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**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 1 to 9 July 1990**

The Maltese authorities have agreed to the publication of this report.

Strasbourg, 1 October 1992

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**Copy of the letter transmitting the CPT's report**

Strasbourg, 14 November 1990

Dear Ambassador,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report to the Maltese Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Malta from 1 July 1990 to 9 July 1990. The report was unanimously adopted by the CPT at its sixth meeting, held from 7 to 9 November 1990.

In order to facilitate consideration of the report by the Maltese Government, it is accompanied by a preface explaining the CPT's mandate and a summary of the CPT's main findings.

I would draw your attention in particular to paragraph 115 of the report, in which the CPT requests the Maltese authorities to provide an interim and a follow-up report on action taken upon its report. More generally, the CPT is keen to establish an ongoing dialogue with the Maltese authorities on matters of mutual interest, in the spirit of the principle of co-operation set out in Article 3 of the Convention; consequently, any other communication that the Maltese authorities might wish to make would also be most welcome.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours sincerely,

**Antonio CASSESE**  
**President of the European Committee for**  
**the Prevention of Torture and Inhuman**  
**or Degrading Treatment or Punishment**

**Ambassador BUTTIGIEG SCICLUNA**  
**Permanent Representative of Malta**  
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**MALTA**

## Preface

The European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) being a new institution, knowledge of its mandate and functions is inevitably limited. The CPT has therefore deemed it appropriate to begin the first of its reports to each Party by setting out some of the Committee's salient features, inter alia because the basis and aims of its activities are fundamentally different from those of the two other Council of Europe bodies of supervision within the field of human rights protection - the European Commission and European Court of Human Rights.

Unlike the Commission and the Court, the CPT is not a judicial body empowered to resolve legal disputes concerning alleged violations of treaty obligations (i.e. to determine claims *ex post facto*).

The CPT is rather first and foremost a mechanism designed to prevent torture and inhuman or degrading treatment or punishment from occurring, although it may also in special cases intervene after the event if this is important for future prevention.

Consequently, whereas the Commission's and Court's activities aim at "conflict solution" on the legal level, the CPT's activities aim at "conflict avoidance" on the practical level.

This being so, the guiding maxim for the CPT when performing its obligations must be to "extend the widest possible protection against abuses, whether physical or mental" (quotation from the 1979 UN Code of conduct for law enforcement officials as well as the 1988 Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, both adopted by the General Assembly).

Underlying the CPT's activities is the notion of co-operation (Article 3 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment). The CPT's task is not to publicly criticise States, but to assist them to find ways and means of strengthening the "cordon sanitaire" between acceptable and unacceptable treatment or behaviour. In fulfilling this task the CPT is guided by the following considerations: that the prohibition of ill-treatment is absolute ; that ill-treatment is repugnant to the principles of civilised conduct, even if used in milder forms ; and that ill-treatment is not only harmful to the victim but also degrading to the person inflicting it and ultimately harmful to the national authorities in general.

In performing its function of prevention of ill-treatment, the CPT must first of all explore the prevailing factual situation. In this connection it:

- i) takes stock of the general conditions in establishments visited;
- ii) observes the general attitude, behaviour and demeanour of law enforcement officials and other staff towards persons deprived of their liberty;
- iii) interviews persons deprived of their liberty in order to get their views on i) and ii), and to hear any specific grievances they may have;
- iv) examines the legal and administrative framework on which the deprivation of liberty is based.

Subsequently, the CPT reports to the State concerned, giving its assessment of all the information gathered and providing its observations. In this regard it should be recalled that the CPT does not have the power to confront persons expressing opposing views or to take evidence under oath. If necessary, the CPT recommends measures designed to prevent the possible occurrence of treatment that is contrary to what reasonably could be considered as acceptable standards for dealing with persons deprived of their liberty.

In carrying out its functions the CPT may take as points of departure not only the European Convention on Human Rights but also a number of other relevant human rights instruments (and the interpretation of them by the relevant human rights organs). At the same time, it is not bound by the jurisprudence of judicial bodies acting in the same field *ex post facto* but possessing quite distinct powers and duties.

To sum up, the principal differences between the CPT and the European Commission and European Court of Human Rights can be resumed as follows:

- i) the Commission and Court have substantive treaty provisions to apply and interpret : the CPT has not, although it could seek guidance from - without, however, being formally bound by - not only one but a number of treaties, other international instruments and the jurisprudence formulated thereunder;
- ii) the Commission and Court only intervene after having been duly seised with applications from individuals or States : the CPT "intervenes" *ex officio* by way of periodic or *ad hoc* visits and mainly without complaints;
- iii) the Commission and Court's proceedings conclude with a finding of breach or no breach of a State's treaty obligations, which is legally binding upon the parties : the CPT's findings result in a report with, if need be, recommendations and other advice, on the basis of which a dialogue can develop; in the event of a State failing to cooperate with the CPT or to comply with its recommendations, the latter may issue a public statement on the matter.

Summary of the CPT's main findings

The CPT was left with mixed feelings after its visit to Corradino Prison, currently the only civil prison in use in Malta.

On the positive side, scarcely any allegations were made by prisoners of physical ill-treatment by the prison staff. The Board of Inquiry set up in 1986 by the Maltese Government to examine allegations of ill-treatment at the prison and the action taken after the publication of its findings would appear to have had a salutary effect. Further, physical conditions of detention are on the whole satisfactory. In particular, every prisoner has his own cell, and each cell is equipped with a toilet and washbasin.

Despite this, the current situation in Corradino Prison cannot be described as entirely satisfactory. One particular point of concern is the use made of the building known as Division VIII for the purpose of accommodating prisoners who need to be temporarily segregated from the rest of the prison population. The CPT considers that the conditions of detention in Division VIII are unacceptable and has therefore recommended that the confinement of prisoners in that Division should cease forthwith. More generally, the CPT considers that a full review of disciplinary procedures and segregation practices in the prison should be carried out as a matter of urgency and that the respective powers of the prison management and the Board of Visitors in these areas should be clearly identified.

The CPT has also made recommendations and comments on various other matters (eg. the length of daily outdoor exercise for prisoners; medical care in the prison; the position of foreign prisoners). However, three connected issues relating to the running of the prison deserve particular mention, as the long-term betterment of conditions in the prison will not be possible unless they are satisfactorily resolved; they concern the post of prison Director, the prison staff and the Prison Regulations.

For some considerable time now there has been no full-time Director of the prison. The reasons for this situation are widely known and do not need to be commented upon. However, the fact remains that only a full-time Director would possess the authority to set an appropriate tone and atmosphere within the prison and have the incentive to develop policy and plan ahead. In the absence of a full-time Director, the prison will tend to drift. Consequently, it is essential that the vacant full-time position of Director of Corradino Prison be filled without further delay.

With regard to the prison staff, custodial duties are presently performed by an amalgam of prison officers, police officers and military personnel. The custody of prisoners is a specialist task best performed by professionally trained prison staff. It is therefore to be hoped that all police officers and military personnel working in the prison will be either replaced by properly trained prison officers or themselves re-trained and appointed as prison officers at the earliest opportunity.

As for the Prison Regulations, no one doubts that they must be revised root and branch. It is axiomatic that for the prison to be managed efficiently and in accordance with the rule of law, the relevant authorities must be provided with a set of coherent and up-to-date Regulations.

The CPT found no signs of ill-treatment of persons in police custody. Many of the Committee's interlocutors contrasted the present situation with that prevailing some years ago. Nevertheless, the CPT noted that a number of basic safeguards against ill-treatment while in police custody still do not exist in Malta. It has recommended various measures in this area eg. persons arrested by the police to have the right not to be held incommunicado; access to legal advice for persons in police custody to be introduced progressively; persons in police custody to have the right to be examined by a doctor of their own choice; a code of practice concerning police interviews to be drawn up; full records of police custody to be kept. Further, the CPT considers that a formal administrative procedure for dealing with complaints against the police should be established at the earliest opportunity.

