

Doc. 11688

11 July 2008

Europe's "boat-people": mixed migration flows by sea into southern Europe

Report

Committee on Migration, Refugees and Population

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Summary

Since the early part of this decade, the arrival of irregular migrants, refugees and asylum seekers by boat on Europe's southern shores has become a regular phenomena. In 2007 alone, over 51,000 persons arrived on the coasts of Italy, Spain, Greece and Malta.

In dealing with these "boat-people" the Committee on Migration, Refugees and Population is concerned that search and rescue obligations are not always being complied with, leading to increased risk to life and loss of life.

The committee is also concerned with the conditions in detention for many of these "boat-people" once they arrive in Europe. In this respect, excessive periods of detention, cramped and unsuitable accommodation with poor sanitation, lack of contacts with the outside world, inadequate legal assistance, few if any recreational activities, are all problems which need to be addressed.

The committee puts forward minimum standards of reception to be guaranteed by all countries of destination. It calls for the international community, including member states, the European Union and its border agency Frontex, to help share the responsibility of receiving these "boat-people". The Committee also puts forward a number of proposals for the Council of Europe and its Committee for the Prevention of Torture (CPT) and its Commissioner for Human Rights, to continue to monitor closely the conditions in detention and reception facilities. It puts forward, *inter alia*, concrete proposals to assist those responsible for running detention and reception centres and a proposal to draft European rules on the detention of irregular migrants and asylum seekers.

A. Draft resolution

1. The large scale arrival of irregular migrants, refugees and asylum seekers on Europe's southern shores has become a regular phenomenon with the number of arrivals climbing substantially in recent years. In 2006 these numbers reached a peak, although fell back in certain regions in 2007. In 2006 over 72,000 persons arrived in Spain, Italy, Greece and Malta and in 2007 over 51,000 persons arrived in these countries.

2. The Parliamentary Assembly has in recent years monitored closely the plight of "Europe's boat-people" and recalls in this respect its recent Recommendation 1645 (2004) on access to assistance and protection for asylum-seekers at European seaports and coastal areas and Resolution 1521 (2006) on mass arrival of irregular migrants on Europe's southern shores.

3. Within this mixed migration flow are refugees and asylum seekers towards whom states have special responsibilities under international law, including the obligation to safeguard against *refoulement*.

4. Many thousands of lives are lost as irregular migrants, refugees and asylum seekers take to sea in unseaworthy boats and undertake longer and more perilous journeys to reach Europe. They leave for a multitude of different reasons including to escape violent conflicts, human rights abuses, persecution, abject poverty and environmental degradation. They lack legal avenues to enter Europe and often pass through countries which offer no effective international protection.

5. The level of exploitation by traffickers and smugglers of persons seeking to enter Europe by irregular means is particularly worrying with, for example, regular reports from Libya of private detention, systematic extortion of money, and sexual and other violence.

6. There are an increasing number of reports of ship's masters ignoring distress signals from vessels in trouble. A particularly regrettable incident occurred in May 2007 when survivors from a sunken boat clung to the nets of a fishing boat for several days while the ship's master refused to bring them on board and states argued over their respective responsibilities for rescue. Of further concern are allegations against the Maltese and Greek authorities that they have ignored distress calls and have at the same time pushed these boats away from their own shores or territorial waters.

7. Southern Mediterranean countries, and in particular Malta, are struggling to meet the challenge of dealing with these mixed flows of migrants, refugees and asylum seekers. While these countries have the primary role in dealing with these flows, the European Union can provide assistance to ease the burden. The European Union's external borders agency Frontex has a particularly important role to play, offering assistance in search and rescue and border controls, and providing rapid border intervention teams (RABITS) and training for European border guards.

8. The Assembly calls on all member states of the Council of Europe to support Mediterranean countries receiving mixed flows of irregular migrants, refugees and asylum seekers. In particular, member states are encouraged to provide assistance in the fields of search and rescue, reception, identification of origin country of origin of arrivals, organisation of returns and relocation of those with international protection needs. In this, member states should follow the example of the United States of America which has resettled a large number of those in need of international protection from Malta. Member states should also support countries of origin and transit in tackling the root causes of irregular migration and promote legal avenues of migration while raising awareness of the dangers of irregular migration.

9. The Assembly calls on southern European Mediterranean member states of the Council of Europe receiving mixed flows of irregular migrants, refugees and asylum seekers to:

9.1. comply fully, and when applicable enact into international and regional human rights law, including the European Convention on Human Rights, international refugee law, and European Union legislation, including Council Directives 2003/9EC (on minimum standards for asylum seekers' reception), 2004/83/EC ("Refugee Qualification Directive") and 2005/85/EC ("Refugee procedures Directive");

9.2. comply fully with international maritime obligations on search and rescue, and examine fully any allegations of breaches of these obligations, including allegations of boats being refused assistance and being “pushed-back”;

9.3. progressively proscribe administrative detention of irregular migrants and asylum seekers, drawing a clear distinction between the two groups, and in the meantime allow detention only if it is absolutely necessary to prevent unauthorised entry into the country or to ensure deportation or extradition, in accordance with the European Convention on Human Rights;

9.4. ensure that detention be authorised by the judiciary and only if it is necessary and if there is no suitable alternative to detention. Furthermore detention must be for the shortest possible period of time. Malta should re-examine its policy of systematic and excessive periods of detention which can be for up to 18 months for irregular migrants and 12 months for asylum seekers;

9.5. comply fully with their obligation not to detain irregular migrants, refugees and asylum seekers with ordinary prisoners and to ensure that when detention takes place it is in a non carceral environment;

9.6. respect the principle that vulnerable persons should not be detained. Vulnerable persons include unaccompanied minors, pregnant women, families with minors, persons with medical or other special needs, the aged, victims of torture and sexual violence and victims of trafficking. In all circumstances adequate assistance must be granted to vulnerable persons and particular attention must be paid to the situation of unaccompanied minors in view of worrying reports concerning their treatment in Spain, Greece and other countries in the region;

9.7. close unsuitable reception and detention centres, and construct new centres adequate and appropriate for the length of time irregular migrants and asylum seekers are detained. Detention facilities in Malta and Greece are in particular need of review, with many persons being accommodated in tents or in facilities totally unsuited for anything other than immediate urgent reception;

9.8. ensure that all reception centres or detention centres provide:

9.8.1. appropriate food and sufficient drinkable water;

9.8.2. adequate clothing and change of clothing, bedding, blankets, toiletries, etc.;

9.8.3. adequate furniture, such as beds, chairs and tables and lockers to allow private items to be stored and kept safely;

9.8.4. separate accommodation and separate sanitation for men women and unaccompanied minors;

9.8.5. adequate sanitation facilities which are kept clean and in serviceable operation;

9.8.6. regular access to the outside for fresh air during substantial parts of the day;

9.8.7. sufficient recreational activities (television, reading, exercise, games, etc.);

9.9. ensure that those in detention or reception centres have access to the outside world including access to family, civil society, in particular specialised NGOs dealing with the rights of migrants and asylum seekers, lawyers, the Red Cross and Red Crescent and international organisations such as UNHCR and IOM. Access should include both direct access and also telephonic access covering both outgoing and incoming calls;

9.10. guarantee to irregular migrants, refugees and asylum seekers access to their fundamental rights and procedural rights, including:

- 9.10.1. prompt provision of information on their rights and the relevant procedures applicable to them and prompt provision of information concerning their detention and the internal rules of the detention centre in which they are being held. Interpretation or translations should also be provided whenever necessary;
- 9.10.2. effective access to the asylum process and any humanitarian status determination process, ensuring the quality and consistency of all decisions in these processes at all relevant levels. Turkey should withdraw the geographical limitation for non-European asylum seekers;
- 9.10.3. effective guarantees against *refoulement* of asylum seekers;
- 9.10.4. automatic judicial control of detention and an effective remedy against deportation, with a suspensive effect before an independent and impartial authority;
- 9.10.5. access to a lawyer when detention or deportation is challenged. Free legal aid is required at least during the appeal process and the quality of this aid needs to be of an acceptable standard, which is often not the case in Spain and other countries;
- 9.11. ensure that staff working in reception and detention centres are carefully selected and properly trained as well as fully respected in their work and that they have the support of a sufficient number of interpreters and cultural mediators to carry out their work;
- 9.12. ensure that border staff are sufficiently trained and sensitised to deal with refugees, asylum seekers and their right to asylum;
- 9.13. guarantee to irregular migrants, refugees and asylum seekers not only emergency health care, which includes essential treatment that cannot reasonably be delayed as well as necessary care such as vaccinations and follow up, but also basic health care, including essential dental health care. Psychological assistance should also be provided for those with particular needs, such as victims of torture and violence, including sexual violence;
- 9.14. allow, when applicable, the monitoring of detention centres and reception centres by ombudspersons and national human rights commissions, parliamentarians and other national or international monitoring bodies. Where specialised monitoring bodies do not exist, they need to be created. Where they exist their members need to be selected and appointed carefully and they need to be trained in carrying out their functions. The media should also be granted reasonable access to detention centres from time to time to ensure transparency and accountability, but the right to privacy of detainees needs to be respected;
- 9.15. implement UNHCR's "Ten point plan of action for refugee protection and mixed migration" as a framework for addressing mixed migration flows in a comprehensive and collaborative way and invite UNHCR and IOM to expand their operations in the regions affected by these mixed migration movements;
- 9.16. promote the use of assisted voluntary return programmes with the support of the International Organization for Migration and carry out forcible returns only in accordance with the 20 guidelines on forced return adopted by the Council of Europe's Committee of Ministers in May 2005;
- 9.17. continue efforts to negotiate readmission agreements with countries of origin and transit, taking into account the need to provide sufficient guarantees against *refoulement*, access to asylum procedures and effective protection in accordance with human rights standards;
- 9.18. take steps to tackle intolerance, racism and xenophobia linked to the arrival of irregular migrants and asylum seekers. Malta in particular needs to take further steps in this respect;
- 9.19. accede to the Council of Europe Convention on Action against Trafficking in Human Beings;

- 9.20. make full use of European Union funding opportunities under the External Borders Fund, the European Refugee Fund, the European fund for the Integration of Third Country Nationals and the Return Fund;
- 9.21. make full use of the opportunity for loans from the Council of Europe's Development Bank for creating the necessary permanent reception structures for receiving irregular migrants, asylum seekers and refugees.
10. The Assembly calls on the European Union, with the support of European Union member states, to:
- 10.1. extend further the support given to member state receiving countries, in particular for projects seeking to improve search and rescue operations and reception and detention facilities;
- 10.2. further develop the search and rescue operational capacities of Frontex as part of its border control mandate and ensure that the human rights implications of its work are fully monitored;
- 10.3. ensure that Frontex gives priority to creating a common curriculum for European border guards, taking into account the Council of Europe's human rights standards and international refugee standards. Frontex should also be encouraged to increase its operational capacities for search and rescue as part of its border controls mandate;
11. The Assembly calls on UNHCR and IOM to extend their presence in the regions affected by the large scale arrival of migrants, refugees and asylum seekers, repeating as appropriate the model of co-operation developed with the authorities in Lampedusa, Italy under the Praesidium Project.
12. The Assembly invites the Council of Europe's Commissioner for Human Rights to continue to monitor the situation in reception and detention facilities for irregular migrants, refugees and asylum seekers during his country visits and develop recommendations on good practice in detention and reception of these persons.

B. Draft recommendation

1. The Parliamentary Assembly refers to its Resolution ... (2008) on Europe's "boat-people": mixed migration flows by sea into Southern Europe.
2. The Council of Europe has an important role to play in ensuring that the rights of irregular migrants, refugees and asylum seekers arriving on Europe's southern shores are guaranteed and that their humanitarian needs are met.
3. Important work is already carried out in this respect by the European Committee for the Prevention of Torture (CPT) in the course of its visits to member states. The Council of Europe's Commissioner for Human Rights has also put the issue of rights of irregular migrants and states' special responsibilities towards refugees and asylum seekers under international law on his list of priorities and has carried out a number of visits to reception and detention centres.
4. Furthermore there is growing case-law of the European Court of Human Rights which has particular relevance for irregular migrants, refugees and asylum seekers.
5. Therefore, the Assembly recommends that the Committee of Ministers:
 - 5.1. prepare, with the assistance of the CPT, guidelines for minimum standards to be applied to the detention of irregular migrants and asylum seekers. European Prison Rules currently exist but they do not apply to detention of irregular migrants and asylum seekers, and they are based on carceral rather than non-carceral detention;
 - 5.2. instruct the European Committee on Migration (CDMG) and the Steering Committee for Human Rights (CDDH) to hold a round-table exchange of views with directors and high ranking officials of reception and detention centres receiving irregular migrants, refugees and asylum seekers in southern Europe. Priority should be given to exchanging experiences on reception conditions and access to legal rights and drawing on the expertise and findings of the CPT and the Council of Europe's Commissioner for Human Rights;
 - 5.3. prepare a co-operation programme and assistance programme for directors of reception and detention centres to allow them the opportunity to visit and learn the experience of other directors of reception and detention facilities in other member states of the Council of Europe;
 - 5.4. develop further the systematic training of competent state organs, especially in border areas, as well as lawyers involved in asylum claims in view of the poor quality of advice and assistance in many member states. This training should include training on the European Convention on Human Rights and its relevance to asylum claims and training on international refugee law;
 - 5.5. invite the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to continue to give priority to its visits to reception and detention facilities for irregular migrants, refugees and asylum seekers. The CPT should pay particular attention to these centres during large scale arrivals and cover centres, such as in Turkey, which have not been visited in the past;
 - 5.6. consider the steps to be taken by the Council of Europe to tackle illegal criminal networks responsible for the trafficking and smuggling of irregular migrants, refugees and asylum seekers, including steps to protect victims of trafficking, informers, etc.

