

Response

of the Maltese Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Malta

from 26 to 30 September 2011

The Maltese Government has requested the publication of this response. The report of the CPT on its September 2011 visit to Malta is set out in document CPT/Inf (2013) 12.

Strasbourg, 4 July 2013

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Response of the Maltese Government to CPT Issues Requiring an Immediate Response

12th January 2012

CPT Issues Requiring an Immediate Response: No. 1

5. The co-operation received by the delegation during the visit was on the whole very good. The delegation enjoyed rapid access to all the establishments visited (including those not notified in advance), was provided with the information necessary for carrying out its task and was able to speak in private with persons deprived of their liberty.

That said, at Safi Detention Centre, attempts were made by the management to provide misleading information and to hide from the delegation a significant number of complaints which had been lodged by foreign nationals. Clearly, such an attitude is not in compliance with the principle of co-operation set out in Article 3 of the Convention.

Further, it is a matter of particular concern that, despite requests repeatedly made during the visit, the delegation was not provided with a copy of the report on the audit (This audit was carried out in the form of a ministerial inquiry by a Board set up by the Ministry for Justice and Home Affairs in August 2008. The report on this audit was finalised in March 2009, and a list of recommendations contained in the report was subsequently published.) which had been carried out into the prison system, in response to a specific recommendation made by the Committee in the report (See CPT/Inf (2011) 5, paragraph 89*) on the May 2008 visit. During the end-of-visit talks with the Maltese authorities, the delegation was assured by the Permanent Secretary that the above-mentioned report would be transmitted to the CPT shortly, but, to date, this has regrettably not been done.

Having regard to Articles 3 and 8, paragraph 2 (d), of the Convention, **the CPT requests that the Maltese authorities provide a copy of the above-mentioned audit report without any further delay.** The text will be treated by the Committee as strictly confidential.

* “The CPT recommends that the above-mentioned independent and comprehensive audit be carried out. The Committee would like to receive the subsequent audit report, as well as information on the measures taken or envisaged (in the short, medium and long term) by the Maltese authorities in response to the audit report.”

5: MT Reply/Response:

Safi Detention Centre

The Maltese authorities strongly deny that any attempt was made by the management of Safi Detention Centre to mislead or to conceal from the CPT delegation any complaints lodged by foreign nationals.

There may however have been a misunderstanding between the CPT and the management of the Centre, particularly given that a change over of managers took place just before the CPT inspection took place. As a result, some of the complaints received may not have been available or known to the managers in question at that point. Following the CPT inspection the filing system was updated and all complaints are now available.

Should the CPT require any further information or assistance vis-à-vis complaints received, the Maltese authorities reiterate their readiness to assist as necessary.

Audit Report

The recommendations arising from this report have been published and are therefore readily available to the CPT. During the meetings with the CPT delegation the Permanent Secretary indicated that the Ministry was positively considering the possibility of submitting the report to the CPT in its entirety.

The Ministry will be communicating its decision to the CPT in due course.

CPT Issues Requiring an Immediate Response: No. 2

56. At *Lyster Detention Centre*, the situation had clearly improved as regards activities. Each zone comprised a communal room, and groups of detainees could attend English-language courses which were organised by an NGO (usually, three times a week for two hours per group). Further, single women and couples were provided with food so that they could prepare meals themselves in a kitchenette. Every day, detainees could go outside and play football or volleyball in a rather small yard for a total of two hours.

However, four Somali women had been accommodated for about four months in the so called “isolation unit” on the ground floor of the Hermes Block (Detainees were also referred to in the same manner in all official documents -- including medical files.) During their stay in that unit, these women had not been allowed to take any outdoor exercise. Such a state of affairs is totally unacceptable. **The CPT recommends that immediate steps be taken to ensure that all immigration detainees at Lyster Detention Centre are offered at least one hour of outdoor exercise per day.**

56: MT Reply/Response:

Activities at Lyster Detention Centre

The education classes observed by the CPT delegation at Hermes Block, Lyster Detention Centre during their visit were not organised by an NGO, but by the Agency for the Welfare of Asylum Seekers (AWAS), a Government Agency. The personnel conducting the training were recruited as part of the SPARKLET project, which is co-financed by the EU. The objectives of this project include the provision of education and sports activities within closed and open centres.

Hermes Block

The text relating to the four Somali women at Hermes Block is not factually accurate. In the first place, it should be noted that these women were removed from general female accommodation for their own safety, following incidents involving them and West African residents. Secondly, during their short stay within the Medical Isolation Facility the four Somali women were allowed 90 minutes of outdoor recreational activity every day.

CPT Issues Requiring an Immediate Response: No. 3

73. In the Irregular Migrants' Ward, living conditions were far below any acceptable standard and can only be considered as anti-therapeutic. The design of the ten cells, which was described as antediluvian in the report (para 170) on the 2008 visit, had not changed at all. Each cell, measuring some 8 m², was equipped only with a bed bolted to the middle of the floor and a floor toilet in a corner. There was neither a chair nor a table, nor could patients store any personal belongings in the cell. The cells received natural light only through a barred aperture facing onto a long observation corridor, and access to artificial lighting was rather poor. It is of particular concern that patients were not offered any outdoor exercise, and that for months on end. The only out-of-cell "activity" offered to them was to walk up and down a narrow corridor for a couple of hours during the day or to sit there on a bench and watch television.

(a) The CPT calls upon the Maltese authorities to take immediate steps to ensure that all patients held in the Irregular Migrants' Ward whose state of health so permits are offered at least one hour of outdoor exercise per day.

73 (a): MT Reply/Response:

It should be pointed out that allowing several patients out of their rooms at the same time has proved problematic in the past, resulting in potentially dangerous situations for the patients themselves as well as for the personnel responsible.

(b) Steps should also be taken to improve the artificial lighting in the cells.

73 (b): MT Reply/Response:

The implementation of this recommendation is being considered, although the amount of artificial light presently available is generally sufficient.

(c) Further, the Committee reiterates its recommendation that steps be taken to ensure that all foreign nationals are provided with more congenial and personalised surroundings (including a table and a chair) and are offered recreational activities.

