

# Criminal Detention in the EU: Conditions and Monitoring

Update of FRA's Criminal Detention Database  
(FRANET)

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## Part I: National standards

### 1. Cells

#### a. Cell space

There is not a national standard requiring a specific amount of cell space available to detainees in m<sup>2</sup>. The Prison Regulations provide that a *'reasonable amount of space, lighting and ventilation'* must be available to detainees.<sup>1</sup>

According to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)'s [report](#), particularly the case of Divisions II, III and XIII, the living standards in the cells were generally poor. While most cells at Corradino Correctional Facility were considered sufficient for single occupancy, measuring some 9m<sup>2</sup>, the dormitory rooms were considered to be cramped, with nine inmates held in approximately 30m<sup>2</sup>, significantly less than the recommended minimum standard of 4m<sup>2</sup> of living space per prisoner in a multiple-occupancy cell<sup>2</sup>.

Concerning overcrowding at the facility and its impact on the spread of the Covid-19 virus, the European Court of Human Rights (ECtHR) found in the case of [Fenech v. Malta](#) that *"there is no indication that the CCF, which hosts around 900 inmates, was or is generally overcrowded, a factor which could enhance proliferation of the virus."*<sup>3</sup> Furthermore, in the same judgment the ECtHR observed that according to the plans submitted to the Court, Fenech's dormitory measured 30 sq.m., the bathroom within the dormitory consisted of an area of around 3 sq.m and an adjacent small yard measured 18 sq.m. The dormitory also contained three bunk beds, a regular six-person table and a fridge. It concluded that even excluding the area of the yard, the applicant still had available an individual sleeping place and 4.5 sq.m. of personal space<sup>4</sup>.

Similarly, there are no national standards outlining specific measurements for cell equipment. Regulation 20(a) of the Prisons Regulations states that in all places where prisoners are required to live or work, the windows shall be such *"as to enable the prisoners to read or work by natural light in normal conditions and shall be so constructed that they can allow the entrance of fresh air"*.<sup>5</sup>

Regulation 20(a) further requires that the windows have as *"normal an appearance as possible"* in terms of size, location and construction, with due regard to security requirements.<sup>6</sup> Furthermore, artificial light shall satisfy recognised technical standards and as regards the cells, shall be capable of being dimmed at night in such a way as to permit supervision.<sup>7</sup> Regarding cell furniture, the law requires that every prisoner be provided with a separate bed and separate bedding appropriate for warmth and health, which shall be kept in good order and changed often enough to ensure its cleanliness in accordance with the orders of the Director of Prisons.<sup>8</sup>

Each cell shall be provided with a wash hand basin with running water and with a toilet. If there is no flushing equipment each prisoner must be allowed to have a sufficient quantity of water for keeping the toilet clean.<sup>9</sup>

According to the 2016 CPT [report](#), many of the cells were excessively hot at the time of visitation, over 30 degrees Celsius, with poorly functioning ventilation. However, in [Fenech v. Malta](#), *"As to lighting and ventilation, the applicant has eventually admitted that the cell had been equipped with a window, which,*

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<sup>1</sup>[Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 20(a).

<sup>2</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 31.

<sup>3</sup> European Court of Human Rights (ECtHR), [Fenech v. Malta](#), no. 19090/20, 1<sup>st</sup> March 2022, para 133.

<sup>4</sup> European Court of Human Rights (ECtHR), [Fenech v. Malta](#), no. 19090/20, 1<sup>st</sup> March 2022, para. 92.

<sup>5</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 20(a).

<sup>6</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 20(a).

<sup>7</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 20(a).

<sup>8</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 21.

<sup>9</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 23(3).

*from the photos submitted to the Court, appears to be of a reasonable size and allowed both for natural light and ventilation, despite that only one third of it could be opened.” Further, “while the artificial lighting which remained on, day and night, could undeniably contribute to a detainee’s frustration ... the Government submitted that the lights could be seen to by the guards upon request.”*<sup>10</sup>

The CPT reported that some of the cells were in a bad state of repair, with mould or ingrained dirt evident on the walls and around windows.<sup>11</sup> Concerning sanitary conditions, the CPT accounted that many of the washrooms were dirty, with some showers lacking showerheads and noted problems with drainage. This reportedly caused water to leak into nearby cells. Further, the in-cell toilets were unscreened, had malfunctioning flushes and the water was cut off intermittently.<sup>12</sup>

#### b. Video-surveillance of cells

The Data Protection (Processing of Personal Data by Competent Authorities for the Purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences or the Execution of Criminal Penalties) Regulations provide general information on the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties. Regulation 8(3) on the lawfulness of processing data, provides that, in place of execution of criminal penalties, competent authorities can use “*technical surveillance or other means*”.<sup>13</sup>

Processing data by video-surveillance during the execution of criminal penalties is allowed, when necessary, “*for the performance of a task carried out by a competent authority*”, including when prisoners are in their cells.<sup>14</sup> There are no specific rules regarding a detainee’s right to privacy while in their cells. Therefore, the Director of the prison decides, according to its discretion and the circumstances of the individual case, when video surveillance is necessary.

In [Fenech v. Malta](#) the applicant claimed that he suffered humiliating treatment due to the fact that he was, for a period of time, under constant video surveillance with a CCTV camera pointed directly on the toilet with no shielding or screening to protect the applicant’s privacy or dignity. The ECtHR did not rule in relation to a breach or otherwise as the issue in specific fell under Article 8 and not Article 3, as claimed by the applicant. However, it observed in that “*placing a person under permanent video surveillance whilst in detention – which already entails a considerable limitation on a person’s privacy – has to be regarded as a serious interference with the individual’s right to respect for his or her privacy, as an element of the notion of “private life”, and thus brings Article 8 of the Convention into play.*”<sup>15</sup>

Observations made by the National Audit Office (NAO)’s 2021 [Performance Audit](#) concerning the Corradino Correctional Facility found that “*in recent years the physical condition and general state of repair of CCF has improved... Entities specifically mentioned the investment made by CSA [Correctional Services Agency] particularly insofar as the new Medical Intervention (MI) wing is concerned, as well as the improvements to the prison’s kitchen and other areas.*”<sup>16</sup>

With regards to cell space, the NAO noted that the prisons’ “*physical capacity, considering especially the exponential increase in the number of the inmate population, is significantly strained with obvious negative*

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<sup>10</sup> European Court of Human Rights (ECtHR), [Fenech v. Malta](#), no. 19090/20, 1<sup>st</sup> March 2022, para. 79.

<sup>11</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 31.

<sup>12</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 31.

<sup>13</sup> [Data Protection \(Processing of Personal Data by Competent Authorities for the Purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences or the Execution of Criminal Penalties\) Regulations](#), 586.08, Regulation 8(3).

<sup>14</sup> [Data Protection \(Processing of Personal Data by Competent Authorities for the Purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences or the Execution of Criminal Penalties\) Regulations](#), Regulation 8(1).

<sup>15</sup> European Court of Human Rights (ECtHR), [Fenech v. Malta](#), no. 19090/20, 1<sup>st</sup> March 2022, para 46.

