



CPT/Inf (2002) 16

**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 13 to 18 May 2001**

The Maltese Government has recently published this report and its interim report drawn up in response. The Government's response is set out in document CPT/Inf (2002) 17.

Strasbourg, 27 August 2002

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from 13 to 18 May 2001

CONTENTS

Copy of the letter transmitting the CPT's report.....	5
I. INTRODUCTION.....	7
A. Dates of the visit and composition of the delegation.....	7
B. Establishments visited	7
C. Consultations held by the delegation.....	8
D. Cooperation between the CPT and the Maltese authorities	8
II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED	9
A. Police establishments	9
1. Preliminary remarks	9
2. Ill-treatment	9
3. Conditions of detention in police establishments.....	11
4. Safeguards against the ill-treatment of detained persons	14
a. introduction.....	14
b. notification of custody	14
c. access to a lawyer.....	15
d. access to a doctor	15
e. information on rights.....	16
f. conduct of interrogations	16
g. custody records	16
h. complaints procedures	17

B. Prisons	18
1. Preliminary remarks	18
2. Ill-treatment	18
3. Material conditions of detention.....	20
4. Regime.....	21
5. Medical services	23
6. Other issues related to the CPT's mandate	24
a. allocation and classification of prisoners	24
b. foreign prisoners	24
c. staffing issues.....	26
d. discipline	27
e. maximum security unit	28
f. means of restraint.....	29
g. contact with the outside world	30
h. complaints and inspection procedures	30
7. Substance Abuse Treatment Unit (SATU), Mtahleb.....	31
C. Forensic ward, Mount Carmel Hospital	33
III. RECAPITULATION AND CONCLUSIONS	35
APPENDIX I: LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION	39
APPENDIX II: LIST OF THE NATIONAL AUTHORITIES AND OTHER PERSONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS.....	49

Copy of the letter transmitting the CPT's report

Strasbourg, 3 December 2001

Dear Sirs,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report to the Government of Malta drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Malta from 13 to 18 May 2001. The report was adopted by the CPT at its 46th meeting, held from 5 to 9 November 2001.

I would like to draw your attention to paragraph 107 of the report, in which the CPT requests the Maltese authorities to provide within six months a response giving an account of the measures taken upon its report. It would also be most helpful if the Maltese authorities could provide a copy of the response in a computer-readable form.

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

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

Yours faithfully,

Silvia CASALE
President of the European Committee for the
Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

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and Justice
Palazzo Parisio
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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Malta from 13 to 18 May 2001. The visit formed part of the CPT's programme of periodic visits for 2001, and was the third periodic visit to Malta to be carried out by the Committee¹.

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

- John OLDEN, Head of delegation
- Christina DOCTARE
- Pétur HAUSSON
- Anhelita KAMENSKA
- Yuri KUDRYAVTSEV

who were accompanied by the following members of the CPT's Secretariat:

- Bojana URUMOVA
- Edo KORLJAN.

B. Establishments visited

3. The delegation visited the following places of detention:

Police establishments

- Fort Mosta Police Station
- St. Julian's Police Station*
- Sliema Police Station*
- Valletta Police Station
- Victoria Police Station (Gozo)
- Xagħra Police Station (Gozo)

¹ The CPT's previous periodic visits to Malta took place in July 1990 and July 1995.

* Follow-up visit.

- Detention premises at Luqa International Airport*
- Ta' Kandja Police Complex, Siggiewi*
- Lock-up at the Courts of Justice, Valletta*

Prisons

- Corradino Correctional Facility, Paola*
- Substance Abuse Therapeutic Unit, Mtahleb

Psychiatric institutions

- Mount Carmel Hospital (forensic ward), Attard*

C. Consultations held by the delegation

4. The delegation held consultations with the national authorities and with representatives of non-governmental organisations active in areas of concern to the CPT. In addition, numerous meetings were held with local officials in charge of the places visited.

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

D. Cooperation between the CPT and the Maltese authorities

5. The degree of cooperation received by the CPT's delegation during the visit from the Maltese authorities was excellent.

At central level, the delegation was received by Mr Lawrence Gonzi, Deputy Prime Minister and Minister for Social Policy, Mr Tonio Borg, Minister for Home Affairs, and Mr Louis Deguara, Minister of Health, as well as by senior officials from those Ministries. Further useful meetings were held with Mr Anthony Borg Barthet, Attorney General, and Mr Joseph Sammut, Ombudsman.

The CPT wishes to express its appreciation for the efforts made by the liaison officers appointed by the Maltese authorities, Messrs Hector Bonavia and Charles Deguara, to facilitate the delegation's task.

At local level, the delegation met with a good reception and obtained the assistance it required from management and staff at all establishments, including those which had not been notified in advance of the CPT's intention to carry out a visit.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

6. The CPT's third periodic visit to Malta took place during a transitional period, both in terms of the legal framework governing the rights of detained persons in police custody and the physical infrastructure used for detention. The former issue will be elaborated in the section on safeguards against the ill-treatment of detained persons (cf. paragraphs 23 to 33), and the latter in the section on conditions of detention in police establishments (cf. paragraphs 15 to 22). For the sake of clarity, it might be useful to recall at this stage a few basic elements of the existing legal framework for police custody in Malta.

7. Police custody of persons arrested on suspicion of having committed a criminal offence is limited to a maximum of 48 hours; within that period, they must either be brought before a court or released.² The establishments used for this purpose are police stations and lock-ups.

Persons detained under the Immigration Act of 1970³ may also be held in police establishments. This Act authorises the temporary detention of persons refused "leave to land" at a border (e.g., in the relevant premises at Luqa International Airport) until the departure of the next returning flight or vessel; more extended detention may be imposed in cases of persons subject to a removal or deportation order, pending the implementation of the same.⁴ At the time of the visit, immigration detainees held for periods in excess of 48 hours were being accommodated in the Ta' Kandja Police Complex at Siggiewi and in the Lock-up at the Courts of Justice in Valletta.

8. The CPT's delegation visited six police stations (four District Headquarters and two local stations), as well as each of the establishments mentioned in the preceding sub-paragraph.

2. Ill-treatment

9. The vast majority of persons deprived of their liberty interviewed during the CPT's third periodic visit to Malta made no allegations of ill-treatment in police custody. Despite this generally positive state of affairs, certain information emerged suggesting that heightened vigilance is necessary to prevent the ill-treatment and to ensure the safety and physical integrity of persons detained by the police. These issues are addressed in turn below.

* * *

² Cf. Article 34(3) of the Constitution.

³ As amended by various Acts, dating from 1972 to 2000.

⁴ Cf. sections 10, 14(2) and 22(5) of the Immigration Act.

10. At the outset of the visit, the Minister for Home Affairs referred to a case involving three foreign nationals who had alleged that they had been beaten by police officers at the Police General Headquarters at Floriana (and, subsequently, by prison officers at the Corradino Correctional Facility, cf. paragraph 36 below) in June 1999. As a result of those allegations, three police officers were indicted on charges of abuse of authority (section 139 of the Criminal Code), but were subsequently acquitted by a Court of Magistrates on 28 September 1999.

Apart from the foregoing case, a few other allegations of police ill-treatment were made to the CPT's delegation directly by persons detained in several of the establishments visited. The allegations included accounts of being punched, kicked, or struck with objects including revolvers or police radios (walkie-talkies), and related both to the time of apprehension as well as the time spent in a police station or lock-up. In one case, a medical member of the delegation gathered information consistent with a detainee's account of being punched in the back of the head at the time of his apprehension at the airport on the previous day. Upon examination on 15 May 2001, the person concerned was found to display an elongated, horizontal and slightly discoloured soft swelling on the right side of the occipital area with a 2 x 1 cm abrasion in the middle. It should be noted that most of the other allegations received pre-dated the delegation's visit by at least several months and any marks which might have been caused by the kinds of ill-treatment alleged would almost certainly have healed in the meantime.

11. While the information gathered certainly does not imply that there is a pervasive problem of police ill-treatment in Malta, it does represent a subtle yet disconcerting departure from the situation found during the CPT's previous visits to the country in 1990 and 1995 (cf. paragraphs 68 to 71 of CPT/Inf (92) 5 and paragraph 10 of CPT/Inf (96) 25). Steps should be taken without delay to thwart any potential development of regressive attitudes concerning the treatment of detained persons. Consequently, **the CPT recommends that senior police officers regularly remind their subordinates that ill-treatment is not acceptable and will be the subject of severe sanctions.**

As regards, more particularly, the alleged use of excessive force at the time of arrest, the CPT fully recognises that the arrest of a criminal suspect is often a hazardous task, in particular if the person concerned resists arrest and/or is someone whom the police have good reason to believe represents an immediate danger. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and by police officers) without this being the result of an intention to inflict ill-treatment. However, no more force than is reasonably necessary should be used when effecting an arrest. Furthermore, once arrested persons have been brought under control, there can be no justification for their being struck by police officers. **The CPT recommends that police officers be reminded of these precepts.**

12. Further, **the Committee recommends that, whenever an apprehended person brought before a judge alleges ill-treatment by the police, the judge immediately request a forensic medical examination of the person concerned and bring the matter to the attention of the relevant authorities, irrespective of whether the person concerned bears visible injuries.**

Moreover, **even in the absence of an express allegation of ill-treatment, a judge should request a forensic medical examination and inform the relevant authorities whenever there are grounds to believe that an apprehended person brought before him could have been the victim of ill-treatment.**

13. Lastly, it is axiomatic that **the existence of effective mechanisms to tackle police misconduct is an important safeguard against the ill-treatment of persons deprived of their liberty. The imposition of appropriate disciplinary and/or criminal penalties in those cases where evidence of wrongdoing emerges can have a powerful dissuasive effect on police officers who might otherwise be minded to engage in ill-treatment** (cf. also in this connection paragraph 33).

* * *

14. The CPT wishes to stress that the duty of care which is owed by the police to persons in their custody includes the responsibility to ensure their safety and physical integrity and, by implication, to be alert to any potential for self-harm. It follows that the proper monitoring of custody areas is an integral component of the police's duty of care.

The importance of these principles was highlighted by two serious incidents which were brought to the delegation's attention in the course of the May 2001 visit. Each of the cases in question had taken place in one of the cells at Sliema Police Station; the first involved a person who, according to the relevant police incident report, sustained severe burns on 4 June 2000, and the second was a suicide (hanging using bed linen) which had taken place on the eve of the delegation's final talks with the Maltese authorities (18 May 2001). In reference to the request made by its delegation at the end of the visit (cf. statement made on 18 May 2001 by the Head of the delegation), **the CPT trusts that it will be informed of the outcome of the inquiries initiated following those incidents, and that it will receive copies of any related expert opinions.**

It should be noted in this context that none of the police stations visited were equipped with a call system; further, the cell at Sliema where the fire had taken place was so far removed from the areas (offices or desks) where the police officers were normally present as to render any requests made by detainees inaudible. **The CPT recommends that immediate steps be taken to ensure that all police cells are adequately monitored. Preferably, they should be equipped with call systems, and the authorities might also explore the possibility of introducing closed circuit camera monitoring of custody areas.**

3. Conditions of detention in police establishments

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

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

16. As mentioned above (cf. paragraph 6), the physical infrastructure used for police detention was undergoing certain changes.

