

## **Response**

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

**from 19 to 26 May 2008**

The Maltese Government has requested the publication of this response. The report of the CPT on its May 2008 visit to Malta is set out in document CPT/Inf (2011) 5.

Strasbourg, 17 February 2011

**RESPONSE  
OF THE MALTESE GOVERNMENT  
TO THE REPORT ISSUED BY  
THE EUROPEAN COMMITTEE  
FOR THE PREVENTION AND TORTURE AND INHUMAN OR DEGRADING  
TREATMENT OR PUNISHMENT  
(CPT)  
PURSUANT TO THE VISIT  
CARRIED OUT  
FROM 19 MAY TO 26 MAY 2008.**

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## **Preface**

The Maltese Authorities herewith submit their response to the Recommendations, Comments and Requests for Information set out in the Report [CPT (2008)64] on the visit to Malta by the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT) pursuant to its visit in Malta during May 2008. It is the aim of this document to address the issues that have been raised and providing clarifications where deemed necessary. Furthermore, where available, the information requested by the CPT is attached in the Annexes to this document.

The Maltese Authorities wish to reiterate their commitment to adopt all possible measures that will enhance the respect of the fundamental rights of persons who are detainees and/or are deprived of their freedom. In this regard the CPT report is welcomed as an opportunity that allows for exchanges of ideas and fruitful consultations with the various stakeholders, in accordance with the provisions of Article 3 of the Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment.

It is felt that many of the recommendations that have been put forward in the report are laudable and, as indicated in this response, have already been (or are being) implemented. Unfortunately the very short period of time available to the Delegation during the visit may have prevented a thorough analysis which takes into consideration external factors which, although not strictly falling within CPT remit, may impinge on the Maltese Authorities' immediate implementation of some of the other recommendations. By way of example it may be stated that particular structural works requested by CPT may be hindered (in the short term) by the lack of available space required for relocation. Likewise, the requests for additional staff may be hindered by the distinct possibility that personnel with the appropriate qualifications may not be immediately available in the labour market to take up particular duties in specific places of detention. Similarly, the perceived "crisis management" which the CPT alludes to Malta's handling of Illegal Immigrants' Detention Centres is due to the fact that the exponential increase of illegal immigrants' arrivals in the past four years has overshadowed all proactive measures which the Maltese Authorities have adopted during the same period of time in such area.

Notwithstanding the above, the Maltese Authorities are pleased to note that the CPT report acknowledges that there was a very good level of co-operation and of assistance provided before, during and after the visit by the local authorities, and that significant improvements have been noted in many of the areas which were visited during the previous visit. Accordingly, it is considered that the problems witnessed by the Delegation during the visit were more of a logistical nature and must certainly not place any doubts on Malta's active commitment to ensure that no one is subjected to torture or to inhuman or degrading treatment or punishment, in line with the CPT's mandate arising out of Article 3 of the European Convention on Human Rights.

For ease of reference, this response follows in sequence the issues raised in the CPT's report and the Maltese Authorities' comments are preceded by original paragraph references.

## **Introduction**

### **(Paragraph 7)**

Accordingly, an updated list of all places of deprivation of liberty is being included as **Annex 1**. Furthermore, all authorities in charge of the above-indicated list have been informed of the CPT's mandate and powers. As a matter of fact, the Police Force has even translated into Maltese the booklet on CPT, entitled 'A visit by the CPT – What's it all about? 15 Questions and Answers for the Police' (Geneva 1999). This is being distributed to all Maltese police officers during their recruitment training and during in-service courses.

With regards the 'Fejda Programme' establishment, documentation containing details of internal regulations are included – **Annex 2a** ('Conservatorio Vincenzo Bugeja – Dar Fejda u Dar Jeanne Antide: Regoli ghar-Residenti' in Maltese) and **Annex 2b** ('Conservatorio Vincenzo Bugeja – Manual of Procedures for the Homes Jean Antide and Fejda').

### **(Paragraph 8)**

It is sad to note that the Delegation alleges 'failure of cooperation on the part of the Maltese authorities when collecting information from bodies investigating possible cases of ill-treatment of persons deprived of their liberty' alluding to the failure of the Maltese authorities to facilitate meetings with Mr Martin Scicluna and Mr Justice Albert Manche. Considering that, at that time, the investigations had not yet been concluded it was deemed that such meetings would have been premature, and in the spirit of professional ethics, as also referred to in Article 8 (2) (d) of the European Convention for the Prevention of Torture, it would have been expected that the Delegation would have respected the Maltese Authorities' decision.

It is also relevant to point out that, apart from the alleged failure to co-operate by not setting up such meeting, the Maltese authorities fully collaborated with the Delegation in providing access to all related information on this case.

### **(Paragraph 9)**

In view of the total co-operation which Malta has always striven to maintain with the CPT it is unfortunate that CPT intends to resort to the procedure provided for in Article 10, paragraph 2 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (namely to make a public statement on the matter) in view of perceived inaction, on Malta's part, to implement, for quite a number of years, a number of key CPT recommendations. Since such mechanism applies in instances where the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendation, the Maltese Authorities would wish to point out that these two provisions hardly apply in our case. As will be demonstrated in this response, the Maltese Authorities have always taken action to implement improved policies and measures that carry a basis between an ideal situation and what is realistically achievable given the limitation in resources and physical possibilities.

With regards co-operation, Malta has always co-operated with CPT and consulted (in the spirit of Article 10[1] of the afore-mentioned Convention) as much as possible in order to improve on its performance. Regrettably, the fact that CPT chooses to submit its recommendations as a fait accompli months after the visit, expecting them to be adopted in total, does not really allow for a healthy debate. With regards to the reference that the Maltese Authorities refuse to improve the situation, it has to be pointed out that throughout the document, the delegation itself has often commented that a general improvement was witnessed since the previous visit.

## **Law enforcement establishments**

### **(Paragraph 15)**

General Head Quarters (GHQ) Circular no. 143/08, issued to all members of the Malta Police Force conforms with the recommendation put forward by CPT regarding the use of electric-shock weapons (taser-guns). Such circular, written in Maltese, regulates the use and the precautions to be taken when the weapon is being used, including the keeping of records and the monitoring procedures. Subsequent to such document, another GHQ Circular (containing more detailed explanations) has been issued. The internal circular outlines clearly the specific circumstances in which stun guns may be used: “The (stun) gun should not be used except in cases of imminent violence by a firearm or any other irregular weapon against a member of the police force of third parties and after all other methods of persuasion fail. Therefore, the (stun) gun should never be used in verbal confrontation.”

Moreover, all Police Officers attended an ad hoc lecture on taser-gun awareness.

Furthermore, in July 2008, a US instructor held a ‘train-the-trainer’ course for a number of Police Officer on the use and handling of such equipment.

In order to curtail any abuses, the stun guns also have a microchip that cannot be tampered with, which records information about the guns’ use, including the duration of the shock. Testimony to the limited use of such equipment is corroborated by the fact that since their introduction (during 2008) they were used only three times – in all three cases the weapon was used because a suspect was clearly violently resisting arrest.

Copies of the relevant GHQ Circulars have been included as **Annexes 3a and 3b** (in Maltese).

### **(Paragraph 22)**

The Maltese Authorities fully agree with CPT that special attention should be given to vulnerable suspects in police custody and, accordingly will determine the best way how to implement its recommendation for a specific directive focusing on vulnerable suspects in police custody, including enhanced monitoring procedures. Nevertheless, it should be noted that currently the treatment of such category of suspects is addressed in one of the commentaries in the Code of Police Ethics for Maltese Police Officers which is written in Maltese (pg 8).

**(Paragraph 23)**

CPT's concern on the possible negative effects of launching simultaneous special inquiries and criminal investigations is highly appreciated. However, since the Maltese Authorities firmly believe in the integrity of the investigating magistrate and of the Board of Inquiry, it does not feel that there are any potential issues that may affect the outcome of the investigations – on the contrary it is felt that this would allow for attesting the veracity and credibility of the separate conclusions which the different terms of reference of these enquiries would have reached. This notwithstanding, the Maltese Authorities wish to confirm that particular care is being taken when drafting the mandate of the Boards of Inquiries.