The CPT was not impressed by the physical conditions of detention in the main "lock up" on the island, at the Police General Headquarters. The environment there is a harsh one. However, the CPT does not wish to call into question the use of the lock up for the short-term detention of persons being questioned by the police, on condition that the lighting in the cells is improved. On the other hand, the use of the lock up to accommodate persons detained under the Immigration Act is a matter of concern. Many such persons stay in the lock up for weeks, some for months. The lock up is quite unsuitable for such lengthy stays. The CPT has recommended certain measures designed to alleviate the present situation. However, it also believes that serious consideration should be given to the possibility of keeping persons detained under the Immigration Act elsewhere than in the lock up, in a place offering better facilities.

The CPT welcomes the recent establishment of the Police Academy, which is providing training for both police and prison officers. The importance of professional training cannot be emphasised too strongly. Skilled officers will be able to carry out successfully their duties without having recourse to ill-treatment and to cope with the presence of such fundamental safeguards as access to legal advice for detainees. The CPT trusts that the Academy will be given all the resources necessary for it to fulfil its promise.

In the course of a brief visit to Mount Carmel Hospital, the CPT noted in particular that there was a serious lack of professional training in psychiatric nursing among the nursing staff. It recommends that the provision of such training be accorded a very high priority. The setting up of smaller hospital units for the care of the mentally ill would also be highly desirable.



## **I. INTRODUCTION**

### **A. Dates of the visit and composition of the delegation**

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, a delegation of the CPT carried out a periodic visit to Malta from 1 July 1990 to 9 July 1990.

2. The delegation consisted of the following Committee members:

- Mr Rudolf MACHACEK (Head of delegation)
- Mr Michael MELLETT
- Mr Petros MICHAELIDES
- Mr Ergun ÖZBUDUN.

Mr Robert DALY, Professor of Psychiatry at University College, Cork, Ireland, assisted the delegation in the capacity of expert.

The delegation was accompanied by the CPT's Secretary, Mr Trevor STEVENS.

### **B. Establishments visited by the delegation**

3. The delegation visited the following places of detention:

- Corradino Prison, Paola;
- Police General Headquarters, Floriana;
- District Police Headquarters, Sliema <sup>1</sup>;
- District Police Headquarters, Valletta <sup>1</sup>;
- Mount Carmel Hospital, Attard;
- Military Detention Centre, Luqa Barracks, Luqa.

4. Further, on Monday 9 July 1990 the delegation visited the Police Academy at Valletta.

### **C. Consultations held by the delegation**

5. In addition to its meetings with the persons in charge at the places visited, the delegation held consultations with both relevant national authorities and individuals possessing knowledge of Malta's law enforcement system.

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<sup>1</sup> Places not notified in advance of the visit to Malta.

6. The delegation met in particular:

Mr Guido DE MARCO, Deputy Prime Minister and Minister for Foreign Affairs and Justice;  
Mr Ugo Mifsud BONNICI, Minister of Education and Internal Affairs;  
Mr Louis GALEA, Minister for Social Policy, Health, Housing and Labour;  
Chief Justice HUGH HARDING, President of the Constitutional Court of Malta;  
Mr Joseph BRINCAT, Socialist MP and former Minister of Justice;  
Mr Joseph GRIMA, Socialist MP and former Minister of Tourism;  
Mr Joseph CASSAR NAUDI, Chairman of the Board of Visitors of Corradino Prison;  
Mr John CAMILIERI, former Director of Corradino Prison;  
Mr Maurice CARUANA CURRAN, former judge and Head of the 1988 Inquiry on the treatment of prisoners at Corradino Prison;  
Mr René CREMONA, President of the Maltese Chamber of Advocates;  
Mr Giovanni BONELLO, practising lawyer specialising in human rights cases.

**D. Co-operation encountered during the visit**

7. On the whole the authorities, both at national level and at the places visited, co-operated satisfactorily with the delegation.

A liaison officer (Mr Charles Cremona, Ministry of Foreign Affairs) had been appointed, who proved most efficient in terms of supplying information and arranging meetings.

8. At ministerial level, the delegation met at length on two separate occasions (at the onset and at the end of the visit), Mr Guido De Marco, the Deputy Prime Minister and Minister of Foreign Affairs and Justice. Mr De Marco displayed a keen interest in the delegation's work and indicated a willingness to co-operate fully with it. The delegation also had a useful meeting with Mr Louis Galea, Minister for Social Policy, Health, Housing and Labour. Unfortunately, the delegation was only able to have a very short meeting with Mr Ugo Mifsud Bonnici, Minister of Education and Internal Affairs.

9. The delegation disliked the fact that in the course of two of the meetings with Ministers, TV camera teams arrived without any forewarning and filmed part of the proceedings. The delegation felt it should have been told in advance that this was going to happen and asked whether it had any objections.

10. The delegation encountered no difficulties or obstruction at the places visited, save that at the onset of each of its three visits to the Police General Headquarters, it was kept waiting at the entrance for some time (20 minutes on one occasion).

The authorities at local level appeared to have been informed in advance of the likelihood of a visit by the Committee and displayed no reticence. Nevertheless, knowledge of the Committee's powers and objectives was very limited. As regards detainees, no information on the Committee had been given to them.

## II. LEGAL FRAMEWORK

### A. Basic human rights safeguards

11. Sections 33 to 45 of Chapter IV of the Constitution of Malta set out a number of basic human rights safeguards. In particular, Section 36(1) provides that no person "shall be subjected to inhuman or degrading punishment or treatment". These safeguards were recently consolidated by the incorporation, by Act XIV of 1987, of the European Convention on Human Rights into Maltese domestic law. As a consequence of Act XIV, in addition to the provisions of Chapter IV of the Constitution, the provisions of the European Convention are legally binding at domestic level and as such can be invoked directly before the Maltese courts ; it is stipulated that they shall prevail over any ordinary law inconsistent with them.

12. Further, by Act XXIX of 1990 (enacted on 25 July 1990), a new Section (139A) was added to the Criminal Code making provision for a specific offence of infliction of severe pain or suffering by a public official. Section 139A reads as follows:

"Any public officer or servant or any other person acting in an official capacity who intentionally inflicts on a person severe pain or suffering, whether physical or mental -

- (a) for the purpose of obtaining from him or a third person information or a confession; or
- (b) for the purpose of punishing him for an act he or a third person has committed or is suspected of having committed; or
- (c) for the purpose of intimidating him or a third person or of coercing him or a third person to do or to omit to do, any act; or
- (d) for any reason based on a discrimination of any kind;

shall, on conviction, be liable to imprisonment from five to nine years;

Provided that no offence is committed where pain or suffering arises only from, or is inherent in or incidental to, lawful sanctions;

Provided further that nothing in this section shall affect the applicability of other provisions of this Code or of any other law providing for a higher punishment."

## **B. Police custody**

13. According to Article 34(3) of the Maltese Constitution, someone arrested on suspicion of having committed a criminal offence must be brought before a court within 48 hours or released. Apparently, up to 1981 this provision was circumvented by a practice under which a suspect would be "released" at the expiry of the 48 hour period and then immediately re-arrested; in this way the 48 hour period could be extended indefinitely. This practice was eventually declared illegal by the Courts in 1981, it being ruled that "a reasonable interval" must elapse between one arrest and another (Joseph Galea vs. Commissioner of Police, Magistrates' Court per Magistrate Joseph Filletti, 4.3.1981).

14. Subsequently, in 1986, the Courts ruled that the 48 hour period is the maximum allowed and that the police have a duty to release an arrested person even before the expiry of that period if all the circumstances indicate that continued arrest is no longer necessary (Tonio Vella versus Commissioner of Police and Superintendent Carmelo Bonello, Civil Court First Hall per Judge Joseph D. Camilleri, 5.12.1986; confirmed by the decision of the Constitutional Court of 7.3.1990 in the case of Frankie Mifsud versus Commissioner of Police and Superintendent Carmelo Bonello).

15. However, there are no legal provisions concerning the possibility for an arrested person:

- to inform someone of his arrest;
- to have access to legal advice.

Apparently, it is the usual practice for the police to ask an arrested person whether he wishes someone to be informed of his arrest. In the affirmative, the police contacts the person named.