17. Two new principal detention centres were due to begin operating in the summer of 2001, the first a 54-cell lock-up at the Police General Headquarters at Floriana (the main police holding facility in Malta)⁵, and the second a purpose-built centre for immigration detainees at Hal Far. It was envisaged that the two new facilities would receive detainees previously held at the Lock-up at the Courts of Justice in Valletta and at the Ta' Kandja Police Complex. As for the old lock-up at Floriana, it had apparently been taken out of service.

It is worth noting that these developments constitute a long-awaited and most welcome response to two urgent recommendations made following the 1995 visit, i.e. that the Maltese authorities "provide better conditions of detention at the main police holding facility" and "find better premises...to accommodate persons detained under the Immigration Act" (cf. paragraphs 13 and 22 of CPT/Inf (96) 25).

18. The Maltese authorities had also expressed their intention to improve the maintenance of uniform standards in police stations throughout the country by phasing out the use of cells in local stations in favour of those located at the Headquarters of each of the ten police Districts (cf. page 5 of CPT/Inf (97) 8). Apparently, this policy had been conceived as a result of one of the recommendations in a comprehensive report entitled "Inspection of Places of Police Detention in Malta and Gozo" prepared in August 1996 by a former Police Commissioner, Mr Alfred Calleja. The recommendation in question was that "a decision...be taken as to which detention cells in Police Stations should be retained for this purpose", considering that many of them had become "derelict" (e.g., the cells in Xaghra, which the report deemed "unfit for use").

At the time of the visit, the new policy did not appear to have been fully implemented. Of the police stations visited - all of which were still in use - four (Mosta, Sliema, Valletta and Victoria) were District Headquarters, and two (St. Julian's and Xaghra) were local police stations.

Conditions of detention were found to be rather variable in the different police cells. Most were sparsely furnished (containing only beds, mattresses and bedding) and devoid of natural light (the sole exception being St. Julian's), but were generally well-ventilated. By far the best conditions were observed at the relatively new premises of Valletta Police Station, which contained two comparatively large (7 m²), clean and well-ventilated cells with adequate artificial lighting (though no natural light) and integral sanitation (toilet and washbasin). In contrast, many cells were rather cramped (e.g., 4.5 m² at Victoria and Xaghra), dim (Mosta, Sliema, Victoria, Xaghra), and/or neglected in terms of their state of repair and hygiene. Worst in this respect were the cells of the stations at St. Julian's and Sliema, the latter station having urine-stained, foul-smelling bedding in one of its cells.

The CPT recommends that the Maltese authorities take out of service definitively those cells which have fallen into desuetude, and remedy the shortcomings in the cells which are to remain in use (reference being had, inter alia, to the criteria set out in paragraph 15). More generally, it considers that regular independent inspections, such as the one carried out in 1996, could usefully promote the maintenance of appropriate standards in police detention facilities.

⁵ It was subsequently confirmed to the CPT that the new facility began operating on 12 July 2001.

19. The Lock-up at the Courts of Justice in Valletta (cf. paragraph 17 above and paragraph 80 of CPT/Inf (92) 5) had been divided into two zones, one consisting of a large temporary holding cell for prisoners brought to appear before the Courts, and the other a block of 14 cells where persons could be held for longer periods. As matters stood on 16 May 2001, immigration detainees constituted the majority of the persons held in the cell block; according to staff, their stays could often extend to several weeks. This is totally unacceptable, given the lack of either facilities for outdoor exercise or any regime of activities at the lock-up. Therefore, **the CPT would like to receive confirmation that the cell block at the Valletta Lock-up is no longer used for prolonged detention.**

20. Given the plans for an imminent transfer of the immigration detainees from the Ta' Kandja Police Complex at Siggiewi to the new Hal Far Detention Centre, the remarks on the former shall be kept to a minimum. Suffice it to say that, on 15 May 2001, a miserable situation scarcely different from the one observed in 1995 (cf. paragraphs 19 to 22 of CPT/Inf (96) 25) was found to prevail: premises - particularly the sanitary facilities - characterised by filth and disrepair, as well as an utter absence of purposeful activities for detainees whose stays at the complex could range from a few days to periods longer than two years.

The CPT would like to receive confirmation that the new detention facility at Hal Far has become operational and that immigration detainees are no longer being held at the Ta' Kandja Police Complex.

21. Apart from the two cells described in the 1995 visit report (cf. paragraph 23 of CPT/Inf (96) 25), the detention premises at Luqa International Airport consisted of a large, windowless 8-bed dormitory accommodating persons refused leave to land until the departure of the next returning flight (at the very most, five days). Apart from the beds, the room's furnishings consisted of a few tables and chairs. The overall state of repair and hygiene was adequate, and the separate sanitary facilities (toilets, washbasins, shower) were clean and well-maintained. However, detainees had no possibility to go out into the open air. **The CPT recommends that exercise in the open air be allowed on a daily basis for immigration detainees held for extended periods (i.e. 24 hours or more) at Luqa International Airport.**

As for the cells, only one of them was still in service, and staff indicated that it was rarely used.

22. As regards, more generally, the conditions of detention applying in establishments where persons may be held under the Immigration Act of 1970, **the CPT recommends that the Maltese authorities ensure that they comply with the principles set out in the Committee's 7th General Report (cf. paragraphs 25 to 29 of CPT/Inf (97) 10).**

4. Safeguards against the ill-treatment of detained persons

a. introduction

23. The reports drawn up after the CPT's previous periodic visits to Malta examined in detail the safeguards against ill-treatment offered to detained persons, including notification of custody, access to a lawyer and access to a doctor (cf. paragraphs 82 to 94 of CPT/Inf (92) 5 and paragraphs 8 to 43 of CPT/Inf (96) 25).

At the time of the May 2001 visit, the legal framework governing these three fundamental safeguards was being revised. A White Paper proposing changes to the Criminal Code was before the Maltese Parliament; in its preface, the Minister for Home Affairs stated that the proposals would grant criminal suspects "for the first time...a legal right to inform a relative or a friend of [their] arrest and detention, the right to be examined by a doctor of [their] own choice, and the right to consult in private a legal advisor of [their] own choice prior to interrogation."

In addition, a further White Paper seeking to reform the 1990 Malta Police Ordinance was published on 21 August 2001. It contains, inter alia, provisions on a new police complaints system and on the promulgation of a new code of practice for interrogations.

The CPT is pleased that the Maltese authorities are now taking concrete steps to develop and strengthen the formal safeguards afforded to detained persons; without a doubt, this will make a significant contribution to the prevention of ill-treatment. The following sections examine the substance of each of the relevant legislative proposals.

b. notification of custody

24. In principle, the CPT considers that persons who are obliged to remain with the police should have the right to notify a third party immediately. Of course, this could be made subject to certain exceptions designed to protect the legitimate interests of the police investigation, provided those exceptions are clearly circumscribed and made subject to appropriate safeguards.

According to the relevant provisions in the White Paper on amendments to the Criminal Code⁶, the police have the duty to inform the person detained or arrested of his right to request that a third party (other than a person suspected of involvement in the offence being investigated) be notified, and to comply with any such request "without undue delay". The exercise of the right may be delayed for a maximum of six hours only if a magistrate (on application by the investigating officer) determines that there are reasonable grounds to suspect that immediate notification may be detrimental to the interests of justice. No delay is permitted if the person detained is a minor.

The CPT recommends that the above-mentioned provisions promptly be given a firm and enforceable legal basis.

⁶ Cf. section 355AS of the White Paper on amendments to the Criminal Code.

c. access to a lawyer

25. The CPT recommended in its 1995 visit report that steps be taken without further delay to grant access to a lawyer from the very outset of police custody, including the right to contact and to receive visits from a lawyer (in conditions which permit confidentiality), and, in principle, to have a lawyer present during interrogations (cf. paragraph 31 of CPT/Inf (96) 25). The *raison d'être* of this key recommendation is to enhance the protection of detained persons against ill-treatment; as the CPT has emphasised on several occasions, it is precisely during the first hours of police custody that the risk of ill-treatment is the greatest.

The White Paper on amendments to the Criminal Code introduces the right to consult a lawyer in private prior to an interrogation "for a period not exceeding one hour". However, access to a lawyer may be delayed by a superintendent or higher-ranking police officer for up to 36 hours, if the officer concerned has reasonable grounds to believe that the exercise of the right will lead to certain harmful consequences⁷. The CPT has serious misgivings about this proviso.

The Committee has never disputed the principle that the police may question a detained person on urgent matters, even in the absence of a lawyer, nor has it ruled out the replacement of a lawyer who impedes the proper conduct of an interrogation; however, the latter possibility should be strictly circumscribed by appropriate safeguards. Further, the Committee has recognised that, in order to protect the legitimate interests of the police investigation, it may exceptionally be necessary to delay for a certain period a detained person's access to a particular lawyer chosen by him. However, this should not result in the right of access to a lawyer being denied altogether during the period in question. In such cases, access to another, independent lawyer should be arranged.

The CPT recommends that the Maltese authorities take the foregoing remarks into account while further developing the relevant legislative proposals with a view to establishing, at the earliest opportunity, a firm and enforceable legal basis for a fully-fledged right of access to a lawyer for persons deprived of their liberty by the police.

d. access to a doctor

26. The CPT considers that persons taken into police custody should have the right of access to a doctor, including, if they so wish, to a doctor of their own choice. As was emphasised in the report on the 1995 visit (cf. paragraph 34 of CPT/Inf (96) 25), the results of every medical examination of a person in police custody (including a description of any injuries borne by the person in custody, any relevant statement by him as well as the doctor's conclusions), should be recorded in writing by the doctor and made available to the person concerned and his lawyer. It goes without saying that examinations should take place in conditions which permit confidentiality.

27. The CPT notes that the White Paper on amendments to the Criminal Code contains a provision allowing arrested persons to consult a doctor of their own choice, provided the doctor is readily available.⁸ **The CPT recommends that all the principles set out in the preceding paragraph be either reflected in the above-mentioned provision or in the implementing regulations.**

⁷ Cf. section 355AT of the White Paper on amendments to the Criminal Code.

