted in 2021)</i>	106,7 (1,8 %)	108,8 (2,0 %)	111,0 (2,0 %)
Revised inflation index, with year-on-year change in inflation in parenthesis (data contained in the revised draft performance plan)	109,7 (4,7 %)	112,8 (2,8 %)	115,1 (2,1 %)

- (34) Due to the update of the inflation forecast, the revised determined costs in nominal terms for year 2022 remain largely unchanged. However, the Commission observes that Malta revised downwards the nominal determined costs for years 2023 and 2024.

En route charging zone of Malta	2022	2023	2024
<i>Initial determined costs in nominal terms (contained in the draft performance plan submitted in 2021)</i>	24 M EUR	25 M EUR	27 M EUR
Revised determined costs in nominal terms (contained in the revised draft performance plan)	24 M EUR	24 M EUR	26 M EUR
Difference	- 0,2 %	- 5,8 %	- 4,5 %

- (35) The Commission has assessed the consistency of the revised cost-efficiency targets proposed for the Malta *en route* charging zone based on the criteria laid down in points 1.4(a), (b) and (c) of Annex IV to Implementing Regulation (EU) 2019/317.
- (36) Concerning the criterion laid down in point 1.4(a) of Annex IV to Implementing Regulation (EU) 2019/317, the Commission observes that the *en route* DUC trend at charging zone level of -1,0 % over RP3 outperforms the Union-wide trend of +1,0 % over the same period. The Commission notes that this constitutes an improvement from the DUC trend of +2,0 % calculated on the basis of the draft performance plan submitted in 2021.
- (37) Concerning the criterion laid down in point 1.4(b) of Annex IV to Implementing Regulation (EU) 2019/317, the Commission observes that the long-term *en route* DUC trend at charging zone level over the second reference period ('RP2') and RP3 of +0,3 % underperforms the long-term Union-wide trend of -1,3 % over the same period. The Commission notes that this, however, constitutes an improvement from the long-term DUC trend of +1,6 % calculated on the basis of the draft performance plan submitted in 2021.
- (38) Concerning the criterion laid down in point 1.4(c) of Annex IV to Implementing Regulation (EU) 2019/317, the Commission observes that the baseline value for the DUC of EUR 22,98 of Malta in EUR2017 is 19,7 % lower than the average baseline value of 28,64 in EUR2017 of the relevant comparator group.
- (39) As specified in recital 36, Malta's revised cost-efficiency targets result in a DUC trend over RP3 which significantly outperforms the corresponding Union-wide trend and shows a reduction of the DUC over the reference period. Furthermore, referring to recital 38, Malta demonstrates a good cost-efficiency performance in respect of its baseline value for 2019, which is significantly lower than the corresponding comparator group average. Finally, the Commission notes that Malta has revised downwards the determined costs for RP3 both in real and nominal terms, whilst planning to serve additional traffic on the basis of the updated traffic forecast for RP3. Therefore, the Commission considers that the deviation from the Union-wide long-term DUC trend observed in recital 37 does not preclude the establishment of consistency with the Union-wide cost-efficiency performance targets in respect of Malta.
- (40) Having regard to the foregoing observations, the Commission notes that Malta has adequately addressed the recommendations set out in Article 3 of Implementing Decision (EU) 2022/728.
- (41) On the basis of the findings set out in recitals 29 to 40, the targets included in the revised draft performance plan of Malta should be considered consistent with the Union-wide performance targets in the key performance area of cost-efficiency.

Review of revised cost-efficiency targets for terminal air navigation services

- (42) With regard to airports which fall within the scope of Implementing Regulation (EU) 2019/317 as set out in Article 1(3) and (4) of that Regulation, the Commission has complemented its assessment of the *en route* cost-efficiency targets by reviewing the cost-efficiency targets for terminal air navigation services in accordance with point 2.1(c) of Annex IV to Implementing Regulation (EU) 2019/317.
- (43) In Implementing Decision (EU) 2022/728, the Commission raised concerns regarding the terminal cost-efficiency targets proposed by Malta in the draft performance plan submitted in 2021, and considered that Malta should further justify those targets or revise them downwards. The Commission notes, however, that Malta has, on the contrary, revised those targets upwards, except for year 2023, without providing related justifications.
- (44) The Commission observes that the terminal DUC trend of Malta of +5,0 % over RP3 remains higher than the *en route* DUC trend of -1,0 % over RP3 and remains higher than the actual terminal DUC trend of +0,6 % observed over RP2. Furthermore, the terminal RP3 DUC trend has worsened in comparison with the draft performance plan submitted in 2021, in which a terminal DUC trend of +4,3 % was observed.