<sup>16</sup> National Audit Office (2021). [Performance Audit: A Strategic Overview on the Correctional Services Agency’s Operations at the Corradino Correctional Facility](#). National Audit Office, page 14.

implications, particularly on security, hygiene and privacy.”<sup>17</sup> The NAO found that whilst inmates were afforded individual beds, in some occasions, these were stacked in a three-tier bunk bed setup. Furthermore it noted that there was an adequately sized outdoor recreational area, however the indoor space of the dormitory was extremely restricted for the number of inmates it housed, thereby affording close to no personal space to each individual. The audit team also noted that, despite that the division per se was clean, noticeable body-odour could be detected.<sup>18</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>19</sup>

### c. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must lay it in Parliament within a month<sup>20</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

The latest public CPT [report](#) concerning Malta was published in 2016 and it contained a number of recommendations to improve living conditions. In particular it recommended to “*reduce the occupancy levels in multi-occupancy dormitories to ensure that each prisoner has at least 4m<sup>2</sup> of living space; undertake a systematic refurbishment of the cells and sanitary facilities in Division XIII; expedite the planned refurbishment works of Divisions II and III; provide, until such time as ready access to potable water is assured, inmates with an appropriate amount of free drinking water; and equip the exercise yards with a shelter to protect inmates from inclement weather and a means of rest and, preferably, provide sports/recreational equipment.*”<sup>21</sup>

## 2. Allocation of detainees

### a. Geographical allocation

The only adult prison on the island of Malta is the Corradino Correctional Facility, located in Paola. Young detainees between the ages of 14 and 21 are placed in the Centre of Residential Restorative Services, located in Imtahleb in the North of the island of Malta. Detainees with serious mental health issues are held at the Forensic Unit at the Mount Carmel Hospital in Attard. In Gozo, the smaller island that forms part of the Maltese archipelago, there are only cells at the police lock-up.<sup>22</sup>

### b. Allocation within detention facilities

Regulation 12 of the Prisons Regulations provides for the separation of detainees. Separation of detainees are based on a number of grounds. These include: male and female prisoners, un-convicted and convicted prisoners, prisoners sentenced to detention and other prisoners, prisoners under twenty-one years of age and prisoners over that age, prisoners sentenced to imprisonment for the first time and those sentenced more than once, and short-term and long-term prisoners.<sup>23</sup>

However, a Board of Inquiry set up in August 2021 to carry out an independent inquiry into the current systems, policies, and regulations used by the Corrective Services Agency (the “Inquiry”), found that the

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<sup>17</sup> National Audit Office (2021). [Performance Audit: A Strategic Overview on the Correctional Services Agency's Operations at the Corradino Correctional Facility](#). National Audit Office, page 7.

<sup>18</sup> National Audit Office (2021). [Performance Audit: A Strategic Overview on the Correctional Services Agency's Operations at the Corradino Correctional Facility](#). National Audit Office, page 22.

<sup>19</sup> Emails requesting further information and/or interview sent to the relevant Corradino Correctional Facility Monitoring Board (NPM) and the Commissioner for Prisoners Welfare and Development, awaiting response.

<sup>20</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, 116(1).

<sup>21</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 32.

<sup>22</sup> [Correctional Services Agency](#), Ministry for Home Affairs, National Security and Work.

<sup>23</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 13.



allocation and segregation of prisoners was problematic.<sup>24</sup> The Inquiry found that decisions on allocation of prisoners were taken on the basis of segregation of cliques and criminal gangs, in addition to issues relating to security. Whilst it noted, that allocation is problematic due to the increase in prison population it recommended that new detainees should not be held in the same section as those who are carrying out a prison sentence. Furthermore, it found that there isn't adequate classification and allocation system of prisoners in the various divisions and it recommended the drawing up of clear allocation criteria in line with European standards.

In the same year, the NAO [report](#) found that overcrowding and the Corrective Services Agency's efforts to try to adhere to some segregations mandated by European and local rules *"complicate the allocation of prisoners throughout the facility, possibly resulting in inmates having to be placed in a division which is already well populated rather than in another with more available space. During meetings with CSA management, this Office was informed that, while the Agency invests efforts to adhere to these segregations, the size of the physical premises of the facility limits this compliance."*<sup>25</sup>

It further continues that *"it was highlighted (and observed) that male and female prisoners were kept separate within CCF, young offenders are intended to be detained in the CoRRS facility in Imtaħleb and, to some extent, efforts were also noted to segregate inmates with short sentences from others with longer ones. NAO additionally acknowledges that CSA also has to comply with Court orders which would dictate that particular inmates should not be, at any time, in the presence of each other or that an inmate has to spend a pre-determined duration in solitary confinement. This notwithstanding, the audit team was informed that the facility's infrastructure (and the fact that CCF is the only general prison in the country) does not allow for inmates under arrest and convicted prisoners to be kept separate from each other. The same applies for those who have been incarcerated for the first time and repeat offenders."*<sup>26</sup>

### c. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must lay it in Parliament within a month<sup>27</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

The latest CPT [report](#) concerning Malta was published in 2016 and it repeated its calls for the Maltese authorities *"to take immediate steps to set up a proper classification and allocation system for inmates at CCF, taking into account the criteria set out in the European Prison Rules. As a start, female juveniles should not be accommodated with female adult inmates; consideration should be given to moving female juvenile inmates to a separate section of the YOURs Unit."*<sup>28</sup> Furthermore it recommended the introduction of *"a proper induction process for all prisoners being admitted to CCF, and that newly-admitted prisoners be held in a dedicated reception unit to allow for a proper assessment and classification process to be carried out. Thereafter, they should be allocated to appropriate accommodation units."*<sup>29</sup>

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<sup>24</sup> Bord ta' Inkejsta (2021). [Inkjestta Dwar L-Eżami Indipendenti Tas-Sistemi, Policies u Regolamenti Kurrenti Operati Mill-Aġenzija Tas-Servizzi Korrettivi](#), 9<sup>th</sup> December 2021, pages 8 and 9.

<sup>25</sup> National Audit Office (2021). [Performance Audit: A Strategic Overview on the Correctional Services Agency's Operations at the Corradino Correctional Facility](#). National Audit Office.

<sup>26</sup> National Audit Office (2021). [Performance Audit: A Strategic Overview on the Correctional Services Agency's Operations at the Corradino Correctional Facility](#). National Audit Office, page 21.

<sup>27</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).

<sup>28</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 43.

<sup>29</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 43.

### 3. Hygiene and sanitary conditions (note – section 11 contains specific questions concerning female detainees)

#### a. Access to toilets

Each cell must have a toilet and wash hand basin with running water.<sup>30</sup> Proper toilet facilities are located in other parts of the prison.<sup>31</sup> There is no mention of a standard of privacy that should be available to detainees while using toilet facilities contained in the Prison Regulations. In *Fenech v. Malta* the applicant claimed that he suffered humiliating treatment due to the fact that he was, for a period of time, under constant video surveillance with a CCTV camera pointed directly on the toilet with no shielding or screening to protect the applicant's privacy or dignity. Furthermore, he claimed that he was forced to use a hole in the ground of his cell as a bathroom, and there was no provision for flushing, and no hand basins to wash his hands. The Court, however, held that in this particular case, not only was there justification for this situation - namely to avoid ligature points and prevent from self-harm - but the guards could flush the toilet from the outside. Further, while there appears to have been no wash hand basin or running water available, nor, according to the applicant, toilet paper, it has not been claimed that no water (bottled or in a bucket) had been available to the applicant, at least during the day, to see to any hygienic needs.<sup>32</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>33</sup>

#### b. Access to showers and warm running water

Under Regulation 23(2), adequate bathing and showering installations must be provided so that every prisoner may be enabled and required to have a bath or shower on admission, and thereafter as frequently as the Director or the Medical Officer may deem necessary for general hygiene, according to the season but in any case, at least once a week.<sup>34</sup>

With regards to showers and warm running water, the NAO'S [Performance Audit](#) noted that “*despite that the division per se was clean, noticeable body-odour could be detected. While this can be attributed to the large number of individuals housed within such a restricted space, it is also important to highlight that this division only featured one shower cubical and water closet. NAO noted that this is obviously insufficient for such a large number of inmates to adequately maintain good personal hygiene.*”<sup>35</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>36</sup>

#### c. Access to sanitary products

Regulation 23(1) stipulates that prisoners must be provided with toilet articles needed for health and cleanliness, and that these articles will be replaced as necessary.<sup>37</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>38</sup>

#### d. Hygienic conditions in cells

Regulation 23(5) requires that prisoners must always ensure proper maintenance and meticulous cleanliness of all areas within the prison.<sup>39</sup> Regulation 22(3) specifies that clothing must be clean, neatly maintained, changed and laundered as frequently as required to uphold hygiene standards, as directed by the Director.<sup>40</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>41</sup>

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<sup>30</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 23(3).

