



**Interim report of the Maltese Government
in response to the report of the
European Committee for the Prevention of
Torture and Inhuman or Degrading Treatment
or Punishment (CPT) on its visit to Malta
from 16 to 21 July 1995**

The Maltese Government has requested the publication of its interim report. The appendices to which reference is made in the interim report may be obtained upon request. The CPT's report on its visit to Malta is set out in document CPT/Inf (96) 25.

Strasbourg, 26 September 1996

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PREFACE

This is the interim report by the Maltese Government to the recommendations, comments and requests for information contained in the report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of the Council of Europe in connection with its second visit to Malta in July, 1995. The CPT report was adopted by the Committee at its twenty-seventh meeting in December, 1995, and received by the Maltese Ministry for Foreign Affairs in January, 1996. An interim reply is required from the Maltese Government within six months of the receipt of the CPT report and a final follow-up reply within twelve months.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment visited Malta between the 16 to 21 July, 1995, in pursuance of Article 7 of the European Convention to which Malta is also a party. This is the second visit to Malta by the CPT Committee. The first visit was made in July, 1990.

The second CPT delegation visited a number of places of detention run by the Police, the Corradino Correctional Facility and Mount Carmel Hospital. The Committee also held discussions with Professor Demarco, the Deputy Prime Minister and Minister of Foreign Affairs, Dr Louis Galea, the Minister for Social Development, and Dr Tonio Borg, the Minister for Home Affairs. The Maltese ministers were accompanied and supported by a number of high officials in their related ministries. The delegation held consultations also with Dr J Said Pullicino, the Chief Justice, Dr D Montebello, Magistrate, Dr Giovanni Bonello, a lawyer in private practice primarily on human rights themes, Dr Rene Cremona, President of the Malta Chamber of Advocates, Dr Mario Felice, the Chairman of the Prison Board of Visitors, Professor Edwin Grech, Opposition Spokesman for Social Development, and Dr Charles Mangion, Opposition Spokesman for Home Affairs.

The Maltese Government is glad to note that the delegation received a very satisfactory reception from management and staff in all places of detention visited as required by Article 3 of the Convention.

The Maltese Government notes the Committee's concern on the question of Police custody of persons for extended periods of time and that urgent steps be taken to provide better conditions of detention at Police HQ. The Maltese Government has taken a number of steps to improve safeguards relating to those held in police detention including the adoption in March, 1996 of a Code of Practice for the Interrogation of Arrested Persons and the issue of detailed instructions on procedures to be followed up by police officers on duty at police lock-ups. The Maltese Government also approved plans at Cabinet level for a new detention centre at Police HQ and funds have been allocated for this purpose. Necessary plans have already been submitted to the Planning Authority for approval and, subject to this approval, works are expected to start later this year or early next year.

The Maltese Government is pleased to note that the CPT has heard of no allegations of torture or other forms of ill-treatment of those deprived of their liberty in police establishments and that no other evidence of such treatment was found by the delegation during its visit to Malta.

During 1995 and 1996 the Government took a number of important steps to ensure further safeguards against the possibility of ill-treatment of persons detained by the Police. The creation of the Office of the Ombudsman in August, 1995, immediately following the enactment by Parliament of the Ombudsman Act in July, 1995, has made possible the investigation of complaints against the government and its employees by an independent body. The appointment of the Ombudsman requires, in terms of the Act, a two-thirds majority of the members of Parliament. One of the first measures taken by the Ombudsman following his appointment was the issue of guidelines on the processing by the Office of the Ombudsman of complaints against the Police. In addition in May, 1996, Government appointed an ex-Commissioner of Police to carry out regular inspections of police places of detention to ensure that conditions thereat are up to the required international standard. Where reports of these inspections indicate a negative situation, the particular lock-up will be temporarily closed until the necessary refurbishments and adaptations are carried out.

The Government welcomes CPT's recognition of the number of important developments in the Maltese prison system since its last visit in 1990. These improvements have continued also since that visit. Worthy of note is the introduction of the new Prison Regulations in October, 1995, which replaced those of 1931. The Government also introduced a number of Ministerial Directives emanating out of the provisions of these new regulations, mainly on prison leave. These directives have introduced a number of new concepts including the granting of pre-release leave and leave for drug rehabilitation purposes. As a result of this a break-through agreement is in the offing with a number of organisations outside the prison which have been running successful rehabilitation programmes for persons addicted to drugs and/or alcohol, and which agreement will enable prisoners suffering from such problems to be granted prison leave to undergo treatment in one of these establishments under approved programmes and conditions.

Government has allocated record budget sums for Capital expenditure with respect to the prisons. Judge Caruana Curran who was appointed by the Government of the time to head an investigation as to what lead to the prison disturbances of December, 1995, had this to state on the conditions of the prisons at the time: "Corradino Prison has been so long neglected and deprived of funds and resources for improvements that the arrangement for security are still of the same standard as they were at the beginning of the century". This situation applied to other areas and services throughout the Prison. In fact, the first capital allocation for the prisons was Lm8,000 in 1989, which is small but dramatic when compared to the fact that nothing had ever been earmarked previously. By 1996 the capital allocation amounted to Lm800,000 - an even more dramatic rise over 1989. This concentration of funds over a short period of time has made it possible for Government to launch a Master Plan for the Prisons and to take certain initiatives, including the creation of two new Divisions, a new kitchen, a new perimeter wall and parking area for staff and visitors, enhanced security and visiting facilities, and a new gatehouse. A new juvenile section is in the final stages of completion, as well as a pre-release centre outside the prison. The newly refurbished Division VII - the Substance Abuse Assessment Unit - has made it possible to administer a successful rehabilitation programme for drug addicts inside the prison. This is now being extended to include, as stated in the previous paragraph, proven drug rehabilitation programmes run by other organisations outside the prisons.