C. Explanatory memorandum by Mr Østergaard, rapporteur

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I. Introduction

1. The large scale arrival of migrants and asylum seekers on Europe's southern shores has become a regular phenomena, with almost daily reports of arrivals and tragedies at sea being reported during the spring, summer and autumn sailing months.

2. The countries most concerned by these arrivals are Italy, notably on the island of Lampedusa, Spain, in the Canary Islands, Greece, Malta and also Cyprus and Turkey.

3. The number of arrivals have grown considerably in recent years, peaking in 2006. National and international concerns have focussed on the number of persons arriving and how to accommodate and process them, settle or return them. Concerns are constantly raised about the growing number of casualties involved in the increasingly long and dangerous journeys by these boat-people as Europe seals its borders more effectively, making it harder and harder for irregular migrants and asylum seekers to enter Europe.

4. It is not however only the tragic loss of life that is of concern. The reception facilities available have been put under enormous strain, and states have struggled to cope with the large number of irregular migrants and asylum seekers arriving. States have been calling loudly for help and responsibility sharing from their European partners. Small countries such as Malta have been particularly affected. These countries and the regions hosting these irregular migrants and asylum seekers have come under increasing scrutiny from civil society and the international community and have often had to shoulder strong criticism of the way in which they are handling the situation and the conditions under which they are receiving and detaining the irregular migrants and asylum seekers.

5. The Council of Europe has shown a particular interest in this mixed flow of irregular migrants and asylum seekers. The European Court of Human Rights has, for example, received individual petitions

from persons detained in Lampedusa and later returned to Libya¹. The European Committee for the Prevention of Torture (CPT) has visited² some of the main places of detention in Greece, Italy, including Lampedusa, Malta and Spain. The Council of Europe Commissioner for Human Rights has also, as part of his mandate, conducted visits³ to various detention facilities and has taken up the issue of rights of irregular migrants and asylum seekers as one of his priorities⁴.

6. Other international organisations such as UNHCR and IOM have extended their presence to countries or regions where large scale arrival of migrants and asylum seekers are taking place. UNHCR has also adopted a "Ten Point Plan"⁵ dealing with mixed flows of migrants and asylum seekers, precisely because of the challenge of this phenomena of large scale arrivals. The European Parliament's Committee on Civil Liberties and Human Rights (LIBE) has conducted a series of visits, including to Ceuta and Melilla, Lampedusa, Malta, and the Canary Islands.

7. The aim of this report is to complement the monitoring already carried out, providing in a single report information from the main countries where arrivals are taking place. By doing this your rapporteur hopes to contribute to a better understanding of the problems being faced by asylum seekers and irregular migrants on the one hand, and the countries of destination on the other.

8. Your rapporteur has taken into account the important work carried out in this area by the Assembly in the past. In this respect he refers to Recommendation 1645 on Access to assistance and protection for asylum seekers at European seaports and coastal areas (rapporteur Mr Danieli see Doc.10011) and Resolution 1521 on Mass arrival of irregular migrants on Europe's Southern shores (rapporteur Mr Chope, see Doc. 11053).

II. Terminology

9. Your rapporteur considers it important to say a word about the terminology of the report. The original title of the report was "Unexpected large scale arrival of irregular migrants and asylum seekers in Europe". For the sake of clarity your rapporteur, with the agreement of the Committee, has changed the title clarifying that the report is concerned by "sea" arrivals and removing reference to "unexpected" arrivals as this has become a regular phenomena. Responses by the authorities concerned should therefore no longer be viewed as "emergency responses" but should be provisioned for in advance in the knowledge that the phenomena is no longer unexpected.

III. Countries chosen for examination in the report

10. Your rapporteur, decided to focus his examination on Italy (Lampedusa), Malta, Greece, Spain (Canary Islands) and Turkey, because of the large number of arrivals and, in the case of Turkey, because it is a country of transit for those making their way towards mainland Greece and the Greek islands. Much of what is said and recommended in this report could also be of relevance to Cyprus which sees many arrivals allegedly from Turkey through northern Cyprus across the Green Line and the Buffer Zone.

IV. Preparations for the report

11. In preparing this report, you rapporteur undertook a number of visits. The first visit was to Athens from 10-11 May 2007, then Lampedusa from 3-4 September 2007 and finally Malta from 15-16 October 2007. In addition your rapporteur visited Frontex (European Agency for the Management of Operational

¹ See for example Applications 10171/05, 10601/05, 11593/05 and 17165/05 against Italy.

² See in particular the Report on the visit to Italy, December 2004, CPT/Inf (2006) 16, Report of the visit to Malta, June 2005, CPT/Inf (2007) 37, Report on the visit to Spain, CPT/Inf (2007) 30 and the Report of the visit to Greece, CPT/Inf (2008) 3.

³ See in particular Follow-up report on Malta (2003-2005), CommDH(2006)14; Report on Italy, June 2005, CommDH(2005)9; Report on Spain, March 2005, CommDH(2005)8.

⁴ See in this respect Commissioner for Human Rights, Recommendation concerning the Rights of Aliens wishing to enter a Council of Europe member State and the Enforcement of Expulsion Orders, CommDH/Rec(2001)19, The Human Rights of Irregular Migrants in Europe, Issue Paper, 17/12/2007, CommDH/IssuePaper(2007)1.

⁵ "Ten point plan of action for refugee protection and mixed migration for countries along the Eastern and South Eastern Borders of European Union Member States". This plan offers a framework to assist States in ensuring that persons in need of international protection who are travelling within broader mixed migratory movements can be identified and provided with an appropriate response. This plan was put forward in June 2006 and revised in January 2007.

Co-operation at the External Borders of the Member States of the European Union) on 20 June 2007 in Warsaw.

12. Your rapporteur would like to thank all those representatives of governments, non-governmental organisations, international organisations and parliamentarians who provided him with information and views essential for the preparation of this report. He would also like to pay tribute to the work and commitment of all those involved in the search and rescue and reception of what have become "Europe's boat-people".

V. Draft guidelines for parliamentarians when monitoring reception and detention centres for irregular migrants and asylum seekers.

13. Your rapporteur considered that it was important to have a framework on which he could base his visits to reception and detention centres for irregular migrants and asylum seekers. It is for this reason he prepared draft guidelines⁶ which can be used by Parliamentarians carrying out similar monitoring visits to reception and detention centres across Europe. The opportunity for refining further these guidelines exists in the context of a report being prepared by Mrs Anna Catarina Mendonça (Portugal, SOC) on detention of irregular migrants and asylum seekers in Europe.

VI. Death at sea

14. It is impossible to put a figure on the number of persons who lose their lives trying to cross the seas in order to reach Europe. UNITED NGO publishes a list⁷ of deaths of persons seeking to enter the European Union (mostly by sea) and the total since 1993 now tops 8,800 persons.

15. The Maltese authorities estimate that around 600 persons die every year off the coast of Malta.

16. Figures from Greece indicate the number of deaths is rising, with 44 persons found dead and 54 missing in the first 9 months of 2007⁸.

17. The trend is for longer trips as new routes open up (for example departures for the Canary Islands are moving further south from Mauritania to Senegal and Guinea). The boats being used are smaller and in many instances totally unseaworthy (with rubber dinghies being used to reach Lampedusa and purpose built fibre-glass boats increasingly arriving in Malta). All of this adds to the dangers of the sea crossings.

18. Your rapporteur welcomes, supports and encourages the establishment of tracing services to allow families to access information on the destiny of those seeking to enter Europe through irregular means. The Italian Red Cross, for example, has an investigation office which makes enquiries within Italy and abroad about missing persons and liaises with the Central Investigation Agency of the Red Cross / Red Crescent and the Investigation Offices of National Societies of the Red Cross / Red Crescent. Your rapporteur encourages the opening of such investigation offices at all major points of arrival of irregular migrants, asylum seekers and refugees.

VII. Statistics on arrivals

19. The number of persons arriving in Italy, Spain, Greece and Malta has climbed steadily in recent year, peaking in 2006.

20. In 2006, Italy received 22,016 persons, Spain received over 39,180 persons⁹. Malta received 1,780, and Greece received 9,049 persons "arrested at sea borders" according to information from the Greek Ministry of Public Order¹⁰.

⁶ AS/Mig/Inf (2007) 07. Draft guidelines for Parliamentarians when monitoring holding centres for irregular migrants and asylum seekers.

⁷ <http://www.united.non-profit.nl/>.

⁸ Figures published by the Ministry of Mercantile Marine (www.yen.gr).

⁹ Almost 32,000 arrivals to the Canary Islands (mostly from sub-Saharan countries, 5,400 to the southern coast of Spain (mostly from the Maghreb). In addition there were 1,400 arrivals to Ceuta and 550 to Melilla.

¹⁰ According to figures published by the Ministry of Mercantile Marine the number of persons who have been received in 2006 is 3,456 and the number of people denied access to Greek territorial waters in 2006 amounts to 1,566.

21. There has however been a significant fall in numbers in 2007 for Spain (53.9% less than in 2006) and Italy with 18,057¹¹ and 19,617 persons arriving respectively. Malta has seen a slight drop in the number of arrivals with a total number of 1,715 arrivals during 2007. Greece has seen the greatest growth in numbers, with 12,484 persons arriving by the end of October 2007¹².

22. Turkey, which is a country of transit for many of those heading for Greece and its Islands and also Italy, has seen the number of undocumented migrants apprehended fall from 94,514 in 2000 to 51,983 in 2006, although there has been a slight rise in numbers again in 2007¹³. Only a proportion of these persons will however have been planning a sea-journey onwards to Greece or Italy.

23. In the light of these statistics some comments can be made. The first comment relates to the accessibility of this data and the need for this data to be frequently updated and easily accessible. Other comments relate to the specific countries. Malta, because of the size of its population and its territory has a particularly large responsibility to shoulder. As the Maltese authorities pointed out to your rapporteur, the impact of one arrival in Malta would be equivalent to the impact of 200 persons arriving in Germany¹⁴. Your rapporteur is also aware of the responsibility faced by regions such as the Canary Islands and Lampedusa, which are the gate-ways to Spain and Italy respectively.

24. It is difficult to be certain as to the reasons for the fall in number in 2007, particularly to Spain. Numbers may be affected by the opening of legal channels for regular migration and due to the dissuasive effect of functioning return agreements. Increased sea controls, including by FRONTEX has almost certainly had an impact, in particular during the periods the operations have been in operation. There are indications that boats (and in particular large boats) are no longer so readily available and persons may also be less ready to take the longer and more dangerous routes to enter Europe. Furthermore, routes are constantly changing and as noted earlier, sailings for the Canary Islands are increasingly taking place further south. The Greek islands are also seeing a marked increase in the number of boat arrivals and Sicily and Sardinia are becoming new points of destination for those travelling from North Africa.

VIII. Origins and profile of boat-people

25. The vast majority of persons arriving are young single men in their twenties. The majority would appear to have little or no education. It was reported to your rapporteur in Italy that an increasing number of pregnant women and unaccompanied minors are arriving. It was suggested that these vulnerable persons are being included as passengers on many boats to increase the likelihood of rescue and assistance if needed.

26. The arrivals generally take place between April and October each year and the journey times to Malta or Lampedusa vary between 2 to 5 days for boats coming from Libya. For those boats heading towards the Canary Islands, the journeys take on average 15 days.

27. For Greece the departure points are generally Turkey, but also Egypt. For Malta and Italy the departure points are almost always Libya although a few boats leave from the coast of Tunisia. For the Canary Islands the departure points are moving southwards from Mauritania to Senegal and Guinea.

28. For those arriving in Italy in 2006, the largest numbers came from Morocco, Egypt, Eritrea and Tunisia.

29. For those arriving in Malta in 2006, the largest number came from Eritrea, Egypt, Somalia, Morocco and Ethiopia.

¹¹ Of these 12,478 reached the Canary Islands

¹² This number refers to main routes of sea arrivals and there is no data available as yet for minor routes at sea.

