

COMMENTAIRES DE LA PART DES AUTORITÉS NATIONALES MALTAISES SUR LE TROISIÈME RAPPORT DE L'ECRI SUR MALTE

L'annexe qui suit ne fait pas partie de l'analyse et des propositions de l'ECRI concernant la situation à Malte.

L'ECRI rappelle que l'analyse figurant dans son troisième rapport sur Malte est datée du 14 décembre 2007 et que tout développement intervenu ultérieurement n'y est pas pris en compte.

Conformément à la procédure pays-par-pays de l'ECRI, le projet de rapport de l'ECRI sur Malte a fait l'objet d'un dialogue confidentiel avec les autorités maltaises. Un certain nombre de leurs remarques ont été prises en compte par l'ECRI, qui les a intégrées à son rapport.

Cependant, à l'issue de ce dialogue, les autorités maltaises ont demandé à ce que leurs points de vues suivants soient reproduits en annexe du rapport de l'ECRI.

Reply by the Government of Malta to ECRI's Third Report

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Strasbourg, 4 March 2008

Executive summary

ECRI's third report shows disregard of Malta's vital national interests and disrespect towards its democratic institutions, including parliament, the judiciary and the free press.

The report falls short of accepted standards of impartiality and is unconvincing in its claim that it "was drawn up by ECRI". For example, it criticises the detention centres at length and in detail, even though the ECRI mission did not take up an offer to visit them.

A close and attentive reading indicates that ECRI did not independently verify second-hand information provided by a few militant NGOs.

The report makes more than 30 references to anonymous sources ("it has been reported that ...") and unnamed NGOs ("civil society organisations have stressed ..."). It contains numerous errors and allegations which are unsupported by evidence. These are identified in the present reply.

In contrast, this reply includes (Section III) the testimonies of the Commander of the detention centres, the Refugee Commissioner, the Executive Director of the National Equality Commission, a psychotherapist and the Chairman of the Refugee Appeals Board. They correct and contradict many statements made in ECRI's report.

Parts of the report are confrontational, patronizing or moralizing in tone. Most of the recommendations (which cover 52 paragraphs) do not fit Malta's particular circumstances.

The Maltese Government regrets that such a blatantly biased and superficial report cannot serve any constructive purpose.

I. General comments

Disregard of Malta's vital national interests

1. In its report, ECRI fails to focus on the root cause of the crisis Malta is facing as a result of illegal immigration, namely, the illegal departure from Libya of boats carrying

migrants from North and sub-Saharan Africa intending to enter Italy illegally and settle in mainland Europe. **Their desired destination is often the former colonial power of the country of origin.** Some end up in Malta after being rescued by Maltese military personnel, when in distress or feigning distress, or as a result of some accident. Sometimes traffickers in human beings travel in a large vessel and at night offload small boats with about 27 persons each. More than 90 per cent of arrivals are young men. Annual arrivals have equalled 0.5 per cent of Malta's population. The country's density of 1250 inhabitants per square kilometre is the highest in Europe and one of the highest in the world. Unless stopped, the inflow will be unending. Legal constraints inhibit the transfer of illegal immigrants to other countries.

2. Malta has a sovereign right and the government has a duty to protect the country's borders. The vital necessity of border control is not mentioned at all in ECRI's report. Malta has to some degree obtained the European Union's help to patrol its borders, also the EU's southernmost borders. The northbound flow has been somewhat moderated by FRONTEX patrols which have only recently been launched and not yet reached their full potential. Southern European states hope FRONTEX will in time attain its declared purpose of keeping migratory flows within the bounds of the law. Indeed, Malta welcomes the agreement Italy and Libya announced in December 2007, providing for patrols off the Libyan coast, and looks forward to concluding soon a Search and Rescue agreement with Libya. **ECRI's report fails to commend efforts by Malta and the EU to strengthen border controls and stem the problem at its source.** This failure is particularly glaring as the report makes a large number of recommendations, most of them inapplicable in Malta's particular circumstances.
3. International law recognises the right of each state to determine which foreign nationals may enter and remain in its territory, and to return those it refuses to their countries of nationality, but the report fails to consider the option of the illegal immigrants' repatriation. In addition, most of these countries have an ad hoc duty to take back their nationals under agreements with the EU. It is difficult to enforce the corresponding rights when immigrants destroy their documents and their countries refuse to issue new ones to evade their obligations. It is, therefore, deplorable that **ECRI fails to commend the legal option of return and to urge the countries of origin to comply with their international legal duties.** This is particularly serious as many laws are cited by the report to highlight Malta's real or supposed obligations.
4. In addition, the report is lukewarm in supporting Malta's appeal to other countries to share the burden of illegal immigration. In paragraph 31 it describes burden-sharing as the position of the Maltese authorities; in paragraphs 32 and 60 it describes as crucial efforts by other countries to support Malta. But at no point does it make any recommendations regarding burden-sharing. In addition, **the report does not condemn UNHCR's opposition to Malta's demarches to other EU countries to include refugees from Malta in annual quotas agreed with UNHCR.** In view of the above considerations, the Maltese government regrets that ECRI's report shows serious disregard of Malta's vital national interests.

Disrespect towards Maltese democratic institutions

5. The Maltese people have a strong sense of ownership of their deep-rooted democratic institutions. At the last general elections in March 2008, 93 per cent of voters went to the polls. The two main parties - representing the Government and the Opposition - together obtained 98 per cent of valid votes cast and all the seats in the House of Representatives. The Constitution provides for the separation of powers and guarantees

fundamental rights and freedoms. In view of this, the Maltese government deplores the disrespect that the report shows towards Parliament, including both Government and Opposition; the independence of the judiciary; the police; press freedom ... The only institutions which seem to find favour with the report are NGOs, which in most cases are not identified.

Parliament

6. The report remarks that “irregular immigration and policies to meet the challenges posed by it are ... issues on which political parties in Malta hold substantially identical views” (paragraph 121). Political parties agree that this is a national problem which has reached crisis proportions and they realise the need for a national consensus to face up to it. The report conveniently omits to state that Malta’s policies on illegal immigration have the overwhelming support of the electorate. Parliament and the Government represent and execute the electorate’s will. There is, therefore, no room for the report’s patronizing and moralizing tone in paragraphs 107-128 where it tells the Maltese authorities how to govern. The Government takes exception to the sweeping and gratuitous statements made therein and does not think ECRI should advise it to go against the will and interests of the Maltese. It can guarantee that Maltese governments will always safeguard the interests of the people, as expressed in free, fair and democratic elections.
7. The report appropriates the right to recommend what subjects should be debated by Parliament (paragraph 127) and claims to know better than the Maltese authorities what would be “more ... beneficial for Malta” (paragraph 111). Referring to equal treatment legislation (paragraph 18), it states: “ECRI notes ... that virtually no publicity has been given by the Maltese authorities to such legislation ...” This is an unacceptable judgement on the legislative process which took its course as in all other cases. Without citing the official record and apparently only on the basis of press reports, the report criticises a speech made by a Member in Parliament (paragraph 122). The freedom of speech of Members of Parliament is protected by the House of Representatives (Privileges and Powers) Ordinance.