The Government notes the concerns expressed by CPT on a number of issues concerning the Prisons. Since the CPT's visit some of these issues have already been addressed by

Government. The Prison Director for example was appointed full-time in January, 1996. Division VIII has not been used for punishment purposes since October, 1995, following the opening of Division VI. The increase in the number of education places is being tackled under an overall project planned together with the Department of Foundations in Education of the University of Malta. A Call for Applications has, in fact, been issued for the employment of a number of part-time teachers and instructors. The Library is being reorganised and the number of books increased considerably through new purchases and donations. The Appeals Tribunal in terms of Regulation 78 of the new Prison Regulations concerning appeals by prisoners to review disciplinary cases has been meeting regularly and deciding cases referred to it. A complaints system inside the prison, though not formalised, works satisfactorily in terms of Regulations 18 and 106 of the new Prison Regulations. An easily readable information booklet in Maltese and English with related visual aids has been published to help prisoners know and understand their obligations and rights under the new Prison Regulations.

The Government is glad to note that the delegation was pleased to learn that newly recruited staff are now required to undergo a basic three months training period prior to permanent appointment. The Government appreciates the concerns of CPT on the fact that there are still police officers working at the prisons. A Bill has already been published in the Government Gazette to amend the Prisons Act which will allow such police officers to opt to become correctional officers without any loss of benefits and conditions to which they are entitled in the police force.

The Government welcomes CPT's recognition of the increase in the number of qualified health care staff at Corradino Correctional Facility. Since then a full-time Prison Medical Officer was appointed and two calls for applications were issued for the employment of a number of nursing officers on full-time basis. The Health Service are now being supported by a recently created Psychology and Counselling Unit as well as by the intake of a number of Social Workers who were employed in July, 1996.

Finally the Government has noted the recommendations made on Mount Carmel Hospital of which it will take serious considerations in implementing national policies on mental health. The proposed reform to the mental health services in Malta are contained in the "National Policy on Mental Health Service" which was published by the Maltese authorities in February, 1995. As stated by the CPT the report contains a candid assessment of the current situation and sets its bold objectives for the future. As in the case of the Prisons this was also an area which had been largely neglected by previous administrations but is for the first time being seriously addressed through an approved national policy. The response by the Maltese Government to this part of the CPT report will be contained in the final follow-up report.

PART A
POLICE ESTABLISHMENTS

A. POLICE ESTABLISHMENTS

1. Torture and Other Forms of Ill-Treatment

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

Government's reply: The information requested is as follows:-

<u>Year of Incident</u>	<u>No of Complaints</u>	<u>Action</u>	<u>Sanctions</u>
1993	-	-	-
1994	1	Court Case	Case still pending.
1995	1	Police Discipline	Loss of Pay

2.1. Conditions of Detention in Police Establishments

CPT's Recommendations: Urgent steps to be taken to provide better conditions of detention in the lock-up at Police Headquarters in Floriana; that facility no longer to be used to hold Immigration Act detainees and prisoners, (paragraph 13 of the report).

Government's Reply: The Government has tackled the problem in three ways: (1) It has sought to find alternative sites to the Lock-up at Floriana for use in connection with detainees under the Immigration Act - leaving the Lock-up at Police Headquarters to be used only for the purposes of keeping detainees for short periods of time in connection with police questioning. This has proved difficult to accomplish owing mainly to shortage of adequate locations where the surrounding environment offers the required security while at the same time being suitably large to accommodate and be developed as a detention centre for up to a maximum of around 50 persons held in terms of the Immigration Act under internationally acceptable detention conditions and standards. Given this situation, the urgency of the matter and on the advice of the civil engineers of the Works Department, it has been decided that the best, quickest and most economic way forward was to rebuilt and restructure the present Lock-up at Police headquarters to serve both as a modern detention centre in connection with the detention of persons kept for short periods of time for the purposes of police questioning and also in connection with those detained under the Immigration Act. (2) In the interim period and until the rebuilding and the restructuring is taken in hand and finalised, Government has taken action to continue improving the material conditions of the Floriana Lock-up in accordance with the CPT's recommendations. (3) On 19th May, 1996 it appointed Mr Alfred Calleja, former Commissioner of Police, to carry out regular inspections of Police

Lock-ups for the purpose of taking stock of their general conditions and ensure that persons deprived of their liberty are safeguarded against inhuman and degrading treatment or punishment and to report to government accordingly.

Action taken so far on these points include:-

(a) Following Cabinet approval, plans for the new detention centre at Police HQ were submitted to the Planning Authority on 19 June, 1996. The plans include:-

- 54 independent cells with sanitary facilities and adequate lighting facilities
- security quarters with sanitary facilities
- modern search rooms
- rest rooms for detainees
- space for lockers for each prisoner
- space for stores
- spacious and airy exercise yards

Necessary funds have already been allocated for this project; however, as a result of unavoidable delays in the planning phases, actual works are not expected to start before late this year or early next year.

(b) Mr Alfred Calleja, ex-Commissioner of Police, was assigned duties connected with the inspection of police lock-ups in May of this year. His terms of reference include the following:-

- i) to carry out regular inspections of all police places of detention in Malta in order to provide the widest possible protection against abuses, whether physical or mental, in these establishments, and
- ii) to submit reports to related competent authorities concerning the findings resulting from these inspections or investigations, as the case may be.

(c) His main functions are:-

- i) to visit regularly all places of detention run by the Police, at least once every six months, but more frequently when he deems fit;
- ii) to take stock of the general physical conditions in establishments visited and ascertain that they are up to the required accepted standards and that they provide the basic human needs against degrading treatment or punishment;
- iii) to observe the general attitude, behavior and demeanour of law enforcement officials and other staff towards persons deprived of

their liberty and ascertain that the principles of civilised and proper conduct are being maintained throughout by these officials;

- iv) to interview persons deprived of their liberty in order to get their views on (ii) and (iii) and to hear any specific grievance they may have;
- v) to ascertain that all police procedures, legal or otherwise, relating to the running of such places offer the basic human safeguards, at law and in practice, to persons in police custody against torture, inhuman or degrading treatment or punishment;
- vi) to carry out subsequent visits to places of detention already inspected in order to ascertain that recommendations submitted are being followed-up and implemented by the competent authorities;
- vii) to submit reports to the Minister for Home Affairs containing all relevant findings and recommendations by not later than two months after the conclusion of each visit/s to places of police detention.