<sup>31</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation Reg. 23(4).

<sup>32</sup> European Court of Human Rights (ECtHR), *Fenech v. Malta*, no. 19090/20, 1<sup>st</sup> March 2022, para 78.

<sup>33</sup> Email sent to the relevant NPM and the Welfare Officer, awaiting response.

<sup>34</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 23(2).

<sup>35</sup> National Audit Office (2021). [Performance Audit: A Strategic Overview on the Correctional Services Agency's Operations at the Corradino Correctional Facility](#). National Audit Office, page 22.

<sup>36</sup> Email sent to the relevant NPM and the Welfare Officer, awaiting response.

<sup>37</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 23(1).

<sup>38</sup> Email sent to the relevant NPM and the Welfare Officer, awaiting response.

<sup>39</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 23(5).

<sup>40</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 22(3).

<sup>41</sup> Email sent to the relevant NPM and the Welfare Officer, awaiting response.

#### e. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must laid it in Parliament within a month<sup>42</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

The latest CPT [report](#) concerning Malta was published in 2016 and it noted that whilst some renovations had been undertaken in some divisions, *“the remaining divisions provided generally poor living conditions for the inmates... some of the cells were in a bad state of repair, with mould or ingrained dirt evident on the walls and around the windows. Many of the washrooms were dirty, some showers lacked shower-heads and there were problems with drainage, which reportedly caused water to leak into the nearby cells ... The in-cell toilets were unscreened, had mal-functioning flushes, and the water was cut off intermittently”*.<sup>43</sup>

### 4. Nutrition

#### a. Quality and quantity of food

Regulation 25(1) requires that prisoners be provided at the normal times with food which is suitably prepared and presented, satisfies in quality and quantity modern standards of diet and hygiene, and which considers the age, sex, and health of the prisoners, the nature of their work and so far as possible, their religious or cultural requirements.<sup>44</sup> The Medical Officer shall regularly advise the Director on the quantity, quality, preparation and serving of food and water.<sup>45</sup>

Sub-article (2) states that the Director shall regularly inspect the food provided. No prisoner shall receive less or different food from that provided to other prisoners. Exceptions can only be made after a written recommendation by the Medical Officer.<sup>46</sup>

#### b. Drinking water

The term "food" in Regulation 25(1) includes drinking water.<sup>47</sup> Therefore, the standards applicable to the hygiene of food apply to the drinking water available to detainees. However, there is no sub-regulation specifying the time frame or frequency in which clean drinking water is available to detainees.

No information is available in relation to whether different standards apply to different detention regimes.<sup>48</sup>

#### c. Dietary requirements

Regulation 25(1) stipulates that the food provided to prisoners shall satisfy in *“quality and quantity modern standards of diet and hygiene, and which takes into account the age, sex, and health of the prisoners, the nature of their work and so far as possible, their religious or cultural requirements.”*<sup>49</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>50</sup>

#### d. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must laid it in Parliament within a month<sup>51</sup>. However, in practice these no such reports have ever been laid on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

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<sup>42</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation Reg. 116(1).

<sup>43</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 32.

<sup>44</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 25(1).

<sup>45</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 34(1)(a).

<sup>46</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 25(2).

<sup>47</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 25(5).

<sup>48</sup> Email sent to the relevant NPM and the Welfare Officer, awaiting response.

<sup>49</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 25(1).

<sup>50</sup> Email sent to the NPM and the Commissioner for Prisoner’s Welfare and Development, awaiting response.

<sup>51</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).

Recommendations made by the CPT in their 2016 [report](#) include improving the living conditions by undertaking a systematic refurbishment of the cells and sanitary facilities and by providing, until such time as ready access to potable water is assured, inmates with an appropriate amount of free drinking water.<sup>52</sup> The CPT noted that “Prisoners did not believe that in-cell water from the sinks was safe to drink and the staff concurred with them. Many prisoners, especially those inmates who only lived off the basic €27 monthly allowance, complained to the delegation about the lack of ready access to safe drinking water and the need to buy bottled water.”<sup>53</sup> Furthermore, it recommended to “put in place robust policies to deal immediately with health (and other) crises that may take place within the prison, including adopting a proactive approach, with a view to minimising the risk of the spread of certain infections and ensure the speedier analysis of test results. To this end, regular health checks of the food quality, storage procedures and hygiene standards and procedures in the CCF kitchen should be undertaken.”<sup>54</sup>

## 5. Time spent outside the cell and outdoors

### a. Time spent outdoors

Regulation 28 provides that prisoners are entitled to, when the weather permits, not less than an hour per day of outdoor activities in the open air. In exceptional circumstances, the Director of Prisons may reduce this time. Exercise consisting of physical training may be given indoors instead of in the open air.<sup>55</sup>

In [Fenech v. Malta](#), the applicant claimed that during his initial period of detention which lasted 35 days he was only allowed one hour of out-of-cell activity which did not include proper outdoor activity.<sup>56</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>57</sup>

### b. Time spent indoors

According to Regulation 15 of the Prisons Regulations, the Director defines the opening and locking time of the cells and schedule the time spent in the cells by the prisoners. Information on the specific prisoners’ timetable is reported by the Maltese government in the case of [Ruiz Pena and Perez Oberght v. Malta](#). According to the Government, the cells are locked from 8:30 pm to 7:30 a.m. and from 12:30 p.m. to 2 p.m.<sup>58</sup>

However, in the report from the Board of Inquiry into conditions in prison, it was highlighted that prisoners who were subject to disciplinary sanctions were subject to a different regime and were locked for 18.5 hours daily with cells being locked from 4pm to 10:30am with food being served between 4:30pm and 5:00pm whilst locked<sup>59</sup>. The Report also noted how these disciplinary practices were unregulated and subject to the discretion of individual prison officers.

No information is available in relation to whether different standards apply to different detention regimes.<sup>60</sup>

### c. Recreational facilities

[Do sports or other recreational facilities have to be available to detainees? If so, what types?](#)

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<sup>52</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 32.

<sup>53</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 31.

<sup>54</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 38.

<sup>55</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 28.

<sup>56</sup> European Court of Human Rights (ECtHR), [Fenech v. Malta](#), no. 19090/20, 1<sup>st</sup> March 2022, para 76.

<sup>57</sup> Email sent to the relevant NPM and the Welfare Officer, awaiting response.

<sup>58</sup> European Court of Human Rights (ECtHR), [Ruiz Pena and Perez Oberght v. Malta](#), nos. 25218/15 and 25251/15, 17 July 2018, para. 42.

<sup>59</sup> Bord ta’ Inkejsta (2021). [Inkjestja Dwar L-Eżami Indipendenti Tas-Sistemi, Policies u Regolamenti Kurrenti Operati Mill-Aġenzija Tas-Servizzi Korrettivi](#), 9<sup>th</sup> December 2021, page 5.

<sup>60</sup> Email sent to the NPM and the Commissioner for Inmates Welfare and Development, awaiting response.

Regulation 15(1) provides for the establishment of a timetable for detainees to follow, which includes hours reserved for work, meals, study, exercise and recreation.<sup>61</sup>

Regulation 28 concerns exercise and sport. While Regulation 28 does not mention any specific activities provided, exercise must be made available to detainees who are not engaged in outdoor work for one hour per day outdoors. As stated above, Regulation 28 also refers to “*physical training*”, which may be given indoors.<sup>62</sup> Regulation 47 provides for an adequately stocked library and the availability of books of a recreational nature.<sup>63</sup>

The Inquiry report found that sports activities, including gym, were provided daily or as part of the routine of the division. However, those inmates being held in the divisions allocated for disciplinary measures, do not participate in the sports programme<sup>64</sup>.