**(Paragraph 24)**

The CPT may wish to take note of the fact that investigations of alleged ill-treatment by the Police are normally not conducted by the Police themselves, even though the Police's Internal Affairs Unit is also empowered by law to investigate such allegations. When there are such allegations, investigations are generally carried out by either the Inquiring Magistrate, the Police board, the Ombudsman and/or an ad hoc investigation in terms of the Inquiries Act. This ensures that the investigation is independent from those implicated in the event and is thus effective and transparent. The approaches mentioned by the CPT in the second part of this paragraph are noted however they are not deemed to be practical for Malta in the present circumstances.

**(Paragraph 26)**

The decision by the Magistrate to delay the exercise of the right to inform a third party is taken according to the particular circumstances of the case. The Magistrate is first informed verbally of the need for extension, in which case the Police Inspector (and not any other Officer of a lower rank) has to justify the need by giving relevant details. After permission has been given, the Inspector files a note formally informing the Magistrate of the arrest and of the need for the extension.

**(Paragraph 27)**

As the CPT has rightly remarked, the right of access to medical care for a person in police custody is being respected fully in Malta. The Maltese Authorities would like to give their assurance that when medical examinations are carried out at police facilities, conversations between the medical doctor and the person in Police custody are carried out in private.

**(Paragraphs 29 and 31)**

Note has been taken of CPT's recommendation to bring Article 355 AT of the Criminal Code into force. It can now be confirmed that the Ministry is taking the necessary action for its entry into force – this will take place by not later than the end of 2009. Following entry into force the Maltese Authorities will evaluate the impact of such Article in order to determine whether any other amendments would be required and CPT's recommendation (in paragraph 31) to allow for an independent lawyer in the described circumstances will certainly be evaluated at that stage.

**(Paragraph 32)**

The Maltese authorities reiterate their support for the introduction of a form setting out the rights of persons in police custody, as recommended by the CPT. Action is being taken for the introduction of such Form, setting out the rights listed in paragraph 25, so that it may start being handed out to all persons deprived of their liberty

**(Paragraph 33)**

The Maltese Authorities acknowledge the recommendation of the CPT in relation to the keeping of custody records. The Committee may rest assured that the necessary action is being taken to ensure that such standards are respected in all police establishments.

**(Paragraph 35)**

It is very positive that the Committee considers the conditions within the Floriana Police Headquarters Lock-up as satisfactory. As noted by the CPT itself, these establishments are as a rule utilised for short stays, with prolonged stays being the exception. Despite this, and in the spirit of the commitment of the Maltese authorities to continuously improve the conditions of persons in detention, this issue will be considered in order to strive to identify other feasible solutions..

**(Paragraph 36)**

The Committees recommendation in relation to the two cells at the Valletta Police Station has been taken on board. Indeed, the two cells are being refurbished.

**(Paragraph 37)**

The positive remarks made in relation to the conditions at the St. Julians Police Station are appreciated. Currently action is being taken so that the necessary enhancements are carried out in such premises.

**(Paragraph 39)**

Conscious of the importance of monitoring all places where persons may be deprived of their liberty by the police, the Maltese authorities fully concur with the CPT recommendations. In this regard, an internal exercise is currently underway in order to determine the best entity to which such role could be assigned.

**(Paragraph 40)**

In Malta, the National Prevention Mechanism(s), provided for under the Optional Protocol were set up during 2007. In essence, the Board of Visitors for Detained Persons was formally set up and also assigned duties as national preventive mechanism through Legal Notice 266 of 2007, whereas

the already-existing Prison Board of Visitors was formally assigned additional duties (as national preventive mechanism) through Legal Notice 265 of 2007.

Copies of the two Legal Notices are attached as **Annexes 4a and 4b**.

An unofficial comparative chart, mainly between the relevant Articles in OPCAT and the relevant Legal Notices (265 and 266 of 2007) is also being submitted as **Annex 4c**.

## **Establishments for foreign nationals detained under alien legislation**

### **(Paragraph 47)**

As the CPT is well aware, an independent enquiry has been carried out in relation to the events of 24<sup>th</sup> March 2008 at Safi Barracks. Moreover, the Committee is familiar with the content of the report that has been drawn up by Mr Scicluna. It is also important to stress that for the sake of transparency, the document has been uploaded on the internet ([http://www.doi.gov.mt/en/press\\_releases/2008/05/pr0732.pdf](http://www.doi.gov.mt/en/press_releases/2008/05/pr0732.pdf)). As a follow up to such report, the Maltese Authorities would like to confirm, that since then the recommendations found therein have been implemented. Taking note of CPT's recommendation to launch a criminal investigation on the events of 24<sup>th</sup> March 2008, the Maltese Authorities however wish to inform that in such particular occasion it was deemed that the implementation of the recommendations put forward by Mr Scicluna would have sufficed at such stage. Furthermore it is deemed that allegations of ill-treatment by public officials shall be determined on a case-by-case basis and criminal investigations would be launched if it transpired that there were sufficient grounds for criminal proceedings to be instituted.

### **(Paragraph 48)**

The Maltese authorities have never condoned such behaviour, nor will they ever. Every measure is taken to ensure that personnel working with immigrants are trained to use restraint when working in a detention setting, with a multi-cultural community. In particular, Management at Detention Centres issue written orders periodically with the aim of reminding staff of their duties and informing them of any special instructions. Banning racist remarks against detainees is included in such orders. Furthermore, during end-of-month training seminars, this issue is included as a subject which is amply covered.

### **(Paragraph 49 and 50)**

As we have had occasion to state in previous responses to CPT visit reports, it is physically impossible to identify an immigrant by his given name as these names are culturally different from European type names, very repetitive in nature and extremely difficult to pronounce. In order to maintain a standard identification system each immigrant arriving illegally in Malta is given a personal identification number which allows the authorities to follow the immigrant's progress during his asylum procedure without any possibility of being mistaken for another immigrant. In the present circumstances of high immigrant population in the detention centres, no other arrangement is deemed practical and thus the recommendation of the CPT in this regard cannot be implemented. This practice should on no account be interpreted by anyone to be an act of racist or demeaning behaviour towards such persons.



**(Paragraph 51)**

While the availability of centres specifically designed for the accommodation of asylum seekers, as outlined in this paragraph of the report, would be ideal, the continuous inflow of hundreds, sometimes thousands of immigrants arriving on a yearly basis on the Maltese shores, makes it practically impossible to reach this desirable level. The Maltese Authorities have had to adopt existing structures to offer immediate shelter to such persons. Moreover, it strives to continuously provide the best material conditions within the limits imposed by the severe financial constraints applying.

**(paragraph 52)**

The CPT is aware of the fact that administrative detention of illegal immigrants has its legal basis in the Immigration Act. In the current circumstances of continuous influx of illegal immigrants, and in view of Malta's very limited spatial and financial resources, the Maltese Authorities do not deem the abandonment of this policy as possible. At the same time, Malta has continuously been calling upon its European and international partners to come to its aid and assist in carrying this burden. Blanket accusations against Malta's detention policy will not be of any assistance to the smallest country of the EU which is being obliged to shoulder a severe and disproportionate burden all by itself.

**(paragraph 57)**

Due to the high number of immigrants arriving on the Maltese shores and the already overstretched resources, it is not possible to close the Hermes Block, as there is no alternative accommodation available. Notwithstanding, it is important to point out that such measure is no longer necessary. Indeed, the Maltese Authorities have secured EU funds in order to carry out, during 2008-2009, the refurbishment of Hermes Block, including the replacement of the electrical system, water supply and drainage system. The funds also cover measures to ensure a constant supply of hot water and electricity (by the procurement of a solar water heater and a generator) and the improvement of the overall safety and security of the centre. The cost of this refurbishment is of over half a million euros. Rooms within the Block will now become larger to afford better living conditions and ventilation.

**(Paragraph 59)**

Although it is not possible to close down the Tent Compound (since there is no alternative place where to place the immigrants who are accommodated there), it has to be pointed out that in order to significantly improve living conditions, tents are being replaced by mobile homes. To date, half of the tents have been removed and mobile homes have been installed in their place. It is intended to gradually have all tents removed when more mobile homes become available.