73 (c): MT Reply/Response:

The Maltese authorities do not agree with this recommendation, given that patients may cause harm to themselves or to others if certain furnishings are made available in their rooms. The organisation of recreational activities would also be dependent on the specific conditions of the individual patients.

**Response of the Maltese Government
to the report by the Committee for the Prevention of Torture
and Inhuman or Degrading Treatment or Punishment
following its visit to Malta (26-30 September 2011)**

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Copy of the letter transmitting the Response of the Maltese Government

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**PERMANENT REPRESENTATIVE OF MALTA
TO THE COUNCIL OF EUROPE**

COPY

12 April 2012

Mr Latif Hüseyinov
President of the European Committee for
the Prevention of Torture and Inhuman or
Degrading Treatment or Punishment
The Council of Europe
Strasbourg

Mr President,

I enclose herewith the Response of the Maltese Government to the report by the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment following its visit to Malta (26-30 September 2011).

In addition to the Introduction, it contains four chapters corresponding to the four sections of Chapter II of the CPT's report.

Yours faithfully,

Joseph Licari
Ambassador

INTRODUCTION

The Observations on the Provisions of the Convention for the Prevention of Torture¹ lay down: “The Committee [for the Prevention of Torture] should also ensure, as far as possible, that the different States are visited on an equitable basis.” The Government is not convinced that the Committee has respected this obligation as regards Malta. The table on the next page (derived from that in the CPT’s general report of activities for 2010-2011²) shows that the CPT had carried out 6 visits to Malta and 6 to other countries which are much larger in terms of population, prison population and number of prisons.³ The CPT has since visited Malta a seventh time. Whichever way the table is examined, and whatever the methodology used, the disproportion is blatant. Indeed, it is doubtful whether such a disproportionate concentration on one country represents the best use of the CPT’s scarce resources.

The Observations add: “Furthermore its [i.e. the CPT’s] programme of periodic visits should not imply, for practical reasons, systematic visits in all places where persons are deprived of their liberty.” In Malta’s case the CPT has thrown subsidiarity to the wind and visited systematically all such places and in some cases every cell and every toilet. Having ratified the Convention in good faith, the Maltese authorities welcome recommendations for improving prison conditions. With those few exceptions where there seems to be a gap in understanding, they can go along with most of the CPT’s recommendations, subject to the usual constraints of time and human and financial resources.

However, not satisfied with its regular visits, the CPT has made three special or ‘ad hoc’ visits to Malta on the basis of Article 7 of the Convention.⁴ The first, in January 2004, focused exclusively on detained illegal immigrants. The second, in June 2005, again covered detained illegal immigrants. A periodic visit in May 2008 concentrated on detained illegal immigrants. The latest ‘ad hoc’ visit, in September 2011, covered prisons as well as detained illegal immigrants; but the timing suggests it was set off by incidents in the detention centres.

¹ Explanatory Report to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, CPT/Inf/C(89)1, Section IV, Observations on the provisions of the Convention, Article 7 (1).

² <http://www.cpt.coe.int/en/annual/rep-21.pdf>, page 66.

³ The latest CPT report on Malta says (paragraph 7) that there were 593 prisoners in Malta; the General Report on the CPT’s activities in 2010-2011 says (page 61) that the total prison population for the 47 member states of the Council of Europe was 1 814 800

⁴ “... Apart from periodic visits, the Committee may organise such other visits as appear to it to be required in the circumstances.”

CPT Visits, 1989 - 2011

States	Visits
Albania	10
Andorra	2
Armenia	5
Austria	5
Azerbaijan	5
Belgium	5
Bosnia and Herzegovina	5
Bulgaria	7
Croatia	3
Cyprus	5
Czech Republic	6
Denmark	4
Estonia	4
Finland	4
France	11
Georgia	5
Germany	6
Greece	10
Hungary	6
Iceland	3
Ireland	5
Italy	9
Latvia	5
Liechtenstein	3
Lithuania	4
Luxembourg	4
<i>MALTA</i>	6
Moldova	12
Monaco	1
Montenegro	1
Netherlands	7
Norway	5
Poland	4
Portugal	7
Romania	9
Russian Federation	21
San Marino	3
Serbia	5
Slovakia	4
Slovenia	3
Spain	12
Sweden	5
Switzerland	5
FYROM	9
Turkey	22
Ukraine	7
United Kingdom	15

Visits have followed a pattern. Illegal immigrants in detention centres, whether spontaneously or not, go on a riot which is quelled by the forces of law and order. The NGOs, through the media, exaggerate any injuries suffered by the rioting illegal immigrants. Then the CPT says it received information about the incidents.

The accounts of and comments on the incidents in the CPT reports are unashamedly biased. They systematically try to minimize the responsibility of the rioting illegal immigrants while maximizing the responsibility of the forces of law and order. For example, the CPT report published on 30 November 2005 is superficial in its coverage of the riots of January that year, especially compared to the thorough inquiry report by Franco Depasquale, a retired judge.⁵ This notwithstanding, in a subsequent report in May 2008, the CPT wrote that Depasquale's report had "let (sic) to a somewhat lenient conclusion" (paragraph 46).

The same bias can be observed in the latest CPT report (commented upon in this "Response") where it deals with the incidents of April and August 2011 (paragraphs 50 - 54). Unprovoked riots with the use of violence by detained illegal immigrants are described as mere 'disturbances' (paragraph 50), while no mention whatsoever is made of important facts, such as, that several members of the police force suffered injuries and that rioting illegal immigrants were condemned by the courts in accordance with the law.

The CPT's use of harassing tactics by its concentration on the problem of illegal immigrants in Malta is compounded by other Council of Europe bodies which have also focused on the same problem within the same time-frame. These include three reports by the Commissioner for Human Rights (October 2003, March 2006 and March 2011) and another by ECRI (April 2008). In the Government's view the Council of Europe should build a relationship of mutual trust with its Member States and not project itself as a collection of bodies acting and reacting at the beck and call of some NGOs.

⁵ Rapport tal-Bord ta' Inkjesta nominat mill-Onorevoli Prim Ministru fis-17 ta' Jannar 2005, 97 pages, 9 December 2005.