As regards access to legal advice, the delegation was told that this is systematically denied during the 48 hour period.

16. It should also be noted that there is no formal internal procedure for the examination of complaints about police behaviour.

## **C. Imprisonment**

17. Persons remanded in custody awaiting trial (i.e. the post 48 hour stage) or sentenced to a term of imprisonment are kept in Corradino Prison. The Prison Regulations date from 1931, with minor amendments up to 1971. They contain a number of provisions which are in flagrant contradiction with the European Prison Rules (e.g. corporal punishment of prisoners, use of irons), and more generally are grossly outdated. Many of the Regulations, inter alia those concerning corporal punishment and the use of irons, have fallen into desuetude. The delegation was informed that new Regulations were under preparation; in the meantime, the prison authorities had been advised to heed the European Prison Rules.

18. The Regulations provide for a Board of Visitors composed of not less than six members appointed annually by the Head of Government. The Board is required to meet at the prison at least once a month, and to see every prisoner and visit every part of the prison. The Chairman of the Board of Visitors informed the delegation that in fact the Board meets regularly once a week and in addition carries out visits without giving any prior notice.

The Board examines complaints by prisoners regarding their treatment in the prison and for this purpose may take the sworn evidence of prison staff or prisoners. The Board also examines the more serious offences against prison discipline and fixes the punishment to be given to the prisoner.

**D. Detention of persons under the Immigration Act**

19. Persons may be detained under the Immigration Act. They are normally kept at the Police General Headquarters pending completion of the examination of their case and (if found to be an illegal immigrant) their removal from the country.

Further, foreigners who have completed a sentence of imprisonment may continue to be held at Corradino Prison under the Immigration Act, pending their removal from the country.

**E. Detention of the mentally ill**

20. Under the Maltese Mental Health Act 1986 a person suffering from mental disorder may, subject to certain conditions, be compulsorily admitted to a hospital for observation or treatment.

Provision is also made for:

- the detention in a hospital for observation of a person charged with a criminal offence, if the question of his insanity arises;
- the custody in a hospital of an accused person consequent upon a finding that he was insane at the time of the offence;
- the removal to a hospital of persons serving a term of imprisonment who are suffering from mental disorder.

21. All such involuntary patients and patients concerned in criminal proceedings are apparently kept at Mount Carmel Hospital.

### **III. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED**

#### **A. Introduction**

22. All three Ministers with whom the delegation met stated, with varying degrees of emphasis, that there had been instances up to 1987 (i.e. the time at which the present Government came to power) of ill-treatment of detained persons by public officials. Further, similar remarks were made by many of the other persons spoken to by the delegation.

23. There may, of course, be a tendency on the part of adherents of the party in power to describe in excessively black terms events that occurred under an earlier regime. Nevertheless, there are a number of objective facts which suggest that a real problem did exist in the fairly recent past as regards the treatment of detainees. In particular:

- an independent Board of Inquiry set up in 1986 found, in a report issued in March 1988, that a number of prisoners at Corradino Prison had been subjected to various forms of inhuman and degrading treatment. The Director of the Prison and the Chief Prison Officer were subsequently relieved of their positions;
- in several cases involving facts prior to 1987 the Courts have accepted a defence plea that confessions had been obtained by ill-treatment at the hands of the police;
- in the Tonio Vella case (see paragraph 14), the Civil Court found that the circumstances of the applicant's detention and interrogation had violated his human right not to be subjected to inhuman and degrading treatment;
- in November 1987 the former Police Commissioner was charged with the murder of someone in police custody (he is still awaiting trial).

24. The delegation was informed that the Government which took power in 1987 had removed from their positions those public officials suspected of involvement in ill-treatment and that it had been made clear to the law enforcement authorities that the Government was firmly opposed to - and would deal severely with any instances of - uncivilised behaviour towards detainees.

It was against this backdrop that the delegation carried out its visits.

## **B. Corradino Prison<sup>2</sup>**

### **a. General description of the establishment**

25. Corradino Prison is situated at Paola, a small town in the east of Malta, approximately five kilometres from the capital, Valletta. It is the only civil prison in use in Malta, and at the present time has some 190 cells available for use. All persons remanded in custody pending trial or sentenced to a term of imprisonment are sent there.

26. On 3 July 1990 (i.e. the first day of the delegation's visit to the prison), there were 92 male and 2 female prisoners - 56 awaiting trial, 35 sentenced, and 3 held under the Immigration Act. More than 40 of the prisoners were foreigners. Most prisoners were between 20 to 40 years old; there were no juveniles. Male and female prisoners were strictly separated.

27. The prison was built in the first half of the 19th century. It consists of a number of distinct buildings, certain of which are currently not in use; some of the prison buildings house the Paola District Police Headquarters.

Prisoners are normally accommodated in four wings (two of two storeys and two of three storeys), known as Divisions I to IV, constructed in the form of a radial pattern leading off a central hemicycle. The hemicycle is connected to a building containing the kitchen, the staff quarters, visiting facilities and the women's cells. Workshops are situated in adjacent outbuildings.

Two other buildings, Divisions V and VIII, are occasionally used to house prisoners subject to a regime of segregation; they shall be commented upon later at some length.

28. The prison staff at present totals 87 persons, the proposed complement being 125. Supervisory duties are performed by a combination of prison officers, police officers and a handful of military personnel. The Prison Director (a civilian) appointed to replace the Director relieved of his position in 1988 (see paragraph 23) fell ill some time ago and has not been in the prison since November 1989. An Assistant Police Commissioner (Mr Psaila) has been appointed as Acting Prison Director, with the day-to-day running of the prison being in the hands of a police inspector (Mr Kelly) and a Chief Officer (Mr Miruzzi).

The CPT wishes to underline the high degree of co-operation shown by Messrs. Kelly and Miruzzi throughout the delegation's visit to the prison.

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<sup>2</sup> See also paragraphs 17 and 18.

**b. Ill-treatment of prisoners**

(general)

29. Reference has already been made to the Board of Inquiry set up in 1986. The Board found in particular that during the period 24 December 1985 to 9 January 1986 some ten prisoners had been beaten and/or subjected to other forms of inhuman or degrading treatment (e.g. stripped naked; deprived of toilet facilities, including a slopping pail).

The reaction of the Maltese authorities on the issue of the Board's Report was to relieve the Prison Director and the Chief Prison Officer of their positions. However, no criminal charges were brought.

30. In the course of the delegation's interviews with prisoners scarcely any allegations of physical ill-treatment by the prison staff were made. However, a number of prisoners felt that the disciplinary regime applied was unduly harsh. Specific complaints were made in this context about the conditions of detention on the second floor (third storey) of two of the main wings and in Divisions V and VIII, places in which prisoners might be temporarily confined as a punishment or for reasons of good order and discipline.

31. The disciplinary regime is considered subsequently (see paragraphs 42 to 44), in the context of the section "conditions of detention". However, the confinement of prisoners in Division VIII should be commented upon at this stage of the CPT's report.

(confinement in Division VIII)

32. Division VIII is a small single storey, blockhouse-type building at the edge of the prison site consisting of eight cells arranged back to back. The building is surrounded by a high wall, giving it the appearance of a prison within a prison.

All the cells are of a reasonable size. Seven of the cells have a closed skylight which provides adequate natural light. All the cells possess artificial lighting.

However, ventilation in the cells, provided by two small slits in the walls (one in the cell with no skylight), is very poor. Further, the temperature within the cells is a ground for concern. The delegation examined the cells at approximately 13h00 on what was not the hottest day during the visit; the temperature varied from 31°C to 33°C. Moreover, the cell without a skylight has no natural light in the event of the small aperture in the cell door being closed.

The cells possess no toilet (prisoners are provided with a bucket which they can empty from time to time into a latrine in the yard outside the building) or washing facilities (the nearest running water is some distance away in Division V) and were devoid of any fittings when examined by the delegation. No alarm bell for prisoners is provided in the cells; further, there are no staff quarters in the vicinity of the building.



