

CPT/Inf (2025) 20

## **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 26 September to 5 October 2023**

The Government of Malta has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2025) 21.

Strasbourg, 10 July 2025

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## EXECUTIVE SUMMARY

The CPT's report on its sixth periodic visit to Malta in September/October 2023 examines the treatment and conditions of detention of persons held in prison and in immigration detention, as well as the treatment and safeguards afforded to persons detained by law enforcement agencies. To this end, the CPT reviewed the measures taken by the Maltese authorities to implement recommendations made by the Committee after its previous visits in 2015 and 2020. The CPT delegation examined the situation at Corradino Prison Facility, the Centre of Residential Restorative Services, Safi Detention Centre, Hal Far Reception Centre, Marsa Initial Reception Centre, Dar il-Liedna, Floriana and Gozo Custody Centres, as well as visiting several police establishments across the country. The CPT received excellent co-operation from all of its interlocutors.

### **Prison establishments**

#### **Corradino Correctional Facility (CCF) and the Centre of Residential Restorative Services (CORRs)**

Overall, the CPT welcomed the new operational strategy and focus on increased care planning, reintegration and prisoner psychological support and the increased emphasis on prisoners' rights and welfare. The vast majority of prisoners stated they were treated correctly by staff and there was a generally calm and controlled atmosphere at the prison. However, the CPT's delegation did receive a few allegations of staff slapping prisoners, and the occasional rough pushing and kicking of prisoners. In one allegation, prison staff allegedly hit an inmate on the face, back and legs, and insulted him. While incidents were being reported to the management, the follow-up was not always documented. Many incidents were only orally addressed and the proper written procedure appeared not to be systematically followed. Inter-prisoner violence did not appear to be widespread in the male sections of the prison, although it was more frequent in the female unit. Generally, staff managed incidents correctly. Overall, the safety of the prisoners appeared to be managed adequately.

The prison is essentially an old Victorian structure, in need constant upgrading. At the time of the visit, despite some refurbishment the conditions were generally poor, with dilapidated cells and tiny windows allowing for very little ventilation or access to natural light. This was particularly the case in Divisions 2, 3 and 5. The prison occupancy was well over the designed capacity, and this was most visible in the female unit. Many cells originally designed for one prisoner currently accommodate two prisoners, affording only some 3m<sup>2</sup> per person. Increased use of effective alternatives to detention is key to reducing prisoner populations and the CPT considers that a review is necessary to examine possibilities to increase the use of electronic monitoring and other means of alternatives to detention to reduce the number of remand and short-sentenced prisoners.

As for the daily regime, while cell doors were generally open for most of the day, large numbers of prisoners remained constantly locked on their blocks, with only one hour outside in the block's yard. Many prisoners wandered aimlessly along the block corridors. The CPT encourages the prison to find more purposeful work for more prisoners on a daily basis to alleviate boredom and frustration, and to provide structure to the day.

On a positive note, sentence and care plans were now made for each prisoner on a systematic basis. Psycho-social interventions appeared regular and thorough. Nonetheless, the arrival induction process remained underdeveloped and needed improving.

The CPT highlights that the admissions process and observation unit in Division 6 was particularly problematic, including the mixing of purposes of Division 6 (de facto disciplinary reasons with the admission process). It considers that the long stays, the poor conditions and the extremely limited regime in Division 6, may well, in its view, be considered as amounting to inhuman and degrading treatment. The purpose of Division 6 should be reviewed. Should it remain as an induction wing, then it should only be used as such and not mixed with segregation and de facto disciplinary functions.

Prisoners placed in this Division should be unlocked from their cells for as long as those in the other divisions, have the same amount of daily access to outside yard for exercise, and have access to purposeful activities if held on the division for longer than a few days and should have access to visits from the outset of their placement in this Division. Constant video-surveillance should be only undertaken on a risk-assessment basis and the toilet area should be pixelated. Lastly, measures should be taken to reduce the constant loud noise of the air conditioners located near the cells and

the cells should be deep-cleaned regularly and those cells without windows be taken out of operation.

Some improvements have been made to the prison's disciplinary procedures, but there remain many areas in need of systemic reform. Resort to discipline was frequent with a range of sanctions imposed, including up to 28 days in cellular confinement. In some cases, this sanction meant that a prisoner was held alone in a cell and only let out for one hour a day to shower, exercise, make calls and receive visits. Division 6 (and in some instances Division 13) appeared to be used for de facto disciplinary purposes. Further, there were still long delays between the alleged incident and the immediate security measure (often cellular confinement) and then, only many months later, the official Prison Board sanction. This system of delayed justice was criticised in 2015, and vigorous action is now required to change the current approach. Equally, the mixing of default immediate security measures and later disciplinary sanctions was deeply problematic. The Maltese authorities should fundamentally revise and reform the prison disciplinary system.

Turning to staffing, overall the numbers of prison staff was generally adequate for the population size. However, overtime and long hours for front-line staff presented a risk of burnout. The CPT considers that the deployment of staff, especially in the female and juvenile units, be reviewed.

Juvenile prisoners were held in a separate unit on the other side of Malta and, overall, their situation appeared generally adequate. Nevertheless, a more purposeful regime, better use of interpretation and resolving the delays in disciplinary sanctions need to be improved.

As for healthcare in CCF, overall it was well organised with significant improvements since the Committee's 2015 visit. The healthcare clinic was in good condition and was well equipped, including the dental suite. Healthcare staffing had improved significantly, although some vacancies remained, and there was now a psychiatrist and dentist who visited the prison several times a week. Access to healthcare was reasonable and the medical doctor usually saw patients on the same day that an appointment was requested. There was prompt and systematic medical screening for all newly arrived prisoners. Moreover, there were some improvements in medication management, methadone prescribing and the development of a self-harm strategy. Nevertheless, there were various areas that remained in need of improvement including: accessing appointments through healthcare staff and not prison officers; more complete documentation of narratives regarding injuries in the medical notes; better medical follow-up of prisoners who have self-harmed; and safeguarding medical confidentiality.

### **Police establishments**

It was positive that the CPT delegation received no allegations of ill-treatment from persons detained by the police. Overall, it appeared that persons in police custody were treated correctly.

As regards key safeguards, the right of access to a lawyer, the right to notify a third party of custody and the right of access to a doctor, these generally appeared to be operational and afforded to detained persons in practice. Nonetheless, not all custody records were well maintained. The initial interview times in the local police stations (where suspects are initially brought for up to six hours) and the departure times from the local police station before arriving to the custody centre of Floriana Lock-Up were not fully recorded in all instances. The CPT stresses the need for a comprehensive single custody record of all movements of a detained person. This should cover the period from the outset of their apprehension to the initial police station for interview purposes and all the way through to the Lock-Up or custody and is an essential safeguard for accountability.

Incomplete custody records create a grey area where, for example, there could be unaccounted time, and unrecorded exits, which represent a high-risk time for ill-treatment. Every single movement of the detained person from the time of arrest must be accounted for and documented properly.

As concerns other safeguards, the CPT welcomed the obligatory wearing of body cameras by officers outside of the police premises and at the time of apprehension.

### **Immigration facilities**

**Safi Detention Centre, Hal Far Initial Reception Centre, Marsa Initial Reception Centre and Dar il-Liedna (juveniles)**

Overall, the CPT gained a better impression of the situation in 2023 as compared to the visit in 2020. The 2020 visit took place at the height of the Covid pandemic when the Maltese government and the Detention Services faced significant challenges trying to cope with the high numbers of foreign nationals arriving. In 2023, there were far fewer foreign nationals in immigration facilities, which was the result of the many factors influencing arrivals in Malta.

As a result, the open centres that had been full in 2020 were able to accommodate approximately half of all the foreign nationals who had arrived in 2023. This situation also had knock-on effects on the quality of life at the detention centres, which were less crowded and had somewhat improved conditions. It was also positive that more detention staff have been recruited. Moreover, the change of operational management sent a positive message about the welfare and rights of detained persons in immigration detention facilities. Nevertheless, despite this opportunity for a new approach towards immigration detention, the detention environment of both Hal Far Initial Reception Centre and Safi remained too carceral and the regime unacceptably poor.

Staff generally treated detained persons at Safi Detention Centre, Hal Far and Marsa Initial Reception Centres correctly. Nevertheless, the CPT delegation did receive several allegations about past ill-treatment by staff at both Safi Detention Centre and Hal Far Initial Reception Centre, primarily in the context of an escape incident involving 17 detained persons from Hal Far Initial Reception Centre in May 2023. Many of the allegations concerned staff delivering punches to the head, legs and back as well as to the ears of detained persons. It also purportedly involved kicking persons in the stomach who were reportedly not resisting and already lying prone and handcuffed on the ground, and excessively tight handcuffing. A few of the allegations were also consistent with the injuries documented in the medical records. There were also some allegations of use of verbal abuse of a degrading and racist nature. The zero-tolerance approach towards ill-treatment, including verbal abuse, must be reinforced and detention/police officers sensitised to a non-racist attitude.

The CPT notes that while some renovations have been made in both Safi Detention Centre and Hal Far Initial Reception Centre, many areas essentially remained in the same state as in 2020. In Safi, large dormitories were still in use and those Blocks that were operational (A and C) were still crowded, despite the low overall number of detained persons. The two non-operational Warehouses, which could be re-opened at any moment, consisted of vast dormitory-type rooms lined with bunk-beds and had a capacity of up to 300 persons. The CPT considers that these Warehouses should be split into smaller living units and entirely refurbished.

Despite the renovations that had been undertaken, the CPT found that many mattresses and blankets were dirty, toilet facilities were in an unsanitary and mouldy condition and most of the male units has non-functioning showers.

The regime for immigration detainees was still extremely limited and unacceptably poor. Male detainees were offered far less than the stated three hours of outside time. Moreover, they should in principle have unrestricted access to the outside exercise yard.

Juveniles awaiting age assessment results who were held in Safi had nothing to do to structure their day other than to go to a concrete yard for one to two hours a day. No specific support programmes were in place and Safi Detention Centre remained unsuitable for the detention of juveniles. The Maltese authorities should further develop the range of purposeful activities on offer for persons held at Safi Detention Centre and Hal Far Initial Reception Centre. In this respect, the regular programme activities run by the Agency for the Welfare of Asylum Seekers (AWAS) at Dar il-Liedna and Marsa act should serve as an example for emulation. For example, establishing a cultural kitchen, the provision of other activities such as English language and vocational courses, access to a well-stocked library, more regular (daily) outdoor sports games and other meaningful activities to structure the long periods of time spent in detention. The Maltese authorities should also ensure free access to outdoor exercise for foreign nationals throughout the day. The CPT also considers that the Maltese authorities should revise the current layout of Safi to guarantee increased access for foreign nationals to the outside green areas and to equip the exercise areas appropriately.

In 2023, the CPT found that foreign national unaccompanied minors, including those awaiting age assessment confirmation, had still not been moved out of carceral premises like Safi Detention Centre to more appropriate, semi-open facilities, where they could also be offered more purposeful activities. Juveniles are still held in Safi-C-Block, albeit along a separate corridor, in appropriate conditions and a poor regime. The Committee reiterates its recommendation that unaccompanied

minors should be transferred to a semi-open establishment specialised for juveniles. Those who were still in the appeals procedure should be removed from Safi Block A and held in another centre, designed around the specific needs of juveniles, including being provided with a more open regime with more regular activities and education and access to more regular psycho-social support.

Contact with the outside world was also problematic for detained foreign nationals in Safi. Mobile phones were still systematically confiscated upon arrival by the police. The Blocks provided too few telephones to enable ready contact with the outside world. For example, there was one fixed-line telephone for 60 detained persons in Block C, which had apparently created difficulties to contact lawyers as well as family members. Further, removal of mobile phones resulted in difficulties accessing phone numbers and readily contacting family. The CPT again recommends that Safi should put in place the possibility to use voice over internet protocol (VOIP), as well as allowing detained persons to keep their mobile phones. In contrast, CPT welcomes the fact that persons held on detention orders at Marsa had access to mobile phones and Wi-fi.

The CPT again found that there was a lack of information provided to detained foreign nationals on their immigration status and insufficient access to interpretation. The Maltese authorities should take the necessary steps to ensure that all foreign nationals are informed of their rights and the procedure both on arrival in Malta and upon their arrival at Safi Detention Centre and Hal Far Initial Reception Centre. Access to qualified interpretation services should be made readily and regularly available. Further, regular updates should be provided to foreign nationals on the status of their stay, on a case-by-case basis, by immigration officials at the establishments.

As for staffing, on a positive note, the staff on the female unit of Safi and in Marsa proactively engaged with the women held there. However, generally, staff in Safi Detention Centre and Hal Far Initial Reception Centre appeared distant and lacked engagement with the persons detained there. This was epitomised by the practice that detained persons were still being addressed by the staff by their police numbers and not by their names and were not allowed to wear their own clothing, practices which have been criticised repeatedly by the CPT.

The CPT found that there had been significant improvements to healthcare in the immigration facilities visited, notably the proper refurbishment of the clinic at Safi. Healthcare staffing had also improved, although some vacancies remained. Initial medical screening procedures and access to medical care was reasonable, and psychiatric and dental care could be accessed at the hospital according to need and urgency.

## **I. INTRODUCTION**

### **A. The visit, the report and follow-up**

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a periodic visit to Malta from 26 September to 5 October 2023. It was the Committee's sixth periodic visit to Malta.<sup>1</sup>

2. The visit was carried out by the following members of the CPT:

- Jari Pirjola (Head of delegation)
- Nico Hirsch
- Gordan Kalajdziev
- Karin Rowhani-Wimmer.

3. They were supported by Francesca Gordon of the CPT's Secretariat and assisted by Kate Wood, medical doctor (expert).

4. The report on the visit was adopted by the CPT at its 113th meeting, held from 4 to 8 March 2024, and transmitted to the authorities of Malta on 28 March 2024. The various recommendations, comments and requests for information made by the CPT are in bold in the present report. The CPT requests that the authorities of Malta provide within six months a response containing a full account of action taken by them to implement the Committee's recommendations, along with replies to the comments and requests for information formulated in this report.

### **B. Consultations held by the delegation and cooperation encountered**

5. In the course of the visit, the delegation met with Byron Camilleri, Minister for Home Affairs, Security, Reforms and Equality. It also met with Angelo Gafa, Commissioner of Police, Malcolm Cutajar, Chief Executive Officer (CEO) of the International Protection Agency (IPA) and Commissioner for Refugees, Christopher Siegersma, CEO of the Correctional Services Agency, Kyle Mifsud, CEO of the Detention Services Agency (DSA), and Clayton Xuereb, CEO of the Agency for the Welfare of Asylum Seekers (AWAS). In addition, consultations were held with senior officials from the Ministry for Home Affairs, Security, Reforms and Equality (MHSR) and its agencies, including from the Directorate of Policy Development and Programme Implementation, the Migration Unit, AWAS, IPA, DSA, the Probation and Parole Directorate, as well as senior officers from Malta Police Force (Immigration Police).

6. The delegation also met with Steve Libreri, Commissioner for Prisoners' Welfare and Development, Antoinette Vassallo, Commissioner for Children and Judge Emeritus Franco Depasquale, Chairman of the Independent Police Complaints Board. In addition, meetings were held with the Boards of Visitors for Detention and of the Prison, the National Preventive Mechanism (NPM) and representatives of civil society bodies active in areas of concern to the CPT. Consultations were also held with the UNHCR Representative in Malta, Samar Mazloun.

7. The delegation received excellent cooperation during the visit by the Maltese authorities at all levels. The delegation had rapid access to all places of detention it wished to visit, was able to meet in private with those persons with whom it wanted to speak and was provided with the information necessary to carry out its task. The Committee wishes to express its appreciation for the assistance provided to its delegation during the visit by the management and staff in the establishments visited, as well as to the support offered by its liaison officer from the MHSR, Lavinia Seguna.

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1. The visit reports and the responses of the Maltese authorities on all previous visits are available on the CPT's website: <https://www.coe.int/en/web/cpt>.

### **C. Preliminary observations**

8. The CPT transmitted its preliminary observations to the Maltese authorities by letter of 30 October 2023, and requested some additional information, including on a specific case of Mr A.A., a foreign national held at Safi, who alleged that he was at serious risk of torture or death if returned to his country of origin and who claimed that he had been prevented from contacting legal and other services to assist him in his case. The CPT also requested confirmation that Mr A.A. had been informed of the right to legal services and assisted in accessing those services.

On 26 December 2023, the Maltese authorities informed the CPT of the actions taken in response to these observations and to other matters the delegation raised at the end-of-visit talks. This response also included the information and confirmation requested on the case mentioned above. This response has been taken into account in the relevant sections of the present report.

### **D. National Preventive Mechanism (NPM)**

9. In its report on the 2015 visit, the CPT raised concerns regarding the functioning and mandate of the Maltese NPM.<sup>2</sup> In 2023, the Committee noted that the two Boards that comprise the NPM (Prison Board and Board of Visitors for Detained Persons) conducted more regular, unannounced visits to the prison and places of immigration detention. Nevertheless, the Boards were still constrained by their legal mandate and could only report directly to the Minister for Home Affairs. The CPT was informed that in practice, these reports were published in batches every few years (the most recently published batch of reports was in 2023 for the years 2020, 2021 and 2022). The Committee raises its long-standing concern regarding the lack of formal independence of the Maltese NPM.<sup>3</sup>

Moreover, the remit of NPM monitoring still did not cover all places of deprivation of liberty in Malta. Places not covered by the NPM's monitoring mandate included the Courts' Lock-Up, all police establishments (including police stations where persons can be initially held for up to six hours before being transferred to Floriana or Gozo Lock-Ups), Marsa Immigration Centre (where some persons may be deprived of their liberty), social welfare homes and psychiatric facilities.

**The CPT reiterates its recommendation that the Maltese authorities extend the mandate of the NPM to ensure that it is able effectively to access and monitor all the different types of places of deprivation of liberty in Malta. Further, the authorities should publish the NPM's Reports, including its annual reports, within a reasonable time period. More generally, the NPM should be endowed with the relevant functions to be compliant with the requirements laid down by the Optional Protocol to the United Nations Convention against Torture (OPCAT) and the Guidelines established by the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT).<sup>4</sup> The Committee wishes to be informed about the measures envisaged to fully implement these above principles.**

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2. See [CPT/Inf \(2016\) 25](#) Report to the Government of Malta on the visit to Malta carried out by the CPT, from 3 to 10 September 2015, paragraphs 11 and 12.

3. In line with articles 17 and 20 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

4. SPT Guidelines on national preventive mechanisms, Twelfth session Geneva, 15–19 November 2010.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Prison establishments – Corradino Correctional Facility and the Centre of Residential Restorative Services

#### 1. Preliminary remarks

10. The visit to the Corradino Correctional Facility (CCF) was a follow-up, with the purpose of examining developments since the previous visit in 2015.

11. The Maltese legislative framework<sup>5</sup> governing the overall criminal procedure and penal policy has not undergone wholesale reform since 2015, but the delegation was informed that amendments to the Prison Leave Ministerial Directives were underway, along with an initiative involving increased use of electronic tagging. **The CPT would like to receive up-to-date information on the aforementioned amendments and reforms and the date that they take effect.**

12. In previous visit reports,<sup>6</sup> the CPT had raised serious concerns about the absence of a proper management and operational strategy resulting in a lack of effective control over prisoners and the prevalence of strong informal power structures among prisoners.<sup>7</sup> In 2023, the delegation noted positively that the internal operation of CCF had changed significantly. The most recent prison director/CEO had been in place for less than one year but had already undertaken significant reform with an increased focus on sentence planning, prisoner psychological support and education, and a reduction in inter-prisoner violence. There had also been various infrastructural changes<sup>8</sup> and the building of a new Rehabilitation Centre is envisaged.<sup>9</sup> The CPT welcomes the new operational strategy taking these issues forward, and takes note of the emphasis on prisoners' rights and welfare.

13. Nevertheless, CCF, built in the 1840s as the only adult prison facility in Malta, remains a relic of the Victorian-era. The main building, comprising numerous wings or "Divisions" holding predominantly male prisoners, suffers from the challenges of ageing infrastructure and is in poor condition, in constant need of refurbishment and upgrade. **The CPT recommends that sufficient resources be invested by the Maltese authorities to ensure that the main prison building is fit for purpose and provides adequate accommodation for the decent and humane treatment of prisoners<sup>10</sup> (see also section 3 *Material Conditions*). In this respect, the CPT recommends that emphasis be placed on investing to rebuild and refurbish the male accommodation units, on a rolling basis, and invites the Maltese authorities to share its immediate and medium-term plans in this regard.**

14. The prisoner population has steadily increased since the CPT's last visit<sup>11</sup> and at the time of the delegation's visit, stood at 657 prisoners (including 52 female and 605 male prisoners) along with 26 juveniles (accommodated in a separate facility (see section 6). Of surprise to the Committee was that nearly 50% (some 300) of the entire prisoner population held at CCF was awaiting trial.<sup>12</sup>

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5. The Prison Act and the Prisons Regulations, as well as the Criminal Code and Procedure Law.