CHAPTER I. Corradino Correctional Facility

<u>CPT Questions/Requests</u>	<u>MT Responses</u>
Preliminary remarks	
<p>Paragraph 8</p> <p>The CPT would like to receive up-to-date information on the aforementioned reforms.</p>	<p>The Restorative Justice Act, following publication as a Bill in January 2010, was approved by Parliament and published as an Act in December 2010- Restorative Justice Act, Cap. 516 of the Laws of Malta.</p> <p>The Act came into force on the 27/01/2012. The Act introduces Parole, further to reforming the Remission system and establishing a Victim Support Unit within the Parole and Probation Services.</p>
Management issues and staff	
<p>Paragraph 10</p> <p>(a) The CPT calls upon the Maltese authorities to take urgent steps to fill all available posts with appropriately qualified staff.</p> <p>(b) Further, the Committee recommends that steps be taken to provide prison officers with professional training (initial and ongoing).</p>	<p>a) It should be noted that additional resources are being allocated to CCF. In fact, calls to fill in the positions of Assistant Manager, Supervisors and Senior Correctional Officers are to be issued shortly.</p> <p>b) Further training will be provided to CCF officials once the new positions are filled as indicated above.</p>
Ill-treatment	
<p>Paragraph 11</p> <p>The CPT recommends that the management at the CCF be instructed to remind their staff that all forms of ill-treatment of prisoners (including verbal abuse) are not acceptable and will be punished accordingly.</p>	<p>It is expected that the Court case Police vs Francis Debono et will be decided over the next few months. The fact that this case is being heard proves that any ill-treatment is not tolerated by the authorities.</p> <p>Moreover, it would have to be pointed out that the CPT did not provide specific information in relation to alleged mistreatment at CCF.</p>
<p>Paragraph 12</p> <p>The CPT wishes to (a) receive information on the outcome of these proceedings and (b) receive a copy of the final report of the Board of Inquiry (see paragraph 99 of the report on the 2008 visit).</p>	<p>a) As per reply to 11 above.</p> <p>b) The recommendations arising from this report have been published and are therefore readily available to the CPT. The Ministry will be communicating its decision to the CPT in due course.</p>
Material conditions	
<p>Paragraph 14</p> <p>If Division 15 remains in operation in the future, it would in the CPT's view be desirable for it to be primarily used to accommodate persons serving very short terms.</p>	<p>Division 15 is primarily used to accommodate inmates serving very short terms, as per CPT recommendation.</p> <p>N.B. The cells holding two inmates are few, approximately 25 in all. All WC facilities in these cells are partitioned and screened.</p>

<u>CPT Questions/Requests</u>	<u>MT Responses</u>
<p>Paragraph 20</p> <p>The CPT urges the Maltese authorities to (a) draw up a comprehensive plan to renovate the entire CCF as soon as possible and to provide a timetable for the implementation of the different stages. Female Unit A, the so-called “New Infirmary”, and Divisions 2 and 3 should be renovated as a matter of priority.</p> <p>(b) Further, immediate steps should be taken to ensure that:</p> <ul style="list-style-type: none"> - cells nos. 7 (Division 13) and 28 (Division 12) are no longer used for accommodating prisoners; - cells nos. 51 (Division 2) and no. 114 (Division 3) are temporarily withdrawn from service, pending their refurbishment; - occupancy levels are reduced and access to natural light and artificial lighting improved in Division 6; - sanitary and shower facilities in all divisions are kept in an acceptable state of repair; - toilets in multi-occupancy cells throughout the CCF are adequately partitioned (i.e. to the ceiling). 	<ul style="list-style-type: none"> a) Maintenance work at CCF is conducted on a regular basis. It should be noted that steps have already been taken to renovate Female Division A, as per CPT recommendation. In this regard, the old shower facilities have been replaced. b) In view of the level of occupancy at CCF it would be difficult to leave cells unoccupied for any length of time. However, efforts are presently being made to ensure that further necessary refurbishment is carried out as soon as practicably possible.
Classification and allocation of prisoners and regime	
<p>Paragraph 21</p> <p>The CPT once again calls upon the Maltese authorities to set up a proper allocation and classification system for prisoners at the CCF, taking into account the criteria set out in the European Prison Rules.</p>	<p>It should be noted that CCF already conducts classification of inmates. However, plans are in hand to improve the classification system.</p> <p>Once the Young Offenders Rehabilitation Section (YOURS) is transferred outside CCF precincts, the current YOURS premises will house an Induction Unit. This Unit would facilitate the initial assessment of inmates, leading to improved classification.</p> <p>Whereas this matter is being accorded due priority, it is understood that such relocation has to be made with due diligence.</p>

<u>CPT Questions/Requests</u>	<u>MT Responses</u>
<p>Paragraph 22</p> <p>In the CPT’s view, placement in special security conditions should be based on an individualised assessment of the actual risks, and the prisoner concerned should as far as possible be kept fully informed of the reasons for the measure in writing. In addition, the prisoners concerned should be entitled to appeal the decision on placement, or its renewal, to an independent authority. (...)</p> <p>The CPT recommends that the Maltese authorities amend the relevant regulations and take appropriate measures, in the light of the above remarks.</p>	<p>Due to the circumstances prevailing at the time the prisoners in question were admitted, they had to be accommodated at Division 6. It is to be recalled that in this particular instance accommodation for up to 23 prisoners had to be found at short notice.</p> <p>These prisoners were subsequently been reallocated to other Divisions. They have now been released from prison.</p>
<p>Paragraph 23</p> <p>(a) The CPT recommends that the Maltese authorities redouble their efforts to significantly expand the activities and training available to prisoners at the CCF. The aim should be to ensure that all prisoners are able to spend a reasonable part of the day engaged in varied, purposeful activities. Special attention should also be given to setting up individualised treatment plans for prisoners.</p> <p>(b) Further, the Committee would like to receive detailed information on the workshop activities currently being offered to prisoners (number of prisoners and hours per week).</p>	<p>a) The Maltese authorities have made considerable efforts in this area, independently of CPT’s recommendations. The Ministry for Home and Parliamentary Affairs, following a review of the current educational service provision in CCF, is conducting various reforms in this area with a view to developing a centre for Life Long Learning for the inmates at CCF. Such reforms do not only deal with formal learning, but also with the non formal and informal aspects of learning. Vocational education and training may be farmed out to other educational and training institutions with a view to enhance services offered. Recruitment of new staff, including a full time Education Coordinator and an assistant co-ordinator, is enabling the implementation of these new initiatives. As a result more inmates are attending classes and lessons are being held both in the morning and in the afternoon.</p> <p>Talks are ongoing with the Employment and Training Corporation for the provision of new areas of training for inmates from various age groups to provide competency testing, vocational training and personal development and social skills to enhance employability upon release.</p> <p>b) Additional training opportunities are being offered to a greater number of inmates, such as:</p> <ul style="list-style-type: none"> • numeracy and literacy skills courses, and, • IT courses for beginners and other courses leading to the ECDL.