⁸ Cf. section 355AS(6), *ibid.*

e. information on rights

28. During the official talks with the CPT's delegation on 14 May 2001, the Maltese authorities indicated that they had, in principle, no objection to introducing a form setting out the rights of persons in police custody, in accordance with the recommendation already made by the Committee in its 1995 visit report (cf. paragraph 35 of CPT/Inf (96) 25). **The CPT would like to receive confirmation that such a form has been prepared and translated in the appropriate languages, and that it is being issued systematically to persons at the outset of their custody. The Committee would also like to receive a copy of the form.**

f. conduct of interrogations

29. The CPT was pleased to note that the Code of Practice for the Interrogation of Arrested Persons issued in March 1996 incorporated each of the modifications suggested by the CPT in its 1995 report (cf. paragraph 38 of CPT/Inf (96) 25). The White Paper on amendments to the Police Ordinance refers to the above-mentioned Code of Practice, and provides that failure to comply with it constitutes a disciplinary violation.⁹

g. custody records

30. The maintenance of custody registers in police establishments in Malta has been a source of ongoing concern to the CPT. In the report drawn up after its 1995 visit, the CPT found that "the police stations visited recorded information about the custody of detained persons in only the most perfunctory manner"; indeed, in certain instances the fact of a detainee's stay in an establishment was completely absent from the records ("a most serious lacuna", cf. paragraph 40 of CPT/Inf (96) 25). To address these shortcomings, the Committee recommended that a high priority be given to developing a single and comprehensive custody record for each person detained by the police and that appropriate steps be taken to ensure systematic and prompt recording of every instance when a person is detained in a police establishment (cf. paragraph 41 of CPT/Inf (96) 25 as well as paragraph 92 of CPT/Inf (92) 5).

31. The CPT has taken note of the progress made since 1995 in terms of developing the legal and regulatory framework applicable to custody records. Particular mention should be made of the White Paper on amendments to the Police Ordinance, which contains, inter alia, precise requirements for recording the time of arrest, bringing to a police station, transfer and release¹⁰. Further, the Code of Practice for the Interrogation of Arrested Persons has introduced certain recording requirements in the context of questioning by the police, and the White Paper on amendments to the Criminal Code would impose the duty to record specific aspects related to the exercise of the rights to notify a third party and to legal advice. However, these positive steps had yet to be implemented in practice by May 2001, and a number of the registers examined by the delegation in different police establishments (including the detention premises at Luqa International Airport and the Lock-up at the Courts of Justice in Valletta) inspired little confidence. For instance, they tended to lack detainees' signatures as well as any indication as to whether they had been released or transferred; in fact, references to detainees transferred to other police stations were often altogether absent.

⁹ Cf. section 68(3) of the White Paper on amendments to the Police Ordinance.

¹⁰ Cf. section 66, *ibid.*

32. The CPT has already stressed that proper recording in the context of police custody greatly facilitates the supervision of the treatment of persons deprived of their liberty and, as such, constitutes an important safeguard against ill-treatment. Consequently, **it recommends that the Maltese authorities take urgent steps to ensure that existing recording requirements are respected in all police establishments and that those proposed in the White Papers on amendments to the Police Ordinance and the Criminal Code are promptly made enforceable. Under no circumstances should the fact of a person's detention in a particular establishment be absent from the records of the premises in question.**

Preferably, there should be a single and comprehensive custody register for each person detained by the police. This register should cover all aspects of his/her custody and all the action taken in connection with it (time of and reason(s) for the arrest; when informed of rights; signs of injury, mental disorder, etc.; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when questioned; when brought before a judge; when released/transferred, etc.). For certain matters (for example, the removal of personal effects, the fact of being told of one's rights and of invoking or waiving them), the signature of the detainee should be obtained and, if necessary, the absence of a signature explained. The detainee's lawyer should have access to such a custody record.

h. complaints procedures

33. The CPT recommended in its 1995 visit report that a very high priority be accorded to the adoption of legislation to introduce an independent system for examining complaints about treatment in police custody (cf. paragraph 42 of CPT/Inf (96) 25). The White Paper amending the Police Ordinance constitutes a significant step towards the creation of such a mechanism, which is envisaged as a Police Board composed of five persons who may not be police officers and who are appointed for a term of one year by the President on the advice of the Minister for Home Affairs. The Police Board will have among its principal duties the examination of "any matter regarding the conduct of [the police]", as well as the monitoring of internal police disciplinary proceedings held by the Police Commissioner and of the operation of the new Internal Affairs Unit.

The CPT recommends that appropriate measures be taken to implement the above-mentioned proposals for the creation of a Police Board, and to ensure that its functions are widely publicised. In order to ensure that this mechanism is perceived as being fully independent from the police authorities and with a view to guaranteeing continuity of its membership, **consideration might usefully be given to appointing Police Board members for periods of longer than one year at a time.**

B. Prisons

1. Preliminary remarks

34. The 2001 visit was the third occasion on which a CPT delegation has visited the Corradino Correctional Facility, the only prison in Malta.

The prison's population has been rising at a remarkable pace over the past decade. When the CPT first visited Malta in 1990, it was 94; on the first day of the 2001 visit, there were 248 prisoners in the establishment (its current official capacity is 270). The prisoners included 12 women and 4 male minors (aged under 18), and the ratio of remand to sentenced prisoners was 1:2. The proportion of foreign nationals, mostly from Libya and other North African countries, remained high (nearly a third of all inmates).

Since the CPT's previous periodic visit in July 1995, Corradino has been the subject of an ambitious programme of reconstruction and renovation (cf. paragraphs 42 to 45).

2. Ill-treatment

35. As had been the case during the CPT's visits to Malta in 1990 and 1995, the vast majority of prisoners interviewed at the Corradino Correctional Facility made no allegations of ill-treatment by prison or police staff employed at the establishment; indeed, many inmates characterised officers' treatment of them as correct. Nevertheless, certain information gathered by the delegation tended to mar the generally positive picture and would suggest the need for the authorities to be vigilant in this area.

36. Reference has already been made to the case of three foreign nationals who had alleged that they had been physically ill-treated by prison officers at Corradino (as well as by police officers at the Police General Headquarters at Floriana, cf. paragraph 10 above) on 22 June 1999. The types of ill-treatment allegedly inflicted in the prison on one or more of the three persons concerned included punches or kicks on various parts of the body (back, shoulder-blades, sides, genitals) or head (ear, eye), and threats of further assault or infliction of grievous bodily harm.

The Minister for Home Affairs requested the Prison Board of Visitors to carry out an inquiry into the above-mentioned case. The Board of Inquiry appointed as a result examined the medical evidence as well as the statements made under oath by a variety of witnesses (including the three prisoners concerned, prison officers, and police escorts) and set out its findings in a detailed report. While the Board of Inquiry did find that certain of the injuries displayed by two of the prisoners were consistent with their allegations, it considered the evidence to be ultimately inconclusive (inter alia, as to the time of origin of the injuries)¹¹. The CPT's delegation was informed that in connection with this case, a prison guard had been formally indicted and was acquitted on 16 November 1999 by a Court of Magistrates.

¹¹ Cf. "Prison Board of Visitors - Report of the Board of Inquiry" dated 14 September 1999.

37. The CPT's delegation also heard allegations to the effect that, following an attempted escape on 29 March 2000, three foreign inmates had been punched, slapped and struck with truncheons, while handcuffed with their hands behind their backs. Their medical records revealed that, upon admission to St. Michael's Ward at St. Luke's Hospital¹² on 31 March 2000, two of them had displayed injuries consistent with their allegations, the first including a "lacerated wound associated with mild swelling around the nose and left cheek, abrasion of palm of hand and right flank posteriorly " and the second, "small abrasion of left forehead, both shoulders and left wrist, slight tenderness in neck and right shoulder."

38. It should be added that the delegation received allegations, to varying degrees from inmates accommodated in different parts of the prison, of verbal abuse (including racial slurs) or unfriendly or confrontational behaviour on the part of some staff members. That said, the delegation gained the impression that, on the whole, relations between inmates and staff tended to be relaxed.

39. In the light of the information gathered, **the CPT recommends that staff at the Corradino Correctional Facility be given the clear message that the physical ill-treatment and verbal abuse of inmates are entirely unacceptable and will be the subject of severe sanctions.**

40. The CPT considers that the best possible guarantee against the ill-treatment of prisoners is properly-recruited and trained prison officers, who know how to adopt the appropriate attitude in their relations with inmates. Developed interpersonal communication skills are an essential part of the make-up of such staff. Those skills will often enable them to defuse a situation which could otherwise turn into violence. More generally, they will lead to a lowering of tension and raising of the quality of life in an establishment, to the benefit of all concerned.

In this respect, the CPT is pleased that the curriculum for the six-month, four-module basic induction course for prison officers in Malta covers communication skills, as well as including role-playing exercises designed to prepare recruits for a variety of specific situations they are likely to encounter in the course of their careers. However, it would appear that on-going training of prison officers is rare or, at best, sporadic. **The Committee considers that training in interpersonal communication skills should be widely available to prison officers on an ongoing basis. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation.**

41. In order to gain a more comprehensive picture, **the CPT would also like to receive the following information for the period 1998-2000:**

- **the number of complaints lodged concerning ill treatment by prison or police staff employed at the Corradino Correctional Facility and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**
- **an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by prison or police staff employed at the Corradino Correctional Facility.**

¹² This ward is an extension of Corradino Correctional Facility.

3. Material conditions of detention

42. Significant changes to the prison's infrastructure¹³ had taken place since the CPT's 1995 visit, the most noteworthy being the entry into service in 1999 of a newly-constructed young offenders section (known as the Young Offenders Unit Rehabilitation Services, or YOURS)¹⁴ and the construction of a separate 144-cell block for remand prisoners, due to enter into service by May 2002. Other improvements in progress or recently carried out have included the creation of communal rooms in Divisions I, II, and III, the refurbishment of Division VI (used for disciplinary punishment and for high-security inmates, cf. paragraphs 70 to 72 below), and the addition of a new state-of-the-art kitchen. As for Division VIII, which the CPT had previously designated as "unacceptable" (cf. paragraphs 32 to 35 of CPT/Inf (92) 5 and paragraph 64 of CPT/Inf (96) 25), it is to be welcomed that it has been taken out of service definitively.

The CPT would like to receive up-to-date information on the current status of the renovation projects at the Corradino Correctional Facility; in particular, it would like to be informed whether the new remand block has become operational.

43. Contrary to the situation observed in certain parts of Corradino during the previous visit (cf. paragraph 48 of the CPT/Inf (96) 25), the CPT's delegation was pleased to find that the state of cleanliness throughout the establishment was satisfactory and that all of the cells visited were equipped with chairs and tables. However, **it noted that the walls in some of the cells on the ground floor of Divisions III and IV (e.g. cell No. 163) were seriously affected by humidity and mildew.**

44. The women's section had been relocated to the premises which had previously served as a substance abuse treatment unit. The conditions of accommodation were, on the whole, adequate in each of the 23 single-occupancy cells, which measured approximately 8m² and were equipped with a bed, lavatory, washbasin and shelves. However, access to natural light, artificial lighting and ventilation in the cells left something to be desired; **the CPT recommends that these matters be reviewed.**

In addition to an exercise yard, the section had its own kitchen, washing facilities, visiting areas and classrooms.