33. As regards the regime applied in Division VIII, prison staff said that a mattress was normally provided throughout the whole day, prisoners were usually given half an hour of exercise a day and the cell door aperture was usually left open. Food was provided at the habitual times and the Division was visited regularly by a prison officer.

Prisoners' accounts of the regime in Division VIII did not tally with the prison staff's version. Further, the prisoners alleged that on occasion they were deprived of their clothes when confined in the Division.

34. The prison staff said that prisoners were usually put in Division VIII in order to "cool off" after an incident of violence or other disruptive behaviour. It was alleged that the Division was very rarely used and that, in any event, no prisoner was detained there for longer than three days. This was not borne out by either the accounts of prisoners or the "occurrences book" concerning Division VIII; the latter indicated that five prisoners had been confined there in the course of June 1990 (three of them for 10 days) and that the Division had also been used in the two preceding months.

35. The CPT considers that the conditions of detention in Division VIII are unacceptable. **It therefore recommends that the confinement of prisoners in Division VIII should cease forthwith.**

The CPT would at the same time like to stress that Corradino Prison possesses other accommodation (in particular Division V) that could easily be rendered adequate for the purposes of temporarily segregating disruptive prisoners.

**c. Conditions of detention**

(physical conditions)

36. Physical conditions in the prison are on the whole satisfactory. Every prisoner has his own cell and all cells in the occupied parts of Divisions I to IV are equipped with a toilet and a washbasin (though without a plug). The cells are of a reasonable size (2.54 metres wide, 3.58 metres long and 2.97 metres high) and enjoy adequate ventilation and natural light. All cells have electric light. Shower facilities on the wings, although far from ideal, are acceptable.

37. No cells in Division I to IV, or in any other part of the prison, are equipped with an alarm system (apparently such a system had existed; the cells on the top floor of the two wings with three storeys still possess the alarm button). Prisoners who need assistance while locked in their cells have to draw the attention of prison officers by calling or banging on their cell door.

The risk of a prisoner in need being left unattended would be significantly reduced if an alarm system existed. **The CPT therefore recommends that an alarm system be (re)introduced in all cells in Corradino Prison.**

38. The delegation visited three parts of the prison in which prisoners were sometimes confined on account of their behaviour, namely the top floor of the two Divisions among Divisions I to IV with three storeys, Division V and Division VIII. Division VIII has already been commented upon (see paragraphs 32 to 35).

39. The "top-floor" cells have the same characteristics as cells on the lower floors, save that they possess no toilet or washbasin (prisoners are apparently provided with a slopping-out bucket and a pail of water). The cells are in a general state of neglect.

**The CPT recommends that if it is felt necessary for whatever reason to confine a prisoner on the top floor of one of the two Divisions concerned, he should be provided with a clean cell containing at least a table and chair, with suitable bedding at night and with adequate washing and toilet facilities. Further, any prisoners confined in a top floor cell should be visited regularly by a prison officer.**

40. Division V is a single storey building situated some distance from Divisions I to IV. It contains approximately 15 cells on either side of a wide central area, and an underground dungeon; prison staff assured the delegation that the latter was never used, and this was confirmed by prisoners.

Two of the cells have a grill front and are quite large (they were apparently used in former times to house prisoners under sentence of death); the other cells are somewhat smaller, but still of a reasonable size (2.43 metres wide, 3.65 metres long and 3.17 metres high). All the cells enjoy adequate ventilation and natural light and the internal temperature was moderate when the cells were examined by the delegation.

The only furnishing within each of the cells was a dilapidated mattress. None of the cells possess a toilet or running water. A toilet and two showers are installed in a room at one end of the building; they work, but are in a very poor general state of repair.

**41. The CPT recommends that if it is felt necessary for whatever reason to confine a prisoner in Division V, he should be provided with a clean cell containing at least a table and chair, with suitable bedding at night, and with adequate washing and toilet facilities (which would imply inter alia the refurbishment of the toilet and showers in the Division). Further, any prisoners confined in the Division should be visited regularly by a prison officer.**

The CPT would add that the recommendation that all cells in Corradino Prison possess an alarm system (see paragraph 37) applies equally to cells in Division V.

(disciplinary regime)

42. The existing Prison Regulations provide for a number of punishments which are clearly no longer acceptable by modern-day standards e.g. corporal punishment of prisoners, solitary confinement on a bread and water diet.

The delegation was assured that these parts of the Regulations were no longer applied; however, certain prisoners alleged that they had been threatened with their application. It is clearly desirable that the Regulations be revised at the earliest possibility (see also paragraphs 63 and 64).

43. The delegation was informed by the Acting Prison Director that disciplinary decisions on all but minor offences were taken by the Board of Visitors. This, indeed, is the approach provided for in the Prison Regulations.

However, the delegation found a number of instances of persons being confined to a cell under a relatively harsh regime without any reference being made to the Board of Visitors. In particular, the relevant registers indicated that it was frequent for the prison authorities to decide alone to confine prisoners in Division V or VIII, sometimes for a considerable number of days (see also paragraph 34).

44. It was argued by the prison staff that the Board of Visitors was not involved as the prisoners were sent to these Divisions not as a punishment but merely to enable them to "cool off" and "change their attitude" after disruptive behaviour. The delegation was not convinced by this explanation. It gained the distinct impression that both an official and an unofficial disciplinary procedure existed.

**The CPT recommends that a full review of disciplinary procedures and segregation practices in Corradino Prison be carried out as a matter of urgency and that the respective powers of the Acting Director and the Board of Visitors in these areas be clearly identified.** In this regard it should be recalled that under the Prison Regulations, the Director may not order a prisoner to be kept in solitary confinement in a cell for more than three days.

(outdoor exercise)

45. Many of the prisoners are involved in outdoor work. However, prisoners on remand may decline to work. Further, some prisoners may be confined in a cell during the day for disciplinary reasons. It was clear from the remarks of the prison staff, and confirmed by prisoners, that outdoor exercise for prisoners not working outdoors is limited on weekdays to half an hour.

In this connection, Rule 86 of the European Prison Rules might be noted, which provides that every prisoner who is not employed on outdoor work shall be allowed, if the weather permits, at least one hour of walking or suitable exercise in the open air daily. This provision is described in the explanatory memorandum to the Rules as a "basic safeguard for prisoners".

**The CPT recommends the Maltese authorities to take immediate steps to ensure that all prisoners are allowed at least one hour of outdoor exercise every day.**

46. **The CPT would also like to draw the attention of the Maltese authorities to the desirability of developing sport facilities at the prison.** Many prisoners complained of the lack of such facilities, and their complaint did not appear totally unfounded.

(other aspects of the regime)

47. Adequate work facilities appeared to be available for prisoners and the rates paid for the work had recently been substantially increased (to a maximum of 35 french francs a week). However, the delegation was informed that remand prisoners received no pay for their work.

The CPT can see no justification for such a discrimination (reference might also be made to Rule 96 of the European Prison Rules, which stipulates that untried prisoners "who choose to work shall be paid as other prisoners"). **It therefore recommends that remand prisoners be paid for their work.**

48. There was a general consensus among the persons spoken to that the educational and social welfare programmes for prisoners were underdeveloped.

Devising an effective education programme is not a straightforward matter given the mixture of sentenced and unsentenced prisoners and the large number of foreigners. Taking up a suggestion made by the Board of Visitors, **the CPT would like to stress the desirability of appointing a full-time education officer within the prison.**

As regards the question of social welfare for prisoners, the CPT noted that in a recent publication ("A caring society in a changing world", March 1990) of the Ministry of Social Policy, it was announced that "two social workers, at least, are to be posted at the Prisons Department". **The CPT welcomes this decision and hopes that the postings will be made in the near future.**

49. Visiting arrangements appeared satisfactory. It was noted in particular that prisoners were allowed to meet their children in the entrance hall, thereby permitting free contact under relatively friendly conditions.