The judiciary

8. The report states: “... civil society organisations have underlined that those working in the criminal justice system, and notably judges and the police, are not always conversant with the provisions in force ... nor are they adequately aware of the need to apply these provisions vigorously” (paragraph 8). This judgement, attributed to anonymous NGOs, is not supported by evidence and in any case it should not be ECRI’s role to echo the view about the “need” to apply provisions “vigorously”. The recommendation in the second sentence of paragraph 9 is unacceptable because it unjustifiably expresses lack of trust in the judiciary, the police, lawyers and the execution of the law. The recommendation in the Executive Summary in favour of “training and awareness-raising measures for the judges” is similarly baseless.
9. Referring to cases still before the courts, the report remarks: “However, there have been no final convictions at the time of writing” (paragraph 6). The report interferes with the independence of the judiciary by indicating that it favours “convictions”. In the same paragraph, it states: “ECRI notes that instances of incitement to racial hatred are not always prosecuted, especially when they are committed on the Internet.” This statement is objectionable because the “instances” are neither specified nor cited and, as a result, no reason is given why they should be “prosecuted” according to the law.

Press freedom and freedom of speech

10. The report repeatedly criticises the level of freedom of speech and press freedom recognised by law and enjoyed in Malta. It states: “As concerns the print media, ECRI is concerned at the content of many readers’ letters to the editor ... According to civil society groups, in some cases, the boundaries of incitement to racial hatred have also been crossed” (paragraph 86). ECRI does not cite any one of the “many” published letters. It hides behind allegations by anonymous “civil society groups” that “in some cases” (obviously not cited) the law has been violated. It recommends a reduction of freedom of expression in the case of “the Internet, letters to the editor published in newspapers, or by politicians” (paragraph 10) without citing instances which could justify being “duly prosecuted” under the law.
11. ECRI also recommends that the outcome of investigations into “allegations” of racially-motivated misconduct by police and army personnel be “given publicity” (paragraph 97). Shifting standards, it then takes the liberty to “encourage the Maltese authorities to impress on the media” (paragraph 90) the need to publish only material compatible with ECRI’s own bias and alleges that “inappropriate terms to qualify immigrants or certain categories of immigrants are reportedly also still used” (paragraph 85), without citing any reports or cases. **The Maltese government would like to assure ECRI that it does not have any intention of issuing instructions to the press or introducing press censorship.**
12. Furthermore the report expresses concern “at negative tendencies in the tone of public, and notably political, debate surrounding issues of immigration” (paragraph 120) and refers to “tendencies in political discourse around irregular immigration” (paragraph 122) which do not meet with its satisfaction. The Government wishes to emphasise that public and political debate in Malta will continue to be conducted in full respect of freedom of speech, as defined by the law. In this regard, it is absolutely untrue that “the general public has little exposure to alternative views or different types of public discourse on immigration” (paragraph 121) as anonymous “civil society organisations ... have stressed”. All NGOs, including those mentioned in the report, benefit from the same level of freedom of speech and make use of it. They also seem to have particularly good access to the press and like-minded international institutions. The general public may not be receptive to their message, but that is not a good enough reason to stifle and censor the views of others as long as the law is respected. **The Maltese government and parliament have always been, and will continue to be, particularly attentive to maintaining the proper balance between freedom and responsibility as safeguarded by the Constitution.**

Anonymous sources: pervasive bias

13. In Malta NGOs are free and encouraged to contribute to public life through their specialised knowledge, dedication and enthusiasm. In 2007, parliament unanimously passed a law providing for the recognition of NGOs and their access to public funds. But no democratically elected government can abdicate its duties and responsibilities to NGOs, which specialise in a limited area of public life, represent small numbers of people and do not benefit from the same legitimacy and good governance (including transparent elections) as the government. The report reveals a lack of confidence in the ability of the government to govern in the interests of the people and seems to expect it to take orders from NGOs. **No government in Malta will ever abdicate its constitutional responsibilities.**

14. The report makes no mystery of its reliance on some NGOs as sources of information, but there is an all-pervasive and deliberate lack of transparency. In Section II - Detailed Comments (below) we cite eight statements or judgements attributed to unidentified “civil society organisations”. This anonymity is hard to explain since the NGOs’ and ECRI’s credibility would gain if they were named. Indeed, the report does name some of them on rare occasions in terms laced with praise or self-praise: the Jesuit Refugee Service in paragraphs 24, 38, 49 and 51; Amnesty International in paragraph 25; the Emigrants’ Commission in paragraphs 38 and 62; and the Red Cross and the Peace Laboratory in paragraph 38.
15. In addition, in the Detailed Comments we cite more than 20 unsubstantiated statements, allegations or judgements, many wrapped in words like ‘reports’, ‘reported’ and ‘reportedly’. The Government would have been ready to accept any of them, if they were substantiated by precise facts, citations or sources. As they are not, it has to deplore this systematic and deliberate opacity which is unnecessary and unjustified in Malta where criticism (especially of the government) is regular, frequent and an expected part of the democratic process. **Failure to disclose sources would have been understood if limited to a few delicate or confidential cases, but practised on a thorough and systematic scale it seriously undermines ECRI’s professionalism and credibility.**
16. In addition if, as seems likely, the anonymous sources are the same unnamed NGOs, the Government has to express its doubts about the report’s real authorship. **Indeed, what is the meaning of the assurance given in the Foreword that the “report was drawn up by ECRI” if we do not know which parts are the result of ECRI’s own findings and which others are the product of cut-and-paste report writing?**
17. Systematic lack of transparency extends to the bibliography which notes: “This bibliography ... should not be considered as an exhaustive list of all sources of information available to ECRI during the preparation of the report”. What is ECRI’s interest in hiding its sources? The bibliography cites (item 39) the ENAR Shadow Report 2006 - Racism in Malta, October 2007. It fails to mention its author’s name, Jean-Pierre Gauci, first described as affiliated to Amnesty International Malta and then to ENAR on ENAR’s own website. The ECRI report fails to specify which parts have been copied from the ENAR report which, in its turn, contains more than 120 references to NGOs, whether unidentified or named as the Jesuit Refugee Service, Amnesty International Malta or some other. **An attentive reader of these reports cannot help noticing that they keep using each other as sources to create a virtual world serving their authors’ agenda. ECRI is a willing partner in this game.**
18. In an inadvertent indication of its sources, the report frequently calls for a transfer of authority from the elected government and parliament to “civil society organisations”. The following self-serving cases can be cited:

Paragraph 28: *“It strongly encourages the Maltese authorities to continue and reinforce its co-operation with the non-governmental sector, as concerns both teacher training and actual provision of education to children”.*

Paragraph 40: *“Civil society organisations consider that the remedy provided for ...”*

Paragraph 67: *“In so doing, it [ECRI] recommends that they [the Maltese authorities] support and make the most of existing expertise in the non-governmental sector in this field”*

Paragraph 90: *“ECRI recommends that the Maltese authorities engage in a debate with the media and members of other relevant civil society groups ...”*

Paragraph 104: *“Collection of such information should be elaborated in close co-operation with all the relevant actors, including civil society organisations ...”*

ECRI can rest assured that the Maltese Government will always carry its constitutional responsibilities in accordance with the mandate given by the electorate and in the people’s best interests.