**(Paragraph 60)**

CPT will surely understand the difficult conditions in which the Maltese Authorities have to operate, having to contend with a limited availability of space, overstretched resources and continuous damage/vandalism whilst, at the same time, having to deal with a continuous influx of irregular immigrants, with each arrival obviously contributing to exacerbate further the conditions of detention. Unfortunately, in the absence of alternative accommodation facilities and in view of the above-mentioned continuous flows of immigrants, such structures have had to be adapted to accommodate these persons. It stands to reason that the capacity of such a small island to provide accommodation to the high and disproportionate number of immigrants has its limits and all available resources have to be utilised. Thus it is satisfying to note that CPT acknowledges improvements made in particular areas of the Safi Barracks Detention Centre notwithstanding the above-mentioned difficulties. The Maltese Authorities are in full agreement that inadequate establishments should ideally be a temporary and short term solution and attempts to improve conditions in all Detention Centres are continuous. In this regard, it is confirmed that the two storey compound B Block was totally refurbished at a cost of €3,116 – it now accommodates 198 immigrants. Other refurbishment projects include works carried out on the sanitary facilities at Block C (at a cost of €20,964) and at the Warehouses Compound (at a cost of €23,300).

With regards Block C in particular, earlier in 2009 the water heating facilities were refurbished and hot water has since been meeting the demand of immigrants accommodated therein. Immigrants are now allowed access to recreation yards daily between sunrise and sunset allowing them to take part in sports activities or to lounge outside during daylight hours.

It is also important to point out that additional preparations for improvements at Safi Barracks Detention Centre are currently underway. Here again, these works will be undertaken also through the financial assistance of the European Commission.

**(Paragraph 61)**

The Maltese Authorities wish to confirm that, since the CPT visit in May 2008, the new accommodation Centre at Ta' Kandja is now fully functional and houses 317 persons. Moreover, the additional space has enabled temporary relocation of residents thereby providing the opportunity for refurbishments to be undertaken in various centres as described above.

**(Paragraph 62)**

Despite the limitations in force, it should be noted that there is no objection to additional food being brought inside detention centres by visitors. What is not permissible is that food be cooked inside the facilities. This is in line with current Health Regulations. By way of background information, CPT may wish to note that food is provided already cooked by a Contractor who, as far as possible, tries to meet food selection and menu proposed by immigrants.

### **(Paragraph 63)**

The Maltese Authorities admit that in view of the exponential increase in the influx of illegal immigrants in Malta, their main priority has been to ensure the provision of essential services to the ever increasing number of residents in the closed centres. Unfortunately, the provision of accommodation, food, medical care and other material necessities already places a very heavy burden on the Maltese budget. However the Maltese Authorities reassert their commitment to do their utmost in order to offer the best service with the available resources. In this regard, plans are in place for the introduction of a number of activities in the closed centres (including with the assistance of relevant EU Funds, such as the European Refugee Fund) in collaboration with other entities such as Non-Governmental Organisations. Such activities will need to be introduced without impinging, in any way, on the above-mentioned over-riding obligation to provide essential services. Positive developments have already been registered – indeed 2008 saw the implementation of the COPE Project within Lyster and Safi closed centres. This project, implemented by the Organization for the Integration and Welfare of Asylum Seekers, provides immigrants in closed centres with the necessary skills to prepare for life outside detention. It includes instruction on basic life skills, such as language training in the English language, cultural orientation, job-oriented training and organised sports activities. Several partners are involved in this project, including the Employment and Training Corporation, the Ministry of Education, Culture, Youth and Sport and the International Organisation for Migration.

### **(Paragraphs 66 and 67)**

The Maltese Authorities agree with the CPT recommendation that ideally medical staff presence within the detention centres should be boosted as much as possible. As a temporary alternative, particularly in view of limited resources, medical coverage is assured through a tender for medical services within detention services which makes provisions for medical teams, each consisting of a doctor and nurse who operate daily during week days. At times when medical services are not available on site, immigrants have the option to be transported to hospital. Furthermore, immigrants referred for further treatment by the medical team's doctor are sent to hospital against appointment.

In general, hospital appointments are always kept as otherwise the affected immigrant may have to wait a longer period for a new appointment. However, there are inevitable exceptions such as at times when an immigrant absconds (and therefore misses his/her appointment) and in cases when a disturbance by immigrants invariably ties down Detention Service resources (and consequently no conveyances to hospital take place). Medicines are now collected from Government pharmacies on a daily basis and are dispensed by the medical team as soon as they become available. When an immigrant, who does not speak English, requests to see a doctor another immigrant is allowed to accompany him and acts as interpreter. It is important to point out also that a Medical isolation facility is currently being renovated. In this respect, it is also worth highlighting that Medecins sans Frontiers have recently taken up responsibility for the provision of medical services at the Ta' Kandja closed centre in acknowledgment of the steps forward being taken by the local authorities to enhance, to the fullest extent possible, prevailing conditions at this and other detention centres.

**(Paragraph 68)**

In relation to the identification and adequate handling of vulnerable immigrant detainees, a team within the Organization for the Integration and Welfare of Asylum-Seekers (OIWAS), namely the Vulnerable Adults Assessment Team, is specifically tasked with receiving referrals, performing assessments and recommending, or otherwise, the early release of vulnerable asylum seekers. Assessment and verification of those being considered vulnerable is based on in-depth interviews, observations and consulting with mainly medical professionals. While the Maltese authorities note the concern expressed by the CPT in this regard, the Committee realizes the difficulties faced in implementing a policy for vulnerable persons. This task is further hampered by the difficult scenario of Malta, characterized by a continuous influx of immigrants. Despite operating in extremely difficult circumstances, such as shortage of accommodation facilities, Malta is nonetheless one of the few EU Member States having such a policy. It is unfortunate that, due to the absence of an identifying number, the case referred to by the Committee cannot be further investigated to ascertain what has delayed the transfer from the detention centre. The authorities wish however to draw attention to the fact that, despite the limited human resources, a large number of persons work on a daily basis to obtain the medical clearances and identify accommodation outside closed centres for persons entitled to benefit under this policy. During 2008 alone, over 400 referrals of alleged unaccompanied minors were assessed, as well as around 150 other referrals for other cases concerning persons who may be classified as vulnerable. This demonstrates the Authorities' continuous efforts to implement the policy outlined in the 2005 Policy Paper. Having said this, the CPT surely agrees that from a care perspective, a policy for vulnerable detainees does not simply mean release from a closed centre. A care plan, overseen by professionals needs to be drawn up to address the person's need, while residing in dignified and safe surroundings. All this requires an extensive amount of financial, spatial and most of all competent and professional human resources. The Committee surely recognizes that such a sensitive area of policy cannot be developed overnight, in particular in relation to the human resources aspect. Objectively, it can be stated that in just four years Malta has made a substantial leap forward. However, the Authorities continuously strive to improve the service provided and to level off the learning curve of the Maltese professionals as quickly as possible. To this end, all possibilities of training in this field are being exhausted. In fact, last year OIWAS applied for an ERF project together with IOM and Fedasil (Belgium). Unfortunately, although the project was not faulted, the European Commission informed us that funds were not available for the project. This year, OIWAS joined another ERF project – led by COA (Netherlands) - together with six other Member States to examine policies related to vulnerable categories, with the ultimate aim to improve and share practices in this field. The Committee also made reference to the treatment of persons “*who have been victims of torture or trauma or are suffering from serious mental health or somatic conditions*”. The practice today is that, whenever referrals are received by OIWAS indicating persons suffering from these conditions, such referrals are all assessed and appropriate care plans drawn up by the health authorities. Recommendations are also made to the Principal Immigration Officer for the release from the closed centre (if the referred person is residing therein). Thus, despite not being specifically mentioned in the policy paper, persons suffering from such conditions are indeed considered vulnerable and treated accordingly. The CPT surely appreciates that this is one of the most complex areas of vulnerability and OIWAS is intent on working with local and foreign experts in the field, in order to improve services to such vulnerable persons.