6. CPT/Inf (2011) 5 Report to the Maltese Government on the visit to Malta carried out by the CPT from 19 to 26 May 2008; CPT/Inf (2013) 12 Report to the Maltese Government on the visit to Malta carried out by CPT from 26 to 30 September 2011; and the [CPT/Inf \(2016\) 25](#) Report to the Government of Malta on the visit to Malta carried out by the CPT, from 3 to 10 September 2015.

7. [CPT/Inf \(2016\) 25](#) Report to the Government of Malta on the visit to Malta carried out by the CPT, from 3 to 10 September 2015.

8. Most notably in the healthcare unit, activities' unit and the care, reintegration and education unit.

9. With a capacity for 140 prisoners, the building is expected to be operational by the end of 2026.

10. See CPT's standards in its 30th General Report, "A decency threshold for prisons" [CPT/Inf\(2021\)5-part](#), 2021.

11. In 2015, the prisoner population was 557, in 2023 it had increased by approximately 100 prisoners.

12. 41.18% were awaiting trial and 4.71% were both sentenced and awaiting trial in appeal procedures.

15. With a capacity of 799 beds,<sup>13</sup> officially, the prison was not overcrowded, but the 473 cells were originally designed for single occupancy, and, in reality, some cells in the prison were severely overcrowded (see section 3). The majority of these cells were now used for double-occupancy, notably in the female unit (see sections 3 and 4). The CPT wishes to recall its standards on living space in prisons in the context of the dignified and humane treatment of prisoners and the minimum standard of 4m<sup>2</sup> of living space per prisoner in a multiple-occupancy cell (not including the fully-partitioned sanitary facility).<sup>14</sup>

16. The delegation was informed by the Maltese authorities of the various measures underway to help progression throughout prisoners' sentences and end-of-sentence reintegration efforts. These include the electronic monitoring bill, aimed at regulating the use of electronic tagging and promoting it as a viable alternative to detention, which was going through the Maltese Parliament at the time of the delegation's visit. However, the broader criminal justice policies to limit the use of remand detention and employ alternatives to detention where possible, were not visible in practice.

The Committee has long held that member states should adopt policies designed to limit the number of persons sent to prison and to adequately implement alternatives to imprisonment, especially for certain categories of prisoner, such as those on remand. The CPT considers that the employment of effective alternatives to detention is key to reducing prisoner populations. The Maltese authorities should broaden the range and use of other robust alternatives to detention in practice, such as the use of suspended sentences, a full roll-out of probation services, the further development of post-penal care for released prisoners and avoiding pre-trial detention, as well as further develop possibilities to increase the use of electronic monitoring.<sup>15</sup>

Given the high numbers of persons held on remand in CCF, **the CPT recommends that the Maltese authorities develop a coherent policy to reduce the prison population. This should include a legislative and political strategy, reviewing the grounds for imprisonment of various groups of prisoners, including prisoners held on remand and short-term sentenced prisoners, and providing a broad range of effective alternatives to detention. In so doing, the national authorities should be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody and Recommendation Rec(2010)1 on the Council of Europe Probation Rules, Recommendation (2014)4 on electronic monitoring and Recommendation (2017)3 on European rules on community sanctions and measures.**

## **2. Ill-treatment**

17. The vast majority of prisoners appeared to be treated correctly by staff and there was a generally calm and controlled atmosphere at the prison.

Nevertheless, the delegation did receive a couple of allegations of ill-treatment from Divisions 6 and 13 of staff intimidating prisoners, and occasionally slapping and roughly pushing prisoners. In one case, a prisoner alleged that prison staff hit him in the face, kicked him on his back and legs, and insulted him. Medical documentation examined by the delegation indicated that the allegation had been raised (orally with the director) and that there were signs of some injuries (bruises recorded on the right forearm and right calf). The CCTV camera was temporarily covered by the prisoner using toilet paper during the time of the alleged incident.

Further, the delegation also received several allegations of disrespectful behaviour, most notably in the women's Division.

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13. SPACE statistics for January 2023 show a prison population rate of 103 per 100,000 inhabitants.

14. Living space per prisoner in prison establishments: CPT standards, Strasbourg, 15 December 2015, CPT/Inf (2015) 44.

15. Chapter 446 of the Laws of Malta contain reference to current alternatives to detention.

18. While incidents of alleged ill-treatment were being reported to management, the follow-up was not always documented systematically. Many incidents were only addressed orally; the proper written procedure did not appear to be always followed.

19. In response to the preliminary observations made by the CPT on this topic at the end of the visit, the Maltese authorities' response, dated 26 December 2023, outlined the procedure in place when an allegation of ill-treatment is made by a prisoner, including a prison investigation involving a medical investigation, CCTV footage review and report made to the prison director, and the opportunity presented to the prisoner to file a police report. Nevertheless, the Correctional Services Agency (CSA) has acknowledged the need for better documentation and will integrate the investigation procedure into their new Offender Management System (OMS), envisaged to be operational from January 2024.

20. The CPT welcomes the proposed addition of the procedure into the OMS system as a positive development; nonetheless, **it recommends that the prison management deliver to custodial staff the clear message that physical ill-treatment, excessive use of force and verbal abuse, as well as other forms of disrespectful behaviour towards prisoners, are not acceptable and will be dealt with accordingly. Management should demonstrate increased vigilance in this area by ensuring the regular presence of prison managers in the detention areas, their direct contact with prisoners, the investigation of complaints made by prisoners, and improved prison staff training. Further, there should be a diligent recording of all incidents of alleged ill-treatment of prisoners by staff. All allegations of ill-treatment should be systematically forwarded on to the competent external investigatory or prosecutorial authorities.**

21. In the 12 months prior to the visit, there had been frequent cases of inter-prisoner violence with injuries recorded in the medical files and police reports made, where the prisoners so wished. Staff appeared to generally manage violent incidents adequately. Nonetheless, the duty of a prison is to keep prisoners safe, and the means of doing this should include the adoption of a violence prevention strategy, the recording of incidents of violence, and prompt reaction and investigation into incidents by staff. While there were complaints (section 8(e)) and disciplinary processes (section 8(b)) in place, it was not clear that *all* the inter-prisoner fights, including those that ended with documented medical injuries, were recorded. Records did not accurately reflect the scale of inter-prisoner violence.

22. Addressing inter-prisoner violence requires a multi-faceted approach, which includes enhanced awareness and monitoring of prisoner dynamics (including the identification of potential perpetrators and victims), with a particular focus on the situation in cells in the evening/at night (for example, by more frequent and randomised visits by staff). It also requires the proper reporting of suspected and confirmed cases of inter-prisoner intimidation/violence, the thorough investigation of all incidents and, where appropriate, the adoption of suitable sanctions or other measures, as well as the development of effective violence reduction interventions. Management and staff should pay increased attention to risk and needs assessments, classification, and allocation of individual prisoners with a view to ensuring that prisoners are not exposed to other prisoners who may cause them harm.

Further, prison staff should be alert to signs of trouble, and both determined and properly trained to intervene when necessary. The existence of positive relations between staff and prisoners, based on the notions of dynamic security and care, is a decisive factor in this context; this will depend to a large extent on staff possessing the appropriate interpersonal communication skills. It is also obvious that an effective strategy to tackle inter-prisoner intimidation/violence should ensure that prison staff are placed in a position to exercise their authority appropriately. Consequently, the staffing level must be sufficient (including at night-time) to enable prison officers to adequately supervise the activities of prisoners and support each other effectively in the exercise of their tasks (see section 8(a) *prison staff*). Both initial and ongoing training programmes for staff of all grades must address the issue of managing inter-prisoner violence.

23. The CPT recommends that the prison management reviews its violence prevention policy to establish measures to more adequately and accurately record, respond to, investigate, and prevent inter-prisoner violence. These should include the adoption of a comprehensive anti-bullying policy, and systematic and regular risk assessments regarding allocation and placement of prisoners, as well as training of staff to take proactive measures to identify any risk of inter-prisoner violence and report it to management, and forward on to the competent external investigatory or prosecutorial authorities (if those involved so wished), along with the regular monitoring of CCTV cameras, including ensuring their good operational maintenance.

### 3. Conditions of detention, regime and sentence progression

#### a. material conditions

24. The panoptical layout of the main male accommodation wings of CCF, as well as the material living conditions (size, lighting and material conditions of the cells in each of the wings) remained substantially the same as described in the CPT's 2015 visit report and were still, generally, poor and in constant need of upgrading.<sup>16</sup> Various changes and renovations were most notable in the healthcare unit, education and activities' unit and in the plans for the new care, reintegration and education unit (see section 1 *Preliminary Remarks*).

25. Nevertheless, overall, the conditions in the men's and women's divisions were poor, with dilapidated cells (plaster and paint peeling off the walls, humidity and mould visible on the walls and ceilings, water leaking through the ceilings and cracked floors) and tiny cell windows allowing insufficient natural light and ventilation. The cells located in Division 5 were particularly bad. Moreover, in Division 6, there were a number of cells without windows. The cells were reportedly unbearably hot in the summer. Many cells originally designed for one prisoner, with some 6 to 9 m<sup>2</sup> of space (including the in-cell toilet), were accommodating two prisoners.

26. Further, the delegation was concerned by the dirty, unscreened in-cell toilets, situated very close to the beds (Divisions 5, 3, 2, juveniles' and women's units) and the many communal sanitary facilities that were broken (for example, in Divisions 13, 3 and 2).

27. The divisions had individual or shared exercise yards and, with the exception of the women's divisions, consisted merely of bare tarmac and were not equipped with any means of rest (let alone any sports or recreational equipment) or any shelter to protect prisoners from sun or rain. The yards were extremely hot, and at the time of the visit, the delegation noted that very few prisoners made use of them during the day.

28. In their response to the CPT's preliminary observations on this topic, dated 26 December 2023, the Maltese authorities have acknowledged the challenges that an 1840's prison building presents, with the need for constant renovations, and have informed the CPT of efforts to address the ventilation system by designing new grill security doors to better help to ventilate the cells, envisaging the installation of 160 new doors in Divisions 1 to 4 by mid-2024. The authorities also informed the CPT that plans were underway to screen in-cell toilets and replace broken sanitary facilities with new in-cell facilities, work which will be spread over the next three years, due to cost restrictions. The CPT welcomes these efforts.

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16. See [CPT/Inf \(2016\) 25](#) Report to the Government of Malta on the visit to Malta carried out by the CPT, from 3 to 10 September 2015, paragraphs 55 to 58.

29. Nevertheless, overall, at the time of the visit, the living conditions on the main prisoner accommodation blocks had not significantly changed since its previous 2015 visit. **The CPT reiterates its recommendation that the Maltese authorities ensure that:**

- **at the very minimum, cells measuring 6 m<sup>2</sup> are only used to accommodate one prisoner and that the living space in multiple-occupancy cells is at least 4 m<sup>2</sup> per prisoner, not including the fully-partitioned sanitary facility;<sup>17</sup>**
- **a systematic refurbishment is undertaken of the cells and sanitary facilities in Divisions 2, 3 and 5, as well as the women's unit Division A;**
- **in-cell toilets in multiple-occupancy cells are fully partitioned;**
- **no prisoner is accommodated in a cell without windows; the cells on Division 6 should either have windows installed or no longer be used for prisoner accommodation; and**
- **all of the exercise yards are equipped with a shelter to protect prisoners from the sun and rain, a means of rest and sports/ recreational equipment.**

30. Smoking in communal spaces and some of the cells was permitted and this exposed many prisoners to passive smoking and health risks. Indeed, exposure to passive smoking can amount to a form of ill-treatment, as highlighted by the European Court of Human Rights.<sup>18</sup>

The CPT considers that smokers and non-smokers should be offered separate accommodation, and designated areas for smoking should be established in certain common areas of the prison. **The CPT recommends that the Maltese authorities put in place measures to ensure, at the very least, protection from the harms of passive smoking, such as designating smoke-free accommodation and a policy on the prohibition or restriction of smoking in areas of common use. In addition, it invites the Maltese authorities to consider introducing programmes to encourage smoking cessation.**

b. regime

31. As for the daily regime, it was positive that prisoners could spend most of the day<sup>19</sup> unlocked from their cells and were free to walk around their block, use in-block gyms and the adjoining exercise yards. Further, many prisoners<sup>20</sup> (but by no means all) went to work outside of their divisions, which included work placements in bakery, carpentry, electrical, the kitchen and sewing. Some 65% of all prisoners had some type of paid work, including cleaning duties on the blocks.<sup>21</sup> It was positive that the range of activities and sports on offer had increased since the CPT's previous visit.<sup>22</sup>

32. Nevertheless, a rather limited numbers of prisoners were actually involved in purposeful activities (that is, not only cleaning their own cell and being paid for it) for periods longer than a few hours per week.<sup>23</sup> Large numbers of prisoners wandered aimlessly along the block corridors during the day and informed the delegation that they had little of meaning to do to add structure to their days.

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17. See [CPT/Inf \(2015\) 44](#), Living space per prisoner in prison establishments: CPT standards.

18. See the case law of the European Court of Human Rights, notably the cases of *Sylla and Nollomont v. Belgium*,

no. 37768/13 and 36467/14, 16 May 2017, paragraph 41; *Florea v. Romania*, no. 37186/03, 14 September 2010, paragraphs 60-62 and 63-65; *Elefteriadis v. Romania*, no. 38427/05, 25 January 2011, paragraphs 49-52 and 55.

19. Yards are open 08:30-11:00 and 14:15-15:45 and in the summer 17:15-18:30. Prisoners were unlocked from their cells for some eight hours.

20. On average around 170 of 650 prisoners (some 26%) had work placements outside of the blocks, not including cleaner jobs, which included a stipend of €20 per month for keeping one's cell clean and tidy.

21. In September 2023, 309 out of 602 prisoners were engaged in some form of work.

22. Including various gyms and an outdoor sportsground, volleyball and basketball, football tournaments between divisions, externally provided tile-laying courses and access to the music room.

23. For example, global gym attendance for all sections was, on average, some 90 prisoners out of a population of 650.

Moreover, no prisoners on Divisions 6 (an induction and segregation division) or 13 (a discipline and segregation division) (see sections 3(d) *Admissions* and section 8(b) *Discipline*) had access to work, sport or activities outside of their blocks, despite the fact that they were often in these divisions for many days and, in some cases, several weeks or even months.

**33. The CPT recommends that the Maltese authorities continue to invest sufficient resources to provide more daily activities and purposeful work placements to give daily structure for prisoners and support their reintegration into the community.**

c. sentence planning and progression

34. Care and sentence planning at CCF had considerably improved since the CPT's previous visit, when care plans had only been prepared for those prisoners applying for parole and not for every prisoner.<sup>24</sup> At the time of this visit, individualised sentence and care plans were made for each prisoner on a systematic basis; this was a welcome development. There was increased focus on the care and reintegration unit, including investment in a new care, reintegration and education unit with a multi-disciplinary team including a sufficient number of social workers, psychologists and care-plan coordinators.<sup>25</sup>

35. Psycho-social interventions appeared regular and thorough; from an analysis of a sample of the care plans it was clear that they were living instruments with continual updates from both care and reintegration staff and the prisoner, on a rolling ad hoc basis as well formally every six months.<sup>26</sup> It was impressive that external support provision was brought in for some of the more vulnerable prisoners, such as one of the prisoners who was deaf and non-verbal, for whom a sign language interpreter was contracted to help with meetings and care plans.

36. In addition, the provision of family therapy by external providers was a positive development. At the time of the delegation's visit, 89 prisoners were in family therapy, and two staff of the psycho-social team were being trained as family therapists.

**37. Overall, the Committee welcomes these positive developments in the provision of care given to prisoners at CCF.**

d. admissions process, induction and segregation

38. Division 6, which consisted of nine double and nine single cells spread over two floors, had a different purpose to other divisions and was holding eight prisoners at the time of the delegation's visit. Officially it was an introductory and transition unit which, according to the authorities, "played a pivotal role in housing new prisoners during their initial days within the correctional facility, ensuring a structural and controlled environment during this critical transition period".

39. Nevertheless, the CPT found that the immediate arrival and induction process remained under-developed. Upon arrival, prisoners underwent two fully naked strip searches (one at admission to the main prison and a body scan, and one at admission to Division 6), where they were reportedly fully stripped in one go (see section 8(c) *body searches*). Thereafter, they were taken to Division 6, with extremely poor conditions and regime (see below) and where some prisoners were held for an indeterminate amount of time, well beyond the theoretical three days' processing to perform risk and needs assessment and find accommodation for them in the main divisions.

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24. See [CPT/Inf \(2016\) 25](#) Report to the Government of Malta on the visit to Malta carried out by the CPT, from 3 to 10 September 2015, paragraph 60.

25. One Head of Care, Reintegration and Education; one principal psychologist; one senior psychologist; two psychologists; seven psychologist practitioners, seven full-time and one part-time psychologist assistants; 10 social welfare professionals; three social workers and three senior social workers.

26. There is an interim report every six months (Care and Re-integration Unit Feedback Form; Prisoner Feedback report; Minute Sheet on Case Conference Review with the head of the unit, psychologists and social worker) and important steps are documented on a rolling basis.

Moreover, despite in theory being provided with an induction booklet, all persons interviewed stated that they had never received such written information and many did not know their rights or the rules, or for how long they would be held on Division 6.

**The CPT reiterates its recommendation that the Maltese authorities introduce a proper induction process for all prisoners being admitted to CCF,<sup>27</sup> and that newly admitted prisoners are held in a dedicated reception unit to allow for a proper needs assessment<sup>28</sup> and classification process to be swiftly carried out. Thereafter, they should be allocated to appropriate accommodation units. Lastly, written information on the prison rules and on prisoners' rights and obligations should be systematically provided to newly arrived prisoners in a language that they can understand, including the use of alternative modes of communication. As concerns the body search process, please see the recommendations contained in section 8(c) *body searches*.**

40. The care and psychological interventions or support did not happen until, on average, one month after arrival (see above) albeit that staff underlined that providing full psychosocial support for new admissions was still a work in progress, and had developed a plan for providing this. **The Committee would appreciate being sent a copy of the plan and an update on any developments for newly arrived prisoners. Also, it recommends that care and psychological interventions happen as soon as possible after a prisoner's arrival.**

41. In theory, the Division is only used for an average of a few days during the prisoner's admission process. In practice, prisoners stayed much longer,<sup>29</sup> and they were not only newly admitted prisoners. This division also served as a segregation and observation unit for disciplinary and segregation purposes (in addition to Division 13) – and was perceived as such by the prisoners interviewed. Prisoners did not know why they were in the division, or why they had been transferred there and how long they would have to stay. The regime was extremely limited; there were no activities provided, no televisions in the cells, no visits were allowed, only one telephone call was permitted per day and there was no access to the gym. Prisoners spent 23 hours a day locked in their cells. The cells were under constant video surveillance that covered the entire cell, including the unscreened toilet area (the image was not pixelated). Five large air conditioners located near the cells operated 24/7 emitting a constant loud noise (measuring between 65 and 73 dB) about which many prisoners complained. They also complained about insects in the cells, in which they also had to eat all of their meals.

42. The CPT considers that the mixing of purposes of Division 6 (*de facto* discipline with the admission process) is highly problematic. Overall, the CPT considers that the cumulative effect of the poor conditions, the extremely limited regime, exacerbated by the long stays in Division 6, creates a situation that may well, in its view, be considered as amounting to inhuman and degrading treatment.

**The CPT recommends that the Maltese authorities stop this degrading treatment and should revise the purpose of Division 6.**

**Should it remain as an induction wing, then it should only be used as such and not mixed with segregation and disciplinary functions. In such instances, during their placement in this division, prisoners should be unlocked from their cells for as long as those in the other divisions, have the same amount of daily access to outside yard for exercise, have access to purposeful activities if held on the division for longer than a few days and should have access to visits from the outset of their placement in this Division and throughout their time held there.**

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27. Including clear practical explanations about the rules, prisoners' rights and obligations, availability of work and activities and how to apply, time out of cell, telephone information, how to contact healthcare, visits allowances, etc.

28. Including swift screening undertaken for mental health needs, the identification of care responsibilities of the newly-admitted prisoner towards their families, etc.

29. 710 detained persons were admitted into Division 6 in 2023 (up to the time of the delegation's visit); 94 (13.2% stayed for 10 days or longer, of which 11 stayed for 20 days or more.)

**Constant video-surveillance should be only undertaken on a risk-assessment basis and the toilet area should be pixelated.**

**Lastly, measures should be taken to reduce the constant loud noise of the air conditioners located near the cells and the cells should be deep-cleaned on a regular basis.**

e. parole and life sentenced prisoners

43. The parole system, with a Parole Board, was established under Article 8 of the restorative Justice Act.<sup>30</sup> Nevertheless, the Parole Board had only issued 44 parole licences in two years (23 in 2021, 21 in 2022, and only seven in 2023 (up to the time of the delegation's visit)).