¹³ A general description of prisoner accommodation at Corradino may be found in paragraph 27 of CPT/Inf (92) 5 and paragraphs 48 to 51 of CPT/Inf (96) 25. In May 2001, prisoners continued to be accommodated one to a cell throughout the establishment, and the principal accommodation for adult male prisoners (both sentenced and on remand) remained in Divisions I to IV, which are located in the main radial-pattern building constructed in the first half of the 19th century.

¹⁴ In principle, the young offenders section accommodates inmates aged between 16 and 21; however, slightly older persons with special needs may also be admitted.

45. The conditions in the new young offenders section were satisfactory. Each of its 36 single-occupancy cells measured approximately 6.5 m² and was furnished with a bed, table, cupboard, and bookshelves, as well as being equipped with a television, call system, and integral sanitation (washbasin and partitioned toilet). Ventilation in the cells was good, as was their access to natural light and artificial lighting. Other positive features in the section included a library, music room, workshop, gymnasium, laundry, visiting facilities, a spacious exercise yard and ample communal rooms.

4. Regime

46. Following its 1995 visit to Malta, the CPT concluded that, despite certain progress in the provision of education to inmates, "the regime [at Corradino] remained relaxed to the point of torpor". It therefore recommended "that serious efforts be made to develop a constructive and challenging regime (including association, education, sport and work with vocational value)" (cf. paragraph 55 of CPT/Inf (96) 25).

47. The CPT is pleased that the proportion of prisoners with work had increased since the CPT's 1995 visit¹⁵. In May 2001, a total of 167 prisoners (approximately two thirds of the prison's population) were employed. In addition to the jobs available in the prison's main kitchen, bakery, and aluminium and bookbinding workshops, adult male prisoners (both sentenced and remand) could obtain work as storekeepers, masons, tailors, carpenters, electricians, fitters, cleaners, or stationery manufacturers (the latter involving an outside company which employed fourteen of the foreign prisoners).

The situation was less favourable for women prisoners, who were offered a very limited selection of work activities - cooking, cleaning, and simple industrial work (packing) - in which only half of them were involved.

48. Certain improvements were also observed as regards the provision of education to prisoners. In particular, eight new classrooms had opened in 1996, and it was envisaged to continue to expand these facilities. Educational staff included fifteen part-time teachers. As for enrolment figures, they were similar to those found in 1995 (cf. paragraph 54 of CPT/Inf (96) 25); at the time of the May 2001 visit, fifty adult male prisoners were taking classes which included Maltese, English, Italian, arts, etc. In the case of one inmate, commendably flexible arrangements had been made to enable him to work towards a university degree outside the prison.

Women prisoners were offered certain classes which took place in their own section; however, it appeared that the educational opportunities available to them were not on a par with those enjoyed by the male prisoners.

¹⁵ In July 1995, fewer than half of the prisoners worked (cf. paragraph 53 of CPT/Inf. (96) 25).

49. The CPT finds it regrettable that, given the dearth of activities available to them, many of the women prisoners at Corradino spent most of their time idling in the communal room in their section. As stated in the Committee's 10th General Report (cf. paragraph 25 of CPT/Inf (2000) 13), women deprived of their liberty should enjoy access to meaningful activities on an equal footing with their male counterparts. Consequently, **the CPT recommends that concerted efforts be made to extend the range of activities (in particular, work and education) for women held at the Corradino Correctional Facility.**

50. Although vocational training programmes were offered at the prison, prisoners who completed them had slim prospects for finding employment in those fields upon their release, due to requirements to have a clean police record in order to obtain certain professional licenses (e.g., to become an electrician). The CPT's delegation was told that the authorities are considering a legislative change and **would like to receive further particulars on this subject.**

51. The main facilities for sports activities had been significantly upgraded, consisting of a newly-built and well-equipped - though somewhat small - gymnasium (available only to male prisoners). However, it was striking to note that, apart from the occasionally organised football matches, the spacious inner yards in each Division were hardly ever used for collective sports. **The CPT recommends that this shortcoming be remedied, and that a wider range of organised sport activities be offered to all adult prisoners.**

52. The delegation was impressed by the regime in the young offenders section, which offered a full curriculum of classes in Maltese, English, Italian, mathematics, music, geography, history, computer skills, life skills, lateral thinking, arts and crafts, and cooking, as well as a developed recreation programme which included various physical fitness activities. The Assistant Manager in charge of this section at the time of the visit deserves special mention for his efforts to expand occupational activities and social re-integration programmes for the young offenders, in cooperation with the Probation Services Unit and with other state agencies. However, it would appear that he resigned shortly after the CPT's visit; **the Committee would like to be informed whether the post of Assistant Manager in the young offenders section at the Corradino Correctional Facility has since been filled.**

A number of the delegation's interlocutors felt that custodial staff at the young offenders section would benefit from specific professional training in order to be better equipped to work with the young persons in their charge. This is a matter of particular importance; **the CPT would like to be informed whether it is foreseen to begin providing such training to custodial staff in the young offenders section.**

5. Medical services

53. Health care staffing levels at the Corradino Correctional Facility remained, on the whole, adequate. A group of five general practitioners provided the equivalent of two full-time posts, and one of the doctors was always on call outside working hours. The equivalent of at least two full-time nursing posts was being provided, and there was a 24-hour medical and nursing presence at the establishment in situations of special need (e.g., hunger strikes). However, the growth in the prison population since 1995 (from 190 to 248) should entail a corresponding increase in nursing resources¹⁶. **The CPT recommends that the Maltese authorities ensure that the nursing presence at the Corradino Correctional Facility is equivalent to at least three full-time nursing posts.**

The number of psychiatric reviews conducted at Corradino (929 in 1999), as well as of inmates admitted to a psychiatric hospital (91 in the same year), underline the importance of proper psychiatric/psychological care. The team responsible for such care at the establishment included a psychiatrist (who was present twice a week), three of the general practitioners (who had experience in psychiatry), and a forensic psychologist, though the latter appeared to be principally involved in the initial assessment of prisoners (cf. paragraph 58) and in the supervision of the rehabilitation activities of the probation service. **The CPT invites the Maltese authorities to reinforce the existing team with a clinical psychologist.**

Dental services were also available to prisoners and give rise to no further comment.

54. The rooms in the main medical facilities at Corradino remained somewhat cramped. Senior management conveyed to the delegation their uncertainty as to whether the previously-announced plans to establish a new medical centre (cf. paragraph 57 of CPT/Inf (96) 25) would actually be implemented; **the CPT considers that they should.**

55. Medical confidentiality was respected in the sections for men and young offenders. However, in the women's section, a medical register containing confidential information was found to be placed within ready access of custodial staff. In this regard, the CPT wishes to stress that medical confidentiality should be observed in prisons in the same way as in the community at large, and keeping patients' files should be the doctor's responsibility. Consequently, **the Committee recommends that the Maltese authorities take measures to ensure that the rules of medical confidentiality are strictly respected throughout the prison.**

56. Given the extent of cases of hepatitis C at Corradino (65% of all inmates) and the percentage of prisoners with histories of drug-related problems (estimated at 60%, cf. also paragraphs 81 to 85), it is important to stress that all prisoners should be provided with adequate health and drug awareness information. This should include information about transmissible diseases, drug dependence and related harm reduction strategies. The authorities should take all possible steps to minimise risk of infection by Hepatitis B and C as well as HIV in prison.

¹⁶ A reinforcement of the nursing staff had already been suggested in the 1995 visit report (cf. paragraph 56 of CPT/Inf (96) 25).

It is also important to provide staff (prison officers of all grades, as well as other staff, including teachers, health assistants, etc.) with relevant information and training concerning the mechanisms of disease transmission, methods of prevention, and drug dependence/misuse.

The CPT recommends that the necessary steps be taken to ensure that the foregoing requirements are met in practice.

6. Other issues related to the CPT's mandate

a. allocation and classification of prisoners

57. During its 1995 visit to Malta, the CPT observed that no distinction was drawn between the different categories of male inmates within the establishment, which led to the mixing of younger and older, unconvicted and convicted, short and long-term inmates, first offenders and recidivists. The Committee then invited the Maltese authorities to introduce a provisional allocation and classification system, pending completion of the new prison site (paragraphs 62 and 63 of CPT/Inf (96) 25).

58. An Intake Assessment Unit was set up at Corradino in 1999, its aim being "to assess all incoming prisoners and collect demographic, forensic, social and psychological information on each individual". The Unit was reinforced in 2000 with a criminologist and a forensic psychologist, and was subsequently placed under the guidance of the establishment's psychiatrist. The CPT can only welcome the existence of the Unit, which has the potential to play a crucial role in the social rehabilitation of prisoners. However, the continuing absence of a differentiated allocation system and treatment programmes (the notable exception being the separation of young male prisoners from the rest of the prison population, and the tailored regime provided to them) undermines the impact of the Unit's work. **The CPT trusts that the Maltese authorities will introduce a fully-fledged allocation system in tandem with the entry into service of the new 144-cell block for remand prisoners.**

b. foreign prisoners

59. During its first periodic visit to Malta (1990), the CPT heard a number of allegations to the effect that foreign prisoners were treated less favourably than Maltese prisoners as regards access to facilities and regime activities (e.g. showers, the library, medical assistance - including for drug-related problems - work possibilities, etc.)¹⁷.

¹⁷ Cf. paragraph 51, CPT/Inf (92) 5.

Similar allegations came into the public domain shortly before the CPT visit in 2001, on the occasion of two major hunger strikes, involving most of the male foreign prisoners¹⁸, who claimed that they were being treated in a discriminatory manner. The CPT's delegation met a number of these prisoners, who voiced a variety of grievances, a few of which will be mentioned. They alleged that, as a consequence of an escape of a foreign prisoner from the Substance Abuse Treatment Unit, all such prisoners were refused access to drug rehabilitation programmes. They frequently expressed their dismay at not being transferred to their countries to serve the rest of their sentences. In addition, given that the foreign prisoners constituted nearly a third of the prison population, they argued that the Prison Board of Visitors should include someone who shared their own cultural background.