No information is available in relation to whether different standards apply to different detention regimes.<sup>65</sup>

#### d. Educational activities

Pursuant to Regulation 46, “*Educational and training facilities shall be maintained by the Director in accordance with such directions as the Minister may give after consulting the Director, the Board, the Ministry of Education and, or any other professional/s versed in the field of education and training. Reasonable facilities shall also be made available to prisoners who wish to improve their education by correspondence, private study, or to practice handicrafts during their spare time.*”<sup>66</sup>

An adequately stocked library must be provided to detainees, with every prisoner allowed to rent library books and to exchange them.<sup>67</sup> Regulation 48 requires the Director to give prisoners a reasonable opportunity to remain informed of the news. This can be achieved within the prison by reading newspapers and periodicals, by radio, television, lectures or any similar means authorised or controlled by the prison administration.<sup>68</sup>

The National Audit Office in its 2021 report felt that “*the COVID-19 pandemic may have negatively impacted the extent of educational opportunities provided by CCF to inmates during the period under review, and that the lack of interest shown by a portion of the inmate population in this regard presents a challenge to the Agency*”.<sup>69</sup> It nonetheless urged the Agency to ensure that more inmates benefit from such opportunities and increase the frequency by which these courses are delivered.

No information is available in relation to whether different standards apply to different detention regimes.<sup>70</sup>

#### e. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must lay it in Parliament within a month<sup>71</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

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<sup>61</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 15(1).

<sup>62</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 28.

<sup>63</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 47.

<sup>64</sup> Bord ta' Inkejsta (2021). [Inkjestta Dwar L-Eżami Indipendenti Tas-Sistemi, Policies u Regolamenti Kurrenti Operati Mill-Aġenzija Tas-Servizzi Korrettivi](#), 9<sup>th</sup> December 2021, page 19.

<sup>65</sup> Emails sent to the NPM and the Commissioner for Inmates Welfare and Development, awaiting response.

<sup>66</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 46.

<sup>67</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 48.

<sup>68</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 48.

<sup>69</sup> National Audit Office (2021). [Performance Audit: A Strategic Overview on the Correctional Services Agency's Operations at the Corradino Correctional Facility](#). National Audit Office, page 39.

<sup>70</sup> Emails sent to the NPM and the Commissioner for Inmates Welfare and Development, awaiting response.

<sup>71</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).



The CPT in their 2016 [report](#) found that detained persons were often held for up to 48 hours in police lock-ups without access to any outdoor exercise in that time.<sup>72</sup> It also found that the exercise yards were not equipped with any recreational equipment nor shelter from the sun or rain. Furthermore, it recommended to Malta that a full programme of education, sport, vocational training, recreation and other purposeful out-of-cell activities should be provided to all inmate and that they design a full daily regime with purposeful activities (education, vocation, work, sport recreation) for young offenders<sup>73</sup>.

## 6. Solitary confinement

### a. Placement in solitary confinement

According to the Article 9 of the Criminal Code, solitary confinement issued through a court order should not exceed ten consecutive days, with a mandatory gap of at least two months between each period of solitary confinement.<sup>74</sup> Prior to its imposition, the Court must be satisfied that the convicted person is medically fit to undergo solitary confinement.<sup>75</sup> This level of fitness must be maintained throughout the entire duration of solitary confinement.

Cellular confinement not exceeding 30 days can be imposed by the director of prisons as a punishment against an offence against discipline<sup>76</sup>.

According to Regulation 13 of the Prisons Regulations, both solitary and cellular confinement must be undergone in a cell that meets the Regulation's relevant standards.<sup>77</sup> These standards are not explicitly mentioned; however, Regulation 82(1) refers to the same standards as for a normal cell must be met in a cell used for solitary confinement.<sup>78</sup>

The Inquiry report found the power granted to various officials in prison to impose punishment, including cellular confinement, could give rise to a possible abuse of power and abuse of the use of punishment<sup>79</sup>. It also highlighted that the current disciplinary practices in prison are not regulated by law or policy.

No information is available in relation to whether different standards apply to different detention regimes.<sup>80</sup>

### b. Monitoring of detainees

The monitoring of the prisoner undergoing solitary confinement falls under the remit of the Medical Officer.<sup>81</sup> Alongside the Medical Officer, religious representatives such as the Prison Chaplain can advise the Director on matters concerning the welfare of prisoners during solitary confinement.<sup>82</sup> Solitary confinement can be terminated or altered on the grounds of physical or mental health.<sup>83</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>84</sup>

### c. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must laid it in Parliament within a month<sup>85</sup>.

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<sup>72</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 21.

<sup>73</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 46.

<sup>74</sup> [Criminal Code](#), Chapter 9 of the Laws of Malta.

<sup>75</sup> [Criminal Code](#), Chapter 9 of the Laws of Malta, Article 9(7).

<sup>76</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 78.

<sup>77</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 13.

<sup>78</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 82(1).

<sup>79</sup> Bord ta' Inkejsta (2021). [Inkejsta Dwar L-Eżami Indipendenti Tas-Sistemi, Policies u Regolamenti Kurrenti Operati Mill-Aġenzija Tas-Servizzi Korrettivi](#), 9<sup>th</sup> December 2021, page 10.

<sup>80</sup> Email sent to the relevant NPM and the Welfare Officer, awaiting response.

<sup>81</sup> [Criminal Code](#), Chapter 9 of the Laws of Malta, Article. 9(2), art.82(2).

<sup>82</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 45.

<sup>83</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 82(2).

<sup>84</sup> Email sent to the relevant NPM and the Welfare Officer, awaiting response.

<sup>85</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).

However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

The CPT in their 2016 [report](#) noted that in effect cellular confinement amounts to solitary confinement in practice. It noted that “cellular confinement for up to a period of 30 ...in most cases in CCF (given that most of the prisoners have single-cell accommodation) this measure means being placed in effective solitary confinement for 30 days.”<sup>86</sup> It therefore recommended that solitary confinement as a disciplinary sanction should not last for a period of more than 14 days consecutively and that the Prison Regulations be amended to reflect this.”<sup>87</sup>

No information is available in relation to whether different standards apply to different detention regimes.

## 7. Work and education of detainees to promote social reintegration

### a. General measures to promote social reintegration

Regulation 62(1) stipulates that from the beginning of a prisoner’s sentence, consideration must be given to the prisoner’s future and the assistance needed on and following his release.<sup>88</sup> This must be considered in conjunction with the social welfare service authorities and any appropriate after-care organisation approved by the Minister.<sup>89</sup> Social welfare services must be given reasonable access to the prison and the prisoners to make their contribution in preparing the prisoner for release and after-care arrangements.<sup>90</sup> With the consent of the prisoner, the Director and Medical Officer shall seek to assist a prisoner receiving medical care at the time of his release to secure the continuation of such treatment following his release. This shall be achieved through medical services that are available without charge to the community outside the prison.<sup>91</sup> Furthermore, the Restorative Justice Act calls for the drawing up of a care plan for each sentenced inmate<sup>92</sup>.

The Care and Reintegration Unit (CRU), employing psychology professionals, two social workers and one sports coordinator, is a unit within the Correctional Services Agency. This Unit is responsible for the drawing up of the care plan for inmates which is deemed as necessary for laying down the steps to be taken for rehabilitation and eventual reintegration in society upon release<sup>93</sup>. However, the NAO noted that although there was an obligation in law to draw up the care plan, there was no obligation on any authority to execute the plan. In addition, “while acknowledging the efforts by CRU to design care plans to most inmates as at time of writing, NAO strongly urges the former to, at the very earliest, see to the remaining segment of inmates who still do not benefit from such a service.”<sup>94</sup> A number of rehabilitation programmes are offered to inmates, these include drug rehabilitation, cognitive skills programme, sex offender programmes, anger management and life skills programmes. The Inquiry noted that in the juvenile prison a cognitive skills programme were being carried out before an influx of migrant inmates<sup>95</sup>.

No information is available in relation to whether different standards apply to different detention regimes.<sup>96</sup>

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<sup>86</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 42.

<sup>87</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 42.

<sup>88</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 62(1).

<sup>89</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 62(1).

<sup>90</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 62(2).

<sup>91</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 62(3).