19. The report’s pervasive bias repeatedly emerges from other omissions and loaded phrases. Malta obviously accepts its “obligation to protect human life” (paragraph 60), but it cannot accept such an obligation worldwide and without any geographical delimitation. This obligation is carefully defined by international treaties and conventions to which Malta and other sovereign states are parties. Furthermore, it is hard to understand the objective meaning of paragraphs 107-108 and the words: “associations” (twice), “image”, “perceptions” (twice), “compounded” and “imagery”. The Maltese authorities reaffirm that handcuffing illegal immigrants outside detention centres is necessary because many of them escaped or tried to escape while on visits to hospital. They then try to cross over to Sicily in violation of the law.

Major lapses in ECRI’s draft report

Detention services

20. The detailed section ‘Detention of irregular migrants’ (paragraphs 33-46) contains many errors. According to our records, during the meetings on 17 and 18 July 2007 the ECRI mission did not request to visit the detention centres. During the meeting at the Ministry for Justice and Home Affairs on 17 July, an ECRI member asked whether they would be allowed to visit the centres if they made such a request. The head of the Maltese side replied that that would not be a problem if they submitted an official request in writing. **The ECRI mission did not follow this up and did not request to visit the centres, either verbally or in writing.**
21. It is, therefore, inexcusable that the report should rely on anonymous informers: “have been highlighted” (paragraph 35); “are still reported” (paragraph 35); “is reported” (paragraph 36); “it has been reported to ECRI” (paragraph 37); “ECRI has received consistent reports” (paragraph 39); “is also reported” (paragraph 39); and “reported instances” (paragraph 39). Indeed, how can ECRI affirm that “since its last report progress has been made” (paragraph 35) if it did not visit the detention centres either while preparing its last report or the present one? The report also refers to concern at limitations on access to the centres, adding: “It has been stressed that such lack of transparency limits the opportunities to improve conditions in the centres” (paragraph 38). It is cynical, to say the least, that the ECRI mission did not take up the offer of transparency and visit the centres if only to help “improve conditions” there.

22. ECRI recommends that the Maltese authorities improve access to the centres by the media and civil society organisations (paragraph 44). In his testimony (see Section III - Testimonies, below) the head of the centres names eight NGOs which regularly visit; he reveals that Amnesty International Malta never requested to do so. Furthermore, the report is incorrect in saying that Medecins du Monde were “not authorised to provide services in detention centres” (paragraph 38). Medecins du Monde refused all the alternatives that the centres’ authorities offered them for establishing their medical practice. The testimony further shows that many comments in the report do not correspond to the truth, namely, on hygiene, maintenance of facilities and healthcare (paragraph 35); mental well-being (paragraph 36); and training of detention centre personnel and treatment of detainees (paragraph 39).
23. In addition, the last sentence of paragraph 39 (“The treatment of detainees ... adequate punishment”) and paragraph 94 (“Racist abuse of these persons is also reported to have taken place”) are unsubstantiated and contradicted by the document ‘Report on the three-day seminar with Detention Officers’ on stress management by psychotherapist Dr Charles Cassar (see Section III - Testimonies, below). The report, presented in parliament and available on www.parliament.gov.mt/information/Papers/6453.pdf, states in particular:

“The immigrants are hostile towards the officers and threaten them continuously. They work under constant abuse by them. This abuse is both verbal and physical and the officers are instructed not to react to such provocations ... Moreover the detention officers are very concerned about the chance of getting infected by contagious diseases by the immigrants ... The detention officers see the necessity of wearing gloves and masks when doing ward rounds ... They also feel that the system in which they work is more respectful towards the illegal immigrants than towards them ...”

The Depasquale Report

24. ECRI’s report (paragraph 95) refers to the incidents at Hal Safi detention centres in January 2005. The only authoritative document on the subject is the **Report of a Board of Inquiry** (97 pages), known as the Depasquale Report after the former judge who carried out the inquiry. ECRI ignores some of its key findings (section 15, pages 65-67):

“... the detainees had been preparing their protest for at least three days...”;

“this protest was not spontaneous ... it was premeditated and organised in all its details”;

“on the day of the protest they decided to go against the centre’s regulations with violence (though not considerable violence) ... and escaped from the confines laid down for them. Their behaviour was certainly against the regulations and therefore illegal”;

“Although the protesters were unarmed ... the protest was certainly neither peaceful nor legitimate”.

25. It also ignores the following conclusions of the Depasquale Report:

“ The Board, having examined in detail the times that were reported, drew the impression that the first cameraman knew about the protest almost as soon as this was starting or perhaps even before ...” (page 24);

“ journalists did not reply to questions about who had informed them to go to Hal Safi and felt they had to invoke their professional secret ... This ... contributed to the idea that some outsiders knew very well what was going on ... **When one compares the times, one does not conclude that journalists got to know about the protest only after it had started**” (page 25);

“ in the days after the incidents some NGOs ... interviewed many [detainees] who gave their version...; the Board would have liked to have a copy of these interviews ... The NGOs told him that they would give him these ... but did not because they could not find them” (page 4).

Asylum seekers

26. When the phenomenon started, NGOs tended to speak of refugees and asylum seekers. It became obvious with time that most of the persons concerned are not refugees but economic migrants (see Section III - Testimonies, below, Analysis by the Chairman of the Refugee Appeals Board). Many apply for refugee status, sometimes encouraged and helped by NGOs, in the full knowledge that they do not qualify. The Refugee Commissioner has to face a large number of claims based on false or fabricated information. Systematic abuse has not contributed to the good reputation of the asylum system.
27. Several statements in the report are rebutted by the Maltese authorities. It is untrue that figures “reflect a tendency to grant humanitarian protection to applicants who, in some cases, may qualify for refugee status” (paragraph 47). The report gives no source for the statement, apart from saying “reportedly”, and no figures, apart from referring to a “tendency”. This leads to its recommendation (paragraph 52) where “ECRI encourages the Maltese authorities in their efforts to ensure that all persons entitled to refugee status actually secure this status” - which implies that some do not, which is untrue. Furthermore “to this end it recommends ... that the Maltese authorities intensify their efforts to train the caseworkers ...” This implies that some are denied refugee status because caseworkers lack training which is doubly untrue.
28. The report also states: “ECRI understands that at the time of writing it takes still a long time for an asylum seeker to be called to an interview” (paragraph 48). It omits to state that the process is often lengthened because asylum seekers fail to turn up for appointments. In some countries, but not in Malta, missed appointments lead to the abandonment of the claim.

National Equality Commission

29. The report’s section on the National Commission for the Promotion of Equality contains a typical instance of judgement by insinuation. In paragraph 18: “ECRI considers that strengthening the independence of the Commission could enhance the effectiveness of the Commission’s work and impact favourably on

the trust accorded to it by victims of discrimination.” Taking its imagination for reality, it proceeds in paragraph 21 to turn “could” into a recommendation “that the Maltese authorities *consider strengthening* the independence of the National Commission”. Indeed, it is so convinced of its advice that the Executive Summary repeats the recommendation of “*strengthening* the independence of the National Commission”. In her testimony (see Section III), the Executive Director of the National Commission objects to the implication that the Commission’s independence is inadequate and needs strengthening. She also notes that ECRI’s statement is unsubstantiated: no evidence is given to support the insinuation that victims of discrimination do not accord it trust.

