



CPT/Inf (96) 25

**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 16 to 21 July 1995**

The Maltese Government has requested the publication of this report and of their interim report in response. The latter is set out in document CPT/Inf (96) 26.

Strasbourg, 26 September 1996

TABLE OF CONTENTS

COPY OF THE LETTER TRANSMITTING THE CPT'S REPORT4

I. INTRODUCTION.....5

A. Dates of the visit and composition of the delegation5

B. Establishments visited.....5

C. Consultations held by the delegation.....6

D. Co-operation between the CPT and the Maltese authorities6

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED7

A. Police establishments7

1. Introduction7

2. Torture and other forms of ill-treatment.....7

3. Conditions of detention in police establishments8

4. Safeguards against the ill-treatment of persons detained by the police.....12

a. introduction12

b. notification of custody to a close relative or third party12

c. access to a lawyer.....13

d. access to a doctor14

e. information on rights.....15

f. conduct of interrogations.....15

g. custody registers.....17

h. complaints and inspection procedures17

B. Corradino Correctional Facility	19
1. Introduction	19
2. Torture and other forms of physical ill-treatment	19
3. Material conditions of detention.....	20
4. Regime.....	21
5. Medical Services.....	22
6. Other issues related to the CPT's mandate.....	24
a. allocation and classification of prisoners	24
b. discipline and segregation	24
c. contact with the outside world	28
d. means of control and restraint.....	29
e. complaints and inspection procedures	29
f. staffing matters.....	30
C. Mount Carmel Hospital.....	32
1. Introduction	32
2. Torture and other forms of ill-treatment.....	32
3. Staff resources	33
4. Material conditions	33
5. Rehabilitation and treatment of patients.....	35
a. therapeutic and rehabilitation activities	35
b. medical care	38
6. Seclusion of patients and instruments of physical restraint.....	38
7. Complaints and monitoring procedures.....	39
8. Transfer of patients.....	40
III. RECAPITULATION AND CONCLUSIONS	40
APPENDIX I :	
SUMMARY OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION	46
APPENDIX II :	
LIST OF THE NATIONAL AUTHORITIES AND OTHER PERSONS WITH WHOM THE CPT'S DELEGATION HELD CONSULTATIONS.....	54

Copy of the letter transmitting the CPT's report

Strasbourg, 21 December 1995

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 Government of Malta 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 16 to 21 July 1995. The report was adopted by the CPT at its twenty-seventh meeting, held from 4 to 7 December 1995.

I would draw your attention in particular to paragraph 137 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.

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 faithfully,

Claude NICOLAY
President of the European Committee for
the prevention of torture and inhuman
or degrading treatment or punishment

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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, (hereafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Malta from 16 to 21 July 1995. The visit formed part of the CPT's programme of periodic visits for 1995, and was the second periodic visit to Malta to be carried out by the Committee (the first having taken place in July 1990¹).

2. The delegation consisted of the following members of the CPT:

- Mr Jón BJARMAN (Head of the delegation)
- Ms Ingrid LYCKE ELLINGSEN
- Mr Rudolf MACHACEK
- Mr Stefan TERLEZKI
- Mr Ivan ZAKINE.

It was assisted by:

- Mr James McMANUS, Scottish Prisons Complaints Commissioner (expert);
- Ms Marianne KASTRUP, Head of the Department of Psychiatry at Hvidovre Hospital, Denmark (expert);
- Mr Robert SZYMANSKI (interpreter).

The delegation was also accompanied by Mr Mark KELLY, a member of the CPT's Secretariat.

B. Establishments visited

3. The delegation visited the following places of detention:

Police establishments

- Police Headquarters, Floriana;
- Cospicua District Headquarters;
- St. Julian's Police Station;
- Ta'Kandj Police Complex, Siggiewi;
- Immigration Service cells at Luqa International Airport.

¹ The CPT's report on that visit was published in October 1992 (cf. document CPT/Inf (92) 5).

Prisons

- Corradino Correctional Facility, Paola.

Hospitals

- Mount Carmel Hospital, Attard;
- St. Michael's Ward at St. Luke's Hospital, Pietà.

C. Consultations held by the delegation

4. The delegation held consultations with the national authorities and with other persons possessing knowledge of Malta's criminal justice system and health services. In addition, numerous meetings were held with local officials in charge of the places visited.

A list of the authorities and other persons with whom the delegation held talks is set out in Appendix II to this report.

D. Co-operation between the CPT and the Maltese authorities

5. The CPT's delegation was received by the Deputy Prime Minister and Minister for Foreign Affairs, Prof Guido de Marco; the Minister of Home Affairs, Dr Tonio Borg and the Minister for Social Development, Dr Louis Galea. The CPT is especially grateful for the considerable time taken by the Ministers for Home Affairs and for Social Development, together with their senior officials, to discuss matters of substance with its delegation.

The Committee also wishes to acknowledge the assistance provided to its delegation by the Government's liaison officer, Mr Charles Cremona of the Ministry of Foreign Affairs. As had been the case during the Committee's 1990 visit to Malta, Mr Cremona facilitated the delegation's work in a most efficient manner.

6. The delegation received a very satisfactory reception from management and staff in all the places of detention visited, including those which had not been notified in advance. It found that the majority of them were aware of the possibility of a CPT visit and had at least some knowledge of the CPT's terms of reference.

7. In conclusion, the CPT welcomes the excellent spirit of co-operation encountered before, during and after the delegation's visit to Malta, which was fully in accordance with Article 3 of the Convention.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Introduction

8. It should be recalled that all police cells should be clean, be of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in custody should be allowed to comply with the needs of nature when necessary in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for extended periods (24 hours or more) should, as far as possible, be offered outdoor exercise every day.

9. In many countries visited by the CPT, persons are held for only a relatively short time in police premises; therefore, the question of activities for them has little relevance. However, in Malta, persons may be held in certain police establishments for extended periods of time (e.g. under the Immigration Act or because Corradino Correctional Facility could not provide appropriate accommodation). In consequence, the question of the regime to which they are subject must also be addressed.

2. Torture and other forms of ill-treatment

10. The delegation heard no allegations of torture or other forms of ill-treatment of those deprived of their liberty in police establishments in Malta; nor was any other evidence of such treatment found by the delegation during the visit.

Nevertheless, **the CPT would like to receive information on the number of complaints of ill-treatment by police officers made in Malta during the three years from 1993 to 1995 and on the number of cases in which disciplinary/criminal proceedings were initiated, with an indication of any sanctions imposed.**

3. Conditions of detention in police establishments

11. Conditions of detention in the lock-up cells at the Police Headquarters in Floriana were virtually unchanged since the CPT's first visit. It should be recalled that the Committee remarked in its visit report that the environment in the lock up is a harsh one.

The cells are very small (4.7m²), and do not benefit from natural light. Moreover, although efforts had been made to improve the artificial light, it remained poor, as did the ventilation. At the time of the visit, the cells were hot, stuffy, and dim.

The delegation was told by the Chief of Police that a request had been made for the lock-up cells to be demolished and replaced by a more appropriate detention facility, but that little or no progress had been made towards realising that objective.

12. At the time of the visit a total of ten persons were being held at the lock-up, seven of whom were in police custody (for a maximum of 48 hours) and two of whom were being held under the Immigration Act. The remaining occupant was a prisoner who was being held in the lock-up (instead of at Corradino Correctional Facility) for his own protection.

The Immigration Act detainees and the prisoner were allowed out of their cells for almost twelve hours per day. They could use some plastic garden furniture (a table and chairs) which had been placed in a corridor area inside the building and had access to a reasonably large outdoor exercise yard. By contrast, when not being interviewed, detainees in police custody were kept locked in their cells. Such detainees were not even offered outdoor exercise.

13. The Committee wishes to stress that the lock-up cannot be said to provide satisfactory conditions of detention for persons held for police questioning. At the very least, the lighting and ventilation in the cells should be improved and all such persons held for extended periods (i.e. more than 24 hours) should be offered outdoor exercise.

Further, the lock-up is not in a position to provide either the material conditions of detention or the regime which Immigration Act detainees and prisoners are entitled to expect. As regards more particularly the regime, the lock-up did not offer any programme of activities; as was the case in 1990, such persons were simply left to wander around the building and the exercise yard.

The Committee recommends that urgent steps be taken to provide better conditions of detention at the main police holding facility in Malta. Further, it recommends that Immigration Act detainees and prisoners no longer be held in that facility.

14. The CPT's delegation also found unsatisfactory conditions of detention in the two police stations which it visited.

15. Cospicua Police Station had two cells. The first measured under 4m² and had neither natural light nor artificial lighting. It contained a bed and bedding which was in a filthy condition. The size of this cell renders it unsuitable as a place in which to hold detainees other than for very short periods of time; it should never be used to hold a person overnight. Moreover, no one should be held in the cell unless and until it is equipped with adequate lighting.

The second cell measured approximately 6m² and was equipped with artificial lighting, but not with a bed or bedding.

In the course of the delegation's visit, new mattresses and blankets were brought from elsewhere in the building and placed in both of the cells.

16. The one cell at St. Julian's Police Station measured approximately 5m² and contained a bed equipped with a mattress. Natural and artificial light were adequate as was ventilation; however, the cell was very dirty. The delegation was told that the cell was out of service because the last occupant (who had left on 18 May 1995) had been a Hepatitis carrier who had mutilated himself whilst held there. Almost two months later, no attempt had been made to fumigate or clean the cell; the walls and bedding remained spattered with blood.

17. The CPT recommends that steps be taken to improve the material conditions of detention at Cospicua and St. Julian's Police Stations in the light of the remarks made in paragraphs 15 and 16 and taking into account the general criteria enunciated in paragraph 8.

The Committee also recommends that steps be taken to ensure that conditions of detention in all police stations in Malta meet the criteria set out in paragraph 8.

18. In addition, the delegation visited two police establishments which were used exclusively for Immigration Act detention - Ta'Kandj Police Complex at Siggiewi and the Immigration Service detention cells at Luqa International Airport.

19. A building within the Ta'Kandj Police Complex had been used to hold illegal immigrants since 17 February 1995. It was administered by police officers from the S.A.G. (a special intervention group), who were based at the complex. At the time of the visit, 26 illegal immigrants were being held (17 of whom claimed Algerian nationality, 6 Somalian, 2 Gambian and 1 Liberian).

The premises consisted of a long corridor which was partially exposed to the elements, into which inmates were locked during the day and an adjacent dormitory, equipped with bunk beds, into which they were locked at night. The dormitory and the wash area which adjoined it were filthy and in a poor state of repair. Moreover, at the time of the visit, the two lavatories in the wash area did not flush and there was no water supply to the wash basins. Only three out of the five shower heads were in operation and they supplied only cold water. In short, the living conditions of detainees were appalling.

20. The only activity offered to detainees was watching television in the S.A.G. officers' mess for several hours on alternate evenings - a privilege which depended entirely on the goodwill of the officers concerned. Outdoor exercise had been offered but had been withdrawn after an attempted escape.

Moreover, most if not all of the detainees were impecunious - the money which they had brought with them to Malta having been spent whilst in custody on items such as soap, shampoo, cigarettes etc. In order to obtain such items at the time of visit, they were relying upon the charity of police officers or outside organisations, which was apparently not always forthcoming.

It should also be borne in mind that Immigration Act detainees have had to remain at Ta'Kandj for lengthy periods - at the time of the visit, many had been there for five months. Detainees held for such periods of time are entitled to expect that an appropriate programme of activities will be made available to them.