**Nevertheless, the CPT considers that it would be desirable for the visiting area to be enlarged in due course.**

50. A number of foreign prisoners complained that they were often not allowed to receive incoming calls.

For a foreign prisoner, the telephone is often the only means of keeping in direct personal touch with his family. **The CPT would therefore like to stress the importance of allowing foreign prisoners to have adequate telephone contact with their families.**

51. As regards the position of foreign prisoners in general, the vast majority speak english, thereby avoiding problems of communication. However, the delegation heard a number of allegations to the effect that such prisoners were treated less favourably than Maltese prisoners as regards access to facilities and regime activities (e.g. showers, the library, medical assistance (including for drug-related problems), work possibilities, etc).

**The CPT felt it should draw the attention of the Maltese authorities to these allegations.**

(medical care)

52. The prison medical officer is a practising doctor who visits the prison twice a day during the week. In case of emergency, the prison staff can call in a doctor from the health centre in Paola, which operates on a 24 hour, seven days a week, basis. Further, a drug clinic is operated within the prison by a doctor on the Board of Visitors to assist the many drug addicts among the prisoners.

The proposed prison staff complement also makes provision for two nurses. However, there is at present no nurse on the prison staff and apparently no other member of staff with nursing qualifications.

**The CPT recommends the Maltese authorities to take steps to ensure that someone competent to provide first aid is always present on the prison premises.**

53. The delegation heard from two sources that tranquillisers had in the past been - and might still be - distributed at the discretion of prison officers. **The CPT wishes to stress that the availability of such drugs should be subject to appropriate safeguards, i.e. the drugs to be given only on prescription and stock control measures applied.**

54. The delegation was not impressed by the existing surgery. More spacious facilities offering greater privacy for prisoners during consultations are required urgently. Improved medical facilities are presently being built within the prison, but the delegation noted that they were still some way from completion.

**The CPT recommends the Maltese authorities to accord a high priority to the rapid completion of the new medical facilities within the prison.**

(female prisoners)

55. A small section of the prison is set aside for female prisoners. The section is separate from the parts of the prison which contain male prisoners and has its own entrance. The section is staffed by female prison officers and some Catholic nuns.

56. There were only two prisoners there on the day the delegation visited the section, namely two African women detained on drug-related crimes: one was serving a ten-year sentence and the other was awaiting trial. Both prisoners were interviewed in private and said that they had no complaints about their treatment in the prison. Indeed, it appeared to the delegation that conditions of detention were quite satisfactory and that the atmosphere in this part of the prison was very relaxed.

**d. The running of the prison**

(Prison Director)

57. As already indicated (see paragraph 28), the prison has for some time been de facto without a Director. There is an acting Director; however, he has other functions and only visits the prison from time to time.

58. Only a full-time Director would possess the authority to set an appropriate tone and atmosphere within the prison and have the incentive to develop policy and plan ahead. In the absence of a full-time Director the institution will tend to drift; such an environment is a propitious one for the growth of undesirable practices.

**The CPT recommends the Maltese authorities to fill the vacant full-time position of Director of Corradino Prison without further delay.**

(Prison staff)

59. The custody of prisoners is a specialist job best performed by professionally trained prison staff (see also Rule 54(2) of the European Prison Rules). The present amalgam of prison officers, police officers and military personnel cannot therefore be considered as satisfactory from the point of view of the treatment of detainees. Further, the management of a body of men belonging to three distinct corps must be a complicated task.

60. The declared objective of the authorities is for the prison to be entirely run by qualified prison officers. In this regard the delegation noted that 46 prison officers had been recruited during 1989 and had undergone a period of intensive training at the Police Academy (see also paragraph 109).

**The CPT welcomes this development and hopes that all police officers and military personnel working within the prison will be either replaced by properly trained prison officers or themselves re-trained and appointed as prison officers at the earliest opportunity.**

(Board of Visitors)

61. The Board of Visitors possesses important powers under the existing Prison Regulations and appears to be very active (see also paragraph 18). However, the Board's credibility and effectiveness will depend to a large extent on it being seen as a body quite distinct from the prison administration.

In this connection, the delegation gained the impression that the Board might be becoming too closely involved in the day-to-day running of the prison, perhaps as a result of the present power vacuum at management level. Clearly, the appointment of a full-time Director would help to remedy this situation at least to some degree.

62. In the interests of transparency and of stimulating debate on the prison service, **the CPT would suggest that the Board of Visitors draw up and publish an Annual Report.**

(Prison Regulations)

63. The existing Prison Regulations belong to an age long since past. There is agreement on all sides that their revision is overdue. Pending such a revision the prison authorities have been set the awesome task of applying the Regulations in the light of the European Prison Rules; the two sets of rules are in fact frequently in total opposition. For the prison to be managed efficiently and in accordance with the rule of law, the relevant authorities must be provided with a set of coherent and up-to-date Regulations.

64. Judge Caruana Curran, who has been requested by the Government to prepare a new set of Prison Regulations, was optimistic that he would be in a position to present a draft before the end of the year. The delegation impressed upon him the urgency of the matter.

**The CPT recommends that the drawing up of a new set of Prison Regulations fully reflecting modern-day standards be treated as a matter of the highest priority.**

**C. Police establishments<sup>3</sup>**

**a. Introduction**

65. The Maltese Police Force has 1,150 officers. The Force is organised into 10 Districts, each with its own Headquarters. In addition there is an anti-riot police unit ("Special Assignment Group") based at Ta'Kandja.

The Police General Headquarters (PGH) is located in a large building in Floriana, a town adjacent to Valletta. The Criminal Investigation Department is based at the PGH; all persons arrested in Malta for a serious offence are interrogated there.

66. The police possess two "lock ups", one at the PGH and the other at Valletta District Police Headquarters. They are used for the detention of suspects during the initial 48 hour period of police custody. The lock up at the PGH is also used to hold persons under the Immigration Act. Cells exist at other police stations; however, apparently the practice is to transfer to one of the lock ups any person who must be detained for more than a few hours.

67. The delegation of the CPT visited the PGH on three separate occasions. Further, it visited the Valletta and Sliema District Police Headquarters.

A satisfactory degree of co-operation was encountered in the course of these visits.

**b. Ill-treatment of detainees**

68. Reference has already been made to the many statements made to the delegation concerning the ill-treatment of detained persons prior to the change of Government in 1987 and to court cases in which ill-treatment had been brought to light (see paragraphs 22 and 23).

Further, certain prisoners in Corradino Prison interviewed by the delegation alleged that they had been beaten by the police some years ago in the course of their interrogation. Even one of the police inspectors with whom the delegation spoke in the PGH intimated that in the past detainees might have been treated roughly by the police. It should also be noted that the annual reports of Amnesty International for 1986 and 1987 contained references to allegations that persons in police custody in Malta had been ill-treated.

69. As regards the present, the delegation interviewed a number of prisoners at Corradino Prison who had recently been interrogated by the police. None of them indicated that they had been ill-treated, though some complaints of lack of food were made.

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<sup>3</sup> See also paragraphs 13 to 16 and 19.



The delegation also spoke to certain people detained at the PGH lock up for the purposes of questioning. One of them alleged that he had been hit by the police at the time of his arrest (which had occurred some 8 hours earlier) and kicked in the back while in the police car. However, no marks consistent with these allegations could be found on his body.

70. In his annual report covering the period May 1989 to May 1990, Mr De Marco, the Deputy Prime Minister and Minister for Foreign Affairs and Justice, states as follows:

"1.23. For the third consecutive year, police actions were, on no occasion, censored by the Courts, and no case of torture or beatings on persons in police custody were reported".

This statement demonstrates the continuing attention paid by the Government to the question of ill-treatment of detainees.

71. For its part, the delegation found no signs of ill-treatment of persons in police custody. However, this situation is clearly very much based on a new attitude stemming from the present Government's insistence that detainees be treated in a civilised manner. The fact remains that a number of basic safeguards against ill-treatment while in police custody (e.g. right to inform someone of arrest; access to legal advice) still do not exist in Malta. This issue will be pursued further in subsequent paragraphs.