Unsuitable recommendations

30. An ECRI report is meant to be read by the general public, as well as lawyers. The present report does not claim that ECRI’s general policy recommendations have the force of law, but their character is not defined clearly enough for a reader not versed in law. This is a significant omission since the report contains eleven references to six general policy recommendations reflecting ECRI’s own bias (paragraphs 11, 12, 14, 16, 21, 27, 84, 97, 101, 105 and 128). **It would have been fairer to the reader if each reference were preceded by a statement clarifying that the recommendation does not have the force of law.**
31. The report’s recommendations, spread over 52 paragraphs, call for the following comments.

Some recommendations are based on incorrect or unsubstantiated information.

(i) *Others are divorced from Malta’s reality, including its size, geographical location, history, population density and level of economic development.*

(ii) *Many do not attempt to draw a comparison with practice in other member states of the Council of Europe, which very often falls far short of Maltese practice.*

(iii) *The recommendations in paragraphs 41, 42, 45, 55, 58, 65, 66, 78, 79, 92, 98, 103, 104 and 105 involve additional expenditure. ECRI does not suggest how their implementation could be financed.*

II. Detailed comments

Unsubstantiated statements, allegations and judgements

The following citations contain gratuitous statements or judgements or allegations not substantiated by references to precise facts or sources and try to hide this inadequacy by words or phrases like: ‘reports’, ‘it is reported’, ‘understands’ and so on. The italics have been added to show the objectionable words. The list is not exhaustive.

Paragraph 6: *“ECRI understands that there have also been some cases of incitement to racial hatred ... ECRI notes that instances of incitement to racial hatred are not always prosecuted...”*

Paragraph 15: *“ECRI notes that this situation is in contrast with reported instances of racial discrimination...”*

Paragraph 37: *“However, it has been reported to ECRI ...”*

Paragraph 38: *“It has been stressed that...”*

Paragraph 39: *“ECRI has received consistent reports according to which ...”*

“The treatment of detainees ... is also reported to not always respect ... as illustrated by reported instances ...”

Paragraph 47: *“... they also reportedly reflect a tendency ...”*

Paragraph 62: *“conditions ... are reported to be good ... are reported to be ... better.”*

Paragraph 68: *“... reports of racial discrimination ...”*

“... there is reported to be at present very little awareness ...”

Paragraph 69: *“ECRI has also received some disturbing reports ...”*

Paragraph 70: *“... racial discrimination is also reported to play a role.”*

Paragraph 75: *“... not only is remuneration reported to be considerably lower ... Longer working hours ... have also been reported... there have also been allegations of ...”*

Paragraph 83: *“Such manifestations, which are reported to be connected ...”*

Paragraph 85: *“negative portrayal ... are reported to be still widely present in the Maltese print and broadcast media. Inappropriate terms ... are reportedly also still used ...”*

Paragraph 94: *“... reports of ill-treatment of non-citizens have continued ...”*

“Racist abuse of these persons is also reported ...”

Paragraph 121: *“... are reported to be ... All political forces are also reported to use ...”*

Paragraph 125: *“It has been stressed ... It has also been reported ...”*

Paragraph 7

“ECRI notes that so far there have been no cases of the implementation of these provisions, a situation which is at variance with reported instances of racially-motivated offences ... This situation appears to reflect, at least in part ...”

This is a gratuitous allegation: no information whatsoever is given about the “reported instances”. Then a subjective conclusion (“appears to reflect”) is drawn from the unproven allegation. The report tries to excuse the absence of evidence by

alleging some intimidation for which, again, it provides no evidence. The Recommendation in the first sentence of paragraph 9 is therefore baseless.

Paragraph 81

“... manifestations of Islamophobia are reported to have remained ...”

Which manifestations? Which reports?

“However, the events of 11 September 2001... resulted in a considerable increase in generalisations and associations”

Not one instance of these “generalisations and associations” is cited and no attempt is made to show that there has been a considerable increase and a causal nexus with the events of 11 September 2001. This is likely to be an extrapolation from other countries.

Paragraph 123

“ECRI notes that a number of attitude surveys ... although the validity of some of these surveys has been questioned.”

Which surveys? Who has questioned what? What is the value of citing an unknown number of unidentified surveys if the validity of an unknown number of them is questionable?

“ECRI notes, however, that racist name-calling in the street is unfortunately reported not to be uncommon in Malta... and manifestations ... are also reported.”

No information is given about the reports or the sources.

Statements and judgements attributed to unidentified organisations

Paragraph 8

“More generally, civil society organisations have underlined that those working in the criminal justice system, and notably judges and the police, are not always conversant with the provisions in force ...”

This statement is attributed to anonymous organisations and not supported by any evidence.

Paragraph 40

“Civil society organisations consider”. Which organisations?

Paragraph 76

“However, civil society organisations have consistently expressed the view that there is not enough dedication on the part of the Maltese authorities ... They also report ...”

Which organisations? What is the meaning of “not enough dedication”?

Paragraph 86

“According to civil society groups...” Which groups?

Paragraph 95

“civil society organisations were unaware of the follow-up ...”

Which organisations were aware and which were unaware?

Paragraph 99

“civil society organisations consistently report ...” Which organisations?

Paragraph 115

“civil society organisations have stressed ...” Which organisations?

Paragraph 121

“... civil society organisations ... have stressed ...” Which organisations?

III. Testimonies of various Authorities

**Comments by Lieutenant Colonel Brian Gatt,
Commander Detention Service**

DS/1001/000

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Ambassador Joseph Licari
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Council of Europe

28th February 2008

**THIRD REPORT ON MALTA BY THE EUROPEAN COMMISSION AGAINST RACISM AND
INTOLERANCE**

Please refer to the Draft third report on Malta by the European Commission against Racism and Intolerance and particularly the section on Detention of irregular immigrants (paragraphs 33 - 46).

I took part in the meeting between the Maltese official side and the ECRI mission team on 17 July 2007. The ECRI mission did not request to visit the detention centres during the meeting. They did not make any such request to me, either formally or informally. In fact they did not visit the detention centres at all, neither did the ECRI mission in 2002.

As regards the text of the draft report:

Paragraph 35

Hygiene: *at all centres, every month immigrants are given cleaning materials to keep their accommodation clean. Cleaning materials include 8 litres of bleach liquid for the sanitary facilities, and 12 litres of floor disinfectant for every 70 persons. Other items include the necessary buckets, mops and squeezers with which immigrants are expected to clean their accommodation. Unfortunately, the majority of immigrants do not feel that they should contribute towards keeping their accommodation up to the desired hygienic level.*

Maintenance of facilities: *The Detention Service carries out maintenance at the centres on a daily basis to ensure that essential services are functioning. However, vandalism and lack of interest by immigrants contribute towards the degradation of the physical conditions within the centres. For instance, in all centres most immigrants dispose of their waste in the drainage systems of their sanitary facilities, instead of in rubbish bins or skips. This causes blockage of the drain systems leading to overflow of waste water in the toilets and showers, thus resulting in the*

degradation of hygienic levels within the immigrants' accommodation area. Another malpractice is the constant tampering with the electrical installation of the accommodation leading to over-loading of the electricity system, as well as permanent damage to electrical equipment.