21. The CPT wishes to emphasise that the administration of a detention centre for foreigners will create particular problems. Firstly, there will inevitably be communication problems due to linguistic barriers. Secondly, many aliens will find the fact that they have been detained, when they are not suspected of any criminal offence, difficult to accept. Thirdly, there is a risk of tension between the different nationalities involved.

It follows that supervisory staff must be carefully selected and receive appropriate training. As well as possessing well-developed qualities in the field of interpersonal communication, such staff should be familiarised with the different cultures of the detainees and at least some of them should have appropriate language skills. The S.A.G. officers at Ta'Kandj were the first to admit that they did not fulfil these criteria; several commented that the care and custody of illegal immigrants was hardly the vocation of a special intervention group.

22. In the light of its delegation's findings, **the CPT recommends that, as a matter of urgency, the Maltese authorities find better premises in which to accommodate persons detained under the Immigration Act and allocate the task of supervising such detainees to suitably qualified staff. Further, a concerted effort should be made to develop a programme of activities for the detainees concerned (including outdoor exercise, access to radio/television and newspapers/magazines as well as other appropriate means of recreation).**

Pending the implementation of those measures, **the Committee recommends that immediate steps be taken to ensure that:**

- **all detainees held at Ta'Kandj are offered at least one hour of outdoor exercise every day;**
- **the standard of cleanliness at the establishment is improved significantly;**
- **the establishment's sanitary facilities are rendered fully operational and maintained in that condition;**
- **basic cleaning materials and personal hygiene products are provided to detainees, irrespective of their means.**

23. The delegation was told that the two Immigration Service cells at Luqa International Airport were used very rarely and then only for short periods of time. Persons who were not permitted to enter Malta were apparently normally allowed to remain in the airport's departure lounge. The cells each measured approximately 6m² and were equipped with metal benches. They benefitted from good artificial light and from air-conditioning, although they did not have access to natural light. The cells were clean and perfectly adequate for short-term detention; however, the absence of a bed or bedding would render them unsuitable as overnight accommodation.

The delegation found no evidence to suggest that the cells were ever used for other than very short periods of time; however, no register was kept of their use. **The Committee recommends that a separate register be kept of every occasion on which the Immigration Service cells at Luqa International Airport are used to hold detainees.**

4. Safeguards against the ill-treatment of persons detained by the police

a. introduction

24. The CPT wishes to recall the particular importance which it attaches to three rights for persons detained by the police:

- the right of those concerned to have the fact of their detention notified to a close relative or third party of their choice,
- the right of access to a lawyer,
- the right to a medical examination by a doctor of their choice (in addition to any medical examination carried out by a doctor called by the police authorities).

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons in detention, which should apply from the very outset of custody (i.e. from the moment when those concerned are obliged to remain with the police).

25. Moreover, it considers it equally fundamental that detained persons be informed without delay of all their rights, including those mentioned above.

b. notification of custody to a close relative or third party

26. In the report drawn up after its first periodic visit to Malta, the CPT recommended that persons arrested by the police should have the right not to be held incommunicado². The interim report submitted by the Maltese authorities stated that this right exists in practice and that consideration would be given to placing it on a firmer basis. Subsequently, the follow-up report from the Maltese authorities asserted that the Committee's recommendation had been "implemented".

27. In the course of the second periodic visit, the CPT's delegation was given a copy of a set of "Instructions to Police officers on duty at the Lock Up" which had been issued in 1994. These Instructions provide, inter alia, that:

² cf. paragraph 84 of document CPT/Inf (92) 5.

"3.1 Any person being detained at the lock up must be asked whether he wishes that any one person known to him, be informed of his detention. Any such person shall be so informed as soon as possible.

3.2 In the case of persons under the age of 18 years, the parents or tutor must always be informed.

3.3 A record of any such requests must always be entered in the register, even in the case of refusal on the part of the detained person."

This is an interesting development; however, the Instructions do not have the force of law and do not apply in other police establishments in which persons may be deprived of their liberty.

The Committee recommends that the right to have someone informed of the fact of one's custody be given a firm basis in Maltese law.

c. access to a lawyer

28. The CPT regrets to have to record that no progress has been made in implementing its 1990 recommendation regarding the right of access to a lawyer for persons in police custody. It should be recalled that the Committee recommended that this right be introduced in the following stages:

i) immediately

- to allow persons in police custody to communicate by telephone with a lawyer, 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 lawyer;

iii) in the medium term

- to explore the possibility of allowing a lawyer to be present during police interrogations.

29. In June 1991, the interim report from the Maltese authorities stated that "it remains the present Administration's objective to introduce in stages access to legal advice when circumstances permit". The follow-up report, submitted in April 1992, asserted that the Government of Malta was giving "very active consideration" to this matter. Nevertheless, by the time of the second periodic visit, in July 1995, not even the "immediate" element of the CPT's 1990 recommendation had been implemented.

30. This situation is of profound concern to the CPT. The Committee wishes to stress that the period immediately following deprivation of liberty is when the risk of intimidation and ill-treatment is greatest. Consequently, the possibility for persons in police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment. A lack of "general consensus" or "public pressure" as regards access to legal advice during police custody (cf. the Maltese authorities' interim report) is not a valid reason for delaying the introduction of such a fundamental safeguard.

31. The Committee recommends that the Maltese authorities take the necessary steps - without further delay - to grant all persons taken into police custody the right to have access to a lawyer from the very outset of their custody. This right should include the right to contact the lawyer and to be visited by him (in both cases under conditions guaranteeing the confidentiality of their discussions) and, in principle, the right of the person concerned to have the lawyer present during interrogation.

d. access to a doctor

32. There had been no change in the situation as regards the medical examination of persons held in police custody since the CPT's first periodic visit to Malta (cf. paragraph 88 of document CPT/Inf (92) 5). The above-mentioned "Instructions to Police officers on duty at the Lock Up" provide that the medical officer on duty at the Floriana Polyclinic must be called if any detained person appears to require medical attention. The Instructions also provide that if "a detained person requests medical assistance, the medical officer at the Floriana Polyclinic must be called as soon as practicable." This merely consolidates existing practice at that establishment.

33. In its report on the first periodic visit, the Committee recommended that, in addition to examination by a doctor called by the police, a person in police custody should have the right to be examined by a doctor of his own choice. In reply, the interim report from the Maltese authorities stated that a "person in custody is, in practice, and as a rule, allowed the opportunity to be examined by a doctor of his own choice. This matter will be further studied to put this right on a firmer basis." The follow-up report simply asserted that this recommendation had been "implemented".

Regrettably, on the basis both of the information supplied by the Maltese authorities and of the findings of the CPT's delegation during the second periodic visit, it would appear that the substance of the Committee's 1990 recommendation has not been met.

34. **The CPT recommends that specific legal provisions be adopted on the subject of the right of persons in police custody to have access to a doctor. Those provisions should stipulate inter alia:**

- **that a person taken into police custody has the right to be examined, if he so wishes, by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police authorities;**
- **that all medical examinations of persons in custody are to be conducted out of the hearing and - unless the doctor concerned requests otherwise - out of the sight of police officers;**
- **that the results of every examination, as well as any relevant statements by the person in custody and the doctor's conclusions, are to be recorded in writing by the doctor and made available to the person in custody and his lawyer.**

e. information on rights

35. The CPT has already stressed the importance which it attaches to people detained by the police being expressly informed without delay of all their rights, including those referred to in paragraph 24 (see paragraph 25). Police officers informed the delegation that such information was provided orally, but not in a written form.

In order to ensure that full information on rights is provided, **the CPT recommends that a form setting out those rights be given systematically to persons taken into custody by the police, at the outset of their custody. The form should be available in different languages and the person concerned should certify that he has been informed of his rights.**

f. conduct of interrogations

36. The Maltese authorities responded positively to the Committee's 1990 recommendation that, as a matter of urgency, a code of practice on police interviews be drawn up. The interim report commented that "no real problem" was envisaged in implementing that proposal and by the time the follow-up report had been submitted (in April 1992), a new Code of Practice had been drafted. The follow-up report expressed the hope that the Code would come into effect "in the near future".

The Committee was therefore disappointed to learn that, at the outset of the 1995 visit, its delegation was presented with a revised draft of the Code of Practice, which had yet to come into effect.

37. The Committee considers that the 1995 draft of the Code of Practice is a most satisfactory document. It is particularly pleased to note that the draft Code clearly states that:

"Any form of behaviour which may amount to inhuman or degrading treatment, or any form of physical or mental torture, is not only prohibited but amounts to a new offence provided for in Article 139a of the Criminal Code, carrying a punishment of a minimum of nine years imprisonment.

Consequently, all steps should be taken not only so that such behaviour does not occur, but also that no action be committed which may even give rise to allegations of ill-treatment."³

Nevertheless, the CPT believes that the draft Code could usefully be modified in respect of a few specific points.

38. Firstly, section 5 of the draft Code provides that "the person conducting the interrogation shall identify himself to the person being interrogated". Bearing in mind that section 16(e) of the draft Code states that "no interrogation shall take place in the presence of only one Police Officer, but at least two such officers shall be present", the Committee considers that persons in police custody should be informed of the identity (name and/or number) of all those present at the interrogation.

Secondly, the draft Code recognises (at sections 15 and 17) that the position of young persons and those who are mentally disabled or mentally ill should be the subject of specific safeguards. The CPT considers that reference should also be made to precautions to be taken when questioning other categories of potentially vulnerable persons (e.g. those who are under the influence of drugs, alcohol, medicine, or who are in a state of shock).

Thirdly, as regards the records kept of interrogations, the Committee considers that any request made by a person in custody during interrogation should be recorded in writing.

The Committee invites the Maltese authorities to give due consideration to these matters and recommends that the Code be brought into effect at the earliest possible opportunity.

39. The CPT considers that the electronic recording of police interrogations represents an important safeguard for persons in custody, as well as offering advantages for the police. In particular, it can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of allegations of ill-treatment and the correct attribution of blame.

The follow-up report from the Maltese authorities indicated that the possibility of introducing such a system was "being studied". **The Committee would like to receive information on the outcome of that study and to be informed of any planned developments in the area of electronic recording of police interviews.**

³ cf. section 16 of the draft Code of Practice.

g. custody registers

40. The records kept at the police stations visited recorded information about the custody of detained persons in only the most perfunctory manner. At Cospicua Police Station, there was often no record of the detained person's personal property and the time at which a detainee had left the police station was not always recorded. Further, at St. Julian's Police Station, the delegation was told by police officers that the fact that a person has been held in the cell there would usually not be recorded at all. This is a most serious lacuna.

The records seen at the Police Headquarters lock up were of a higher standard, but still did not provide a complete record of all aspects of a detained person's time in police custody.

41. In its report on the first periodic visit, the CPT recommended that the Maltese authorities explore the possibility of developing a single and comprehensive custody record (cf. paragraph 92 of document CPT/Inf (92) 5). The interim report characterised this proposal as a "positive" suggestion and the Maltese authorities' follow-up report remarked that the possibility of developing such a record was "being studied".

The findings of its delegation during the second periodic visit have convinced the Committee that action is required in this area, both to reinforce the safeguards afforded to persons in police custody and to facilitate the work of the police. **The Committee recommends that a high priority be given to developing a single and comprehensive custody record for each person detained by the police in Malta.**

As regards, more particularly, the situation found at St. Julian's Police Station, the Committee considers it to be axiomatic that whenever a person is detained in a police establishment, for whatever reason and for whatever length of time, the fact of his detention must be recorded without delay. **The CPT recommends that the Maltese authorities take appropriate steps to ensure that this requirement is always respected in every police establishment.**

h. complaints and inspection procedures

42. At the time of the second periodic visit, there was still no formal administrative procedure for examining complaints against the police. The introduction of such a system - which was the subject of a recommendation in the CPT's 1990 report - had apparently been included in draft legislation which had yet to be laid before Parliament.

