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**REPORT  
BY MR. ALVARO GIL-ROBLES,  
COMMISSIONER FOR HUMAN RIGHTS,**

**ON HIS VISIT TO MALTA**

**20 - 21 October 2003**

**for the attention of the Committee of Ministers  
and the Parliamentary Assembly**

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## Introduction

*In accordance with Article 3 (e) of the Committee of Ministers Resolution (99) 50 on the Council of Europe Commissioner for Human Rights, I was pleased to accept the invitation extended by Mr. Joe Borg, Minister for Foreign Affairs of Malta, to pay an official visit to Malta on 20-21 October 2003 and I travelled to Valletta with Mr. Christos Giakoumopoulos, the Director of my Office, and Mr. Julien Attuil. My gratitude is due, firstly, to the Minister for Foreign Affairs for the resources he placed at my disposal throughout the visit ensuring the success of my visit, as well as to the Permanent Representation of Malta to the Council of Europe for its cooperation in the visit's organisation. Lastly, I would like to express my gratitude to the various government authorities I met for their great helpfulness, frankness and exemplary co-operation.*

*During the visit, I met with the President of the Republic, the Minister for Foreign Affairs, the Minister of Justice and Home Affairs, the Chief justice, the Speaker of the House of Representatives, the MPs of the delegation to the Parliamentary Assembly of the Council of Europe, the Ombudsman, the Refugee Commissioner, the Chief executive of the Foundation for International Studies at the University of Malta, and with representatives of civil society. Additionally, I visited the lock-up of the Courts of Justice in Valletta, the Corradino prison (Poala), the military barracks Hal Safi (Luqa), and the Hal Far detention centre for aliens (Luqa).*

## General observations

1. Malta joined the Council of Europe in April 1965 soon after its independence. It has since ratified several conventions including the Convention for the Protection of Human Rights and Fundamental Freedoms (hereafter "ECHR") and its Protocols (except for Protocol 12) in addition to the European Social Charter and the Framework Convention for the Protection of National Minorities. However, the Protocol to the Social Charter providing for a system of collective complaints and the Revised European Social Charter have not yet been signed and ratified by Malta. During my visit, I observed that the activities of the Council of Europe were well known and closely followed by all institutional actors. Whilst Malta's has long been linked with the Council of Europe, the country has made a new step in its European development by signing the treaty on the European Union's enlargement on 16 April 2003.
2. In recent years, Malta has adopted important reforms in the human rights field at both legislative and material levels. Malta's accession to EU has contributed to this development, but the credit is primarily due to domestic authorities that have taken a pragmatic approach and acted with a strong desire to strengthen the protection of fundamental rights.
3. Representatives of the civil society brought to my attention several problems that still remain, including the fact that homosexuals may sometimes be confronted to intolerant social attitudes and the fact that efforts to fully integrate persons with disabilities should be pursued. This report will focus on some other topics that were raised both by the civil society and by the authorities. These include the delays in the administration of justice (II), which remains a topic of concern despite recent reforms, a number of deficiencies in the Corradino prison (III) and, above all, the treatment of migrants (I), which needs to be urgently addressed by the Maltese authorities.