In the discharge of his functions, he may seek other expert advice, as he may deem fit, which advice should normally be appended also with his report.

2.2. Conditions of Detention in Police Stations

CPT's Conclusions: The delegation found unsatisfactory conditions of detention in two Police stations it visited, (paragraph 17 of the report).

Government's Reply: The Police stations are gradually being given a face-lift and in so doing special attention is being given to the refurbishment of lock-ups, in particular that the overall environment is clean and that sanitary facilities and adequate lighting are provided. The appointment of Mr Alfred Calleja will ensure that these are regularly visited and inspected by an independent person to ascertain that they are kept up to the required standards. Where reports indicate a negative situation, that particular lock-up will be temporarily closed until the necessary refurbishments and adaptations are carried out.

2.3. Conditions at Ta' Kandja Detention Centre and MIA

CPT's Conclusions: Conditions at Ta' Kandja found to be very unsatisfactory (paragraph 22 of the report) while those at the Airport found to be clean and perfectly adequate. At Ta' Kandja matters exacerbated by the fact that establishment was staffed by police from a special intervention group. A separate register to be kept of every

occasion on which the Immigration Service cells at the Airport are used to hold detainees (paragraph 23 of the report).

Government's Reply: At the time of the CPT's visit in July of 1995, Ta' Kandja detention centre was used for a short period of time to deal with a particularly urgent and serious situation as a result of overcrowding at the Police Lock-up at Floriana. The material conditions of the centre have now been improved and it will only be used again in emergencies until the works contemplated at Police HQ are finalised. In the meantime, further works at the centre will be taken in hand in order to continue improving the conditions thereat. The recommendations of the CPT as to cleanliness, exercise of detainees and access to communal T.V. and personal radio are being implemented. Also, as already stated, the project at the Police Lock-Up at Floriana envisages a maximum of up to 54 independent cells with adequate facilities and exercise yards which will ensure that there will not be the need in the future to resort to such solutions, even in emergencies.

The separate register at the Airport for use by the Police in connection with detainees under the Immigration Act has now been introduced - **Annex A** is a copy of the contents of the Register.

3.1 Safeguards Against Ill-treatment of Detained Persons

CPT's Conclusions: The recommendations made by CPT in 1990 have not been followed up - in particular those, as regards notification of custody, access to a lawyer and access to a doctor, (paragraphs 31, 34 of the report). The right to have someone informed of the fact of one's custody to be given a firm basis in Maltese Law (paragraph 27 of the report). A form setting out all rights in different languages to be given systematically to persons taken into the custody of the police, (paragraph 35 of the report). A code of practice on police interviews to be brought into effect at the earliest opportunity, (paragraph 38 of the report). A high priority to be given to developing a single comprehensive custody record for each person detained by the police, and that the fact of his detention is recorded without delay, (paragraph 41 of the report). A very high priority to be accorded to the adoption of legislation designed to introduce a system of examining complaints against the police, (paragraph 42 of the report). The Maltese authorities to consider the possibility of empowering an independent authority to inspect on a regular basis the conditions of detention in the lock-ups and other holding facilities staffed by the police, (paragraph 43 of the report).

Government's Reply

3.2 General comments

In general sufficient legal safeguards (and otherwise) exist in Malta against ill-treatment of persons detained in police custody. The creation of the Office of an Ombudsman in August, 1995, has added to these safeguards. Following the enactment by Parliament of the Ombudsman Act, 1995, discussions between the Commissioner of Police and the

Ombudsman were immediately undertaken as a result of which the Ombudsman, in October, 1995, issued Practice Guidelines No 2 on the "Processing of Police Complaints". This subject is further developed and amplified at part 3.3 (g) of this report. In terms of these Guidelines the Ombudsman is expected to hear and investigate complaints about the conduct of the police in all their activities. Other legal safeguards, however, exist. For example, section 355 of the Criminal Code ensures that the officer of the Executive Police employed in the execution of an arrest "shall not use any harshness, bond or other means of restraint unless indispensably required to secure, or rendered necessary by the insubordination of the person arrested". Complementary to this and in order to further guide the police officers on the manner of their conduct during interrogation of arrested persons, the Police Department has, in March, 1996, issued a Code of Practice for the Interrogation of Arrested Persons. A copy of the Code is enclosed at **Annex B**.

The safeguards include:-

- (a) Section 12 of the Code prohibits questioning during the night unless this is indispensable for the investigation or unnecessarily prolongs the period of arrest.
- (b) Section 13 of the Code which states that "In any period of 24 hours, the arrested person shall be allowed a continuous rest period of at least 8 hours, uninterrupted by any questioning, travel or interruption caused by investigation. As a rule, this period shall be during the night. This period of rest shall not be interrupted or postponed unless there are valid reasons indicating that if there is no such interruption or postponement:
 - i) there would be a serious risk of injury to persons, or damage to or substantial loss of property;
 - ii) the period of arrest would be unnecessarily prolonged;
 - iii) the investigation would be seriously prejudiced.

No alcoholic drink shall be given to the arrested persons, unless ordered by a doctor.

Breaks from interviewing shall be made at recognised meal times, short breaks for refreshment shall also be provided at intervals of approximately two hours, subject to the interviewing officer's discretion to delay a break if there are *reasonable* grounds for believing that it would -

- i) involve risk or harm to persons or serious loss of, or damage to, property;
- ii) delay unnecessarily the person's release from custody; or
- iii) otherwise prejudice the outcome of the investigation."

3.3 Specific Comments

In response to the specific comments made by the CPT in its report on the question of safeguards against ill-treatment of persons detained by the Police, the government would like to submit the following information:-

(a) The right to have someone informed of the fact of one's custody has no legal basis in Malta. However, the Commissioner of Police has issued instructions in October of 1995, (**Annex C**) detailing procedures by police officers on duty at police lock-ups. These instructions include procedures as to the manner and recording of how relatives of the detainee are to be informed. These procedures are explained in greater detail at said **Annex C**.