¹³ Up to the end of November 2007 the figure stood at 54,767. Of these, 4,524 were apprehended before crossing the Aegean in the first 10 months of the year. All statistics are taken from official statistics. See Report on unexpected large scale arrival of migrants and asylum seekers in Europe. The case of Turkey by Dr Basak Kale. AS/ Mig/Inf (2008) 03.

¹⁴ According to the Maltese authorities over 8,800 migrants and asylum seekers have arrived in Malta over the last 5 ½ years..

30. For those arriving in the Canary Islands in 2007, many came from Senegal, Mali and Guinea.
31. For those arriving in Greece the largest number came from Afghanistan, Iraq, Palestine, Somalia, Egypt and then Turkey¹⁵ It should be pointed out that the identification of country of origin may not always be accurate as many persons may claim a different origin or nationality to avoid being returned.

IX. Interception, search and rescue

32. Your rapporteur had the opportunity of meeting with representatives from the different naval rescue services in Italy (Lampedusa) and Malta.

33. In Italy he witnessed the early morning arrival of a Guardia di Finanza vessel in Lampedusa which had picked up the occupants of a boat of irregular migrants in distress from Libya. He noted the good practice of allowing staff of the Italian Red Cross to go on board these vessels. He also went out to sea in a Guardia di Finanza vessel. He heard worrying reports that the authorities increasingly have to rescue sinking boats or are forced to intervene when boats are scuttled to ensure rescue. Concern was also raised that traffickers increasingly use the rescue services as ferry boats, embarking on journeys and once out to sea calling the coast guard with a satellite mobile phone to come to the rescue.

34. Your rapporteur considers it important to recall that under international maritime conventions¹⁶ there is an obligation on ship's masters to render assistance to those in distress. There is also a corresponding obligation of states to co-operate in rescue situations to relieve the master of responsibility to care for survivors and allow those rescued to be delivered to a place of safety.

35. The Government responsible for the search and rescue region (SAR) in which survivors are picked up is responsible for providing a place of safety or ensuring that such a place of safety is provided¹⁷.

36. While this is the international law basis, in practice there are many problems and concerns which can be raised. There is a growing reluctance of ship's masters to go to the aid of boats in distress, notwithstanding an obligation to do so, and many boats in distress report that their distress signals have been ignored by passing vessels. The inconvenience and financial consequences of picking up persons in distress can be substantial. Ship's masters may have to take a detour to land the persons in distress, the authorities may not accept disembarkation and in extreme circumstances the ship's master may even run the risk of being charged with trafficking irregular migrants.

37. In July 2006, for example, when the Spanish fishing vessel "Francisco y Catalina" rescued 51 irregular migrants in international waters close to Libya, Malta would not let them disembark until agreement was obtained on relocation of the persons rescued. 29 persons were ultimately transferred to Spain, 5 to Portugal and 5 to the Netherlands.

38. A more worrying incident occurred in May 2007 when 27 shipwrecked Africans had to cling to the tuna fish nets of a Maltese fishing vessel because the ship's master refused to let them board. Libya, Malta and Italy argued over responsibility until an Italian naval vessel ultimately rescued the persons concerned.

39. Allegations have been made that Malta sometimes ignores distress calls and escorts boats to Italian territorial waters rather than allowing them to enter Maltese territorial waters. Malta has responded to say that they have no responsibility for boats which are not in need of rescue on the high seas and that they comply with all international obligations. They also state that some boats when they see that it is a Maltese vessel that has come to their rescue, they prefer to keep going towards Italy rather than be taken to Malta¹⁸.

40. Your rapporteur notes that Malta has a vast search and rescue area of approximately ¼ million square km and far fewer naval resources than, for example, Italy. Malta has called for more responsibility

¹⁵ Figures from the Coast Guard from 2001 to 15/10/2007.

¹⁶ See in particular the 1974 International Convention for the Safety of Life at Sea and the 1979 International Convention on Maritime Search and Rescue, with amendments entering into force on 1 July 2006.

¹⁷ Resolution MSC, 167 (78) (adopted in May 2004 by the maritime Safety Committee together with the SAR and SOLAS amendments) para. 25.

¹⁸ These boats are accused of "flag shopping", waiting to be rescued by an Italian vessel.

sharing and proposes that persons rescued or intercepted in the high seas be taken to the nearest port and then distributed to member states of the European Union on a *pro-rata* basis. This idea has not however met with support at the European level. Malta has also set about working with the Libyan authorities to offer training in search and rescue in the hope of tackling the boats at the outset of their journey and hopes that the European Union's External Border's Fund will allow the Maltese authorities to obtain increased funds to manage its naval borders and carry out search and rescue operations.

41. In the waters between Greece and Turkey there are reported¹⁹ incidents of Greek Coast Guard vessels²⁰ endangering the lives of irregular migrants and asylum seekers by towing back to Turkish territorial waters boats with persons they have apprehended. These persons have reportedly been apprehended in Greek waters or even on dry land and have allegedly not been given an opportunity to explain their illegal entry into Greece, raising additional concerns relating to *refoulement*.

42. Your rapporteur concludes that there is room for serious concern over the issue of search and rescue and that this applies both to the responsibility of ship's masters and also to rescue vessels operated under the authority of member states. Clearer guidelines are needed to avoid incidents such as the Tuna fishing pen incident. Furthermore, all allegations that naval authorities have failed to meet their obligations to rescue individuals and push persons back to the territorial waters of other states should be investigated.

X. Frontex

43. Frontex is the European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the European Union. It became fully operational in October 2005 and is based in Warsaw.

44. Your rapporteur had the opportunity of visiting the headquarters of Frontex in June 2007 during which time he was briefed extensively on the work of the Agency.

45. Frontex has a number of tasks which are of particular importance when looking at the issue of large scale arrivals of irregular migrants and asylum seekers. These tasks however are not meant to take away from the states their responsibility for border protection and border management.

46. Frontex has a role of co-ordinating operational Co-operation between member states of the European Union in the field of management of external borders. It also has an important role in developing common training standards for border officials. Furthermore it has the task of providing member states of the European Union with the necessary support in organising joint return operations.

47. In terms of operational co-operation Frontex set up a number of naval and air operations in three geographical areas where large scale arrivals take place. The joint operation Nautilus covered the Central Mediterranean (off the coast of Malta and Lampedusa), the joint operation Poseidon covered the Eastern Mediterranean area (between Turkey and Greece) land and sea borders and the Hera operation covered arrivals to the Canary Islands and included joint patrols by air and sea.

48. These operations were not permanent and they were carried out in different stages. They contributed to rescuing many boats in distress and they contributed to stopping many boats taking hazardous journeys. They have also contributed to the apprehension of many irregular migrants seeking to arrive in Europe by sea. To give concrete examples²¹, the Joint Operation Hera III off the coast of the Canary Islands during the period February to May 2007 succeeded in intercepting 2020 irregular migrants

¹⁹ See for example the report of a German NGO Pro Asyl entitled "The truth may be bitter but it must be told" in which there are serious allegations of mistreatment, and allegation of scant regard for life for those who are pushed back towards Turkish shores. See also Amnesty International 2007 Greek Country Report and Report on unexpected large scale arrival of migrants and asylum seekers in Europe. The case of Turkey by Dr Basak Kale. AS/ Mig/Inf (2008) 03.

²⁰ According to the Greek authorities the Coast Guard carry out their duties respecting human rights and the dignity of the individual. They have furthermore stated that it is often the case that migrants entering Greek territory from the sea destroy their vessels when they reach the border requiring the Coast Guard to undertake sea rescue operations. In 2007, 2068 migrants were rescued in a total of 147 operations.

²¹ For further information and further examples see Report on the evaluation and future development of the Frontex Agency, Commission of the European Communities SEC(2008) 150.

and diverting back to departure ports in West Africa a total of 1,559 persons. As another example, during the Joint Operation Nautilus 2007 (covering the central Mediterranean area and disembarking in Malta and Lampedusa) which ran for two periods totalling 69 days, 2,942 irregular migrants were intercepted.

49. These operations are not necessarily limited to air and sea operations, but can also include assistance in interviewing those who have arrived and establishing their identity and analysing how the boat crossings have been facilitated.

50. Assets from different members states are used. In the first phase of Joint Operation Nautilus 2007, for example, 5 offshore patrol vessels, 2 helicopters and 4 aircraft were used with contributions from six member states, including Germany, Spain, France, Greece, Italy and Malta. The costs of these exercises are not negligible and the budget for the first stage of this operation lasting 33 days amounted to 2,230,000 Euros.

51. Frontex has a Centralised Record of Available Technical Equipment (CRATE). This is effectively a list of resources available from member states that Frontex can call upon. These resources are not available free of charge and need to be paid for from the budget of Frontex. The Preliminary draft budget for 2008 is 39.7 million Euros, which is a relatively small sum when one considers the cost of running planes, helicopters and naval vessels.

52. In the view of your rapporteur it would be wrong to consider that Frontex can provide an answer to the large scale arrival of migrants and asylum seekers examined in this report. It is a young Agency with limited resources. Its mandate is not to police the external borders of Europe and it is certainly not its role to replace the many hundreds of thousands of border officials employed across Europe. It does not pretend to any of the above as its Executive Director has said "Frontex activities are supplementary to those undertaken by Member States. Frontex doesn't have any monopole on border protection and is not omnipotent. It is a co-ordinator of the operational co-operation in which Member States show their volition."²²

53. While Frontex in itself may not be the answer, your rapporteur is convinced that it is an important tool, in particular as those countries on the front line of this mixed flow of migrants and asylum seekers are constantly calling for assistance and responsibility sharing from its partners. Frontex can therefore contribute not only to a more co-ordinated approach to border control, but can assist states in responding to some of the exceptional and urgent situations through its joint operations and through mechanisms such as the Rapid Border Intervention Teams (RABITS) containing experts from different countries. Every care should be taken however to ensure that Frontex operations and interceptions do not lead to the return of persons in need of international protection under the Geneva or other international conventions.

54. Your rapporteur therefore considers that the resources of Frontex need to be increased to allow greater assistance to those states that are struggling with the large scale arrivals covered in this report. It should widen its operational capacities to include EU accession countries. Your rapporteur also considers it important that further awareness raising work is carried out so that there is a greater understanding of the work of Frontex, its mandate and the limits within which it works.

55. Your rapporteur would also like to mention the work being carried out by Frontex on training border guards and establishing common training standards. During your rapporteur's meetings with staff of Frontex a request was made for input from the Council of Europe in the development of a common core curriculum for border guards. Your rapporteur is pleased to note that this request has been followed up by the Council of Europe and that expert input is being provided by the Secretariat of the European Committee for the Prevention of Torture (CPT) and that this work is onward going. It is essential that border guards have a basic training in human rights and refugee law and are in particular aware of the need to respect the principle of *non-refoulement*.

56. As your rapporteur has noted, Frontex is a new agency with a new mandate. The impact of its work is still difficult to gauge and the consequences of outsourcing border controls have yet to be evaluated. Frontex's work needs to be monitored and because its work has human rights implications it is important that it develops close working relationships with human rights organisations at the national and international level.

²² Frontex, News Release, 11/06/2007 Frontex – Facts and Myths.

XI. Detention

57. Detention of irregular migrants and asylum seekers can not be justified solely on the basis of irregular status under national immigration law. Detention may only be justified under the European Convention on Human Rights under two circumstances which are to prevent unauthorised entry into the country or when action is being taken with a view to deportation or extradition²³. Detention should only be used as a last resort, it must always be in accordance with a procedure prescribed by law and after a careful examination of the necessity of deprivation of liberty. It should be judicially authorised and should be for the shortest possible period of time. Alternatives to detention should always be considered and vulnerable persons should not be detained, except in exceptional circumstances.

58. The European Court of Human Rights has recently clarified its position on the circumstances in which detention can be justified in the case of *Saadi v. the United Kingdom*²⁴. In this judgment the Court highlighted that the two limbs of Article 5 paragraph 1 f (preventing unauthorised entry and action with a view to expulsion) must be looked at in the same manner. Detention should not be arbitrary and as such it must be carried out in good faith; it must be closely connected to the purpose (preventing unauthorised entry or with a view to expulsion), the place and conditions of detention should be appropriate, bearing in mind that the persons concerned have not committed a criminal offences but are aliens who, often fearing for their lives, have fled from their own country. Furthermore the length of the detention should not exceed that reasonably required for the purpose pursued.

59. Asylum seekers should not be detained simply because they have applied for asylum²⁵ and UNHCR considers there to be only four possible justifications for detention, namely when it is necessary to verify the identity of the asylum seeker, determine the elements of the claim, deal with cases of lost, destroyed or fraudulent documents used to mislead the authorities or protect national security²⁶. Alternatives to detention should be provided for expressly in the law²⁷.