## I. The situation of irregular migrants and asylum seekers

4. Malta has recently reformed its procedures for arriving foreigners. In 2000 the Refugee Act was adopted, creating the Refugee Commissioner, the first instance body for asylum seekers, and the Refugee Appeals Board, the appeal body. Prior to the adoption of the Act, the United Nations High Commissioner for Refugees dealt with requests for asylum in Malta. The new Act gave refugees legally enforceable rights to travel documents, to be release on recognition of status and to social assistance, as well as the right to work. Consequently, in December 2001 Malta withdrew practically all reservations to the Geneva Convention on the Status of Refugees (1951). In December 2002, Malta decriminalised the entrance without leave of its territory. Regarding facilities, the Hal Far detention centre for aliens opened in February 2002 with the capacity to detain 80 migrants. These reforms were based on the assumption that Malta would receive a maximum of a few hundred migrants each year. In 2002, however, more than one thousand six hundred immigrants arrived in Malta, which represents a significant figure for a densely inhabited and ill-prepared state.
5. Although entrance without leave of Maltese territory is no longer a criminal offence, all migrants is nonetheless held in detention. In the absence of the will to separate asylum seekers and irregular migrants and as a result of the policy of keeping all these persons in detention, emergency facilities were set up to detain these persons. Thus, in addition to the Hal Far Centre, centres run by the police and also the Hal Safi and Lyster military barracks are being used. The continuing stream of arriving migrants during 2003 has not allowed Malta to solve these problems. The very difficult conditions of detention result from three factors: the policy of detaining all migrants, the absence of an adequate infrastructure and the length of the expulsion or asylum proceedings.

### A. Detention of migrants

6. Malta has decriminalised the irregular access to its territory. However **every migrant without leave** whether he/she is irregular or an asylum seeker, **is detained** on the basis of an administrative decision as required by the Immigration Act. The latter provides that any person, on Maltese territory without the right of entry, transit or residence shall be considered as a prohibited immigrant and therefore be detained until his or her deportation<sup>1</sup>.
7. With a population of less than 400,000 inhabitants, Malta is the most densely populated European country with a density approaching that of Hong Kong. By its geographical location, Malta is at the gates of Africa with exclusively maritime borders, which are, by nature, difficult to control. The discussions that I had with the migrants in the detention centers revealed that for a great number of them Malta is only a transit country. The combination of these elements has resulted in belief of the Maltese authorities that only detention can stem the stream of new arrivals and prevent Malta becoming a transit country towards Italy and Northern Europe. During my meeting with the Minister of Home Affairs, it was explained to me that since almost all irregular migrants who enter Malta illegally apply for asylum, it is not practical to separate illegal immigrants from asylum seekers in the present circumstances. The Minister also emphasised that the arrival of 1680 “boat people” in 2002 was equivalent to half the number of births per year in Malta.

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<sup>1</sup> See section IV of the Immigration Act and specifically Articles 5 (1) and 10.

8. Considering the current situation, it can be assumed that the stream of migrants will continue to be significant over the coming next years, due to Malta's added attraction post accession to the European Union and as a result of the ongoing conflicts and repression in a number of African countries. It will therefore be **necessary to construct a long-term migration policy** taking both future challenges and the fundamental rights of migrants into account.
9. Regarding **asylum seekers**, I would like first of all to insist that, in principle, they **should not be detained** when they have not committed any offence, and that States should take the necessary steps to avoid incarceration. Moreover, I would like to recall the existence of alternative solutions, which are often cheaper than detention, but which might still guarantee that the asylum seeker will remain in the country. Malta has introduced open centres where free accommodation and meals are provided, however they are restricted to refugees. Military barracks were converted into an open centre, because of the unavailability of housing stock on the island. Currently, this centre accommodates 100 persons. Therefore Malta could benefit from this experience and open similar structures dedicated to asylum seekers as it is the case in some. Council of Europe member States where open door establishments are directly administered by public authorities or by non-governmental organisations and in which asylum seekers are accommodated and in which they can get psychological, material and legal support. In a number of countries, a system of bail or warranty tied to an obligation to report daily to a police station has been introduced<sup>2</sup>.
10. On this issue, the Committee of Ministers of the Council of Europe has recently recalled the conditions under which the detention of an asylum seeker can be considered<sup>3</sup>. Incarceration is permitted only after a cautious and individual examination of each case, in accordance with the necessity of such a decision. These measures should be adapted, limited in the time, non arbitrary and as short as possible in accordance with Article 5 of the ECHR. Finally a court should regularly review such detentions.
11. All the evidence suggests that Malta does not follow this recommendation. Indeed, **the detention is automatic** and is not controlled by a judge. The Immigration Act, like the Refugee Act, does not provide any specific mechanism to challenge the detention. Therefore Article 409 A of the Criminal code that reiterates the *habeas corpus* principle is applicable and it allows every detainee to challenge, at anytime, the legality of the detention before a court, which has to deal with the case promptly. It appears that this domestic remedy has almost never been used in the past and that its effectiveness, within the meaning of the ECHR, is uncertain.
12. The Maltese government has acknowledged the need to reform the detention procedures. It is crucial for Malta to adopt specific legislation on the detention of irregular migrants in order to limit its length and to clarify the competence of the judiciary in this area. Concerning asylum seekers, **the law should allow detention**