Major refurbishment projects are carried out every year. In fact in 2007, two compounds, each capable of accommodating 200 immigrants, were totally refurbished. Sanitary facilities are also refurbished during winter/spring period when the number of immigrants in detention is low.

Healthcare: Provision of healthcare is of paramount importance at the centres. At Safi and Lyster, the larger of the detention centres, healthcare is provided by a medical team of a doctor and a nurse at each centre, five times a week. During weekends and at night immigrants are taken to the nearest health centre or hospital if they complain of an ailment. At Ta' Kandja a doctor visits the centre twice a week but any immigrant who requires medical attention, any time of the day or night, is taken to the nearest health centre or hospital.

Paragraph 36

Mental well-being: There are no reports of immigrants suffering from mental health problems, except those cases that would be expected to be found within a community of 1400 immigrants. In fact, the number of cases of immigrants requiring mental health treatment is well below the national average.

Paragraph 38

Access to detention centres: The Detention Service has adopted an open door policy with respect to NGOs which would like to visit immigrants in detention. This policy has been in place since the establishment of detention centres. Indeed, a number of NGOs visit the centres on a regular basis. These include the Jesuit Refugee Service, the Emigrants Commission, the Red Cross, the Peace Laboratory, SOS Malta, Jehova Witnesses, Evangelists and Baptists. In 2007 Medecins du Monde requested to establish medical practice in the centres but, although alternatives were given where such practice would be most effective, Medecins du Monde refused this offer. They were never refused entry to visit the centres. Amnesty International has never requested to visit the detention centres.

Access by ECRI: It is interesting to note that ECRI has never submitted a request to visit detention centres in Malta.

Paragraph 39

Training of detention centre personnel: All personnel of the Detention Service receive training on humanitarian law and the treatment of asylum seekers and immigrants in custody. This training is structured in such a way as to achieve a balance between the requirements for the humane treatment of the immigrants and the security and safety of the personnel responsible for their custody. Experts from humanitarian based NGOs (such as the Jesuit Refugee Service), as well as from government departments usually participate as lecturers.

Treatment of detainees: *The Detention Service adopts a policy of zero tolerance towards violence, whether such violence is perpetrated by its own personnel or by the immigrants themselves. Over the past couple of years reports on violence in the centres have been investigated resulting in disciplinary action taken against Detention Service personnel. Furthermore, Detention Service personnel must adhere to a code of conduct which lays down the rights of immigrants in custody and the responsibilities of Detention Service staff in respect of the same immigrants.*

More recent, the Board of Visitors for Persons in Detention has been set up to monitor detention centres and to investigate any claims of maltreatment made by immigrants.

(signed)

B GATT

Lieutenant Colonel

Commander Detention Service

29th February, 2008

Considerations made by the Office of the Refugee Commissioner

RE: ECRI Draft third report on Malta, adopted on 14 December 2007

The Office of the Refugee Commissioner is limiting its considerations to remarks made about the same Office and its operation.

Paragraph 47: “they also reportedly reflect a tendency to grant humanitarian protection to applicants who, in some cases, may qualify for refugee status”.

The Office of the Refugee Commissioner has already strongly and vehemently rebutted this unsubstantiated allegation and it is appreciated that Refugee Commissioner’s position is also included in the draft report. This Office cannot but reaffirm its policy and practice of invariably examining each case in full and deciding according to each case’s particular merits.

Paragraph 48: “at the time of writing, it takes still a long time, sometimes many months, for an asylum seeker to be called for an interview with the Office”.

The Office of the Refugee Commissioner has already showed with facts that it is also true that many cases are decided in less than three months after the date of arrival in Malta. This is in fact reflected in the ECRI draft report. When cases take longer this is usually due to circumstances which may be beyond the control of this Office or created by the asylum seekers themselves who render themselves unavailable for the interview. It is not the practice in Malta to consider missed appointments as leading to abandonment of the asylum claim but to the eyes of the uninformed person the delay so caused may seem unjustifiable. No efforts are being spared to ensure that all are interviewed in the shortest period of time possible. One last remark is that one must also bear in mind the fact that almost all arrivals of asylum seekers are concentrated in the summer months and this necessarily creates a waiting list.

First recommendation: “ECRI encourages the Maltese authorities in their efforts to ensure that all persons entitled to refugee status actually secure this status. To this end, it recommends in particular that the Maltese authorities intensify their efforts to train the caseworkers of the Office of the Refugee Commissioner”.

It is the opinion of this Office that this recommendation is not in synchronization with paragraph 47 of the report. The way it is presented appears to reflect the opinion that actually there are persons who should be recognized as refugees and who are not, and that this is due to the lack of proper training of the caseworkers. This Office notes that this recommendation is based on the ‘reportedly reflect’ of paragraph 47, and although it is a very serious insinuation it is not substantiated by the ‘reporting’ body. The Office of the Refugee Commissioner is always more than happy of receiving feedback, suggestions and constructive criticism.

*Mario Friggieri
Commissioner for Refugees*



National Commission
for the Promotion
of Equality for
Men And Women

Kummissjoni Nazzjonali
ghall-Promozzjoni
ta' l-Ugwaljanza
ghall-Irġiel u n-Nisa

Considerations by the National Commission for the Promotion
of Equality on

Draft third report by ECRI

March 2nd, 2008

The National Commission for the Promotion of Equality [NCPE] is mentioned in paragraphs 17 to 21 of the report.

Paragraph 17 seems to be a summary of the law, though NCPE came into being in 2004 and not 2003 as stated. However, its remit was extended to cover for race and ethnicity by Legal Notice 85 of 2007.

Paragraph 18 contains two sentences starting 'The Maltese Authorities' and 'The Authorities' - the source must be the meeting held between the Maltese official delegation and the ECRI visiting mission. The first sentence states that 'ECRI understands' without giving the basis of its understanding.

Paragraph 18 further states that 'ECRI considers that strengthening the independence of the Commission could enhance the effectiveness of the Commission's work and impact favourably on the trust accorded to it by victims of discrimination.'

NCPE would like to object to the implication of this statement that its independence is inadequate and needs strengthening: no evidence is provided to support the insinuation that victims of discrimination do not accord it trust. Therefore, NCPE cannot support the recommendation contained in paragraph 21 unless substantiation of this statement is forthcoming.

*Sina Bugeja
Executive Director*

**Analysis by Professor Henry Frendo,
Chairman, Refugee Appeals Board, since 2001**

(The Malta Independent, 31 December 2007 and 2 January 2008)

The changing faces of asylum appellants in Malta (1) by Henry Frendo

Talk of illegal immigrants, asylum-seekers and refugees in the local media since 2002 has usually been couched in emotional, impressionistic rhetoric, often starting by the misleading confusion of all three categories as “refugees”, given that human news stories often tend to be intrinsically sensational.