**(Paragraph 69)**

The Detention Service (DS) is made up of a Commander, currently from the Armed Forces of Malta (AFM); 1 Police Inspector and 23 Policemen; 4 AFM Officers and 74 soldiers; and 110 Temporary Detention Service Officers (DSOs) (ex-Police, ex-AFM or other similarly disciplined corps). These are deployed between the headquarters and the closed accommodation centres. The Detention Service was set up by Ministerial Directive on 18<sup>th</sup> August 2005 and entrusted with the tasks of holding in custody persons attempting to enter or staying illegally on the Maltese islands and providing all services necessary for accommodating them, while ensuring EU and international obligations and standards are met. Every possible measure is taken to ensure that the personnel employed within the detention centres have the tools and skills to carry out their duties in a professional way. Indeed, the DS has recently embarked on a tailor-made job-specific training programme following discussions with the Jesuits Refugee Service (JRS), UNHCR and the Red Cross. The training is organized by JRS over a period of 12 months, with co-financing received from the EU. The programme sees the participation of UNHCR and Red Cross as partners with JRS as well as persons or NGOs directly involved in providing services to irregular immigrants.

**(Paragraph 70)**

The Maltese Authorities recognize the concern of CPT in this regard and are happy to inform the Committee that action on this matter has been taken and a further 60 DSOs were recruited in February 2009. This will substantially improve the situation within the Detention Service and ease the pressure on the staff.

**(Paragraph 71)**

The Maltese Authorities are surprised by the CPT's comment in this regard. The Committee can rest assured that the pamphlet "Your Entitlements, Responsibilities and Obligations while in Detention" is indeed systematically handed out to all immigration detainees on arrival. Some detainees have confirmed such to the CPT during the latter's visit. The comments made by other detainees about never having seen the same pamphlet would seem to be illogical, as it would have been impractical to hand the pamphlet only to some and not to others. Moreover, apart from this government's measure, NGO's visiting the centres on a regular basis provide detainees with additional information on the procedures followed in the Maltese asylum system and their rights and obligations while in detention.

**(Paragraph 72)**

It is very positive that the CPT recognizes the liberal approach of the Maltese Authorities as regards the detainees' communication with international bodies. Furthermore, the Maltese Authorities find no objection to adding CPT to the list of such authorities and organisations.

**(Paragraph 73)**

All places of detention have more than one telephone point for the exclusive use of immigrants. Immigrants are given phone cards on a regular basis and are allowed to receive unlimited phone calls. Mobile phones are not allowed as it has been established that immigrants have used mobile phones to coordinate riots and escapes from detention centres.

**(paragraph 74)**

The CPT recognizes that in a situation where overcrowding may occur due to lack of space for accommodating the thousands of immigrants in detention, the best use has to be made of the areas available. In this context, the authorities have had to prioritise and offer first shelter. Notwithstanding this, the Maltese authorities have noted this recommendation and it will be taken in consideration should the situation improve and space becomes available.

**(Paragraph 76)**

The list of disciplinary sanctions imposed in 2008 is attached as **Annex 5a**. Currently there is no specific legislation providing the basis for the mentioned disciplinary regulations. The current policy regulating disciplinary action against immigrants in detention is laid out in the pamphlet Detention Centre Rules and Standing Instructions which makes provision for the regulation and management of detention centres (a copy of such document is attached as **Annex 5b**). Since disciplinary action needs to be taken immediately in the interest of the accused and the larger community (these live in communal quarters) and it is for a relatively short stay it is not considered that an appeal process is functional in these instances. At the same time, it is to be highlighted that more serious misbehaviour is reported to the Police and matter is decided before the Courts.

**(Paragraph 78).**

The Maltese Authorities would like to assure CPT that it will always strive to ensure that, as much as possible, the Board of Visitors for Detained Persons is provided with all feasible assistance in order to carry out its tasks in a meaningful manner.

**(paragraph 79)**

The Maltese Authorities appreciate the recommendations of the CPT in relation to the use of a formal detention order and are glad to communicate that this is being introduced. It is also noteworthy that the text of such order is available in several languages.

**(Paragraph 80)**

The Maltese Authorities wish to confirm that they are in the process of reviewing the filing system. Two separate files are now being kept for every individual immigrant in detention. There is the personal file which is kept in electronic format and the medical file which is available in hard copy within each of the Centres' clinic.

**(Paragraph 82)**

As has been amply demonstrated in the previous responses, the ever increasing number of immigrants arriving in Malta, with most staying here year after year, poses an extremely heavy burden on the finances of Malta. This small island simply does not have the financial, human and spatial resources to do more than it is already doing to address this emergency situation. The incessant flow of immigrants makes it all the more difficult to focus on long-term, durable solutions as needs have to be prioritised, while adapting to this phenomenon which is continuously in flux. Unfortunately, the Maltese efforts alone have proven to be insufficient to make the recommended shift from crisis management. The immediate, practical and continuous assistance of EU/CoE member states is required to be able to achieve it.

**Corradino Correctional Facility**

**(Paragraph 84)**

A copy of the White Paper has been included as **Annex 6**.

**(Paragraph 87)**

HR requirements within the Corradino Correctional Facility are regularly reviewed at least twice a year and the Maltese Authorities always strive to secure an adequate number of high-quality personnel within such premises to ensure optimal conditions. Unfortunately, in view of limited resources and also in view of possible lack of interest by potential candidates, it may not always be possible to fully satisfy, at least in the short term, the recommendations being put forward by CPT.

Indeed, with regards the post of Prison Director, since, unlike other countries, Malta has only one correctional facility, it does not have a pool of experienced correctional directors to draw from. Over the years, most of the facility directors were either army or police serving officers. In view of this, the Maltese Authorities are taking all possibilities into consideration, including that of training and grooming personnel for such a post by sending likely candidates abroad to obtain the necessary expertise.

The post of Manager has been (and still is) earmarked to be filled in – unfortunately, in view of the above-indicated limited resources there have yet to be potential candidates from which one can choose from.

With regards the low number of qualified and trained staff it has to be pointed out that in the recent past, the CCF has experienced a sudden growth in the inmate population – moreover the retirement of a number of correctional officers has inevitably placed more strain. In view of this CPT may wish to note that a call to recruit new officers will be issued very shortly.

CPT also puts forward a number of serious allegations, namely that informal power structures are given free rein and that the formal disciplinary system has collapsed. The Maltese Authorities wish to point out that they tolerate no sort of power structure, whether informal or otherwise. Each and every inmate is encouraged to forward his/her own request/complaint. There are no gang-type practices, unless the association of two or three inmates to commit such an offence is considered as such. Furthermore, the CCF Authorities consider that, at the moment, drug abuse and drug-trafficking while effectively present within CCF, are relatively contained and a number of visitors/inmates in possession of (or attempting to smuggle in) drugs have been successfully caught. It is worth also pointing out that there is a sharp increase of inmates who request medical assistance in order to stay off drugs.

**(Paragraph 89)**

An audit on CCF was carried out in the form of an inquiry carried out by a Board set up in August 2008. Such Board was composed of three members: former CCF Director Mr Emanuel Cassar, Mr Martin Scicluna and Ms Maryanne Agius. The report was finalised on 31 March 2009. In pursuance of the findings of the report, an administrative Unit is being set up by the Ministry for Justice and Home Affairs with a view to ensuring that where applicable, the recommendations of the audit will be implemented as soon as possible. Since, as stated, the audit forms part of the inquiry it is not possible to divulge the report at this point in time given that it is the subject of investigations by the Office of the Attorney General and the Police.. As soon as the document is published, a copy will be submitted to CPT.

**(Paragraph 92)**

The Maltese Authorities wish to confirm that whenever allegations of inter-prisoner violence are made, it is standard procedure for immediate action to be taken. All incidents are recorded and investigated and, accordingly, either disciplinary action (in minor cases) or court action (in serious cases) is immediately taken. Sometimes, in cases where there is insufficient proof to confirm such allegations, inmates are moved to different locations with CCF for their own protection or to protect others.