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<sup>2</sup> For a more in depth analysis of these possibilities, see the High Commissioner for Refugee guidelines on applicable criteria and standard relating to the detention of asylum seekers (February 1999) and specially the guideline number 4.

<sup>3</sup> Recommendation Rec(2003)5 on measures of detentions of asylum seekers, adopted by the Committee of Ministers on 16 April 2003.

**only in exceptional circumstances** and under the strict control of a judge or a court, respecting both Article 5 of the ECHR and the principles set out in the Recommendation of the Committee of Ministers. As an alternative to the detention, consideration could be given to the creation of a system of bail or open centres.

13. Considering the inadequate conditions of detention and the fact that some of the migrants have been detained for almost two years, I invite the Maltese authorities to implement these reforms as a matter of priority.

#### **B. Detention conditions**

14. As part of the process of improving the treatment of arriving migrants, Malta renovated the Hal Far centre in order to accommodate the entirety of asylum seekers and irregular migrants landing on its territory or arriving in its territorial sea. The renovation of these facilities was undertaken without taking into account Malta's potential of attracting migrants. It has, as a result, been impossible since the year 2002 to put all the arriving persons in this centre obliging the Maltese authorities to shelter migrants in other facilities for a provisional period. As is often the case, however, the provisional has begun to transform into the permanent, as the number of new arrivals has shown no sign of decreasing. Consequently, migrants are detained, as foreseen, in the Hal Far centre, but also in a number of centres run by the police and in two military barracks. The exchange of views that I had concerning the conditions of detention with NGOs and the authorities, specially the Ombudsman, confirmed my worries on the issue. I therefore visited the Hal Far detention facilities as well as the Hal Safi military barracks next the Maltese airport.
15. My visit of the Hal Safi barracks allows me to confirm that **the building is totally inadequate** to the task of decently housing more than two hundred people. Migrants live either in barracks, formerly used by soldiers, or in a former military garage made of corrugated iron. Between 10 and 15 migrants live in each room of the barracks, obliging migrants' families to build flimsy structures with sheets in order to obtain a minimum of privacy. Their outdoor access is limited to one hour of "recreation" allowed, more or less regularly, in a muddy field of the size of half a football pitch encircled by barbwire. The persons detained in the other part of the base benefit from a larger living space live, all 60, in an iron hangar. As the authorities met with conceded, this shelter is "a microwave in summer and a fridge in winter". Moreover, it seems that the situation has been even worse in the past, with its population reaching up to 320 persons in November 2002, forcing a number of migrants to live in tents over the winter. It is important to underline that half of the migrants detained in Hal Safi barracks, have been there for more than a year, which far exceeds the provisional. From what I could gather, those affected by contagious diseases are not adequately separated from the other migrants, increasing the risk of spread. The difficult living conditions, prolonged confinement and absence of activity have resulted in at least fifteen migrants requiring psychological treatment. Finally, in addition to the overpopulation of the centre, the migrants are confronted with the deterioration of the sanitary installations, which are totally ill adapted to the number of people using them.