This general profile here is from original sources regarding asylum appellants in Malta during 2006. It is a follow-up to my graphically illustrated findings for 2005 carried as a centre page spread in The Sunday Times entitled “Malta’s changing immigration and asylum discourse” (29 January 2006, pp. 46-47). It is an empirical reflection of the concern with “freedom” on one hand and “security” on the other in the EU’s ongoing “Challenge” project of which I am a research partner, which in 2005 held a conference in Malta comparing situations on the Southern and the Eastern borders of the Union; and largely based on data archived at the Refugee Appeals Board.

In addition to an analytical, illustrated breakdown by category compiled for appellants mainly during the calendar year 2006, this review seeks to offer some comparisons of the prevailing situation as this has been shifting and changing during the past two years or so, as illegal arrivals by boat continued apace, at the same time that many applied and then appealed after their tourist visas had expired.

The situation is somewhat less static than it seems, although Libya remains the main conduit for human trafficking. Changes continue into 2007, prompting new investigative categories in the case of appellants having a criminal background and, more recently, for those who specifically state that they choose to come to Malta or left their own country in order to do so, giving reasons for that. The very appearance of such a category, however small, is noteworthy. From the reasons given, it would seem that their intentions are motivated to a greater or lesser extent by the following five factors: the existence of democracy and human rights in Malta; Malta’s membership of the EU and therefore an obligation to help them; the ready provision of board and lodging as well as other forms of material assistance; the government’s policy generally not to send back failed asylum seekers (for example from West Africa) or an inability to do so; and the fact that appellants allegedly have “no one left” (relatives, friends, etc) in their own country of origin, thus implying that they however now have contacts on the island of Malta.

For the first time, therefore, a breakdown is given here of the “reasons for requesting asylum” in Malta; this will be further elucidated in due course. I only had this additional field of systematic inquiry introduced in dossier analyses towards the end of 2006; so the figures covered here, in so far as this new category is concerned, for the time being relate only to the period from November 2006 to May 2007. Other

figures and percentages relate to total numbers of cases which the Refugee Appeals Board adjudicated from 1 January to 31 December 2006. These comprise: the real or alleged country of origin; the country of last departure and the length of stay there (months, years, etc); formal education if any; gender; legal or illegal entry; religion; age group; and, as already mentioned, the reasons given for claiming asylum. In the past two years it was only in a few cases that recommendations made in the first instance were overturned and refugee status granted; the rest were manifestly unfounded or otherwise ineligible as Convention refugees.

Rising number of appeals

The total number of appeals received during 2006 from asylum-seekers who had been turned down at first instance or who - the majority of applicants - had been granted a temporary humanitarian protection, was 732. In accordance with the general trend since 2001/2, the number of appellants has been generally on the rise.

This is mainly because NGO assistance, facilitating recourse to both applications and appeals, has steadily consolidated, with fill-in-the-blank forms being made available to anyone who could benefit from the prospect of asylum. Equally, however, appeals over the last two years, particularly ones that may be adjudicated, have increased considerably thanks to an improvement in the provision by the Justice and Home Affairs Ministry of free legal aid by a specialised pool, in accordance with recommendations which had been made by the Refugee Appeals Board. As the law grants appellants the right to legal aid, the Board felt that it was unjust to adjudicate anyone who had asked for legal aid without him or her having received it. This situation has now improved so that not only has the number of appeals increased but the backlog in their adjudication has greatly decreased, sometimes it being reduced to nil, or decisions taken within a few weeks or less.

The profile of the Malta appeals caseload becomes clearer below from the evidence and analyses about the various categories researched, and should help the public understand why the vast majority of such appeals were judged to be ineligible for refugee status at law. In spite of a number of open hearings in which the Refugee Commission's decisions were fully re-scrutinised, it was rarely possible to reverse judgments; saddest of all was one such case where an appellant turned up for the open hearing with his lawyer (and his young, pregnant Maltese partner, who was actually married to another Muslim from another country) but, soon after his rejection, it transpired from the court columns in the press that he had been criminally charged with a serious offence, by which time however he had eloped. During 2007 there were four reversals of recommendation at appellate stage concerning two persons from a West African country and two from a North African one; these were granted refugee status.

The countries of origin

During 2006, the country or alleged countries of origin were the following, in descending numerical order:

Sudan: 182 (24.86%); Eritrea: 108 (14.75%); Ethiopia: 91 (12.43%); Niger: 69 (9.43%); Ivory Coast: 64 (8.74%); Nigeria: 41 (5.60%); Togo: 33 (4.51%); Somalia: 30 (4.10%); Liberia: 18 (2.46%); Ghana: 17 (2.32%); Palestine: 14 (1.91%); Iraq: 9 (1.23%); Sierra Leone: 9 (1.23%); Chad: 8 (1.09%); Burkina Faso: 8 (1.09%); Algeria: 7 (0.96%); Mali: 5 (0.68%); Syria: 4 (0.55%); Turkey: 3 (0.41%). Others: Benin, Cameroon, India, Libya, Morocco, Senegal, Tunisia, Democratic Republic of Congo (2), Guinea Bissau, Zimbabwe: 2%.

In percentage terms, this situation shows a notable increase in those from or claiming to be from the Sudan (up from 10% to nearly 25%) because of or in relation to the Darfur conflict; as well a big jump from 4-5% for Eritrea and Ethiopia, especially the former, where a relentless war-like dictatorship holds sway,

increasingly bent, according to reliable BBC reports and interviews, on also Muslimising the country's large Christian population (several of whom have sought refuge in neighbouring Ethiopia, where Christians are not persecuted).

Ivory Coast has decreased from 11%, but Nigeria has gone up from 3%, while Togo was hardly a consideration at all until now. Somalis or alleged Somalis decreased markedly, down from 20%; Liberia also decreased from 3%, partly perhaps because the political situation improved following the end of internal fighting accompanied by democratisation and elections. Inexplicably, but mostly for economic reasons and the European quest, Ghanaians became a factor, whereas before they were not, although Ghana remains a reasonably safe, democratic country. Here it may be noted that not a single Ghanaian arriving illegally (and generally undocumented) in Malta, usually from Libya by boat, has been repatriated.

Palestinians declined from 8% to less than 2%, as did Iraqis, down from 3%. Turks, mainly claiming Kurdish nationality, declined markedly from 7%, although it is not known that failed Turkish asylum-seekers have been repatriated on the regular direct Air Malta route to Istanbul in recent years. Noteworthy caseloads which figured somewhat in 2005 but ceased to do so in 2006 include mainly South Asians (Pakistanis, Indians, Bangladeshis) and nationals from the Democratic Republic of Congo (down drastically from 12%), possibly as a result of peace-keeping initiatives there.

With the exception of one-offs (Kyrgyzstan, Serbia, Senegal, Tunisia), the nationality profile of illegal immigrants seeking asylum in Malta has remained characterised by sub-Saharan Africans, mainly from East, Central and West Africa, travelling more or less by the same means via the same land-and-sea routes. What is less clear is the percentage of those arriving by air, who arrange to stay on expired visas or otherwise, most of whom would be from Arab countries, the Balkans, the Caucuses, South Asia or the Far East, including China, and only very occasionally from, say, Nigeria. Most of these do not seem to apply for asylum preferring other integration alternatives through networking, work permits, inter-marriage, etc.