<u>CPT Questions/Requests</u>	<u>MT Responses</u>																																
	<p>Moreover, visiting lecturers from the Institute of Tourism Studies (ITS) provide courses in food-handling, while similar courses are also provided by the Employment and Training Corporation (ETC) Centre in Hal-Far.</p> <p>Provision of a Life skills and other coping skills course started at the end of 2011.</p> <p>Classrooms were upgraded to cater for the increasing demand for education classes. Two computer labs were set up and the library was upgraded. A monthly news paper is being produced, printed and circulated.</p> <p>Attendance to courses is as follows:</p> <table data-bbox="753 846 1380 1818"> <tbody> <tr> <td>Food handling (Employment and Training Corporation (ETC) /Institute of Tourism Studies (ITS))</td> <td>20 inmates</td> </tr> <tr> <td>Storekeeping (ETC)</td> <td>13 inmates</td> </tr> <tr> <td>Basic Sales (ETC)</td> <td>18 inmates</td> </tr> <tr> <td>English Level 1 (ETC)</td> <td>3 inmates</td> </tr> <tr> <td>Maltese Level 1 (ETC)</td> <td>3 inmates</td> </tr> <tr> <td>Life-skills (Foundation for Human Resources Development (FHRD))</td> <td>3 inmates</td> </tr> <tr> <td>Accounts SEC (University of Malta (UoM))</td> <td>1 inmate</td> </tr> <tr> <td>Art SEC (UoM)</td> <td>1 inmate</td> </tr> <tr> <td>Food Preparation (ETC)</td> <td>5 inmates</td> </tr> <tr> <td>ECDL Foundation (ECT)</td> <td>3 inmates</td> </tr> <tr> <td>ECDL Advanced (ETC)</td> <td>1 inmate</td> </tr> <tr> <td>Carpentry and Joinery (ETC)</td> <td>2 inmates</td> </tr> <tr> <td>Stone Mason (ETC)</td> <td>4 inmates</td> </tr> <tr> <td>Vehicle spray painting (ETC)</td> <td>1 inmate</td> </tr> <tr> <td>Food preparation (ITS Diploma)</td> <td>2 inmates</td> </tr> <tr> <td>Certificate in Hospitality (ETC)</td> <td>1 inmate</td> </tr> </tbody> </table> <p>It should be noted that certain inmates are benefiting from prison leave to attend courses at the University of Malta, the Institute of Tourism Studies and the Employment and Training Corporation.</p>	Food handling (Employment and Training Corporation (ETC) /Institute of Tourism Studies (ITS))	20 inmates	Storekeeping (ETC)	13 inmates	Basic Sales (ETC)	18 inmates	English Level 1 (ETC)	3 inmates	Maltese Level 1 (ETC)	3 inmates	Life-skills (Foundation for Human Resources Development (FHRD))	3 inmates	Accounts SEC (University of Malta (UoM))	1 inmate	Art SEC (UoM)	1 inmate	Food Preparation (ETC)	5 inmates	ECDL Foundation (ECT)	3 inmates	ECDL Advanced (ETC)	1 inmate	Carpentry and Joinery (ETC)	2 inmates	Stone Mason (ETC)	4 inmates	Vehicle spray painting (ETC)	1 inmate	Food preparation (ITS Diploma)	2 inmates	Certificate in Hospitality (ETC)	1 inmate
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<u>CPT Questions/Requests</u>	<u>MT Responses</u>
<p>Paragraph 24</p> <p>In Division 6 and the so-called “New Location” (located next to the infirmary), a number of prisoners claimed that they were not offered outdoor exercise every day.</p> <p>The CPT would like to receive the Maltese authorities’ comments on this point.</p>	<p>Both Division 6 and the New Medical Location have their own exercise yard adjacent to the Division and therefore outdoor exercise can be conducted.</p>
<p>Paragraph 25</p> <p>The CPT reiterates its recommendation that a wider range of sports activities be offered to prisoners. For this purpose, outdoor exercise yards should be equipped with some sports equipment (e.g. basket ball nets).</p>	<p>Football goalposts have been installed in most of the exercise yards, basketball nets affixed and volley ball posts and nets are presently being installed.</p> <p>The inmates also have the possibility to make use of the 7-a-side turf football ground. .</p>
<p>Paragraph 26</p> <p>The Committee calls upon the Maltese authorities to take steps as a matter of urgency to draw up and implement a specific programme aimed at supporting life-sentenced and other long-term prisoners throughout their stay, in the light of the remarks made in paragraph 120 of the report on the 2008 visit</p>	<p>It should be noted that prisoners on life sentence have the possibility to participate in any sport and any other activities being held at CCF.</p> <p>Reference is also made to the reply to paragraph 27.</p>
<p>Paragraph 27</p> <p>Given the potentially very harmful effects a prolonged detention without a prospect of ever being released may have on the person concerned and bearing also in mind that even persons who are convicted by the International Criminal Court (or special international tribunals) of the most serious crimes such as genocide, war crimes and crimes against humanity may in principle benefit at a certain stage from conditional release, the CPT invites the Maltese authorities to re-consider their policy vis-à-vis life-sentenced prisoners.</p>	<p>The Maltese authorities consider that the present policy is adequate.</p> <p>Although a specific programme for prisoners on life sentence is not in place, it should be noted that such inmates are allowed to practice their hobbies as well as to participate in activities being organised by CCF.</p>
<p>Paragraph 28</p> <p>The Committee reiterates its recommendation that the variety and quantity of purposeful activities offered to young prisoners at YOURS be further increased.</p>	<p>Efforts continue being made to make more opportunities available within YOURS.</p> <p>Currently inmates from the YOURS community are participating in a Drama project being set up in cooperation with the London Shakespeare Workout. This project involves the setting up of a theatrical performance, which will be staged on four</p>