60. The delegation spoke at length about these issues with senior Maltese officials, both at central level and within the prison. The authorities advanced certain reasons for their policy of restricting the availability of drug rehabilitation programmes to Maltese prisoners (e.g., impracticability of follow-up in cases of individuals subject to deportation orders, etc.). As regards the issue of serving a sentence in one's country of origin, the Minister for Home Affairs indicated that, based on a bilateral agreement between Malta and Libya for the transfer of sentenced persons, administrative steps in cooperation with the Libyan authorities had already been taken in order to transfer four prisoners to Libya. A similar bilateral agreement was about to be concluded with Egypt. The Minister also indicated that he had been considering the possibility of including, within the Prison Board of Visitors, someone "culturally conversant" with foreign prisoners; **the CPT would like to be informed of any action taken in this regard.**

61. The Committee is of the opinion that further steps could be taken to reduce the perception of discriminatory treatment apparently present among foreign prisoners at Corradino. **It recommends that:**

- **the possibility of allowing foreign prisoners access to drug rehabilitation programmes on an equal footing with the rest of the prison population be re-examined;**
- **greater efforts be made to arrange the transfer of foreign prisoners to their home countries;**
- **efforts be made to provide some prison officers with at least a basic knowledge of Arabic.**

While the CPT welcomes the development and systematic distribution of an information booklet in Maltese and English explaining prisoners' rights and duties (including as regards disciplinary procedures), it considers that it is important to ensure that this material is comprehensible to all inmates. Consequently, **the Committee recommends that the information booklet for prisoners be translated into other appropriate languages, including Arabic.**

¹⁸ As already mentioned (cf. paragraph 34), most foreign prisoners at Corradino were from Libya or other North African countries. This section refers specifically to them, and does not purport to address the treatment of other foreign prisoners at Corradino.

c. staffing issues

62. The CPT is pleased to note that a permanent, full-time Director has been appointed at the Corradino Correctional Facility, in accordance with one of the recommendations following the 1995 visit (cf. paragraph 82 of CPT/Inf (96) 25). Further, the increase in the prison population has been accompanied by a suitable increase in staffing levels.

63. Ever since its first visit to Malta in 1990, the CPT has emphasised the importance of entrusting the custody of prisoners to professionally trained prison staff (cf. paragraph 59 of CPT/Inf (92) 5 and paragraph 83 of CPT/Inf (96) 25). Given that in 1995 the prison continued to employ police officers, who retained a certain number of security functions (e.g. responding to violent incidents within the establishment) which are properly part of the job of a prison officer, the Committee recommended that a very high priority be given to the implementation of measures designed either to replace police officers with properly trained correctional officers or to re-train police officers with a view to their appointment as correctional officers.

In 1996, the Maltese authorities indicated that measures were being introduced to grant police officers employed at Corradino the option of being re-trained as correctional officers without any loss of benefits (page 5, CPT/Inf (96) 26), and to gradually replace those police officers choosing not to do so with "proper correctional officers" (page 24, *ibid*). Despite those assurances, in May 2001, some 20 police officers remained employed at Corradino, mostly serving in the prison's Special Response Team (SRT). Their presence was perceived with suspicion by many of the correctional officers and appeared to disrupt interpersonal relations among staff.

The CPT considers that the situation of prison and police officers sharing responsibility for the custody of prisoners at Corradino has persisted for an unacceptably long period. **It recommends that definitive measures be taken without further delay to consolidate a single team of custodial staff at the Corradino Correctional Facility, composed exclusively of prison officers.**

64. A number of persons interviewed, including the prison's forensic psychologist, indicated that there was a need to reinforce the provision of social work services at Corradino, given the socially disadvantaged background of many of the prisoners. Since a recent advertisement for the post of social worker had not attracted any applications, assistance was being sought from the relevant agency in the Ministry of Social Policy to transfer one or two social workers to the prison on a temporary basis. **The CPT would like to be informed of developments on this subject.**

d. discipline

65. In its 1995 visit report, the CPT expressed its concern about the severity of certain of the punishments foreseen in the 1995 Prison Regulations and the apparent absence of safeguards offered to prisoners in the context of disciplinary proceedings (cf. paragraph 68, CPT/Inf (96)26).

During the 2001 visit, the Prison Governor provided the delegation with statistics regarding the number and type of different disciplinary punishments actually imposed; they were generally rather lenient, the most frequent being warnings, 1 to 3 days of cellular confinement, or loss of privileges. However, it was brought to the delegation's attention that on one occasion, a prisoner had been punished by "being posted at Division V", which was said to be used for holding "troublesome and drug-trafficking prisoners". Given that such a disciplinary measure is not foreseen by the Prison Regulations (cf. regulation 77(1) thereof), **the CPT would like to receive the comments of the Maltese authorities on this particular case.**

66. The CPT is particularly concerned to note that under regulation 77(2) - which provides that "when a prisoner is found guilty of more than one charge arising out of an incident the punishments under this regulation may be ordered to run consecutively" - each of the prisoners who had attempted to escape in March 2000 (cf. paragraph 37 above) was charged with twelve different offences against discipline and ordered to forfeit 1930 days of remission and undergo 360 days of cellular confinement. On appeal, the punishments were reduced to 1810 days of forfeiture of remission and 330 days of cellular confinement.

The foregoing example illustrates the potential to exceed the limits set by regulation 77(1), in particular, the 30-day maximum for cellular confinement and the 365-day maximum for loss of remission, which have already been characterised as "severe" by the CPT. In this context, the Maltese Ombudsman has observed that the Prison Regulations are more severe than the provisions of the Criminal Code applicable in the case of concurrent offences and punishments¹⁹. **The CPT recommends that the Maltese authorities review regulation 77 (2) of the 1995 Prison Regulations, in the light of the above comments.**

67. The CPT observed the following shortcomings regarding the application of procedural safeguards in the context of disciplinary proceedings at Corradino:

- prisoners alleged that they were not informed in writing of the charges against them and that such information was only given verbally with little advance notice, to the detriment of the preparation of their defence;
- the delegation was informed by both staff and prisoners that inmates were not allowed to call witnesses on their own behalf and could not cross-examine evidence against them or make statements in mitigation if found guilty by the Prison Director;
- the review of disciplinary sanctions is still limited to cases involving a punishment of cellular confinement for a period exceeding six days and for a forfeiture of more than twenty-eight days of remission (cf. regulation 79).

¹⁹ Cf. Annual Report 2000, Office of the Ombudsman of Malta, and section 17 of the Criminal Code.

68. The Committee considers that the prisoner's position in the context of disciplinary proceedings should be strengthened. **It recommends that prisoners facing disciplinary charges be formally guaranteed the following rights:**

- **to be informed in writing of the charges against them and to be given sufficient time to prepare their defence;**
- **to call witnesses on their behalf and to cross-examine evidence given against them;**
- **to be heard in mitigation of punishment, if found guilty by the Prison Director;**
- **to appeal to a higher authority against any sanctions imposed.**

While the question of legal representation in the context of the initial disciplinary hearing is not addressed in the Regulations, pursuant to regulation 78 as amended in 2000, the Minister may appoint suitably qualified and experienced persons to "represent and assist prisoners" during hearings by the Appeals Tribunal. The CPT considers that the right to such assistance should extend to the initial disciplinary hearing; **it would like to receive the comments of the Maltese authorities on this point. Further, the CPT would like to be informed whether prisoners are also entitled to retain a legal representative of their choice to assist them during disciplinary hearings.**

69. The premises used for cellular confinement on disciplinary grounds were located in Division VI (upper level). Material conditions were found on the whole to be satisfactory; **however, the doors of the cells in the Division are grille-fronted, a situation which does not afford any privacy.**

e. maximum security unit

70. In every country there will be a certain number of prisoners considered to present a particularly high security risk and hence to require special conditions of detention. The perceived high security risk of such prisoners may result from the nature of the offences they have committed, the manner in which they react to the constraints of life in prison, or their psychological/psychiatric profile. This group of prisoners will (or at least should, if the classification system is operating satisfactorily) represent a very small proportion of the overall prison population. However, it is a group that is of particular concern to the CPT, as the need to take exceptional measures vis-à-vis such prisoners brings with it a greater risk of inhuman treatment. In this respect, the CPT would like to recall the principles set out in its 11th Annual Report (cf. paragraph 32, CPT/Inf (2001) 16).

71. The Maximum Security Unit (MSU), which is situated in Division VI (lower level), entered into service in October 1995 (three months after the CPT's second periodic visit to Malta); its purpose is to accommodate prisoners subject to a confinement measure on investigative or security grounds. The MSU has rarely been used and was unoccupied at the time of the May 2001 visit.

The material conditions and regime applicable in the MSU, which are described in detail in an internal order ("High Custody Section: Policy - Guidelines - Regime"), call for no particular comment.

72. However, the delegation did meet a prisoner who had spent almost six months in the Unit (in 1996-1997), apparently to counter a risk of collusion. He claimed that he had been subjected to a regime which was more restrictive than the one prescribed by the unit's internal order, and which allegedly entailed, inter alia, being deprived of a radio, television, sport activities, and access to the library, as well as being handcuffed while receiving visits from his lawyer.

The case was subsequently examined by the Ombudsman, whose findings were largely consistent with the complainant's allegations²⁰. Moreover, the Ombudsman found that the prison authorities had ignored a prison doctor's recommendation to remove the person concerned from solitary confinement. He also considered that the measures taken in respect of the prisoner were excessive, despite being technically within the letter of the Prison Regulations, and that they amounted to the imposition of a disciplinary punishment (which was not formally the case). **The CPT would like to receive the comments of the Maltese authorities on this particular case.**

f. means of restraint

73. The use of means of restraint is governed by the 1995 Prison Regulations (regulation 69), which subject it to "appropriately strict conditions and to supervision by medical and prison authorities" (cf. paragraph 77 of CPT/Inf (96) 25). In their interim report, the Maltese authorities further specified that riot gear such as pepper spray, batons and handcuffs may only be used by a small group of specially trained officers (the Special Response Team, or SRT) in emergencies (cf. page 26 of CPT/Inf 96) 26).

74. The CPT was concerned to discover that pepper spray had been frequently employed by members of the SRT. An examination of the relevant record ("occurrence book") revealed that its use was only exceptionally preceded by recourse to other control techniques, whether non-physical (e.g. verbal instructions) or manual. Further, it emerged that on one occasion, the SRT had used pepper spray against a prisoner already placed under their control and handcuffed with his hands behind his back, and on another, against a mentally disturbed female prisoner in a state of agitation. In the latter case, the SRT had apparently used a quantity of spray (three canisters) sufficient to require the evacuation of the entire women's section during a 5-hour period.

It should be stressed that only exceptional circumstances could justify the use of pepper spray as a means of control within a place of detention, and that nothing could justify its use against a prisoner who has already been brought under control or who is mentally ill. **The CPT recommends that the Maltese authorities ensure that these precepts are strictly observed at the Corradino Correctional Facility.**

²⁰ Cf. Report N°1472 of the Office of the Ombudsman of Malta (22 September 1997).

g. contact with the outside world

75. The visit entitlements at the Corradino Correctional Facility remained, on the whole, satisfactory. Remand prisoners were entitled to one daily 15-minute closed visit on weekdays and a 45-minute open visit on weekends, subject to the approval of the relevant judicial authority. Sentenced inmates were entitled to one 45-minute open visit a week.