The CPT wishes again to stress that the existence of an independent mechanism for examining complaints about treatment whilst in police custody is an essential safeguard against ill-treatment. **The Committee recommends that a very high priority be accorded to the adoption of legislation designed to introduce such a system. It would like to receive further information about the planned complaints procedure, including full details of the guarantees ensuring its independence and impartiality.**

43. The Committee considers that regular and unannounced inspection visits to places where persons are detained by the police can make a significant contribution to the prevention of ill-treatment.

In its 1990 report, the CPT expressed the view 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 used by the Maltese police. Such inspections should also be carried out in places where persons are detained under the Immigration Act. Regrettably, neither the interim nor follow-up reports contained a response to this comment. Discussions held during the second periodic visit (including with a senior judge) convinced the CPT's delegation that no existing authority is prepared to take on such a role.

The CPT recommends that the Maltese authorities consider the possibility of empowering an independent authority to inspect on a regular basis the conditions of detention in the lock ups and other holding facilities staffed by the police.

B. Corradino Correctional Facility

1. Introduction

44. There have been a number of important developments in the Maltese prison system since the CPT's 1990 visit. The prison population has more than doubled (from 94 to 190) and a major review has been carried out into the role of the only civil prison on the island. Corradino Prison has been re-named Corradino Correctional Facility and is the subject of a three year "Master Plan"⁴, involving a potential investment of some £4 million between 1994 and 1997 (cf. further paragraphs 62 and 63 below).

45. The number of prison staff has also increased significantly (from 87 to 136), of whom the majority are now "correctional officers" (i.e. prison officers employed directly by the Department of Correctional Services on permanent contracts). However, the staff still includes some 37 police officers (cf. further paragraph 83).

Although a full-time Director had been appointed, he was absent on sick-leave at the time of the visit. In consequence, the delegation dealt with the acting Director, an American consultant who had worked at the prison for around two years. At the end of the visit, the delegation was told that the full-time Director had resigned and that his post was, once again, vacant (cf. further paragraph 82).

46. It should also be noted that new Prison Regulations, replacing the 1931 Regulations, entered into force on 1 October 1995⁵. Reference will be made to relevant provisions of the 1995 Regulations at various points in this report.

2. Torture and other forms of physical ill-treatment

47. The CPT's delegation heard no allegations of torture or other forms of physical ill-treatment of prisoners by prison staff (i.e. correctional officers or police officers) at Corradino Correctional Facility. Notwithstanding this positive finding, **the CPT would like to receive information on the number of complaints of ill-treatment made against prison staff for the three years from 1993 and 1995 and on the number of cases in which disciplinary/criminal proceedings were initiated as a result, together with an indication of any sanctions imposed.**

⁴ cf. A Master Plan for the Corradino Correctional Facility (Ex Corradino Prisons), (Valletta, 1994).

⁵ cf. Prison Regulations, 1995, L.N. 118 of 1995 and Commencement Notice of Prison Regulations, 1995, L.N. 130 of 1995. In terms of the latter instrument, all regulations other than 11, 12, 13, 14 and paragraph (1) of regulation 117 came into force on 1 October 1995.

3. Material conditions of detention

48. At the time of the visit, the vast majority of male prisoners were being held in Divisions I to V. A small number of male prisoners were being held in Division VIII, for a variety of reasons (on which cf. paragraphs 64 to 73). All women prisoners were being held in a separate womens unit.

The physical conditions in the cells in Divisions I to IV were similar to those seen during the first visit⁶. Inmates were held one to a cell, the majority of which remained of a satisfactory standard. That said, certain of the cells seen in Divisions III and IV lacked basic items of furniture (such as a table and chair) and were in a rather dirty condition.

Division V had been renovated and all prisoners held there benefitted from appropriately furnished single cells and enjoyed access to adequate washing and toilet facilities. The Committee welcomes this development, which meets its 1990 recommendation on this subject⁷.

The Committee recommends that the Maltese authorities take steps to ensure that all prisoners held at Corradino Correctional Facility are held in cells which are clean and appropriately furnished (i.e. contain at least a bed, table and chair and preferably a wardrobe or locker).

49. The former Paolo Police Station lock-up (a two-storey building, located within the prison walls) had been converted to provide a new prisoner accommodation block, to be known as Division VII. At the time of the visit the unit had yet to be brought into service; however, in a letter dated 23 November 1995, the Maltese authorities informed the Committee that Division VII had opened as a "substance abuse assessment unit" in October 1995. The unit contains 20 single cells, each equipped with a bed, lavatory, wash basin, and shelves. It is also equipped with three showers, two additional wash basins, a lavatory and its own exercise yard. In short, it provides decent conditions of detention.

Nevertheless, the delegation was concerned to note that the unit had very little association space and only one room which was suitable for activities such as group therapy. This may compromise the suitability of Division VII as a venue for a substance abuse assessment programme

The Committee invites the Maltese authorities to take due account of this consideration.

⁶ cf. paragraph 36 of document CPT/Inf (92) 5 for a description of the cells in question.

⁷ cf. paragraph 41 of document CPT/Inf (92) 5.

50. At the time of the visit, six women prisoners were being held in a separate womens unit with 10 single cells. The cells were of an acceptable size (around 7m²) for one prisoner and were appropriately furnished. Inmates had ready access to lavatories and washing facilities and the unit also contained a living area (equipped with a television) and a kitchen (for inmates' use). The womens unit as a whole was clean and in a good state of repair.

51. Finally, the CPT is pleased to note that, in line with its 1990 recommendation, a call system had been re-introduced in all cells at Corradino Correctional Facility.

4. Regime

52. In line with the CPT's 1990 recommendation⁸, all prisoners at Corradino Correctional Facility were being offered at least one hour of outdoor exercise every day. The Committee welcomes this development; however, it is concerned to note that regulation 28(2) of the 1995 Prison Regulations authorises the Director to reduce that period "in exceptional circumstances". The CPT wishes to recall that the provision of at least one hour of outdoor exercise per day constitutes a basic safeguard which should be available to all prisoners. It therefore views the granting of a discretionary power to reduce that minimum with great reserve.

The Committee wishes to receive clarification of the "exceptional circumstances" envisaged by regulation 28(2) of the Prison Regulations, together with information on the safeguards which would accompany any decision by the Director to invoke that provision.

53. The delegation also noted that the establishment's sports facilities remained poor, consisting of little more than a number of table tennis tables and several footballs.

Fewer than half of the prisoners had work; however, the delegation was pleased to note that, in line with the CPT's 1990 recommendation, remand prisoners who had chosen to work were now being remunerated for their labours.

54. One area in which there had been some appreciable progress since the Committee's first visit was the provision of education. A full-time education officer (paid by a voluntary organisation) had been engaged to co-ordinate the work of a team of volunteer teachers. As a result, some fifty inmates were learning Maltese and English.

The education officer told the delegation that he hoped to be able to increase the number of education places and to improve the establishment's library facilities.

The CPT welcomes these initiatives and **recommends that they receive the necessary financial support.**

⁸ cf. paragraph 45 of document CPT/Inf (92) 5.

55. The CPT has taken careful note of the efforts which have been made by the Maltese authorities to improve the activities offered to inmates at Corradino Correctional Facility; nevertheless, five years after the CPT's first visit, the regime remained relaxed to the point of torpor. Although it is a positive feature that prisoners were released from their cells for some twelve hours per day, the majority of them spent that time watching television in the division corridor or dawdling around their cell block.

A much more constructive approach is required.

The Committee recommends that serious efforts be made to develop a constructive and challenging regime (including association, education, sport, and work with vocational value) for inmates at Corradino Correctional Facility. That regime should be drawn up in close co-operation with those responsible for the design of the new prison complex, to which reference is made in paragraph 62.

5. Medical Services

56. There had been a significant increase in the number of qualified health care staff working at Corradino Correctional Facility since the CPT's 1990 visit.

The establishment's health care team now included two full-time doctors (a general practitioner and a senior assistant psychiatrist), one of whom was always on call outside normal working hours. There was also a part-time forensic psychiatrist and a part-time dentist. Two nurses worked at the prison, but on only a part-time basis. **The CPT considers that the nursing staff at Corradino Correctional Facility might usefully be reinforced.**

In addition, 59 correctional officers had received training in basic first aid and 6 correctional officers had followed an advanced first aid course. As a result, in accordance with the CPT's 1990 recommendation, someone competent to provide first aid was always present in the prison.

57. The improved medical facilities to which reference was made in the report on the first visit had been completed; however, because of the above-mentioned increase in the number of health care staff, they already offered somewhat cramped conditions. The CPT was pleased to learn that the plans for a new facility adjoining the present prison site (on which cf. paragraph 62, below), will include a spacious medical centre.

58. In short, the CPT's delegation was impressed by the quality of the medical services which are offered to inmates at Corradino Correctional Facility.

59. It should also be mentioned that the delegation learned that a significant proportion of prisoners at Corradino Correctional Facility experienced medical problems associated with drug addiction. The Committee has noted, in this respect, that one of the establishment's doctors has a consultative role in the administration of the substance abuse assessment unit, to which reference was made in paragraph 49. The CPT considers that it is important that there be appropriate medical involvement in the development of the substance abuse assessment programme and **would like to receive further details about the plans of the Maltese authorities in this respect.**

60. The delegation also visited St Michael's Ward at St Lukes's Hospital, which a recent legal notice had declared to be an extension of Corradino Correctional Facility. If a prisoner who is referred to St Luke's Hospital requires acute care, he or she will be admitted to an ordinary ward. Once the acute phase is over and the prisoner/patient requires only basic care and management he or she may be transferred to St Michael's Ward. One prisoner/patient was being held there at the time of the visit.

The ward measured around 30m² and contained a dormitory with five beds, a lavatory with wash basin and a shower room. Natural light, artificial lighting and ventilation were all of a satisfactory standard. It offered secure conditions and was monitored by closed circuit television cameras.

61. The delegation was able to confirm that the prisoner/patient held at St Michael's Ward was receiving medical care which was appropriate for his condition. However, it was concerned to learn that, at least in principle, he could only take outdoor exercise if he agreed to travel to Corradino Correctional Facility and back in a prison van. As he had declined to make that journey, he had been allowed to take outdoor exercise at the hospital for periods of between 15 and 30 minutes, once a fortnight. It was apparently thought necessary that a senior correctional officer should come to the hospital to escort the person concerned during those periods.

The CPT recommends that urgent steps be taken to ensure that all prisoner/patients held at St Luke's Hospital are able to take at least one hour of outdoor exercise every day (unless there are medical reasons to the contrary).

6. Other issues related to the CPT's mandate

a. allocation and classification of prisoners

62. At the time of the delegation's visit to Corradino Correctional Facility, no distinction was being drawn between the different categories of male inmates which the establishment received. Divisions I to V each held a mixture of younger and older, unconvicted and convicted, short and long-term inmates, first offenders and recidivists.

The importance of the effective allocation and classification of prisoners is recognised in regulation 12 of the 1995 Prison Regulations (which has yet to enter into force) and in the 1994 Ministry for Home Affairs "Proposals for Development and Improvements to Corradino Correctional Facility"⁹. The latter document includes ambitious plans for a new facility, adjoining the present prison, which will contain a new womens division, a remand division, a young offenders division, semi-open units and a reception unit. It is planned that the existing Divisions I to IV will be used as a medium security area and that Divisions V to VII will form a maximum security zone. The Maltese authorities predict that the new buildings will be completed by September 1997 and that Divisions I to V will be completely refurbished by August 1998.