60. Notwithstanding these basic principles, detention policies for irregular migrants and asylum seekers differ widely across Europe. In relation to length of detention Spain has a maximum period of detention of 40 days. Italy has a maximum period of 60 days and Greece has a maximum period of administrative detention of 3 months. In Greece illegal entry is also classified as a crime with possible imprisonment of between 3 months and 5 years although charges are not pressed unless other offences have been committed. Malta has a policy²⁸ of detaining irregular migrants for up to 18 months and asylum seekers for up to a year.

61. Your rapporteur is aware that a relatively short period of detention may inhibit the authorities from identifying the origins of an irregular migrant or an asylum seeker and, where appropriate, organising a return. A relatively short detention period may also act as a pull factor for irregular migrants who know that they will be released from detention if the authorities are unable to confirm their identity and arrange their return. They will then be able to find work as an irregular migrant, notwithstanding they are under an obligation to leave the country and may have been issued with an expulsion order.

²³ See Article 5 paragraph 1f of the European Convention on Human Rights.

²⁴ *Saadi v. the UK*, Application no 13229/03 Grand Chamber Judgment, 29 January 2008, paras. 73 and 74 in particular.

²⁵ See Article 31 of the UN Refugee Convention, as well as Article 18 of the EU Directive 2005/85/EC.

²⁶ See UNHCR Executive Committee, Conclusion No. 44(XXXVII) – 1986 – Detention of refugees and asylum seekers.; UNHCR, Revised Guidelines on Applicable Criteria and Standards Relating to the detention of Asylum Seekers, February 1999. See also Council of Europe Commissioner for Human Rights, “States should not impose penalties on arriving asylum-seekers”. Viewpoint 17/03/2007. www.coe.int/t/commissioner.

²⁷ See also UNHCR, Alternatives to Detention of Asylum Seekers and Refugees, April 2006, www.unhcr.org. N. Chmelickova (ed). Survey on Alternatives to Detention of Asylum Seekers in EU Member States. 2007. <http://alternatives-to-detention.org>.

²⁸ This policy replaces the previous policy of indeterminate detention.

62. Your rapporteur is also aware that long periods of detention pose serious human rights concerns and the European Committee for the Prevention of Torture has highlighted in respect to lengthy detention the "damaging effects on the physical and psychological health of foreign nationals concerned"²⁹.

63. Your rapporteur is particularly concerned by the length and systematic use of detention in Malta for irregular migrants and asylum seekers. For the most part there is little prospect of the majority of asylum seekers and irregular migrants being expelled and a large proportion of those in detention are ultimately granted refugee status or other international protection status. The problem of lengthy detention is exacerbated by the conditions in detention which are manifestly inappropriate for long-term detention. This matter will be examined further later in this report.

XII. Conditions in detention

64. Your rapporteur was able to visit various detention and reception facilities and witness at first hand the conditions in some of these centres. Your rapporteur also received extensive materials from third parties which he also refers to in the course of his report.

i. Malta

65. Your rapporteur had the opportunity, thanks to the openness and assistance of the Maltese authorities, to visit a number of detention facilities in Malta in October 2007. At the time of the visit 1,780 persons were being held in detention at three camps. 850 persons were being held at the Safi Barracks, 863 at the Lyster Barracks and 67 persons at the Ta' Kandja Police facility. Another Police facility at Hal Far was under refurbishment.

66. You rapporteur visited the Lyster Barracks and the Safi Barracks which are run by the Detention Services, a body set up in 2005.

67. The conditions in these centres have been heavily criticised in a number of reports, including by the European Committee for the Prevention of Torture³⁰, the Council of Europe Commissioner for Human Rights³¹ and also by the European Parliament's Committee on Civil Liberties and Human Rights³².

68. Notwithstanding the efforts made by the authorities to provide for the basic needs of the irregular migrants and the asylum seekers, the conditions in detention fall short of acceptable European standards. They are totally inappropriate for long term detention.

69. Overcrowding is a particular problem, exacerbated further by the long periods of detention and lack of any proper detention regime (vocational, educational, sporting, cultural or other recreational activities).

70. Your rapporteur was particularly concerned about condition in the Lyster Barracks, in the tent accommodation where 446 persons were housed under canvass. There were supposed to be 28 persons to a tent, but your rapporteur counted over 40 beds, two high and two side by side, pushed together. There was only just enough space to squeeze between every four beds. These tents are freezing cold in the winter and suffocating in the summer.

71. Overcrowding was not only a problem in the tents but also in the rest of the accommodation provided. While most of the inmates had access to fresh air, this was limited for certain inmates. In the Lyster Barracks block, a system of rotation of access to the outside limited the possibility of access to the outside.

72. Sanitary facilities were clearly inadequate, badly kept and in a poor state of repair. Your rapporteur was aware of efforts by the authorities to refurbish some of the sanitary facilities, but for the most part

²⁹ Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 15 to 21 June 2005, CPT/Inf (2007) 37, para. 11.

³⁰ Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 15 to 21 June 2005, CPT/Inf (2007) 37.

³¹ Follow-up Report on Malta (2003-2005) CommDH(2006)14.

³² Report by the LIBE Committee delegation on its visit to the administrative detention centres in Malta, Rapporteur: Giusto Catania, PV\613713EN.

those seen by your rapporteur were in a poor state of repair. Basins were coming away from the walls, water was leaking from pipes, taps were broken, water heaters were not functioning, doors and shower curtains were torn or missing and sewers were blocked and leaking. The authorities explained to your rapporteur that the inmates did not take good care of the facilities and that they were also responsible for cleaning the facilities. However, in view of the quality of the material, the large number of persons using the facilities, the lethargy of inmates brought about by the long term detention without a proper detention regime, it is not surprising the poor state of the sanitary facilities. Much greater attention needs to be given to providing adequate sanitary facilities and ensuring they are kept in serviceable repair and regularly cleaned and looked after by inmates, or by inmates with the regular assistance of outside contractors, or if necessary simply by outside contractors³³.

73. A particular problem exists in relation to sanitary facilities for women as they have to share these with men in accommodation housing families and single women. Shower curtains, for example, provide the only form of privacy in communal sanitary facilities. This is of great concern to your rapporteur, is not simply an issue of privacy but as it represents a heightened risk of sexual violence for the women concerned.

74. Your rapporteur was informed that on arrival detainees are provided with the basics such as towels, soap, shampoo, clothes, toothpaste, pillows, sheets, mattresses, blankets, etc. The Red Cross provides further clothes as necessary.

75. Your rapporteur noted that some inmates did not have beds and had to sleep on mattresses on the floor. Other inmates did not have sufficient blankets or no blankets at all and were cold at night. Inmates complained of lack of clothes. There was also a lack of other basic furniture such as tables and chairs and places where the detainees could keep their belongings.

76. The authorities have taken steps to improve the food provided to inmates, moving to a system of serving food in individual containers and providing alternative food for those with particular dietary needs. Notwithstanding these improvements there were complaints that the food was not sufficiently varied, too bland and often not cooked enough. There were recurrent requests for foods such as tomatoes and tuna fish.

77. Notwithstanding complaints from detainees about the quality of the water, the authorities assured your rapporteur it was drinkable. Some concerns were raised at the high levels of nitrates in the water which made it dangerous for pregnant women. Your rapporteur therefore considers that suitable alternative water should be given to pregnant women.

78. Another complaint raised with your rapporteur was the lack of clear guidelines on discipline and punishment in the centres. This needs to be addressed by the authorities.

79. Inmates also raised a number of other issues, including the lack of contacts with the outside world, problems of isolation of various language groups in the detention centres (for example pockets of francophone's finding it difficult to communicate with other detainees and guards), lack of clothes and also lack of toiletries. These are all issues which the authorities should look at closer.

80. Your rapporteur is also concerned about allegations of violence, questionable forms of punishment and inadequate access to medical treatment following an incident at the Safi barracks on 24 March 2008. Your rapporteur calls on the authorities to investigate fully the allegations that have been raised by the Jesuit Refugee Service (JRS) Malta office, and take appropriate action to ensure that such incidents are not repeated if the allegations are confirmed.

81. Your rapporteur understands fully the burden and responsibility involved in providing reception and detention facilities. He welcomes that there are plans to build new accommodation facilities and encourages the authorities to make full use of the funding available from the European Union to improve the conditions of reception and detention, including through the European Refugee Fund and the External Borders Fund.

³³ Your Rapporteur, by comparison, notes that in the "Las Raices" Centre in the Canary Islands an external agency is responsible for cleaning the camp.

82. Furthermore your rapporteur reminds the Maltese authorities that the Council of Europe Development Bank may be in a position to provide loans for improving the facilities offered for reception and detention of asylum seekers and irregular migrants.

ii. Lampedusa Italy

83. In previous years the detention facilities in Lampedusa came under heavy criticism from various quarters, including by the European Committee for the Prevention of Torture (CPT)³⁴ and by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs³⁵. Criticisms included overcrowding, lack of adequate sanitation, lack of access to the centre by NGOs, international organisations and the media, and the lack of legal safeguards for those held in the centre. Since those reports, however, the authorities have invested heavily and built new reception facilities. These new facilities were opened in August 2007 and visited by your rapporteur in September 2007.

84. Your rapporteur congratulates the Italian authorities for the improvements they have made and for the integrated approach they have adopted for running the centre, enlisting the legal and medical and social support of IOM, UNHCR and the Italian Red Cross.

85. The new centre can house up to 800 persons and there were 266 males, 33 females and 11 minors present when visited by your rapporteur on 3 and 4 September 2007. The centre is now classified as a reception centre and the aim is to keep people in the centre for only up to 48 hours. Persons can however end up staying for up to two weeks if there are no suitable places for them in other detention centres.

86. The Centre is guarded by the authorities but run by a private agency called "Accoglienza". The number of persons working in the centre varies, but in general 11 people work during the morning, 11 in the afternoon and 5 in the evening with higher numbers during peak times such as in August. Staff at the Centre are mostly young and committed, although, as they admit themselves, lacking some experience and training.

87. The accommodation in the centre and the sanitation facilities are good. There is a canteen where persons can collect and eat their food three times a day. On arrival each person receives clothes, bedding, a towel, toiletries. Each inmate is provided with a 5 Euro phone card. Inmates spoken to were appreciative of the treatment and the conditions in the centre.

88. Pre identification (name, number, picture and finger printing), takes place before the arrivals are allowed into the centre. Those with possible communicable diseases are quarantined. Full registration takes place later after the inmates have had the possibility of resting.

89. Notwithstanding this favourable report on the Centre, you rapporteur considers that a number of improvements could be made. The registration process before persons are allowed to enter the camp can be slow, and for persons who have endured long journeys in open boats the procedure should be speeded up to allow them to enter the camp as soon as possible in order to rest and recover. Separate facilities for women and unaccompanied minors are provided for, but there are no facilities for families, meaning that men are separated from the women and children. There is currently no separate eating area for women and children who have to eat in their accommodation which is outside the boundary of the main reception facility.

90. Your rapporteur has a concern about the legal status of the reception centre in Lampedusa. It falls outside the scope of legislation providing for Identification Centres and Temporary Stay and Assistance Centres (CPTAs). From your rapporteur's understanding there is no legal basis for detaining persons in the Lampedusa centre. This is an issue which needs to be clarified and settled.

³⁴ See Report to the Government of Italy of a visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 16 to 23 June 2006 (CPT/Inf (2007) 26 and Report to the Government of Italy of a visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 November to 3 December 2004 (CPT/Inf (2006) 17)

³⁵ Report from the Committee on Civil Liberties Delegation on the visit to the Temporary Holding Centre (THC) in Lampedusa. Rapporteur Ms Martine Roure (PV4583448).

iii. *Spain, Canary Islands*

91. Your rapporteur wishes only to highlight the findings of UNHCR and the LIBE Committee of the European Parliament in respect of conditions of detention in the Canary Islands. A UNHCR report concluded in 2006 that despite the provisional character of some of the internment centres, the reception conditions for new arrivals were adequate. The Report from the LIBE Committee Delegation which visited Tenerife and Fuerteventura from 7 to 10 June 2006 echoed this conclusion³⁶: "The overall impression is that the centres are correctly run and clean, and that they meet the most basic needs of those held there. The Spanish authorities cope adequately with a very difficult situation".

92. Your rapporteur hopes that it will be possible for the Committee at a future stage to look more closely into the issue of reception and detention conditions in Spain and the Canary Islands.

iv. *Greece*

93. Your rapporteur has serious concerns about reception and detention conditions for irregular migrants and asylum seekers in Greece³⁷, in particular in the light of the large increase in the numbers of arrivals in 2007.