Certain foreign prisoners argued that the rules on visits should not be applied to them in an excessively rigid manner, given that their close relatives lived abroad and had difficulties visiting the prison on a weekly basis. The Committee concurs that a certain degree of flexibility can be justified in such cases; for example, prisoners could be authorised to combine several visit entitlements into one longer session. **The CPT invites the Maltese authorities to take appropriate action, in light of the above remarks.**

76. The Committee has noted with interest that an amendment made in 2000 to regulation 61 of the Prison Regulations allows the Director to grant prison leave so as to enable persons to "undertake courses of study or training at educational institutions or facilities outside the prison". In addition, it emerged during the delegation's discussions with prison officials that legislative changes currently under consideration could extend the availability of home leave. **The CPT would like to receive further particulars on this subject.**

77. In its 1995 visit report, the CPT invited the Maltese authorities to take appropriate action in the light of its reservations regarding regulation 51, which entitles prison staff to read prisoners' correspondence, and indicated that it would be preferable to provide that save in exceptional cases, letters may only be examined (rather than read) by prison staff. However, it would appear that the practice of reading prisoners' letters continues to be systematic; in this connection, many foreign prisoners interviewed during the May 2001 visit complained that the time required to translate their letters was causing long delays.

The CPT invites the Maltese authorities to examine whether the control of prisoners' correspondence is causing excessive delays and, if appropriate, to take remedial action. Consideration might usefully be given to ending the practice of systematically reading all prisoner correspondence; such a practice almost certainly represents a wasteful use of staff resources.

h. complaints and inspection procedures

78. Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate authority. Further, the CPT attaches particular importance to regular visits to prison establishments by an independent body (for example, a visiting committee or a judge with responsibility for carrying out inspections) with authority to receive - and, if necessary, take action on - prisoners' complaints and to visit all of the prison's facilities.

79. The CPT has already indicated (cf. paragraph 79 of CPT/Inf (96) 25) that the Prison Board of Visitors, which is empowered to receive complaints from prisoners and to inspect the prison, plays an important role in the prevention of ill treatment of inmates. The impact of the Board has no doubt been further enhanced through the increased publicity of its annual reports.

A further supervisory mechanism may be found in the Office of the Ombudsman, who is empowered to investigate any administrative action of the Government, including on his own initiative²¹. An illustrative example of the positive impact of the Ombudsman's work relating to Corradino includes the transfer of women prisoners to better premises, following his investigation of conditions of detention in the section where they were previously held. **The CPT trusts that the Ombudsman will continue to carry out investigations at the Corradino Correctional Facility (and in other places of deprivation of liberty) on his own initiative.**

Given the similarity of the role of the two entities in terms of examination of prisoners' complaints, **the CPT would like to be informed whether a protocol streamlining complaints procedures has been developed and, if so, when it will enter into force.**

80. As stipulated by section 8 of the Prison Act of 1976, "the Minister responsible for Justice, the Chief Justice, the judges, the magistrates and the Attorney General shall be *ex officio* Special Visitors of the prisons, and as such it shall be lawful for them to have at any time access to the prisons for the purpose of inspecting such prisons and any of the prisoners therein". **The CPT would like to be informed whether the above-mentioned authorities are using this prerogative.**

7. Substance Abuse Treatment Unit (SATU), Mtaħleb

81. The Substance Abuse Treatment Unit (official capacity: 20) was established in 1995 under the authority of Corradino Correctional Facility. Its present purpose is the rehabilitation of sentenced prisoners with drug-related problems in the period (6 months to 2 years) immediately preceding their release; it is the only drug rehabilitation unit in Malta which caters exclusively to prisoners. Since March 1997, SATU has been located in the premises of a converted primary school on the outskirts of the village of Mtaħleb, in south-western Malta. On 15 May 2001, it was accommodating fourteen persons, all of them adult men.

The delegation did not receive any allegations of ill-treatment of persons held at the unit by staff, nor did it gather any other evidence of such treatment. Indeed, the prisoners interviewed made positive comments regarding the staff (both custodial and therapeutic) and indicated that their mutual relations were marked by kindness and respect.

82. Material conditions (furnishings/equipment, hygiene, artificial lighting, access to natural light, and ventilation) were fully satisfactory in the accommodation areas (consisting of two 10-bed dormitories), sanitary facilities, kitchen/dining room and association areas/classrooms. The premises also included a pleasant courtyard, as well as a small farm and vegetable garden which supplied much of the foodstuffs consumed by prisoners and staff alike.

²¹ Cf. section 13 (2) of the Ombudsman Act of 1995.

83. SATU offered a developed programme of treatment and rehabilitation to the participating prisoners, who had applied voluntarily for inclusion at some point during their incarceration at Corradino. Based on three phases - orientation (3-6 months), intervention (6-12 months), and re-integration (6 months), the system allowed for a progressive acquisition of privileges (such as home leave) and responsibility on the part of participants. Apart from tasks around the establishment (maintenance, cooking, cleaning, gardening/farming), education (adult education, life skills, arts and crafts, as well as a variety of short courses, e.g. first aid, job seeking skills, basic computer skills, etc.), and sports/recreational activities, inmates were involved in individual and group therapy sessions (including Alcoholics Anonymous and Narcotics Anonymous meetings); on occasion, activities outside the confines of the unit were organised.

84. The team of staff at the establishment was led by a unit coordinator/medical director, and included 10 correctional officers (two of them senior), an educational coordinator and a psychologist; it was supplemented by additional teachers, psychologists and youth or social workers, some of whom were trainees. If an inmate required medical treatment, he was taken either to Corradino or to St. Michael's Ward at St. Luke's Hospital.

The CPT's delegation found that the staffing situation was positive, both in terms of the ratio of staff to the persons accommodated (which allowed for individual attention) and in terms of the staff's dedication to their task. In this regard, SATU's coordinator stressed that custodial staff was carefully selected with a view to ensuring the unit's philosophical emphasis on "restorative" rather than "punitive" justice. It should be noted that the custodial staff did not wear uniforms, a factor which perhaps contributed to their positive, relaxed relations with the inmates.

85. The CPT welcomes the existence of SATU and, given the percentage of prisoners with histories of drug-related, **recommends that serious consideration be given to extending the availability of drug rehabilitation programmes** (cf. also, in this regard, paragraphs 59 to 61).

The Committee has noted that, apart from SATU, two other drug rehabilitation units in Malta (SEDQA and Caritas) accommodate persons who are deprived of their liberty. **It trusts that it will receive the comparative study of the three units commissioned by the Ministry of Social Policy.**

C. Forensic ward, Mount Carmel Hospital

86. The CPT's delegation made a brief follow-up visit to the forensic ward (formerly known as male ward 10) at Mount Carmel Hospital, the main mental health institution in Malta, which had been the subject of a more extensive visit in 1995 (cf. paragraphs 86 to 113 of CPT/Inf (96) 25). Following the 1995 visit, the Committee made a number of general recommendations concerning the hospital; as regards, more particularly, male ward 10, it recommended that "a less custodial environment" be created (cf. paragraph 101 of CPT/Inf (96) 25).

It should be stressed at the outset that the purpose of the ward had been modified somewhat since the 1995 visit, and future changes were envisaged. For one, it was no longer serving as a "catch-all" secure ward for all male patients admitted to Mount Carmel Hospital on a compulsory basis; instead, placement was reserved exclusively for male prisoners from Corradino Correctional Facility (most of the short-term placements involved patients commencing methadone maintenance treatment). Moreover, plans had been drawn up to adapt another site (within the hospital complex) to replace the existing ward by summer 2002. In this respect, it is noteworthy that the Maltese authorities have long regarded the need for such a replacement to be "of utmost importance"; this sentiment was echoed by medical staff at Corradino, who considered the prison to be a more suitable environment for their patients than the existing forensic unit at Mount Carmel Hospital.

87. In 1995, the CPT had assessed the material conditions in the ward as being "rather poor", and remarked that its "single rooms were of an antediluvian design" (cf. paragraph 93 of CPT/Inf (96) 25).

The situation found on 16 May 2001 was unchanged. The 8 m² "rooms", which can more accurately be described as cells, were dim and oppressive, their sole embellishments a low bed bolted to the middle of the floor and an unpartitioned toilet which could only be flushed from outside. Patients continued to store their personal items in plastic bags kept on the floor.

88. As in 1995, there was a complete absence of purposeful and leisure activities for patients on the ward; indeed, the situation had deteriorated in certain respects. Access to certain areas (e.g., a dining room) and to television was no longer provided. Even more disturbingly, patients - even those accommodated in the ward for extended periods - had no outdoor activity, the existing yard not being used due to "security considerations". Their only area for movement or association was a narrow corridor, a situation which is totally unacceptable.

89. To sum up, the six years which had elapsed since the CPT's 1995 visit had brought little - if any - relief from the bleak and custodial atmosphere prevailing in the ward in question.

The CPT recommends that the Maltese authorities accord the highest priority to the plans referred to in paragraph 86 above, and would like to be informed of the exact particulars (timetable, funding, etc.) relating to their implementation. In the interim, it recommends that every effort be made to use all the available association areas, and to ensure that all patients placed in the ward are offered at least one hour of outdoor exercise on a daily basis (if necessary, by making minor alterations to the existing yard). Further, it would be desirable to provide some basic furniture and a television in the ward.

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90. Reference should be made to certain general improvements at Mount Carmel Hospital since the CPT's 1995 visit. These include a reinforcement of professional staff (e.g., the number of clinical psychologists has doubled); increased provision of occupational therapy directly on the wards, in addition to the central occupational therapy unit; the introduction of in-service training of nursing staff, one of the aims being to foster a more therapeutic (rather than custodial) approach towards patients; efforts to discharge patients not requiring hospitalisation; and the introduction of guidelines for the use of seclusion. **The positive impact of the latter initiative would be enhanced if the seclusion register were audited on a regular basis.**

The CPT has also noted the ongoing refurbishment of the hospital wards, which corresponds to one of the recommendations made in its 1995 visit report (cf. paragraph 94 of CPT/Inf (96) 25). The Committee trusts that this project is being vigorously pursued; **it would like to be informed of its current status and, in particular, of the planned date of completion of the new admission ward.**

91. In the course of the visit, the delegation was informed that it was possible to compel patients who had entered Mount Carmel Hospital on a voluntary basis to remain hospitalised, without according them the procedural safeguards offered in the context of a formal involuntary placement procedure. **The CPT would like to receive the comments of the Maltese authorities on this point.**

92. Finally, the CPT has noted that it is the intention of the Maltese authorities to revise the existing Mental Health Act (1976), including the provisions relating to involuntary placement for an unspecified period (e.g. when persons are admitted to a psychiatric establishment pursuant to criminal proceedings). **In the context of the planned revision, the CPT trusts that due regard will be given to the principles set out in the Committee's 8th General Report on involuntary placement in psychiatric establishments (cf. paragraphs 25 to 58 of CPT/Inf (98) 12).**

III. RECAPITULATION AND CONCLUSIONS

A. Police establishments

93. The vast majority of persons deprived of their liberty interviewed during the CPT's third periodic visit to Malta made no allegations of ill-treatment in police custody. Despite this generally positive state of affairs, certain information emerged suggesting that heightened vigilance is necessary to prevent the ill-treatment of persons detained by the police. While the information gathered certainly does not imply that there is a pervasive problem of ill-treatment in Malta, it does represent a subtle yet disconcerting departure from the situation found during the CPT's previous visits to the country in 1990 and 1995.