On the question of informing relatives the instructions state:-

- i) Any person being detained at the lock-up must be asked whether he wishes that any one person known to him, be informed of his detention. Any such person shall be informed as soon as possible.
- ii) In the case of persons under the age of 18 years, the parents or tutor must always be informed.
- iii) A record of any such requests must always be entered in the register, even in the case of a negative reply by the detained person.

The Code of Practice for the Interrogation of Arrested Persons issued by the Police in March of 1996 also ensures that arrested juveniles under sixteen years should be interviewed in the presence of one of the parents, or their tutor, or in the presence of any other person, not being a police officer, who has the effective custody of the young person, or a social worker. The same procedure applies in the case of a disabled person. However, consideration is being given to the CPT's recommendation to give these procedures a legal basis.

(b) **CPT:** The right of a person held in police custody to have access to a lawyer from the very outset. **Government:** As a first step in this direction the Code of Practice for the Interrogation of Arrested Persons has introduced the practice of recording on tape of police interrogation. The question of access to a lawyer is being given serious thought in the light of the effect and impact it would have on police investigations during the first 48 hours which are normally considered to be crucial to investigations.

(c) **CPT:** Specific legal provisions on the subject of the right of a person in police custody to have access to a doctor of his own choice will be implemented in the near future. **Government:** In practice such requests are very rare and when they are made they are normally complied with by the Police. However, instructions are being issued to police officers at Lock-Ups to comply with requests made by detained persons to be examined by doctors of their own choice. Also, the instructions issued by the

Commissioner of Police already include details relating to procedures by Police Officers on duty at the Lock-ups on the subject of medical assistance to arrested persons thereat. These include:-

- i) The medical officer on duty at the Floriana Polyclinic (and ambulance if it would be the case) must be immediately summoned, in the case where a person is to be detained at the lock-up and he/she-
 - appears to be suffering from physical or mental illness; or
 - is injured; or
 - otherwise appears to require medical attention.

This applies even if the person does not make a request for medical attention.

- ii) If it appears to the officer on duty at the lock up, or he is informed, that a person detained thereat, may be suffering from an infectious disease, he must take steps to isolate the person, until he has obtained medical directions as to where the person should be taken, whether fumigation of the cell should take place and what precautions should be taken by officers who have been in contact with him.
- iii) If a detained person requests medical assistance, the medical officer at the Floriana Polyclinic must be called as soon as practicable.
- iv) If a detained person is required to take or apply any medication in compliance with medical directions, the officer on duty at the lock up is responsible for the safe keeping of the medication and for ensuring that the detainee is given the opportunity to take or apply it at the appropriate times. Pills or capsules must be diluted in water before being given to the detainee, in order to prevent any possible accumulation of pills by the detainee.
- v) If a detained person has in his possession or claims to need medication relating to a heart condition, diabetes, epilepsy or a condition of comparable potential seriousness (even if no related symptoms are visible), the advice of the medical officer on duty at the Floriana Polyclinic must be obtained.
- vi) All the above must be recorded in the register. Moreover the medical officer who visits the detainee must be requested to enter the details of the visit in the 'ad hoc' register.

- vii) In the case where a person detained in the lock-up requests to attend the Detox Centre, he is to be conveyed thereat and the medical officer on duty is to prescribe any subsequent attendances required.

(d) CPT: A form setting out all their rights to be given systematically to persons taken into custody by the Police at the outset of their custody and that such form be available in different languages. **Government:** The matter is being dealt with and the forms in different languages will eventually be issued in the future. The Code of Practice for Interrogation of Arrested Persons provides under Section 18 that no person shall be questioned by the police in the absence of an interpreter if such person does not understand Maltese or English and that in the case of a statement in a language other than Maltese or English the interpreter or the officer taking the statement should take down the statement in the language in which it is made.

(e) CPT: The Code of Practice on Police Interviews to be brought into effect at the earliest opportunity. **Government:** This was done in March of 1996 with the issue of the Code of Practice for the Interrogation of Arrested Persons.

(f) CPT: A high priority to be given to developing a single and comprehensive record for each detained person by the Police in Malta. **Government:** The procedures for questioning include, under Sections 4 and 6 of the Code of Practice, that the caution to the person being questioned should specify his/her right to refuse to answer and that this shall be registered in the statement itself and the person subject to questioning must be given the opportunity to sign at the end of the paragraph where such registration is made. Moreover, according to Section 7 of the Code, once the person being interviewed decides to make a statement, a record is to be kept of the following:- the place where the statement is taken, the time the interrogation started and ended, every period of interruption, and the names of the persons present during questioning. Section 11 requires that the records must also indicate any interval during an interview. The time/s when the person questioned is given food and drink are to be recorded, as well as any other request made by the arrested person, which request shall form part of the custody records of the detainee.

(g) CPT: A high priority to be accorded to the adoption of legislation designed to introduce a system of examining complaints against the police, (paragraph 42 of the report). **Government:** The creation of a Police Complaints Board was given serious consideration by Government. However, new legislative and administrative provisions have brought about reconsideration of this line of action. Immediately following the enactment by Parliament of the Ombudsman Act, which vested that Office with wide powers of investigation in dealing with matters of complaints against Government or its employees, Parliament unanimously approved the appointment on 5 August, 1995, of Mr Joseph Sammut as the first Ombudsman for Malta. In terms of the Ombudsman Act his appointment requires the approval of two-thirds of the House of Representatives. This ensures trust and total independence of the person so appointed. Shortly after his appointment, the Ombudsman held discussions with the Commissioner of Police on the question of complaints against the police and agreed on the special process to be followed in dealing with such matters. Both agreed that the Ombudsman's intervention in the

complaint process would be to their mutual advantage in building public confidence in the integrity of the police through improved standards of conduct, and in educating and promoting effective handling by the police of the public's complaints. As a result of these discussions the Commissioner and the Ombudsman agreed to issue detailed guidelines on the processing by the Office of the Ombudsman of complaints against the Police. A copy of these guidelines are found at **Annex D**. The government felt that, in the changed circumstances, the setting up of a Police Complaints Board (as had originally been envisaged) could be an unnecessary administrative duplication and could also result in the possibility of conflicting decisions being taken by two separate entities. In the circumstances it was decided that there was no longer the necessity for the setting up of a separate Police Complaints Board.