16. In spite of this rather bleak picture, I would like to underline that the facilities were correctly maintained and that military staff was dedicated and respectful in the fulfilment of tasks, despite the fact that they are not trained to run a detention centre for migrants. Thus, the base was divided in different “sections” in which a separation is made, if possible, on the basis of the migrants’ origin and familial status.
17. The conditions met in the Hal Far centre, which is run by the police, are for the most part similar with respect to **overpopulation**, the **lack of activities** offered to migrants and **inadequate sanitation**. It was obvious that here again detainees are packed into a centre lacking adequate accommodation and recreational facilities for such large numbers. In the light of subsequent meetings and having read several reports on this issue<sup>4</sup>, it would appear that the conditions I was able to observe myself extend to all the places where migrants are detained.
18. I was also able to note during my visits that the emotional stability of some of the migrants was somewhat perturbed. I witnessed the consternation of detainees at the apparently frequent sight of handcuffed migrants returning from medical treatment received outside the centre. The migrants understandably consider that this practice of handcuffing, to which I will return, is humiliating.
19. The overall situation is all more shocking if **compared it to entirely acceptable conditions to be found in the Corradino prison**.
20. Finally, the situation is made even more unbearable for migrants because they are detained until their expulsion or the granting of protection status. These procedures generally take several months and can extend up to several years. The Maltese authorities should urgently take all necessary steps to insure **decent conditions of detention** in the anticipation of wider policy reforms in this area. These improvements include easing the overpopulation and increasing access to the outdoors, **allowing migrants to be, at the very least, treated in a similar manner to ordinary prisoners**.

### C. Length of proceedings

21. During my visit, I observed that the Refugee Commissioner, the first instance body in asylum proceedings, gave all the necessary attention to asylum seekers. To Malta’s credit, the **proportion of asylum status and humanitarian protection granted is significantly superior** to most of the European countries. The procedure itself, therefore, is therefore not in question. Nevertheless, it would appear crucial to accelerate it in order to reduce to a minimum the duration of asylum seekers’ detention.
22. Whilst the necessary reforms concern the acceleration of the treatment of individual cases, the length of such proceedings would not be excessive were it not for the detention of asylum seekers.

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<sup>4</sup> See in particular the Ombudsman’s report on this issue which was included in his 2002 annual report or the study realised in July 2003 by the Maltese Jesuit Refugee Service.

23. It appears that a number of civil servants have received training aiming at giving occasional support to the office of the Refugee Commissioner which is currently composed of the Commissioner, a lawyer and 3 administrative assistants. However laudable these steps might be, and helpful on an ad hoc basis, they are manifestly insufficient. The Maltese authorities ought, therefore, to provide the competent organs on asylum matters – *i.e.* Refugee Commissioner and Refugee Appeals Board – with an **adequate and permanent staff to speed up the decision-making process** without prejudice to the quality of the hearing and analysis of applications.
24. Moreover, if such reforms are implemented, it might be worth considering and amendment to the Refugee Act, particularly with respect to its Article 7 (2) that allows the Government to appeal a positive decision of the Refugee Commissioner – even if, for the moment, this possibility has never been used – and make sure that Article 7 (5) which grants legal aid to those appearing before the Refugee Appeals Board is effective. Finally, it would be also desirable for the **decisions of the Board to be better motivated**. Indeed I was astonished to see that most of its “decisions” consisted of a simple letter with no legal explanation, sometimes even limited to one sentence.

#### D. Other topics of concerns

##### 1. *The handcuffing of migrants*

25. During my visit to detention centres for migrants, I personally witnessed a practice, which has been strongly denounced by NGOs and migrants themselves. The police and military forces **systematically handcuff migrants** when taking them to and from the hospital for medical treatment. On expressing my astonishment and disapproval, I was explained that part of the medical staff had requested the handcuffing of the migrants. Furthermore policemen, as well as soldiers, had received instructions from above on this matter. They cannot, therefore, act differently without risking sanctions. I would like to recall that migrants, regardless of whether they are applying for asylum or not, have not committed any criminal offence. As a result it is necessary for the Maltese authorities to urgently remedy this situation and **resort to handcuffs only in case of strict necessity**, when the security of the migrant or staff requires it.