The CPT has recommended that senior police officers regularly remind their subordinates that ill-treatment is not acceptable and will be the subject of severe sanctions. Further, police officers should be reminded that no more force than is reasonably necessary should be used when effecting an arrest. The CPT has also recommended that a judge should request a forensic medical examination and inform the relevant authorities whenever there is an allegation or other grounds to believe that a person brought before him could have been the victim of ill-treatment.

94. The duty of care which is owed by the police to persons in their custody includes the responsibility to ensure their safety and physical integrity and, by implication, to be alert to any potential for self-harm. It follows that the proper monitoring of custody areas is an integral component of the police's duty of care.

The importance of these principles was highlighted by two serious incidents which had occurred at Sliema Police Station. The CPT has asked to be informed of the outcome of the inquiries initiated following those incidents, and has recommended that immediate steps be taken to ensure that all police cells are adequately monitored.

95. The physical infrastructure used for police detention was undergoing certain changes at the time of the visit.

Two new principal detention centres were due to begin operating in the summer of 2001; it was envisaged that they would receive detainees previously held at the Lock-up at the Courts of Justice in Valletta and at the Ta' Kandja Police Complex. These developments constitute a long-awaited and most welcome response to two urgent recommendations made by the CPT following its 1995 visit. The CPT has requested confirmation that the Valletta Lock-up (which offered no facilities for outdoor exercise or any regime of activities) is no longer used for prolonged detention, that the new facility for immigration detainees at Hal Far has become operational and that such detainees are no longer being held at Ta' Kandja (where a miserable situation scarcely different from the one observed in 1995 was found to prevail). More generally, the CPT has recommended that the Maltese authorities ensure that the conditions of detention applying in establishments where persons may be held under the Immigration Act of 1970 comply with the principles set out in the Committee's 7th General Report.

96. The Maltese authorities had also expressed their intention to improve the maintenance of uniform standards in police stations throughout the country by phasing out the use of cells in local stations in favour of those located in the Headquarters of each of the ten police Districts. At the time of the visit, the new policy did not appear to have been implemented entirely. Conditions of detention in the six police stations visited were found to be rather variable. By far the best conditions were observed at the relatively new premises of Valletta Police Station; elsewhere, many cells were rather cramped, dim, and/or neglected in terms of their state of repair and hygiene.

The CPT has recommended that the Maltese authorities take out of service definitively those cells which have fallen into desuetude, and remedy the shortcomings in the cells which are to remain in use. More generally, it considers that regular independent inspections, such as the one carried out in 1996 by a former Police Commissioner, could usefully promote the maintenance of appropriate standards in police detention facilities.

97. At the time of the visit, the legal framework governing safeguards against ill-treatment offered to detained persons was being revised. The CPT is pleased that the Maltese authorities are now taking concrete steps to develop and strengthen those safeguards; without a doubt, this will make a significant contribution to the prevention of ill-treatment.

The CPT has recommended that the provisions regarding notification of custody set out in the White Paper proposing changes to the Criminal Code promptly be given a firm and enforceable legal basis. As for the right of access to a lawyer, the Committee has serious misgivings about the proviso in the White Paper stipulating that such access may be delayed by a superintendent or higher-ranking police officer for up to 36 hours; as the CPT has emphasised on several occasions, it is precisely during the first hours of police custody that the risk of ill-treatment is the greatest. Of course, in order to protect the legitimate interests of the police investigation, it may exceptionally be necessary to delay for a certain period a detained person's access to a particular lawyer chosen by him. However, this should not result in the right of access to a lawyer being denied altogether during the period in question. In such cases, access to another, independent lawyer should be arranged. The CPT has recommended that these considerations be taken into account in the context of the further development of the legislative proposals with a view to establishing, at the earliest opportunity, a firm and enforceable legal basis for a fully-fledged right of access to a lawyer for persons deprived of their liberty by the police.

A number of remarks and recommendations about other safeguards against the ill-treatment of persons deprived of their liberty by the police (access to a doctor, information on rights, conduct of interrogations, custody records, and complaints procedures) have also been made by the CPT.

B. Prisons

98. As had been the case during the CPT's previous visits to Malta, the vast majority of prisoners interviewed at the Corradino Correctional Facility made no allegations of ill-treatment by prison or police staff employed at the establishment; indeed, many inmates characterised officers' treatment of them as correct. Nevertheless, certain information gathered by the delegation tended to mar the generally positive picture and would suggest the need for the authorities to be vigilant in this area.

The CPT has recommended that staff at Corradino be given the clear message that the physical ill-treatment and verbal abuse of inmates are entirely unacceptable and will be the subject of severe sanctions. Further, the Committee considers that training in interpersonal communication skills should be widely available to prison officers on an ongoing basis; building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation.

99. The Corradino Correctional Facility had been the subject of an ambitious programme of reconstruction and renovation since the CPT's periodic visit in July 1995. The most noteworthy changes have been the entry into service in 1999 of a newly-constructed young offenders section (which was found to offer satisfactory conditions) and the construction of a separate block for remand prisoners, due to enter into service by May 2002. Contrary to the situation observed in certain parts of the prison during the previous visit, the CPT's delegation was pleased to find that the state of cleanliness throughout the establishment was satisfactory and that all of the cells visited were equipped with basic furnishings.

100. The CPT is pleased that the proportion of prisoners with work has increased since the 1995 visit, and certain improvements were also observed as regards the provision of education. However, women prisoners were offered a very limited selection of work activities as compared to their male counterparts; similarly, the educational opportunities available to women were not on a par with those enjoyed by the male prisoners. The CPT has recommended that concerted efforts be made to extend the range of activities (in particular, work and education) for women held at Corradino.

The delegation was impressed by the regime in the young offenders section, which offered a full curriculum of classes as well as a developed recreation programme which included various physical fitness activities.

101. Health care staffing levels at the prison remained, on the whole, adequate. However, given the growth in the prison's population, the CPT has recommended that the Maltese authorities ensure that the nursing presence is equivalent to at least three full-time nursing posts. The presence of a clinical psychologist and the implementation of previously-announced plans to establish a new medical centre would also be desirable.

The CPT has recommended that measures be taken to ensure that the rules of medical confidentiality are strictly respected throughout the prison. Further, given the extent of cases of hepatitis C and the percentage of prisoners with histories of drug-related problems, all prisoners should be provided with appropriate health and drug awareness information, and staff with relevant information and training concerning the mechanisms of disease transmission, methods of prevention, and drug dependence/misuse.

102. The CPT has made recommendations, comments and requests for information on various other matters related to its mandate (allocation and classification of prisoners, foreign prisoners, staffing issues, discipline, the maximum security unit, means of restraint, contact with the outside world, and complaints and inspection procedures). The Committee has in particular recommended that the possibility of allowing foreign prisoners access to drug rehabilitation programmes on an equal footing with the rest of the prison population be re-examined, and that definite measures be taken without further delay to consolidate a single team of custodial staff at the Corradino Correctional Facility, composed exclusively of prison officers.

103. The CPT has welcomed the existence of the Substance Abuse Treatment Unit established in 1995 under the authority of the Corradino Correctional Facility for the rehabilitation of sentenced prisoners with drug-related problems in the period immediately preceding their release. Prisoners placed in the unit indicated that their relations with staff were marked by mutual kindness and respect. Material conditions in the unit's accommodation areas were fully satisfactory, and participating prisoners were offered a developed programme of treatment and rehabilitation. Given the high percentage of prisoners with drug-related problems, the CPT has recommended that serious consideration be given to extending the availability of drug rehabilitation programmes.

C. Mount Carmel Hospital

104. In the course of a brief follow-up visit to the forensic ward at Mount Carmel Hospital, the CPT's delegation found that the six years which had elapsed since the 1995 visit had brought little - if any - relief from the bleak and custodial atmosphere in the ward. The CPT has recommended that the Maltese authorities accord the highest priority to plans to adapt another site to replace the existing ward, and has asked to be informed of the exact particulars (timetable, funding, etc.) relating to their implementation. The Committee it has also recommended that in the interim, every effort be made to use all the available association areas, and to ensure that all patients placed in the ward are offered at least one hour of outdoor exercise on a daily basis .

105. As regards the hospital as a whole, the CPT was pleased to note various improvements made since the 1995 visit. These included a reinforcement of professional staff, increased provision of occupational therapy, and the introduction of in-service training of nursing staff. The Committee has also noted the ongoing refurbishment of the hospital wards and has indicated that this project should be vigorously pursued.

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

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

107. Having regard to Article 10 of the Convention, the CPT requests the Maltese authorities to provide **within six months** a response giving details of action taken to implement the recommendations made in this report.

The CPT trusts that the Maltese authorities shall also provide in the above-mentioned response reactions to the comments formulated in this report as well as replies to the requests for information made.

APPENDIX I

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

A. Police establishments

Ill-treatment

recommendations

- senior police officers to regularly remind their subordinates that ill-treatment is not acceptable and will be the subject of severe sanctions (paragraph 11);
- police officers to be reminded that no more force than is reasonably necessary should be used when effecting an arrest and that once arrested persons have been brought under control, there can be no justification for them being struck (paragraph 11);
- whenever an apprehended person brought before a judge alleges ill-treatment by the police, the judge to immediately request a forensic medical examination of the person concerned and bring the matter to the attention of the relevant authorities, irrespective of whether the person concerned bears visible injuries. Even in the absence of an express allegation of ill-treatment, a judge should request a forensic medical examination and inform the relevant authorities whenever there are grounds to believe that an apprehended person brought before him could have been the victim of ill-treatment (paragraph 12);
- immediate steps to be taken to ensure that all police cells are adequately monitored. Preferably, they should be equipped with call-systems, and the authorities might also explore the possibility of introducing closed circuit camera monitoring of custody areas (paragraph 14).

comments

- the existence of effective mechanisms to tackle police misconduct is an important safeguard against the ill-treatment of persons deprived of their liberty. The imposition of appropriate disciplinary and/or criminal penalties in those cases where evidence of wrongdoing emerges can have a powerful dissuasive effect on police officers who might otherwise be minded to engage in ill-treatment (paragraph 13).

requests for information

- the outcome of the inquiries initiated regarding incidents on 4 June 2000 and 17/18 May 2001 at Sliema Police Station, and copies of any related expert opinions (paragraph 14).