<u>CPT Questions/Requests</u>	<u>MT Responses</u>
	<p>nights in a local theatre for a public audience. This performance will also be filmed for a documentary, which will be distributed internationally. This project is aimed to provide the young inmates with a platform from which they can actively engage themselves in skills development as well as to engage their imagination, thus enabling the discovery and achievement of personal growth. The young people are also being provided with the opportunity to share their talents leading a Shakespeare Workout with other youths in Malta, as well as with a specific segment of employers.</p> <p>Another project which is currently underway at the YOURS section is championed by St. James Cavalier Centre for Creativity and aims at introducing inmates to the use of different materials as a means of artistic expression. This project not only introduces inmates to art and enables them to explore themselves through different media, but it also has a strong restorative element in that eventually the residents will be working on an artistic creation that will be donated to the community.</p>
<p>Paragraph 29</p> <p>The delegation was informed by the Maltese authorities that plans were afoot to set up a new facility for young offenders (male and female) outside the CCF and to transfer the entire YOURS Unit to that facility (within approximately two years). The CPT would like to receive updated information on this point.</p>	<p>Plans to relocate YOURS are underway. An alternative site has been identified and plans for the new site layout have been prepared.</p> <p>Work is underway to secure the necessary building permits.</p>
Health care	
<p>Paragraph 30</p> <p>The CPT reiterates its recommendations that:</p> <ul style="list-style-type: none"> - the presence of general practitioners be increased to the equivalent of at least 1½ and preferably two full-time posts; - the nursing staff resources be reinforced; - a doctor be appointed as the head of health care, with responsibility for managing the health-care service and ensuring there is a regular consultation process among the health-care staff. 	<p>It is to be noted that medical attention is given to prisoners as necessary.</p> <p>In this regard:</p> <ul style="list-style-type: none"> • Every day an average of 750 treatments are prepared and administrated. • The Clinic is staffed by 3 nurses and 2 Correctional Officers. 1 of the nurses is a paramedic. • Doctors see an average of 20 inmates per day.

<u>CPT Questions/Requests</u>	<u>MT Responses</u>
	<ul style="list-style-type: none"> • Psychiatric Services are provided twice a week - on Mondays and Friday, • A Dental Surgeon is available at the Clinic on Tuesdays and on another 2 days a Dentist/Dental Hygienist is available, • A pilot project is going to start next year regarding health awareness. This is going to be organised by CCF, the Health Promotion Unit and the Association of the Medical Students. This pilot project is to start at the Female Section.
<p>Paragraph 31</p> <p>The CPT recommends that urgent steps be taken to reinforce the psychiatric and psychological services at the CCF.</p>	<p>A psychiatrist was recruited, bringing up the complement to two. The number of psychiatric visits has now doubled.</p> <p>Preparations are underway to issue calls for the recruitment of psychologists to join the current complement providing a service at CCF.</p>
<p>Paragraph 32</p> <p>In the CPT’s view, it is indefensible that a prison setting (“suicide watch” cell) is considered by a psychiatric hospital a more suitable place for accommodating a mentally-ill prisoner to contain his behaviour than a hospital setting. Psychiatric patients should be <u>treated in hospital</u>, not just <u>controlled in solitary confinement in the CCF.</u></p>	<p>The Maltese Authorities confirm that prisoners showing severe signs of self harm or suicidal tendencies are indeed immediately transferred Forensic Unit for Mental Health in Mount Carmel Hospital.</p>
<p>Paragraph 33</p> <p>Health-care facilities were generally of a good standard. In particular, the dental surgery has been refurbished. However, the X-ray machine had not been certified and could therefore not be used. The CPT recommends that this shortcoming be remedied.</p>	<p>The x-ray machine is now in use. CCF is therefore in compliance with this recommendation.</p>
<p>Paragraph 34</p> <p>The delegation was surprised to find out that in many cases where a doctor had ordered a blood test or other laboratory tests in respect of a newly-arrived prisoner (or any other prisoner), these tests were only carried after a delay of several months or not at all. The CPT would like to receive the Maltese authorities’ comments on this matter.</p>	<p>CCF authorities are not aware of cases where orders by medical personnel were not followed up.</p>

<u>CPT Questions/Requests</u>	<u>MT Responses</u>
<p>Paragraphs 35-36</p> <p>The CPT recommends that (a) the Maltese authorities take steps to ensure that any signs of violence observed when a prisoner is medically screened upon admission are fully recorded, together with any statements by the prisoner and the doctor's conclusions (including as to the consistency between any allegations made and the injuries observed); this information should be made available to the prisoner and to his/her lawyer. The same approach should be followed whenever a prisoner is medically examined following a violent episode in the CCF.</p> <p>Further, (b) whenever injuries are recorded which are consistent with allegations of ill treatment made by the prisoner concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned.</p>	<p>Such injuries are being recorded and action being taken as necessary.</p>
<p>Paragraph 37</p> <p>On 25 January 2011, a prisoner was found dead in his cell. (...)</p> <p>The CPT would like to be informed of the outcome of the inquiries which have been initiated into the death of the above-mentioned prisoner (and of the results of the autopsy and any toxicological tests).</p>	<p>The Magisterial Inquiry has not yet been concluded.</p>