**(Paragraph 93)**

CPT's recommendation to address inter-prisoner violence will be actively considered by the Maltese Authorities, especially in the light of the recommendations which the Board of Inquiry (referred to in paragraph 89) which will be implemented in the short/medium term. Although it may be difficult to identify cases of inter-prisoner violence (which can be both physical and verbal, possibly conducted away from the presence of officers), it has to be pointed out that all possible action to deter such activity is taken. Indeed, the very nature of the Officers' duty, as per Reg. 96 of the Prisons Regulations, is to exercise utmost vigilance to ensure the safe custody of prisoners. In four or three tier divisions housing approximately 60 inmates, the two or three officers on duty thereat are continuously alert in order to avoid all sorts of violence. Anyone found to be adopting a violent attitude towards others, whether inmates or officers, is invariably prosecuted in court.



### **(Paragraph 96)**

As requested by CPT, the following is an update on the two cases:

- Case 1 (Male Prisoner) – such inmate is still in custody. Although the information provided in the CPT report may give the impression that the Maltese Authorities are insensitive to the current medical situation of the inmate, in actual fact it has to be stressed that particular restraints are in place to avoid the patient hurting himself. Indeed it has to be pointed out that such inmate is quite difficult to handle and regrettably, unless his demands are not met promptly he deliberately hurts himself (by intentionally pulling out the catheter) with the consequence that he has to be taken to hospital.
- Case 2 (Female Prisoner) – such inmate is no longer in custody. All medical facilities that were available locally were provided. Since the CPT visit she has been extradited to Germany and her medical condition made known to the receiving authority.

### **(Paragraph 98)**

The proceedings in relation to this alleged incident (four prison officers allegedly beating a prisoner) are still ongoing and therefore, unfortunately, the outcome of proceedings will need to be communicated to CPT upon publication. Moreover, court cases against the inmate and the officers concerned are still sub-judice.

### **(Paragraph 99)**

The final report of the Board of Inquiry cannot be divulged at this stage since, as indicated in paragraph 89, investigations are still underway. However, the Maltese Authorities find no objection to provide information on the mandate of the Board and also to divulge the recommendations which have been put forward.

With regards the mandate of the Board, this was indicated in the appointment letter assigned to each member (a copy of the Chairman's appointment letter is included in **Annex 7a**). As can be seen from such document, the mandate given to the Board practically had no limitations – this was purposefully done to ensure that the inquiry would be as far-reaching as possible.

The recommendations of the Board of Inquiry are also included in **Annex 7b**).

### **(Paragraph 100)**

The Maltese Authorities completely agree that staff at CCF is to be constantly informed that physical ill-treatment of inmates is entirely unacceptable and is subject of severe sanctions. Staff is also constantly reminded on the sanctions which are in place for those who are found guilty of physical ill-treatment of inmates, which are contained in Chapter 9 of the Criminal Code and Subsidiary Legislation No. 260.03 (Prison Regulations).

**(Paragraph 103)**

The Maltese Authorities wish to confirm that the problems with the sewage pipes that were evident during the time of the visit have been solved since the necessary repair works were carried out.

**(Paragraph 104)**

With reference to CPT's recommendation to carry out renovation works in Divisions II and III the Maltese Authorities wish to point out that they are in agreement and confirm that necessary action will be taken as soon as logistical issues are addressed, namely the relocation of the current inmates within the Divisions in order to allow the refurbishment to be carried out.

**(Paragraph 105)**

The Maltese Authorities are currently considering ways how to increase privacy for inmates at Female Unit B. Unfortunately, in view of the absence of other correctional facilities in Malta, it has always been deemed essential that every existing space has to be maximised. Notwithstanding, it should be remarked that, as a solution, the long-term inmates were offered single-room status through relocation to Division Female A – however all declined such an offer.

With reference to the CPT recommendation that the facility to be used for outdoor exercise (for inmates at Female Unit B) should be located at ground level, the Maltese Authorities wish to point out that, regrettably, such an option may create logistical problems, especially since Female Unit B is situated on the second floor. However alternative options are currently being studied, such as the use of an open terrace.

**(Paragraph 106)**

The Maltese Authorities would like to confirm that the shower facilities that were found to be broken during the visit have since been repaired. Alternative classroom space has been identified and, in particular, the area now houses a fully equipped professional kitchen and culinary classes are being held by a professional instructor on a regular basis.

**(Paragraph 107)**

The Maltese Authorities wish to confirm that Division Female A has now been earmarked for refurbishment and works will be carried out as soon as possible.

**(Paragraph 108)**

With regards hygiene, the Maltese Authorities wish to confirm that the necessary steps have been taken and the Division is now up to standard. Renovation within the complex will be systematically carried out, also in consultation with the Prison Board of Visitors and the Administrative Unit which the Ministry is setting up in order to take on board the recommendations put forward by the Board of Inquiry.

**(Paragraph 109)**

In view of CPT recommendations to address the living conditions within Division VIII the Maltese Authorities are in the process of identifying appropriate solutions. Unfortunately, the fact that the CCF is currently at full capacity makes it that much more difficult to identify potential solutions. This situation is particularly critical within Division VIII in which the number of inmates that need to be housed in such a division would seem to be on the increase. It has to be pointed out that such inmates cannot be housed elsewhere due to the nature of the crime committed. Moreover, all these inmates – non violent – are housed thereat acting on the recommendations of the CCF psychiatrist. At the moment, efforts are being made to keep the population within such Division as low as possible. At this stage, one needs to point out that every effort is being made to address such issues, including trying to keep the Division 8 population as low as possible.

**(Paragraph 110)**

It has to be pointed out that most inmates housed in Div. VI are considered to be high risk prisoners, hence, the grill metal doors and lack of particular equipment. Suffice to say, a few years ago (in 2000) four (4) prisoners escaped after threatening officers with plasti-glass make-shift knives made from one of the windows panes.

Notwithstanding, CPT may wish to note that subsequent to the visit, the division has been redecorated (between the end of 2008 and the beginning of 2009). As a short-term alternative to the call system, each cell is furnished with a buzzer and it takes an officer only a couple of minutes to call on the inmate.

**(Paragraph 111)**

The Maltese Authorities wish to confirm that inmates in the “New Location” Unit are now getting adequate exercise of at least one hour per day.

**(Paragraph 112)**

The Maltese Authorities have acted on this recommendation. Indeed, in order to ensure that the remarks made during the inspection carried out by the Department of Public Health in 2005, regular inspections of the CCF kitchen are now being conducted. Any advice/ recommendations made by the officers of Public Health is followed up by the prison’s authorities.

**(Paragraph 113)**

Despite the negative scenario portrayed by the inmates, the Committee can rest assured that every effort is made to ensure that meals are served as soon and as warm as possible. While the Divisions in the old block are only a short distance away from the kitchen, the Divisions in the new block are about 7 to 9 minutes away walking distance without taking into consideration the gates to be opened and lift to be used. Unfortunately, even though the food is kept in warm trolleys, it may happen that the food arrives in the latter sections less warm than as served in the old block. Nevertheless, the Maltese authorities duly note this complaint by the inmates and will do everything possible to address this issue.

**(Paragraph 114)**

The Maltese Authorities fully agree with CPT that a proper allocation and classification system should be in place within CCF and will actively strive to proceed on this matter in line also with the reforms taking place pursuant to the recommendations issued by the CCF Board of Inquiry.

**(Paragraph 115)**

The recommendation to increase working opportunities for inmates in the CCF is acknowledged and will be taken account of in due course. Nevertheless, it should be pointed out that, despite the difficulties faced, around one third of the prison population are currently gainfully engaged in toy-assembly and envelope-making.

The CPT has also remarked on the lack of collective sports activities at the CCF. It is noteworthy, that indeed sport activities are offered to the inmates. The prison authorities have engaged the services of a football coach to offer the possibility to the inmates to practice this sport. In addition, an Inter-Division league is held to encourage active participation. Moreover, a number of football teams from outside the CCF, including a premier league team, were invited to play against the CCF pick team. Apart from football, a weight-lifting contest was also held between inmates and guests. This demonstrates the authorities' commitment to provide and organise collective sport activities

**(Paragraph 116)**

As the CPT has well noted, women prisoners are offered numerous activities and possibilities to improve their academic qualifications. Noteworthy is the fact that a number of female inmates are also sitting for computer skills examinations, while others are conducting voluntary community work in conjunction with charity institutions. The Committee cannot but appreciate that all these activities are of great benefit to the inmates themselves and to the community. Despite this positive track record, the Maltese Authorities will continue to strive to offer the widest possible range of activities to these inmates.