94. According to an independent report prepared at the request of your rapporteur³⁸, reception and detention facilities for irregular migrants and asylum seekers range between totally unacceptable (Vrissika in Evros) and almost satisfactory (Chios). For the most part centres have not originally been designed for detention or reception purposes and are not suitable for these purposes. Some examples can be given: storage compartments for local industry or agriculture (Vrissika in the Evros Prefecture, Venna in the Rodopi Prefecture), abandoned public buildings (old detention centre in Samos), night clubs not in operation (Patmos) and prefabricated tin constructions inside a barbed wire enclosure (Chios). According to this report, women, families and minors are generally kept in separate rooms when they remain in detention, but this is not always possible when numbers are particularly high. No dining or recreation rooms are available and furniture is extremely limited or non-existent. Beds are often not available and detainees often have to sleep on mattresses or even blankets placed directly on the floor. Access to the telephone is not always possible and sanitation and washing facilities are often, but not always, insufficient or in a bad state of repair. Furthermore there are limited or no recreational facilities and often detainees are only able to spend limited time outside in fresh air.

95. A number of *ad hoc* detention premises are also used, including abandoned hospitals, public schools, central buildings not in operation and hotels hired by the authorities. Your rapporteur is also aware of onward going concern that some of the old centres which have totally unacceptable living conditions re-open occasionally (such as Vrissika in Evros) when there are large numbers of new arrivals.

96. Your rapporteur's concerns in relation to Greece are even stronger after a recent report published by the European Committee for the Prevention of Torture following a visit to Greece from 20 to 27 February 2007³⁹. This report is highly critical of the conditions in detention of irregular migrants and asylum seekers. The report also raises serious concerns about the treatment of detainees by guards and the lack of co-operation by the authorities in order to solve the different issues raised during previous visits of the Committee.

³⁶ Report from the LIBE Committee Delegation on the Visit to Tenerife and Fuerteventura. Rapporteur Ms Jean LAMBERT (PV624385).

³⁷ The Greek authorities have highlighted that every possible effort is taken to ensure good living conditions in the centres, and that the following reception centres for irregular migrants have been established: in the Aliens Division of Attica; in Filakio in the area of Orestiada (Prefecture of Evros, Northern Greece); in Venna in the Prefecture of Rodopi (Northern Greece); in Pagani on the island of Lesbos (Northern Aegean Sea); in Vathi on the island of Samos (Northern Aegean Sea); in Mersinidi on the island of Chios (Northern Aegean Sea)

³⁸ Unexpected large scale arrivals of migrants and asylum seekers in Greece by Panagiotis Papadimitriou, As/Mig/Inf (2008) 04.

³⁹ Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 27 February. CPT/Inf (2008) 3.

97. Your rapporteur is particularly concerned by allegation in this report of violence and ill-treatment at the hands of guards and the lack of adequate medical treatment for persons who claim to be victims of violence and ill-treatment.

98. In terms of conditions in detention, the CPT reaches conclusions both on border guard establishments and holding facilities for aliens. Concerning border guard stations the CPT concluded that “conditions in the border guard stations visited were, in general, unacceptable even for short periods” and referred to lack of natural light and ventilation, dirty blankets and filthy mattresses on the floor, overcrowding, poor sanitation and lack of access to the outside⁴⁰.

99. The CPT also focuses on a number of special detention centres for irregular migrants and asylum seekers⁴¹ and visited a number of centres including a recently opened centre, at Petru Rali and a centre which at the time of the visit had still not opened at Filakio.

100. In respect to the new centre at Filakio the CPT concludes that the design is not appropriate for the needs and notes the lack of personal space for detainees when running at full capacity, lack of privacy and lack of association rooms for activities. Similar criticisms were raised in relation to the centre at Petru Rali where, *inter alia*, the lack of in-cell sanitary facilities, mattresses on the floor, lack of clean sheets and blankets were commented on. Your rapporteur had the opportunity of visiting the Petru Rali centre himself on 11 May 2007 and can confirm the conditions noted by the CPT. Alongside the carceral environment of this centre your rapporteur was concerned with the lack of any communal areas for persons detained, the lack of recreational activities, and the total lack of access to the outside. An outside roof area with high walls was shown to your rapporteur but it was not in use due to security concerns. Your rapporteur is however pleased to note that since his visit limited access to the outside has now been allowed.

101. At the other centres visited by the CPT, recurring problems noted include lack of light, dirty mattresses and bedding, sanitation and access to toilets and lack of access to the outdoors for fresh air and exercise

102. It is clear from the recent report of the CPT and from other sources and from your rapporteur’s own visit to Petru Rali that the Greek authorities need to urgently address the issues and recommendations made by the CPT to improve the conditions in detention and stamp out ill treatment of detainees. Your rapporteur understands that a “Regulation for the Holding Centres for Aliens” is in the process of being drafted. Priority should be given to adopting these regulations which will establish and clarify the authorities’ obligations and the rights of detainees and raise the standards of detention and reduce the differences in practices between different centres.

v. Turkey

103. According to an independent report prepared at the request of your rapporteur⁴² irregular migrants and asylum seekers in Turkey are housed in special facilities referred to as “Guesthouses” to distinguish them from detention facilities for criminals. These “Guesthouses” generally have accommodation capacity for between 20 and 100 persons. Meals, clothing and basic necessities are catered for and provided by the governorships of the cities in which they are established. Access to phones is provided and common rooms are generally provided for watching television and socialising. Access is restricted to these “Guesthouses” which are *de facto* detention centres.

104. Very little information is available on the actual conditions in these “Guesthouses”. The European Committee for the Prevention of Torture has not as yet reported on these centres. A recent worrying report has however been made public by the Helsinki Citizens’ Assembly entitled “Unwelcome Guests: The Detention of Refugees in Turkey’s “Foreigners’ Guesthouses”⁴³. This report was based on interviews with 40 detainees after their release from these Guesthouses. This report, which is contested by the authorities, alleges many deficiencies regarding conditions in detention. In essence these criticisms include allegations of overcrowding, dirty and infested living and sanitation areas, lack of access to safe drinking water, poor nutrition, lack of exercise and recreation activities, the mixing of adults and children,

⁴⁰ CPT/Inf (2008) 3 paras 21 to 25

⁴¹ CPT/Inf (2008) 3 paras 26 to 32

⁴² Report on unexpected large scale arrival of migrants and asylum seekers in Europe. The case of Turkey by Dr Basak Kale. AS/ Mig/Inf (2008) 03.

⁴³ http://www.hyd.org.tr/staticfiles/files/rasp_detention_report.pdf

as well as the mixing of convicted criminals and migrants, asylum seekers and refugees. There are also criticisms about the lack of adequate medical treatment and allegations of ill treatment by the guards, including an incident at Kırklareli Osman Pas "Guesthouse" on 15 May 2007 in which 8 women and men detainees were reportedly severely beaten⁴⁴.

105. Your rapporteur notes that NGOs do not have free access to these "Guesthouses", which is one of the reasons why the Helsinki Citizens' Assembly Report is based on interviews of those who are no longer in detention. Your rapporteur considers that much greater access is needed to these places of detention by civil society and monitoring bodies to ensure transparency and to clarify the conditions in detention. The Committee on Migration, Refugees and Population should look further into the conditions in these centres in the future. Furthermore the European Committee for the Prevention of Torture (CPT) should be encouraged to visit a number of these centres during a future country visit to Turkey. The Council of Europe Commissioner for Human Rights may also wish to examine the situation of persons in these "Guesthouses" in the course of one of his future visits.

XIII. Levels of staff and competencies of staff working in the detention and reception centres

106. Your rapporteur was struck during his visits by the importance of having sufficient staff and appropriately trained staff working in the detention and reception centres. This applies not only to guards, but also to all those who come in contact with the persons being held, whether they are medics, administrative helpers, cultural mediators, interpreters or others.

107. In Malta your rapporteur noted that there were very few staff available for running the detention centres, with an emphasis being given to guarding inmates rather than providing assistance and support. A much greater role could be given to NGOs to provide further assistance and support and NGOs should be adequately trained and equipped to give this support.

108. In Greece, the CPT noted in its 2007 report that none of the staff in the centres visited were provided with any special training in working with foreigners from different cultures and backgrounds⁴⁵. In Turkey, the lack of training of staff and their regular rotation, has been identified as a particular problem, along with the lack of trained interpreters to help in all forms of communication⁴⁶.

109. Your rapporteur noted in particular the lack of cultural mediators, persons with both the language skills and cultural knowledge, in the different centres he visited. In Malta this task was largely left to detention officers to carry out. In Lampedusa, notwithstanding that there were 6 cultural mediators (each speaking Arabic and half speaking French and half speaking English) there was still an expressed need for more persons to work in this area and to cover other languages (such as Somali) as many persons do not speak Arabic or English or French.

110. The need for fully qualified staff is particularly important bearing in mind that many of the persons arriving on the boats are traumatised from their journeys, their experiences in their home countries or their experiences in countries of transit (Libya in particular). Many have faced exploitation and violence, including sexual violence, and are in need of special assistance. Violence and sexual and gender based violence may also be an issue in the detention centres and staff should be sensitised and trained to deal with these issues. Staff of National Societies of the Red Cross and Red Crescent can provide important support to the authorities and to the migrants, asylum seekers and refugees, and this is one of the reasons why it is important that they have access to the centres.

111. Your rapporteur noted that some staff working with irregular migrants and asylum seekers, consider the task a step down from other responsibilities in the prison or other services. Your rapporteur however considers that the qualities (human in particular) and skills (intercultural and other) required for looking after irregular migrants and asylum seekers are probably greater than those required for detaining criminals. It is therefore necessary to re-evaluation upwards the status and standing of those working with irregular migrants and asylum seekers.

⁴⁴ This incident was reported in the press and is also covered in the report of the Helsinki Citizens' Assembly on "Unwelcome Guests: The Detention of Refugees in Turkey's "Foreigners' Guesthouses"".

⁴⁵ CPT/Inf (2008) 3 para. 34.

⁴⁶ This has been raised by the Helsinki Citizens' Assembly, including in its report "Unwelcome Guests: The Detention of Refugees in Turkey's "Foreigners' Guesthouses".

112. Much greater training is needed for staff in the detention centres including psychological support for staff dealing with emotive and difficult issues linked to the arrival of migrants, asylum seekers and refugees. This training should be treated as a priority by the administrations concerned.

113. Linguistic barriers were problematic in all the centres visited by your rapporteur. There is therefore a clear need to ensure the recruitment of an adequate number of appropriate interpreters with the skills and sensitivities necessary to communicate with detainees.

XIV. Detention regimes

114. Your rapporteur is aware that detention regimes (vocational, educational, sporting, cultural or other recreational activities) need to be appropriate for the length of stay of inmates.

115. In Lampedusa recreational facilities were limited to televisions, balls for playing football and some reading materials (newspapers). A number of cultural, musical evenings were also organised from time to time.

116. In Malta almost no activities were offered to detainees. This was particularly alarming for your rapporteur in view of the length of detention of most detainees. Television appeared to be the main and perhaps only diversion for most inmates. Very few reading materials were apparent, and although there was access to the outside for most detainees, the opportunity for any sporting activities, such as football games, was limited. Your rapporteur understands that a new project on cultural orientation (language learning and cultural training) and vocational training will be offered in the future, but that this is dependent on assistance from IOM and funding from the European Union.

117. In the detention facility at Petru Rali in Athens, your rapporteur noted the lack of regime activities. This would appear to be a general problem in Greece as evidenced by the CPT⁴⁷ in its 2007 visit to Greece where it concluded that “there was no regime offering purposeful activities in any of the centres visited; no books, newspapers, or other reading material”.

118. From what your rapporteur has seen and experienced, far too few regime activities are offered to detainees. Not only do detainees need activities to help them pass the time of day, but they need activities to help them prepare for the day they leave the centres and either return to their countries of origin or are settled in their new host country. Within the regimes offered there needs to be much more scope for contacts with the outside world, including links with civil society actors who can offer support, advice, education, entertainment or other diversions. Your rapporteur considers that with minimum resources and with assistance from civil society, a range of regime activities can be introduced which will not only alleviate boredom, tackle lethargy and depression but also prepare inmates for their future.

119. In Turkey, there also appears to be few recreational facilities according to information available to your rapporteur⁴⁸.

XV. Health care

120. Your rapporteur was aware that the authorities in the countries he visited had taken steps to improve the health care available for irregular migrants and asylum seekers.

121. In Lampedusa as soon as the boats arrive in the port, Médecins Sans Frontières (MSF) provide an initial medical screening on the dock-side looking out for dehydration, hypothermia, traumas from burns, etc. They also look out for scabies, hepatitis and cater for the particular needs of pregnant women. Those in a serious condition are flown off the island by helicopter. There are however no formal tests for tuberculosis or HIV and your rapporteur understands that evaluations on health status are not forwarded on to subsequent reception and assistance centres, which is an issue needing attention.