### **c. Conditions of detention**

(physical conditions and regime)

#### *i. Police General Headquarters*

72. The lock up at the PGH is situated in premises adjacent to the main building. It consists of 26 cells measuring each 1.95 metres wide, 2.40 metres long and 2.35 metres high. The cells have practically no natural light. Artificial light is provided through a gap in the ceiling; however, in at least some of the cells it was insufficient to read by.

**The CPT recommends that the lighting in the cells at the PGH lock-up be examined in order to ensure that it is sufficient to read by (sleeping periods excluded).**

73. Each of the cells has a bed, but no other fittings. A toilet and washing facilities (a washbasin and a shower) are located outside the cells. They are in a reasonable condition and no complaints were heard concerning the possibility of access to them.

74. The delegation visited the lock up on two separate occasions. On the first occasion there were 15 people in detention - 11 persons detained under the Immigration Act and 4 persons detained for the purpose of police questioning (the 48 hours rule), on the second, 10 - 8 persons detained under the Immigration Act and 2 persons detained for the purpose of police questioning. All had their own cell.

75. The delegation was informed that persons held under the 48 hour rule are kept locked in their cells, outside periods of interrogation (which takes place in offices a short distance away in the main building) and visits to the toilet and washing facilities. Persons detained under the Immigration Act are locked in their cells from 20 h 00 to 8 h 00 and from 13 h 00 to 16 h 00 i.e. for 15 hours a day. The remaining 9 hours are spent, weather permitting, in an open courtyard.

76. The physical conditions of detention at the PGH lock up are far from ideal. In particular, the cells are very small, poorly lit, and oppressive in design. However, high standards cannot be expected of what is meant to be short-stay accommodation. The CPT would not wish to call into question the use of the lock up for the detention of persons for the purpose of police questioning, subject to the recommendation made in paragraph 72.

77. On the other hand, the CPT is concerned about the way the lock up is used to accommodate persons detained under the Immigration Act. Many of these people stay in the lock up for several weeks, some longer. On 9 July 1990, the delegation met one person who had been detained in the lock up since 14 April 1990; further, two persons first detained on 18 April 1990 had only left on 8 July 1990.

As already indicated, the practice is to let such persons out of their cells during the day; however, the custody officer stated that there were no instructions on this point. Once out of their cells, they have no alternative but to stand or sit on the ground in a courtyard. No tables and chairs are provided, there are no regime activities, and there is no access to reading material other than that in the persons' possession when detained (apparently certain custody officers allow them to watch the staff television). In times of inclement weather, there is no choice but to stand in a corridor or return to one's cell. Clearly, to be subjected to such an environment for weeks, perhaps months, must be a stultifying experience.

**78. The CPT recommends that the Maltese authorities:**

**i) immediately**

- **issue instructions that persons detained at the PGH lock up under the Immigration Act be let out of their cells during the day;**
- **provide such persons with appropriate furniture for use in the courtyard and access to reading material (if possible in their own languages) and other means of useful occupation;**

**ii) in the short term**

- **provide such persons with a room, for use in particular in times of inclement weather;**

**iii) in the medium term**

- **explore the possibility of keeping persons detained under the Immigration Act elsewhere than in the PGH lock up, in a place offering better facilities.**

ii. *Sliema and Valletta District Police Headquarters*

79. Only one police officer was present, manning the station telephone, when the delegation visited Sliema District Police Headquarters. He stated that the station possessed one cell, which was not currently in use. The station arrest book indicated that this was the case. He said that he could not leave the telephone unattended in order to show the delegation the cell, but that a second officer should arrive shortly. Given the advanced hour (11.00 p.m.) the delegation decided not to wait, but instead to visit Valletta District Police Headquarters.

80. Valletta District Police Headquarters is located in relatively new premises next to the Law Courts. It possesses some ten cells, frequently used to hold temporarily prisoners brought to appear before the Courts. The cells are each equipped with a bed, are of a reasonable size and enjoy satisfactory lighting. One person was in custody, asleep, when the delegation visited the Headquarters; the delegation chose not to wake him.

(food in police establishments)

81. The delegation was informed, in the course of its talks with independent persons, of rumours that persons in police custody were sometimes not fed. The custody officer at the PGH lock up stated that detainees were fed three times a day. He showed the delegation a record that was kept of meals provided which appeared to confirm that this was indeed the case. However, detainees interviewed indicated that they did not always get a proper meal during the day. When the question of food was raised at the Valletta lock up, it was stated that detainees were given sandwiches.

**The CPT wishes to stress that persons in police custody should be given at least one proper meal (i.e. something more substantial than a sandwich) every day.**

(notification of custody)

82. A person detained by the police does not have the right to have someone informed of his arrest. However, inspectors at the PGH stated that it was standard practice for detainees to be asked, after the first period of questioning, whether they wished someone to be informed of their arrest. If they did, the police would contact the person named.

83. It was argued that on an island the size of Malta, it would in any event be common knowledge within a very short time if someone was detained by the police; consequently, the latter had no interest in not giving notification of custody.

The CPT does not find this argument reassuring, in particular insofar as non-Maltese detainees are concerned.

84. The right not to be held incommunicado is a fundamental safeguard against ill-treatment and as such should be guaranteed by law. Naturally, the exercise of this right could be made subject to qualifications designed to protect the course of justice.

**The CPT recommends:**

- **that persons arrested by the police should have the right not to be held incommunicado;**
- **that any possibilities for the police exceptionally to delay or refuse contact with a third person should be clearly circumscribed and made subject to appropriate safeguards (e.g. such delay or refusal to be recorded in writing together with the reasons and to require confirmation by a senior officer).**

(access to legal advice)

85. A person detained by the police has no right of access to legal advice during the first 48 hours of his custody and any request to have access to such advice is systematically denied<sup>4</sup>.

Deputy Prime Minister De Marco told the delegation that he was in principle in favour of granting detainees the right of access to legal advice. However, he felt that the time was not yet ripe for such a step. The police, faced with the Government's insistence that detainees be treated in a civilised manner, were already having difficulty achieving the results expected of them; granting detainees a right of access to legal advice would render the task of the police even more difficult. There would, he argued, have to be a significant improvement in police investigation techniques before the granting of a right to legal advice could be envisaged.

86. Like the right not to be held incommunicado, the right of access to legal advice is a fundamental safeguard against ill-treatment. The present situation in Malta, under which persons detained by the police are totally deprived of any form of independent legal advice for 48 hours is, in the CPT's view, not acceptable. However, the CPT also feels that due weight must be given to the remarks of Mr De Marco. After going through a difficult period, the Maltese police force would now appear to be on the right course. This development should not be jeopardised by expecting too much too soon. Consequently, the CPT considers that the right of access to legal advice might be introduced in stages.

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<sup>4</sup> However, it is interesting to note that a set of unpublished directives on the subject of police custody drawn up some 30 years ago provided that a detainee's solicitor should be present in the course of an identification parade.

**87. The CPT recommends the Maltese authorities:**

**i) immediately**

- **to allow persons in police custody to communicate by telephone with a legal advisor, to clearly circumscribe any possibilities for the police exceptionally to delay or refuse such telephone contact and to make the use of such possibilities subject to appropriate safeguards (e.g. such delay or refusal to be recorded in writing together with the reasons and to require confirmation by a senior officer);**

**ii) in the short term**

- **to grant persons in police custody the right to contact and to be visited by a legal advisor;**

**iii) in the medium term**

- **to explore the possibility of allowing a legal advisor to be present during police interrogations.**

(access to medical treatment)

88. The delegation was informed that if a detainee requested, or appeared to be in need of, medical attention, a doctor would be called from the nearest "polyclinic" (i.e. local health centre staffed by independent doctors). Police doctors existed, but apparently were not used for the medical examination of detainees.

**The CPT recommends that, in addition to examination by a doctor called by the police, a person in police custody should have the right to be examined if he so wishes by a doctor of his own choice.**

(conduct of interrogations)

89. From the delegation's talks with police officers it transpired that there are no rules or guidelines as to how the interrogation process should be conducted; as one officer put it, "every inspector has his own methods". Consequently, police officers would appear to have a considerable degree of discretion on such matters as informing the detainee of the identity of police officers present during the interview, the length of a given interview, rest periods between interviews, the place(s) in which an interview may take place, whether the detainee may be required to stand while being questioned, etc.