(h) CPT: The Maltese authorities consider the possibility of empowering an independent authority to inspect on a regular basis the conditions of detention in police lock-ups.

Government: As already stated earlier, the government has appointed on 19 May, 1996, Mr Alfred Calleja, former Commissioner of Police, to carry out regular inspections of police lock-ups and other places of detention under police control in order to take stock of their general conditions and ensure that persons deprived of their liberty are safeguarded against inhuman and degrading treatment or punishment and to report to government accordingly. A copy of Mr Calleja's terms of reference related to his assignment are found at **Annex E**. Further explanations on this subject are also found at part A.2.1 of this report.

PART B
CORRADINO CORRECTIONAL FACILITY

B. CORRADINO CORRECTIONAL FACILITY

1. General Comments

Comments by CPT: Overall the CPT noted that there have been a number of important developments in the Maltese prison system since its last visit in 1990. The prison population more than doubled. The prison was the subject of a three-year Master Plan, involving a potential investment of some Lm4 million over a three year period. The material conditions in the prisons remained of a satisfactory standard. The new prison complex will facilitate the comprehensive renovation of existing inmate accommodation. Division VI provided reasonably good conditions of detention, however, natural light in certain of the west facing ground floor cells was rather poor.

The CPT had heard no allegations - and gathered no evidence - of torture or physical ill-treatment of inmates by prison staff. It noted the efforts being taken by the authorities to improve the activities offered to inmates. It also noted that there has been an improvement in the quality of the medical facilities provided at the prisons and a significant increase in the number of qualified health care staff.

In July, 1995, the number of staff had increased significantly from 87 to 136. It commented positively on the fact that all newly-recruited personnel were required to undergo a basic training course before being appointed as Correctional Officers.

The new Prison Regulations, replacing the 1931 Regulations, entered into force on 1 October, 1995. It commented favourably on the fact that the Regulations establish a clear disciplinary system and that they prohibit the use of bodily restraints or punishment. The delegation attended a number of disciplinary proceedings and was favourably impressed by the relaxed atmosphere that obtained, although there seemed to be lack of respect for due process in the conduct of the adjudications concerned. CPT was against the use of Division VIII, although an improvement from the last visit in the material conditions thereat was noted.

CPT was favourably impressed on the improvements registered since the last visit on the use and access by inmates to telephones, but would like to see an increase in the entitlement of foreign inmates to free telephones to relatives overseas.

Comments by Government: The Corradino Correctional Facility was built between 1838 to 1852. In the 150 years since its inception only piecemeal development has been carried out within Corradino. As a result it had become an outdated facility which cannot function properly or meet present day needs. Judge Caruana Curran in his report of June 1993 made the same comments. Malta's inherent problem lies in the fact that it has to depend on a single civil prison facility, with an unusual requirement in having to integrate all types of detention within one complex. An ideal solution would have been to build new and separated facilities at alternative allocations, but the cost of this would be prohibitive.

CPT commented favourably on Government's commitment to improve the material conditions of the prison and noted that the establishment was subject to a three-year Master Plan with a potential investment of some Lm4 million. This investment is to be seen against the background of previous financing by past governments on prisons. Copy of the Plans of the Proposal for development and Improvements to the Corradino Correctional Facility is found at **Annex F**. One of the most serious comments, in fact, made by Judge Caruana Curran in his report was related to the lack of funding by governments on the maintenance and upgrading of the prisons as a result of which there had been a deterioration in the buildings with negative effects.

Since 1989, however, there has been a dramatic investment by Government to improve the situation at the Prisons. Previous to 1989 no capital expenditure was ever provided for the prisons. Capital allocations from 1985 onwards (with percentage rises from 1990 onwards) are explained hereunder:-

Year	Capital Allocation (Lm)	Rise over Previous Year
1985	-	-
1986	-	-
1987	-	-
1988	-	-
1989	8,000	-
1990	12,000	50%
1991	27,000	125%
1992	30,000	11.1%
1993	60,000	100%
1994	250,000	316.7%
1995	350,000	40%
1996	800,000	128.6%

The effects of these investments could be seen by all, even by the CPT itself since its last visit in 1990.

In many other ways the Prison has, during the last three years, undergone impressive changes. The CPT delegation has noted these changes when it commented that there have been a number of important developments since in 1990. Many of these developments were mentioned by CPT in its report. The new Prison Regulations which replaced the 1931 Regulations were, perhaps, one of the more significant. As a result of these Regulations it has been possible for the Minister to issue a number of guidelines, including the one on Prison Leave which is already in operation and the one on Work and Pay which is due to be launched once all the workshops in the Facility are working regularly. The recent recruitment of 54 new correctional officers will, hopefully, make this more likely in the coming months.

The opening of two new divisions after extensive refurbishments in areas which were formerly in complete abandonment - such as Division VII and Division VI - had yet to be effected after the CPT visit. Division VII, the Substance Abuse Assessment Unit, was opened in October, 1995. The efforts at the rehabilitation of prisoners with drug related problems within this unit have been more than satisfactory and are now being extended to a pre-release unit outside Corradino run by the CCF itself and through agreements in the offing with Caritas (Malta) and Sedqa (Agency Against Drug and Alcohol Abuse).

Division VII is part of the prison complex at Corradino but completely independent from it. The Unit provides a complete rehabilitation programme to prisoners suffering from hard core addiction and related behaviour. Participation in the programme is voluntary and based on a personal therapeutic contract between the Management of the Unit and the inmate himself. Staff running the Unit have been specially selected because of their dedication and after undergoing ad hoc training on the subject locally. The groups targeted for the programme are inmates convicted of non-serious crimes with related drug misuse problems and who have less than two years to spend at the prisons.