Conditions of detention in police establishments

recommendations

- the Maltese authorities to take out of service definitively those cells which have fallen into desuetude, and to remedy the shortcomings in the cells which are to remain in use (reference being had, inter alia, to the criteria set out in paragraph 15) (paragraph 18);
- exercise in the open air to be allowed on a daily basis for immigration detainees held for extended periods (i.e. 24 hours or more) at Luqa International Airport (paragraph 21);
- the Maltese authorities to ensure that conditions of detention applying in establishments where persons may be held under the Immigration Act of 1970 comply with the principles set out in the Committee's 7th General Report (cf. paragraphs 25 to 29 of CPT/Inf (97) 10) (paragraph 22).

comments

- regular independent inspections such as the one carried out in 1996 could usefully promote the maintenance of appropriate standards in police detention facilities (paragraph 18).

requests for information

- confirmation that the cell block at the Valletta Lock-up is no longer used for prolonged detention (paragraph 19);
- confirmation that the new detention facility at Hal Far has become operational and that immigration detainees are no longer being held at the Ta'Kandja Police Complex (paragraph 20).

Safeguards against the ill-treatment of detained persons

recommendations

- the provisions in the White Paper on amendments to the Criminal Code regarding notification of custody to be given promptly a firm and enforceable legal basis (paragraph 24);

- the Maltese authorities to take the remarks in paragraph 25 into account while further developing the relevant legislative proposals with a view to establishing, at the earliest opportunity, a firm and enforceable legal basis for a fully-fledged right of access to a lawyer for persons deprived of their liberty by the police (paragraph 25);
- the principles set out in paragraph 26 to be either reflected in the relevant provision of the amended Criminal Code or in the implementing regulations (paragraph 27);
- the Maltese authorities to take urgent steps to ensure that existing recording requirements are respected in all police establishments and that those proposed in the White Papers on amendments to the Police Ordinance and the Criminal Code are promptly made enforceable. Under no circumstances should the fact of a person's detention in a particular establishment be absent from the records of the premises in question (paragraph 32);
- appropriate measures to be taken to implement the proposals for the creation of a Police Board, and to ensure that its functions are widely publicised (paragraph 33).

comments

- preferably, there should be a single and comprehensive custody register for each person detained by the police. This register should cover all aspects of his/her custody and all the action taken in connection with it (time of and reason(s) for the arrest; when informed of rights; signs of injury, mental disorder, etc.; contact with and/or visits by a relative, lawyer, doctor or consular officer; when offered food; when questioned; when brought before a judge; when released/transferred, etc.). For certain matters (for example, the removal of personal effects, the fact of being told of one's rights and of invoking or waiving them), the signature of the detainee should be obtained and, if necessary, the absence of a signature explained. The detainee's lawyer should have access to such a custody record (paragraph 32);
- consideration might usefully be given to appointing Police Board members for periods of longer than one year at a time (paragraph 33).

requests for information

- confirmation that a form setting out the rights of persons in police custody has been prepared and translated in the appropriate languages, and that it is being issued systematically to persons at the outset of their custody; also, a copy of the form (paragraph 28).

B. Prisons

Ill-treatment

recommendations

- staff at the Corradino Correctional Facility to be given the clear message that the physical ill-treatment and verbal abuse of inmates are entirely unacceptable and will be the subject of severe sanctions (paragraph 39).

comments

- training in interpersonal communication skills should be widely available to prison officers on an ongoing basis. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation (paragraph 40).

requests for information

- for the period 1998-2000:
 - the number of complaints lodged of ill treatment by prison or police staff employed at the Corradino Correctional Facility and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;
 - an account of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by prison or police staff employed at the Corradino Correctional Facility (paragraph 41).

Material conditions of detention

recommendations

- access to natural light, artificial lighting and ventilation in the cells in the women's section at the Corradino Correctional Facility to be reviewed (paragraph 44).

comments

- the walls in some of the cells on the ground floor of Divisions III and IV (e.g. cell No. 163) at the Corradino Correctional Facility were seriously affected by humidity and mildew (paragraph 43).

requests for information

- up-to-date information on the current status of the renovation projects at the Corradino Correctional Facility; in particular, whether the new remand block has become operational (paragraph 42).

Regime

recommendations

- concerted efforts to be made to extend the range of activities (in particular, work and education) for women held at the Corradino Correctional Facility (paragraph 49);
- the shortcoming mentioned in paragraph 51 to be remedied, and a wider range of organised sport activities to be offered to all adult prisoners at the Corradino Correctional Facility (paragraph 51).

requests for information

- further particulars on the possibility of a legislative change regarding requirements for certain professional licenses (paragraph 50);
- whether the post of Assistant Manager in the young offenders section at the Corradino Correctional Facility has been filled (paragraph 52);
- whether it is foreseen to begin providing specific professional training to custodial staff in the young offenders section (paragraph 52).

Medical services

recommendations

- the Maltese authorities to ensure that the nursing presence at the Corradino Correctional Facility is equivalent to at least three full-time nursing posts (paragraph 53);
- the Maltese authorities to take measures to ensure that the rules of medical confidentiality are strictly respected throughout the Corradino Correctional Facility (paragraph 55);
- the necessary steps to be taken to ensure that the requirements set out in paragraph 56 are met in practice (paragraph 56).

comments

- the Maltese authorities are invited to reinforce the team responsible for psychiatric/psychological care at the Corradino Correctional Facility with a clinical psychologist (paragraph 53);
- plans to establish a new medical centre at the Corradino Correctional Facility should be implemented (paragraph 54).

Other issues related to the CPT's mandate

recommendations

- the possibility of allowing foreign prisoners at the Corradino Correctional Facility access to drug rehabilitation programmes on an equal footing with the rest of the prison population to be re-examined (paragraph 61);
- greater efforts to be made to arrange the transfer of foreign prisoners to their home countries (paragraph 61);
- efforts to be made to provide some prison officers with at least a basic knowledge of Arabic (paragraph 61);
- the information booklet for prisoners to be translated into other appropriate languages, including Arabic (paragraph 61);
- definitive measures to be taken without further delay to consolidate a single team of custodial staff at the Corradino Correctional Facility, composed exclusively of prison officers (paragraph 63);
- the Maltese authorities to review regulation 77 (2) of the 1995 Prison Regulations (paragraph 66);
- prisoners facing disciplinary charges to be formally guaranteed the following rights:
 - to be informed in writing of the charges against them and to be given sufficient time to prepare their defence;
 - to call witnesses on their behalf and to cross-examine evidence given against them;
 - to be heard in mitigation of punishment, if found guilty by the Prison Director;
 - to appeal to a higher authority against any sanctions imposed (paragraph 68);
- the Maltese authorities to ensure that the precepts concerning the use of pepper spray set out in paragraph 74 are strictly observed at the Corradino Correctional Facility (paragraph 74).

comments

- the CPT trusts that the Maltese authorities will introduce a fully-fledged allocation system in tandem with the entry into service of the new 144-cell block for remand prisoners (paragraph 58);
- the doors of the cells used for cellular confinement on disciplinary grounds are grille-fronted, a situation which does not afford any privacy (paragraph 69);
- the Maltese authorities are invited to take appropriate action concerning the rules on visits, in light of the remarks set out in paragraph 75 (paragraph 75);
- the Maltese authorities are invited to examine whether the control of prisoners' correspondence is causing excessive delays and, if appropriate, to take remedial action. Consideration might usefully be given to ending the practice of systematically reading all prisoner correspondence (paragraph 77);
- the CPT trusts that the Ombudsman will continue to carry out investigations at the Corradino Correctional Facility (and in other places of deprivation of liberty) on his own initiative (paragraph 79).

requests for information

- any action taken to include someone "culturally conversant" with foreign prisoners within the Prison Board of Visitors (paragraph 60);
- developments regarding the provision of social work services at the Corradino Correctional Facility (paragraph 64);
- the comments of the Maltese authorities on the particular case referred to in paragraph 65 (paragraph 65);
- the comments of the Maltese authorities regarding the extension of the right to assistance to the initial disciplinary hearing (paragraph 68);
- whether prisoners are entitled to retain a legal representative of their choice to assist them during disciplinary hearings (paragraph 68);
- the comments of the Maltese authorities on the particular case referred to in paragraph 72 (paragraph 72);
- further particulars regarding legislative changes currently under consideration which could extend the availability of home leave (paragraph 76);

- whether a protocol streamlining complaints procedures has been developed and, if so, when it will enter into force (paragraph 79);
- whether the authorities concerned are using the prerogative to inspect prisons given by section 8 of the Prison Act of 1976 (paragraph 80).

Substance Abuse Treatment Unit (SATU), Mtahleb

recommendations

- serious consideration to be given to extending the availability of drug rehabilitation programmes (paragraph 85).

requests for information

- the comparative study of the Caritas, SATU and SEDQA drug-rehabilitation units commissioned by the Ministry of Social Policy (paragraph 85).

C. Mount Carmel Hospital

recommendations

- the Maltese authorities to accord the highest priority to the plans concerning the forensic ward referred to in paragraph 86. In the interim, every effort to be made to use all the available association areas, and to ensure that all patients placed in the ward are offered at least one hour of outdoor exercise on a daily basis (if necessary, by making minor alterations to the existing yard). Further, it would be desirable to provide some basic furniture and a television in the ward (paragraph 89).

comments

- the positive impact of the introduction of guidelines for the use of seclusion would be enhanced if the seclusion register were audited on a regular basis (paragraph 90);
- in the context of the planned revision of the Mental Health Act, the CPT trusts that due regard will be given to the principles set out in the Committee's 8th General Report on involuntary placement in psychiatric establishments (cf. paragraphs 25 to 58 of CPT/Inf (98) 12) (paragraph 92).

requests for information

- the exact particulars (timetable, funding, etc.) relating to the implementation of the plans referred to in paragraph 86 (paragraph 89);
- the current status of the ongoing refurbishment of the hospital wards and, in particular, the planned date of completion of the new admission ward (paragraph 90);
- the comments of the Maltese authorities on the possibility to compel patients who had entered Mount Carmel Hospital on a voluntary basis to remain hospitalised, without according them the procedural safeguards offered in the context of a formal involuntary placement procedure (paragraph 91).

APPENDIX II

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

A. National authorities

Ministry for Social Policy

Mr Lawrence Gonzi	Deputy Prime Minister and Minister for Social Policy
Mr Joseph Ebejer	Permanent Secretary
Ms Ruth Farrugia	Chairperson, Consultative Board on Youth and Children

Ministry for Home Affairs

Mr Tonio Borg	Minister for Home Affairs
Mr Louis Cilia	Permanent Secretary, Ministry for Home Affairs
Mr Charles Deguara	Director, Policy and Planning, and Liaison Officer to the CPT

Ministry for Health

Mr Louis Deguara	Minister of Health
Mr Emanuel Micallef	Permanent Secretary
Mr John Cachia	Director, Institutional Health, and Liaison Officer to the CPT
Mr Joseph Saliba	Director, Psychiatry
Ms Nadine Camilleri	Principal Medical Officer

Ministry of Foreign Affairs

Mr Hector Bonavia	Counsellor and Liaison Officer to the CPT
Mr Victor Grech	Counsellor, Deputy Permanent Representative of Malta to the Council of Europe and Liaison Officer to the CPT
Ms Helga Mizzi	Liaison Officer to the CPT