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The changing faces of asylum appellants in Malta (2)

Countries of departure

In 2006, as in 2005, the last country of departure of illegal immigrants who seek asylum in Malta has been Libya. In 2006 as many as 93 per cent of all appellants (678) came from Libya, a little more than in the previous year. A small percentage (12 per cent in 2005 down to 2 per cent in 2006) flew in from different airports in Europe, North Africa or the Near East. For the rest - those not arriving by boat via Libya - came from Turkey (3 per cent in 2005), the Ivory Coast or Tunisia, with isolated individual cases from Lebanon or Bulgaria.

Apart from the largely trafficked departures from Libyan ports in boat-rides procured at a price, what is even more telling is the duration of stays, usually, but not always, in Libya, prior to embarking on the voyage to Europe. 35 persons or 5 per cent had been mainly in Libya for more than 10 years before disembarking in Malta, while 19 or 3 per cent had been there for 5-10 years, and 101 or 14 per cent between two and five years. Most (252, or 34 per cent) had been in Libya for up to one year, with 142 or 19 per cent for about one month, i.e. effectively in transit on the mass illegal migration routes to Europe.

These figures compare with those for the previous year when 12 per cent had been in a third country, almost invariably, but not always, Libya, for more than five years before disembarking on Maltese shores (sometimes having been saved in search and rescue operations usually by the Maltese Armed Forces in Maltese waters). As many as 10 per cent had been in the country of departure for between two and five years, 22 per cent between one and two years, and 56 per cent up to one year. This shows fairly constantly that a slight majority, over 50 per cent, would have stayed in the country of departure, usually Libya, for up to one year, with the rest having lived and worked there for longer - often much longer. Thus, hardly any asylum-seekers come to Malta directly from their country of origin, and almost invariably, they have not applied, or even considered, applying for refugee status in any of the countries visited or lived in since leaving their home country, or alleged home country. The vast majority are not in possession of a passport or an identity document, many claiming to have lost these or had them confiscated en route.

Of all the appellants during 2006, 724 out of 732 or 99 per cent, had arrived/entered illegally; only eight persons or 1 per cent had entered Malta legally. This shows a considerable increase on 2005, when those entering Malta illegally were 84 per cent, with 16 per cent entering legally. The number of illegal entries would thus seem to be increasing further.

Age and gender characteristics

In 2006, the largest segment of appellants (335 or 45.77 per cent) were aged between 26 and 35 years. The second largest segment (266 or 36.34 per cent) was aged between 18 and 25 years. Only 26 said they were under 18 (3.55 per cent). For the rest, 70 (9.56 per cent) were aged between 36 and 45 years, 6 (0.82 per cent) between 46 and 50 per cent, and only two (0.27 per cent) were over 50 years old. There were 21 (2.87 per cent) accompanied minors (including a few new-born babes, one or two on the boats), and 6 or 0.82 per cent were of an unknown age.

Age claims are often found to be untrue after technical/medical tests, particularly when arrivals claim to be minors so as not to be detained. Normally accompanied and unaccompanied minors are not detained, nor are families with children. However, clearly enough, the majority of arrivals are aged between 18 and 35 years, i.e. younger persons of working age, evidently seeking better jobs and futures in Europe. This statistic should be read in conjunction with the findings on gender below. In 2005 our findings regarding age groups were similar, most being in their 20s and 30s; only 7 per cent were over 40 years old.

Typically, as in previous years, in 2006 most asylum-seekers were young adult males. As many as 87 per cent (640) were males. Only 71 or 10 per cent were females. 21 or

3 per cent were accompanied minors. This statistic becomes clearer when looking at the stated reasons for claiming asylum. Most male adults are seeking better work prospects. A smaller number are evading military service, deserting the army, or are fugitives from justice. Few if any of these are ever females. Most boatloads usually comprise a token female presence with one, or perhaps two, children aboard. Of these, a number constitute families; occasionally couples claim to have been separated by traffickers in the process of being consigned to specific boats ashore, before leaving.

What this statistic also means, however, is that the country where asylum is being sought, in this case Malta, is increasingly under the stress of a increasingly disproportionate ratio between male and female residents. Moreover the great majority of males are relatively young and single. Additional light on this finding may emerge from the categories regarding religious beliefs and cultures, as well as educational standards, given below. Standards of hygiene and health have so far not been analyzed here, but in a minority of cases various diseases diagnosed by attendant doctors, most of which had been eradicated from Malta, have been mentioned in the press.

Beliefs and cultures

In 2006, religious professions of illegal immigrants seeking asylum at the appellate level in Malta were as follows:

Muslims: 53.83 per cent (394); Catholics: 24.45 per cent (179); Orthodox: 15.98 per cent (117); Pentecostal: 2.05 per cent (15); Protestant: 0.68 per cent (5); Other (including 2 Jehovah Witnesses): c. 3 per cent.

In 2005, the percentage of Muslim appellants was 67 per cent, with only 13 per cent Catholics. The rest were Protestants, Orthodox, other mainly Christian denominations and sects, with a few Hindus (3 per cent).

At first instance, the percentage would be higher, particularly because of the Somali applicants, to whom Malta, almost invariably, grants humanitarian protection and assistance in deference to a standing UNHCR recommendation.

The implications for the host country, which has been traditionally very largely homogeneous and almost entirely Catholic, can be significant. Historically a Catholic bulwark against the advance of Islam and the Ottoman Empire, Malta's religious-cultural make-up among the ever-growing population is anyway changing at a fast and growing rate, with a relatively high proportion of Arab-Maltese marriages. So far, however, the Muslim population has grown to some 3 per cent and there is still only one big mosque (financed by Gaddafi in Mintoff's time) with a growing Islamic school adjoining it. On the other hand, for humanitarian reasons Catholic NGOs are foremost among those hosting and assisting asylum-seekers of whatever religious affiliation these may be, while efforts are being made towards facilitating integration (state schools, clinics and hospitals are free).

Educational standards

In 2006 most asylum-seeking appellants in Malta had either never attended school and were illiterate (40 per cent, or 289) or else they had attended primary school

classes (36 per cent or 267). Only 17 per cent had been to a post-primary or secondary school (125), 5 per cent had been to a high school, and 2 per cent (14) to a tertiary institution such as a college or university.

These figures compare with 2005 and are not dissimilar. 35 per cent had never been to a school and were illiterate while 33 per cent had been exposed to some level of elementary schooling. In other words, in 2006 some 76 per cent were illiterate or semi-literate while in the previous year the corresponding percentage was 68 per cent. Some 10 per cent in all had been to secondary school, high school, college or university.

These statistics can be misleading because many of these appellants are (were) literally sons of the soil, coming from farming backgrounds. This means that while lacking a formal schooling several among them would have had practical experience in herding, farming, breeding, dairying or crop production of various kinds. However, from the point of view of integration, this places further pressures on a small and new island state such as Malta, where secondary education has been compulsory since 1947 and university free since 1970. It increases the need for more resources to combat illiteracy and it may well make any integration more difficult. Unfortunately farm land is extremely limited, with agriculture accounting for a small fraction of GDP, so there is little scope for any farming expertise to be put to good use on the island.