44. Life-sentenced prisoners in Malta (persons sentenced to whole life sentences with no prospect of being released) were not eligible for parole. The situation of life-sentenced prisoners at CCF remains of concerns to the Committee. While sentence planning and progression had improved since the CPT's previous visit, limitations in parole had not changed despite the CPT having raised this issue previously.<sup>31</sup>

45. The CPT wishes to make reference again to the European Prison Rules, which state in Rule 103.8 that "particular attention shall be paid to providing appropriate sentence plans and regimes for life-sentenced prisoners", taking into consideration the principles and norms laid down in the Council of Europe Recommendation (Rec (2003)23) on the "management by prison administrations of life-sentence and other long-term prisoners"<sup>32</sup> and Rec(2003)22 on conditional release (parole).<sup>33</sup> The CPT also draws the attention of the Maltese authorities to its 2016 General Report in which the Committee sets out its thinking regarding the management of life-sentenced prisoners.<sup>34</sup>

46. The CPT has repeatedly expressed<sup>35</sup> its serious reservations about the concept according to which life-sentenced prisoners are deprived of any hope of being released (except by Presidential pardon). It is highly regrettable that the Restorative Justice Act still explicitly excludes the possibility of conditional release being granted to life-sentenced prisoners, and that the detailed remarks and recommendations outlined in the Committee's previous reports have not been acted upon, despite recent amendments having been made in other aspects. The above-mentioned Committee of Ministers' Recommendation on conditional release (parole), as well as case law from the European Court of Human Rights (ECHR)<sup>36</sup> on this matter to date, clearly indicate that the law should make conditional release available to all sentenced prisoners, including life-sentenced prisoners.

**In light of these comments, the CPT calls upon the Maltese authorities to reform their policy towards life-sentenced prisoners with a view to ensuring that the law provides for a possibility, during the sentence, for prisoners to apply for conditional release, after having served a defined period of their sentence. A procedure should be put in place for prisoners to be able to lodge such requests and to ensure that this possibility is real and effective.**

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30. Chapter 516 of the Laws of Malta.

31. See [CPT/Inf \(2016\) 25](#) Report to the Government of Malta on the visit to Malta carried out by the CPT, from 3 to 10 September 2015, paragraphs 63 to 64.

32. Ibid.

33. Ibid.

34. CPT/Inf(2016)10-part, "Situation of life-sentenced prisoners", *Extract from the 25th General Report of the CPT, published in 2016*.

35. In the CPT's 2015 Malta Visit Report [CPT/Inf \(2016\) 25](#) and in CPT/Inf (2013) 12 Report to the Maltese Government on the visit to Malta carried out by CPT from 26 to 30 September 2011.

36. Grand Chamber in *Vinter and Others v. the United Kingdom* (Applications nos. 66069/09, 130/10 and 3896/10) on 9 July 2013, as well as the cases of *László Magyar v. Hungary* (application no. 73593/10), issued on 20 May 2014 and *Petukhov v. Ukraine* (No.2) (application No.41216/13) issued on 12 March 2019 and *Affaire Marcello Viola v. Italie* (No 2) (application no 77633/16) and *Matiošaitis and Others v. Lithuania*, 2017, §§ 157-183.

#### 4. Women prisoners

47. At the time of the visit, the CCF accommodated 48 remand and sentenced women in Divisions A (42 persons) and B (three persons), as well as three girls in the juvenile CORRs Unit (see section 6) and two outside CCF, in the forensic unit of Mount Carmel Hospital. The Female Block was a distinct unit outside the main accommodation area. In addition to the accommodation buildings, the Female Block contained activities and work rooms,<sup>37</sup> a laundry room, a small library (stocked with English language books only), a gym offering sports classes,<sup>38</sup> staff offices and an exercise yard, with exercise equipment but no shade. **The CPT recommends that a shelter be installed in the exercise yard and that the library books be expanded to provide a range of books in commonly spoken languages by foreign national prisoners (Russian, Arabic and others).**

48. There were also new child-friendly visiting rooms away from the main prison facility, located near Marsa for family visits, which was a positive development. There was a Mother and Baby room, appropriately decorated with colourful paintings and curtains, books and toys and located away from the main accommodation cells. At the time of the visit, this was unoccupied. **The CPT would appreciate information on whether diapers and infant material is given free of charge when infants are held with their mothers in this unit.**

49. The women met by the delegation stated that the staff generally treated them correctly and no allegations were received of physical ill-treatment by staff. Some low-level inter-prisoner violence existed, but this appeared to be correctly managed by the staff, including the use of de-escalation techniques.

While the Head of the Female Block (who was a man) was praised by many of the female prisoners, the delegation did receive some allegations of offensive or inappropriate comments made by the female custodial staff towards certain female prisoners (see also section 2 *Ill-treatment* and section 8(a) *Staff*). **The CPT recommends that the management of CCF deliver to custodial staff the clear message that verbal abuse of prisoners as well as other forms of disrespectful behaviour towards prisoners, is not acceptable and will be dealt with accordingly.**

50. Female Divisions A and B had a capacity of 72 beds in 36 double occupancy cells and 22 in a single dormitory. The doubled-up cells measured approximately 6 m<sup>2</sup> and were originally designed for single occupancy, which meant that when full, the living space for most of the women prisoners was a mere 3 m<sup>2</sup>, including the space for the wash basin and unscreened toilet facility. There were six showers spread over two floors, and it was positive that the women could have access to them at any time; nevertheless, the showers afforded no privacy given the lack of screens. The CPT recalls that the question of minimum living space is intrinsically linked to the commitment of every Council of Europe member state to respect the dignity of persons sent to prison. **In light of this, it recommends that, at the very minimum, cells measuring 6 m<sup>2</sup> are only used to accommodate one prisoner and that the living space in multiple-occupancy cells is at least 4 m<sup>2</sup> per prisoner, not including the fully-partitioned sanitary facility.<sup>39</sup> Equally, it recommends that the in-cell toilets be fully partitioned and that the showers should ensure sufficient privacy.**

51. The cells had sufficient access to natural and artificial lighting, had a bunkbed, shelves, cupboard and lockers, a small table, a call bell, fans and a television. The women were also able to lock their own cells when they were out at work or in the yard. While tap water was in theory drinkable, bottled water was provided free of charge to those prisoners who worked.

Nonetheless, the women stated that ventilation was problematic in Division A and the cells were reportedly unbearably hot in the summer months. All prisoners had the possibility to buy an air conditioner for some €100, however, this was too expensive for many prisoners. Many found that the fans provided were not sufficient and the windows, which could open a little, let too little cool air

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37. For pottery work and arts and crafts courses, among other work and activities.

38. Including volleyball and yoga classes.

39. See [CPT/Inf \(2015\) 44](#), *Living space per prisoner in prison establishments*: CPT standards.

into the cell. One woman alleged that she had been kept in a cell on Division A with no air conditioning with a newborn infant in unbearably hot conditions over the summer, rather than in the Mother and Baby Unit or the (smaller) unit for vulnerable prisoners on Division B (with air conditioning). **The CPT recommends that the Maltese authorities renovate the cells in the female Division A to ensure that there is sufficient in-cell ventilation. The CPT also requests information from the Maltese authorities concerning the additional support prisoners receive when they have their babies or infants with them, and the protocol for the use of the mother and baby unit for such situations.**

52. Upon admission to the prison, the women were provided with basic hygiene items such as shampoo, soap and toilet paper. However, several women complained that certain hygiene products, including sanitary towels, had to be purchased thereafter and that they could not afford them.

It is essential for the authorities to maintain humane living conditions for prisoners by applying a minimum decency threshold, which includes decent living conditions and the means to keep clean, including personal hygiene products.<sup>40</sup> **The CPT therefore recommends that immediate steps be taken to ensure that all prisoners have adequate quantities of essential personal hygiene products free of charge, including sanitary towels.**

53. Concerning the regime, it was positive that there was a generous daily out-of-cell time in the Women's Divisions, equivalent to that of the male Divisions and that a range of activities, sports and paid work placements were available to them within the female Block (see above), as well as access to the central gym. Regarding work opportunities in the prison, most of the female prisoners worked as cleaners, in exchange for a small payment.<sup>41</sup>

However, women prisoners, unlike the men, did not have the opportunity to do any work outside of the prison. As part of the sentence progression and before release, male prisoners could regularly exit and do specialist work, or education or work placements in the community, while women prisoners could not;<sup>42</sup> the women considered this unequal treatment. **The CPT recommends that the Maltese authorities provide equal treatment for access to work outside the prison and that equal sentence progression be afforded to all prisoners and ensure that a wide range of work or activities are available to all prisoners.**

54. At the time of the visit, the healthcare examination upon admission for women was the same as that carried out for men (see *Healthcare* section), and there was no gender-specific screening in place for women.<sup>43</sup>

The CPT considers that an initial gender-specific screening on admission for women should be in place in all prisons accommodating women prisoners. Such screening requires looking at the particular needs of women at the time of admission and should include not only identification of the responsibilities of newly admitted women towards their families/ children and detection of specific needs, but also a screening for history of any sexual abuse and other gender-based violence.

This information should be duly considered when drawing up an individual sentence plan for the woman to ensure appropriate care and avoid re-traumatisation.<sup>44</sup> While it may not be appropriate for an in-depth gender-specific screening to be carried out immediately upon admission to prison out of a concern for avoiding re-traumatisation, it should be factored into the admission "process" and take place within the first few weeks following admission, in the context of the care-planning process. The lack of such an approach means that management is unable to take appropriate steps to ensure that victims of sexual or other abuse are not re-traumatised over the course of their imprisonment.

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40. See 30th General Report, [CPT/Inf \(2021\) 5, paragraph 68](#); the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the [Bangkok Rules](#)), [Rule 5](#).

41. €10 per week, €40 per month, pro-rata-ed on arrival.

42. Other than the occasional renovation of the MSHR building.

43. See rule 10(f) of the [Bangkok Rules](#).

44. See rule 6 of the [Bangkok Rules](#).

In light of the above, the CPT recommends that the Maltese authorities develop prison admission procedures to take account of the gender-specific needs of women prisoners. This should include screening for sexual abuse or other forms of gender-based violence inflicted prior to entry to prison, and ensuring that such information is considered in the drawing up of a care plan for the woman in question. This should be conducted in a way that is sensitive and trauma-informed, that is, not necessarily using a questionnaire during the initial interview, but should nevertheless make it possible to identify needs shortly after admission. Further, steps should be taken to ensure that the admission procedure is always comprehensively carried out.

55. Turning to prison staffing, the female Divisions were managed and supervised by a Head staff member, who was a man, and all of the custodial staff were women. It was not clear that any of the staff had received gender-specific training. In light of the above, **the CPT recommends that the Maltese authorities ensure that the management and all the custodial staff working directly with women prisoners receive gender-specific training, including gender-specific needs and key issues relating to women's health as well as the precepts embodied in the Bangkok Rules.**<sup>45</sup> Further, the CPT supports mixed-sex staffing as, generally, the presence of male and female staff can have a beneficial effect in terms of both the custodial ethos and in fostering a degree of normality in a place of detention. It invites the Maltese authorities to apply this to the prison's female Divisions.

## 5. Transgender persons

56. At the time of the visit, there were three transgender women prisoners in CCF, being accommodated in women's Divisions A and B.

57. All three of them had been allocated to a women's unit from the beginning of their detention, based on their gender identity (as opposed to their biological sex).<sup>46</sup> This was a positive development since the CPT's previous visit, at which time the three transwomen prisoners with whom the delegation had then met were being held on male accommodation divisions.<sup>47</sup> This reflects a positive approach that is based on the respect of gender identity and is consistent with the CPT's view that transgender persons should be accommodated in the prison establishment or prison section corresponding to their gender identity or, if exceptionally necessary for security or other reasons, in a separate section which will best ensure their safety.<sup>48</sup> The CPT stresses the dual objective, to make a placement decision that will most effectively protect the person being committed from others who may wish to cause them harm, and to limit the risk that they may be placed in a location in which they may cause harm to others.

58. The transgender women did not express any complaint regarding staff or inter-prisoner violence or intimidation towards themselves. They could shower at different times from other women prisoners and did not feel that their privacy was threatened. They were well settled and accepted by women prisoners and staff alike into the regular life of the women's Block.

59. Nevertheless, as was the case with cis-gender prisoners, all three had been strip searched fully naked on admission, albeit by female staff members (in line with their gender identification).

60. All three transwomen had additional needs. One was deaf and non-verbal, one was undergoing cancer treatment and one was elderly. All of them were being well cared in terms of their healthcare needs, as well as having regular meetings with the care and reintegration unit. An external sign language interpreter was contracted with the prison to support one of the transwomen when needed.

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45. See in particular rules 29 to 35 of the [Bangkok Rules](#).

46. Some of them had also received legal recognition of their gender identity.

47. See the CPT's 2015 Malta Visit Report, [CPT/Inf \(2016\) 25](#), paragraph 50.

48. See the CPT's 33rd General Report, 2023.

61. Regarding access to specialised healthcare, women were able to continue or start any hormonal treatment while in prison. All of the transwomen had met with the prison psychologist.
62. The Committee welcomes the significant improvement in the care and treatment of transwomen in CCF and flags this as an example of good practice.

## 6. Centre of Residential Restorative Services (CORRs) - Juveniles

63. The CORRs Unit for juveniles was the former Young Offenders Unit for Rehabilitation Services (YOURs), which had been visited by the CPT in 2015. The layout and location, in a remote rural setting near Mthaleb, had not changed since 2015.<sup>49</sup> The Unit holds 14-21 year olds who have been sentenced to a term of imprisonment or are on remand. The official capacity is 44 and at the time of the visit, the Unit was holding 26 juveniles and young adults (23 boys and three girls) from 15-21 years of age, of whom half had been sentenced and half were awaiting trial (see paragraph 16). Many of these juveniles and young adults were foreign nationals.
64. The relations between staff and the juveniles were generally good and no allegations of deliberate ill-treatment by staff were received. There was some inter-juvenile violence. A recent case, a couple of days before the CPT's visit, had involved a fight, and resulted in the young offenders (18 and 19 years old) being subject to a three-day immediate lock-up for 23 hours per day with one hour allowed out for calls, showers and visits. One of the young adults was locked in his cell alone and the other transferred to Division 6 at the main adult prison, with the disciplinary board to review the case at its next sitting in three months, and to formally decide on the disciplinary sanction (with the time served (in this case, three days) to be taken into account). The CPT is of the view that this is an inappropriate way to dealing with inter-prisoner violence in a juvenile and young person setting and **recommends that the Maltese authorities ensure that the policy and prevention approach to inter-juvenile violence at CORRs is reviewed and revised** (see also analysis and details on this in section 8, *Discipline* section, paragraph 111).
65. CORRs had been renovated since the previous CPT visit. The dormitories had been converted into activity rooms and the juveniles were all accommodated in double occupancy cells. CORRs consisted of two wings (male and female), a classroom, a kitchen, a common room with games and a billiards table, a gym, a crafts workshop, care and support services' rooms and a therapy garden (where the juveniles and young adults could look after birds, help grow vegetables and work with the two therapy dogs).
66. There was also a small library, but it lacked books in the commonly spoken languages of the foreign national juveniles and, crucially, there was a lack of dictionaries to aid communication between foreign nationals and staff members. Foreign national juveniles and young adults interviewed underlined that they had significant communication problems with staff and that professional interpretation services were rarely used. Further, it was clear that, as was the case with the adult prisoners, the juvenile and young offenders were not systematically provided with written information on the rules, their rights and obligations in a language that they could understand, which made settling into the unit harder than it could, or should, be. Further, the lack of easy communication also impacted the quality of the care plans of certain of the juveniles, notably the Vietnamese girls, at the time of the CPT's visit (see also paragraph 70).

**The CPT recommends that the CORRs be provided with some electronic tablets, which include language and translation applications, as well as dictionaries, in the commonly spoken languages encountered, which would help staff and the juveniles and young offenders better communicate on a regular basis. Further, all the juveniles and young offenders should be provided with written information about the Unit, the rules, their rights and obligations upon arrival, in a language that they can understand, as well as a brief video introduction, to be made available in the range of commonly spoken languages and including, where necessary, the use of alternative modes of communication in an accessible format.**

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49. See the CPT's 2015 Malta Visit Report, [CPT/Inf \(2016\) 25](#), paragraph 98.

67. The conditions of detention were generally acceptable. On the boys' wing, there were 16 double cells and on the girls' wing five double-occupancy cells, measuring some 12 m<sup>2</sup> each, which all provided sufficient space, ventilation, natural light and artificial lighting for the one to two occupants. Each person had their own locker, and there was a wardrobe, table and stools, television and an electric fan in each cell. Call bells were now installed in each cell, which was a welcome development. The separate sanitary facilities were generally in an acceptable state of repair, with the notable exception of the girls' wing, where the showers were mouldy and humid and poorly maintained; **the CPT recommends that the showers in the girls' unit be refurbished and deep-cleaned on a more regular basis.**

68. The regime was relaxed and the juveniles spent most of the days unlocked from their cells. Structured team sports were organised on a weekly basis, as were arts and music sessions and gym sessions. Maltese and English classes were on offer, however some of the juveniles complained that the education was set at a too low level for them to continue their A-levels/ Baccalaureate studies properly. Some of the juveniles could work in the garden and some helped in the kitchen. They were paid at the same rate as the adult prisoners for work, including €20 per week for keeping their cells tidy. Nonetheless, young offenders complained to the delegation that they were often bored and there were too few regular activities or work placements to keep them occupied during the day. During the CPT's previous visit the CPT criticised the YOURs unit as performing a purely "warehousing" function with few purposeful activities, and had recommended that the authorities design a full daily regime with meaningful activities (education, vocation, work, sport recreation) aiming to assist and support the prisoners in preparing for their release. The ethos of the facility should not be the same as that of the CCF but instead oriented towards young people. In 2023, the delegation noted that the CORRs unit had clearly improved and was more tailored towards its young population. This positive approach needed to be built upon and the provision of activities expanded.

**The CPT recommends that the regime be expanded to ensure that the young adult and juvenile population is engaged as much as possible in daily purposeful activities (work, vocation, sports, recreation) and education (at a level that corresponds to their educational needs), as well as being provided with appropriate language courses.**

69. As regards healthcare, the CORRs Unit was attended by a nurse every day. A doctor was on call and could attend whenever was required, and attended each week for certain of the young offenders. There was close cooperation between the healthcare clinic in the main prison and medical staff on site at CORRs. The delegation noted that the medicines were properly locked in a medicine cabinet in the healthcare room, with the key held by the nurse on duty. Detailed lists were kept of medication expenditure, however, medical records were mostly kept in the main CCF adult prison (see *Healthcare* section 7). Nevertheless, it was not clear that there was specific screening for sexual and gender based violence (SGBV) at admission to CORRs, and **the CPT recommends, if this is indeed the case, that such a SGBV screening be put in place at admission.**

70. A psycho-social team ran individual and group sessions and each of the sentenced male young offenders and juveniles had an individualised care plan, that had been well maintained and regularly updated. However, due to the hindrances in communication, the girls' care plans were basic and superficial. From an examination of the boys' care plans, it was clear that there was regular contact with the families, psychological interventions, weekly therapies and support sessions, the involvement of external youth social workers and educational programmes, as well as cooperation with the therapeutic centre Tal-Ibwar.

The care plans appeared to be good practice and an example of cooperation within the medical and psycho-social teams at the CSA and externally. In terms of self-harm and suicide prevention, from the registers and files examined by the delegation, it was clear that those young offenders deemed at risk were regularly visited by a doctor and psycho-social team, and managed adequately within the CCF's overall suicide and self-harm prevention strategy (see *Self-harm prevention* section 7(g)). **The CPT recommends that care plans for all the juvenile population be equally robust and any limitation of language be addressed as a matter of priority.**

## 7. Healthcare services

### a. preliminary remarks

71. The prison offered general healthcare to all persons detained within CCF and, overall, the healthcare was well organised, the facilities were new <sup>50</sup> and well-equipped to a high standard, healthcare staffing had increased, and generally there had been significant improvements made since the CPT's previous visit.

### b. healthcare staffing

72. Healthcare staffing had improved since the CPT's previous visit. At the time of this visit, there were three full-time doctors (general practitioners (GPs))<sup>51</sup>, who each worked 56 hours per week. The GPs worked 24-hour shifts (08:00-20:00 and then were on call at night).<sup>52</sup> There was 24-hour nursing coverage at CCF; every day (including weekends) there were between 10 and 12 nurses working in the morning, the same in the afternoon, and at night, there were two nurses at CCF.<sup>53</sup>

73. As for specialist care, there was a pharmacist who visited the CCF for 16 hours a week, there were two dentists and two dental assistants who worked four sessions a week, and one dental hygienist who attended the prison once a week.