##### 2. *Access to education for migrant children*

26. Maltese law stipulates that children can benefit from free education until the age of 16. Unfortunately, in practice, it appears that accompanied migrant children are not automatically provided with schooling. The Education Department provides for the assignment of children to state schools, within the general framework of the Illegal Migrants Committee. The latter is chaired by the Permanent Secretary of the Ministry of Justice and Home affairs and includes state representatives and representatives of the main NGOs. However the registering process for migrant children is carried out by a number of NGOs and can take several months. Considering that most of the families are detained in the army centres, several additional authorisations are required (permission to leave the barracks, agreement of the school etc) to provide children with schooling. During my visit to the Hal Safi barracks, I met a 10 year old Cameroonian girl and a 15 year old Armenian boy, that had both been in the centre for more than 6 months and were still not able to attend school. I urge the Maltese authorities to take all necessary steps to **ensure, through public administration**, that these children will be allowed to **go to school as soon as possible** after their arrival.

## E. Conclusions

27. During my visit, the Maltese press echoed the authorities' concerns over the significant costs created by the detention of migrants. Undoubtedly, such a policy entails both financial and human costs, without solving the problem in the long run. On the other hand, one must recognise that it is extremely difficult for Malta to implement a coherent migration policy without the concomitant engagement of neighbouring EU members. It is to be hoped, therefore, that Malta's imminent accession to EU of Malta will permit this issue to be tackled more effectively. Finally an answer to the problem also requires greater dialogue with the countries of origin and transit and especially with those of Northern Africa.

## II. The backlog of judicial cases

28. The Maltese judicial system, even if it is aware of the situation, has accumulated a **considerable backlog of cases** mainly in civil matters. This accumulation has resulted in significant delays. Delays also occur in criminal cases despite the fact that as a general rule seriously contested criminal cases take on average between two and three years to be decided. For cases going to trial by jury before the Criminal Court, instead of trial by the Court of Magistrates, the average is about four years.
29. To their credit, the Maltese authorities have implemented a number of reforms to accelerate proceedings and this had led to a reduction in the backlog of cases by 18 % in the last 5 years. It is, for example, intended to oblige certain disputes to seek settlement through arbitration rather than in the courts. These modifications aim at narrowing the field of action of the judiciary. Nevertheless, I think the priority should above all be given to the **increase in the number of judges and magistrates**, as it is they who are primarily responsible for the providing just satisfaction within a reasonable time. This will be all the more necessary, if Malta implements the propositions regarding the intervention of a judge<sup>5</sup> in determining the legality of migrants' detention.

## III. Detention facilities

30. During my visit to the lock-up of the Courts of Justice in Valletta I noted that the cells are now exclusively reserved for the detention of persons to be judged that day and no longer serve, as was once the case, for prolonged detentions.
31. **The improvements** achieved by the Maltese authorities in respect of the conditions at Corradino prison **are praise worthy**. A new wing was recently opened and the transfer of detainees is currently underway. Each detainee has his/her own cell and the inmates would appear to be perfectly well treated. Equal praise is due for the new building designed to accommodate juveniles, who receive all the necessary attention. The only element of concern is the cells allocated to **criminals requiring special care**, in particular sexual offenders. These persons are separated from the other inmates for the purpose of avoiding violence or aggression towards them, as is often the case in prisons. Whilst a large number of cells are unused in the new wing, these offenders remain **in damp cells denied daylight**. Therefore I invite the Maltese authorities rapidly to **transfer these persons to available cells** where the living standards are better and to close or renovate this part of the prison.

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<sup>5</sup>The notion of "judge" here shall be considered with a broad meaning and does not take into account the Maltese distinction between judge and magistrate.