**The CPT recommends the Maltese authorities to draw up as a matter of urgency a code of practice on police interviews addressing inter alia the above-mentioned matters and providing for a record to be systematically kept of the times during which a detainee is questioned.**

90. As regards the actual records kept of the content of police interviews, they are exclusively manual.

**The CPT recommends the Maltese authorities to explore the possibility of introducing a system of electronic recording of police interviews offering all appropriate guarantees.**

(custody records)

91. The delegation noted that whereas certain aspects of a person's custody were recorded (e.g. when arrested, when fed (at least at the PGH), when seen by a doctor), no record was kept of many other aspects (e.g. when questioned (as distinct from when a statement was made), when told that he could have someone informed of his arrest and when the person named was informed).

92. It would greatly facilitate the supervision of the treatment of persons in police custody (and might also facilitate the work of the police) if a single and comprehensive custody record, in booklet form, were to exist for each person detained by the police, on which would be recorded all aspects of his custody and action taken regarding them (when arrested and reasons for arrest; when told of rights; signs of injury, mental illness, etc.; when visited by a doctor; when next of kin and/or lawyer telephoned and when visited by them; when fed; when interrogated; when charged; when transferred; when released, etc.). For various matters (for example, items in the person's possession, waiving or invoking rights), the signature of the prisoner should be obtained and, if necessary, the absence of a signature explained. Further, the detainee's legal advisor should have access to such a custody record.

**The CPT recommends that the Maltese authorities explore the possibility of developing such a single and comprehensive custody record.**

(inspection procedures)

**93. The CPT considers that it would be desirable for an independent person or body to be authorised to inspect on a regular basis the conditions of detention in the lock ups at the Police General Headquarters and at Valletta District Police Headquarters.**

**d. Complaints against the police**

94. Mr De Marco informed the delegation that there was still no satisfactory procedure for examining complaints against the police. Someone with a grievance against the police but who was not in a position - or did not wish - to instigate court proceedings had to try and bring the matter to the relevant Minister's attention, in the hope that he would take action. Mr De Marco wished to see a formal internal review procedure established, accompanied by the possibility for the matter to be referred to an independent body in the event of the complainant not being satisfied with the outcome of the internal proceedings.

**The CPT fully shares Mr De Marco's views on this issue and recommends that a formal administrative procedure for dealing with complaints against the police be established at the earliest opportunity.**

**D. Mount Carmel Hospital<sup>5</sup>**

95. The delegation made a short visit to Mount Carmel Hospital, which is the main mental health institution in Malta and has a capacity of 780 inpatients. The hospital is situated some 10 kilometres to the southwest of Valletta and is housed in an imposing building constructed during the first half of the 19th century. At the time of the delegation's visit the inmate population was slightly less than 700, some 140 of the patients being either involuntary or concerned in criminal proceedings. The latter were accommodated together with the voluntary patients.

The delegation was cordially received by Professor Galea (Physician Superintendent), Mr Galea (Hospital Administrator) and Mr Ripard (Senior Nursing Officer), and the hospital staff as a whole proved very co-operative.

96. Due to lack of time, the delegation was not in a position to make a thorough examination of conditions at the hospital. However, it was impressed with the general level of maintenance, decoration and cleanliness. Of course, the age and size of the hospital building impose constraints on the development of modern services, which are acknowledged by the staff and are common in similar institutions in most countries.

97. The delegation was struck by the lack of professional training among the nursing staff; of the 120 male nurses only 5 were qualified as professional psychiatric nurses and the 80 female nurses were general trained but not qualified in psychiatric nursing. The delegation felt that more professional training would enable a less restrictive environment within the hospital.

**The CPT recommends that the provision of professional training for the nursing staff at Mount Carmel Hospital be accorded a very high priority.**

**98. Further, the CPT hopes that in time the majority of admissions (including involuntary cases) will be in smaller units, such as the one in St Luke's General Hospital, thereby avoiding the hazards often associated with large mental health institutions.**

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<sup>5</sup> See also paragraphs 20 and 21.

**E. Military Detention Centre, Luqa Barracks**

99. The delegation visited Luqa Barracks, which is the Headquarters of the Armed Forces of Malta. The barracks are situated close to the main airport; they had been notified to the CPT as a place where persons may be detained.

100. The delegation met Brigadier General SPITERI, Commanding Officer, and some of his senior staff.

The Commanding Officer gave some background information about the Forces and said that there were approximately 1,600 members, divided into three regiments. One regiment was stationed at Luqa Barracks and the other two at locations elsewhere on the islands. Each location had one detention room where soldiers who have been charged or convicted of relatively minor offences against military law may be detained. However, it rarely happened now that soldiers were charged with such offences. The Commander explained that they did not have conscription in Malta and consequently if a soldier did not behave properly he was either "drummed out" of the Forces or simply "confined to barracks". When soldiers were charged or convicted of more serious offences against either military or civil law, they were detained in the civil prison (i.e. Corradino). Civilians were never kept in the detention rooms in the military barracks.

101. The delegation inspected the detention room in the barracks. It was a secure room rather than a cell. It was the size of a small bedroom and had the usual bedroom furniture. It was well ventilated and lighted. There was nobody in detention.

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**F. Police Academy, Fort St. Elmo**

102. The delegation visited the Police Academy on 9 July 1990 and held discussions with the Director of Studies, Dr. Guido Saliba, and the Deputy Commandant, Lt. Col. Kenneth J. Valenzia.

103. The Academy was established in 1988. Before then, the training provided for police officers was apparently patchy and inadequate. In fact, when the Academy was set up there were 183 officers who had received no training at all. This group, with the exception of a few who are illiterate, have now attended training courses from seven to twelve weeks depending on their individual needs.

104. The delegation was informed that there is now in place a new two-tier structure of recruitment into the Police Force. There is recruitment at constable level and at cadet level. The authorities believe that the introduction of the cadet rank will improve discipline in the Force.

105. At the time of the visit there were only eleven cadets in training; this low number was due to the academic holiday period. The Academy has had on occasion as many as 150 officers of different ranks on courses there, and since its establishment, several hundred officers have passed through the Academy.

106. The courses at the Academy for both constables and cadets are wide-ranging. The induction course for constables lasts twelve weeks, and the induction course for cadets, one year. The courses include modules on constitutional law, relevant statute law and regulations and police duties. The Academy also provides specialist courses on such matters as human rights, the investigation and prosecution of offences, forensic skills and the behavioural sciences. However, although the police have to deal with a lot of immigration problems, no instruction is given on the subject at the Academy.

In addition to these courses, developmental courses and seminars are organised on various topics, including a course on human rights and interrogation techniques which was devised in conjunction with the UN Commission for Human Rights. A recent seminar on crime prevention and treatment of offenders was addressed by a Professor from the UN International Centre at Vienna for Social Development and Humanitarian Affairs.

107. The Director told the delegation that while the Academy had no difficulty in finding suitable and qualified people to lecture in law and related subjects, it was experiencing problems in obtaining lecturers from within the police to lecture on police duties. Although there were many experienced and able persons in the police, they lacked training in teaching methodology and this was exacerbated by the different education standards among the students. The Academy was anxious to attract lecturers from abroad, particularly from international bodies and foreign universities and police academies. Furthermore, as far as the cadets were concerned, it was keen to send some of them abroad to attend suitable courses either at universities or police academies. It was believed that this would be helpful in breaking down what the Director and his staff see as an insular attitude among the students.

108. The staff of the Academy have developed further new courses which the Director has sent to the Police Commissioner for consideration. They are also considering in conjunction with the University of Malta the feasibility of sending selected police officers to university to take a professional course in law and police studies which would lead to a Diploma in Legal Studies. It is considered that the present system whereby untrained police officers present cases in court is unsatisfactory because the officers are very often cowed by judges and experienced lawyers for the defence. It is envisaged that prosecutions in the higher courts will continue to be in the hands of fully qualified lawyers.