74. In respect of psychiatric care, there were three psychiatric clinics every week, with three visiting psychiatrists conducting one clinic each<sup>54</sup>. Specialist healthcare staff (such as from the Infectious Diseases and Genito-Urinary (GU) Medicine teams) usually visited once a month, or more often if needed.

75. In respect of healthcare staffing vacancies, roles had been advertised for one doctor, two senior staff nurses, one senior nursing manager, one psychiatrist, one psychiatric charge nurse, six staff nurses (day), two staff nurses (night) and four psychiatric nurses. **The CPT would appreciate an update on the status of these vacancies and recommends that they be filled as soon as possible** (see also *mental healthcare* in section 7(f)).

76. All of the doctors (referred to as "medical officers" on the staffing list) and some of the nurses<sup>55</sup> were employed by the Correctional Services Agency (CSA). As such, prison healthcare staff were subordinated to the MHSR, either directly or via the prison management. The provision of healthcare in prisons and the supervision of the quality thereof fell under the exclusive responsibility of the aforementioned ministry.

The CPT notes in this regard that the policy trend in Europe has favoured prison healthcare services being placed, either to a great extent, or entirely, under the responsibility of the Ministry of Health. In principle, the CPT supports this trend. In particular, the CPT is convinced that a greater participation of health ministries in this area (including as regards recruitment of healthcare staff, their in-service training, evaluation of clinical practice, certification and inspection) will facilitate the provision of good quality healthcare for prisoners, as well as implementation of the general principle of the equivalence of healthcare in prison with that in the wider community. **The Committee would appreciate comments from the Maltese authorities on the above principles as regards the system in Malta.**

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50. The new healthcare clinic was opened in March 2021.

51. One of whom had surgical training.

52. They work shifts of two, 24 hours per week and a Sunday every three weeks. There is a GP onsite on Saturday mornings and a GP (off site) is on call for the rest of the weekend.

53. All the nursing staff had Immediate Life Support training, which is renewed every three years. Doctors have the Advanced Life Support certificates. The doctors and nurses also had opportunities to participate in courses for the purpose of their Continuing Professional Development. Prison officers and administrative staff undertake the Basic Life Support training. The delegation was informed that new prison officer recruits attended an induction which included training on self-harm, de-escalation, nutrition and infectious diseases.

54. Monday, Wednesday and Fridays mornings; the full time equivalent of two days of a psychiatrist.

55. The other nurses were employed by a staffing agency.

c. medical screening and access to healthcare

77. There was prompt and systematic medical screening for all newly arrived prisoners, who were seen by a doctor within 24 hours. There was a good medical admission system, which included a body map to record any injuries or lesions. Screening for, and the management of, communicable diseases was also well organised. Every prisoner was offered a urine (drug) screening, a blood test for Hepatitis B and C, HIV and syphilis, as well as baseline blood tests. The forms were generally well annotated. If necessary, prison doctors may refer a prisoner directly to the Forensic Unit at Mount Carmel Hospital.

78. Nevertheless, there was no gender-specific screening (including regarding gender-based violence or trafficking) undertaken as part of the initial medical screening process (see recommendation contained in the *Women* section).

79. Access to the doctor in practice was generally reasonable. There were 11 GP clinic sessions every week,<sup>56</sup> Monday to Friday inclusive, and Saturday mornings. GPs usually saw 30 to 40 patients in the course of a 12-hour day shift. Access to GP appointments in the prison healthcare clinic was good and most patients could be seen by a doctor on the same day that they requested an appointment. A prison officer collected the prisoners' requests for appointments and passed them on to the healthcare clinic. A nurse spoke to each prisoner on the daily list and did a basic triage.<sup>57</sup>

Nevertheless, some prisoners complained to the delegation that those who requested to see a doctor in the morning were locked up in their cells from 12:00 until 17:00 after returning from the clinic. One officer who was asked about this stated that this was to stop prisoners from requesting doctors' appointments for "small (trivial) things". **The CPT recommends that the prison management should instruct custodial staff that a prisoner request for medical appointments should not have negative consequences for them or result in time locked in-cell, which clearly served as an informal punishment.**

**Moreover, it recommends that access to appointments should be only through healthcare staff and not prison officers, and that the method of contacting healthcare directly should be improved, for example by completing a form and giving this to the nursing staff on the block or posting into a box, which is then triaged by nurses.**

80. In case of emergencies, there was a constant presence of a designated team made up of the doctor, charge nurses and two other nurses who would respond to urgent cases. There was a dedicated emergency room in the healthcare clinic, which was well equipped, including with an automatic external defibrillator (AED), emergency drugs, airways and oxygen.

81. As regards medical record keeping, medical records were in a paper file and kept in a dedicated room in the healthcare clinic, however, work was underway to digitalise medical records in the near future, including with information to be placed on the new OMS system (operational in 2024).

82. As regards bloodborne viruses, in addition to screening of all newly arrived prisoners (see above), registers are kept of people in prison with Hepatitis B and C and HIV. Anti-viral treatment for Hepatitis C has been offered since July 2020.<sup>58</sup> As concerns HIV, at the time of the delegation's visit, there were 10 cases in the prison, all of whom were compliant with anti-retroviral treatment. All of these were detected on routine viral screening. Treatment is overseen by the Infectious Diseases team.

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56. A session being half a day.

57. Nurses can give Paracetamol and emollient creams.

58. 100 people had completed treatment in prison since July 2020. Treatment failures or re-infections are closely monitored; there have been four in that time period, related to re-infection with a different genotype when patients were not in prison.

83. At the time of the visit, there were no cases of tuberculosis (TB). Newly arrived prisoners who came from high-risk countries (as defined by the World Health Organization) had a chest X-ray. Prisoners with possible symptoms of TB were screened by means of sputum samples/ blood tests/ chest X-ray. In February 2021, CCF had a TB outbreak of 18 cases (17 prisoners and one prison officer).<sup>59</sup> This outbreak was managed with guidance from public health authorities in Malta.

d. recording of injuries

84. The delegation noted that there was currently no centrally-unified trauma register; instead, there was a self-harm register and an electronic register containing photographs of injuries on prisoners' files. The latter contained between one and six cases each month for the previous 12 months, the vast majority of injuries were reported to have been sustained in inter-prisoner fights/ altercations. Positively, a system of reporting to the police existed and was used; however, in practice only a minority of these cases (those persons who told the doctor that they wished to file a police report) also had a police report written by the doctor.

85. Any injuries noted during the admission consultation with the prison doctor were recorded on the medical admission proforma, photographs were taken and the doctor offered to file a police report should the person wish. The photographs were kept electronically.<sup>60</sup> For any injuries sustained during a prisoner's stay in the prison, the same documentation procedure was followed. The CPT noted that while the recording of injuries in the medical notes was well done and detailed, the prisoner's narrative regarding how the injuries was sustained was sometimes missing. If it was recorded, it often had minimal detail that did not facilitate the corroboration of clinical findings with the narratives regarding the cause of the injury.

86. The CPT recalls that prison healthcare services can significantly contribute to the prevention of ill-treatment of detained persons through the systematic and proper recording of injuries and, when appropriate, the provision of information to the relevant authorities.

**The CPT recommends that the Maltese authorities take the necessary steps to ensure that the record drawn up after the medical examination of prisoners – whether newly arrived or following a violent incident in the prison – contains:**

- i) an account of statements made by the persons which are relevant to the medical examination (including their description of their state of health and any allegations of ill-treatment);**
- ii) a full account of objective medical findings based on a thorough examination, and**
- iii) the healthcare professional's observations in light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.**

**The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations, and a description of treatment given for injuries and any further procedures performed. Recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking traumatic injuries that will be kept in the medical file of the prisoner.**

**The healthcare service and management should ensure that allegations or suspicions of ill-treatment are systematically forwarded on to the competent external investigatory authorities.**

**In addition, a central dedicated trauma register should be kept, in which all types of injury observed should be recorded.**

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59. The index case had a cough but his chest X-ray was normal; he was admitted to the Infectious diseases unit at the hospital, where he remained for four months.

60. Since September 2022, prior to which injuries were documented in individuals' paper medical files.

e. medical confidentiality

87. In 2015, medical confidentiality was of concern to the Committee and the delegation noted clear improvements during this visit, where it appeared to be generally respected; prison officers were not present during medical consultations, and the door to the clinic room was kept shut.

88. Nevertheless, the delegation did note that a prison officer was present during the lunchtime handover meetings held by doctors and nurses. The prison's explanation for this was that the prison officer coordinates movements from and back to the blocks and to other appointments, and clinical information was kept at a minimum. The Committee considers that this could be considered to breach medical confidentiality and **recommends that the confidentiality of medical data within the prison be guaranteed and that prison custodial staff do not attend healthcare information handover meetings. Healthcare staff may inform prison officers on a need-to-know basis about the state of health of a detained person; however, the information provided should be limited to that necessary to prevent a serious risk for the detained person or other persons.**

89. The Maltese authorities, in their response dated 26 December 2023 to the delegation's preliminary observations, underlined that action was underway to address the CPT's specific concerns raised regarding medical confidentiality, and informed the CPT that the new OMS (see above) would address these concerns. **The CPT would like confirmation from the Maltese authorities when the Offender Management System has become operational.**

f. Medication distribution, drug use treatment and mental healthcare services

90. Turning to mental healthcare staffing, at the time of the visit, there were three visiting psychiatrists at CCF. Nevertheless, there remains a significant gap in psychiatric service provision and there were many unfilled positions and vacancies for six psychiatric nurses, one psychiatric charge nurse and one consultant psychiatrist. **The CPT would appreciate being sent an update on the status of these positions and vacancies, and recommends that the prison management makes further efforts to fill its complement of psychiatrists and psychiatric nurses as a matter of priority.**

91. Those prisoners with psychiatric needs were transferred to Mount Carmel Forensic Unit; there were a few patients there at the time of the delegation's visit.

92. Prisoners had equivalent access as people living in the community in accessing medication, and the doctors completed a Schedule 5 form which enabled free access to many medications. Prisoners could purchase some creams and vitamins if they chose to.

93. On medication storage, the healthcare clinic had a sophisticated electronic access system to medication supplies that enabled precise monitoring of supplies in and out, and there was a controlled drug register. All prescribed medications were 'not in possession.'<sup>61</sup>

Nursing staff dispensed medications to prisoners on the blocks twice a day. In Division 6, nurses took medications to prisoners' cells. Prior to being taken to the blocks, medications are dispensed by nursing staff into pots which are labelled with patients' details using permanent ink, both on the side of the pot and the lid. The Committee notes that this was an improvement from the findings of the last visit, where labels were only put on the lids.

94. Medications at high risk of being diverted and/or traded within the prison (such as Diazepam and Quetiapine) were dissolved in water in pots labelled with the patient's name prior to being taken to the blocks to be dispensed. A maximum of two medications are dissolved in the same water. This method of medication administration was criticised in the previous CPT report<sup>62</sup> due to this not taking account of the pharmacokinetics of individual medications and possible interactions. Nursing staff

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61. Prisoners could only have vitamins and creams in their possession.

62. See [CPT/Inf \(2016\) 25](#) Report to the Government of Malta on the visit to Malta carried out by the CPT, from 3 to 10 September 2015.

reported that patients often questioned what was in the liquid and for this reason the nurse who prepares the medications is also the one to dispense them. Some prisoners stated that they did not trust what had been dissolved. The healthcare team explained that this practice had been continued due to the results of a pilot project conducted in 2022, which was trialled giving high risk medications in tablet form rather than dissolving them in water. Due to a series of adverse incidents during the pilot, in particular prisoners trading Quetiapine tablets in exchange for tobacco and a life-threatening intentional benzodiazepine overdose in Oct 2022,<sup>63</sup> the decision was made jointly by the medical team, Head of Security and Prison Director to return to dissolving high risk medications in water prior to administration.

The Committee acknowledges that a careful balance should be sought between the risks of abusing or trading medication in tablet form and the logical solution of dissolving these in water, weighed against the risk of not taking due account of the pharmacokinetics of individual medications and possible interactions. Nevertheless, it still considers that this method goes against modern medical practice. **As such, the CPT reiterates its recommendation that the Maltese authorities review the current practices of administration of psychotropic medication, and in particular it should immediately stop the dissolving and mixing of medications in the same water and use safer alternatives to administer medications.**

95. Concerning treatment for drug use, for newly arrived prisoners who were opioid users, if they were already on a prescription for opioid substitution therapy, this was continued by prison doctors once checks had been made with the prescribing community team.<sup>64</sup> If a prisoner needed to start Methadone, they were referred to Mount Carmel Hospital for initiation and stabilisation. At the time of the visit, 63 prisoners were prescribed methadone. The delegation considered that storage of methadone was undertaken safely, and dosing was appropriate and done in collaboration with the specialist team.

96. Newly arrived prisoners with a significant alcohol history who were at risk of or demonstrating signs of alcohol withdrawal were treated with Lorazepam and Thiamine. Newly arrived prisoners who were on a prescription of anti-psychotic medications were referred to the psychiatrist.

97. Turning to food and fluid refusal, the CPT noted that there was a hunger strike protocol in place with plans for low (medical) risk and high-risk prisoners. For low-risk patients, monitoring started on day three of food refusal, and for high-risk ones on the first day.

g. prevention of suicide and self-harm

98. The management and prevention of self-harm has improved since the CPT's previous visit. There was a formal strategy concerning the prevention of self-harm and suicide. The risk of self-harm was screened for in the medical admission process, with patient's mental state and risk factors documented by the doctor. If a prisoner presented a risk of self-harm, they could be placed in a safe cell with rip-proof clothing until their psychiatric review took place. In the early phase of imprisonment, risk of self-harm was also documented as part of the Core Needs Assessment/care planning process.

99. A central self-harm register had been established, which included verbal threats to self-harm and actual incidences of self-harm, as well as documentation of when rip proof clothes were provided to prisoners who are at risk of harming themselves. At the time of the visit, the self-harm register had 60 entries in the previous 12 months, of which 19 were cases of actual self-harm and the rest were threats.

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63. Only possible, if prison-prescribed medication was used, with stockpiling of tablets.

64. Prisoners who had been prescribed Buprenorphine in the community were switched over to Methadone in the prison due to the risk of diversion/trading of Buprenorphine within prison settings.

100. Staff were also trained in de-escalation techniques in cases of self-harm or risk of self-harm and those prisoners were taken to the healthcare clinic to see a doctor. Nevertheless, prisoners who self-harmed were relocated temporarily to Division 6, due to the cells having CCTV for constant observation, which is not appropriate given that this Division was used also as a *de facto* discipline unit, as well as for initial assessment and observation (see section 3(d)). If required, prison doctors could refer prisoners who self-harmed to the Forensic Unit at Mount Carmel Hospital for psychiatric care. The delegation was not clear that those who did not meet the threshold for transfer to Mount Carmel Hospital were adequately followed and would appreciate more information on the support provided.

**The CPT recommends that those prisoners on observation for the risk of self-harm or suicide should not be held on Division 6, which also holds *de facto* disciplined persons, as well as newly arrived prisoners. Instead, these vulnerable prisoners should be accommodated in more suitable accommodation within the prison (preferably in the healthcare unit) for as long as required.**

## **8. Other issues**

### **a. prison staff**

101. At the time of the visit, there were 416 custodial prison staff (prison wardens), of whom 342 were male and 74 female (18%). According to information received from the Maltese authorities,<sup>65</sup> the CSA has requested an increase of 100 correctional officers for 2024.

102. In practice, interviews with staff showed that staff deployment practices meant that long over-time hours for front-line staff happened on a regular basis and this presented a risk of burnout. This was particularly notable in the female and CORRs units. For example, at the CORRs Unit, there were six custodial staff members (for a capacity of 44 and occupancy of 26), however, the delegation was informed that, in reality, more staff were required given the deployment needs.<sup>66</sup>

103. The Committee wishes to stress that ensuring a positive climate in prison requires a professional team of staff, who must be present in adequate numbers at any given time in the detention areas and in facilities used by prisoners for activities. Low custodial staff in detention areas increases the risk of violence and intimidation between prisoners, and of tension between staff and prisoners, and precludes the emergence of dynamic security.

**104. The CPT recommends that the Maltese authorities review custodial staff deployment practices at the CCF (especially in the female and juvenile units), with a view to increasing the number of custodial staff present in the detention areas at any one time, and to ensure equitable working hours. Equally, the CPT would like to be informed of the number of prison officer vacancies that have been filled as of 1 September 2024.**

### **b. discipline**

105. While disciplinary policy and offences<sup>67</sup> had not changed substantively since the CPT's previous visit, some improvements had been made to the prison's disciplinary procedures. Nonetheless, there remained various areas still in need of reform.

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65. Included in the Response sent by the Maltese authorities, dated 26 December 2023, made to the delegation's preliminary observations.

66. At any one shift, two staff were needed for escorting out of the Unit (which happened every day), one for supervising the kitchen work, two for supervising separate groups of activities, one for maintenance supervision, one in the control/ guard room, one for patrol and one for supervising skype calls; at the time of the visit, this workload was juggled between six staff on shift.

67. According to the law, a prisoner found guilty of a disciplinary offence may undergo the following punishments: caution; forfeiture or postponement for any period of any of the privileges; exclusion from associated work for a period not exceeding fifty-six days; cellular confinement not exceeding thirty days; or forfeiture of not more than one hundred and twenty days of remission. See the CPT's 2015 Malta Report, paragraphs 81-90.

106. From an examination of the disciplinary records and interviews with prisoners and disciplinary staff, it was clear that resort to discipline at CCF was frequent,<sup>68</sup> with a range of sanctions including up to 28 days in cellular confinement. Registers and files were well maintained and sanctions appeared generally equitable, with the use of many suspended sanctions and “reprimand and admonishment” sanctions. Nevertheless, cellular confinement and loss of remission (see below) were still imposed as sanctions fairly frequently. No appeal was possible against the disciplinary punishments except for the loss of remission. **The CPT reiterates its recommendation<sup>69</sup> that the Maltese authorities amend the relevant legislation and regulations to ensure that the right to appeal a disciplinary sanction is afforded to prisoners.**

107. Some improvements had been made to the speed of disciplinary procedures, but there still remained a significant backlog of 286 pending cases since 1 January 2023.<sup>70</sup> While some disciplinary procedures had been rendered more quickly, in other cases there were still long delays between the commission of the alleged offence, the immediate punishment and then – only many months later – the official Prison Board formal adjudication process and sanction. This system of delayed justice was criticised in 2015, and more vigorous action is required to change the current approach.

108. Indeed, it appeared from the records that certain cases of disciplinary offences might have to wait for up to a year before adjudication.

By way of illustration, Mr A committed his first in March 2022 and subsequently a variety of further disciplinary offences throughout the year. He only had these cases adjudicated upon in March 2023, a year after the initial offence, and was given a total of 28 days loss of remission, 28 days in Division 6 and six-months’ loss of contact (closed) visits.

In another case, Mr B committed an alleged disciplinary offence in July 2022, but only had his case formally assessed through the disciplinary process in March 2023, resulting in a sanction of three days’ cellular confinement in Division 6.

Mr C committed his first alleged disciplinary offence in January 2020, and the formal disciplinary process and sanction decision was made only in April 2021. His second alleged disciplinary offence was committed in July 2022 with the formal disciplinary decision only passed down in March 2023, and his next alleged offence was committed in April 2023, with the decision given by the Disciplinary Board in September 2023.

109. In many cases (including for juveniles (see *Juveniles* section)), there was an immediate security measure of one to three days’ confinement to cell (23 hours per day) imposed by the custodial staff after the alleged incident, and thereafter if necessary an additional sanction was imposed following the formal Disciplinary Board meeting and adjudication.

110. The CPT underlines that these illustrative cases raise significant problems with regard to due process and the prompt administration of justice. The CPT believes that prison disciplinary proceedings are summary proceedings. Their function is to respond as quickly as possible to the alleged offence, consistent with the need to give adequate notice of hearings and charges after the alleged offence has been discovered. The sooner the punishment is imposed, the more likely it is to be effective. Waiting for weeks – or sometimes months – to hold a hearing and impose any penalty renders the procedure ineffective.

Most prison disciplinary cases are typically relatively clear-cut and can be investigated quickly. Justice requires that a sanction for a disciplinary offence be adjudicated and executed as soon as possible after the alleged incident, not months later.

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68. In July, August and September 2023 there were at least 112 disciplinary sanctions imposed in CCF.

69. See the CPT’s 2015 Malta Visit Report, paragraph 86.

70. In 2021, it was clear that cases were taking 10 months before formal adjudication and sanction. In 2022, this had improved, however prisoners were still waiting three to five months before formal adjudication and sanction.

Further, there was a clear mixing up of the immediate security measure of cellular segregation and cellular confinement as a disciplinary sanction. Security measures of 1 to 3 days appeared almost systematic practice. Upon analysis of disciplinary sanctions' registers, it was clear that the Disciplinary Board often referred to the first segregation period of 1 to 3 days' security measure as part of the final disciplinary sanction, sometimes only decided months later, and often deducting time served during the initial security segregation period. This further served to conflate these different principles.