**(Paragraph 117)**

The activities offered to young offenders indicated by the CPT demonstrate the commitment of the Maltese authorities to make academic and vocational training available to these inmates in need of special attention. The CPT correctly remarked that a kitchen had to be installed in order to offer a training course in tourism studies. This kitchen has indeed just been set up. All manual work necessary for the completion of this project, such as tile laying, electricity, installation of the kitchen appliances etc, was carried out by the inmates themselves. Cooking lessons will now be offered in this new facility by qualified chefs, thus giving the inmates yet another activity, in preparation for better re-integration in the community after release.

Moreover, the Maltese authorities would like to assure the CPT that indeed compulsory education for youths under 16 years, as provided for in Maltese law, is offered at the CCF. Currently, only one inmate is under 16 years and he is offered education accordingly.

**(Paragraph 118)**

Currently the Maltese Authorities are in the process of identifying alternative correctional facilities for minors under 16 years of age. Any feasible solution shall need to take into consideration the fact that minors at the Facility are the exception, rather than the rule. As regards female minors, alternative accommodation has been identified outside the CCF precincts. It has to be pointed out that the detention period of the cases referred to in the report was only for a few days and the said minors were eventually released/ bailed out.

**(Paragraph 119)**

In relation to the comments made by CPT on prisoners serving long sentences, the Maltese Authorities would like to comment that, for the record, the longest-serving inmate has been imprisoned for 21 years rather than “for more than 25 years”, as is stated in the report. Their accommodation in various sections of the CCF results from the fact that, due to the nature of their crime, they cannot be classified in the same category. Some of these long-term prisoners are very active and are allowed to work in certain areas/jobs, while others are still considered high risk, in particular due to their involvement in the drugs sphere.

**(Paragraph 120)**

The CPT’s recommendation to draw up and implement a programme to support long and life-sentenced prisoners is welcomed. Currently, there is indeed no such specific programme available. Such inmates are allowed to practice their hobbies or carry out other self-chosen activities. Nevertheless, a study is currently in progress, which shall analyse the practices of other EU countries in the sphere. The findings from this study, together with the recommendations of the Committee, shall assist the Maltese authorities to set up such a programme in due course.

**(Paragraph 121)**

The Maltese Authorities appreciate the insight provided by the CPT on the matter of parole and long life-sentenced prisoners. Indeed, it should be noted that consultation on the White Paper to introduce the system of release on parole will be concluded by 30<sup>th</sup> June 2009. The White Paper currently lists life-sentenced prisoners as generally not eligible for Parole Licence, however it proposes that “in exceptional circumstances, after a petition to the President of the Republic, an application may be considered”. Hence, this White Paper does offer the possibility of conditional release to such prisoners. Contrary to what is indicated in this section by the Committee, the Maltese Authorities do not stand by the concept indicated in the first sentence, i.e. that once sentenced, a person is considered “a permanent threat to the community”. Nevertheless, the final decision on whether parole should be extended to life-sentenced prisoners will also depend on the outcome of the consultation.

**(Paragraphs 122,123,124)**

It is unfortunate that the CPT found the arrangements in place for the provision of health services to the inmates is not up to the desired level. Every effort is made to ensure, resources permitting, a good, effective and reliable service. Currently, medical services are being catered for by a medical firm on a contractual basis. Once the contract runs out, the Maltese Authorities will be willing to take account of the recommendations forwarded by the CPT in this regard and explore ways how to implement them.

**(Paragraph 125)**

With an increase in the prison's population bringing it to almost 500 inmates, the demands on the psychiatrist's time have obviously increased. The CPT's recommendation for increasing the time spent by the psychiatrist at the CCF is welcomed and it will be taken in consideration during the review of the employment contract which is due soon.

**(Paragraph 126)**

Whilst routine dental care is provided in-house, particular treatment requires the inmates to be referred to the dental clinic of the hospital. Since the same dental clinics are used by normal citizens, no one (inmates or otherwise) is given any special treatment or indeed any priority over other patients and everyone has to wait for their turn to receive the service needed. Nevertheless, emergency cases are dealt with forthwith.

In an effort to improve and update the equipment available at the CCF dental clinic, the Committee may wish to note that a new Auto-clave mod. Europa BXP was purchased on the 12<sup>th</sup> of May 2009 following normal tendering procedure .

**(Paragraph 127)**

The rules of medical confidentiality have been enhanced. Only M.I. room staff and MD's and related personnel have access to medical files.

**(Paragraph 128)**

One of the areas which the recommendations of the CCF Board of Inquiry touch upon is drugs. Thus the overseeing Unit that is being set-up will definitely positively consider CPT's recommendation that steps should be taken to implement a fully-fledged drugs policy at the CCF.

**(Paragraph 129)**

CPT's recommendation for the provision of adequate health and drug-awareness information will be positively considered also in the light of recommendations by the CCF Board of Inquiry. It has to be pointed out, however, that, to date, Officers and Inmates are aware of the health hazard and are continuously advised on such matters by the CCF medical staff.

**(Paragraph 130)**

The Maltese Authorities wish to confirm that the post of Director (CCF) is always filled in following a rigorous exercise in which the quality, qualifications, administrative abilities and professional training/experience of potential appointees are thoroughly assessed. Consequently, the selected candidate would be the best choice available from the list of potential candidates. In view of Malta's limited resources it could be that such selected candidate may not entirely satisfy the provisions of the European Prison Rules. However, in line with the recommendations put forward by the CCF Board of Inquiry, as a long-term objective the Maltese Authorities intend to academically prepare Senior Correctional Officers to fill all posts, including the Director's post.

**(Paragraph 131)**

The recommendation of the CPT to review staffing levels has been taken on board. Indeed, the need to increase the number of officers is recognized. A call for the recruitment of new officers, which will be launched soon, shall hopefully address this difficulty, to a large extent.

**(Paragraph 132)**

The recommendation of CPT to replace the staff complement composed of police officers with prison officers is being implemented. Indeed, the number of police officers currently on duty at the CCF has been reduced to 16. Moreover, a number of officers will soon reach retirement age, reducing further the number of police officers. The idea of setting up a professional Prison Service, inspired by the principles defined in Part V of the 2006 European Prison Rules, is being considered by the Maltese Authorities.

**(Paragraph 134)**

The Maltese Authorities wish to confirm that the recommendation to re-establish an effective disciplinary system will be implemented in line also with the recommendations of the CCF Board of Inquiry which has focused also on the area of discipline.

**(Paragraph 136)**

The Maltese Authorities wish to reiterate that inmates are not kept naked in solitary confinement. Currently, prisoners at risk of suicide (Level 1) are permitted to wear their underwear and are issued a Luna Blanket when under observation. The Maltese Authorities wish to confirm that prisoners showing severe signs of suicidal / (auto)-aggressive behaviour are indeed immediately transferred to an acute mental health Unit (the Forensic Unit at Mount Carmel Hospital).

**(Paragraph 137)**

A new Prison Board of Visitors has been set up on 29 June 2008. The composition of the Board is as follows:

**Chairman**

Dr. Ivan Daniel Mifsud

**Deputy Chairman**

Dr Anton Grech

**Members**

Mr. David Grillo

Dr. Charlotte Camilleri

Dr. Ingrid Zammit Young

Ms. Angele Licari

Ms. Roberta Zahra DeDomenico

Ms. Carmen Delicata

**Secretary**

Ms Maria Borg

The new Prison Board of Visitors is in the process of finalising its first annual report – this will be forwarded to CPT as soon as it is available.



## **Fejda Programme and Jeanne Antide establishments**

### **(Paragraph 138)**

Primarily it is important to point out (as background information) that the Fejda Programme, which is based in the western wing of the Conservatorio, caters for girls with serious social and psychological problems under the care of a Senior Social Worker from APPOGG, while the Jeanne Antide Home caters for less traumatised residents and on voluntary admissions.