This data covers appellants whose cases have been adjudicated from November 2006 to May 2007. The most important reason given may be categorised as country instability. Such 'instability' accounts for 28 per cent of cases (42 persons). The second most important general reason given (19 per cent, 27 persons) may be said to fall within the bracket of 'politics', persons allegedly at odds with the governing party, or dissatisfied with its performance.

In both categories, corruption and a lack of Western-style democracy play a part, but complaints tend to be of a general nature or lacking in credibility, not strictly related to Convention definitions of refugee status (a well-founded fear of persecution). A third and most sincere reason for claiming asylum (15 per cent or 22 persons) is simply economic; poverty, drought, bad pay, lack of job opportunities and harsh labour conditions. As many as 10 per cent (14) left because they did not want to undergo military service in their home country, while 9 per cent (13) had committed, or been accused of having committed, a criminal act of one kind or another (murder, manslaughter, theft, fraud, tribal violence). Others said they had family problems (6 per cent, 8 persons); or religious problems (5 per cent, 7 persons), such as wishing to convert from Christianity to Islam or vice-versa; while two per cent or three persons wished to further their education in Malta, such as learning English, even saying they would then return home. There were other miscellaneous cases, but generally not cases warranting status.

This analysis of statistical compilations (which I undertook with the help of the Board's secretariat) are indicative of the nature of the influx being faced by Malta in the mass migratory phenomenon hitting Europe at the frontier, especially the Mediterranean island borders and the two smallest EU member states, Malta and Cyprus.

P/6453

Report on the Three-Day Seminar with Detention Officers

Stress Management

Stress can be described as 'the wear and tear' of the body. It can be defined in terms of external stimuli that cause tension, in terms of the stress response which it causes, which can be both psychological and physiological and in terms of the consequences or the damage resulting from stress.

This report will give a short description of the feedback I obtained from the detention officers as well as from my analysis of their state during the short time I spent with them. I will be corroborating my assessment by theories and relevant studies that confirm my assessment.

The detention officers are exposed to both **acute** and **chronic stress**. The acute stress is due to reaction to immediate threats. This kind of stress produces the *fight or flight* response, which is when the body mobilizes itself, even on a chemical level, by pumping up adrenaline, to fight or else flee the stress provoking situation.

When the body reacts to a stressful situation, there would be a mobilization of the brain, heart, lungs, blood vessels and the muscles. However if the stress persists over time all these parts of the body become over- or under-activated thus producing physical and psychological damage over time.

The detention officers have this alerted response all the time as they are aware of the potential danger that the immigrants are posing to their own well-being. The immigrants are hostile towards the officers and threaten them continuously. They work under constant abuse by them. This abuse is both verbal and physical and the officers are instructed not to react to such provocations. This adds on to their feeling of helplessness whilst they also have to keep their frustration pent up inside themselves. Not being able to express this frustration, not even in a separate setting is counteractive to their well-being.

Moreover the detention officers are very concerned about the chance of getting infected by contagious diseases by the immigrants. This preoccupation is a constant worry which keeps them alert. However at the same time they know that they can do nothing to better their situation.

A number of studies suggest that job-related stress is a great threat to health like smoking or lack of exercising.

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Charles Cassar
April 2006

Studies suggest that the inability to adapt to stress is associated with the onset of depression or anxiety disorders. On a more obvious level, stress diminishes the quality of life by reducing feelings of pleasure and accomplishment and relationships are often threatened.

Heart disease is another possible effect which may result from prolonged exposure to stressful situations. Mental stress is a major trigger for angina and there have been associations between stress and heart rhythm abnormalities, hypertension, stroke, heart attacks and even deaths.

The detention officers showed great demotivation in their work. They feel that they are sandwiched between the illegal immigrants and their superiors. They feel alienated from their work and unsupported. They also feel that there are demands on them which are unreasonable and unrelenting. In fact they work in unhygienic conditions with inadequate washing facilities and toileting needs. The detention officers see the necessity of wearing gloves and masks when doing ward rounds. However they feel ambivalent towards this situation as this creates an antagonistic reaction in the immigrants and then the officers have to deal with this reaction as well.

The officers also reported working for long hours, not having a chance to stop for a break and feel that the ratio of officers to illegal immigrants is too little. This factor continues to further increase their tension and anxiety – about the fact that they and their colleagues can be in greater danger. Their perception further contributes to create intense stress as they feel they have no participation in decisions that effect their responsibilities.

They also feel that the system in which they work is more respectful towards the illegal immigrants than towards them as they are well taken care of. The detention officers also experience a sense of helplessness as they do not see any changes or are not given any explanations when they try to give feedback or suggestions to their superiors. The nature of the work, the less than favourable working conditions and the fact that they do not feel supported by the system are all factors which contribute to increase their anxiety and levels of stress.

Much of my work focused on letting them express their feelings of emotions, fear, frustration. As a recommendation I strongly suggest that they are given time and space in a supportive environment where they can vomit out their worries and their mind states. If this does not happen they will experience acute burnout and they will have other symptoms in the long run such as susceptibility to infections, immune disorders, gastrointestinal problems, heart disease, sleep disturbances, allergies, skin disorders and difficulties in memory. Obviously all these symptoms make the person weaker and thus make one more susceptible to further stress, vulnerability or weakness. A vicious cycle would be created.

I also suggest that individual detention officers be targeted individually and specific recommendations be made to each and every one of them. Personal issues and particular situations vary from one person to another. Thus, each detention officer's situation should be seen individually.

Group work can also be done with teams or with groups of detention officers who work in close contact to each other or together. This group work is important in order to:

- increase group cohesion, which can be a buffer against stress
- to educate the officers as regards diseases, the psychological states of immigrants and their backgrounds. Educating officers about the groups they are in contact with might help them to understand the background, the social, cultural, political and financial situation of the immigrants as well as their motivations and fears. This will help the officers to become more familiar with the situations they are handling – the fear would not be nameless but a little more within reach – a little more understandable.
- to continue training in how to handle stressful situations. The officers have to be helped to realize that they have to take care of themselves due to the vulnerable situation which their work exposes them to. They need to realize the importance of recreation, of creating networks which support them, of not letting the stress at work contaminate their family or intimate relationships. They also need to learn what to expect from such a highly stressful situation and be less guilty when they feel that they do not have energy, that they need to rest and have fruitful experiences outside the work place.
- They also need to learn to handle the 'side effects' of their burn out. For instance, they have to realize that sometimes they may displace their anger on their families or friends, that is, they may be angry at the system or at the immigrants and they may have been creating unpleasant situations at home or even with their colleagues at work.

Most importantly of all they need to have this difficult situation acknowledged by someone other than themselves. Having had these short sessions with me was a relief for them as they could pour their hearts out and have someone acknowledge their situation. If however nothing is done after that they will be confirming again their existing theory that they are not supported and that no one really understands their situation enough to do something about it.

Charles Cassar
Ph.D., ECP

April 2006

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TAD-DEPUTATI FIS- S611-27.03.07
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April 2006