<sup>92</sup> [Restorative Justice Act](#), Chapter 516 of the Laws of Malta, Article 4(aii)

<sup>93</sup> National Audit Office (2021). [Performance Audit: A Strategic Overview on the Correctional Services Agency’s Operations at the Corradino Correctional Facility](#). National Audit Office, page 39.

<sup>94</sup> National Audit Office (2021). [Performance Audit: A Strategic Overview on the Correctional Services Agency’s Operations at the Corradino Correctional Facility](#). National Audit Office, page 39.

<sup>95</sup> Bord ta’ Inkejsta (2021). [Inkjestja Dwar L-Eżami Indipendenti Tas-Sistemi, Policies u Regolamenti Kurrenti Operati Mill-Aġenzija Tas-Servizzi Korrettivi](#), 9<sup>th</sup> December 2021, page 19.

<sup>96</sup> Email sent to the NPM and the Commissioner for Inmate Welfare and Development, awaiting response.

## b. Access to work

According to the Prison Regulations, prisoners are required to undertake useful work for not more than fifty hours per week in accordance with the treatment objectives of the prison regime and their training programme. Consideration will be given in accordance with the prisoners' age, sex, fitness, and so far as practicable, their personal skills and wishes in relation to the type of work available at the prison. The work should be carried out under conditions comparable to similar work outside the prison.<sup>97</sup>

When possible, arrangements shall be made to allow prisoners to work outside of the cells, and in association with one another. Prisoners must be remunerated for their work at such rates as may be approved by the Minister.<sup>98</sup>

Work carried out by inmates can be carried out within the confines of prisons or outside the facilities and is managed by the Operations unit of the Prison. The NAO reported that the number of work placements, both inside and outside the facilities were extremely limited.<sup>99</sup> In addition, it felt that the limited involvement of the CRU on internal work placements implies that internal work opportunities may be seen as a privilege rather than an integral part of the rehabilitation structure. The Inquiry noted that at the time of writing no women were involved in any work placements<sup>100</sup>.

No information is available in relation to whether different standards apply to different detention regimes.<sup>101</sup>

## c. Access to education

Regulation 11 requires that full reports shall be compiled concerning the prisoner's individual situation as soon as possible after admission, including family life and educational background. In appropriate cases, and in respect of prisoners with a sentence of suitable length, a "training programme" in preparation for release may be drawn up in consultation with the relevant staff and the prisoner himself. The training programme "*shall provide for the instruction of prisoners in such subjects and trades as may be within the resources of the prison and for their physical education according to their age, personality and general background.*"<sup>102</sup>

A number of educational programmes are offered to inmates at CCF and these include language classes, ICT, numeracy, cooking and performance art, and skilled work. The NAO found that that the number of such initiatives and their attendances are too limited to qualify as an adequate prison-wide effort towards rehabilitation through education.<sup>103</sup> In addition, the Inquiry recommended that the laws regulating the rehabilitation, education and integration of prisons back into society should be strengthened to ensure an adequate service to prisoners<sup>104</sup>.

No information is available in relation to whether different standards apply to different detention regimes.<sup>105</sup>

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<sup>97</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 29(1).

<sup>98</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 29(7).

<sup>99</sup> National Audit Office (2021). [Performance Audit: A Strategic Overview on the Correctional Services Agency's Operations at the Corradino Correctional Facility](#). National Audit Office, page 38.

<sup>100</sup> Bord ta' Inkejsta (2021). [Inkjestja Dwar L-Eżami Indipendenti Tas-Sistemi, Policies u Regolamenti Kurrenti Operati Mill-Aġenzija Tas-Servizzi Korrettivi](#), 9<sup>th</sup> December 2021, page 19.

<sup>101</sup> Email sent to the NPM and the Commissioner for Inmate Welfare and Development, awaiting response.

<sup>102</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 11.

<sup>103</sup> National Audit Office (2021). [Performance Audit: A Strategic Overview on the Correctional Services Agency's Operations at the Corradino Correctional Facility](#). National Audit Office, page 37.

<sup>104</sup> Bord ta' Inkejsta (2021). [Inkjestja Dwar L-Eżami Indipendenti Tas-Sistemi, Policies u Regolamenti Kurrenti Operati Mill-Aġenzija Tas-Servizzi Korrettivi](#), 9<sup>th</sup> December 2021, page 26.

<sup>105</sup> Email sent to the relevant NPM and the Welfare Officer, awaiting response.



#### d. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board to send their annual reports to the Minister of Justice and Home Affairs who in turn must lay them on the table of the House of Parliament within a month from receiving such reports<sup>106</sup>. However, in practice no such reports have ever been laid on the table of the House of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

The CPT noted that more than 80% of all the inmates had access to some kind of work or education, however it also recommended those prisoners on restrictive regimes would also be given the access to a full range of work opportunities, amongst other things.<sup>107</sup>

### 8. Healthcare (note – section 11 contains specific questions concerning female detainees)

#### a. Access to healthcare

Prisoners are entitled to the same level of free health services as the community outside of prison. Regulations 31 to 39 of the Prison Regulations regulate the prison's Medical Service, established together with the Ministry responsible for health.<sup>108</sup>

Regulation 31 requires the Service to be composed of registered medical practitioners who shall visit the prison daily, for as long as is required, and also to remain on call at other times during the day or night.<sup>109</sup> Regulation 31(5) stipulates that an equipped infirmary must be present on the premises in order to provide medical care to individuals who would not require hospitalisation, but who are otherwise unfit to remain in their cells.<sup>110</sup> Prisoners requiring hospitalisation or treatment outside of the prison are transferred to a hospital or specialised institution.<sup>111</sup> A dentist from the national health service must visit the prison at least once a week.<sup>112</sup>

In [Fenech v. Malta](#), the ECtHR noted that In particular, apart from the regular medical staff, a medical centre in the main prison was also inaugurated in March 2021.<sup>113</sup> The new Medical Intervention (MI) Wing was opened in 2021 and was found to be very well equipped with an assortment of equipment intended to assist in a variety of medical interventions<sup>114</sup>.

#### b. Availability of medical staff

As stated above, Regulation 31 requires the Service to be composed of registered medical practitioners who shall visit the prison daily, for as long as is requires, and also to remain on call at other times during the day or night.<sup>115</sup>

#### c. Medical examination upon admission

Regulation 33 of the Prisons Regulations requires the examination of every prisoner as soon as possible and within twenty-four hours from the moment of admission. The results of the health assessment undertaken

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<sup>106</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).

<sup>107</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 41.

<sup>108</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulations 31 to 39.

<sup>109</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 31.

<sup>110</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 31(5).

<sup>111</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 31(6).

<sup>112</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation. 31(4).

<sup>113</sup> European Court of Human Rights (ECtHR), [Fenech v. Malta](#), no. 19090/20, 1<sup>st</sup> March 2022, para 141.

<sup>114</sup> National Audit Office (2021), [Performance Audit: A Strategic Overview on the Correctional Services Agency's Operations at the Corradino Correctional Facility](#), National Audit Office, page 19.