63. The Committee recognises that the above-mentioned developments will greatly facilitate the allocation and classification of prisoners. However, it also believes that at least an elementary system of allocation and classification could be introduced within the present site. In particular, the existing design and layout of Divisions I to V and VII would permit those under 21 to be held apart from inmates over that age, unconvicted prisoners to be separated from convicted and first offenders to be kept away from recidivists.

The CPT invites the Maltese authorities to introduce a provisional allocation and classification system, pending completion of the new prison site.

b. discipline and segregation

64. The CPT was very concerned to learn that, at the time of the visit, Division VIII was once again being used to hold inmates subject to the disciplinary sanction of cellular confinement, as well as prisoners who had been segregated from the rest of the inmate population for other reasons (including, in one case, by court order).

Efforts had been made since the CPT's 1990 visit to improve material conditions in Division VIII (including by installing in-cell lavatories); however, most of the deficiencies which had led the Committee to recommend that the division be taken out of service remained unremedied. In particular, the cells received little natural light, were poorly ventilated and very hot.

⁹ cf. for example, Section 3.2.4 of the Proposals.

At the time of the visit, the delegation was told that Division VIII was to be taken out of service "within days", in favour of the newly-renovated Division VI. Subsequently, in a letter of 23 November 1995, the Maltese authorities confirmed that Division VI had opened in October 1995. **The CPT would like to receive confirmation that Division VIII has now indeed been taken out of service on a permanent basis.** The delegation was also told that there are plans to demolish Division VIII; this is an excellent idea.

65. Division VI had been converted to a two-storey special management division making use of toughened glass screens, closed circuit television monitors covering communal areas and electrically-operated cell doors. The unit houses prisoners undergoing disciplinary punishment, inmates considered to represent a threat to the safety or security of the establishment and prisoners who are segregated for their own protection. It also serves as a reception unit for those who have been convicted of serious crimes.

There were 9 cells on each floor, all of which provided reasonably good conditions of detention (c. 11m², equipped with a bed, lavatory and wash basin, adequate artificial light and ventilation), however, **natural light in certain of the West facing ground floor cells was rather poor.**

66. At the time of the delegation's visit, disciplinary proceedings were being conducted in a rather ad hoc fashion. As the 1995 Regulations had not entered into force and the Prison Director was absent, the acting Director, a senior prison officer and a police officer had formed a "Disciplinary Board" (a body which is not foreseen in the 1931 Regulations). Prisoners were, in principle, informed that they could appeal against a decision by the Board to the Director General for Home Affairs.

The delegation attended a number of the Board's adjudications and was favourably impressed by the relaxed atmosphere which obtained. However, it observed that some prisoners had not been informed in advance of the nature of the charge which they faced. Further, the majority of the adjudications were conducted in Maltese - a language which the acting Director did not claim to understand. In short, the delegation formed the view that any possible advantages which flowed from the relative informality of these proceedings were vitiated by a lack of respect for due process in the conduct of the adjudications concerned.

67. The 1995 Regulations establish a clear disciplinary system¹⁰. Regulation 76 provides that:

- "(1) Where a prisoner is charged with an offence against discipline, he shall be informed of the charge as soon as possible and, in any case, before the time it is inquired into by the Director.
- (2) At any enquiry into a charge against a prisoner he shall be given a full opportunity of hearing what is alleged against him and of presenting his own case."

¹⁰ cf. regulations 73 to 87 of the 1995 Regulations.

In terms of regulation 77, the Director may impose punishments ranging from a caution to cellular confinement for up to 30 days. Regulation 77 also grants the Director the power to order forfeiture of remission of up to 120 days or, in respect of more serious offences¹¹, up to 365 days.

Where the Director "awards" a punishment including cellular confinement for a period exceeding six days or forfeiture of more than twenty-eight days of remission, the prisoner concerned may request an "Appeals Tribunal" to review the punishment¹².

68. The CPT is pleased that the 1995 Regulations clarify the disciplinary procedures to be applied to prisoners; however, it is somewhat concerned by the severity of certain of the punishments foreseen and by the apparent absence of safeguards offered to prisoners in the context of disciplinary proceedings.

Under the 1995 Regulations, the Director can order cellular confinement of up to 30 days and loss of remission of up to one year. Notwithstanding the fact that such measures are potentially subject to review by an Appeals Tribunal, the CPT is surprised that it was considered necessary to empower a prison Director to order such severe punishments.

As regards, more particularly, the power to order loss of remission, the Committee considers that in cases where, in view of the nature of the offence with which a prisoner is charged, a penalty of a significant loss of remission may be imposed, this power should be accompanied by appropriate procedural safeguards (e.g. the right to call, and to cross examine, witnesses; the right to legal representation before and during the hearing and in the context of an appeal). The 1995 Regulations do not make clear whether such safeguards will be made available to prisoners.

69. The Committee is also concerned to note that, at regulation 87, the 1995 Regulations would appear to foresee that a prisoner may be punished by both a criminal court and by the prison Director in respect of the same offence.

70. The CPT would like to receive the comments of the Maltese authorities on the matters referred to in paragraphs 68 and 69, together with details of the composition and rules of procedure of the Appeals Tribunal referred to in regulation 78 of the 1995 Regulations.

¹¹ Regulation 77 defines the offences concerned as wilful homicide, attempted wilful homicide, mutiny, incitement to mutiny, escape or attempted escape from prison, assault on any person resulting in grievous bodily harm, possession and/or trafficking in narcotic drugs.

¹² cf. Regulation 79 of the 1995 Regulations.

71. Reference should also be made to a quasi-disciplinary power contained in regulation 13 of the 1995 Regulations. Regulation 13 has yet to enter into force and its implementation will be governed by a set of Ministerial General Directions, which at present exist only in draft form. The regulation provides for a system of privileges, which may not only be forfeited as a punishment for a disciplinary offence - something which is, in itself, unexceptionable - but also "may be withdrawn by the Director at any time without the need of assigning any reason."

The Committee considers that, if it is thought necessary to deprive a prisoner of a privilege, that measure should be accompanied by appropriate safeguards (right to be informed of reasons; right to a hearing; right of appeal). **It would like to receive the comments of the Maltese authorities on this question. The CPT would also like to be informed of the date on which regulation 13 will enter into force and to receive a copy of the final version of the Ministerial General Directions on the operation of the system of privileges.**

72. As regards segregation for non-disciplinary purposes, regulation 67 of the 1995 Regulations provides that a prisoner may be removed from association "in the interests of security or for the maintenance of good order and discipline or in his own interest." Removal from association in excess of forty-eight hours must be authorised by the Minister and such an authorisation is limited to a period of 15 days, although it may be renewed for successive periods of 15 days. The fact that such an authorisation has been given is to be immediately notified to the Chairman of the Prison Board of Visitors (cf. paragraph 79).

The CPT considers that certain additional safeguards should be made available to prisoners to whom regulation 67 is applied. In particular, such a prisoner should be informed (preferably in writing) of the reasons for his removal from association and, as the case may be, for the renewal of that measure (it being understood that the reasons given might not include details which security requirements reasonably justify withholding from the prisoner). Further, he should be given an opportunity to present his views on the matter to the deciding authority and be able to contest the decision before an appropriate authority.

The Committee recommends that the Maltese authorities take the measures required to ensure that prisoners removed from association under regulation 67 benefit from the aforementioned safeguards. It would also like to be informed of whether the prolongation of a measure of removal from association upon the authority of the Minister can be challenged before the Maltese courts.

73. It should be added that, according to the "rules for the special management unit" which the Maltese authorities transmitted to the CPT on 23 November 1995, inmates segregated in that unit for non-disciplinary reasons would appear to be subject to a rather restrictive regime. **The CPT would like to receive further information about the regime which is being offered to inmates who are segregated in Division VI.**

c. contact with the outside world

74. The CPT has long laid emphasis upon the importance of prisoners maintaining reasonably good contact with the outside world. The Committee is therefore pleased to find this principle enshrined in regulation 50 of the 1995 Regulations, which provides that:

"... prisoners shall be encouraged as much as possible to establish and maintain such relations with their families as are desirable in the best interests of both, as well as such relations with persons and organisations outside prison as may best promote the interests of the prisoners' families and the prisoners' own social rehabilitation."

The 1995 Regulations further provide¹³ that "an unconvicted prisoner may send and receive as many letters and may receive as many visits within such limits and subject to such conditions as the Minister may direct". Convicted prisoners are to be entitled to send and receive one letter a week and to receive a visit once a week. In principle, these provisions call for no comment from the CPT; however, the Committee **would like to be informed of the limits (and conditions) upon letters and visits for unconvicted prisoners which have been set by the Minister.**

75. The Committee has some reservations about the fact that, in terms of regulation 51, every letter to or from a prisoner may be read by a member of prison staff. Further, the Director may stop any letter if he considers that its contents are "objectionable" or that it is of "inordinate length".

The Committee considers that it would be far preferable to provide that prisoners' letters may only be examined, rather than read, by prison staff. Where, exceptionally, it is considered that it is necessary to read a letter, that should be done in the presence of the inmate concerned. Moreover, it would be desirable for the criteria used to determine whether a letter is objectionable or of inordinate length to be more clearly defined.

The Committee invites the Maltese authorities to take appropriate action in the light of these remarks.

76. Inmates' access to telephones had improved since the CPT's first visit; in principle, Maltese prisoners were each allowed to use a telephone for up to five minutes per day. The CPT welcomes this development.

The Committee's 1990 report stressed the importance of allowing foreign prisoners to have adequate telephone contact with their families. Regulation 59 (4) of the 1995 Regulations provides that a prisoner "who is a foreign national and who has no relative in Malta may be allowed one free phone call a month to a relative overseas." **The Committee invites the Maltese authorities to consider increasing this entitlement.**

¹³ cf. regulation 52 (1) and (2).

d. means of control and restraint

77. Regulation 69 (1) of the 1995 Regulations prohibits the use of "chains and irons" to restrain prisoners and provides that "handcuffs, restraint-jackets and other body restraints shall not be applied as a punishment". The use of such means is made subject to appropriately strict conditions and to supervision by medical and prison authorities.

The Committee would like to receive information on the "other body restraints" which it is considered permissible to apply to prisoners.

78. The CPT is pleased to note that, in terms of regulation 70 (3), "saving exceptional circumstances in which they are authorised to do so by the Director, prison officers performing duties which bring them into direct contact with prisoners shall not carry arms or batons."

Nonetheless, at the time of the delegation's visit, police officers working inside Corradino Correctional Facility were armed with tear gas canisters and, on occasion, with batons.

The Committee would like to receive the comments of the Maltese authorities on this inconsistency.

e. complaints and inspection procedures

79. The CPT's report on the first visit to Malta described the powers of the Prison Board of Visitors to receive complaints from prisoners and to inspect the establishment¹⁴. The 1995 Regulations consolidate those important powers, whilst removing the Board's competence in prison disciplinary matters.

Discussions held with members of the Board (including its Chairman) convinced the CPT's delegation that the Board continues to play an important role in the prevention of ill-treatment of inmates. In the view of the Committee, the impact of the Board's work could be further enhanced if its activities were to be more widely publicised. Accordingly, **the CPT considers that the annual report which the Board is required to submit to the Minister (in terms of regulation 115 of the 1995 Regulations) should be made public.**

The Committee wishes to add that, in order to ensure that the Board is perceived as being fully independent of the prison authorities and with a view to guaranteeing continuity in its membership, **consideration might usefully be given to appointing Board members for periods of longer than one year at a time.**

¹⁴ cf. paragraphs 18, 61 and 62 of document CPT/Inf (92) 5.