<u>CPT Questions/Requests</u>	<u>MT Responses</u>
Other issues	
<p>Paragraph 38</p> <p>The CPT recommends that the necessary steps be taken to ensure that prisoners facing disciplinary charges are:</p> <ul style="list-style-type: none">- informed in writing of the charges against them (including the relevant facts);- granted the right to defend themselves (including to call witnesses on their own behalf and to cross-examine evidence given against them);- formally entitled to appeal to an independent authority against any sanctions imposed (irrespective of their duration and/or severity);- provided with a copy of any disciplinary decision concerning them, which should inform them of both the reasons for the decision and the modalities for lodging an appeal. The prisoners concerned should confirm in writing that they have received a copy of the decision.	<p>The Maltese authorities consider that current disciplinary proceedings are adequate. Moreover, efforts are being made to clear the current backlog.</p> <p>It should also be noted that disciplinary proceedings may result in the forfeiture of remission days. The remission system has now been reformed in accordance with the Restorative Justice Act, which means that remission will now be assessed by a Board made up of the Director and independent members.</p> <p>It is therefore considered that the system has been rendered more transparent.</p> <p>When disciplinary action is taken by prison authorities, the relative order is handed in writing and signed by the director. It is left to the discretion of the inmate to sign the documentation or otherwise.</p>
<p>Paragraph 39</p> <p>The CPT wishes to stress that disciplinary measures should only be applied following a formal disciplinary procedure and that any restrictions on family contact as a punishment should be imposed only when the offence relates to such contact. (See also Rule 60.4 of the European Prison Rules and the Commentary to this rule.)</p>	<p>Inmates at Division 6 are subject to the same disciplinary proceedings applying to other inmates.</p>

Chapter II. Lyster and Safi Barracks detention centres for illegal immigrants

<u>CPT Questions/Requests</u>	<u>MT Responses</u>
Ill-treatment	
<p>Paragraph 46</p> <p>(...) However, one female foreign national met by the delegation at Mount Carmel Hospital claimed that she had been the subject of sexual abuse by a detention officer at Lyster Detention Centre. The woman concerned had lodged a formal complaint in this regard.</p> <p>The CPT would like to be informed of the outcome of the above-mentioned investigation.</p>	<p>The investigation in question is still ongoing.</p>
<p>Paragraph 47</p> <p>The CPT recommends that the Maltese authorities take steps as a matter of priority to ensure the presence of at least one female officer around the clock at Lyster Detention Centre.</p>	<p>Efforts are made to ensure that detainees, including female detainees, are provided with an adequate environment.</p> <p>Whereas the Maltese authorities agree in principle with the CPT's recommendation, for practical reasons it cannot be ensured that at least one female officer would be employed around the clock at Lyster Detention Centre.</p>
<p>Paragraph 48</p> <p>The CPT reiterates its recommendation that the Maltese authorities remind all members of staff working in detention centres for foreigners that such behaviour is not acceptable and will be punished accordingly.</p>	<p>The management of the Detention Services did not receive any complaints relating to disrespectful behaviour or racist remarks. It should also be highlighted that the proper treatment of migrants in custody is one of the subjects covered in the yearly training delivered to staff.</p> <p>It should also be noted that the Maltese authorities would not tolerate racist remarks of other inappropriate behaviour by staff.</p>
<p>Paragraph 49</p> <p>In this connection, it is a matter of concern that, despite a specific recommendation made by the Committee after previous visits, staff continued to call detainees by their immigration file/tag numbers (Detainees were also referred to in the same manner in all official documents -- including medical files).</p> <p>(...)</p> <p>The CPT once again calls upon the Maltese authorities to put an end to the abovementioned practice.</p>	<p>The Maltese authorities understand the motivation behind the CPT's recommendation that ideally migrants in a detention context would be addressed by name. However, as indicated on previous occasions this is difficult for practical reasons.</p> <p>It should be noted, by way of information, that numbers are assigned to migrants for administrative purposes only, particularly to ensure that asylum applications are processed and their health monitored.</p> <p>The practice is no way intended to humiliate or degrade the migrants.</p>

<u>CPT Questions/Requests</u>	<u>MT Responses</u>
<p>Paragraph 52</p> <p>The CPT recommends that a comprehensive inquiry be carried out by an independent body into the manner in which foreign nationals were treated by police officers and soldiers in the context of the (above-mentioned) incident of 16 August 2011 at Safi Detention Centre. The Committee would like to receive in due course a report on the results of that inquiry and information on the steps subsequently taken.</p>	<p>The Maltese authorities are not in agreement with this recommendation by the CPT, particularly given that during the mentioned riot only one immigrant received minor injuries.</p> <p>It should be noted that during the same riot, a number of Armed Forces, Detention and Police Officers sustained injuries, a fact that seems not to be acknowledged by the CPT.</p> <p>It should also be noted that:</p> <ul style="list-style-type: none"> -the event in question was not a peaceful demonstration or protest, as it was violent in nature; -the migrants in question were in no way provoked; and, -the single injury sustained by a migrant during the riot was self-inflicted in the presence of Detention Centre personnel. This is corroborated by the CCF medical reports. <p>Finally, it is to be recalled that the migrants in question were found guilty in Court.</p>
<p>Paragraph 53</p> <p>Another incident occurred on 16 April 2011 when a group of seven foreign nationals escaped from Safi Detention Centre. (...)</p> <p>The CPT would like to be informed of the outcome of the above-mentioned inquiries and any action subsequently taken by the relevant authorities. The Committee would also like to receive a copy of the autopsy report concerning the detainee who died and a list of all the investigative steps taken in the context of the above-mentioned inquiries.</p>	<p>It should be noted that the Magisterial inquiry has not yet been concluded.</p> <p>The CPT will be informed of any actions taken by the Maltese authorities pursuant to the relevant findings.</p>
Conditions of detention	
<p>Paragraph 55</p> <p>The CPT recommends that the Maltese authorities take the necessary measures to ensure that all immigration detainees currently being held in the two Warehouses at Safi Barracks are transferred as soon as possible to Ta' Kandja Detention Centre and that both Warehouses are in future only used for shortterm detention in emergency situations.</p>	<p>It should be noted that Warehouse 1 is currently being vacated in order for refurbishment works to commence.</p> <p>The Detention Services will continue to undertake refurbishment works as necessary.</p>