**The CPT reiterates its recommendation that the prison management should fundamentally review the operation of the disciplinary procedures to ensure that any offence is investigated, adjudicated and executed promptly and to ensure that the rule of the presumption of innocence is properly adhered to. The CPT wishes to receive confirmation that prison discipline procedures have been amended accordingly.**

111. The Committee notes that the Disciplinary Board retains the power to remove remission (of a maximum one hundred and twenty days) from prisoners due to disciplinary offences. In practice loss of remission appeared to be used relatively rarely, usually involving periods of five to 10 days, mostly suspended for two to three months. Nevertheless, the CPT considers that loss of remission can be considered an additional sentence and thus requires the full range of safeguards associated with a fair trial (namely an independent judge, not the prison director or senior prison staff, should adjudicate such cases). The power of the Disciplinary Board (made up of senior prison staff) to remove remission has been abolished in most countries because such procedures risk non-compliance with all the rules of natural justice. These rules require, *inter alia* that the adjudicating officer be conspicuously independent and come to the case *de novo*. Neither a prison director, nor senior prison staff, can comply with these precepts.

**In this regard, the CPT reiterates its recommendation that the Maltese authorities amend the relevant provisions of the Prison Regulations, as well as any other applicable legislation, to ensure compliance with the case law of the European Court of Human Rights<sup>71</sup> and that an independent judge deals with disciplinary proceedings which may result in loss of remission. Further, all prisoners undergoing disciplinary procedures should be afforded access to a lawyer.**

112. As regards solitary and cellular confinement for discipline purposes,<sup>72</sup> in CCF this was carried out, for male prisoners, on Division 6 and the first floor of Division 13, and cellular confinement could last for up to a period of 28 days. The regime was extremely limited (23 hours per day locked in the cell, with one hour allowed out for showers, calls, visits and exercise). Interviews with persons who had undergone this disciplinary sanction alone in the cells considered their experience as "extremely painful".

113. It is the CPT's position that the maximum period of solitary confinement as a punishment for an adult prisoner should be no more than 14 days for a given offence, and preferably lower,<sup>73</sup> given the potentially very damaging effects of solitary confinement on the mental and/or physical well-being of the prisoners concerned.

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71. *Ezeh and Connors v. the United Kingdom* 2003, paragraphs 128-129, the Court found, in particular, that the potential awards of additional days of imprisonment (42 days for disciplinary offence) could not be regarded as sufficiently unimportant or inconsequential and thus amounted to a "criminal charge" against the applicants within the meaning of Article 6 of the Convention.

72. Section 68 of the Prison Regulations stipulates that 'the Director may order a violent prisoner to be confined temporarily in an appropriate cell [and] if the Director keeps such order in force for more than forty-eight hours, he shall consult the Medical Officer and shall inform the Chairman of the Board'.

73. See the 21st General Report of the CPT, CPT/Inf (2011) 28, paragraph 56 (b) & the CPT's 2015 Malta Visit Report, paragraph 90.

Further, given their particular vulnerability, solitary confinement should never be imposed on juveniles as a disciplinary punishment, as set out in Rule 60.6.a of the revised European Prison Rules.<sup>74</sup>

Equally, the CPT considers that all prisoners, including those in segregation or solitary confinement, should be entitled to at least one hour's outdoor exercise per day, from the very first day of placement in solitary confinement, and be encouraged to take outdoor exercise. They should also be permitted access to a reasonable range of reading material. It is crucially important that they have some stimulation to assist in maintaining their mental wellbeing. Further, the CPT considers that such prisoners should be provided with meaningful human contact for at least two hours every day and preferably more, with staff and/or with one or more other prisoners.

114. In the Maltese authorities' response, dated 26 December 2023, to the delegation's preliminary observations on this topic, the CPT was informed that the 28-day cellular confinement policy would be changed to last no more than 14 days and this, according to the authorities, took effect from 1 November 2023.

115. The CPT welcomes this change to limit cellular confinement to 14 days maximum; nevertheless, **it recommends that the Prison Regulations be amended to specify that this sanction applies for adults only and that all of above-mentioned rights are included. The CPT would also like to receive a copy of the amended internal regulation.**

c. body searches

116. Prisoners informed the delegation that they were systematically strip searched, fully naked (see also section 3(d) *Admissions*) firstly upon arrival, and then again upon their arrival in Division 6.

117. **The CPT recommends that the Maltese authorities ensure that the resort to strip searches is based on an individual risk assessment, subject to rigorous criteria and supervision, and carried out in a manner respectful of human dignity. The CPT takes the view that a high frequency of thorough searches – involving systematic stripping – of a prisoner entails a high risk of degrading treatment. The CPT recommends that the Maltese authorities ensure that the criteria of expediency and proportionality for, as well as the methods used in, strip-searches be reviewed, with the aim of ensuring respect for personal dignity.**

**Further the CPT recommends that every reasonable effort should be made to minimise embarrassment; detained persons who are searched should not be required to remove all their clothes at the same time, that is, a person should be allowed to remove clothing above the waist and get dressed again before removing further clothing.**

**Lastly, the CPT recommends that, in line with international norms,<sup>75</sup> after due risk assessment, the least intrusive approach to body searching should be undertaken, preferably using security technology, such as body scanners, as an alternative, rather than a supplementary, search option.**

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74. Rule 60.6.a of the European Prison Rules reads as follows: "Solitary confinement, that is the confinement of a prisoner for more than 22 hours a day without meaningful human contact, shall never be imposed on children, pregnant women, breastfeeding mothers or parents with infants in prison." See also Rule 45 (2) of the (revised) United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules).

75. See the Rule 20 of the "Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the "Bangkok Rules"), which states that "alternative screening methods, such as scans, shall be developed to replace strip searches and invasive body searches, in order to avoid the harmful psychological and possible physical impact of invasive body searches". See also Rule 52 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the "Mandela Rules"), which encourages prison administrations to develop appropriate alternatives to "intrusive searches".

d. contact with the outside world

118. It was positive that the vast majority of prisoners with whom the delegation spoke did not have complaints about contact with their families and could have regular visits,<sup>76</sup> regularly use the telephone and make Voice-over Internet Protocol (VoIP) calls twice per week for 15 minutes each time. Family visits with children were possible in a less carceral environment outside of the main prison facility. The situation was the same at the CORRs unit. Nevertheless, visits were only allowed for up to 45 minutes. In the CPT's view, all prisoners (whether sentenced or on remand), irrespective of the regime, should benefit from a visiting entitlement of at least one hour every week and **recommends that the visiting maximum timeframe be revised accordingly.**

e. complaints procedures

119. An internal and external complaints system was in place in the main adult prison facility of CCF. It was possible to submit a written complaint on paper to the prison director, to the Ombudsperson or to the Commissioner for Inmates' Welfare,<sup>77</sup> through complaints boxes. The delegation noted that not every prisoner received a reply and only some, not all, of the complaints had been logged or registered. Many prisoners' alleged that as the complaints boxes were in front of prison staff administrative units, they doubted the confidential nature of the complaints process and were reluctant to use it.

120. In the CORRs juvenile and young offenders unit, complaint boxes were not visible, but the practice was that the juveniles and young adults could write any complaint to the Commissioner or externally and put it in an envelope, and the staff would pass it on.

121. **The CPT recommends that all internal complaints be registered centrally immediately that the investigation should be carried out expeditiously, and prisoners should be informed within clearly defined periods of the action taken to address their concern, or of the reasons for considering the complaint unjustified. Boxes should be made available on every unit and not in places near custodial staff administrative units. It should be possible to make complaints confidentially and directly to the complaints bodies, without the need to pass through staff members first. Awareness-raising of the complaints system should also be undertaken for all newly-arrived prisoners at the admissions stage.<sup>78</sup>**

## B. Law enforcement establishments

### 1. Overview and legal framework

122. The delegation visited Floriana Custody Centre (Floriana Lock-Up) at the Police General Headquarters, the Gozo Custody Centre (Gozo Lock-Up), Malta International Airport Custody Centre, the Financial Crimes Investigation Department, the holding cells of the Courts of Justice in Valetta and Hamrun Police Station.

123. The main legal framework governing law enforcement in Malta had not changed significantly since the Committee's visit in 2015. The relevant provisions governing arrest and detention of persons by the Malta Police Force are set out in Malta's Criminal Code, the Police Act and Police Code.

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76. Generally, these were contact visits, allowed for up to 45 minutes, once a week.

77. At the time of the visit in September 2023, the Commissioner informed the CPT that since July 2023, he had received 31 complaints - that had since been registered, in addition, he had 12 new complaints to be registered; as well as others sent to him directly from the Ombudsperson to investigate. Complaints usually refer to lack of work, health care, lack of educational opportunities and length of sentence.

78. See the 27th General Report on the CPT's Activities (2017) (which includes a section on complaints mechanisms).

124. The Maltese Criminal Code establishes the permissible lengths of police detention and the safeguards that should be afforded to detained persons. Pursuant to Article 355AE, an arrested person shall be taken to a designated police station as soon as is practicable, and in no case later than six hours from the time of the arrest. Article 355AJ specifies that a magistrate shall be informed about an arrest carried out by the police within six hours of the moment of the arrest; otherwise, the person concerned shall be released. Persons deprived of their liberty by the police shall be brought before a court within 48 hours of the moment of the arrest, or otherwise released.

125. Custody in local police stations was for the purpose of police interviews only, and for a maximum of six hours, before the suspects were brought to Floriana Lock-up to stay overnight. The delegation found that these legislative timeframes were complied with in practice at all the police establishments visited, with the exception of the Financial Crimes Investigation Unit and Hamrun Police Station, where recording of entry and exits of detained persons to and from Floriana Lock-Up were incomplete or were not fully recorded (see *Custody Records* section 5 and recommendations contained therein).

## **2. Ill-treatment**

126. The CPT delegation received no allegations of ill-treatment from persons deprived of their liberty by the police. Overall, it appeared that persons in police custody were treated correctly. This is positive.

## **3. Safeguards**

127. The CPT attaches particular importance to three fundamental safeguards for persons deprived of their liberty by the police: the right of those concerned to inform a close relative or another person of their choice of their situation; the right of access to a lawyer; and the right of access to a doctor. These three rights should apply from the very outset of deprivation of liberty and all persons deprived of their liberty should be systematically informed of their rights. In addition, it is important that all detained persons are informed of their rights in a language they understand.

Overall, the delegation found that persons held in police custody were afforded these rights, and that there had been positive developments in this area.

128. Nevertheless, the concerns raised by the Committee in 2015 regarding the potential to delay a detained person's right to a lawyer under Maltese law remained unchanged in 2023.<sup>79</sup> Detained persons are entitled "as soon as practicable to consult privately with a lawyer or legal procurator, in person or by telephone, for a period not exceeding one hour" (Article 355AT) and they must be informed by the police of this right as early as is practical before being questioned. The law, however, allows for the right to access a lawyer to be delayed in certain circumstances. These include where the officer believes that the exercise of the right (a) will lead to interference with or harm to evidence connected with the offence or interference with or physical injury to other persons; or (b) will lead to the alerting of other suspects still at liberty; or (c) will hinder the recovery of any property obtained as a result of such an offence. Where delay has been authorised, police officers are allowed immediately to question the detained person. This right can be delayed for up to thirty-six hours from the time of the arrest.<sup>80</sup> In practice, this was rarely exercised.

129. Further, a form for the waiver of the right to see a lawyer exists in Maltese law. The delegation noted that detainees in police custody were given this waiver form to renounce the exercise of the right to see a lawyer upon their arrival at the police station, and this waiver was noted on the custody records. The delegation found that, in practice, this form was signed by almost every detained person in police custody (creating effectively a default waiver system). The CPT remains of the view that this could have a significant dissuasive effect on the detained person from contacting a lawyer. As regards this dissuasive effect and the widespread use of the waiver system, the CPT recalls that in

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79. See the CPT's 2015 Malta Visit Report, paragraphs 18 and 19 and the CPT's 2011 Malta Visit report, paragraphs 74 to 75, CPT/Inf (2013) 12.

80. Section 355AT, Malta's Criminal Code.

its experience it is during the period immediately following the deprivation of liberty - and, a fortiori, during which the individual is subjected to police questioning– that the risk of intimidation and ill-treatment is at its greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment. **The CPT recommends that police officers be firmly reminded that they should not seek to dissuade detained persons from exercising their right of access to a lawyer.**

130. Overall, the CPT remains concerned by the fact that the right of access to a lawyer is still subject to important limitations which are likely to undermine the effectiveness of this right as a safeguard against ill-treatment (as distinct from as a means of ensuring a fair trial). Its concerns remain two-fold: first, it remains the case that some detained persons are not allowed to have access to a lawyer during all stages of police questioning; secondly, access to a lawyer may be delayed for a period of up to 36 hours in certain circumstances (listed above).

131. The CPT recognises that it may exceptionally be necessary to delay for a certain period a detained person's access to a lawyer of their choice. However, it remains of the view that this should not result in the right of access to a lawyer being totally denied during the period in question. In such cases, access to another independent lawyer who can be trusted not to jeopardise the legitimate interests of the investigation should be organised, including arrangements in advance for this type of situation, in consultation with the Bar Association.

132. The CPT has repeatedly called upon the Maltese authorities to amend the right to delay access to a lawyer in the law and to take the necessary measures to ensure that all persons detained by the police can effectively benefit, if they so wish, from access to a lawyer throughout their police custody, including during any police questioning, and to amend the relevant provisions of the Criminal Code accordingly. Given that this is still not the case, **the CPT recommends that a concrete action plan is put in place to outline the steps and timeframe needed to see legal reform in this area.**

133. Turning to the right of access to a doctor and healthcare services in police custody, the delegation noted that at Floriana Lock-up there is now a nurse on site seven days a week;<sup>81</sup> and a nurse sees detained persons who are on medication (who may bring in their prescription or the actual medications) or who are in need of medical attention. If further medical attention is required or the prescription is unclear or medications such as antibiotics are needed, the detained person is taken to the nearby polyclinic which is open 24 hours a day. Medications, which are stocked appropriately, are administered by the nurse and a record of medications given is written in the detained person's record.

134. Unlike the situation in 2015, in 2023 persons held at Floriana Lock-Up who are intoxicated or in opioid or alcohol withdrawal are not held in the police cells to recover but instead are transferred to Mater Dei Hospital under police escort. If a detained person is mentally agitated, they are taken in the first instance to the polyclinic to be seen by a doctor. In contrast, in Gozo Lock-Up, in theory, if a detained person needs medical attention or medications, or is in alcohol or opioid withdrawal, they are taken to the hospital in Victoria, or a doctor visits; however, in practice, the delegation was informed that the hospital generally refused to accept intoxicated people, so they were kept in the police cell with the door open. **The Committee recommends that the Maltese authorities provide specialised training in the care of intoxicated persons (and in the recognition of conditions which could be mistaken for a state of intoxication e.g. internal bleeding or diabetes), to all police officers and to ensure systematic and rapid access to a doctor or nurse whenever intoxicated persons are held at police establishments. Further, the Committee invites the Maltese authorities to consider the option of conferring the care of intoxicated persons to health-care facilities.**

135. Nevertheless, the CPT notes that in June 2021, a person detained in police custody at Floriana Lock-Up died in a police cell after ingesting a package of cocaine which ruptured in his stomach. The arresting officer did not inform the custody officer that this man had ingested something, and there was a police investigation as well as a court case related to this event. The

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81. 07:00-19:00; there are two nurses who work a shift pattern of two days on, two days off.

CPT has in the past recommended to the Maltese authorities<sup>82</sup> that steps should be taken to ensure that persons in police custody are kept safe, which should include a thorough risk assessment of each detained person upon admission to police custody.

**The CPT recommends that the authorities take measures to strengthen the risk assessment of each detained person upon admission to police custody. Lastly, it would like to be informed of the court decision in this case.**

136. As regards other safeguards, the CPT welcomes the new regulations governing the mandatory wearing of body cameras by police officers outside of police premises and at the time of apprehension, the recording and review of footage, and monitoring of adherence to the new regulation. This is a positive development.<sup>83</sup>

137. Information on rights of a person held in police custody was available in written form and in several languages at all police stations and custody suites visited by the delegation. Detained persons were in practice offered a copy.

138. Audio-visual recording of police interviews did appear to be undertaken from what the delegation could ascertain during its visit to the above-mentioned police establishments. To ensure that the approaches followed are in line with the CPT's own standards and the Mendez Principles,<sup>84</sup> **the CPT would appreciate information from the Maltese authorities regarding the relevant updated regulations and safeguards governing electronic recording of police interviews.**

#### **4. Conditions and regime of custody**

139. As concerns the material conditions of detention found by the delegation in all the establishments, these were in a similar state to those found in 2015, with few significant improvements.

140. The 49 single-occupancy cells (not all operational) in Floriana Lock-Up were, in the main, sufficiently spacious (measuring circa 7 m<sup>2</sup>) and possessed a bed, mattress and clean bedding. They also each had a toilet and wash-basin and had sufficient artificial lighting; nevertheless, the sanitary facilities were in a dilapidated state. At the time of the delegation's visit, the cells were also poorly ventilated. In contrast, the eight cells in the Gozo Lock-Up did not possess toilets or wash-basins and were dark with no windows and had only a little access to natural light from the corridor, as well as poor artificial lighting and inadequate ventilation. Further, the cells in the Gozo Lock-Up were cramped, affording only approximately 4.5 m<sup>2</sup> of living space per person. The CPT considers that this is insufficient space for holding persons overnight (see recommendation below).

141. The layout of Gozo Lock-Up remained problematic. It was situated in a garage annex and the eight cells were located a distance away from the custody officer's office, at the top of three flights of stairs. There was no CCTV coverage of the detention area and there were no call bells to enable detainees to attract the custody sergeant's attention; they had to shout to catch the attention of the police officer on duty in the annex, notably to access the toilet located in the corridor. Further, the location of the cells was also inappropriate for holding intoxicated persons to 'sober-up' overnight (see above).

In the Maltese authorities' response to the 2015 visit report, in which the same concerns and recommendations were raised, the CPT was informed that a detailed report regarding the situation of the Gozo Lock-up had been completed and the necessary action was being taken to improve the facility.<sup>85</sup> The CPT is disappointed with the lack of action and progress on this recommendation.

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82. See the CPT's 2015 Malta Visit Report, paragraph 23.

83. For more details see the Malta Police Force: <https://pulizija.gov.mt/Body-Worn-Cameras>.

84. See in this respect Rule No. 6 of the "Principles on Effective Interviewing for Investigations and Information Gathering" (the Méndez Principles) adopted in May 2021 by a group of international legal and police experts in the field of policing and torture prevention. The Méndez Principles have since been welcomed and cited by several United Nations bodies as well as the CPT.

85. See the Response of the Maltese authorities to the CPT's Visit Report on Malta from 3-10 September 2015, dated 25 October 2016, CPT/Inf (2016) 26, page 9.

142. On a positive note, the CPT was informed that there were now two custody police officers on duty when someone is held in police custody.

143. In response to the CPT's Preliminary Observations, the Maltese authorities informed the CPT that refurbishment works are expected to take place in the near future with little detail of what such works might entail. **The CPT would like confirmation of the timeframe that this will be implemented and an overview of the planned refurbishments.**

**The CPT reiterates its recommendation that the Maltese authorities take the necessary measures to improve the conditions of detention at Gozo Lock-up. In particular, they should:**

- **ensure that all police cells where persons may be held overnight are of a reasonable size for their intended occupancy (that is, 7 m<sup>2</sup> for single cells, and at least 4 m<sup>2</sup> per person in multi-occupancy cells). The current custody cells in Gozo Lock-up should be taken out of use and made into larger cells; and**
- **refurbish the cells in the Gozo Lock-Up to ensure that detained persons have ready access (including at night) to toilets and wash-basins, install a system of in-cell call bells, improve the access to natural light, to adequate artificial lighting and sufficient ventilation.**

**More generally, the CPT recommends that the holding cells in Floriana Lock-Up are properly ventilated, sanitary facilities are refurbished and that call bells be installed in the cells of the Floriana and Gozo Lock-ups.**

144. The CPT has consistently recommended that persons held for 24 hours or more in police custody be offered outdoor exercise. Detained persons were often held in Floriana Lock-Up for up to 48 hours, particularly over weekends until the Courts opened on Monday morning. There was an outdoor area in Floriana Lock-Up which was not used, but there was no exercise area in Gozo Lock-Up.