80. Corradino Correctional Facility did not have a formal internal complaints procedure at the time of the visit, although the delegation was told that there were plans to introduce such a system. The CPT welcomes this development and **would like to receive further details of the procedure which it is planned to introduce.**

81. The CPT has also taken note of a Bill to provide for the appointment of an Ombudsman, which is to be laid before the Maltese Parliament¹⁵. The Bill provides that detained persons are to have confidential access to the Ombudsman, who is empowered to investigate any administrative action taken by or on behalf of Government Departments, local councils and other public authorities. Such investigations may be undertaken both on the basis of written (or oral) complaints and on the Ombudsman's own initiative.

The Committee welcomes this development. **It would like to be informed when the Ombudsman is appointed and, in due course, to receive an account of his activities in relation to the investigation of complaints of ill-treatment of detained persons. The Committee would also like to be informed of whether the Ombudsman will be able to carry out on-the-spot inspections of places of detention.**

f. staffing matters

82. In its 1990 report, the CPT recommended that the Maltese authorities fill the vacant full-time position of Director of the then Corradino Prison without further delay. As already mentioned, although a full-time Director had been appointed some months prior to the 1995 visit, before the CPT's delegation had left Malta, he had resigned.

Whilst the delegation wishes to pay tribute to the efforts made by the acting Director to keep the establishment on an even keel, his position as an outside consultant did not provide him with the moral or legal authority required to run the establishment. The fact that the 1995 Regulations vest extensive powers in the person of the Director renders it all the more imperative that this full-time position be filled on a permanent basis.

The Committee recommends that the highest possible priority be given to the appointment of a permanent, full-time Director of Corradino Correctional Facility.

¹⁵ cf. Bill No. 126 of 5 May 1995.

83. The report on the first periodic visit also stressed that the custody of prisoners is a specialist job, best performed by professionally trained prison staff. As already indicated, the great majority of prison staff at Corradino are now "correctional officers" rather than police officers or temporary staff. Nonetheless, the police officers who remained retained a certain number of security functions (e.g. responding to violent incidents within the establishment) which are properly part of the job of a prison officer.

The CPT recommends that a very high priority be given to the implementation of measures designed either to replace police officers with properly trained correctional officers or to re-train police officers with a view to their appointment as correctional officers. In the meantime, all staff at Corradino Correctional Facility whose work involves contact with prisoners should be made subject to the authority of the establishment's Director.

84. As regards the training of correctional officers, the delegation was pleased to learn that all newly-recruited staff are now trained in basic first aid and that a second group of correctional officers had just completed a three month training session, organised in conjunction with the police academy.

The Committee would like to receive further details of the content of the induction and ongoing training received by correctional officers.

85. Finally, the CPT has noted that some twelve women correctional officers were employed at Corradino Correctional Facility. At the time of the visit, they worked mainly in the womens unit; however, the delegation was told that there were plans to extend the range of tasks performed by women officers.

The CPT welcomes this approach and wishes to recall its view that the presence of women officers in a male prison can serve to improve the general atmosphere within the establishment concerned.

C. Mount Carmel Hospital

1. Introduction

86. Mount Carmel Hospital, first visited by the CPT in 1990, remains the main mental health institution in Malta. At the time of the second visit, it had a total of 674 beds and was accommodating 519 patients, of whom 453 had been admitted on a voluntary basis.

The CPT's delegation focused upon the treatment of the 66 patients who had been admitted on a compulsory basis (and could therefore be said to be deprived of their liberty). Of those patients, 56 had been certified for admission under the terms of Part III of the Mental Health Act 1976: 37 on "treatment orders" of up to a year¹⁶; 11 on "observation orders" of up to 28 days¹⁷ and 8 under 72 hour "emergency orders"¹⁸. The remaining 10 persons were "Criminal Court of Judicial Police" (or CCJP) prisoner/patients who had been referred to the hospital for assessment or treatment on the orders of a court.

The majority of patients admitted on a compulsory basis were accommodated in the hospital's four acute wards: male admission ward 2, female admission ward 6, male secure ward 10 and female secure ward 10. Accordingly, although a number of other wards were visited, the delegation paid particular attention to conditions in the acute wards.

87. The Committee has taken note with great interest of the "National Policy on Mental Health Service" which was published by the Maltese authorities in February 1995. The National Policy contains both a candid assessment of the current situation at Mount Carmel Hospital and a set of bold aspirations for its future.

2. Torture and other forms of ill-treatment

88. The delegation heard no allegations of torture or other forms of ill-treatment of patients at Mount Carmel Hospital; nor was any other evidence of such treatment found by the delegation during the visit.

Notwithstanding this positive finding, **the CPT would like to receive information on the number of complaints of ill-treatment by staff at Mount Carmel Hospital made during the three years from 1993 to 1995 and on the number of cases in which disciplinary/criminal proceedings were initiated, with an indication of any sanctions imposed.**

¹⁶ cf. section 21 (2) of the Mental Health Act 1976, as amended.

¹⁷ cf. section 21 (1) of the Mental Health Act 1976, as amended.

¹⁸ cf. section 15 of the Mental Health Act 1976, as amended.

3. Staff resources

89. At the time of the visit, the health care staff at Mount Carmel Hospital included a Director of Psychiatry, 4 Consultants, 2 Senior Registrars, 1 Registrar, 6 Senior House Officers, 2 Medical Officers and 2 Housemen. The hospital also had a Senior and a Junior Resident Medical Officer and consultant coverage on call.

There were a total of 280 nurses, of whom 24 were qualified psychiatric nurses (as compared to only 5 at the time of the CPT's first visit). Ward and nurse management posts were filled by the qualified psychiatric nurses.

90. The Committee wishes to recall, in this context, that in its 1990 report it recommended that a very high priority be accorded to the provision of professional training for nursing staff at Mount Carmel Hospital¹⁹. The Committee is pleased to note that the number of nurses who have received professional training has increased and that the members of staff concerned now occupy the more senior nursing positions. Nevertheless, the situation is still not fully satisfactory. The problem is well summarised in the following extract from the National Policy on Mental Health Service:

"Although by international standards the complement of nurses is sufficient to cope with the nursing demands, their level of training is inadequate to proffer effective psychiatric nursing care notwithstanding that a good number of nurses are motivated and make an effort."²⁰

One of the solutions envisaged in the National Policy - the introduction of University-level training in psychiatric nursing - has already been implemented²¹. The CPT's delegation was also told that over 70% of the nursing staff have agreed to take part in in-service training, beginning in October 1995. The Committee welcomes these developments and **recommends that a very high priority continue to be given to increasing the number of professionally-qualified psychiatric nurses at Mount Carmel Hospital.**

4. Material conditions

91. Both of the admission wards visited benefited from adequate natural light, artificial lighting and ventilation. Patients also appeared to have ready access to lavatories. However, the delegation was struck by the contrast between the living conditions in the two wards concerned.

¹⁹ cf. paragraph 97 of document CPT/Inf (92) 5.

²⁰ cf. page 50 of the National Policy on Mental Health Service.

²¹ The University of Malta Institute of Health Care is now offering Certificate, Diploma and Degree courses in Psychiatric Nursing.

Male ward 2 had 35 beds, 25 of which were occupied. The ward's two single rooms were apparently rarely used; patients were normally accommodated in six dormitories (1 with 3 beds, 3 with 4 beds, 1 with 6 beds and 1 with 12 beds). The dormitories were sparsely furnished, as were the ward's living room and dining area. The walls throughout the ward were bare and the premises as a whole conveyed an impression of neglect.

There were 42 beds, of which 33 were occupied, in **female ward 6**. With the exception of two (little used) single rooms, patients were accommodated in dormitories, which the staff had made considerable efforts to personalise. There were curtains on the windows and pictures on the walls, flowers and plants were to be seen in the dormitories and communal areas and every patient had been provided with a personal, lockable, cupboard. In short, with a little imagination, an area subject to many of the same physical constraints as the male admission ward had been rendered warm and welcoming.

92. The CPT was pleased to learn that a new £ 250,000 admission ward for male and female patients is under construction and that male ward 2 is scheduled to close. The plans seen by the delegation indicated that the new admission ward will be a most impressive facility. **The Committee recommends that a high priority be given to completion of the new admission ward and would like to be informed of its likely completion date.**

93. The dormitory accommodation in the two secure wards visited was adequately lit and ventilated and patients had ready access to toilet facilities. Further, at the time of the visit, lavatories were being installed in the single rooms in those wards. Nevertheless, both wards offered rather poor material conditions.

Male ward 10 had 2 dormitories and 12 single rooms, providing a total of 33 beds (of which 27 were occupied). The dormitories were furnished only with beds (in one case, with ten and, in the other, with eleven). Patients were not provided with any personal storage space; some had resorted to keeping their (few) belongings in plastic carrier bags, which hung on nails at the head of their beds. The dormitories, living room and dining area in the ward were undecorated and in a dilapidated condition.

The 12 single rooms were of an antediluvian design. Each measured just under 8m² and contained only a bed, bolted to the middle of the floor. The ventilation in the cells was adequate; however, they received natural light only through a barred aperture facing onto an observation corridor. Moreover, artificial light appeared to be rather limited.

Very similar conditions were observed in the three (six bed) dormitories and 20 single rooms in **female ward 10**.

94. The Maltese authorities recognise that there is an urgent need to renovate male and female wards 10 (and the many other wards which are apparently in a similar condition). Indeed, the National Policy characterises the hospital environment as a whole as "dehumanising, impersonal and degrading"²².

²² cf. page 14 of the National Policy on Mental Health Service.

The National Policy links plans to refurbish the hospital to securing consensus about the services which it should be seeking to provide. In principle, this is an admirable approach; however, the Committee considers that certain measures could already be taken to improve the material conditions seen by its delegation in male and female wards 10.

In particular, efforts should be made to provide more congenial and personalised surroundings in those wards and all patients held there should be provided with lockable space (e.g. lockers to which staff have master keys) in which to keep their personal belongings. The failure to provide such a facility in a psychiatric establishment can impinge upon a patient's sense of security and autonomy.

The CPT recommends that the Maltese authorities take appropriate action in the light of these remarks.

More generally, the Committee recommends that a very high priority be given to the development of plans to refurbish the hospital. It wishes to receive details of the intentions of the Maltese authorities in this respect.

5. Rehabilitation and treatment of patients

a. therapeutic and rehabilitation activities

95. Mount Carmel Hospital has an occupational therapy department with a staff of 20, of whom 7 are trained occupational therapists. The delegation was impressed by the central occupational therapy unit, where patients take part in activities including carpentry, bookbinding, cooking, gardening, art and music therapy.

Nevertheless, the central unit was used by only around 100 patients per day. Patients had to go to the unit - occupational therapy on the wards was limited or (in the case of the wards visited by the delegation) non-existent. It should also be mentioned that the 1994 Mount Carmel Hospital Census records that 53% of all patients did not take part in occupational therapy.

Only a very limited number of patients who had been admitted on a compulsory basis attended the occupational therapy department. Further, since CCJP prisoner/patients were not permitted to leave their wards, none of them had access to such therapy.

96. The delegation also visited the hospital's well-equipped social centre, where patients could play billiards and table tennis and make use of a music room, television room and library. The social centre provided a positive and potentially therapeutic environment; however, (according to the 1994 Census) it was used by only 38% of all patients. Again, very few of the compulsory patients (and none of the CCJP prisoner/patients) attended the social centre.