<sup>115</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 31.

in reception on entry into prison must be recorded in a specific register. The prisoner must be separately examined with due regard to privacy.<sup>116</sup>

The Inquiry found that every inmate was examined by a doctor within an hour or two of admission. This examination includes both a physical and a mental health assessment. All were required to carry out a urine drug test for and a pregnancy test for women.<sup>117</sup> The doctor has access to electronic summaries of the files of inmates from public hospitals in order to facilitate communication and any possible treatment. If the inmate is found to have tested positive for drugs or showing signs of withdrawal, they are transferred to the Forensic Unit at Mount Carmel Hospital. Any inmate refusing admission would have sign a declaration of refusal.<sup>118</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>119</sup>

#### d. Preventive care

Regulation 33(1) requires that every prisoner be separately examined by a medical practitioner both as soon as possible after admission and prior to their release. A record is to be entered of the state of health of the prisoner, and other necessary particulars in a register kept for this purpose.<sup>120</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>121</sup>

#### e. Specialised care

Regulation 32 of the Prisons Regulations requires the Medical Service to “ensure the care of the physical and mental health of the prisoners”, stating that a doctor should see patients who are sick or require medical attention with a frequency as is reasonably required.<sup>122</sup> The care of the physical and mental health of the prisoners must be ensured by the Medical Service and a doctor should see patient who require medical attention with a frequency as reasonably required.<sup>123</sup>

All necessary medical, surgical and psychiatric services available without charge to the community outside prison must be provided to prisoners. It is the responsibility of the Medical Services of the prison to detect and treat any physical or mental illness, defect, or drug related condition which may affect a prisoner’s wellbeing in prison, or which may impede a prisoner’s re-settlement following their release.<sup>124</sup> Special arrangements are stipulated for pregnant women in Regulation 38, requiring the provision of prenatal care and the transfer of the women to hospital for care and delivery of the child.<sup>125</sup>

The Prison Addiction Rehabilitation Management Board allocates each inmate requiring treatment for substance abuse and other dependencies within a specific rehabilitation programme. The Manager, Care and Reintegration Unit at the Prison, or his representative, shall communicate to the Board the needs identified in the care plan in respect of each inmate requiring treatment.<sup>126</sup>

The Inquiry, which scrutinised 18 inquiry reports following recent suicides and deaths in prison, reported that there was need for staff training and proper guidelines on the identification and management of prisons that are at risk of harming themselves<sup>127</sup>.

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<sup>116</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 33(1)(a).

<sup>117</sup> Bord ta’ Inkejsta (2021). [Inkjestja Dwar L-Eżami Indipendenti Tas-Sistemi, Policies u Regolamenti Kurrenti Operati Mill-Aġenzija Tas-Servizzi Korrettivi](#), 9<sup>th</sup> December 2021, page 5. However, please note that this Inquiry was carried out during the COVID-19 pandemic.

<sup>118</sup> Bord ta’ Inkejsta (2021). [Inkjestja Dwar L-Eżami Indipendenti Tas-Sistemi, Policies u Regolamenti Kurrenti Operati Mill-Aġenzija Tas-Servizzi Korrettivi](#), 9<sup>th</sup> December 2021, page 6.

<sup>119</sup> Email sent to the relevant NPM and the Welfare Officer, awaiting response.

<sup>120</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 33(1).

<sup>121</sup> Email sent to the relevant NPM and the Welfare Officer, awaiting response.

<sup>122</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 28.

<sup>123</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 32(1).

<sup>124</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 37.

<sup>125</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 38.

<sup>126</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116A(2).

<sup>127</sup> Bord ta’ Inkejsta (2021). [Inkjestja Dwar L-Eżami Indipendenti Tas-Sistemi, Policies u Regolamenti Kurrenti Operati Mill-Aġenzija Tas-Servizzi Korrettivi](#), 9<sup>th</sup> December 2021, page 28.

The policy on trans, gender variant and intersex prisoners specifically requires such inmates to have access to those medical services related to their gender identity, gender expression and/or sex characteristics, such as hormones tables, injections and/or gels. Furthermore, transition-related healthcare services should be provided as they would be so provided to persons outside of prison. The policy document highlights the vulnerability of such prisoners, emphasising the need of the Medical Services to ensure their access to those services needed to align their physical characteristics with their gender identity. Finally, the policy stresses the need to involve community-based organisations, including for the provision of mental health support<sup>128</sup>.

No information is available in relation to whether different standards apply to different detention regimes.<sup>129</sup>

#### f. Treatment of the detainee's choosing

Individuals accused or suspected of a crime in pre-trial detention have the right to consult a medical professional of their choosing upon request. If their preferred practitioner is unavailable, they may request to consult any other medical professional.<sup>130</sup>

#### g. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must lay it in Parliament within a month<sup>131</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

In their 2016 [report](#) the CPT recommended that the Maltese authorities take steps to: ensure that medical confidentiality is strictly guaranteed and that prison officers do not have access to medical records. Furthermore, it recommended a review of the co-ordination of health-care by prison officers and the possibility of recruiting a fulltime health-care staff member to oversee co-ordination and management of the health-care services provided in prison.<sup>132</sup> In addition, it recommended that *“the Maltese authorities ensure that a comprehensive suicide prevention and management approach is introduced at CCF.”*<sup>133</sup>

With regards to medication the CPT reported that *“the current administration of medication at CCF, and particularly the administration of psychotropic medication, was unsafe... and recommends that the authorities review the current practices around the management of medicines at CCF in light of the above remarks and ensure that unsafe practices around the administration of psychotropic medication cease.”*<sup>134</sup>

## 9. Prevention of violence and ill-treatment

### a. Protection from violence by prison staff

Prison officers are authorised to use force in order to prevent acts of violence. This is to be used with proportionality. Regulation 69 of the Prisons Regulations specifies the standards of use for instruments of restraint. Instruments of restraint may only be utilised when it is strictly necessary, and in the absence of less invasive means to prevent the perpetration of a serious crime involving grave threat to life, or, to safeguard the prisoner's health. Instruments such as handcuffs, restrain-jackets and other body restraints shall not be applied as a punishment, and the use of chains and irons is always prohibited.<sup>135</sup> Regulation 71

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<sup>128</sup> Ministry for Home Affairs, National Security and Work (2016). [Trans, Gender Variant & Intersex Inmates policy](#), August 2016.

<sup>129</sup> Email sent to the NPM and the Commissioner for Inmate Welfare and Development, awaiting response.

<sup>130</sup> [Criminal Code](#), Chapter 9 of the Laws of Malta Art. 355AS.

<sup>131</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).

<sup>132</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 35.

<sup>133</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 37.

<sup>134</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 30.

<sup>135</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 69.

stipulates that prison officers are only permitted to use force to “prevent or impede acts of violence, attempted escape or active or passive resistance to lawful orders”.<sup>136</sup>

In accordance with Regulation 18 of the Prisons Regulations, all prisoners may file complaints with the Director or the Corradino Correctional Monitoring Board, and any such meetings may be held in confidence.

#### b. Protection from violence by other detainees

Assault, endangering the health or safety of others and similar violent behaviour are offences against discipline according to Regulation 75.<sup>137</sup> Persons found guilty of such offences by the Director of Prisons may face various punishments, including a caution, exclusion from associated work, stoppage of earnings, cellular confinement and forfeiture of the right to wear his/her own clothing.

Regulation 96 specifically states that one of the duties of prison officers is to ensure the safe custody of prisoners.<sup>138</sup> In accordance with Regulation 18 of the Prisons Regulations, all prisoners may file complaints with the Director or the Corradino Correctional Monitoring Board, and any such meetings may be held in confidence. Prisoners are also entitled to file complaints or requests to the responsible Minister, the President of the Republic or any internationally recognised human rights body. Prison officers shall periodically attend “in-service” courses and lectures, learning methods of physical control and restraint of aggressive prisoners.<sup>139</sup>

#### c. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must lay it in Parliament within a month<sup>140</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

The CPT in its 2016 [report](#): “recommends that steps be taken to prevent inter-prisoner violence and that whenever there are allegations of inter-prisoner violence, or suspicions by staff or medical staff thereof, that: injuries are properly recorded; systematic reporting is conducted by medical staff to the relevant authorities; and a thorough investigation is conducted into the alleged violence.”<sup>141</sup>

## 10. Contact with the outside world

### a. Visits

A convicted prisoner is entitled to receive a visit once a week. The Director may defer the right of a prisoner to a visit until the expiration of any period of cellular confinement. The duration of any visit and the number of visitors will be established by the Director.<sup>142</sup>

The Inquiry noted that family visits are carried out on a roster basis and this resulted in less frequent family visits due to the increase of the prison population. It recommended that any such system has to take into consideration families that have children that could be allocated time that is not convenient for them.<sup>143</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>144</sup>

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<sup>136</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 71.

<sup>137</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 75.

<sup>138</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 96.