<u>CPT Questions/Requests</u>	<u>MT Responses</u>
<p>Paragraph 57</p> <p>The CPT calls upon the Maltese authorities to introduce a regime providing purposeful activities to foreign nationals held at Safi and Ta' Kandja Detention Centres.</p>	<p>All compounds at Safi have recreational yards, which are accessible to immigrants from sunrise to sunset.</p> <p>Furthermore, immigrants have since been given the opportunity to take part in the SPARKLET Project, which provides educational activities, cultural orientation, life skills and sport activities. SPARKLET is an EU-funded project run by Agency for the Welfare of Asylum Seekers in conjunction with the Detention Services, the Foundation for Educational Services, the University of Malta and the Employment and Training Corporation.</p>
Health care	
<p>Paragraph 59</p> <p>(...) the CPT calls upon the Maltese authorities to carry out a thorough review of the current arrangements for the provision of health care in the detention centres for foreigners. More specifically, steps should be taken to ensure that:</p> <ul style="list-style-type: none"> - the working hours of doctors are increased and that for each detention centre one doctor is designated to co-ordinate the health-care services within the centre; - the nursing cover is significantly increased in all centres. This should make it possible for a nurse to be present every day (including at weekends) and for the provision and distribution of prescribed medicines to be handled by nursing staff; - someone competent to provide first aid is always present on the premises of all detention centres (including at night); - all newly-arrived detainees benefit from comprehensive medical screening by a doctor or a fully-qualified nurse reporting to a doctor; - whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a foreign national (or which, even in the absence of allegations, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the 	<p>Since April 2007 medical services provided at Safi and Lyster Detention Centres have been outsourced via two separate tenders – one for doctors, another for nurses. Two doctors and two nurses are provided under this contract to visit the detention centres every day (except weekends) between 8:00am and 3:00pm (nurses) and 9:00am and 1:00pm (doctors). On a daily basis each doctor examines forty patients, which equates to four hundred patients being examined every week. Clinics at each of the compounds within Safi, Lyster and Ta' Kandja Detention Centres have been refurbished and equipped with basic medical equipment including otoscopes, stethoscopes, haemoglucotest machines and sphygmomanometers.</p> <p>During silent hours and weekends, when the doctor is not present, immigrants are allowed to visit the nearest Health Centre and to be seen by a doctor.</p> <p>Furthermore, nurses from Malta Memorial District Nursing Association (MMDNA) report at Detention Centres during weekdays, in the evening, and on weekends, both morning and evening, to dispense certain medicinals.</p> <p>In the case of immigrants requiring mental health support, it is the doctor who refers the individual concerned for further treatment at Mount Carmel Hospital.</p> <p>In view of the above, the Maltese authorities consider that the services presently being delivered are up to standard and compliant with relevant EU and other obligations.</p>

<u>CPT Questions/Requests</u>	<u>MT Responses</u>
<p>wishes of the person concerned; - all detention centres are regularly attended by a psychiatrist and a psychologist; - all medicines prescribed are promptly dispensed thereafter; - the confidentiality of medical examinations and data is fully respected.</p>	
Other issues	
<p>Paragraph 61</p> <p>The CPT calls upon the Maltese authorities to take steps to ensure that foreign nationals are allowed to receive visits on a regular basis and that specific facilities are set up for that purpose. Relevant information on the visiting arrangements should also be included in the information brochure “Your Entitlements, Responsibilities and Obligations while in Detention” which is given to detainees.</p>	<p>At present Detention Centres do not have the required facilities where visits may take place.</p> <p>Also, due to the layout of detention centres, which are located within active military barracks or police centres, regular visits cannot be allowed for security reasons.</p> <p>However, in the following humanitarian cases visits are allowed:</p> <ul style="list-style-type: none"> a. where family members may still be in detention while others have been released, b. when an immigrant residing abroad requests to visit a relative in detention, c. other humanitarian reasons.
<p>Paragraph 62</p> <p>In the report on the 2008 visit, the CPT invited the Maltese authorities to consider adding the Committee to the list of international bodies to/from which detainees could send/receive letters confidentially (and without bearing the cost of postage). (...)</p> <p>The Committee would like to receive updated information on this point.</p>	<p>It should be clarified that it is possible for immigrants to make contact with the CPT, just as it is possible for them to contact any other international body or NGO.</p>
<p>Paragraph 64</p> <p>The CPT reiterates its recommendation that the Maltese authorities take steps to ensure that immigration detainees subject to the disciplinary sanction of “removal from association” have the right to be heard on the subject of the offences which they are suspected of having committed, to present evidence to defend themselves and to appeal to a higher authority against any sanctions imposed.</p>	<p>Detainees are removed from association for the purposes of safety and security and not for disciplinary reasons.</p> <p>The Detention Service does not apply special control or restraint, except in the case of violent persons who are temporarily removed from general accommodation for their own safety, as well as the safety of other immigrants and staff.</p> <p>In the event that an immigrant commits an unlawful act he or she is referred to the Police for investigation and prosecution in Court.</p> <p>Detainees are not held in solitary confinement.</p>

<u>CPT Questions/Requests</u>	<u>MT Responses</u>
Paragraph 65 (...) the CPT wishes to stress that in the event of means of mechanical restraint being used in a detention centre for foreigners, the requirements set out in paragraph 70 below should be met. The relevant regulations should be amended accordingly.	The Maltese authorities reiterate that mechanical restraints are not used in detention because they are not available.
Paragraph 66 (...) the existing ventilation system (i.e. a small ventilator) would clearly be insufficient for use during hot weather and should be significantly improved.	The <i>metal detention facility</i> mentioned by CPT is a medical isolation facility. It is only used in cases where a detainee may have to be removed from general accommodation because he or she may be suffering from a contagious condition.