**FINAL REMARKS AND RECOMMENDATIONS**

32. Malta should be considered as a country with a long-standing commitment to the values of human rights and the Maltese authorities have demonstrated a strong will to ensure and the respect of fundamental rights. The exchange of views I had during my stay with different Maltese officials convinced me that the remaining challenges, especially with regards to immigration, will be resolved with determination. In and to assist them in their action, the Commissioner, in accordance with Article 8 of Resolution (99) 50, recommends that the Maltese authorities:

- 1) Adopt a law providing that the detention of asylum seekers will be authorised only in exceptional circumstances and with the control of judicial authorities in accordance with the Recommendation Rec(2003)5 of the Committee of Ministers;
- 2) Ensure that legal aid is provided to asylum seekers during the appeal procedure in accordance with domestic law and take all the necessary measures to ensure that the Appeal Refugees Board adopts decisions motivated on the facts and merits;
- 3) Elaborate alternatives to the detention of asylum seekers;
- 4) Ensure that the detention of irregular migrants is not prolonged indefinitely;
- 5) Take all the necessary measures to guarantee adequate conditions of detention in all the centres in which migrants are detained, especially as regards overpopulation, access to outdoor space and sanitary installations;
- 6) Provide the bodies responsible for examining asylum applications with adequate permanent staff in order to accelerate the treatment of cases;
- 7) Restrict to strictly necessary the use of hands-cuffs when transporting migrants to and from detention centres;
- 8) Ensure that the administrative procedures necessary for school attendance by migrants' children are carried by the public administration and permit children the access to school as soon as possible after their arrival;
- 9) Adopt appropriate measures to deal with the backlog of cases whilst ensuring the proper administration of justice, including, if necessary, increase the number of judges and magistrates;
- 10) Transfer detainees requiring special attention in Corradino prison to a part of the prison offering better detention conditions;
- 11) Sign and ratify the Third additional Protocol to the European Social Charter allowing collective complaints, and the Revised Social Charter;

33. In accordance with Article 3.f of Resolution (99) 50, this report is addressed to the Committee of Ministers and to the Parliamentary Assembly.

## ANNEX TO THE REPORT

The Commissioner for Human Rights decided to append to his report the following comments of the Government of Malta, submitted during the presentation of the report to the Committee of Ministers of the Council of Europe by Ambassador Joseph Licari, Permanent Representative of Malta to the Council of Europe, on 12 February 2004.

### COMMENTS AND OBSERVATIONS OF THE MALTESE AUTHORITIES REGARDING THE REPORT OF THE COMMISSIONER FOR HUMAN RIGHTS ON HIS VISIT TO MALTA

I would like to start by thanking the Commissioner for Human Rights for his report and for his expression of gratitude to various government authorities he met in Malta “for their great helpfulness, frankness and exemplary co-operation”.

I also appreciate the Commissioner’s conclusion that “Malta should be considered a country with a longstanding commitment to the values of human rights, and that the Maltese authorities have demonstrated a strong will to ensure respect of fundamental rights” (paragraph 32).

The Commissioner notes that in Malta –

- “the activities of the Council of Europe were well known and closely followed by all institutional actors” (paragraph 1);
- the credit for recent important reforms in the human rights field “is primarily due to domestic authorities who have taken a pragmatic approach and acted with a strong desire to strengthen the protection of fundamental rights” (paragraph 2);
- “to their credit the Maltese authorities have implemented a number of reforms to accelerate [judicial] proceedings and this has led to a reduction in the backlog of cases by 18 % in the last five years” (paragraph 29); and
- “the improvements achieved by the Maltese authorities in respect of the conditions at Corradino prison are praiseworthy ... Each detainee has his/her cell and the inmates would appear to be treated perfectly well. Equal praise is due for the new building designed to accommodate juveniles, who receive all the necessary attention” (paragraph 31).

#### **Illegal immigrants**

In his report, the Commissioner focuses on the problem of illegal immigrants. He acknowledges that a suitable policy, while entailing financial and human costs, would not solve the problem in the long run (paragraph 27). He also recognises that:

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“It is extremely difficult for Malta to implement a coherent migration policy without the concomitant engagement of neighbouring EU members. It is to be hoped, therefore, that Malta’s imminent accession to the EU will permit this issue to be tackled more effectively. Finally, an answer to the problem also requires greater dialogue with the countries of origin and transit, and especially those of northern Africa” (paragraph 27).