<sup>139</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 17.

<sup>140</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).

<sup>141</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 30.

<sup>142</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 52(7).

<sup>143</sup> Bord ta' Inkejsta (2021). [Inkjestja Dwar L-Eżami Indipendenti Tas-Sistemi, Policies u Regolamenti Kurrenti Operati Mill-Aġenzija Tas-Servizzi Korrettivi](#), 9<sup>th</sup> December 2021, page 35.

<sup>144</sup> Email sent to the NPM and the Commissioner for Inmate Welfare and Development, awaiting response.

### b. Correspondence

Convicted prisoners are entitled to send and receive a letter on their admission to prison and thereafter once a week. The Director may allow a prisoner to send or receive an additional letter or visit when necessary for his welfare or that of his family.<sup>145</sup>

In [Feilazoo v Malta](#), the applicant claimed that his correspondence with the ECtHR was intercepted, opened and copied by the prison authorities. The ECtHR noted that Prison Regulation 18 provides for complaints to internationally recognised human rights bodies to be made under confidential cover and thus found such interference to have breached Article 34 of the ECHR<sup>146</sup>.

Telephone calls by prisoners shall be subject to the needs of security, discipline and good order of the prison and shall be considered as a privilege in terms of Regulation 13.<sup>147</sup>

The frequency and duration of telephones made or received by prisoners, as well as the persons with whom such communications can be held, is determined by the Director. A prisoner who is a foreign national who does not have relatives in Malta may be allowed one free phone call a month to a relative overseas.<sup>148</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>149</sup>

### c. Visits with children

There are no established standards ensuring family visits under child-friendly conditions. Visits other than those concerning visits with legal advisors, shall take place in the room or rooms designated for such purpose by the Director. The Director may allow for visits to take place outside such rooms on “special grounds” and under appropriate supervision.<sup>150</sup>

### d. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must lay it in Parliament within a month<sup>151</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

## 11. Special measures for female detainees

### a. General conditions of detention for women and girls

There are no additional national standards regulating the general situation of women deprived of their liberty.

### b. Separation from men

Regulation 12(3) requires that male and female detainees shall “as far as possible” be kept in different prisons. In case this is not possible, the accommodations shall have distinct entrances and exits. Admissions, searches, medical examinations and interviews or other procedures required or permitted under the Prison Regulations shall take place in the section of the prison allocated to the prisoner concerned according to sex, and any medical attention needed shall be given in the same section.<sup>152</sup>

### c. Hygiene

There are no national standards concerning access to women-only sanitary products to detainees.

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<sup>145</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 52(2).

<sup>146</sup> European Court of Human Rights (ECtHR), [Feilazoo v. Malta](#), No. 6865/19 11 March 2021.

<sup>147</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 59 (1).

<sup>148</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 59 (3).

<sup>149</sup> Email sent to the NPM and the Commissioner for Inmate Welfare and Development, awaiting response.

<sup>150</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 52 (8).

<sup>151</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).

<sup>152</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 12(3).

#### d. Healthcare

Regulation 31(6) of the Prison Regulations stipulates that while in prison, a pregnant woman can be transferred to a general hospital if the medical practitioner in charge believes she is in need of treatment outside of the premises.<sup>153</sup>

#### e. Pregnancy and women with babies or young children

Arrangements must be made for pre-natal care in the case of female prisoners with child. There is no explicit mention of what those arrangements are, but rather states that the woman shall be transferred to a hospital, organising the safe confinement and delivery of the child.<sup>154</sup> However, the regulation does not indicate the time a woman in labour will be transferred from the prison to the hospital.

After birth, the child can stay in the prison with the mother for the first year and arrangements shall be made for the proper care and safety of a child kept in prison when the child is not in the care of the mother.<sup>155</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>156</sup>

#### f. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must lay it in Parliament within a month<sup>157</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

## 12. Special measures for foreign nationals

#### a. General measures for foreign nationals

Regulation 16(2) of the Prisons Regulations provides that prisoners who are foreign nationals and to whom a treaty or arrangement between Malta and their country regarding the transfer of sentenced persons may apply shall be provided with the necessary information about the substance of that treaty or arrangement, as soon as possible after conviction.<sup>158</sup>

Pursuant to Regulation 57(1), prisoners who are foreign nationals shall be informed promptly of their right to request contact and to be allowed reasonable facilities to communicate with the diplomatic or consular representative of the state to which they belong.<sup>159</sup>

Any foreign transgender person in detention whose identification documents do not match their gender identity can, by means of an affidavit, confirm such lived gender. The affidavit must also affirm the intention to continue to live according to such gender throughout the period of detention<sup>160</sup>. This allows a transgender prisoner to live in the section of their lived gender without the need to change any national documents attesting gender.

No information is available in relation to whether different standards apply to different detention regimes.<sup>161</sup>

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<sup>153</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 31(6).

<sup>154</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 38(1).

<sup>155</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 38(2).

<sup>156</sup> Email sent to the NPM and the Commissioner for Inmate Welfare and Development, awaiting response.

<sup>157</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).

<sup>158</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 16(2).

<sup>159</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 57(1).

<sup>160</sup> [Gender Identity, Gender Expression and Sex Characteristics Act](#), Chapter 540 of the laws of Malta, Article 9A.

<sup>161</sup> Email sent to the NPM and the Commissioner for Inmate Welfare and Development, awaiting response.



## b. Interpretation and translation

The only mention of access to an interpreter falls under Regulation 77 of the Prison Regulations, concerning offences against discipline. Regulation 77(1) stipulates that when "necessary and practicable", a prisoner may make his defence via an interpreter.<sup>162</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>163</sup>

## c. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must lay it in Parliament within a month<sup>164</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

## 13. Special measures relating to detention of children and young adults/juvenile detention regime

### a. Age groups

Pursuant to Article 35 of the Criminal Code, minors under the age of fourteen are exempt from criminal responsibility.<sup>165</sup> Article 37 stipulates that those minors between 14 and 16 years old must act with mischievous discretion to be held responsible.<sup>166</sup> As prescribed by Regulation 12 of the Prisons Regulations, young persons under the age of 21 are kept separated from persons over that age.<sup>167</sup>

### b. General measures for detained children and young adults

Regulation 61 of the Prison Regulation provides for the granting of prison leave by the Director to various groups of prisoners. Regulation 61(e)(ii) refers specifically to young prisoners, allowing young prisoners to spend part or the whole of their term of imprisonment in a young offender's rehabilitation institution or in a similar facility as approved by the Minister.<sup>168</sup> Young offenders may be housed at the Centre of Residential Restorative Services (CORRs), which has 16 cells for male prisoners and 6 for female prisoners. Young prisoners are to be given particular attention in the provision of educational services, according to Regulation 46(2).<sup>169</sup>

Regulation 12 provides that prisoners under twenty-one are to be kept separate from prisoners over that age group. Young detainees should be kept in conditions which take account of the needs of their age and protect them from harmful influences.<sup>170</sup>

### c. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must lay it in Parliament within a month<sup>171</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

The recommendations made by the CPT in their 2016 [report](#), concerning The Young Offenders Unit for Rehabilitation Services (YOURS), now renamed CORRs include that *“a full programme of education, sport,*

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<sup>162</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 16(2).

<sup>163</sup> Email sent to the NPM and the Commissioner for Inmate Welfare and Development, awaiting response.

<sup>164</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).

<sup>165</sup> [Criminal Code](#), Chapter 9 of the Laws of Malta, Article 35.

<sup>166</sup> [Criminal Code](#), Chapter 9 of the Laws of Malta, Article 37.

<sup>167</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 12.

<sup>168</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 61(e)(ii).

<sup>169</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 46(2).

<sup>170</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 12.