**The CPT reiterates its recommendation that steps be taken to ensure that all detained persons held for 24 hours or more in police custody in Floriana Lock-Up be offered outdoor exercise; that an exercise area be established in Gozo Lock-Up, and that all persons detained there be offered the possibility of outside exercise.**

145. Equally, the recommendations made by the CPT regarding the police escort van also had not been implemented.<sup>86</sup> Further, the European Court of Human Rights has also found violations of ECHR Article 3 for the breach of safety standards in the transport of detained persons.<sup>87</sup> The Gozo Lock-Up had one escort van, which it used to escort prisoners between Gozo and Malta for Court hearings. The van still did not meet safety standards; there were no seat belts for the passengers – only a wooden bench as a seat – no windows or air conditioning and it was extremely hot inside. The CPT delegation could not confirm that the recommendation of 2015 had been implemented with an internal order as to whether detained persons were supposed to remain inside the escort van during the boat crossing to the mainland, which in itself was against the safety rules of the ferry authorities. **The CPT reiterates its recommendation that the Maltese authorities provide a new escort van for Gozo/ Victoria Police Station and Lock-Up, which conforms to the minimum safety standards. A space on the Malta-Gozo ferry deck should also be established for holding detained persons being escorted to the mainland, and the CPT would like to receive a copy of the internal regulation in this regard.**

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86. See the CPT's 2015 Malta Visit Report, paragraph 30.

87. *Tarariyeva v. Russia*, application no. 4353/03, judgment 14.12.2006, paragraphs 112-117; *Jatsõšõn v. Estonia*, application no. 27603/15, judgment 30.10.2018, paragraphs 42-43; *Voicu v. Romania*, application no. 22015/10, judgment 10.06.2014, paragraph 63; *Engel v. Hungary*, application no. 46857/06, judgment 20.05.2010, paragraph 28.

## 5. Custody records

146. The CPT raised the issue of the necessity to keep complete and thorough custody records in 2015, and overall, there had been improvements in this regard, with some exceptions (see below).

The custody records for the majority of law enforcement establishments visited were well kept and detailed. Nevertheless, the smaller police stations, such as Hamrun Police Station and the Financial Crimes Bureau (where persons can be held for questioning), were not fully recording all entry and exit times of persons deprived of their liberty, notably concerning those persons transferred from Floriana Lock-Up for questioning and then transferred back again.

147. In practice, the delegation found that the initial interview times in the local police stations (where suspects are initially brought for up to six hours) and the departure times from the local police station before arriving to the custody centre of Floriana Lock-Up were not fully recorded in all instances. For example, upon review of the custody records in the Financial Crimes Bureau and in a local police station (Hamrun Police Station), the delegation found that the departure times from the interview location as well as the time spent in the holding cells (if there was one) was not recorded, with only the initial time of arrest and the arrival time at Floriana Lock-up recorded. Further, at the Financial Crimes Bureau, the custody records for the whole of the year of 2022 were missing, as were those for most of 2023. Moreover, no records existed showing the number of persons who had been put in the holding cells of both establishments, or for how long.

148. The CPT considers that the fundamental guarantees of persons placed in police custody are reinforced if a single and comprehensive custody record is kept for each of these persons. In this record would be entered all aspects of custody and all measures taken in connection with it, including all exit times from the police station and from any custody cell. It is of vital importance that the custody register fully records all movements of a person deprived of their liberty by the police from the outset of their apprehension, to the initial police station for interview purposes, and all the way through to the Lock-Up, including transfers to other departments for questioning, such as to the Financial Crimes Investigation Unit. This acts as an essential safeguard for accountability. Incomplete custody records create a grey area where, for example, there could be unaccounted time – and unrecorded exits – which represent a period of high-risk for ill-treatment. Every single movement of the detained person from the time of arrest must be accounted for and documented properly.

149. In its Response to the delegation's Preliminary Observations, the Maltese authorities note that a new logbook to record all movements, along with instructions to all police officers for all the movements to be recorded would be issued. **The CPT welcomes this development and would like a confirmation that this has taken effect, trusting that these will be diligently completed on a systematic basis.**

## 6. Complaints and monitoring

150. The CPT found that the police complaints' system in Malta had reformed slightly since its previous visit in 2015. In 2023, there was in place a system of complaints to the external police complaints body. This body can, in theory, independently investigate and address complaints made against the police. Nevertheless, the delegation was informed that the independent police complaints body's work was considerably hindered due to a lack of funding and resources impeding its capacity to fully perform its role and discharge its obligations. **The CPT recommends that the Maltese authorities provide adequate resources for this police complaints body to ensure that it can perform its role as an external police complaints body properly.**

151. The situation of monitoring police establishments had not changed significantly since the CPT's previous visit. Little to no monitoring of all police establishments was regularly undertaken by an external and independent body. The NPM still did not have the mandate in law to monitor police detention (other than immigration detainees held in the Police Lock-Ups).

152. The CPT considers that the inspection of detention facilities of law enforcement agencies by a truly independent authority can make an important contribution towards the prevention of ill-treatment of detained persons and, more generally, help to ensure satisfactory conditions of detention. To be fully effective, visits by monitoring bodies should be both frequent and unannounced. Further, such bodies should be empowered to interview detained persons in private and to examine all issues related to their treatment (material conditions of detention; custody records and other documentation; exercise of detained persons' rights, etc.) (see also paragraph 9 on the Maltese NPM). **The CPT reiterates its recommendation that the Maltese authorities ensure that a system of independent monitoring be established to monitor all law enforcement establishments where persons can be held for questioning or for longer periods.**

## **C. Immigration establishments where persons were deprived of their liberty**

### **1. Preliminary remarks**

153. Malta lies directly north by sea from Tripoli, Libya.<sup>88</sup> For asylum seekers, migrants and refugees crossing the Mediterranean, it is one of the first countries that they can reach by small boat. During the 2023 visit, the delegation examined the treatment of foreign nationals held under immigration detention, focusing on the implementation of the Committee's recommendations contained in its report on the 2020 visit.<sup>89</sup>

154. The situation in 2020 had put significant strain on the reception system and the CPT found a system struggling to cope, which relied on a purely "containment" approach for immigration detention, where conditions of detention and associated regimes for migrants deprived of their liberty appeared to be bordering on inhuman and degrading treatment as a consequence of institutional neglect.

By contrast, in 2023 the CPT noted that far fewer foreign nationals were arriving to Malta<sup>90</sup> and hence both open and closed immigration facilities were not crowded.<sup>91</sup> These lower numbers were the result of the many factors influencing arrivals in Malta, including migration route changes, as well bilateral and multilateral agreements with other countries, such as Libya and Bangladesh.

The delegation also noted an increased number of detention staff had been recruited, as well as the appointment of a former mental health expert as the new Head of Detention Services, which sent a positive message on the direction of the service. Nevertheless, despite this opportunity for a new approach towards immigration detention, the detention environment at both Hal Far Initial Reception Centre and Safi remained carceral, the regime extremely poor and few safeguards afforded in practice, most notably for unaccompanied minors awaiting age assessment or appeal procedures.

### **2. Ill-treatment**

155. Overall, the vast majority of detained persons appeared to be treated correctly by the Detention Service (DS) staff.

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88. According to the UNHCR, 80% of arrivals departed from Libya, while the remaining 16% departed from Tunisia. Of the 2023 (January to July) arrivals, 65% (149) were Bangladeshi, 9% (21) were Syrian, 8% (19) were Guinean, 7% (17) were Cameroonian, 6% (13) were Egyptian, 2% (five) were Sudanese, and 1% (three) were Palestinian and South Sudanese.

89. See the CPT's 2020 Malta Visit Report, CPT/Inf (2021)1.

90. According to the UNHCR, between 11 January and 13 August 2023, there were 231 sea arrivals in Malta. By contrast, in 2020, there were 2,281 sea arrivals.

91. According to information provided by the Maltese authorities, at the date of the CPT's visit, there were 260 persons in open centres (Hal Far Tent Village, Hangar Open Centre, Far Open centre, Initial Reception Centre, Dar il-Liedna) and 221 persons held in closed centres (Safi and Hal Far Initial Reception Centre). These were within their official capacities, see section 3 *Conditions*.

156. Nevertheless, the CPT delegation received several allegations of ill-treatment, including the use of excessive force by DS staff, many of which were in the context of an escape attempt from Hal Far Initial Reception Centre (formerly known as “China House”) in May 2023. Many of these allegations involved DS staff punching foreign nationals on the head, legs and back, and kicking persons in the stomach who were reportedly lying prone on the ground, after the escape incident. The alleged ill-treatment concerned the escapees, as well as other detained persons, apparently to deter them from attempting to escape. Allegations were also received of excessively tight handcuffing after the incident. A few of these allegations were also consistent with medical documentation contained in the foreign nationals’ medical records at the prison (where some of the foreign nationals were transferred after the incident) and at Safi.

157. In addition, the delegation received some allegations of verbal abuse of a degrading and racist nature.

158. In the Maltese authorities’ Response to the delegation’s Preliminary Observations, the veracity of certain of the allegations is contested and the CPT was informed that the CCTV footage and medical records did not support the above allegations. The CPT points to a number of issues with this Response. These include, *inter alia* that the CPT received allegations from different incidents and from a range of sources, many of which were not shared with the authorities, to protect the identity of the informants. The CPT recalls that its overall mandate is to examine the risk of ill-treatment and to stop that risk from materialising or recurring. Its work is also geared around protecting its sources from the risk of potential harm or retaliation. Moreover, some of the allegations received by the delegation actually took place away from the CCTV coverage site and were not only in the context of the above escape incident.

159. As such, the CPT notes the information provided by the Maltese authorities, nevertheless **overall, it recommends that the Maltese authorities and management of Safi deliver a clear message to DS staff of a zero-tolerance approach as regards ill-treatment, and that physical ill-treatment, excessive use of force, as well as all forms of disrespectful or provocative behaviour towards detained persons, are not acceptable and will be sanctioned accordingly.**

**The CPT also recommends that DS staff be reminded that insults and racist words directed at foreign nationals are reprehensible and must be sanctioned, and that steps be taken to sensitise DS staff and police officers to a non-racist attitude.**

160. While there were occasional fights and incidents of violence between detained persons, this did not seem to be widespread<sup>92</sup> at any of the immigration establishments visited and appeared to be managed adequately by custodial staff. Increased investment in security in terms of bolstering DS staffing numbers (see *Staff* section 5) and greater use of CCTV surveillance had also helped in this regard.

### **3. Conditions and regime**

#### **a. Safi Detention Centre**

161. The layout and location of Safi had not materially changed since the CPT’s previous visit in 2020.<sup>93</sup> It remained part of an army barracks compound, sharing its location with the Armed Forces of Malta, albeit with its own DSA staff and compound, located directly opposite Malta’s main airport.

162. At the time of the visit, there were 189 persons detained at Safi. Overall, some renovations had taken place and there were far fewer occupants than in 2020, which put less strain on the material conditions of accommodation blocks. The litter, graffiti and debris had been cleared (other than Warehouse 2), some of the dormitories had been repainted, some of the mattresses and bed linen had been replaced, access to hot water had been improved and most of the shower facilities had been cleaned and fixed. These are welcome developments.

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92. For example, at Safi, the incident register recorded only 12 cases in 2023 and 11 cases in 2022.

93. As described in the CPT’s 2020, 2015 and 2011 Visit Reports.

163. Given the reduced numbers of detained persons, only some of the blocks were in operation (Blocks A<sup>94</sup>, C, D, female Block B and the Close Monitoring Unit (CMU)),<sup>95</sup> while the others remained ready to become operational, if numbers suddenly increased again.

164. The male Block B comprised two Warehouses containing two Houses, which could accommodate up to 544 people in massive dormitories. No-one was being accommodated there at the time of the delegation's visit. These vast dormitory-type rooms were filled with bunk beds lined up against each other. One of these two Warehouses, House 2, had been split into smaller units, had a new ablution facility, had been repainted and the sanitary facilities cleaned and refurbished, while the other one, House 1 was in the same semi-derelict state as in 2020, with graffiti, mould and debris on the floor visible. Works for refurbishment of House 1 were due to start in 2024. While the two Warehouses were non-operational at the time of the delegation's visit, they could be re-opened at any moment. **The CPT recommends that both these Warehouses be split into smaller living units and entirely refurbished. It would also like an update when the refurbishment works have been completed on House 1.**

165. Regarding the male accommodation in Safi, large dormitories were still in use in most of the blocks (with the exception of the CMU). Those blocks that were operational (Blocks A, D and C) were still crowded and almost full, despite the low overall number of detainees. For example, in Safi Block A, Zones 2, 4 and 5, various rooms had twenty beds (in sets of 10 bunk beds, lined up in rows), in a space of 40 m<sup>2</sup>, meaning that when the room was full, the living space afforded to each foreign national in the dormitory was a mere 2 m<sup>2</sup>. While they were not at full capacity at the time of the visit, the space taken up by the empty bunks allowed little remaining space for foreign nationals to move freely. There were a few cupboards per room, a few tables and chairs, but by no means enough for all the persons held there. The barred doors of the dormitories were kept open to the adjoining, barred, semi-open, thin external corridor lined with benches and two to three tables, where the foreign nationals spent most of their time. This allowed for more space for the foreign nationals to move around outside of the dormitory but within the block's individual zone corridors. While there were a couple of small windows facing directly outside some of the dormitories, others only had small windows facing the external corridor, which only allowed for a minimal amount of light and ventilation to come into the rooms. Overall, natural light was generally insufficient in each dormitory.

Furthermore, despite the renovations undertaken, the delegation found various mattresses and blankets were dirty, toilets were in an unsanitary and mouldy condition and there were non-functioning showers in most of the male units.

166. The blocks each had a bare stretch of tarmac as an exercise yard, used on rotation between the four zones per block, to which access was only permitted for few hours each day (see *Regime* section).

167. Female Block B was in much better condition than the male accommodation blocks. The Block had been renovated and accommodation was in pre-fabricated units situated around a partly shaded tarmac exercise yard, which was also equipped with a fixed line communal phone, outside table and benches and a small library. The rooms were well ventilated with air conditioners and heaters fixed on unit walls, which were necessary in these pre-fabricated units as they got extremely hot in the summer and cold in the winter. The dormitories were well lit, clean, spacious and provided a small number of beds per room. The women held there did not complain about their treatment or conditions at Safi.

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94. Apart from one section, which was being refurbished.

95. At the time of the visit, Block A with a capacity of 218 had an occupancy of 89 detained foreign nationals; Block B (two Warehouses) with a capacity of 544, had no occupancy and was not operational but kept ready in case of need; Block C, with a capacity of 70, had an occupancy of 61; Block B for women has a capacity of 12 and an occupancy of five; Block F was out of operation; Block D (Hal Far Initial Reception Centre) has a capacity of 141 and an occupancy of 31; Block G - the CMU - has a capacity of seven and an occupancy of three.

Nevertheless, women had to hand in their bras when they arrived at Safi for reasons of security (anti-ligature). At the time of the visit, no replacement bras had arrived, although the delegation was informed that sports bras had been ordered. The CPT considers it is a core element to dignity for women to be free to wear a bra. The CPT considers that this measure, which was followed on a routine basis with no individual assessment, may amount to humiliating or degrading treatment. **The CPT recommends that the Maltese authorities stop this humiliating or degrading measure as routine. The authorities should ensure that sports or non-wired bras, in a range of sizes, are made available to women foreign nationals as soon as possible.**

168. Safi C-Block comprised one large dormitory, with adequate access to natural light and sufficient artificial lighting and ventilation but, as with the other blocks, it was crammed with rows of bunk beds (for a capacity of 70 foreign nationals) with an occupancy of 61 at the time of the visit, and with a few tables and chairs near the entrance. It had a washing facility, in which there were showers, toilets and a large wash basin for foreign nationals to launder their clothes. However, the showers were generally mouldy and humid and not all were functioning properly.

169. The Close Monitoring Unit (CMU) was a separate unit situated adjacent to B-Block, with a capacity of seven beds but which was accommodating three persons at the time of the visit. The CMU consisted of three single cells rooms that each measured 4.8 m<sup>2</sup> and two double cells measuring some 7 m<sup>2</sup> and were furnished with two (bunk) beds and unscreened, dirty toilets, without lids. The rooms were covered by 24/7 CCTV live observation. The cells had one window that allowed natural daylight but not artificial lighting – other than the light from the outside corridor. The cells did not have call bells. There was one small concrete outside yard, equipped with a table and two fixed benches as well as a washing machine. There was no specific register to record entries and exits of the foreign nationals into and from the CMU, only a handover book.

170. A positive development was that all foreign nationals at Safi were now provided with two sets of clothes, footwear, a laundry kit and a hygiene pack. Nonetheless, foreign nationals at Safi had to wear the standardised clothes provided by the Centre, and continued to be addressed by numbers and not by their names. The CPT considers that calling detained foreign nationals by their number, and not their names, and requiring them to wear a quasi-uniform or standardised clothing robs them of a sense of personal identity. This CPT has raised its concern about this depersonalising practice in numerous previous visit report to Malta and the situation has not changed. **The CPT calls upon the Maltese authorities to ensure that staff address all foreign nationals by their name, instead of their police-provided immigration identity number and allow foreign nationals to wear their own clothing should they so wish.**

171. The CPT has long-held that immigration detention centres should be fit for purpose in suitable premises to reflect the nature of the non-criminal detained population; persons detained under aliens legislation should be accommodated in centres specifically designed for that purpose, offering material conditions and a regime appropriate to their legal situation. Care should be taken in the design and layout of such premises to avoid, as far as possible, any impression of a carceral environment. **Consequently, the CPT recommends that the design and layout of Safi Detention Centre should be reviewed.**

172. **In the meanwhile, the CPT calls upon the Maltese authorities to improve the conditions of detention at Safi Detention Centre's Warehouses and A, D and C Blocks, to ensure that:**

- the official occupancy rates are revised so as to offer a minimum of 4 m<sup>2</sup> of living space per detained person in the multiple-occupancy accommodation;
- large dormitories and rooms should be divided up into smaller living units;
- all dormitories have adequate access to natural light and sufficient artificial lighting, ventilation and heating/ cooling;
- the CMU should be equipped with sufficient artificial lighting and the toilets should be screened and/ or the CCTV images pixelated to afford some privacy, and a register for all entries and exit from the CMU should be maintained;
- all detained persons are offered a clean bed, mattress, blanket and bedding;

- all dormitories are equipped with tables and chairs and all detained persons provided with personal lockable space; and
- all dormitories and sanitary annexes are regularly maintained and disinfected and have properly functioning toilets and showers designed to afford a degree of privacy, and properly maintained wash-basins.

173. The regime of purposeful activities and education on offer for the detained persons at Safi had not changed substantially since the CPT's previous visit and remained extremely limited and, in the CPT's view, unacceptably poor.

174. Despite being informed that three hours of outside time were allowed, in practice the male detained persons had very little time outside (a couple of hours only at the time of the visit). In contrast, female detained persons had unlimited access to their outside yard during the day (except for roll call/head counts).

175. There were almost no purposeful or meaningful activities organised on a regular or systematic basis for any of the foreign nationals held at Safi, with the exception of the weekly football sessions. There were few books available, and even fewer in the languages spoken by many of the foreign nationals. One television per block zone was available in the external corridor, which were on for most of the day. In general, detained persons wandered aimlessly along their locked block corridors for the vast majority of the day with nothing to do.

176. This was all the more disappointing in respect of the juveniles awaiting final age assessment results (see section 4 *Juveniles* and the recommendations contained therein). These juveniles had nothing to do to structure their day other than to go to a concrete yard for one to two hours a day or watch only English-language cartoons on the corridor television. At the time of the delegation's visit the remote control had been confiscated by the guards (apparently a routine practice) to force the alleged minors to watch cartoons only, which was perceived as a punishment by the juveniles.

177. Persons could be held for long periods of time at Safi, with a fifth of the population held for 300 days or more, and some for over 400 days.<sup>96</sup> At the time of the visit, the *long periods of detention* at Safi, as well as the lack of information on foreign nationals' immigration status and individual cases (see section 7(b) *Information provision*), cumulatively contributed to a deep sense of frustration. This situation was exacerbated by the extremely limited regime and long time spent each day locked up on the blocks.

178. The CPT considers that the regime and conditions of detention for foreign nationals should reflect the nature of their deprivation of liberty, with limited restrictions in place and a varied regime of activities. Within the detention facility, detained persons should be restricted in their freedom of movement as little as possible. Detained irregular migrants should in principle have free access to outdoor exercise throughout the day (that is, considerably more than one hour per day), and outdoor exercise areas should be appropriately equipped (benches, shelters etc.). Equally, the longer the period for which persons are held, the more developed should be the activities which are offered to them. Purposeful activities, in an immigration detention context, can include, *inter alia* language classes, IT/computer classes, gardening, arts and crafts, cookery skills and so-called "cultural kitchens".

179. The blocks at Safi are surrounded by green external spaces within the compound, and Safi has sufficient space to be able to create more accessible green outside space for the foreign nationals, albeit in accordance with security requirements. The CPT considers that detained persons should have free access to outdoor exercise throughout the day and in appropriately equipped outdoor exercise areas.

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96. At the time of the delegation's visit, 39 persons (20%) had been at Safi for over 300 days; of whom 12 had been at Safi for over 400 days, and two persons were nearing the 500 day mark.