It should be added that the non-governmental organisation (the "Friends of Attard") which had originally set up the social centre also helped to organise a certain number of other recreational activities for patients (including visits to a summer house, attendance at football matches, swimming trips, etc.).

97. There were hardly any other therapeutic and rehabilitation activities at Mount Carmel Hospital. The establishment's two social workers concentrated upon their role in assisting in the committal of patients under the Mental Health Act. The senior social worker with whom the delegation spoke stated that three social work posts remained vacant and this restricted the range of activities in which the social workers could participate. It might be added that the 1994 Census shows that some 74% of patients had no contact with social work services.

Physiotherapy was an even rarer occurrence - in 1994, 3 patients had regular physiotherapy, 17 had been prescribed such therapy for a limited period and 661 patients (or 97% of the population) did not take part in physiotherapy.

The three psychologists employed by the hospital also worked in community health centres outside and appeared to give priority to that work. That stance was reflected in the fact that, according to the 1994 Census, 91% of patients received no psychological assistance. The delegation spoke with the senior psychologist who confirmed that his staff seldom, if ever, became involved with patients admitted on a compulsory basis.

98. As is recognised in the National Policy on Mental Health Service, the task of offering appropriate therapeutic and rehabilitation activities to patients at Mount Carmel Hospital is rendered more difficult by "unworkable heterogeneity and a poor differentiation of the patient population within wards"²³.

Each of the "acute" wards visited by the delegation was holding a number of chronic patients. This problem was more pronounced in the two secure wards - on 1994 figures, 44% of patients in male ward 10 and 46% of patients in female ward 10 had been hospitalised for more than 15 years.

Further, each of the wards visited held patients with an incompatible mixture of diagnoses, including schizophrenia, mood disorders, personality/behavioural disorders and mental retardation. As an example, the 1994 Census records that 54% of patients in female ward 10 were diagnosed as schizophrenic (or displaying schizotypal disorders) and 29% were diagnosed as mentally retarded.

99. It should be added that few of the patients in the wards visited actually needed to be held in a locked ward. In 1994, the Maltese authorities themselves estimated that all of the patients held in male ward 2 could be accommodated in an unlocked ward. The same applied to a high percentage of patients in the other wards visited (in female ward 6, 93%; in female ward 10, 66% and, in male ward 10, 84%).

Even amongst those patients whom the hospital authorities considered did require to be held in locked wards, very few were considered to require maximum security conditions of the kind which presently obtain in male ward 10 and female ward 10. In fact, in 1994, only one patient (out of 683) was thought to require such conditions.

²³ cf. page 38 of the National Policy on Mental Health Service.

100. The CPT's delegation observed that the situation described above had a detrimental effect on the lives of patients in the wards visited.

There were no organised activities in **male ward 2, male ward 10** or **female ward 10**. The vast majority of patients spent their time sitting around in the ward's living room or dining area. The most constructive activity in which patients were engaged was watching television. Nursing staff appeared to place far greater emphasis on security considerations than on interaction with patients. As a result, a bleak, custodial atmosphere prevailed in those wards.

The situation was somewhat better in **female ward 6**, where the nursing staff had taken it upon themselves to organise a variety of groupwork activities (including a support group, family group, self-help group and psycho-educational group). In conjunction with the efforts which staff had made to improve the living conditions of patients (cf. paragraph 91), this psycho-dynamic approach to patient care helped to create a more therapeutic environment in the ward.

101. The Committee considers that there is an urgent need to improve the therapeutic and rehabilitation activities offered to patients at Mount Carmel Hospital. A certain number of measures are foreseen by the National Policy on Mental Health Service, including reform of the hospital's management structure and the introduction of "individual patient orientated care and rehabilitation"²⁴. However, the National Policy is more a statement of aspirations than a detailed plan for reform.

The Committee recommends that, in the context of the mental health reforms currently taking place in Malta, a very high priority be given to improving the therapeutic and rehabilitation activities offered to patients at Mount Carmel Hospital. In this respect, the CPT recommends that particular efforts be made to:

- **increase the proportion of patients who have access to the central occupational therapy unit and the social centre;**
- **provide occupational therapy activities on the wards for patients who are unable to attend the central occupational therapy unit;**
- **reinforce the social work, physiotherapeutic and psychological services offered to patients;**
- **differentiate between different categories of patients currently being held together, with a view to their reallocation to wards in which their specific needs can be more adequately addressed;**
- **relate the level of security in the wards more closely to the status of the patients held there;**
- **create a less custodial environment in male ward 2, male ward 10 and female ward 10.**

²⁴ cf. page 39 of the National Policy on Mental Health Service.

b. medical care

102. The CPT's delegation was impressed by the general level of medical care provided by the psychiatrists employed at Mount Carmel Hospital. It was also noteworthy that patients were being diagnosed according to the latest (10th revision) of the international classification of diseases (ICD10).

103. As regards the use of medication, the 1994 Census records that almost three-quarters of patients at Mount Carmel Hospital were receiving drug therapy with neuroleptic drugs and that 31% of patients were receiving depot neuroleptics. An examination of a sample of patients' treatment cards and medical records led the CPT's delegation to conclude that the drugs concerned were being prescribed in appropriate doses. No evidence was found of the misuse of medication.

104. The delegation was also pleased to note that electroconvulsive therapy (ECT) was used to only a limited extent (to treat severe depression/delirium) and always in a modified, bilateral, form (i.e. with anaesthetics and muscle relaxants).

6. Seclusion of patients and instruments of physical restraint

105. The CPT's delegation found that certain categories of patients were systematically secluded in the spartan single rooms in male ward 10 and female ward 10 (on which, cf. paragraph 93). The patients concerned included inmates referred to the hospital from Corradino Correctional Facility and CCJP prisoner/patients referred to the hospital by the courts for psychiatric assessment.

Even although the hospital staff closely supervised patients placed in seclusion, the Committee has reservations about whether it is appropriate to seclude patients on the basis that they fall into a particular category, rather than on the merits of each individual case. It should also be emphasised, in this context, that there is a clear trend in modern psychiatric practice in favour of avoiding the seclusion of violent or otherwise unmanageable patients.

106. In any case, the Committee considers that there must always be a detailed policy on the use of seclusion, covering in particular: the types of cases in which it may be used; the objectives sought; its duration and the need for regular reviews; the existence of appropriate human contact; the need for staff to be especially attentive. At the time of the visit, there did not appear to be such a policy at Mount Carmel Hospital. **The Committee recommends that the Maltese authorities draw up a detailed policy on the use of seclusion.**

The CPT also recommends that every instance of the resort to seclusion be recorded in a specific register established for this purpose. The entry should include the times at which the measure began and ended, the circumstances of the case and the reasons for resorting to the measure.

107. Finally, the CPT welcomes the fact that, at Mount Carmel Hospital, the use of instruments of physical restraint had been consigned to the annals of history. Patients considered to represent a danger to themselves or others were dealt with, in the first instance, by verbal persuasion, which failing, staff would administer a sedative injection before moving the person concerned to a single room.

7. Complaints and monitoring procedures

108. In the view of the CPT, effective complaints and monitoring procedures are basic safeguards against ill-treatment in psychiatric establishments.

At the time of the visit, complaints procedures at Mount Carmel Hospital were underdeveloped and there were no effective monitoring procedures.

109. The Mental Health Act provides that all patients shall enjoy confidential access, in writing, to any member of the House of Representatives, the manager of the hospital and any other person or authority having the power to discharge them from hospital. The Committee welcomes the existence of this right. However, there was no clearly defined internal arrangement at Mount Carmel Hospital for the reception of complaints.

In the opinion of the CPT, specific arrangements enabling patients to lodge complaints with a clearly designated body are essential. **It recommends that the Maltese authorities take the requisite measures, which should include the provision of information to patients on the possibility of making a complaint.**

More generally, the CPT recommends that an introductory brochure setting out the hospital routine and patients' rights be devised and issued to each patient on admission. Any patients unable to understand that brochure should be assisted by a counsellor.

110. The Committee also considers that psychiatric establishments should be visited on a regular basis by an independent outside body, responsible for the inspection of patients' care and authorised, in particular, to talk privately with patients, receive any complaints they might have and make any necessary recommendations. It would be advisable for such a body to publish an annual report on its activities, in order to ensure greater openness and public debate on psychiatric institutions. **The CPT recommends that the Maltese authorities consider the possibility of empowering an independent authority to visit psychiatric institutions on a regular basis.**

111. Finally, it is axiomatic that all patients detained in a psychiatric institution on a compulsory basis should be able to have the lawfulness of their detention reviewed by a court at reasonable intervals. The Committee has noted that the Maltese authorities consider the current mental health legislation on this subject to be archaic and that new legislation is to be drafted. **The Committee would like to receive, at the earliest opportunity, full information on the legislative changes which are envisaged.**

8. Transfer of patients

112. Reference has already been made to the fact that a significant number of the patients seen by the CPT's delegation did not require - or no longer required - to be held in secure conditions (cf. paragraph 99). It should be added that, according to the 1994 Census, some 54% of patients did not require to remain at Mount Carmel Hospital.

Health care staff were convinced that those patients were capable of living outside (e.g. in hostel accommodation, sheltered housing, their family or own home, or with a foster family). However, because of a lack of community-based facilities in Malta, the persons concerned remained at Mount Carmel Hospital.

113. The Maltese authorities recognise that a large psychiatric establishment such as Mount Carmel Hospital poses a serious risk of institutionalisation for both patients and staff. In consequence, one of the main thrusts in the National Policy on Mental Health Service is the development of community-based mental health facilities "to re-house appropriately rehabilitated patients presently at Mount Carmel Hospital ... ".²⁵

The Committee welcomes this approach and trusts that the necessary resources will be made available in order to transform into reality the aspirational statements in the National Policy, concerning the provision of appropriate community-based alternatives to Mount Carmel Hospital.

The CPT would like to be kept informed of the measures taken by the Maltese authorities to provide such community-based mental health facilities.

²⁵ cf. page 25 of the National Policy on Mental Health Service.

III. RECAPITULATION AND CONCLUSIONS

A. Police establishments

114. The CPT's delegation heard no allegations of torture or other forms of ill-treatment of those deprived of their liberty in police establishments in Malta; nor was any other evidence of such treatment found by the delegation during the visit.

However, the material conditions of detention seen in the police establishments visited often left a great deal to be desired.

115. The cells in the lock-up at the Police Headquarters in Floriana, which were the subject of criticism in the CPT's 1990 report, were found to be virtually unchanged. Moreover, they were still being used to hold persons for extended periods of time (e.g. under the Immigration Act or because Corradino Correctional Facility could not provide appropriate accommodation). The Committee has stressed that the lock-up cannot be said to provide satisfactory conditions of detention for persons held for police questioning; at the very least, the lighting and ventilation in the cells should be improved and outdoor exercise offered in appropriate cases. Nor is it in a position to provide the material conditions or regime which Immigration Act detainees and prisoners are entitled to expect.

The CPT has recommended that urgent steps be taken to provide better conditions of detention at what is the main police holding facility in Malta and that Immigration Act detainees and prisoners no longer be held in the lock-up.

116. The CPT's delegation also found unsatisfactory conditions of detention in the two police stations which it visited. The Committee has recommended that certain specific improvements be made at both Cospicua and St. Julian's Police Stations. The Committee has also recommended that measures be taken to ensure that conditions of detention in all police stations in Malta meet the general criteria set out in the visit report.