Division VI, which was also opened in October, 1995, has brought about more order and discipline within the Prison. This was also commented upon by the Prison Board in its annual report when it stated that "ever since inmates have been made to spend their solitary confinement in Division 6, the general order and discipline at the prison as a whole has been improved."

The increase in staff was not only in numbers but also in quality. CPT commented on the fact that newly recruited personnel are required to undergo a basic training course before being appointed. Since then the overall staff structure has been improved with the appointments of assistant managers, supervisors and senior correctional officers. The Director of Correctional Services was appointed on 1 January, 1996. The medical services were considerably improved through the permanent appointment of a Prison Medical Officer, supported by a medical group practice consisting of a dentist, psychiatrist, and nursing personnel. The Psychology and Counselling Unit is in the process of being set up through the recent recruitment of a number of social workers and the identification of three qualified psychologists who are already providing the service at CCF. The recent employment of social workers has also provided the possibility of strengthening the Probation and Pre-Release Unit which is now functioning as part of the Correctional Services in terms of the on-going reform programme. The Victim Support Unit has taken a number of important initiatives to carry out surveys of the situation which will lay the ground for further projects in the coming months and years.

During 1995/96 a number of projects relating to the Master Plan were taken in hand. These include, besides the opening of Divisions VI and VII already mentioned previously, a new kitchen which has been completed construction wise and is now in the process of being equipped. A new perimeter wall with a large parking area for visitors and staff is in the process of being built. A new Gate-house fully equipped with all the modern requirements for security is being constructed and is anticipated to be finished by the end of this year. Tenders for common rooms for each existing division have been issued and it

is hoped that they will also be finished by the beginning of next year. Tenders for a new female division are in the process of being drawn up. In the meantime a new juvenile division is in an advanced stage of completion and is due to be opened later in the year. As stated, a pre-release centre outside the Corradino prison complex for prisoners coming from the therapeutic unit in Division VII, is also due to be opened in the coming months.

All this work has been possible as a result of the substantial investments made by Government since 1989 and in particular during the last three years.

2. Torture and Other Forms of Physical Ill-treatment

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

Government's Reply: The information requested is as follows:-

<u>Year of Incident</u>	<u>No of Complaints</u>	<u>Action</u>	<u>Sanctions</u>
1993	-	-	-
1994	1	Departmental Discipline	Officer dismissed
1995	1	Investigated by Ombudsman	None recommended

3. Material Conditions of Detention

CPT's Recommendations: (a) All prisoners at Corradino Correctional Facility to be held in cells which are clean and appropriately furnished (ie containing at least a bed, table and chair and preferably a wardrobe or locker), (paragraph 48). (b) Due account should be taken to provide adequate facilities for association and group work in the substance abuse assessment unit, (paragraph 49)

Government's Reply: (a) The policy has so far been maintained of having one prisoner in one cell. This policy is intended to be retained even when the new complex is completed. Besides essential furniture, each cell is provided with all basic returnable requirements, such as mattresses, pillows, bedsheets, blankets, towels, etc. In addition, each prisoner is entitled and provided out of Government funds on admission, with essential toiletries, such as soap, shampoo, blades, toothbrush, toothpaste, washing powder, etc. In accordance with the recommendation of the Prison Medical Officer all mattresses are gradually being replaced with semi-orthopaedic ones. All cells are also provided with individual toilets and wash-basins. In addition inmates are entitled to have out of their own pockets, one radio, one television, and other approved articles inside their

cells. Recently Senior Correctional Officers have been appointed for each Division. One of their main assignments is that of ensuring cleanliness inside the Division and its cells.

(b) The programme inside the Substance Abuse Assessment Unit includes adequate facilities for association and group work. The programmers aim also at organising group meetings with the families of the inmates as it is felt that more often than not the root of the problem lies within the environment that the inmate normally lives in when outside the prison. Work has been provided for all inmates inside this Division. In the immediate future, as already stated, it is intended to pay the inmates for the work they do. This will be done once all the workshops are functioning. This will be possible when the new intake of correctional officers is finalised.

4.1. Regime - Educational Facilities

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

Government's Reply: An educational programme for inmates has been drawn up with the help of the Department of Foundations in Education of the University of Malta. A copy of the programme is found at **Annex G**. The main difficulty so far has been that of finding teachers willing to work inside a prison. A call for applications for two permanent teachers at the prisons is in the process of being issued. Approval has been also obtained to employ part-time teachers and instructors of different subjects who will be paid pro-rata in accordance with the number of hours of work performed. A call for applications for such services has now been issued.

There are existing workshops within the prison building containing facilities for baking bread, book-binding, carpentry, stone masonry, fitting, car maintenance, and tailoring. These shops have to be replaced since their poor condition and inadequate size prevent their regular and full usage. In order to increase work and educational opportunities for inmates the Master Plan for the new complex includes:-

- A new and larger workshop block to the north of the existing chapel which will replace the present inadequate workshop area.
- A new educational block to the south of the Chapel.

The tenders for these two new projects are in the process of being finalised.

As regards sports the Master Plan also envisages a multi-purpose sports hall (also usable for theatre, music, lectures, films), a gymnasium with exercising equipment, changing and showering facilities. Until this is done, and in the meantime, sports facilities are being

provided in the form of regular football leagues between the divisions, as well as indoor sports. Exercising equipment has also been purchased and is being installed

During the last few months the library has been provided with a number of new books through donations and purchases. These books covering various subjects, are in different languages. A qualified librarian has drawn up a scheme for the reorganisation of the prison library - see **Annex H**. The same person is overseeing, on a part-time basis, the implementation of the project.

4.2. Regime - Outdoor Exercises

CPT's Request: CPT requires clarification of the "exceptional circumstances" envisaged by Regulation 28(2) of the new Prison Regulations, under which the Director may reduce the period of outdoor exercise offered to a prisoner, together with information on the safeguards which should accompany any such decision, (paragraph 52).