180. Further, immigration police and case officers, as well as NGO and legal service providers should be encouraged and allowed to visit Safi more regularly to provide information on detained persons cases.

181. In its Response to the CPT delegation's Preliminary Observations, the Maltese authorities informed the CPT that the number of hours in which foreign nationals were permitted out to the exercise yards would be increased to a minimum of four hours daily. The CPT welcomes this development.

**182. The CPT reiterates its recommendation that the Maltese authorities should further develop the range of, and increase access to, more structured, organised and purposeful activities for persons held at Safi.**

In this respect, **the CPT recommends that the regular programme activities run by AWAS at Dar il-Liedna and Marsa act as an example for emulation at Safi and Hal Far Initial Reception Centre. For example, establishing a cultural kitchen, where foreign nationals can regularly cook for themselves and others, in addition to the provision of other activities, such as English and vocational courses, access to a well-stocked library with reading material in commonly spoken languages, availability of diverse courses, more regular (daily) outdoor sports games organised, board games and other meaningful activities offered which can serve to structure their often long periods of time spent in detention.**

**183. The CPT also recommends that the Maltese authorities should ensure free access to outdoor exercise for foreign nationals throughout the day. In addition, the Maltese authorities should review and revise the current layout of Safi to ensure increased access to the outside green areas, and should ensure that exercise areas are appropriately equipped (benches, shelters, sport equipment, etc.).**

b. Hal Far Initial Reception Centre

184. Hal Far Initial Reception Centre", forms part of the main Safi detention facility, which comprises as an annex "Block D", albeit located in a different area. It is run and organised by the same management team, and most of the administrative and healthcare documents and records are kept on the main site in Safi.

It is the first centre that foreign nationals are taken to after sea arrival to wait for registration processes and healthcare checks, lasting from several weeks to a few months. Often, foreign nationals are transferred to Safi Detention Centre thereafter. However, when Safi is full, Hal Far Initial Reception Centre is used as an overspill centre or, as during the Covid pandemic, as a quarantine zone.

185. Hal Far Initial Reception Centre was visited in 2020 by the CPT and has not changed. It is comprised of 3 sections (Zones A (Capacity 40), B (capacity 60) and C (capacity 70). Zones A and B were non-operational and closed at the time of the delegation's visit, and Zone C was holding 31 foreign nationals (all Bangladeshi men), all of whom were detained on a return order or a deportation order.

Zone C had four open rooms (18 m<sup>2</sup> each) equipped with six sets of bunkbeds. All the rooms had sufficient access to natural light through large windows, but the artificial lights in the rooms were not working. There was a large common room that also served as a dining area, also with non-functioning lighting. Each foreign national was provided with a single sheet, black blanket (of thin, poor quality and dirty) and a pillow, as well as cleaning products to launder their clothes and clean their rooms. There were double and single shower rooms, some of which were not working, and none had shower heads. There were six toilets, all of which were in need of refurbishment.

**186. The CPT recommends that the Maltese authorities ensure regular refurbishment and repair is made to the fixtures and fittings such as the lighting, shower facilities and toilets; and that foreign nationals should regularly be provided with clean blankets of adequate quality and hygiene products.**

187. Turning to the regime, while in theory foreign nationals could go outside to the bare and unshaded concrete exercise yard two to three hours a day, in reality it appeared that they were only let out for on average some 45 minutes in the morning and 30 minutes in the afternoon, if at all. There was a television, but no library nor any regular or purposeful activities other than the occasional football match, and all of the detained persons were bored and lacked structure to their days.

The absence of any regime of organised activities was exacerbated by the fact that despite Hal Far Initial Reception Centre being a transitional reception centre formally, in practice persons were held here for long periods of time. At the time of the visit, 25 of the Bangladeshi men had arrived by boat 54 days previously, and six had been there for longer than 100 days.

**188. The CPT calls upon the Maltese authorities to ensure that at a minimum a regular regime of purposeful activities is offered to detained persons as set out in paragraph 184 above. The exercise areas should offer some shelter and be equipped (benches, shelters, sports equipment, etc.) and persons should have free access to the yards throughout the day.**

c. Marsa Registration and Reception Centre

189. Marsa IRC is an initial reception facility run by AWAS and designated as the first reception establishment in which vulnerable foreign nationals should initially be accommodated after arrival at the port, to be medically screened for infectious diseases and undergo first assessments. The layout had not changed significantly since the CPT's previous visit in 2020.<sup>97</sup> At the time of the visit, it had a capacity of 238 and an occupancy of 18 foreign nationals considered as vulnerable,<sup>98</sup> 11 of whom were asylum seekers and seven on detention and removal orders (see below).

190. Marsa is officially a semi-open centre. It was open for the asylum seekers, who could leave freely and return during the day once they had received medical clearance, which on average took one to two weeks. It was, however, closed for seven persons held on Detention Orders, six women from Guinea and one woman from Syria. The reason given to the delegation was that they were considered more vulnerable, and it was decided that they should be held in Marsa IRC rather than Safi Detention Centre.

There were also one transgender woman and one asylum-seeker, a man with severe disabilities, accommodated in Marsa awaiting transfer to an open centre, who were not deprived of their liberty but rather were being voluntarily accommodated and supported, as a transition before transfer to the tented village, a fully open centre.

191. The main accommodation buildings were based on the same layout and size as described in 2020, and comprised dormitories situated around a central courtyard. Living conditions had improved. The buildings had been renovated and repainted, a children's indoor playroom and outside play area had been established, there were also cooking facilities for the foreign nationals, a laundry, gym and sports equipment, and an external sports field with Astro-turf. It was positive that the overall environment was calm, open, light and non-carceral.

192. At the time of the visit, accommodation was in nine dormitory rooms with between 16 and 26 beds arranged as bunkbeds, along with some tables and chairs and lockers per room. There were separate male and female areas. The showers and sanitary annexes were in an acceptable state and clean. There was sufficient space, ventilation, natural and artificial light provided in each room for the low occupancy rate encountered at the time of the delegation's visit. Nevertheless, when Marsa was at full capacity, each room would only afford between 2 and 3 m<sup>2</sup> per person.

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97. See the description in paragraphs 27-30 of the CPT's 2020 Malta Visit Report.

98. Of whom seven were women (six from Guinea and one from Syria), one transgender woman and 10 men: four from Sudan, two from Syria, two from Nigeria, one from Bangladesh, one from Somalia.

193. At admission, foreign nationals all signed a House Rules Contract, and were given a starter pack,<sup>99</sup> hygiene kit and clean bedding.

Regarding regime, for those who were awaiting medical clearance or who were held on Detention or Removal Orders, a regime of purposeful activities was necessary, and it was positive that some regular activities and courses were on offer, such as employment guidance, weekly English lessons and beauty therapy courses. A many (but by no means all) of the foreign nationals at Marsa and Dar il-Liedna were receiving one on one and group psycho-social or psychologist sessions, along with interpretation when needed. The CPT can only encourage **the authorities to continue to invest in establishing a wider range of more regular purposeful activities.**

d. Dar il-Liedna

194. The centre for unaccompanied minors in Dar il-Liedna has an official capacity of 42 and was accommodating thirteen juvenile foreign nationals (all boys) at the time of the visit. The centre is staffed by care workers from AWAS, while contracted external security personnel guard the entrance. The young persons were allowed to come and go throughout the day with staff permission, but had to be back in the centre by 21:00; those who did not were considered absconders and the police were contacted to find and escort them back to the centre.

195. The young people were accommodated in multi-occupancy rooms of two to four beds, with their own lockable cupboards, a table and chair and a key to lock their rooms. The layout of the Centre was arranged over three floors, along with personalised bedrooms with adequate space, common rooms, resident cooking facilities and a peaceful external garden courtyard. The material conditions had not changed significantly from the 2015 CPT visit<sup>100</sup> and were generally good.

196. A range of activities was available to the young persons outside of the centre, notably school from Monday to Friday, and some of them worked. In addition, they were tasked with cleaning their rooms and washing their clothes.

197. In contrast to 2015, there did not appear to be much inter-juvenile violence, and it was clear from records and interviews that techniques such as de-escalation approaches rather than control and restraint were used in such incidences by the trained psycho-social staff.

e. Airport holding facility

198. Persons to be deported by air may be kept in the holding area in the basement of Malta's main airport terminal, which consists of a room with seven beds, two metal benches and two tables, as well as two showers and a toilet. The material conditions and layout had not changed significantly since the CPT's 2015 visit.<sup>101</sup> The room provided basic conditions for short periods of stay of less than 24 hours given the lack of access to natural light and the absence of any possibility for outdoor exercise.

199. Records, which had improved since 2015 and were more complete, showed that for 2023 (up to mid-September), four persons had been held in the room, for between seven and twelve hours. The Committee noted that it was positive that the facility was not being used for holding persons for periods in excess of 24 hours.

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99. Bed sheets, a blanket, a pillow, a sponge, soap, cup, cleaning products, toothbrush and paste and additional clothes.

100. See the CPT's 2015 Visit Report, paragraph 45.

101. See the CPT's 2015 Visit report, paragraph 44.

#### 4. Juveniles

200. Maltese law specifies that vulnerable persons, including children, families and unaccompanied minors, shall not be detained and instead shall be transferred to an open centre after the initial identification and assessment process. In contrast to the situation seen in 2020, the CPT noted that this was generally the case, and vulnerable foreign nationals were held in Marsa or in Dar il-Liedna.

201. On a positive note, the accommodation, safeguards and treatment of those foreign national judged to be juveniles was good. The 13 unaccompanied foreign national minors accommodated at Dar il-Liedna received good psycho-social support, attended educational classes or were helped to find work. They had a good regime and range of activities, access to skype and communication with the outside world was facilitated by permission to keep their mobile phones, there was free access to the yard and they could cook themselves, in addition to being provided with regular meals. All 13 were on care and protection orders and AWAS acted as their legal guardians. Legal documentation was kept on site and was fully completed. The juveniles interviewed by the delegation appeared well cared for.

202. Nevertheless, unaccompanied minors who had been judged to be adults from an initial vulnerability and needs screening at the port of arrival were detained at Safi, pending formal age assessment results or appealing the results, as had also been the case in 2020. The DSA holds foreign nationals who would have claimed an adult date of birth to the police on arrival to shore, and to healthcare staff on initial assessment, and who thereafter change their date of birth to that of a minor. This triggers separation from other adults and an Age Assessment protocol. Assessments concluded as adults can be appealed, which prolongs the stay in the alleged minor section.

203. As a consequence, the CPT delegation found that, in practice, many children, including those awaiting age-assessment results or appeal results, were being deprived of their liberty both in Safi and Hal Far Initial Reception Centre, including six alleged sixteen- and seventeen-year-olds, held in Block A, Zones 4 and 5, along with other adult (that is, 18-20 year old) foreign nationals.

204. This situation was compounded by the fact that these juveniles had no access to regular purposeful activities, education or even the exercise yard for more than one to two hours per day. In addition, while it was positive that some individual social welfare visits did take place to the alleged minors by the AWAS team, for some one or two sessions per two to three months, there was a notable absence of regular psycho-social support or tailored programmes in the Safi – unlike the situation at Marsa or Dar il-Liedna.

205. The CPT considers that these establishments are not designed to cater for children, and not only are they inadequate in terms of material conditions, they also completely lack an adequate regime and any specific care provision to cater to the best interests of the child.

206. The CPT wishes to recall its position that every effort should be made to avoid resorting to the deprivation of liberty of a foreign national who is a child. Moreover, the CPT considers that unaccompanied minors should not be deprived of their liberty. They should however be provided with prompt and free access to legal and other appropriate assistance, including the assignment of a guardian or legal representative who keeps them informed of their legal situation and effectively protects their interests. Review mechanisms should also be introduced to monitor the ongoing quality of the guardianship.

AWAS was the unaccompanied minors' official legal guardian, and their social workers appeared to care well for the unaccompanied juveniles. Nevertheless, the CPT notes that AWAS overall has three roles within its scope of responsibility. First, that of a government agency and operator of immigration reception centres; second, the body responsible for conducting all age assessments; and third, the legal guardian for unaccompanied juveniles. The CPT considers that these roles intrinsically risk presenting a conflict of interest. **The CPT would appreciate a clarification on how the Maltese authorities intend to separate out these roles and recommends that the authorities ensure that these social workers are sufficiently independent (for example, by transferring them to a different Ministry).**

207. In 2020, the CPT requested that the Maltese authorities take measures to ensure that unaccompanied and separated minors (including those juveniles awaiting age assessment results), *inter alia* in Hal Far Initial Reception Centre and Safi Detention Centre, are accommodated separately from unrelated adults and recommended that Safi should not be used to accommodate unaccompanied children. It is positive that most confirmed juveniles were no longer being detained in Safi or Hal Far Initial Reception Centre. However, it notes that those awaiting age assessment results should still be considered as juveniles until proven otherwise and the CPT notes that these children are still held in Safi-C-Block, albeit along a separate corridor, in appropriate conditions and a poor regime.

The CPT remains of the view that Safi is an inappropriate location to hold children, including those waiting age assessment results. **It reiterates its recommendation<sup>102</sup> that unaccompanied minors should be transferred without delay to a semi-open establishment specialised for juveniles (e.g. a social welfare/educational institution for juveniles). Those minors who were still in the age assessment appeals procedure should be removed from Safi Block A and held in another centre, designed around the specific needs of juveniles, including being provided with a more open regime with more time to exercise outside, offered more regular activities and education and access to more regular psycho-social support.**

## 5. Staff

### a. Detention Services (DS) staffing

208. The DS had considerably increased its staff since 2020, and at the time of the visit was composed of some 214 members of staff, including 173 DS officers to provide for the custody of around 189 foreign nationals held in detention. There was also no longer a reliance on private security contractors, unlike the situation in 2020. The CPT welcomes this positive development.

209. Nonetheless, the delegation observed that it remained the case that DS staff were rather remote, not interacting with detained foreign nationals, and stayed outside the locked units for the vast majority of their shift time; this was despite the fact that the DSA had moved several staff rooms inside the blocks in an effort to increase communication between the staff and the foreign nationals. Further, due to a lack of many such staff speaking English or other relevant languages, communication between the staff and the foreign nationals was hampered. **The CPT would like to be informed of the training and standards provided to DS staff.**

210. The CPT considers that custodial staff in detention centres for immigration detainees should be carefully selected and receive appropriate training. Staff should possess well-developed qualities in the fields of interpersonal communication and cultural sensitivity, given the diverse backgrounds of the detainees. Further, at least some of them should have relevant language skills. They should also be taught to recognise possible symptoms of stress reaction displayed by detained persons and to take appropriate action. In a number of countries, authorities have recruited cultural mediators to assist migrants in understanding their situation and to facilitate communication and cooperation between migrants and the authorities.

211. **The CPT reiterates its recommendation that the Maltese authorities ensure that all DS custodial staff in detention centres for immigration detainees receive appropriate and ongoing refresher training. Consideration should also be given to recruiting cultural mediators.**

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102. See the CPT's 2015 Visit report, paragraph 63.

b. AWAS staff

212. AWAS staffing for Marsa IRC comprised 31 persons, of whom 16 were support workers<sup>103</sup> and 10 were security officers, as well as some administrative staff.

213. The CPT was positively impressed by the care and support provided by the support workers and therapeutic team at Marsa, their many one-to-one sessions as well as group sessions with foreign nationals and counsellors.<sup>104</sup> Equally, it notes positively that additional services offered including education courses, vocational courses, employment guidance and housing advice from external service providers.

214. AWAS staffing at Dar il-Liedna comprised a team of 12 support workers, with three assigned per shift, ensuring 24/7 coverage. Security is maintained through the presence of three security officers per shift, including two male and one female security officer.<sup>105</sup> The staffing complement for Dar il-Liedna also included a dedicated team of professionals comprising three social workers who focus on addressing the emotional and developmental needs of the minors, two counsellors providing specialised therapeutic assistance and a member from the Migrants Advisory Unit offering services tailored to the specific needs of the individual unaccompanied minors.

215. AWAS also acted as the legal guardian of the unaccompanied juveniles at Dar il-Liedna – as well as acting as the legal guardian for all foreign national unaccompanied minors in Malta (see also paragraph 208 above).

## 6. Healthcare

a. Safi Detention Centre and Hal Far Initial Reception Centre

216. Overall, the CPT notes positively that there had been significant improvements in healthcare services and provision at Safi since 2020. The CPT welcomes the establishment of a well-functioning and dedicated integrated healthcare service for detained foreign nationals. The healthcare building has been refurbished and re-equipped, healthcare staffing numbers and training have increased, ready and adequate access to healthcare services has improved for detained foreign nationals, as has the quality of medical documentation, albeit with a couple of exceptions (see below).

217. Safi healthcare service is an outreach of Primary Health Care (Ministry of Health), offering foreign nationals deprived of their liberty access to all primary health care services. All foreign nationals held at Safi and Hal Far Initial Reception Centre had their health records kept at Safi, with access to digital records ensured for doctors. The main healthcare centre was at Safi and medical screenings (see below) were undertaken at Safi, prior to arrival at Hal Far Initial Reception Centre.

218. As for healthcare staff, there are two full-time equivalent (FTE) medical doctors (General Practitioners (GPs)), one of whom is employed by the Ministry of Health (who sees any alleged ill-treatment cases), and one who is contracted by the DSA. There is also a locum GP, if needed. There are eight nurses (contracted from a staffing agency) working at Safi on shift work, with two FTE nurses working onsite during the day and two at night.<sup>106</sup> At Hal Far Initial Reception Centre, there is a constant presence 24/7 of an FTE Malta Red Cross nurse and first aider.<sup>107</sup> In principle, one of the two GPs may visit Hal Far Initial Reception Centre on a daily basis.

219. As regards access to specialists, in respect of psychiatric care, a psychiatrist attended Safi at least once a week, but also could make a special visit if requested by the GPs. There is regular access to a genitourinary (GU) specialist. For other services, such as dental care, foreign nationals are sent to hospital and are seen in a timeframe equivalent to that of the outside community.

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103. Organised on shifts of four.

104. Sessions also include time with Marsa's therapy dog.

105. The security complement can be enhanced should the number of unaccompanied minors increase.

106. From 07:00 to 19:00 and from 19:00 to 07:00.

107. 1 FTE from 07:00 to 19:00 and 1 FTE from 19:00 to 7:00.

220. The CPT notes positively that the Lead doctor is also a GP trainer and regularly has GP trainees assigned for rotations at the healthcare clinic at Safi. It also takes note of the fact that the lead doctor has requested an additional FTE GP from the Ministry of Health given the coverage of both Safi and Hal Far Initial Reception Centre; **the CPT would like an update on the outcome of this request.**

221. Turning to the mental healthcare for foreign nationals at Safi and Hal Far Initial Reception Centre, the DSA provides the services of a Welfare and Mental Health specialised nurse who collaborates with the Safi healthcare team. Psycho-social needs are referred to the AWAS therapeutic team, who carry out their own assessment and interventions. However, due to the often longer-term nature of detention and the need to diversify the regime at Safi, **the CPT recommends that the Maltese authorities should consider recruiting an in-house psychologist.**

222. The CPT has also been informed of the plans to move Marsa to Safi, and locate it on the same site, albeit on an expansion of the site, and that the Ministry of Health would broaden its service to cover all open centres under the care of AWAS. **The CPT would like detailed information on the extra funding and investment that is envisaged to bolster Safi's healthcare service to enable it to continue to provide services at adequate levels should there be more foreign nationals to care for.**

223. Turning to access to healthcare services at Safi, appointments were generally reasonable, there are GP clinics every day except Sunday, and there is an on-call GP at night. The GP sees approximately 12 patients a day. Access to healthcare appointments is via the nurses, who perform a basic triage on the blocks daily. Nevertheless, in addition, DS staff may compile a list of people asking to see the doctor, and also bring people over to the clinic who need medical attention throughout the day. Moreover, when foreign nationals are accompanied for healthcare consultations from blocks situated far from the clinic, they appeared to be systemically brought over in handcuffs, without due regard to individualised security risk assessments. **The CPT recommends that access to healthcare should only be through the nurses, and not DS staff, and that foreign nationals brought for healthcare consultations should not be routinely handcuffed.**

224. As for initial medical screening at Safi and Hal Far Initial Reception Centre, newly arrived foreign nationals to Safi are seen by a nurse the same day, and an admission form is completed which includes a body map and a question regarding ill-treatment or torture. Physical observations are checked and recorded. Photographs are taken of any injuries and included in the medical notes. Foreign nationals are screened for injuries suggestive of torture (including for injuries during arrest and for allegations of ill-treatment by police, or injuries received during boat crossings) and any indications of this referred to the AWAS vulnerability assessment team. All newly arrived foreign nationals have a chest X-ray, usually on the same day, as well as vaccinations.<sup>108</sup> Women of childbearing age have a pregnancy test on arrival. If new arrivals need to be seen by the GP for medical reasons or because they have injuries, this is facilitated. Covid tests are only done for symptomatic people. All new arrivals are screened and treated as required for scabies. **The CPT requests clarification that in addition to referring any suspected cases of ill-treatment to AWAS, the healthcare team also reports any suspicion to the police or prosecutorial or investigatory body. The CPT would like to be provided with the relevant information from the year 2023.**

225. Storage and dispensation of medication at Safi was adequate and had improved since 2020. Treatment is prepared along an inpatient type of treatment chart, which is signed by the dispenser (a nurse) to allow for audit and review in case of complaints of treatment omission or medication errors. Medication is put in medicine cups and the lids are labelled. Labelling is now being done on the cup, as well as the lid. The nurse goes round the units; identifying the resident, confirming with

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108. All foreign nationals who have arrived by boat are screened for tuberculosis (TB) with a chest x-ray, and receive relevant voluntary vaccinations. Additionally, they are offered voluntary viral screening as well as screening for sexually transmissible infections. All positive cases are referred to Infectious Diseases or the National GU clinic as appropriate.

the resident the contents of the cup and then confirming ingestion of the medicine by the resident. The patient has the right to refuse medication, which requires the signature of a refusal of treatment form every time. Three consecutive refusals triggers a GP consultation.