117. In addition, the delegation visited two police establishments which were used exclusively for Immigration Act detention - Ta'Kandj Police Complex at Siggiewi and the Immigration Service detention cells at Luqa International Airport.

118. Ta'Kandj Police Complex provided appalling conditions of detention (filthy and dilapidated living quarters, defective sanitary facilities and nothing which resembled a programme of activities). These difficulties were exacerbated by the fact that the establishment was staffed by police officers from a special intervention group, who recognised that they were not qualified for the task of the care and custody of illegal immigrants.

The Committee has recommended a number of immediate measures designed to address the situation at Ta'Kandj Police Complex. Moreover, it has recommended that, as a matter of urgency, better premises be found in which to accommodate persons detained under the Immigration Act. It has also emphasised that such detainees should be supervised by suitably qualified staff and that a concerted effort should be made to provide them with a programme of activities.

119. By contrast, the Immigration Service detention cells at Luqa International Airport were clean and perfectly adequate for the purpose which they served (short-term detention, not including overnight stays). Nonetheless, as an additional safeguard, the Committee has recommended that a separate register be kept of every occasion on which the cells are used to hold detainees.

120. In the report drawn up following the first periodic visit to Malta, the CPT examined in some detail the safeguards against ill-treatment which are offered to detained persons. A number of recommendations were made on this subject (in particular, as regards notification of custody, access to a lawyer and access to a doctor). Regrettably, little progress has been made in implementing those core recommendations.

The Committee is especially concerned that persons detained by the police in Malta still do not have the right to have access to a lawyer from the very outset of their custody. In this respect, the Committee has stressed that the period immediately following deprivation of liberty is when the risk of intimidation and ill-treatment is greatest. Consequently, the possibility for persons in police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment.

The CPT has recommended that the rights to have someone informed of the fact of one's custody and to have access to a lawyer as well as to a doctor of one's own choice be given a firm basis in Maltese law. The Committee has also made a number of other remarks and recommendations about the safeguards to be afforded to persons detained by the police (as regards information on their rights, the conduct of interrogations, custody registers and complaints and inspection procedures).

B. Corradino Correctional Facility

121. The CPT's delegation heard no allegations - and gathered no other evidence - of torture or physical ill-treatment of prisoners by prison staff at Corradino Correctional Facility.

122. Material conditions of detention in the establishment were similar to those seen during the CPT's 1990 visit to the establishment. Inmates were held one to a cell, the majority of which remained of a satisfactory standard. That said, certain of the cells seen in Divisions III and IV lacked basic items of furniture (such as a table and chair) and were in a rather dirty condition. The CPT has recommended that the Maltese authorities take steps to ensure that all prisoners are held in cells which are clean and appropriately furnished.

The Committee has also noted that the planned construction of a new prison complex, adjacent to the present site, will facilitate the comprehensive renovation of existing inmate accommodation.

123. The CPT has taken account of the efforts which have been made by the Maltese authorities to improve the activities offered to inmates at Corradino Correctional Facility; nevertheless, five years after the Committee's first visit, the regime remained relaxed to the point of torpor. The CPT has recommended that serious efforts be made to develop a constructive and challenging regime (including association, education, sport, and work with vocational value) for prisoners. Further, the Committee has stressed that, in drawing up that regime, there should be close co-operation with those responsible for the design of the new prison complex.

124. There had been an improvement in the quality of the medical facilities, and a significant increase in the number of qualified health care staff, at Corradino Correctional Facility since the CPT's 1990 visit. However, the two nurses working at the establishment were available on only a part-time basis; the CPT has expressed the view that the establishment's nursing staff could usefully be reinforced.

125. The delegation also visited St Michael's Ward at St Luke's Hospital, which a recent legal notice had declared to be an extension of Corradino Correctional Facility. It found that the one prisoner/patient who was being held in the ward was receiving medical care which was appropriate for his condition. However, it was concerned to learn that undue limitations were placed upon his access to outdoor exercise. The CPT has recommended that urgent steps be taken to ensure that all prisoner/patients held at St Luke's Hospital are able to take at least one hour of outdoor exercise every day (unless there are medical reasons to the contrary).

126. The CPT has made recommendations, comments and requests for information on various other matters related to its mandate (allocation and classification of prisoners, discipline and segregation, contact with the outside world, means of control and restraint, complaints and inspection procedures, and staffing matters).

Particular emphasis has been laid upon the need to ensure that Corradino Correctional Facility is staffed by appropriately-qualified personnel. Taking into account *inter alia* the importance of the role accorded to the Director of the establishment by the 1995 Prison Regulations, the CPT has recommended that the highest possible priority be given to filling that position on a permanent full-time basis.

Further, in order to ensure that the custody of prisoners is entrusted to professionally trained staff, the Committee has recommended that a very high priority be given to replacing police officers working at the establishment with properly trained correctional officers. Alternatively, the police officers concerned could be re-trained, with a view to their appointment as correctional officers. The CPT has stressed that, in the meantime, all staff at Corradino Correctional Facility whose work involves contact with prisoners should be made subject to the authority of the establishment's Director.

C. Mount Carmel Hospital

127. The delegation heard no allegations of torture or other forms of ill-treatment of patients at Mount Carmel Hospital; nor was any other evidence of such treatment found by the delegation during the visit.

128. The report charts important developments in nursing training since the CPT's 1990 visit to the hospital. An increasing number of nursing staff have received, or are to receive, professional training in psychiatric nursing and in-service training is to be introduced. Whilst it has welcomed these developments, the Committee has concluded that the situation is still not fully satisfactory. It has recommended that a very high priority continue to be given to increasing the number of professionally-qualified psychiatric nurses at Mount Carmel Hospital.

129. The CPT's delegation concentrated its attention upon the hospital's acute admission and secure wards, which accommodated the majority of patients admitted on a compulsory basis.

A striking contrast was observed between the material conditions in male admission ward 2 and those in female admission ward 6. The former was sparsely furnished, undecorated and conveyed an impression of neglect. In the latter ward, staff had made considerable efforts to personalise the dormitories and living areas. In so doing, they had created a warm and welcoming environment in an area subject to many of the same physical constraints as male ward 2.

Both of the secure wards visited - male ward 10 and female ward 10 - were characterised by spartan physical surroundings. The dormitories were depersonalised and dilapidated and the single rooms were of an antediluvian design.

130. The Maltese authorities recognise that there is an urgent need to renovate wards throughout the hospital. Indeed, plans for the construction of a new admission ward for male and female patients (which will replace male ward 2 and female ward 6) are already at an advanced stage. The Committee has recommended that a high priority be given to the completion of that ward.

Plans to refurbish the hospital in a more comprehensive fashion have been linked to securing consensus about the services which it should be seeking to provide. Whilst this is, in principle, an admirable approach, the CPT has indicated that certain measures could already be taken to improve the material conditions seen by its delegation in male and female wards 10. It has recommended that appropriate action be taken in order to provide more congenial and personalised surroundings in those wards and that all patients held there be provided with lockable space in which to keep their personal belongings.

More generally, the Committee has recommended that a very high priority be given to the development of plans to refurbish the hospital.

131. As regards the treatment of patients, the CPT's delegation was impressed by the general level of medical care provided by the psychiatrists employed at Mount Carmel Hospital.

However, the quality of medical care was not matched by that of the therapeutic and rehabilitation services offered to patients. The delegation found that the existing occupational therapy and social facilities were under used and that very few patients benefitted from social work, physiotherapeutic or psychological services. Moreover, different categories of patients were being held together, subject to levels of security which bore no real relation to their status.

The delegation observed that those factors had a detrimental effect on the lives of patients in the wards visited. There were no organised activities in male ward 2, male ward 10 or female ward 10 and nursing staff appeared to place far greater emphasis on security considerations than on interaction with patients. As a result, a bleak, custodial atmosphere prevailed in those wards. The situation was somewhat better in female ward 6, where a psycho-dynamic approach to patient care had helped to create a more therapeutic environment.

132. The CPT has recommended that, in the context of the mental health reforms currently taking place in Malta, a very high priority be given to improving the therapeutic and rehabilitation activities offered to patients at Mount Carmel Hospital. The Committee's recommendation identifies a number of specific issues which should be the subject of particular attention.

133. The CPT has noted that the seclusion of psychiatric patients is still practised in Malta, but that it is not the subject of a detailed policy. The Committee has recommended that the Maltese authorities draw up such a detailed policy, covering in particular: the types of cases in which seclusion may be used; the objectives sought; its duration and the need for regular reviews; the existence of appropriate human contact; the need for staff to be especially attentive. The CPT has also recommended that every instance of the resort to seclusion be recorded in a specific register established for that purpose.

The CPT has also welcomed the fact that resort is no longer had to instruments of physical restraint at Mount Carmel Hospital.

134. The Committee has also made a number of recommendations designed to ensure that patients detained in psychiatric establishments benefit from effective complaints and monitoring procedures; the CPT regards such mechanisms as basic safeguards against ill-treatment.

135. Finally, the Committee has noted that according to the 1994 Mount Carmel Hospital Census, some 54 % of in-patients were thought to be capable of living outside the establishment. It has asked to be kept informed of the measures taken by the Maltese authorities to provide community - based alternatives to Mount Carmel Hospital.

D. Action on the CPT's recommendations, comments and requests for information

136. The various recommendations, comments and requests for information formulated by the CPT are summarised in Appendix I.

137. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the CPT requests the Maltese authorities:

- i) to provide within six months an interim report giving details of 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 which are summarised in Appendix I as well as replies to the requests for information made.

APPENDIX I

**SUMMARY OF THE CPT'S RECOMMENDATIONS, COMMENTS
AND REQUESTS FOR INFORMATION**

A. Police establishments

1. Torture and other forms of ill-treatment

requests for information

- the number of complaints of ill-treatment by police officers made in Malta during the three years from 1993 to 1995 and the number of cases in which disciplinary/criminal proceedings were initiated, with an indication of any sanctions imposed, (paragraph 10).

2. Conditions of detention in police establishments

recommendations

- urgent steps to be taken to provide better conditions of detention in the lock-up at the Police Headquarters in Floriana; that facility no longer to be used to hold Immigration Act detainees and prisoners, (paragraph 13);
- steps to be taken to improve the material conditions of detention at Cospicua and St. Julian's Police Stations in the light of the remarks made in paragraphs 15 and 16 and taking into account the general criteria enunciated in paragraph 8, (paragraph 17);
- steps to be taken to ensure that conditions of detention in all police stations in Malta meet the criteria set out in paragraph 8, (paragraph 17);
- as a matter of urgency, better premises than the Ta'Kandj Police Complex to be found in which to accommodate persons detained under the Immigration Act; the task of supervising such detainees to be allocated to suitably qualified staff. Further, a concerted effort to be made to develop a programme of activities for Immigration Act detainees (including outdoor exercise, access to radio/television and newspapers/magazines as well as other appropriate means of recreation), (paragraph 22);
- immediate steps to be taken at Ta'Kandj Police Complex in order to ensure that:
 - all detainees held there are offered at least one hour of outdoor exercise every day;
 - the standard of cleanliness at the establishment is improved significantly;
 - the sanitary facilities are rendered fully operational and maintained in that condition;

- basic cleaning materials and personal hygiene products are provided to detainees, irrespective of their means; (paragraph 22);
- a separate register to be kept of every occasion on which the Immigration Service cells at Luqa International Airport are used to hold detainees, (paragraph 23).

