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Executive summary

to the 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 3 to 10 September 2015

Strasbourg, 25 October 2016

EXECUTIVE SUMMARY

The CPT's 2015 periodic visit to Malta was the Committee's eighth visit to the country. The CPT's delegation examined the treatment and conditions of detention afforded to persons held in various places of deprivation of liberty across Malta. The co-operation received from both the Maltese authorities and the staff at the establishments visited was generally very good.

Law enforcement agencies

The CPT's delegation found that, generally, the police treated arrested and detained persons correctly, and it received no allegations of ill-treatment. Nevertheless, there is a need to ensure that safeguards against ill-treatment operate effectively. To this end, the authorities should ensure that all persons detained by the police can effectively benefit from access to a lawyer throughout their police custody. Further, steps must be taken to improve the record-keeping in police stations, and district police stations should ensure that persons who need to be held longer than six hours in custody are transferred promptly to the Floriana Lock-Up. It is also important that persons in police custody are kept safe, which entails introducing a thorough risk-assessment of each detained person and a robust suicide prevention approach.

Although material conditions in police detention areas were generally adequate, a number of deficiencies were found including lack of access to potable water, no in-cell call bells, poor ventilation and lighting. The cells at Gozo Lock-Up were also found to be too small for overnight stays. Further, persons detained longer than 24 hours in police custody should be offered access to outdoor exercise. A system of independent monitoring of police detention facilities should be established.

Immigration detention

The CPT notes positively that very few persons were held in immigration detention at the time of the visit. The reduction in the numbers of persons detained should make it easier to ensure that those who are detained are held in decent conditions. To this end, the current approach towards immigration detention should be reviewed. More specifically, the living conditions at Safi Barracks should be improved and more activities offered to those persons detained longer than a few days. The role and scope of duties of detention officers should also be developed, and the authorities must ensure that detained persons are addressed by their name and not by a number. The CPT is again critical of the fact that no proper medical screening is carried out on every newly arrived detainee. As concerns the airport holding area, it is important that the log book be diligently completed and that persons are not held for periods in excess of 24 hours. As regards Dar il-Liedna open centre for young persons, the main concern of the CPT relates to the apparent frequent fighting among residents.

Corradino Correctional Facility (CCF)

At CCF, the delegation observed generally good relations between staff and inmates and hardly any allegations of ill-treatment by prison staff towards prisoners were received. At the time of the visit, there were three male to female transgender inmates and one intersex inmate, who were all accommodated within the male divisions of the prison. After reviewing their situation, the CPT considers that transgender persons should either be accommodated in the prison section of the respective gender with which they self-identify or, if exceptionally necessary for security or other reasons, in a separate section of the prison. The prison authorities are also reminded that whenever there are suspicions or allegations of inter-prisoner violence or bullying, any injuries are properly recorded and a thorough investigation carried out.

As regards material conditions, the CPT noted that some renovations had been undertaken and that two of the previously most problematic Divisions had been closed. This is positive. However, the remaining Divisions provided generally poor living conditions for the inmates. For example, in Divisions II, III and XIII the cells were hot and dirty, lacked ventilation, possessed unscreened and poorly-functioning toilets and inmates had no direct access to drinking water. Steps should be taken to remedy these and other deficiencies identified by the Committee.

The CPT welcomes the fact that more than 80% of the prison population were offered access to some kind of work and education. However, the restrictive regime on Divisions V and XIII, where the particularly problematic inmates were placed, needs to evolve and a full range of activities offered. Moreover, the placement procedure and safeguards surrounding placement on these divisions were opaque. The situation of life-sentenced prisoners was also poor in terms of lack of access to activities, no sentence plan and no access to parole. The CPT reiterates that the policy towards life-sentenced prisoners must be re-considered, notably to afford life-sentenced prisoners the possibility to apply for conditional release.

As regards discipline, the CPT considers that loss of remission should fall under the competence of an independent judge and that the law should be changed accordingly. Steps must also be taken to reduce the long delays between an alleged incident and the imposition of any disciplinary sanction, and the practice of accumulating disciplinary offences should cease. Further, the complaints' procedure was almost non-existent and the CPT recommends that a formal system of internal complaints be introduced. In addition, the external monitoring of the prison by the Prison Board remained rudimentary.

In respect of healthcare, there continued to be insufficient co-ordination of healthcare services, no strategy for those at risk of self-harm and the administration of psychotropic medication was unsafe. The CPT recommends, *inter alia*, that medical confidentiality be strictly guaranteed and that prison officers do not have access to medical records, the co-ordination of health-care by prison officers at CCF be reviewed and a comprehensive suicide prevention and management approach be introduced.

As regards the separate Young Offenders Unit of Rehabilitations Services (YOURS), the atmosphere was generally good although there were a few incidents of inter-prisoner violence. However, the young persons were not provided with a full programme of purposeful out-of-cell activities; indeed, there was no specifically tailored regime for juveniles, nor were there any programmes to help juveniles and young offenders prepare for reintegration into society. Also, staff were not specifically trained to work and engage with young persons. Action should be taken to address these shortcomings.