226. At Hal Far Initial Reception Centre, there are two clinic rooms, and the medications trolley was stored in one of these rooms. At the time of the visit, the delegation noted that the medications trolley was open/ unlocked while not in use. **The CPT recommends that medication storage practices should be improved and, for reasons of safety, medication should be stored in a cabinet which is kept locked at all times when not in use.**

227. Medication confidentiality appeared adequate and had improved since 2020; consultations are done between the GP, patient and nurse, with DS Custodial staff waiting outside the door.

228. Medical documentation is done both electronically and in hard copy. Nonetheless, the delegation found that there were gaps in the medical recording, notably regarding the end of a hunger strike, which is important due to the risk of refeeding syndrome. In its Response to the delegation's Preliminary Observations, the Maltese authorities informed the CPT that there was a clear protocol in place for hunger strikes, with each instance documented and recorded in the individual's medical file, and that there was no need for a specific a register. Nonetheless, due to the gaps in recording observed in practice, **the CPT recommends that the medical recording should be completed in a more systematic and detailed way, notably regarding the end of a hunger strike. Given the risk of refeeding syndrome, after a few days of food refusal, documentation must be completed noting that the person has started to eat again, that the doctor has been informed, and has given appropriate medical advice, with consideration as to whether the patient requires hospitalisation and clinical monitoring. It also recommends that a specific register be established, which would help doctors monitor the situation more easily.**

229. It is positive that healthcare records were being transferred from paper copy to an online electronic system. Nevertheless, at the time of the CPT delegation's visit, medical files were all stored in the Healthcare Centre of Safi, including for those foreign nationals held at Hal Far Initial Reception Centre. The CPT takes due note that the Safi medical doctors visit Hal Far Initial Reception Centre daily. Both for ease of reference and in cases of emergency, the CPT considers that it is best practice to have the medical files of all the detained persons on the site where they are located and **recommends that the relevant personal medical files are kept at Hal Far Initial Reception Centre.**

230. Regarding prevention of self-harm and suicide, incidents of self-harm at both Safi and Hal Far Initial Reception Centre had decreased since 2020 and a prevention protocol was in place.<sup>109</sup> Rip-proof clothing is issued to those persons considered at risk of self-harming. The CMU protocol is activated when a person is deemed to be actively a risk to self, others or has a communicable disease. The person is transferred to the CMU to stay in a locked room, with access to the outdoor area for one hour on their own. This period is actively followed by healthcare staff (visited twice daily by a nurse who reports developments to the doctor). While most cases are of a few hours duration, these can be extended to a few days. The use of the CMU for segregation and security purposes is examined below (section 7(d) *Segregation*). While in theory there appeared to be regular medical reviews in place, in practice, the delegation found little to no documentation in the medical notes about the self-harm (which was only mentioned in the incident register). **The CPT recommends that the recording of the regular review of foreign nationals at risk of self-harm or suicide be improved.**

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109. At Safi, there were four cases in 2023 and 12 cases in 2022. At Hal Far Initial Reception Centre, there were none in 2023 and in 2022 there was one incident of self-harm, and in 2021 there was one suicide attempt.

b. Marsa and Dar il-Liedna

231. Healthcare provision at Marsa was generally reasonable. There was a nurse, employed by a healthcare staffing agency, on site 12 hours a day, and a GP attended three times a week for a half day clinic.<sup>110</sup> Marsa is operated by AWAS, and there were four psycho-social support workers present on every shift at any one time (see *Staff*, section 5).

232. Access to healthcare for foreign nationals at Marsa was reasonable and the healthcare clinic was adequately equipped, with an AED and the basic equipment needed. Nursing staff are trained in Immediate Life Support. Their role is to administer medications, refer foreign nationals who need to be seen by the GP, and provide basic dressings and first aid if needed. Foreign nationals attend the nearby polyclinic if they require specific investigations. Nurses refer residents who need medical attention to the nearby polyclinic, if the doctor is not on site, or there is an urgent need. For medical emergencies, the nurse calls the ambulance service.

Access to healthcare provision at Dar- il Liedna was also reasonable, given its small population,<sup>111</sup> and it was close to a local healthcare centre, which was open 24 hours per day. A GP also remained on-call and could visit whenever required.

233. As for access to specialist services, the GP can refer a foreign national to an external psychiatrist as needed. Dental care services are provided at Mater Dei Hospital and foreign nationals are transferred when required. Foreign nationals could also be referred to psychologists, and a number of the foreign nationals at Marsa and Dar il-Liedna were attending one to one psychologist sessions, with interpretation provided.<sup>112</sup> There were no complaints received by the CPT delegation from foreign nationals about delays concerning healthcare provision at either Marsa or Dar il-Liedna.

234. As regards initial medical screening, after a boat arrival, a GP goes to the port for initial triage and then sees newly arrived foreign nationals at Marsa to take a medical history, examine the patient and complete an admission form, including documentation of any injuries. New arrivals are given a chest X-ray, which is conducted at Floriana Health Centre, usually within 24 to 48 hours of their arrival. They are also given relevant vaccines.

235. Turning to the administration of medication, all foreign nationals at Marsa who are prescribed medications attend the on-site healthcare clinic so that the nurse can administer their medications and make a record on the individual paper files.<sup>113</sup> There was one exception to this, which concerns a foreign national with tuberculosis, who has a weekly dosette box from which he self-administers his medications. Two of the foreign nationals had been prescribed anti-psychotic medications, which had been appropriately initiated under the supervision of a psychiatrist and followed up. At Dar il-Liedna, a nurse visited to prepare a weekly dosette box for foreign nationals who were prescribed regular medications, if required; medications were then administered by AWAS staff.

236. Regarding medical documentation and medical record keeping, medical notes made by the doctor are kept digitally and the nurses at Marsa have no access to these, so are unable to see GP consultations. At the time of the CPT's visit there were six foreign nationals who had a paper medical file because they were prescribed regular medications. The paper medical files contained the Schedule 5 card,<sup>114</sup> a medication prescription and medication chart, and hospital letters and appointment dates. It was noted that none of the prescription charts were signed by a doctor. **The CPT recommends that nurses be given access to the digital database to ensure adequate continuation of care and add entries, and that prescription charts should be signed by the prescribing doctors.**

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110. On Mondays, Wednesdays and Fridays. Marsa has a capacity of 238 but, at the time of the visit, the population comprised only 18 foreign nationals.

111. At the time of the visit there were 13 foreign national unaccompanied juveniles, for a capacity of 56.

112. Including in Arabic.

113. If PRN (as needed) medication is required, the nurse can administer Paracetamol, Ibuprofen, oral rehydration salts, and Omeprazole.

114. This allows foreign nationals to have access to the medications they require.

## 7. Safeguards and other issues

### a. Legislative framework: detention legality and procedure

237. Malta's legislative framework regulating the grounds of immigration detention is comprised of the Immigration Act, the Refugee Act, and relevant parts of the Criminal Code and Procedure Law and Subsidiary Legislation<sup>115</sup> containing the Detention Service Regulations, in force from 15 January 2016. The reception of asylum seekers is regulated by the Reception Conditions Directive (RCD), which was transposed into Maltese legislation by the amended Reception of Asylum Seekers (Minimum Standards) Regulations.<sup>116</sup>

238. The return of foreign nationals, including the detention of such migrants with a view to returning them, is regulated by Council Directive 2008/115 on common standards and procedures for returning illegally staying third-country nationals (RD).<sup>117</sup>

239. In addition, there is also a restriction of movement on grounds of public health, based on the 1982 Prevention of Disease Ordinance,<sup>118</sup> which contains a provision enabling the Superintendent of Public Health to restrict personal movements of new arrivals for a set period for the purpose of protecting public health.

In 2020, the CPT found that in practice this restriction comprised the legal basis of 90% of Malta's migrants being held in reception and detention facilities, and it lasted for many months without review.<sup>119</sup> The Committee was critical about the legality of this detention. Indeed, immigration detention under these health provisions has been found to be illegal by Maltese Courts.<sup>120</sup> The CPT recommended that the Maltese authorities urgently review the legal basis for detention on public health grounds.

In 2023, the situation had changed significantly and the vast majority of persons held in detention were not held on the above preventive health grounds, but rather on RD or RCD orders. Nevertheless, the CPT did find a few persons still held on preventive health grounds in detention in Safi Detention Centre, for periods far exceeding the maximum time allowed. One such person was an alleged minor who had been in detention for 385 days, at the time of the delegation's visit. Another person detained on preventive health grounds had been in detention for 133 days, at the time of the visit.

240. The CPT welcomes the change in policy on the use of preventive health detention. Nevertheless, it **recommends that the Maltese authorities ensure that it is applied only when necessary, in accordance with the law, and that it be reviewed on a regular basis once the public health reasons have dissipated.**

**The CPT also requests updated information as to the status of the above-mentioned persons held on preventive health grounds in Safi at the time of the CPT's visit.**

### b. Information provision

241. Similar to 2020 and 2015, at all the immigration detention and reception centres visited, very few of the foreign nationals had received the written information booklet on the house rules and their rights and obligations, let alone in a language that they understood. This was despite the booklet being available in a range of different languages.

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115. Of 217.19

116. SL 420.06. The Directive was re-cast as Council Directive 2013/33 laying down standards for the reception of applicants for international protection.

117. The provisions of this Directive were transposed into national legislation by the Common Standards and Procedures for Returning Illegally Staying Third Country Nationals Regulations, SL 217.12.

118. In conjunction with a law dating from 1908.

119. See the CPT's 2020 Visit Report, paragraph 17.

120. In six court cases brought by detained asylum-seekers in 2019. The cases were habeas corpus applications brought under Article 409A of the Criminal Code.

242. Equally, in Safi, although foreign nationals were aware of the fact of their detention orders or removal orders, and were in possession of such orders, many foreign nationals could not read English, yet the detention orders were only in English and Maltese. Formal interpretation services were hardly used at all. Consequently, the majority of migrants lived for many months – and some for as long as a year or even longer – in a state of uncertainty over the duration of their situation.

243. The CPT considers that foreign nationals who are detained should be expressly informed, without delay and in a language they can understand, of their rights and the procedure applicable to them. To this end, all foreign nationals should be systematically provided with a document setting out this information, which should be available in the languages most commonly spoken by those concerned. The persons concerned should confirm in writing that they have been informed of their rights, in a language they can understand. Foreign nationals should receive, as required, the assistance of qualified interpreters; the use of fellow detained persons as interpreters should, in principle, be avoided. Further, house rules for all facilities should be provided to detainees, and copies of these rules should be made available in a range of languages.

**The CPT reiterates its recommendation that the Maltese authorities take the necessary steps to ensure that all foreign nationals are informed, without delay and in a language they understand, including the use of alternative modes of communication, of their rights and the procedure in oral and written formats, both on arrival in Malta and on arrival at Safi and Hal Far Initial Reception Centre, or other immigration facilities. Access to qualified interpretation services should be made available, where required.**

**Further, regular updates should be provided to foreign nationals deprived of their liberty on the status of their stay, on a case-by-case basis, by immigration and public health officials at the immigration reception and detention establishments.**

c. Contact with the outside world and access to a lawyer

244. As regards communication with the outside world, access to a telephone had somewhat improved since the CPT's 2020 visit. At Safi and Hal Far Initial Reception Centre, while mobile phones were not allowed and were confiscated and held by the police, telephone cards were generally provided but apparently on average between three and 10 days from arrival, with €7.50 of credit. Fixed line telephones were available on every block at Safi, from which foreign nationals could both call and receive calls internationally. However, at Hal Far Reception Centre, there was only one fixed line telephone for all the detained foreign nationals which, in the CPT's view, is insufficient.

Many foreign nationals informed the delegation that in depriving them access to their mobile phone, they were deprived access to their vital contacts and telephone numbers. In an immigration detention context, the CPT considers that access to mobile phones can help alleviate frustration, facilitate communication with family and access to information. Increasingly, the CPT is seeing that mobile phones are being permitted in immigration detention and reception centre contexts.

Equally, the CPT also considers it good practice to allow foreign nationals to have access to Voice over Internet Protocol (VoIP) using computers or tablets.

In their Response to the CPT delegation's Preliminary Observations, the Maltese authorities informed the CPT that allowing mobile phone usage in Safi would pose too great a security risk and the current procedure would not be changed. **The CPT reiterates its recommendation that detained foreign nationals should be allowed to keep, or at least have regular access to their mobile phones, in line with security considerations. It also recommends that all foreign nationals be provided with their card for telephone credit for use of the fixed line telephone immediately upon arrival at Safi. Further, the CPT recommends that foreign nationals be permitted to use VoIP.**

245. At Marsa and Dar il-Liedna, asylum seekers were allowed to keep their mobile phones and had ready access to free Wi-Fi. Fixed line telephones were also available and they were given telephone cards credited with €7.50.

246. At Marsa and Dar il-Liedna, visits were allowed and happened on quite a regular basis, including from external legal service providers and non-governmental organisations. At Safi and Hal Far Initial Reception Centre, visits were officially allowed, and the CPT examined records that showed a few visits had taken place from lawyers and non-governmental organisations providing pro bono legal services.<sup>121</sup> That said, apparently it was made increasingly difficult for legal services to visit Safi and Hal Far Initial Reception Centre and the delegation interviewed persons who alleged that they had encountered difficulties in contacting legal services. The **CPT reiterates its recommendation that foreign nationals should be able to receive visits, including legal visits, at Safi and Hal Far Initial Reception Centre on a regular basis in an appropriate setting and that ready access to legal services should be facilitated for all foreign nationals.**

d. Discipline and segregation

247. The Close Monitoring Unit (CMU) at Safi had three functions. It could be used to transfer foreign nationals who requested to move out of the regular multi-occupancy accommodation blocks and live alone or with another person for a while in the CMU. In this case, a semi-open regime was followed. It also served as an observation area for vulnerable foreign nationals. Lastly, it served as a security wing and a *de facto* disciplinary segregation unit for Safi and Hal Far Initial Reception Centre, where foreign nationals could be placed for up to 14 days. Nevertheless, records showed that it has been regularly used as such, with persons being placed there on average every five days or so, with segregation, often done in isolation, lasting from a few days to four weeks, and occasionally for over two months.<sup>122</sup>

248. One illustrative case can be seen with foreign national, Mr E, who had been placed in the CMU in isolation for 21 days for a fight at Hal Far Initial Reception Centre, and who allegedly spent seven of the 21 days not being allowed out from the cell at all.

249. The CPT considers that segregation for discipline purposes should be clearly differentiated from security purposes. If segregation is imposed for disciplinary reasons, the foreign nationals concerned should be provided with a copy of the relevant decision and information on the possibilities to appeal the measure to an outside authority, segregation should be time-limited and a separate register should be established with the segregation grounds and full detailed information of movements, etc. Further, detained persons in segregation should have a means of rest at their disposal, ready access to toilet facilities, and regular access to a shower, as well as at least one hour of outdoor exercise every day. Indeed, while the 14-day maximum period should never be exceeded, the aim should be to reduce the resort to solitary confinement as a public order/ security measure and to no longer apply solitary confinement as a disciplinary measure in an immigration detention context.

**The CPT recommends that the Maltese authorities ensure that:**

- **foreign nationals detained for disciplinary or security reasons in the CMU be provided with a copy of the relevant decision and information on the possibilities to appeal the measure to an outside authority;**
- **disciplinary segregation in the CMU is time-limited and does not last more than 14 days, and preferably far less, given the immigration detention context;**
- **a separate register is established setting out full information, such as date and time of entering and leaving, grounds for segregation;**
- **the CMU is refurbished to ensure that foreign nationals held there have a means of rest at their disposal, ready access to toilet facilities, and regular access to a shower; and**
- **all foreign nationals held for security purposes in the CMU are ensured at least one hour of outdoor exercise every day.**

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121. On average there were only some five visits per month from private lawyers or pro bono legal services, albeit sometime to a group containing a number of detained persons during one visit.

122. For example, foreign national, Mr D, was held in the CMU from 16 May 2023 to 17 July 2023.

e. Complaints

250. The CPT noted positively that complaints forms to internal and external mechanisms did exist and were available in a variety of the most commonly spoken languages, and that complaints boxes were available at the entrance to the blocks in Safi, in Hal Far Initial Reception Centre and Marsa. Nevertheless, all the persons interviewed by the delegation seemed generally unaware of the complaints mechanisms available and had not used them, there were no complaints boxes at Dar il-Liedna and the minors there did not know of any complaint mechanism other than talking to the staff. **The CPT recommends that this be addressed by the Maltese authorities and complaints boxes and forms be installed at Dar il-Liedna, as well as awareness raising undertaken on how to complain and to whom.**<sup>123</sup>

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123. See the 27th General Report on the CPT's Activities (2017) (which includes a section on complaints mechanisms).

## **APPENDIX I – ESTABLISHMENTS VISITED**

The delegation visited the following establishments:

### **Law enforcement establishments**

Floriana Custody Centre, Police General Headquarters  
Custody Centre, Police Department, Victoria, Gozo  
Custody Centre, Malta International Airport  
Financial Crimes Investigation Department  
The Courts of Justice – Holding cells  
Hamrun Police Station

### **Prison facilities**

Corradino Correctional Facility  
Centre of Residential Restorative Services (CORRs) (juveniles)

### **Immigration facilities**

Safi Detention Centre  
Hal Far Initial Reception Centre  
Marsa Initial Reception Centre  
Dar il-Liedna (asylum seeking juveniles)

## **APPENDIX II – LIST OF THE AUTHORITIES AND ORGANISATIONS WITH WHICH THE CPT DELEGATION HELD CONSULATIONS**

### **A. National authorities**

#### **Ministry for Home Affairs, Security, Reforms and Equality**

Byron Camilleri	Minister for Home Affairs, Security, Reforms and Equality
Stephanie Bason	Policy Development and Programme Implementation (PDPI), Director
Joseph St John	Senior Officer
John Testa	Senior Manager
Lavinia Seguna	Assistant Director, PDPI

#### **Malta Police Force**

Angelo Gafa	Commissioner of Police Malta Police Force
Sandro Gatt	Deputy Commissioner
Kenneth Haber	Assistant Commissioner
Antoine Cilia	Senior Inspector, Malta Police Force
Louise Vella	Superintendent, Malta Police Force, Immigration

#### **Correctional Services Agency (CSA)**

Chris Siegersma	Chief Executive Officer, CSA
Ivan Sultana	Principal Probation Officer, Probation and Parole Directorate

#### **Detention Services Agency (DSA)**

Kyle Mifsud	Chief Executive Officer, DSA
Nicholas Schembri	Charge Nurse, DSA

#### **Agency for the Welfare of Asylum Seekers (AWAS)**

Clayton Xuereb	Chief Executive Officer, AWAS
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#### **International Protection Agency (IPA)**

Malcolm Cutajar	Chief Executive Officer and Commissioner for Refugees
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## **B. International and national organisations**

Antoinette Vassallo	Commissioner for Children
Steve Libreri	Commissioner for Inmates Welfare and Development
Franco Depasquale	Emeritus Judge, Chairman of the Independent Police Complaints Board
Reuben Lanfranco	Member, Independent Police Complaints Board
Michael Buttigieg	Monitoring Board for Detained Persons, and member of Malta's National Preventive Mechanism against Torture (NPM)
Maria Cardona	Chair, Board of Visitors of the Prison and part of Malta's NPM
Samar Mazloun	UNHCR Representative in Malta
Neil Falzon	Director, Aditus Foundation
Katrine Camilleri	Director, Jesuit Refugee Service:
Maria Pisani	Integra Foundation
George Busuttil	Chairperson, Mid-Dlam ghad-Dawl Foundation
Charlie Mifsud	Director, RISE (offender management / end of sentence and re-integration)