122. In the new Centre, health care services have been greatly improved with a sick-bay (with a waiting room and a ward) serviced by 2 doctors and 2 nurses provided under a newly negotiated private contract.

⁴⁷ CPT/Inf (2008) 3 para. 33.

⁴⁸ Information obtained from the Helsinki Citizens' Assembly and its report on “Unwelcome Guests: The Detention of Refugees in Turkey's “Foreigners' Guesthouses”.

Furthermore MSF have also recently signed an agreement with the authorities allowing them access to the centre to provide additional assistance through the services of two extra doctors, a nurse and a cultural mediator. Your rapporteur understands however that MSF may leave the island in 2008 and if this is the case additional health care assistance will be needed.

123. In Malta your rapporteur was pleased to learn that health services had been improved through outsourcing to a private company with a doctor and a nurse available in the Lyster and Safi Barracks between 8.00am and 1.00pm every day. Your rapporteur however heard that the structure was under strain and there were complaints about the limited hours for consultations, the lack of pharmaceutical products available and delays in receiving these products. There were also complaints about delays in receiving treatment, including dental care. Inmates also reportedly had problems in communicating with the guards to let them know they needed treatment.

124. Your rapporteur understands that all persons in Malta are screened for TB and scabies. There is no screening for HIV, but if cases are found, the persons concerned are put on appropriate medication, although no counselling is available.

125. Médecins du Monde has recently produced a critical report⁴⁹ on health care and human rights in the centres in Malta. They have offered assistance to the Maltese authorities but this assistance has been turned down by the authorities who do not want to confuse the health care process by having different providers of health care. Your rapporteur considers that this offer of assistance should be reconsidered by the authorities and that there is great scope for strengthening the health care in the centres.

126. One other matter of concern to your rapporteur in relation to Malta is reports that detainees are handcuffed when they are taken outside the camp for medical or other treatment. This handcuffing of persons who do not represent a danger to the public is unnecessary except in extreme circumstances. This handcuffing furthermore serves to reinforce public fear and perception that these persons are criminals and are dangerous. Your rapporteur therefore urges the Maltese authorities to review its policy in relation to handcuffing and to keep the use of such measures to a strict minimum.

127. In Spain in the Canary Islands your rapporteur understands that all those accommodated in reception centres must undergo HIV tests, tuberculosis and hepatitis tests, x-rays and stool tests.

128. In Greece medical screening of new arrivals would not appear to be systematic. Furthermore only very limited health care is often provided and sometimes only by NGOs and not as a complement to public health care⁵⁰.

129. In Turkey, detainees have complained of lack of medical services and indifference of the authorities to requests for medical treatment. The cost of health care has also been identified as a problem⁵¹.

130. A common concern raised with your rapporteur in the countries he visited was the lack of psychiatric support for victims of torture and violence, including sex based violence. Staff has little training and interpretation may not always be available leading to the result that problems are not identified and not treated.

131. Your rapporteur notes that the level of medical screening and tests vary from one country to another. It is clear that a systematic screening process is needed in all countries to ensure that transmissible diseases are picked up and other emergency health concerns are identified. Adequate follow up needs to be assured for all diagnoses, including counselling for those who may for example be found to be HIV positive. Furthermore for those found to be HIV positive, confidentiality needs to be respected and considerations of ethics and non-discrimination need to be taken into account post diagnosis. More generally as levels of screening differ from one country to another, your rapporteur considers that agreed guidelines on minimum levels of screening could be useful for all countries concerned.

⁴⁹ Access to health care and human rights of asylum seekers in Malta. Experience, results and recommendations, November 2007, Médecins du Monde.

⁵⁰ For further information on this see the CPT Report on Greece, CPT/Inf (2008) 3 paras 35 to 36

⁵¹ See Helsinki Citizens' Assembly, "Unwelcome Guests: The Detention of Refugees in Turkey's "Foreigners' Guesthouses"."

XVI. Treatment of vulnerable persons

132. The potential list of vulnerable persons is long. Your rapporteur is pleased to note certain additional safeguards put in place for vulnerable persons by the authorities of the countries he visited. That said, there are still many steps that could be taken to improve the situation of vulnerable persons, and in particular steps for unaccompanied minors and safeguards against sexual and gender based violence.

133. In Malta unaccompanied minors, families with children, pregnant women, persons with special needs and the elderly are considered to be vulnerable groups. It can be welcomed that there is onward going discussion to add to this list victims of torture and sexual violence. Vulnerable persons are released from detention once it is established they are not suffering from a communicable disease such as TB. The delay however may be as long as 6 weeks and those with particular medical needs are not always included as vulnerable persons. The authorities are therefore encouraged to review the category of vulnerable persons and where it is necessary to keep them in detention, ensure that this is for a minimum period of time, in particular when pregnant women, babies and minors are concerned.

134. In Malta, the Organisation for Integration and Welfare of Asylum Seekers (OIWAS) has responsibility for vulnerable persons. Your rapporteur had the opportunity of visiting an open centre housing unaccompanied minors at Dar il-Liedna, Fgura. A separate part of the house also housed families with children. 18 unaccompanied minors were lodged in the house when your rapporteur visited. It was clean and tidy with ample space, sanitation and cooking facilities. The unaccompanied minors with whom your rapporteur spoke were relaxed and considered themselves well looked after and had the opportunity to follow some form of education. Staff was welcoming. Your rapporteur wishes to commend the authorities on the accommodation at Dar il-Liedna, although he understands that more could be done to prepare minors for their integration on leaving the centre.

135. Your rapporteur has specific concerns about the vulnerability of single women and wives with husbands who are housed together at the Lyster Barracks detention centre without separate sanitation facilities. This is a situation which needs to be addressed as soon as possible and separate sanitation and accommodation needs to be provided.

136. Italy has seen an increase in the arrival of minors and unaccompanied minors. Their age is determined by statements made by the minors. In case of doubt bone scans are carried out, with the consent of the minors. In Lampedusa they are kept in separate accommodation with the women before being sent to Sicily to stay in group homes.

137. In Spain, in the Canary Islands, the issue of unaccompanied minors has created some concern in the light of the recent report of Human Rights Watch entitled "Unwelcome Responsibilities, Spain's failure to protect the rights of unaccompanied migrant children in the Canary Islands (2007)". In this report there are allegations raised of ill treatment and bullying. Problems of age assessment (bone scans) are highlighted and the lack of information on rights and lack of confidential complaints mechanisms is criticised. Problems in relation to guardianship are also highlighted. Your rapporteur welcomes that a UNHCR – Save the Children seminar on Unaccompanied Minors was organised recently in Tenerife and that a follow up seminar is planned. This will contribute to solving some of the issues raised in the report of Human Rights Watch.

138. In Greece, according to the authorities a new accommodation centre for minors has been established in Amygdaleza in Attica. Further centres include the Minor's Hosting Centre in Anogeia in the area of Rethymno in Crete, the Greek Institute for Solidarity and Co-operation (ELINAS) in Athens, the Volos Child Care Association in the area of Volos and the Association for Minor's Care in Athens. The situation of unaccompanied minors has nonetheless become a particular concern for the Greek Ombudsman and local NGOs as facilities on many of the islands are not adapted to the reception needs of unaccompanied minors. Furthermore there are problems over the appointment of guardians and the lack of child welfare structures. A further concern notified to your rapporteur is the lack of care after unaccompanied minors are released. At Petru Rali detention centre in Athens your rapporteur had discussions with a number of unaccompanied minors awaiting deportation. In one instance he learnt that a young boy's mother was being detained in another detention facility in Greece. On raising this issue with the authorities they agreed to take steps to unite him with his mother.

139. In Turkey⁵² there are allegations that unaccompanied minors are regularly detained with adults and that when bone tests for age are carried out, no margin of error is allowed by the authorities in favour of minors. This allegedly leads to minors being wrongly identified as adults and being detained with adults. Furthermore, it is alleged that other vulnerable detainees, such as torture survivors and detainees with mental health problems have great difficulty accessing mental health services and specialised healthcare.

140. Your rapporteur considers that much greater attention should be paid to the issue of unaccompanied minors, their age assessment⁵³, their conditions of reception, safeguard of their rights, guardianship and preparations for their coming of age. Your rapporteur considers it important for the Assembly to examine the issue further building on the work of the Assembly in Recommendation 1703 (2005)⁵⁴ on Protection and assistance for separated children seeking asylum.

XVII. Access to the Centres and monitoring of the Centres

141. Allowing access to the centres by NGOs (medical, legal, social, etc.), international organisations (UNHCR, IOM, etc.), National Societies of the Red Cross / Red Crescent, monitoring bodies (ombudspersons, human rights commissions, parliamentarians, independent monitoring boards, etc.) and the media are essential not only for transparency but also for accountability.

142. Your rapporteur has noted a growing transparency by authorities in the period in which he has researched and prepared his report.

143. In Lampedusa, for example, organisations such as UNHCR, IOM and the Red Cross did not originally have direct access to the old Centre. Since 1 March 2006 under the "PRAESIDIUM I" project, co-funded by the European Union ARGO programme and the Italian Interior Ministry, UNHCR, IOM and the Italian Red Cross have been granted access and are now provided with offices in the Centre which greatly facilitate their work and ensure complete transparency in the handling of the irregular migrants and asylum seekers⁵⁵. In concrete terms, UNHCR provides advice on asylum and distributes leaflets in at least 8 different languages. IOM provides information on migration in general and provides legal advice and support to vulnerable groups, including those who may find themselves in Italy in a vulnerable situation (those in an irregular situation needing healthcare, etc.). The Italian Red Cross concentrates on ensuring adequate health conditions, identifying unaccompanied and accompanied minors and providing women and minors with information and socio-sanitary assistance. Italian parliamentarians have access to the Centre in Lampedusa and a network of benevolent lawyers (ARCI) are also regularly given access. Médecins Sans Frontières (MSF) also has access to the Centre. Having these different organisations working together helps in identifying the background and needs of arrivals and should be taken as good practice for other states to follow.

144. In Malta there is not the same level of access allowed to outside organisations. On giving notice to the authorities UNHCR and IOM can have access to all the centres. Certain NGOs such as Médecins du Monde have not been given continuing access. For those organisations that do have access a practical problem exists, namely that there is a lack of appropriate office space for these organisations to work and meet with detainees.

145. Your rapporteur understands from the authorities in Malta that the presence of NGOs in the centres is erratic. From the discussions your rapporteur had with inmates in the centres it was clear that they needed to have much more contact with the outside world. The authorities should therefore explore with NGOs how to improve the level of access of NGOs to these centres.

146. In the Canary Islands in Spain your rapporteur understands that UNHCR carries out regular missions to the different centres but does not have a permanent presence on the islands. NGOs also

⁵² Information from the Helsinki Citizens' Assembly and the report on "Unwelcome Guests: The Detention of Refugees in Turkey's "Foreigners' Guesthouses".

⁵³ The bone scans have been criticised as they do not take into account the different living conditions and diet of minors in other countries outside of Europe which affect the concentrations of calcium. There have been calls to elaborate more appropriate and specific tables for African populations.

⁵⁴ See also Doc 10477 report of the Committee on Migration, Refugees and Population, rapporteur: Mr van Thijn.

⁵⁵ Since 7th June 2007 a roving team of the same organisations, under the "PAESIDIUM II" project, have been carrying out similar activities on the island of Sicily at the three holding centres in Trapani, Caltanissetta and Siracuse.

have access but have in the past complained⁵⁶ about the difficulties they face in entering the centres. The recent access of a specialised asylum NGO would appear to have improved the situation, but this should be monitored further.

147. In Greece a particular problem appear to be the lack of monitoring mechanisms for detention centres, particularly in the border regions. UNHCR conducted a total of 21 visits in 2007 (9 by UNHCR staff and 12 by the UNHCR Border Monitoring Officer). The central authorities however are reportedly not well informed and rarely visit these facilities⁵⁷. NGOs access to detention centres is not guaranteed and practice varies from one centre to another as there are no regulations on the issue. Access of NGOs is particularly important as state legal aid is not provided and NGOs try to provide legal assistance when they can have access to detainees. Your rapporteur is pleased to note that there are plans for the Greek Ombudsman to carry out inspections of detention centres and hopes that he will be given such a mandate as soon as possible.

148. In Turkey there appears to be very limited access to the detention centres, which explains the little information available on the conditions in detention. As your rapporteur has already highlighted earlier in this report, greater access needs to be given to these centres to ensure transparency in the operation and functioning of these centres.

149. Your rapporteur considers that it is important that the media also have access to the centres on a regular basis. Greater transparency is essential for the process of improving the living conditions of detainees and also making the public aware of the hardship and difficulties faced by detainees. It will also help mobilise civil society to provide greater support for the material needs, recreational activities and external human contacts of those in detention. This access by the media should not however be at the expense of the right to privacy of those in detention.