- (45) On the basis of the findings in recitals 43 and 44, the Commission concludes that the revised terminal cost-efficiency performance targets of Malta continue to give rise to concerns. The Commission therefore reiterates its view, as set out in Implementing Decision (EU) 2022/728, that Malta should revise downwards those targets or provide adequate justifications for those targets, including for the additional cost increases applied in years 2022 and 2024. The Commission invites Malta to address this observation in connection with the adoption of its final performance plan in accordance with Article 16, point (a) of Implementing Regulation (EU) 2019/317.

Review of the incentive schemes referred to in Article 11 of Implementing Regulation (EU) 2019/317 complementing the Commission's assessment of capacity targets

- (46) In accordance with point 2.1(f) of Annex IV to Implementing Regulation (EU) 2019/317, in relation to the assessment of the local capacity targets, the Commission has reviewed the incentive schemes contained in the revised draft performance plan of Malta. The Commission has examined, in particular, whether those incentive schemes fulfil the substantive requirements set out in Article 11(1) and (3) of Implementing Regulation (EU) 2019/317. The Commission notes that Malta has not made any changes to those incentive schemes in comparison with the draft performance plan submitted in 2021.
- (47) In respect of the *en route* and terminal capacity schemes proposed by Malta, the Commission, on the basis of expert advice provided by the performance review body, has strong doubts whether the proposed maximum financial disadvantages, which amount to 0,5 % and 0,25 % of determined costs respectively, would have any material impact on the revenue at risk, as required pursuant to point (a) of Article 11(3) of Implementing Regulation (EU) 2019/317.
- (48) Therefore, Malta should revise, in connection with the adoption of its final performance plan in accordance with Article 16, point (a) of Implementing Regulation (EU) 2019/317, its incentive schemes for achieving *en route* and terminal capacity targets so that the maximum financial disadvantages stemming from those incentive schemes are set at a level having a material impact on the revenue at risk, as expressly required under Article 11(3), point (a) of Implementing Regulation (EU) 2019/317, which in the Commission's view should lead to a maximum financial disadvantage equal to or higher than 1 % of determined costs.

CONCLUSIONS

- (49) In the light of all the foregoing, the Commission finds that the performance targets contained in the revised draft performance plan submitted by Malta are consistent with the Union-wide performance targets,

HAS ADOPTED THIS DECISION:

Article 1

The performance targets contained in the revised draft performance plan submitted by Malta, pursuant to Regulation (EC) No 549/2004, and listed in the Annex to this Decision, are consistent with the Union-wide performance targets for the third reference period set out in Implementing Decision (EU) 2021/891.

Article 2

This Decision is addressed to the Republic of Malta.

Done at Brussels, 5 December 2022.

For the Commission
Adina VĂLEAN
Member of the Commission

ANNEX

Performance targets included in the revised draft performance plan submitted by Malta pursuant to Regulation (EC) No 549/2004, found to be consistent with the Union-wide performance targets for the third reference period

KEY PERFORMANCE AREA OF SAFETY**Effectiveness of safety management**

Malta	Targets on the effectiveness of safety management, expressed as a level of implementation, ranging from EASA level A to D			
Air navigation service provider concerned	Safety management objective	2022	2023	2024
MATS	Safety policy and objectives	C	C	D
	Safety risk management	C	C	D
	Safety assurance	C	C	D
	Safety promotion	C	C	D
	Safety culture	C	C	C

KEY PERFORMANCE AREA OF ENVIRONMENT**Average horizontal *en route* flight efficiency of the actual trajectory**

Malta	2022	2023	2024
Targets in the key performance area of environment, expressed as the average horizontal <i>en route</i> flight efficiency of the actual trajectory	1,80 %	1,80 %	1,80 %

KEY PERFORMANCE AREA OF CAPACITY**Average *en route* ATFM delay in minutes per flight**

Malta	2022	2023	2024
Targets in the key performance area of capacity, expressed in minutes of ATFM delay per flight	0,01	0,01	0,01

KEY PERFORMANCE AREA OF COST-EFFICIENCY**Determined unit cost for *en route* air navigation services**

<i>En route</i> charging zone of Malta	2014 baseline value	2019 baseline value	2020 -2021	2022	2023	2024
Revised <i>en route</i> cost-efficiency targets , expressed as determined <i>en route</i> unit cost (in real terms in 2017 prices)	21,50 EUR	22,98 EUR	44,08 EUR	27,44 EUR	21,61 EUR	22,09 EUR