Government's Reply: Exceptional circumstances have been defined to mean disciplinary action against the prisoner comprising confinement where the prisoner is being punished for (a) escaping from prison (b) seriously threatening escape, especially where the prisoner has a history of escapes. Exceptional circumstances include also an accumulation of reliable factors leading the prison authorities to well-founded conclusions that the prisoner is a threat and danger to himself and to others and needs to be kept under close observation and control in his cell.

Safeguards include (a) that the exclusion will not be hazardous to the prisoner's physical and mental health (b) that he is visited and examined regularly by the Prison Medical Officer and, if need be, by the Prison psychiatrist (c) that he is kept under constant observation by specified prison guard/s (d) that he is not deprived of this facility beyond the period as certified by the Prison Medical Officer.

5. Medical Services

CPT's Recommendation: (a) Urgent steps be taken to ensure that all prisoners/patients held at St Luke's Hospital are able to at least take one hour of outdoor exercise every day (unless there are medical reasons to the contrary), (paragraph 61 of the report). (b) The nursing staff at Corradino Correctional Facility might usefully be reinforced, (paragraph 56 of the report). (d) Further information about the medical services in the development in the substance abuse assessment programme, (paragraph 59 of the report).

Government's Reply: (a) In those cases where there are no medical instructions to the contrary, action is being taken to ensure that prisoners/patients at St Michael's Ward are allowed at least one hour of outdoor exercise. (b) The present nursing service at Corradino Correctional Facility is provided by a private company under the Medical Group Practice scheme which was introduced in 1995. This has so far worked very satisfactorily. However, in order to bolster further the service, two calls for applications were issued to

employ a number of nurses full-time. For the first call only foreigners showed an interest to seek employment at CCF. The second call is still at the stage of being processed. (c) The Medical Services at the Substance Abuse Assessment Unit include an *ad hoc* medical officer who, in addition, is supported, as and when required, by the other components of the Medical Group Practice at CCF, including a psychiatrist, a dentist, three psychologists, and nursing staff.

6. Other issues related to the CPT's Mandate

6.1. CPT's Recommendations: (a) Prisoners removed from association under Regulation 67 of the 1995 Regulations to benefit from the safeguards identified under paragraph 72, (paragraph 72 of the report). (b) The highest possible priority to be given to the appointment of a permanent, full-time Director, (paragraph 82 of the report). (c) A high priority to be given to the implementation of the measures to replace police officers by correctional officers. In the meantime, all staff, should be subject to the authority of the Director, (paragraph 83 of the report).

Government's Reply: (a) Prisoners removed from association under regulation 67 are so separated for three main reasons (i) maintenance of good order inside the prison (ii) in their own interest (iii) in the interest of others. This Regulation is not meant as a disciplinary measure as such against the prisoner concerned. Disciplinary measures relating to confinement are specifically dealt with under Regulations 77(1)(f), 78, 79, 81, 82. Regulation 67 is basically meant as a precautionary measure in certain circumstances where for particular reasons outside the prison's control (eg reprisals, personal vendetta, feuds, victimisation, etc) the presence of a certain prisoner in association with other prisoners might create a situation of danger to himself and to others and it is recommendable to have him separated for some time until other arrangements are made. In the application of this Regulation certain safeguards are provided for. These include (1) that a prisoner shall not be removed from association for a period of more than 48 hours without the specific authority of the Minister. Even such segregation shall not exceed 15 days, but it may be renewed for similar periods. Such authority shall be immediately notified to the Chairman of the Prison Board. The Chairman is also to be informed immediately when the prisoner is allowed to resume association. (2) The Medical Officer visits such prisoner daily and, if need be, accompanied by the prison psychiatrist. (3) Prisoners removed from association under this Regulation are allowed all the privileges accorded to other prisoners, including visits, access to newspapers, radio and television, and all other services and concessions provided to others, but under certain controls in order to ensure safety for the prisoner, prison staff and other inmates.

(b) A permanent, full-time Director was appointed on 1 January, 1996. He is Mr Emanuel Cassar who had been acting as Director of Correctional Services since July, 1995.

(c) Of the 175 employees, as on 30 June, 1996 at the Prisons, only 29 are Police Officers. The Prisons Act defines "prison officer" under Section 2 as "any public officer

of whatever grade or category who is appointed or seconded to serve in the Prisons Department and includes the Director". "Other person employed in the prisons" is defined as "such other person who is not a prison officer and who may from time to time be employed or assigned duties, in a prison". These two clauses are specifically meant to provide one authority inside the prison - ie that of the Director. Amendments are being contemplated to the Prisons Act and the Pensions Ordinance in order to allow those police officers working at the Prisons, and who wish to opt to remain working at the prisons, to be appointed as correctional officers without any loss of seniority or rights to which they are entitled as police officers. The relative bill has already been published in the Government Gazette. Those police officers who will not take up this option will gradually be returned back to the police force and replaced by proper correctional officers.

6.2. Various other CPT Comments and Government Replies

CPT COMMENTS

GOVERNMENT REPLY

- | | |
|---|--|
| (a) Introduce provisional allocation and classification system, (para 63 of the report) | (a) This is being implemented within the constraints of the existing building. Juvenile Section to open in September/October, 1996. |
| (b) Natural Light in West facing ground floor cells of Division VI (paragraph 65 of the report). | (b) The Project Manager is looking into this possibility and it will be implemented along with the other works earmarked for the old part of the prison. |
| (c) Prisoners' letters may only be examined, rather than read by staff. Where, exceptionally, reading is necessary this should be done in the presence of the prisoner (para 75 of the report). | (c) Recommendation is being considered. |
| (d) Provide free telephone calls entitlement of foreign prisoners who have no relatives in Malta (paragraph 76 of the report). | (d) The new regulations already provide for one overseas free phone call a month to foreign prisoners. The suggestion by CPT to increase the entitlement is being considered. |
| (e) Prison Board's annual report to be published, (paragraph 79 of the report). | (e) Recommendation has been implemented as from this year. The Minister laid the Board's report on the table of the House of Representatives and extracts from it were published in most of the newspapers in the subsequent days. |
| (f) Appointment of Prison Board to be of longer than one year (paragraph 72 of the report). | (f) Recommendation is being considered in consultation with the Board. |

(g) Close Division VIII permanently (paragraph 64 of the report).