150. In the same light, your rapporteur considers it important that national parliamentarians are also aware of conditions in the centres and have access and visit the centres. Your rapporteur also encourages visits by ombudspersons and national human rights commissions or other dedicated independent monitoring boards. He welcomes in this respect the news that the Government of Malta has agreed to establish an Independent Monitoring Board for this very purpose.

XVIII. Return of persons found not to be in need of international protection

151. Your rapporteur is acutely aware of the difficulties faced by receiving countries to return irregular migrants who do not have international protection needs. While the numbers of persons being returned by some countries is relatively high, with Spain for example repatriating a total of 76,000 persons in 2006, this should not mask the difficulty faced in returning certain nationals. Countries such as Malta have particular problems in organising returns as they do not have the same political weight and diplomatic links as countries such as Italy or Spain.

152. Returns to Libya, the major country of transit for arrivals to Malta and Italy (Lampedusa) are particularly problematic. From the testimonies heard by your rapporteur from persons arriving from Libya along with concerns raised by UNHCR and a range of NGOs, there are significant human rights problems and concerns involved in returning persons to Libya.

153. For Greece the issue of returns to Turkey also poses problems notwithstanding that a Protocol on returns entered into force between the two countries in 2002. This Protocol is not fully operational and there is no provision for exempting asylum seekers from its implementation⁵⁸. The return process works both ways, although Greece seeks to return many more persons to Turkey than Turkey seeks to return to Greece.

154. In relation to Turkey, your rapporteur would like to raise concern about a reported incident on 23 April 2008 at the border between Turkey and Iraq in Sirnak Province. Four persons drowned when they were allegedly forced to swim across the river border by the Turkish authorities as part of an attempt to

⁵⁶ See the Report from the LIBE Committee Delegation on the Visit to Tenerife and Fuerteventura PV\624385EN.doc.

⁵⁷ See Unexpected Large Scale Arrivals of Migrants and Asylum Seekers in Greece, Panagiotis Papadimitriou, AS/Mig/Inf (2008) 04.

⁵⁸ For further information from the Greek authorities concerning the operation of this Protocol see Unexpected Large Scale Arrivals of Migrants and Asylum Seekers in Greece, Panagiotis Papadimitriou, AS/Mig/Inf (2008) 04

return a mixed group of irregular migrants and refugees to Iraq. The alleged steps taken by the Turkish authorities raise numerous human rights and refugee concerns which need to be investigated by the Turkish authorities.

155. The use and success of assisted voluntary return in the countries examined would appear to be very limited, notwithstanding the efforts of the International Organization for Migration (IOM). In Malta, IOM, which has only recently opened its office, has negotiated only one case of assisted voluntary return, but is working on other cases. The sums offered as an incentive are low and fixed at 500 Euros. In Turkey the numbers are higher with 197 persons⁵⁹ assisted in co-operation with IOM in 2006. In Greece, there are only limited resources for voluntary return. In the opinion of your rapporteur, there remains much more scope for the use of assisted voluntary returns in the future.

156. Frontex has a mandate to assist in joint return operation of third country nationals and has for example worked on identifying best practices on the acquisition of travel documents and the removal of illegally present third country nationals. Much progress is needed on the returns process, both in terms of voluntary and forced returns, but this is a process that requires the co-operation of countries of origin, transit and destination.

XIX. Relocation and responsibility sharing

157. Relocation and responsibility sharing of those with international protection needs rarely takes place in Europe. The burden falls on receiving countries to settle refugees and those with international protection needs. Malta is in a particularly difficult situation because it is a small island with a small population. A few countries such as Germany, Ireland, Lithuania, Portugal and the Netherlands have stepped in to offer relocation possibilities for a number of persons and the United States has recently offered to take 200 persons.

158. Your rapporteur considers that member states of the Council of Europe could reasonably be expected to share the responsibility with Malta by relocating some of those with international protection needs. Your rapporteur is aware of the argument from certain countries that relocation could act as a pull-factor for further waves of irregular migration. This however does not appear to be a major risk at the moment as levels of relocation are negligible.

159. Your rapporteur also makes reference in this respect to Assembly Resolution 1569(2007) on Assessment of transit and processing centres as a response to mixed flows of migrants and asylum seekers⁶⁰. In this Resolution responsibility sharing is called for. Furthermore, there are valid reasons for considering the creation in Malta of a processing centre with a view to organising on a European level, either settlement in Malta or relocation in Europe, or return of those without international protection needs.

XX. The use of open centres for irregular migrants and asylum seekers

160. In Spain, Italy and Greece after the maximum periods of detention have passed and if irregular migrants can not be returned to their country of origin they are released with orders to leave the country. While civil society may give some support to these irregular migrants on their release, they are not taken in charge directly by the authorities for accommodation or other support. In Spain for example, since 2006, five NGOs have programmes funded by the government to offer temporary accommodation for up to two weeks. It would however appear that the majority of persons leave the accommodation after a couple of days.

161. In Malta the situation differs in so far as those released from detention, who can not be returned, have nowhere to go and nowhere to stay. The authorities therefore run a number of open centres where basic accommodation is offered to irregular migrants, refugees and those with some other international protection status. Those with work must pay a contribution towards the accommodation. Those that do not work receive accommodation free of charge and receive a small allowance for food.

⁵⁹ These persons were all victims of trafficking, although steps are being taken to encourage voluntary returns for other irregular migrants inviting them to return and then use legal channels for migration.

⁶⁰ See also the report on this issue by Mrs Corien Jonker (Netherlands) Doc. 11304

162. The Maltese authorities indicated out of approximately 2,000 persons in open centres, half of these persons are housed under canvas. The authorities are constantly having to increase the capacity of these open centres in order to cater for new arrivals and to ensure that those who wish to remain may do so.

163. Your rapporteur had the possibility of visiting the Hal Far Tent Village which is one of the open centres providing accommodation to 700 to 800 persons under canvass. This Centre provides accommodation mostly for males although there are some couples living in this "Tent Village". There are separate sanitation facilities for men and women and a new catering block was under construction when your rapporteur visited. A small cafeteria also under canvas exists providing meals for those who do not want to cook for themselves. There are 20 to 24 persons accommodated in each tent (by comparison to more than 40 persons per tent in the detention centre). The contrast between the conditions in detention under canvas and the conditions in the open centre under canvas are marked. Residents are free to come and go, they are not cramped together in the same way as in detention, sanitary facilities are much better and the authorities were even considering handing over the upkeep of the sanitation facilities to a private contractor. This however should not detract from the difficulties of living under canvas and being cold in the winter and hot in the summer and the lack of privacy and space in the tents. Furthermore the Hal Far Tent Village is far from sources of work, health care and administration which makes living that much more complicated.

164. In principle the authorities would like the residents to move out of the open centres after 1 year. In practice this is difficult for many of the residents and some have been there for 4 years due to the lack of alternative accommodation.

165. Your rapporteur also visited a charity based centre ("the Good Shepherd House") run by the Emigrants' Commission. The Commission is responsible for 14 homes with some 400 beds. The facilities are well run and well looked after by residents and staff. Most residents are able to find some form of work and while much of the living is communal, with persons sharing rooms and dormitories, it is comfortable and homely. Residents are encouraged to remain active and children are reported to be integrating well. Residents are encouraged to move out as soon as they can as demand is great for places.

166. A number of conclusions can be drawn by your rapporteur. Conditions in the open centre at Hal Far are far from ideal with only limited facilities and rudimentary accommodation available under canvas. The conditions in the Hal Far Tent Village are however much more acceptable than those in detention and they are clearly a much better alternative than destitution for those released from detention.

167. The contrast between the Hal Far Tent Village and the charity based centres run by the Emigrants' Commission also represent a major contrast, with the latter offering far better levels of accommodation, and providing a setting which encourages residents to move forward with their lives, find work and improve their lot in life.

168. Your rapporteur is aware that the open centre accommodation is supposed to be for a limited period of time. There is however a bottle-neck as persons in this accommodation find it difficult and are reluctant to move out. Private accommodation is extremely difficult to find and it is reported that the local population is reluctant to rent accommodation to migrants, refugees and asylum seekers. Furthermore employment to support the cost of private accommodation is limited and not always secure.

169. While the authorities can be applauded for providing basic reception facilities for all persons once they leave detention, accommodation is extremely basic. Steps are needed to integrate into Maltese society persons living in the open centres. The population in open centres is growing and there are limited possibilities for the residents to find work and leave these centres. There is a need for social housing for those who have international protection status and who will remain in Malta. There is also a need for integration measures, including language training, notwithstanding that the authorities have found little take-up in the past in their offers for this training. A much larger pool of jobs, not only limited to cleaning and construction, is needed for those released from detention.

170. Your rapporteur understands that Turkey has been granted 47.5 million Euros for building reception, screening and accommodation centres⁶¹. It is not yet clear whether these centres are to be open or closed centres. In the planning of these centres, your rapporteur encourages the authorities to make sure that they are constructed taking into the standards developed by the European Committee for the Prevention of Torture (CPT), UNHCR and other international bodies.

XXI. Racism and intolerance

171. Your rapporteur is aware that there has been a great deal of generosity and support from local communities hosting irregular migrants and asylum seekers. This support has, as time has progressed, been matched and in certain instances surpassed by a growing level of hostility, xenophobia and racism, not only in the receiving communities but also in the wider national communities.

172. This hostility has also spread across Europe with the public perception, influenced by the media and many politicians, being that Europe is “flooded” by “wave after wave” of “illegal migrants”. Your rapporteur does not underestimate the challenge of dealing with this flow of irregular migrants and asylum seekers but considers that it should be put into perspective. The number of boat arrivals are few in comparison with the number of persons entering Europe by other means (such as through holiday visas, student work programmes, etc.) and then overstaying and lapsing into an irregular status. Media and politicians should therefore take care not to exaggerate the fears surrounding these arrivals as they only serve to heighten racism, intolerance and xenophobia.

173. Your rapporteur when visiting Lampedusa found that the local Italian population and local politicians were particularly concerned by the impact the boat arrivals were having on the local tourist economy. They were concerned that the image of the island risked being tarnished by the irregular migrants and asylum seekers. There was also concern that the irregular migrants and asylum seekers were being better catered for than the local population in some respects (such as in terms of health care).

174. In Malta the situation is particularly acute, a matter recognised by the authorities and reported on by Amnesty International in its 2007 Report on Malta⁶². The extremely worrying arson attacks in 2006⁶³ which took place on those working to protect the rights of migrants and asylum seekers, have fortunately not been repeated in 2007, but your rapporteur remains concerned at the very high level of hostility which exists in Maltese society towards migrants and asylum seekers and refugees. Your rapporteur found that in almost all his discussions in Malta, whether at a political level, with university students, with people on the streets, there was a hostility which could sometimes be classified as racist or xenophobic. Malta, along with many other countries in Europe, needs to pay much more attention to tackling the high levels of hostility, xenophobia and racism in society.

175. Your rapporteur believes that the media and parliamentarians in the different countries concerned have a particular responsibility for avoiding racism and intolerance. He considers that they should consider adopting their own guidelines to avoid racism and intolerance.

176. For the general public, information campaigns and human rights awareness programmes would help tackle the high incidence of racism and xenophobia in the societies most affected by the arrival of these irregular migrants and asylum seekers.

XXII. Asylum claims

177. Across Europe the number of asylum claims fell significantly from 2001 to 2006 although started to rise again in 2007. There is almost certainly a correlation between falling numbers of arrivals and falling numbers of asylum seekers as those with international protection needs find it increasingly difficult to enter Europe and access asylum processes.

⁶¹ Report on unexpected large scale arrival of migrants and asylum seekers in Europe. The case of Turkey by Dr Basak Kale. AS/ Mig/Inf (2008) 03.

⁶² Amnesty International Report 2007, the state of the world's human rights.

⁶³ These attacks were directed against the editor of a newspaper, a journalist, a poet and a lawyer working with the Jesuit Refugee Service. Cars belonging to the Catholic Church's Jesuit Community were also destroyed by fire at night

178. One of the consequences of this is that countries of transit will increasingly have to strengthen their refugee status determination procedures to deal with asylum claims. Furthermore, as Europe becomes increasingly difficult to reach, other solutions for giving asylum seekers access to asylum processes will need to be found. One solution could be the processing of asylum claims in country by third country Consulates or Embassies. An analysis of the limited experience to date of this processing should be considered.

179. Another problem which will arise is how to deal with asylum claims when a large boat is intercepted for example in the context of a Frontex operation? Where are the persons to be processed and where are they to be taken? This issue ties in to the concerns raised in the Assembly's Resolution 1569 (2007) on Assessment of transit and processing centres as a response to mixed flows of migrants and asylum seekers⁶⁴.