3. Safeguards against the ill-treatment of persons detained by the police

recommendations

- the right to have someone informed of the fact of one's custody to be given a firm basis in Maltese law, (paragraph 27);
- the necessary steps to be taken - without further delay - to grant all persons taken into police custody the right to have access to a lawyer from the very outset of their custody. This right to include the right to contact the lawyer and to be visited by him (in both cases under conditions guaranteeing the confidentiality of their discussions) and, in principle, the right of the person concerned to have the lawyer present during interrogation, (paragraph 31);
- specific legal provisions to be adopted on the subject of the right of persons in police custody to have access to a doctor. Those provisions to stipulate inter alia:
 - that a person taken into police custody has the right to be examined, if he so wishes, by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police authorities;
 - that all medical examinations of persons in custody are to be conducted out of the hearing and - unless the doctor concerned requests otherwise - out of the sight of police officers;
 - that the results of every examination, as well as any relevant statements by the person in custody and the doctor's conclusions, are to be recorded in writing by the doctor and made available to the person in custody and his lawyer; (paragraph 34);
- a form setting out all their rights to be given systematically to persons taken into custody by the police, at the outset of their custody. That form to be available in different languages and the person concerned to certify that he has been informed of his rights, (paragraph 35);
- the Code of Practice on police interviews to be brought into effect at the earliest possible opportunity, (paragraph 38);
- a high priority to be given to developing a single and comprehensive custody record for each person detained by the police in Malta, (paragraph 41);

- appropriate steps to be taken to ensure that whenever a person is detained in a police establishment, for whatever reason and for whatever length of time, the fact of his detention is recorded without delay, (paragraph 41);
- a very high priority to be accorded to the adoption of legislation designed to introduce a system of examining complaints against the police (paragraph 42);
- the Maltese authorities to consider the possibility of empowering an independent authority to inspect on a regular basis the conditions of detention in the lock ups and other holding facilities staffed by the police, (paragraph 43).

comments

- the Maltese authorities are invited to give due consideration to the matters raised in paragraph 38, in respect of which the Committee considers that the draft Code of Practice on police interviews could usefully be modified (paragraph 38).

requests for information

- the outcome of the study on the electronic recording of police interrogations and details of any planned developments in this area, (paragraph 39);
- further information about the planned police complaints procedure, including full details of the guarantees ensuring its independence and impartiality, (paragraph 42).

B. Corradino Correctional Facility

1. Torture and other forms of physical ill-treatment

requests for information

- the number of complaints of ill-treatment made against prison staff for the three years from 1993 and 1995 and the number of cases in which disciplinary/criminal proceedings were initiated as a result, together with an indication of any sanctions imposed, (paragraph 47).

2. Material conditions of detention

recommendations

- all prisoners at Corradino Correctional Facility to be held in cells which are clean and appropriately furnished (i.e. containing at least a bed, table and chair and preferably a wardrobe or locker), (paragraph 48).

comments

- due account should be taken of the need to provide adequate facilities for association and group work in the substance abuse assessment unit (paragraph 49).

3. Regime

recommendations

- plans to increase the number of education places at Corradino Correctional Facility and to improve the establishment's library to receive the necessary financial support, (paragraph 54);
- serious efforts to be made to develop a constructive and challenging regime (including association, education, sport, and work with vocational value) for inmates at Corradino Correctional Facility. That regime to be drawn up in close co-operation with those responsible for the design of the new prison complex, (paragraph 55).

requests for information

- clarification of the "exceptional circumstances" envisaged by regulation 28(2) of the 1995 Prison Regulations, under which the Director may reduce the period of outdoor exercise offered to a prisoner, together with information on the safeguards which would accompany any such decision, (paragraph 52).

4. Medical Services

recommendations

- urgent steps to be taken to ensure that all prisoner/patients held at St Luke's Hospital are able to take at least one hour of outdoor exercise every day (unless there are medical reasons to the contrary), (paragraph 61).

comments

- the nursing staff at Corradino Correctional Facility might usefully be reinforced, (paragraph 56).

requests for information

- further details about medical involvement in the development of the substance abuse assessment programme, (paragraph 59).

5. Other issues related to the CPT's mandate

recommendations

- prisoners removed from association under regulation 67 of the 1995 Prison Regulations to benefit from the safeguards identified in paragraph 72, (paragraph 72);
- the highest possible priority to be given to the appointment of a permanent, full-time Director of Corradino Correctional Facility, (paragraph 82);
- a very high priority to be given to the implementation of measures designed either to replace police officers working at Corradino Correctional Facility with properly trained correctional officers or to re-train such police officers with a view to their appointment as correctional officers. In the meantime, all staff whose work involves contact with prisoners to be made subject to the authority of the establishment's Director, (paragraph 83).

comments

- pending completion of the new prison site, the Maltese authorities are invited to introduce a provisional system for the allocation and classification of prisoners, (paragraph 63);
- natural light in certain of the West facing ground floor cells in Division VI was rather poor, (paragraph 65);
- the Maltese authorities are invited to take appropriate action in the light of the CPT's remarks regarding the control of prisoners' letters under regulation 51 of the 1995 Prison Regulations, (paragraph 75);
- invitation to consider increasing the free phone call entitlement of foreign prisoners who have no relatives in Malta, (paragraph 76);
- the annual report which the Prison Board of Visitors is required to submit to the Minister (in terms of regulation 115 of the 1995 Prison Regulations) should be made public, (paragraph 79);
- consideration might usefully be given to appointing members of the Prison Board of Visitors for periods of longer than one year at a time, (paragraph 79).

requests for information

- confirmation that Division VIII has been taken out of service on a permanent basis, (paragraph 64);
- the comments of the Maltese authorities on: the severity of certain of the punishments foreseen by the 1995 Prison Regulations; the apparent absence of safeguards offered to prisoners in the context of disciplinary proceedings; and the possibility of a prisoner being punished by both a criminal court and the prison Director in respect of the same offence, (paragraph 70);
- details of the composition and rules of procedure of the Appeals Tribunal referred to in regulation 78 of the 1995 Prison Regulations, (paragraph 70);
- the comments of the Maltese authorities on the question of appropriate safeguards when a prisoner is deprived of a privilege, (paragraph 71);
- the date on which regulation 13 of the 1995 Prison Regulations will enter into force, and a copy of the final version of the Ministerial General Directions governing the practical operation of the planned system of privileges for prisoners, (paragraph 71);
- whether the prolongation of a measure of removal from association upon the authority of the Minister can be challenged before the Maltese courts, (paragraph 72);
- further information about the regime which is being offered to inmates who are segregated in Division VI, (paragraph 73);
- the limits and conditions upon letters and visits for unconvicted prisoners which have been set by the Minister, (paragraph 74);
- details of the "other body restraints" which it is considered permissible to apply to prisoners in terms of regulation 69 (1) of the 1995 Prison Regulations, (paragraph 77);
- the comments of the Maltese authorities on the fact that police officers working inside Corradino Correctional facility were armed with tear gas canisters and, on occasion, with batons, (paragraph 78);
- details of the internal complaints procedure which is to be introduced at Corradino Correctional Facility, (paragraph 80);
- the date of the Ombudsman's appointment and, in due course, an account of his activities in relation to the investigation of complaints of ill-treatment of detained persons, (paragraph 81);
- whether the Ombudsman will be able to carry out on-the-spot inspections of places of detention, (paragraph 81);
- further details of the content of the induction and ongoing training received by correctional officers, (paragraph 84).

C. Mount Carmel Hospital

recommendations

- a very high priority to continue to be given to increasing the number of professionally-qualified psychiatric nurses at Mount Carmel Hospital, (paragraph 90);
- a high priority to be given to completion of the new admission ward, (paragraph 92);
- appropriate action to be taken to improve the material conditions in male and female wards 10 in the light of the Committee's remarks in paragraph 94, (paragraph 94);
- a very high priority to be given to the development of plans to refurbish the hospital, (paragraph 94);
- in the context of the mental health reforms currently taking place in Malta, a very high priority to be given to improving the therapeutic and rehabilitation activities offered to patients at Mount Carmel Hospital. Particular efforts be made to:
 - increase the proportion of patients who have access to the central occupational therapy unit and the social centre;
 - provide occupational therapy activities on the wards for patients who are unable to attend the central occupational therapy unit;
 - reinforce the social work, physiotherapeutic and psychological services offered to patients;
 - differentiate between different categories of patients currently being held together, with a view to their reallocation to wards in which their specific needs can be more adequately addressed;
 - relate the level of security in the wards more closely to the status of the patients held there;
 - create a less custodial environment in male ward 2, male ward 10 and female ward 10; (paragraph 101);
- a detailed policy to be drawn up on the use of seclusion, (paragraph 106);
- every instance of the resort to seclusion to be recorded in a specific register established for that purpose. The entry to include the times at which the measure began and ended, the circumstances of the case and the reasons for resorting to the measure, (paragraph 106);
- the requisite measures to be taken to enable patients to lodge complaints with a clearly designated body, those measures to include the provision of information to patients on the possibility of making a complaint, (paragraph 109);

- an introductory brochure setting out the hospital routine and patients' rights to be devised and issued to each patient on admission. Any patients unable to understand that brochure to be assisted by a counsellor, (paragraph 109);
- the Maltese authorities to consider the possibility of empowering an independent authority to visit psychiatric institutions on a regular basis, (paragraph 110).

requests for information

- the number of complaints of ill-treatment by staff at Mount Carmel Hospital made during the three years from 1993 to 1995 and the number of cases in which disciplinary/criminal proceedings were initiated, with an indication of any sanctions imposed, (paragraph 88);
- the likely date for completion of the new admission ward, (paragraph 92);
- details of the Maltese authorities' plans to refurbish the hospital, (paragraph 94);
- at the earliest opportunity, full information on the envisaged changes in mental health legislation, in order to ensure that the lawfulness of the detention of patients is reviewed by a court at reasonable intervals, (paragraph 111);
- updated information on the measures taken by the Maltese authorities to provide community-based alternatives to Mount Carmel Hospital, (paragraph 113).

APPENDIX II

**LIST OF THE NATIONAL AUTHORITIES AND OTHER PERSONS
WITH WHOM THE CPT'S DELEGATION HELD CONSULTATIONS**

A. National authorities

Ministry of Foreign Affairs

Prof Guido de Marco	Deputy Prime Minister and Minister of Foreign Affairs
Mr Charles Cremona	Deputy Permanent Representative of Malta to the Council of Europe and Liaison Officer to the CPT

Ministry for Home Affairs

Dr Tonio Borg	Minister for Home Affairs
Mr Louis Cilia	Permanent Secretary
Mr Joseph Ebejer	Director Civil Registration
Mr Joseph Scerri	Private Secretary to the Minister for Home Affairs

Ministry for Social Development

Dr Louis Galea	Minister for Social Development
Dr Louis Deguara	Parliamentary Secretary (Health)
Mr Maurice Zarb Adami	Permanent Secretary
Dr Anthony Vassallo	Chief Government Medical Officer
Dr John M. Cachia	Director Institutional Health
Dr Joseph Saliba	Director of Psychiatry, Mount Carmel Hospital
Dr Frank Bartolo	Medical Administrator, St. Luke's Hospital
Mr Alfred Theuma	Executive Co-ordinator, Mount Carmel Hospital

B. Other persons with whom the CPT's delegation held consultations

Dr Giovanni Bonello	Lawyer in private practice
Dr René Cremona	President of the Maltese Chamber of Advocates
Dr Mario Felice	Chairman, Prison Board of Visitors for Corradino Correctional Facility
Prof Edwin Grech	Chief Opposition Spokesman for Social Development
Dr Charles Mangion	Chief Opposition Spokesman for Home Affairs
Dr Denis Montebello	Magistrate
Dr Joe Said Pullicino	Chief Justice