Both homes have a resident Social Worker as well as carers who are employed directly by a Board of Management, consisting of four members appointed by the Trustees and another three appointed by Government. All seven members are volunteers and unsalaried, including the Chairman and the Honorary Treasurer who are both provided by the Trustees. The two entities are run by the same Board of Management. The Conservatorio has been a quango since 2001, as, since that date it has had a contractual agreement with Government.

The Conservatorio was built for the same purpose which it still serves even to this day and is not merely “a palatial residence which has been converted in a somewhat makeshift manner to fit its present purpose” as stated.

In an effort at modernization, in 1995 the dormitories were converted into single bedrooms and refurbished. Due to the traditional construction methods that had been used before, the partitions had to be made of light-weight aluminium in order to safeguard the integrity of the ceilings.

The two establishments today have a capacity of twelve places each, rather than of twenty, as stated.

These girls have psycho-social problems and also psychiatric tendencies and symptoms. In fact, most of them are under psychiatric care. They are often returned to hospital whenever necessary, as at these Homes they are only “on leave” from there.

However, these girls cannot be classified as criminal detainees: children and youth under a prison sentence have never been and will never be accepted there. This would be specifically prohibited by the Statute of the Conservatorio.

In order to clarify any misunderstandings on the failure to include the Fejda Programme and Jeanne Antide in the list of establishments where persons may be deprived of their liberty, the Maltese Authorities wish to point out that the only reason for this was in view of the fact that, in Malta, such establishments are not listed as places of detention but as a therapeutic centre for girls with emotional and behavioural problems. The fact that Maltese Authorities eventually offered full co-operation during the visit and the fact that “this position was not contested by the Maltese authorities” are testimony to the effect that this was purely a case of technical misunderstanding.

Notwithstanding the negative issues which have been highlighted by the CPT delegation, the Maltese Authorities take pride in the fact that the delegation acknowledged the staff’s dedication in ensuring the well-being of the residents (Paragraph 143).

**(Paragraph 142)**

The Maltese Authorities wish to clarify that, in actual fact, the residents who are admitted as ‘voluntary placement’ DO enjoy the same legal rights as their ‘care order’ counterparts. The only difference between the two categories is that financial benefits for ‘care order’ residents is provided by the Youth Advisory Board whereas Trustees cover the financial benefits for ‘voluntary placement’ residents.

**(Paragraph 145)**

Primarily it has to be pointed out that the aim of the Board of Trustees is mainly to act in the best interests of the children and juveniles – therefore it is not clear why the CPT delegation has referred to ‘the best interests of the children and juveniles being overridden by the considerations of the Board of Trustees’ unless it is being implied (hopefully not) that the Board is not acting in the best interests of the children.

Notwithstanding, the Maltese Authorities wish to clarify that the Board of Trustees’ intervention is limited only to structural alterations and minor interior designs, such as colour schemes, are actually determined by the girls themselves and not by the Board of Management or by the Trustees. Moreover, since these premises are listed as historical buildings (and, accordingly, scheduled), any alterations would also require the approval of the Malta Environment and Planning Authority, in line with existing local legislation (and this requirement is valid for all scheduled buildings and not only to this establishment.

**(Paragraph 146)**

The Maltese Authorities wish to clarify that the ‘very long corridors, toilets and common areas’ are not cleaned by the girls themselves (as perceived by the CPT delegation) but by a worker who attends both wings during the morning when the girls are at school. A cleaner is sometimes also provided by the Trustees. On the other hand the girls are encouraged to learn to cook and to clean up afterwards. They are taught how to look after themselves and also encouraged to keep their rooms and their environment tidy.

**(Paragraph 147)**

The Maltese Authorities reiterate their commitment to ensure that the best facilities are available for these girls. It has to be pointed out that the “limitations” perceived by the delegation were mainly due to the fact that the visit took place during a period of refurbishment at the complex. Such works have now been completed and each girl has her own room (with the exception of two girls who share a very large room.

Apart from this, it has to be pointed out that every effort has been made in order to ensure adequate recreational facilities and since the Programme was launched, a lot of energy has been invested in linking the residents to extra curricular activities in the community, such as sports activities, private lessons, craft courses, drama and, most important of all, employment for residents of a working age and summer employment for students. Although the CPT delegation stated that there is “the total absence of recreation or sports’ grounds/activity rooms”, in actual fact, at the back of the complex there are two large playing fields, there is an outdoor swimming pool in the middle garden and an indoor heated swimming pool in the basement. There is also a basketball area in the west side of the front garden. There are also television facilities, computer equipment and also an in-house library. Regrettably it would appear that the delegation failed to notice such facilities.

**(Paragraph 151)**

In response to CPT’s recommendation that all children/juveniles benefit from an appropriate interview and a physical examination by a doctor as soon as possible after admission, the Maltese Authorities wish to confirm that this practice is being followed. Indeed it has to be pointed out that such practice is monitored closely by the Chairman of the Board himself who is a medical doctor by profession and therefore he would be in an optimal position to assure that such a procedure is being properly followed and that every attention is given regarding the health of the girls.

In response to CPT’s recommendation about the presence of a nurse within the establishments the Maltese Authorities would effectively adopt such measure as soon as practicable. Unfortunately, in the short term, resources constraints preclude the appointment of such a nurse. However, the daily needs of the girls are well met through the utilisation of the Government-run Health Centres and not, as perceived by CPT, “by a general practitioner’s surgery in Floriana”.

In response to the provision of appropriate premises for medical purposes the Maltese Authorities wish to remark that it is not clear to which ‘makeshift bathroom’ is the CPT delegation referring to since the special room which is dedicated for such purpose cannot be defined as such.

**(Paragraph 152)**

The Maltese Authorities wish to point out that, contrary to what is stated in the report (“the staff consisted essentially of care workers from NGOs”), in actual fact care workers are employed directly by the Board of Management and each one has a personal contract of work. Furthermore, a collective agreement to enhance their salary and conditions of work is currently being finalised. At the time of the CPT visit, only one worker didn’t form part of this category as, at that time, she was seconded from APPOGG Agency. Additionally, in order to ensure a superior quality of qualified care staff the Trustees sponsor training up to post-graduate level for care workers and social workers.

As indicated in paragraph 146, cleaning staff is made available within the complex.

**(Paragraph 153)**

Details of internal rules and disciplinary procedures which are applicable are included in documents titled ‘Conservatorio Vincenzo Bugeja – Dar Fejda u Dar Jeanne Antide: Regoli ghar-Residenti’ in Maltese (**Annex 2a**) and ‘Conservatorio Vincenzo Bugeja – Manual of Procedures for the Homes Jean Antide and Fejda’ (**Annex 2b**). A list of disciplinary sanctions imposed in 2007 and 2008 are included in **Annex 8**.

**(Paragraph 154)**

The Maltese Authorities wish to confirm that the Board of Trustees has never interfered in the disciplinary process and, indeed, has never been involved (either directly or indirectly) in the disciplinary process. It could be that during the visit the delegation confused the role of the Board of Trustees (the owners of the establishment) with that of the Board of Management (the entity which runs the place with the assistance of professional staff who are their employees). Accordingly the Board of Management has the right to participate (and not interfere) in the disciplinary process since, at law, they are the managers and guardians of the girls and therefore they are responsible for such matters.

**(Paragraph 155)**

Great importance is given to this aspect of training and the Maltese Authorities are currently identifying ways how similar training can be made available to staff in all establishments where children/juveniles may be deprived of their liberty.

**(Paragraph 157)**

The Maltese Authorities agree with CPT’s recommendation that the Commissioner for Children be invited to carry out regular inspections in all establishments in Malta where children/juveniles can be deprived of their liberty. Indeed, following the visit of the CPT delegation, preliminary contacts have been made with the Commissioner for Children vis-à-vis implementing such recommendation. Currently, the logistical aspects of this initiative are being studied by all parties, since obviously this will impinge on the Commissioner’s physical and financial resources.

It has to be pointed out that the present incumbent actually was the Director of these Homes for quite a number of years prior to her appointment as Commissioner and therefore has the advantage of being fully aware of all related relevant issues. Notwithstanding the fact that inspections were deemed to be “infrequent”, very close contact has been maintained between herself and the management of the Homes.