Malta’s problem with illegal immigrants is a result of geography. The island lies between Sicily to the north and Libya and Tunisia to the south. Boatloads of irregular immigrants leave North African shores, heading towards Sicily. Occasionally, weather or navigation conditions bring them to Malta. The country has an area of about 320 square kilometres and a population of 400 000. With 1250 inhabitants per square kilometre, it is the most densely populated country in Europe.

In 2002 alone, about 1700 irregular immigrants landed on the island, or about 0.4 % of the population. It was a national emergency for which the country was ill prepared. The figure would be equivalent to some 40 000 in a country with a population of 10 million, or 240 000 in one with a population of 60 million.

The Commissioner acknowledges in his report that, to Malta’s credit, it grants asylum status and humanitarian protection to a higher proportion of applicants than most European countries (paragraph 21). He also acknowledges that the Refugee Act (2000) introduced new institutions - the Refugee Commissioner and the Refugee Appeals Board - and gave “refugees legally enforceable rights to travel documents, to be released on recognition of status and to social assistance, as well as the right to work”. He notes that “in December 2001 Malta withdrew practically all reservations to the Geneva Convention on the Status of Refugees (1951)”, and in December 2002 decriminalised entry into its territory without permission (paragraph 4).

The Commissioner, however, criticises the fact (paragraphs 9 to 13) that every person, on entering Malta illegally, is detained, even if he/she has applied for refugee status. He recommends that they be released on making such an application. The Maltese government appreciates the Commissioner’s comments, but it does not consider that it would be in Malta’s national interest to do away with the policy of detention. If the 2000 persons who entered Malta illegally in the last two years had been immediately released, they would have caused upheavals on the labour market and major problems regarding their accommodation.

The government acted with moderation and humanity, and in the national interest, by extending protection to 500 persons, who were released, and sending 1300 clandestine persons back to their country of origin (at considerable cost to the Maltese exchequer) because they did not qualify for protection.

The Commissioner further recommends that in certain cases detained immigrants be given a remedy to challenge their detention (paragraph 11). The government accepts this recommendation. It has published a bill to enable any person detained in an immigration centre to request his/her conditional release to the Immigration Appeals Board (set up in December 2002) if he/she considers that he/she has been detained for an unreasonably long period (see *Malta Government Gazette*, 27 January 2004).

As regards detention conditions (paragraphs 14 to 20), the Commissioner underlines that the Hal Safi barracks, run by the armed forces, and the Hal Far centre, run by the police, are correctly maintained and that the staff are “dedicated and respectful in the fulfilment of their tasks, despite the fact that they are not trained to run a detention centre for migrants”

(paragraph 16). However, he criticises the centres for their inadequacy: they are overcrowded and parts are too hot in summer and too cold in winter; detained persons are not given enough time for outdoor recreation and are handcuffed when taken out of the centre.

The Commissioner recommends improvements in the detention conditions of illegal immigrants to allow them “to be at the very least treated in a similar manner to ordinary prisoners” (paragraph 20). This would be desirable but, financial resources being limited, the Maltese government does not consider it right to sacrifice other projects having higher national priority to construct a new detention centre for immigrants.

However, the government has succeeded in reducing the scale of the problem. In December 2002, there were 900 detained immigrants. When the Commissioner paid his visit to Malta in October 2003, there were 550. At present, the number has gone down to 240. In addition, the government already provides accommodation for 100 persons in open centres. Overcrowding will be further reduced because applications for refugee status will be processed more rapidly once more full-time and part-time case officers are appointed, and undeserving and clandestine immigrants will be repatriated. While it is difficult for the police to stop using handcuffs, ways will be sought to make the practice more acceptable.

Finally, I would like to inform that Malta’s Minister for Justice and Home Affairs, Dr Tonio Borg, has circulated the Commissioner’s report at a press conference in Malta on 9 February 2004. He also expressed his intention of using the report to further strengthen the government’s commitment towards safeguarding human rights and protecting the national interest.