109. In addition to providing training for the police, the Academy provides an induction training course for prison officers.

There are particular difficulties with the training of prison officers. In the past officers were recruited from the ranks of the unskilled labour force. The standard of education was low. Consequently, for these people they have had to keep the education standard of the course rather low. They are now trying to improve the education standard required for entry into the prison service. The course which the Academy provides at present for officers lasts six weeks and includes modules on the rights of prisoners and human rights.

110. The CPT wishes to stress that adequate professional training for police and prison officers is an essential component of any strategy for the prevention of torture and inhuman or degrading treatment or punishment. Skilled officers will be able to carry out successfully their duties without having recourse to ill-treatment and to cope with the presence of such fundamental safeguards as access to legal advice for detainees.

**The CPT therefore welcomes the establishment of the Police Academy and recommends that the development, both quantitative and qualitative, of its activities be accorded a high priority.**

#### IV. SUMMING-UP

111. The Maltese Republic is now firmly committed to the protection of human rights; the incorporation of the European Convention on Human Rights into Maltese domestic law demonstrates this eloquently.

As regards more particularly the treatment of persons deprived of their liberty, the Government and the Courts have delivered a clear message to public officials that excesses such as those encountered in the past will not be tolerated. That message has been heard and, for the time being at least, would appear to be being followed.

112. However, in order to place the protection of persons deprived of their liberty on a more secure footing, certain measures of a preventive nature must be taken. Action is required on two fronts: i) the body of legal provisions governing the treatment of persons deprived of their liberty should be reinforced; and ii) the professional training of law enforcement officials as well as of medical staff working with detained persons should be intensified.

As regards i), the drawing up of a coherent and up-to-date set of Prison Regulations is an absolute necessity, as is the guaranteeing by law of the rights not to be held incommunicado and of access to legal advice while in police custody.

As regards ii), the establishment of the Police Academy is a very positive development. It is to be hoped that the Academy will be given the necessary resources to enable it to fulfil its promise. The need to provide suitable professional training for nursing staff dealing with mentally ill persons deprived of their liberty should also be underlined.

113. The CPT has made recommendations on the above-mentioned matters as well as on a considerable number of other issues, some of a very practical nature. Mention should be made in particular of the recommendations that the confinement of prisoners in Division VIII at Corradino Prison should cease forthwith and that the conditions of detention of persons held at the PGH lock up under the Immigration Act should be improved.

114. The various recommendations and comments formulated by the CPT are resumed in an appendix to this report.

115. As regards more particularly the CPT's recommendations, having regard to Article 10, paragraph 2, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the CPT requests the Maltese authorities:

- i) to provide within six months an interim report giving details on how it is intended to implement the CPT's recommendations and, as the case may be, providing an account of action already taken (N.B. the CPT has indicated the urgency of certain of its recommendations);
- ii) to provide within twelve months a follow-up report providing a full account of action taken to implement the CPT's recommendations.

The CPT trusts that it will also be possible for the Maltese authorities to provide in the above-mentioned interim report reactions to the comments formulated in this report.

## APPENDIX

### Résumé of the CPT's recommendations and comments

#### A. Corradino Prison

##### a. recommendations

- the confinement of prisoners in Division VIII to cease forthwith (paragraph 35);
- an alarm system to be (re)introduced in all cells (paragraph 37);
- any prisoner confined (i) on the top floor of one of the two main Divisions possessing three storeys or (ii) in Division V, to be provided with a clean cell containing at least a table and chair, with suitable bedding at night and adequate washing and toilet facilities, and to be visited regularly by a prison officer (paragraphs 39 and 41);
- a full review of disciplinary procedures and segregation practices in the prison to be carried out as a matter of urgency and the respective powers of the Acting Director and the Board of Visitors in these areas to be clearly identified (paragraph 44);
- immediate steps to be taken to ensure that all prisoners are allowed at least one hour of outdoor exercise every day (paragraph 45);
- remand prisoners to be paid for their work (paragraph 47);
- someone competent to provide first aid to be present at all times on the prison premises, (paragraph 52);
- a high priority to be accorded to the rapid completion of the new medical facilities within the prison (paragraph 54);
- the vacant full-time position of Prison Director to be filled without further delay (paragraph 58);
- the drawing up of a new set of Prison Regulations to be treated as a matter of the highest priority (paragraph 64).

b. comments

- desirability of developing sports facilities at the prison (paragraph 46);
- desirability of appointing a full-time education officer within the prison (paragraph 48);
- to be hoped that the envisaged posting of two social workers to the Prisons Department will be effected in the near future (paragraph 48);
- desirability of enlarging the visiting area in due course (paragraph 49);
- importance of allowing foreign prisoners to have adequate telephone contact with their families (paragraph 50);
- existence of allegations that foreign prisoners are treated less favourably than Maltese prisoners as regards access to facilities and regime activities (paragraph 51);
- the availability of tranquilisers should be subject to appropriate safeguards (paragraph 53);
- to be hoped that all police officers and military personnel working within the prison will be replaced by properly trained prison officers, or retrained and appointed as prison officers, at the earliest opportunity (paragraph 60);
- desirability of the Board of Visitors drawing up and publishing an Annual Report (paragraph 62).

B. Police establishments

i) General

a. recommendations

- persons arrested by the police to have the right not to be held incommunicado (paragraph 84);
- any possibilities for the police exceptionally to delay or refuse contact with a third person to be clearly circumscribed and made subject to appropriate safeguards (e.g. such delay or refusal to be recorded in writing together with the reasons and to require confirmation by a senior officer) (paragraph 84);
- concerning access to legal advice:
  - . as an immediate step, persons in police custody to be allowed to communicate by telephone with a legal advisor (paragraph 87);
  - . any possibilities for the police exceptionally to delay or refuse such telephone contact to be clearly circumscribed and made subject to appropriate safeguards (e.g. such delay or refusal to be recorded in writing together with the reasons and to require confirmation by a senior officer) (paragraph 87);
  - . in the short term, persons in police custody to be granted the right to contact and to be visited by a legal advisor (paragraph 87);
  - . in the medium term, the possibility of allowing a legal advisor to be present during police interrogations to be explored (paragraph 87);
- a person in police custody to have the right to be examined by a doctor of his own choice (paragraph 88);
- a code of practice on police interviews to be drawn up as a matter of urgency (paragraph 89);
- the possibility of introducing a system of electronic recording of police interviews offering all appropriate safeguards to be explored (paragraph 90);
- the possibility of developing a single and comprehensive custody record, showing all aspects of each detainee's custody and action taken regarding him, to be explored (paragraph 92);
- a formal administrative procedure for dealing with complaints against the police to be established (paragraph 94).

b. comments

- persons in police custody should be given at least one proper meal every day (paragraph 81);
- desirability of an independent person or body being authorised to inspect on a regular basis the conditions of detention in the two police lock ups (paragraph 93).

ii) Police General Headquarters lock up

a. recommendations

- the lighting in the cells at the PGH lock up to be examined in order to ensure that it is sufficient to read by (sleeping periods excluded) (paragraph 72);
- concerning persons detained at the lock up under the Immigration Act;
  - . as immediate steps, (i) instructions to be issued that such persons are to be let out of their cells during the day, and (ii) such persons to be provided with appropriate furniture for use in the lock-up courtyard and access to reading material and other means of useful occupation (paragraph 78);
  - . in the short term, such persons to be provided with a room, for use in times of inclement weather (paragraph 78) ;
  - . in the medium term, the possibility of keeping persons detained under the Immigration Act in a place offering better facilities than the PGH lock up to be explored (paragraph 78);

b. comments

- none.

iii) Police Academy

a. recommendations

- the development, both quantitative and qualitative, of the Academy's activities to be accorded a high priority (paragraph 110).

b. comments

- establishment of the Academy welcomed (paragraph 110).

C. Mount Carmel Hospital

a. recommendations

- the provision of professional training in psychiatric nursing for the nursing staff to be accorded a very high priority (paragraph 97).

b. comments

- to be hoped that in time the majority of admissions (including involuntary cases) will be in smaller units (paragraph 98).