## **Mount Carmel Hospital**

### **(Paragraph 162)**

A copy of the Inquiry is attached (**Annex 9**).

### **(Paragraph 165)**

The two issues referred to by CPT (chronic patients are staying longer than necessary at FW1 and the case of a mentally retarded young woman who was kept together with chronic patients) are inevitably linked with the limited space available and the Maltese Authorities share CPT's concern. Accordingly every effort is made to avoid situations whereby chronic patients are kept longer than necessary at FW1 and chronic/mentally retarded patients are kept together.

In order to reduce the length of stays at the Female Ward, the Maltese Authorities are now further enhancing community services and these have now been extended to a number of areas. As a result, more patients are now supported in the community. As part of the development of such community services, the Management is also striving to open a Learning Disability Hostel. This would make possible the treatment in a community setting of patients suffering from learning disabilities.

### **(Paragraph 169)**

At the time of the CPT visit there were two patients who were being nursed within the Maximum Security Unit and in order to provide an exhaustive answer to CPT (only one person has been mentioned to be within such complex and only suffering from 'mild anxiety'), background information is being provided on both. It has to be pointed out that, in actual fact, both patients are deemed to be a very highly disturbed individual whose behaviour was only contained and, subsequently, following their being transferred to the Maximum Security Unit.

Patient C.C. has been on MCH records since December 1998. His file runs into 4 volumes. It could be that, during the CPT visit, only the last volume was accessed and therefore there was no indication that it was his behaviour (as documented in the first 3 volumes) which had led to his transfer to the Maximum Security Unit. It is a fact that his behaviour, as documented in the file, has improved since being transferred to the less volatile and more controlled environment of such Unit. It is also true that the case file records that he was anxious around the time of the visit, however the term 'mild anxiety' does not define his actual condition.

Patient B.A. has been known to MCH since February 2002. His file runs into 6 volumes. It could be that only the last volume may have been accessed during the CPT visit and therefore the CPT would not have known of the behaviour described in earlier volumes which led to his transfer to the Maximum Security Unit. It is a fact that his behaviour, as documented in the file, has improved since being transferred to the less volatile and more controlled environment of the Unit. This patient has since been sentenced for pending criminal charges and is now at the Forensic Unit at MCH.

**(Paragraph 170)**

Vide comments in Paragraph 171

**(Paragraph 171)**

The Forensic Unit is under the jurisdiction of the Corradino Correctional Facilities. In view of this, ongoing consultations and co-ordination meetings are regularly taking place between the CCF Authorities and Hospital Authorities in order to address the issues identified by CPT. Since the CPT visit, a number of initiatives have been undertaken in order to upgrade the living conditions of the inmates. For example, a gym was set up in the ward in order to be used by FW1 patients for organised activities. Such facility is also earmarked to be used by the patients in other wards (in particular MAWF).

The Maltese Authorities also wish to point out that, with regards the Irregular Immigrants' Ward, patients are now being regularly allowed longer hours outside their cells and staff are strictly adhering to the guidelines.

With regards alleged deficiencies in structural works, the Maltese Authorities would like to assert that, wherever possible, every effort is being made to upgrade present structures within MCH. Unfortunately, it has been deemed to be impractical, if not impossible, to upgrade particular wards unless the place is pulled down. However, as already stated, where possible, upgrades are taking place. Since inmates/patients housed at the Forensic Unit are those that need stabilizing, those that require detoxification and those referred by the Courts for observation, the Unit has to cater for the different needs of these different categories. Over the recent months furniture within the cells have been replaced according to the specific need of each category. The environment, especially the grounds, has been enhanced. Furthermore it has to be pointed out that, though restricted in availability of space, additional works are being carried out, in particular the installation of an additional shower and the installation of new lockers as recommended by CPT.

With regards the Maximum Security Unit (MSU), it has to be pointed out that it is a very costly facility to run because of the small number of patients and the high staff-patients ratio. In view of this, patients in such Unit are kept to a minimum and the Unit is intermittently closed when not required. The provision of furniture and equipment in this unit is severely restricted by the mental instability of the patients. For health, safety and security reasons it is necessary to fix metal beds to the floor and to put the unit under constant CCTV surveillance. However there are written guidelines relating to nursing intervention in this unit. Accordingly, nursing management constantly monitor nursing personnel to ensure that such guidelines are properly followed at all times.

Following an agreement with the CCF authorities, one room within the MSU has been designated for forensic use, leaving two other rooms for 'civil' or non-forensic patients. This arrangement is intended to cater for and treat those forensic patients who require a higher level of nursing intervention. With such an arrangement in place, such patients will certainly benefit from more holistic care without jeopardising security measures.

**(Paragraph 172)**

The Maltese Authorities are currently studying the best possible way forward in enhancing therapeutic activities / psychological services to patients in FW1, FS/MAW, the Forensic Ward and MSU.

**(Paragraph 175)**

The Maltese Authorities agree that a maximum level of confidentiality should be guaranteed, especially vis-à-vis medically-related data. In this regard the Maltese Authorities are currently identifying ways how the same level of confidentiality which is guaranteed within the female/mixed admission wards is also maintained in the Forensic Ward and the MSU.

**(Paragraphs 178 – 179)**

With regards staff requirements it has to be pointed out that Maltese Authorities are severely hindered in view of limited resources which would be available and willing to work in such a specialised environment.

Notwithstanding, all possible action has been (and will continue to be) taken in order to ensure that the number of officials available on site is adequate.

In this regard CPT may wish to note that a request for the recruitment of therapists is in the pipeline. Such therapists will be deployed at the Forensic Ward and will be responsible for introducing therapeutic interventions. Obviously, such recruitment will allow the hospital administration to extend its present services.

Furthermore, nursing management is currently holding discussions with the nurses at the Forensic Unit in order to increase the quality and duration of nursing contacts. Currently, nurses are present at the Forensic Ward on a 24 hour – 7 days a week basis. However the aim is to introduce nursing guidelines in order to regulate better treatment and care provided to patients.

CPT may wish to note also that, while the responsible consultant psychiatrist visits the Forensic Unit twice a week, hospital doctors are available round the clock for interim problems and can involve the psychiatrist as necessary. This is the same arrangement and frequency of visits applicable to other psychiatrist wards and consultants, both at Mount Carmel Hospital and Mater Dei Hospital.

**(Paragraph 181)**

A policy regarding seclusion is now being followed by all staff and this will be regularly updated whenever required. Related documentation is attached as **Annex 10**.

**(Paragraph 182)**

Necessary action is being taken to remedy the situation in the three security cells at the Forensic Ward so that these could offer improved (and more acceptable) living conditions. In particular, fans have been installed in the rooms to allow for better air circulation and to help reduce the temperature. Such fans have been affixed as high as possible to be out of inmate/patient reach.

**(Paragraph 183)**

The reason why monitoring of persons in Forensic Ward security cells is carried out by security personnel (rather than by medical staff) is related to the fact that CCF personnel are primarily responsible for security matters within the Forensic Unit. It has to be pointed out however that, although patients are monitored by security guards all other medical matters are covered only by medically-qualified staff. Notwithstanding, the Maltese Authorities acknowledge CPT's concern and are currently striving to identify means how to rectify this situation.

**(Paragraph 184)**

The Maltese Authorities wish to renew their commitment not to leave any prisoners/patients naked in the security cells, possibly adopting better alternative measures when and if required. It is important to point out that the Health Authorities are constantly reviewing current practices and consulting other related agencies in order to ensure that the best service is offered and the best material is used.

**(Paragraph 189)**

The Maltese Authorities are currently reviewing the civil admission procedure in order to possibly identify and adopt better practices.

**(Paragraph 199)**

The Maltese Authorities appreciate CPT's assistance in suggesting a number of changes to the current version of the draft Mental Health Act. Accordingly CPT may wish to note that the recommendations were communicated and are currently being considered by the stakeholders involved in finalising the provisions of the Act, namely the Ministry responsible for Health and the Office of the Attorney General.

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*The annexes can be found on the CPT's website: [www.cpt.coe.int](http://www.cpt.coe.int)*