180. Your rapporteur recognises the efforts made by states, by UNHCR and by NGOs to ensure that asylum seekers in the region receive information and have access to a procedure to determine if they are entitled to refugee or other international protection status. Notwithstanding the efforts made, there remain problems which your rapporteur would like to identify. There are very disparate numbers of persons claiming asylum from one country to another. There are also differing acceptance rates, depending on the type of protection and the level of the hearing (first instance versus appeal). There are problems of access to a lawyer, availability of legal aid and access to interpreters.

181. In Malta, according to the Refugee Commissioner, about 70% of persons apply for asylum and about 47% of persons obtain humanitarian protection. Approximately 3 % receive refugee status.

182. All persons receive an entitlement paper and an information booklet from UNHCR and a local NGO the Jesuit Refugee Services (JRS), translated into different languages. In practice, those in detention have limited opportunities for contact with UNHCR and JRS for help with their claims. This matter was raised with your rapporteur by a number of persons in detention. The problem of access to the centres by NGOs and others has already been mentioned earlier in the report.

183. Your rapporteur is aware that everyone in Malta has the right to engage their own lawyer but free legal aid is not available, except on appeals. According to information gathered by your rapporteur the quality of legal aid on appeals is poor and there have been no successful appeals up to the time of your rapporteur's visit.

184. Other problems also need highlighting, namely the length of processing claims, the low acceptance rate for refugees and the lack of appeal for those with humanitarian status. On a more positive note, UNHCR has declared itself relatively happy with the asylum process. Steps are being taken to speed up the asylum process, prioritise cases and recruit further staff to work on asylum claims. It should also be noted that the proportion of persons granted humanitarian status appears high and generous.

185. The profile of persons arriving in Lampedusa are similar to those arriving in Malta, however according to statistics for 2006 obtained from UNHCR only a third of persons arriving by sea claim asylum. In 2006, 10,348 asylum applications were submitted with almost 47% of applicants receiving protection (8.5 % as refugees and 39.1% as beneficiaries of humanitarian protection). Top of the list was Eritrea (2,151 applications), followed by Nigeria (830), Togo (584), Kosovo (565) and Ghana (530). On arrival in Lampedusa all persons are provided with information on the centre as well as an information leaflet from UNHCR translated into various languages explaining how to claim asylum.

186. In Spain the number of persons seeking asylum is relatively low. In 2006 there were 5,297 asylum applications but only 360 applications came from the Canary Islands. Of the 4,286 decision taken throughout Spain on asylum claims in this period, 168 persons were recognised as refugees (3.9%) and 188 (4.4%) were given complementary protection. In 2007 the number of asylum applications in the Canary Islands rose to 655, in part because of the access to the centres by an asylum specialised NGO providing legal orientation and assistance.

187. Your rapporteur understands from UNHCR that the authorities in Spain have a positive and constructive approach to asylum and that effective access to asylum procedures is available to asylum

⁶⁴ See also the report on this issue by Mrs Corien Jonker (Netherlands) Doc. 11304.

seekers who receive information in a number of different languages. There are however concerns over the quality of legal advice provided to asylum seekers. Two types of assistance are offered, the first is by the local Bar Associations. This has been referred to as a “mirage on the legal assistance of asylum” with lawyers not normally even meeting their clients. The second type of assistance is provided by specialised NGOs, which is reported to be of better quality, although not yet satisfactory. Your rapporteur understands that steps are being taken to address these concerns following a critical report of the Ombudsman, and a specialised course has now been run for the General Bar Association. Another problem raised is the difficulty for NGOs to have access to the different centres so as to be able to offer legal advice. As mentioned earlier access has now been given to a specialised NGO providing legal assistance in the Canary Islands and this has improved the situation. Furthermore Asylum Information Leaflets are distributed to all arrivals, in accordance with advice from UNHCR.

188. A particular concern for your rapporteur is the small number of persons seeking asylum after arriving in the Canary Islands⁶⁵. The issue is complicated as it is not simply a question of lack of access to the asylum process, but is influenced by an alternative choice facing arrivals. The alternative is to not seek any status and hope that deportation can not take place (for example because of the lack of a return agreement with the country of origin or because of lack of proof of identity and nationality of the person concerned). After 40 days in detention the person concerned would have to be released and could then move onwards in Spain or Europe seeking work as an irregular migrant.

189. In Greece information bulletins concerning rights of irregular migrants are, according to the Greek authorities, made available in 14 languages in all reception and detention centres. Furthermore there have recently been new efforts to make sure that asylum seekers are provided with information prepared by UNHCR and the Ministry of Interior in 6 different languages⁶⁶. UNHCR nevertheless reports problems in the proper dissemination of this information. Interpretation appears to be a major problem in border areas⁶⁷, state-run free legal aid is not available⁶⁸ and there is little voluntary legal assistance from private lawyers or other sources. Your rapporteur is also concerned by reports that persons are dissuaded from applying for asylum through the threat of detention. For those that do apply for asylum very few obtain it as Greece has one of the lowest acceptance rates in Europe⁶⁹. In 2006 there were 12,267 asylum requests and only 64 persons were awarded refugee status and 63 persons were awarded humanitarian status. In 2007 by contrast there were 25,113 asylum requests, 140 persons were awarded refugee status and 23 persons were awarded humanitarian status⁷⁰. Very few of these cases were lodged in the border areas, confirming concerns that persons in these areas are not able to access asylum procedures.

190. Your rapporteur notes that Turkey has maintained the geographical limitation for non-European asylum seekers, notwithstanding that it has signed and ratified the 1951 Convention and its 1967 Protocol. Non-European asylum seekers, even if they receive refugee status, have no permanent status and have to be resettled to third countries with the assistance of UNHCR. Your rapporteur considers that Turkey should lift the geographical limitation to allow both refugee status determination and settlement in Turkey for all persons without distinction as to their geographical origin. Furthermore additional steps need to be taken to make sure that asylum seekers receive adequate information about their rights and have access to the existing asylum process.

191. Your rapporteur wishes to highlight the need for states to recognise their special obligations towards asylum seekers and refugees under international law and in particular under the United Nations Refugee Convention and more recently under EU refugee legislation⁷¹. Competent state organs,

⁶⁵ Your Rapporteur notes that some asylum applications are made following transfer to the mainland from the Canary Islands, but the statistics on applications remains nonetheless low.

⁶⁶ For further information on these issues raised, see Unexpected large scale arrivals of migrants and asylum seekers in Greece, Papadimitriou, AS/Mig/Inf (2008) 04.

⁶⁷ According to the Greek authorities, they have received very few complaints about lack of or inadequate legal aid.

⁶⁸ According to the Greek authorities, under new legislation, conditional legal aid is available while asylum applications are being processed at second instance.

⁶⁹ Your Rapporteur understands that staff charged with examination of asylum claims have been trained and attended seminars carried out with the co-operation of UNHCR and the National Centre of Public Administration.

⁷⁰ In 2007 a total of 20,692 cases were examined and only 8 persons were awarded refugee status. In the second instance, 6,448 cases were examined and 132 persons were awarded refugee status. All 23 awards of humanitarian status took place at second instance.

⁷¹ See in particular Council Directives 2003/9/EC (on minimum standards of reception), 2004/83/EC (the “Qualifications Directive”) and 2005/85/EC (the “Procedures Directive”).

especially in border areas, as well as lawyers involved in asylum claims have a particular role in assuring that asylum seekers can claim and enjoy their rights, and in particular those linked to the right to asylum.

XXIII. Conclusion

192. Your rapporteur has tried to give a picture of the situation of large scale arrivals on Southern European shores, providing a number of concrete examples of problems and practice. The issue is fluid and changing, year by year, but your rapporteur has noted many improvements in the approaches of governments, international organisations and NGOs in the period that he has been preparing the report.

193. States are better organised and willing to devote more resources, even if much more still needs to be done, particularly in Malta and in Greece. Partnerships between the authorities, international organisations such as UNHCR and IOM and NGOs are showing improved results. Procedures are being strengthened to ensure that persons are able to claim asylum or other form of subsidiary protection, even if there remain important concerns about the level, availability and effectiveness of legal representation. Some forms of international co-operation and responsibility sharing are taking place, in particular under the wing of the European Agency Frontex, but much more needs to be done to share responsibility, including relocation where appropriate.

194. Some of the conditions in detention however remain deplorable and the lengthy detention practiced in Malta is simply too long. Too many persons are losing their lives crossing into Europe and there is worrying evidence that ship's masters and even naval authorities are not always complying with their obligations to search and rescue persons in distress.

195. The Council of Europe can make an important contribution to the problematic of large scale arrival of irregular migrants and asylum seekers. It can, *inter alia*, assure that reception and detention conditions meet European human rights standards, that border officials, lawyers and others in contact with asylum seekers and irregular migrants are properly trained, that access to the asylum process is guaranteed, that legal aid is available, that the needs of vulnerable persons, including unaccompanied minors, are catered for.

196. Your rapporteur was greatly assisted in his work by the openness of the authorities of the different countries he visited. While he has levelled some harsh criticism in this report, it is hoped that it can be for the benefit of all the countries concerned as well as for the benefit of individual migrants and asylum seekers who will continue to land on Europe's Southern shores.

Reporting committee: Committee on Migration, Refugees and Population

Reference to committee: Doc. 11004, Ref. 3274, 2.10.2006

Draft resolution and draft recommendation unanimously adopted by the committee on 19 May 2008

Members of the committee: Mrs Corien W.A. **Jonker** (Chairperson), Mr Doug **Henderson** (1st Vice-Chairperson), Mr Pedro Agramunt (2nd Vice-Chairperson), Mr Alessandro **Rossi** (3rd Vice-Chairperson), Mrs Tina Acketoft, Mr Ioannis Baniias, Ms Donka Banović, Mr Italo Bocchino, Mr Jean-Guy **Branger**, Mr Márton Braun, Mr André **Bugnon**, Lord Burlison (alternate: Mrs Claire **Curtis-Thomas**), Mr Mevlüt Çavuşoğlu, Mr Sergej Chelemendik, Mr Christopher Chope (alternate: Mr Bill **Etherington**), Mr Boriss **Cilevičs**, Mrs Minodora **Cliveti**, Mr Telmo Correia, Mr Ivica Dačić, Mr Joseph Debono Grech, Mr Taulant Dedja, Mr Nikolaos **Dendias**, Mr Mitko **Dimitrov**, Mr Karl Donabauer, Mr Tuur Elzinga, Mr Valeriy **Fedorov**, Mr Oleksandr Feldman, Mme Doris Fiala, Mr Paul Giacobbi (alternate: Mr Denis **Jacquat**), Mrs Gunn Karin Gjøl, Mrs Angelika Graf, Mr John **Greenway**, Mr Tony **Gregory**, Mr Andrzej Grzyb (alternate: Mr Tomasz **Dudziński**), Mr Michael Hagberg, Mrs Gultakin **Hajiyeva**, Mr Davit Harutyunyan, Mr Jürgen Herrmann, Mr Bernd Heynemann, Mr Jean Huss, Mr Ilie **Ilaşcu**, Mr Tadeusz **Iwiński**, Mr Mustafa Jemiliev, Mr Tomáš Jirsa, Mr Reijo Kallio, Mr Hakki Keskin, Mr Egidijus Klumbys, Mr Ruslan Kondratov (alternate: Mr Ivan **Savvidi**), Mr Dimitrij Kovačič, Mr Andros Kyprianou, Mr Geert Lambert, Mr Massimo Livi Bacci, Mr Younal Loutfi (alternate: Mrs Aneliya **Atanasova**), Mr Andrija Mandić, Mr Jean-Pierre Masseret, Mr Slavko Matić, Mr Giorgio **Mele**, Mrs Ana Catarina **Mendonça**, Mr Gebhard Negele, Mr Hryhoriy Omelchenko, Mr Morten **Østergaard**, Mr Alexey Ostrovsky, Mr Grigore Petrenco, Mr Cezar Florin Preda, Mr Gabino **Puche**, Mr Milorad Pupovac, Mrs Mailis **Reps**, Mrs Michaela Sburny, Mr André **Schneider**, Mr Samad Seyidov, Mr Steingrímur J. Sigfússon, Mrs Miet Smet (alternate: Mr Daniel **Ducarme**), Mr Giacomo **Stucchi**, Mr Vilmos Szabó, Mrs Elene Tevdoradze, Mr Tuğrul **Türkeş**, Mrs Özlem **Türköne**, Mrs Rosario Velasco García, Mr Michał **Wojtczak**, Mr Andrej Zernovski, Mr Yury Zelenskiy, Mr Jiří Zlatuška, ZZ..., ZZ....

N.B.: The names of the members who took part in the meeting are printed in **bold**.

Secretariat of the committee: Mr Lervik Mr Neville, Ms Karanjac, Ms Odrats.