CHAPTER III. Mount Carmel Hospital

<u>CPT Questions/Recommendations</u>	<u>MT Responses</u>
Preliminary remarks	
<p>Paragraph 68</p> <p>In a number of cases, the criteria for transferring prisoners from the CCF to Mount Carmel Hospital or from Mount Carmel to the CCF (and the placement of prisoners in the so-called “New Location”) remained somewhat unclear. By way of example, the delegation observed that a prisoner from the CCF had been held in the Forensic Ward for about one year (since 13 September 2010), although, according to his medical file, he had not been diagnosed with any mental illness and was therefore not undergoing any psychiatric treatment.</p> <p>The CPT would like to receive the Maltese authorities’ comments on this point.</p>	<p>The decision to transfer patients between the two institutions is a clinical one taken by the Psychiatrist involved in the care of the patient.</p>
Ill-treatment	
<p>Paragraphs 69-70</p> <p>The CPT recommends that immediate steps be taken to ensure that CS gas canisters and similar devices are no longer used against patients at Mount Carmel Hospital.</p> <p>Further, the Committee recommends that steps be taken at Mount Carmel Psychiatric Hospital to ensure that whenever a patient is subjected to mechanical restraint:</p> <ul style="list-style-type: none"> - only equipment is used which is properly designed to limit harmful effects, discomfort and pain during restraint (e.g. soft cloth straps); - the duration of the application of means of mechanical restraint is for the shortest possible time (usually minutes or a few hours). The exceptional prolongation of restraint should warrant a further review by a doctor; - the patient concerned is continuously and directly monitored by a member of the health-care staff; supervision solely by means of CCTV is not sufficient; 	<p>In the first place it should be noted that SRT personnel are required to exercise minimum use of force. Evidently, in certain cases action must be taken to ensure that patients are controlled, even for their own benefit.</p> <p>Secondly, the competent authorities do not make use of CS gas. The spray used, even in the case referred to by CPT, was pepper spray. As a matter of fact the substance emitted from the dispenser is Oleoresin Capsicum (OC), an extract of the cayenne pepper plant. The effects of OC last for about 45-60 minutes. Symptoms will disappear, usually with no other effects, after the contaminated area is flushed with cool water.</p> <p>This tool, further to minimising harm to the person in question, also assists in the protection of officers from violent and aggressive behaviour.</p> <p>With regard to handcuffs, they are used primarily because they are easy to apply. If the person in question has to be restrained for any length of time the authorities make use of plasti-cuffs. For all that, no person is handcuffed for any longer than absolutely necessary.</p>

<u>CPT Questions/Recommendations</u>	<u>MT Responses</u>
<p>- the patient concerned is always provided with a mattress. Further, the Committee recommends that staff be trained in restraint techniques and the use of the restraint equipment. Such training should not only focus on instructing staff on how to apply means of restraint but, equally importantly, should ensure that they apply professional techniques which minimise any risk of harm to the person concerned and that they know how to care for a restrained patient.</p>	<p>It should be noted that the prisoner referred to by the CPT was very dangerous.. Handcuffing in the front may be lethal as the handcuffs would be utilised as a weapon by the person handcuffed! For that reason, the person had to be handcuffed once more in the customary manner.</p> <p>Mount Carmel Hospital is presently drawing up plans for the delivery of further training of nursing staff in relation to the restraint of patients, and contact with potential trainers from Dutch Psychiatric Hospitals has already been established.</p> <p>The Maltese authorities agree that monitoring of patients by staff is important, and in fact such monitoring takes place. Notwithstanding this, patients often indicate they prefer being left alone. In such cases, CCTV monitoring is essential.</p> <p>It should also be noted that mattresses are always provided, so long as this does not comport a risk to the patient.</p>
<p>Paragraph 71</p> <p>The CPT recommends that steps be taken at Mount Carmel Hospital to ensure that all patients who are considered to be at risk of suicide/self-harm are provided with a suicide-proof mattress and suicide-proof clothing during their stay in a seclusion room.</p>	<p>The Maltese authorities agree with this recommendation and steps are being taken at Mount Carmel Hospital with a view to implementing it.</p>
Living conditions	
<p>Paragraph 72</p> <p>The CPT recommends that steps be taken in the Forensic Ward to ensure that:</p> <ul style="list-style-type: none"> - all patients are provided with a bed as well as with lockable space to store their personal belongings; - toilets in double- and multi-occupancy rooms are adequately partitioned; - the general level of hygiene is improved. <p>Further, the Committee would like to be informed of the activities which are organised for forensic patients on a regular basis.</p>	<p>The Forensic Unit is presently in the process of being refurbished. Toilets are to be partitioned, whilst beds and lockable spaces are to be provided.</p> <p>Action is also being taken in relation to the provision of activities for forensic patients.</p>

CHAPTER IV. Safeguards in the context of police custody

<u>CPT Questions/Requests</u>	<u>MT Responses</u>
<p>Paragraphs 74-75</p> <p>The CPT calls upon the Maltese authorities to take the necessary measures to ensure that all persons detained by the police can effectively benefit, if they so wish, from access to a lawyer throughout their police custody, including during any police questioning, and that the relevant provisions of the Criminal Code are amended accordingly.</p>	<p>Malta is in the process of introducing reforms related to the rights of the accused. Indeed, the CPT has acknowledged the positive steps in this regard.</p> <p>It should be noted that negotiations are currently ongoing in an EU context vis-à-vis a proposed Directive on the right of access to a lawyer.</p> <p>The Maltese authorities are following and participating in the discussions, which are still ongoing.</p> <p>Amendments to the relevant national legislation will be effected in accordance with the Directive, when approved.</p> <p>It should also be noted that this matter is also subject to internal debate.</p>
<p>Paragraph 76</p> <p>The CPT recommends that the Maltese authorities take steps to ensure that all juveniles (including those aged 16 to 18) are not subjected to police questioning or required to sign any statement related to the offence of which they are suspected, without the benefit of a lawyer and/or a trusted person being present. The relevant legal provisions should be amended accordingly.</p>	<p>Internal administrative measures have been taken to amend the Police Code of Ethics by means of GHQ Circular 86/11 dated 15th November 2011. All persons under the age of 18 are now required to be accompanied by a parent, guardian, tutor or any other person responsible for them during questioning.</p> <p>The Maltese authorities are also considering the possibility to amend section 15 of Schedule IV of the Police Act (Cap 164), which still refers to persons under 16 years of age.</p>