The CPT's delegation found that the male and female Forensic Psychiatric Units at Mount Carmel Hospital were not being properly managed, which impacted negatively on the care provided to patients. The CPT recommends that a complete review of the purpose and functioning of the forensic units be undertaken, that the Ministry of Health be tasked with the oversight of the forensic units and that the units should be brought under the management of Mount Carmel Hospital. Moreover, investment is required in the recruitment and training of qualified nursing staff to perform all the duties required of a forensic psychiatric service — only one nurse had a specialisation in psychiatry while the other healthcare staff members were all agency staff. The atmosphere and regime were extremely carceral and un-therapeutic and the material conditions for the patients were poor and there were no individualised care plans. On the male Unit, the use of means of restraint was being applied by prison officers instead of healthcare staff and the recording of such measures was inadequate. The application of any means of restraint should only be carried out by adequately trained health-care staff and resort should never be had to the Special Response Team from the prison, and a systematic recording system should be put in place.

The CPT raises particular concerns in respect of the care afforded to two patients on the male Unit, Patients D and E. With regard to Patient D, the CPT considers that there is no good reason why a prisoner who does not have mental health needs should be required to be held in a psychiatric forensic unit, even more so when the unit is unable to cater to his somatic needs. As for Patient E, the CPT considers that nursing staff should be physically present in his room to ensure the safety of this patient until he is no longer deemed to be at risk.

Mount Carmel Psychiatric Hospital and Gozo General Hospital

Mount Carmel Psychiatric Hospital continues to serve both as a mental health facility treating patients with acute and chronic mental health disorders and a social care home for those in need of assisted care. The development of appropriate structures for care in the community should be pursued. At the hospital, the CPT's delegation observed relaxed staff-patient relations and a generally caring approach by staff. Inter-patient violence did not appear to be a problem although on Female Ward I some allegations of patients pushing slapping and pulling hair were received.

The living conditions in most of the wards were generally acceptable. Nevertheless, the CPT makes a number of recommendations inter alia to render the dormitories less austere and reduce the occupancy levels therein, and to improve access to the outdoors. The CPT is particularly critical of the Maximum Secure Unit, both as regards the material conditions and the treatment, and recommends that the unit be relocated to a place where a therapeutic living environment can be provided. More generally, the CPT considers that every patient should not only have a written individual treatment plan but be consulted in its development. Further, the range of rehabilitative and therapeutic activities on offer should be widened. As regards the application of electroconvulsive treatment, the CPT recommends that it is always performed with electroencephalogram monitoring, which was not the case at the time of the visit.

Staffing resources at the hospital were generally adequate although a few wards needed reinforcing. However, the CPT considers that patients on the Maximum Secure Ward would benefit if the nursing staff were all psychiatrically trained and directly employed by the hospital and not agency staff. As regards means of physical restraint and seclusion, there was no excessive use of the measures and the recording was generally carried out properly. Nevertheless, staff were not always aware of the written seclusion policy and patients were not debriefed once their placement in seclusion was terminated. Also, the time-out room in the Young Persons' Unit should not be used in excess of 20 minutes.

The CPT welcomes the approach taken by the 2012 Mental Health Act in placing mental health users at the forefront of the law and the establishment of an independent Commissioner for Mental Health and Older Persons. The procedures for involuntary admission and on-going placement of a patient in a psychiatric facility provide clearly for an independent authority, the Commissioner, to verify that the involuntary placement is warranted. To further enhance the safeguards in place, the possibility of legal aid should be provided for patients who wish to challenge their involuntary placement before a court. All patients should also receive an information booklet on the establishment. The CPT was concerned about the practice of placing children exhibiting challenging behaviour too readily in a closed psychiatric facility and recommends that more robust procedures be put in place to prevent such placements. Further, children should not be placed on adult wards as was the case up until July 2015 in respect of a girl who was placed on Female Ward 1.

Social Care Homes

The CPT's delegation formed the opinion that staff at the three establishments visited took great care of and interest in the well-being of the residents. The living conditions in all the homes were satisfactory, including as regards access to activities. In respect of health care, the CPT considers that all children in care homes should benefit from an appropriate interview and medical examination as soon as possible following their admission and that a programme of preventive care be established as this was not case at the time of the visit.

The CPT's delegation met a number of girls who had been placed in Mount Carmel Psychiatric Hospital on one or more occasions and found an apparent over-eager reflex to transfer a girl exhibiting challenging behaviour to Mount Carmel for in-patient psychiatric care. The CPT considers that the placement of many children at this hospital over the past few years did not appear to have been justified and vigilance needs to be exercised in this area. Staff in children's welfare homes should be provided with on-going training on how to manage juveniles exhibiting challenging behaviour.

More generally, the CPT recommends that all welfare homes should be visited by an independent body on a regular basis and that information on the role of the Commissioner for Children be made available to residents in all homes.