(g) Division VIII has not been used for punishment purposes since October, 1995, when Division VI was opened.

(h) Severity of certain punishments contemplated in the new Prison Regulations. Apparent absence of certain related safeguards. Possibility of a prisoner being punished twice by both a criminal court and the prison director (paragraph 70 of the report).

(h) CPT's recommendations on this subject are being considered in the light of the experience being gained in the implementation of the new Regulations. It is obvious that certain regulations will need to be revised on the basis of this experience. So far there have been no particular complaints on the part of the prisoners. Sufficient safeguards exist and are being made use of by the prisoners once they get to know them and trust them. For example, the Appeals Tribunal in terms of Regulations 78 and 79 took some time to be appreciated by the prisoners and was not made use of by them from October 1995 (when it was first instituted) up to May, 1996. From May up to end of July, 1996, the Tribunal has been meeting regularly and has, in fact, met for 12 times following petitions by the prisoners and has decided 8 cases. In order to inform the prisoners better of the contents of these regulations, the Department of Correctional Services will soon issue an easily readable booklet with visual explanations of their entitlements and obligations under the various provisions - copy of this booklet is found **Annex I**.

(i) Details of the composition of the Appeals Tribunal (paragraph 70 of the report).

(i) Details on the composition and rules of procedure of the Appeals Tribunal are found at **Annex J**.

(j) Comments of the Maltese authorities on the question of appropriate safeguards when a prisoner is deprived of a privilege, (paragraph 71 of the report).

(j) The guidelines on privileges have been drafted but owing to certain administrative difficulties they have not yet been implemented. The guidelines include certain safeguards. A copy of the draft guidelines are at **Annex K**.

(k) Whether the prolongation of a measure of removal from association of a prisoner upon the authority of the Minister can be challenged before the Maltese court (para 72 of the report).

(k) Any part of the regulations can be challenged, and have been so challenged, before the Court.

- (l) Further information required on the regime in Division VI (paragraph 73 of the report).
- (l) A copy of the regime that is being adopted in the High Custody Section, which includes Division VI, is enclosed at **Annex L**.
- (m) The limits and conditions upon letter and visits for unconvicted prisoners which have been set by the Minister (paragraph 74 of the report).
- (m) **Awaiting Trial Prisoners**
- *Letters*
 - i) outgoing letters - may send one censored letter every day.
 - ii) incoming letters - are without limit, but are subject to censorship.
 - *Visits*
 - i) a daily non-contact visit of 15minutes duration from Monday to Friday.
 - ii) one contact visit once a week (Saturday/Sunday) of 45 minutes duration, subject to not more than six approved visitors at any one time.

Note: (a) Visitors to Awaiting Trial prisoners need also the approval of the pertinent authorities, including, where applicable, that of the police prosecuting officer, and/or of the Attorney General, and/or of the competent court.

(b) Prisoners may be allowed extra other visits for good behaviour.
- (n) Details of other bodily restraints which may be used on prisoners (para 77 of the report).
- (n) Riot gear, including pepper-spray, batons, and handcuffs are allowed to be used by a small group of specially trained officers (the Special Response Team) in emergencies. Regulation 71 of the new Prison Regulations does not allow the use of arms and batons by prison officers unless they have received special technical training. In terms of Regulation 70 (3) the Director may, in exceptional circumstance such as excessively violent prisoner/s, riot or mutiny situations, allow prison officers to carry arms and batons. Only 18 specially trained officers (out of a total of 175) are allowed to carry and use such body restraints.
- (o) The comments of the Maltese authorities on the fact that police officers working inside the prison were armed with tear gas canisters and, on occasion, with batons, (para 78 of the report).
- (o) See reply in previous paragraph.

(p) Details of complaints procedure which is to be introduced at Corradino Correctional Facility (paragraph 80 of the report).

(p) A complaints system at the prison has not yet been formalised. However, prisoners are also allowed, in terms of Regulation 18 of the new Regulations to make a request or complaint to the Director, the Prison Board or to the Minister, or to petition the President of Malta, or to an internationally recognised human rights body, under confidential cover. Regulation 18 (4) makes it an obligation on the prison authorities to deal with the matter "without undue delay". Those prisoners who want to make a written complaint, request or petition but are unable to do so because they are illiterate are helped to formulate it by prison staff or by approved voluntary people calling at the prison. Where the prisoner, being a foreigner, wishes to make it in his own language an interpreter is normally provided and a translation either in English or Maltese will accompany the request, complaint or petition when it is sent to the Director, or Minister, or Board, or President. Finally, Regulation 106 of the new Prison Regulations makes it a duty upon the Prison Board "to hear and decide upon, as soon as practicable, any request or complaint made to it by a prisoner, or any person on his behalf, other than those made directly to it or to any of its members during the course of a visit inspection".

(q) Date of the Ombudsman's appointment and, in due course, an account of his activities in relation to the investigation of complaints of ill-treatment of detained persons (paragraph 81 of the report).

(q) The Ombudsman was appointed on 5 August, 1995. Since his appointment the Ombudsman has received and investigated one complaint from an ex-prisoner relating to ill-treatment while at prison (vide Government's Reply at B.2.).

(r) Whether Ombudsman will be able to carry out on the spot inspections of places of detention (paragraph 81 of the report).

(r) In terms of the Ombudsman Act, the Ombudsman can investigate any action taken by or on behalf of the Government, or other authority, body or person to whom the Act applies. The Prisons is one of the bodies to which the Act applies. This the Ombudsman can do on his initiative or on the written complaint of any person having an interest who claims to have been aggrieved. In so doing the Ombudsman shall not be subject to the directions or control of any other person or authority. The Prison authorities, therefore, will not object or raise obstacles if the Ombudsman ever shows an intention to visit the prison to carry out an inspection of its places of detention.

(s) Further information on the content of the induction training course of correctional officers. (s) See attached Annex M.