<sup>171</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).

vocational training, recreation and other purposeful out-of-cell activities should be provided to all inmates. Further, all inmates should be provided with a minimum of 4m<sup>2</sup> of living space in multioccupancy dormitories. In addition, if the doors to the dormitories are to remain locked at night, staff must be attentive to any requests for access to the toilet; in this respect, the CPT recommends that the authorities install a call-bell system.”<sup>172</sup>

Furthermore, the CPT recommended that “the health-care assessments of young offenders also be carried out upon admission to YOURS, and that a proactive preventive health-care approach be put in place. Further, medical confidentiality should be respected and hygiene standards in the kitchen improved.”<sup>173</sup>

## 14. Special measures to protect detainees with disabilities or serious medical conditions

### a. Care in detention

The prison medical service shall provide for specialised services from among those available without charge to the community outside prison for diagnosis and in proper cases, the treatment of any illness, whether physical or mental, or of drug abuse or addiction. It is the responsibility of the Medical Officer to make use of such services whenever advisable, as prescribed by Regulation 31(3).<sup>174</sup>

Sick prisoners who, in the opinion of the medical practitioner in charge, need treatment outside prison shall be transferred to a specialised institution or to a general hospital, as the case may require, subject to the provisions of any law relating to mental health and to admission to a mental institution.<sup>175</sup>

According to Regulation 31(7), the Medical Officer will inform the Director if he suspects any prisoner of having suicidal intentions, and such prisoner shall be placed under special observation.<sup>176</sup>

### b. Continuity of care

According to Regulation 37 of the Prisons Regulations, the Medical Services of the prison shall seek to detect and treat any physical or mental illness or defect or drug-related condition which may affect a prisoner’s wellbeing in prison, or which may impact a prisoner’s re-settlement after release. All necessary medical, surgical and psychiatric services available without charge to the community outside prison shall also be provided to the prisoner.<sup>177</sup>

### c. Reasonable accommodation and accessibility

None found.

### d. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must lay it in Parliament within a month<sup>178</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

## 15. Specific measures to protect detainees with special needs or other vulnerabilities

### a. Protection of LGBTI detainees

With specific references to LGBTIQ+ prisoners, a Ministry policy adopted in August 2016 contains several provisions that seek to ensure the safety of trans, gender variant and intersex prisoners.<sup>179</sup> The policy lays

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<sup>172</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 45.

<sup>173</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 45.

<sup>174</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 31(3).

<sup>175</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 31(6).

<sup>176</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 31(7).

<sup>177</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 37.

<sup>178</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).

<sup>179</sup> Malta, Ministry for Home Affairs and National Security, [Trans, Gender Variant and Intersex Inmates Policy: Correctional Services](#), August 2016.



down that the Correctional Services Agency should discriminate against or harass any inmate in regard to any protected characteristic, including gender identity, gender expression and/or sex characteristics.

#### b. Protection of trans detainees

Allocation of trans, gender variant and intersex prisoners should be in accordance with the person's gender identity and/or gender expression. Where a trans, gender variant and/or intersex prisoner is not being kept in a division belonging to that of their affirmed gender identity, they should not be placed in shared cells. Whilst transgender prisoners should be allocated to the division corresponding to their affirmed gender identity, concerns of sexual assault or violence could lead to individual assessments of each situation.<sup>180</sup>

Any foreign transgender person in detention whose identification documents do not match their gender identity can, by means of an affidavit, confirm such lived gender. The affidavit must also affirm the intention to continue to live according to such gender throughout the period of detention<sup>181</sup>. This allows a transgender prisoner to live in the section of their lived gender without the need to change any national documents attesting gender.

#### c. Protection of other vulnerable detainees

No further measures found.

#### d. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must lay it in Parliament within a month<sup>182</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

As regards transgender prisoners the CPT recommends that *"...the Maltese authorities put in place policies to combat discrimination and exclusion faced by transgender persons in closed institutions and that these should be implemented by the prison. In particular, the authorities should put in place a comprehensive anti-bullying strategy to reduce any incidences of inter-prisoner violence and intimidation, especially those directed against transgender prisoners. Such a strategy should include systematic recording, reporting of all such incidents and adequate investigation into all allegations of targeted bullying of, or violence against, transgender prisoners."*<sup>183</sup> Furthermore, it recommends a *"review the treatment of transgender prisoners in CCF with a view to establishing clear guidelines to guarantee that their rights are adequately respected. In this respect, it 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. If accommodated in a separate section, they should be offered activities and association time with the other prisoners of the gender with which they self-identify."*<sup>184</sup>

## 16. Specific measures to address radicalisation in prisons

### a. General measures to prevent radicalisation

No measures found.

### b. Risk assessments

No measures found.

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<sup>180</sup> Ministry for Home Affairs and National Security, [Trans, Gender Variant and Intersex Inmates Policy: Correctional Services](#) August 2016, page 6.

<sup>181</sup> [Gender Identity, Gender Expression and Sex Characteristics Act](#), Chapter 540 of the laws of Malta, Article 9A.

<sup>182</sup> Malta, [Prisons Regulations, Subsidiary Legislation](#) 260.03, Reg. 116(1), 1 October 1995.

<sup>183</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 30.

<sup>184</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 30.

### c. Training of staff

No measures found.

### d. Deradicalisation measures

No measures found.

### e. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring send their annual reports to the Minister of Justice and Home Affairs who in turn must laid it in Parliament within a month<sup>185</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

## 17. Inspections and monitoring

### a. Inspections

The Corradino Correctional Facility Monitoring Board is tasked as the National Preventive Mechanism for prevention of torture. The Board periodically visits and inspects the prison. During these visits it has the duty “...to hear and decide upon, as soon as practicable, any request or complaint made to it by a prisoner including on matters relating to the conditions of their detention...”<sup>186</sup>

The Secretary of the Board together with any other member shall visit and inspect the prison between the monthly meetings of the Board and meet prisoners either at their place of work or study or place of confinement or in such other manner as the Board deems convenient.<sup>187</sup>

In spite of the above, the Inquiry report found that there was a lack of independent and impartial monitoring of the conditions of inmates in prison. The Board of Inquiry recommended the setting up of an independent entity to ensure that prisoners are being treated in a dignified manner and are being given the best care, including psycho-social care, equal access to work, education, and training.<sup>188</sup>

No information is available in relation to whether different standards apply to different detention regimes.<sup>189</sup>

### b. Access to detention facilities by national authorities

The Minister responsible for the Prisons, the Chief Justice, judges, magistrates and the Attorney-General shall be *ex officio* Special Visitors of the prisons, and as such it shall be lawful for them to have at any time access to the prisons for the purpose of inspecting such prisons and any of the prisoners therein. They shall enter in the official Visitors’ Book any remarks which they may deem proper in regard to the prisons and prisoners, and the book shall be produced to the members of the Corradino Correctional Facility Monitoring Board on their next visit to the prisons<sup>190</sup>. The Ombudsman can also enter prison if it is subject to an investigation under the Ombudsman Act<sup>191</sup>.

### c. Access to detention facilities by international bodies

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<sup>185</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).

<sup>186</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).

<sup>187</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 106(1).

<sup>188</sup> Bord ta’ Inkejsta (2021). [Inkjestja Dwar L-Eżami Indipendenti Tas-Sistemi, Policies u Regolamenti Kurrenti Operati Mill-Aġenzija Tas-Servizzi Korrettivi](#), 9<sup>th</sup> December 2021, page 36.

<sup>189</sup> Email sent to the NPM and the Commissioner for Inmate Welfare and Development, awaiting response.

<sup>190</sup> [Prisons Act](#), Chapter 260 of the Laws of Malta, Article 8(4).

<sup>191</sup> [Ombudsman Act](#), Chapter 385 of the Laws of Malta, Article 26.

The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has access to the prison. The last report concerning a visit made by the CPT to the Corradino Correctional Facility was published in 2016.

The National Preventive Mechanisms network have access to the prison. The NPM for Malta is the Corradino Correctional Facility Monitoring Board and can carry out inspections of the prison as prescribed in Regulation 104 of the Prison Regulations.<sup>192</sup>

#### d. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must laid it in Parliament within a month<sup>193</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

The CPT felt that the NPM was constrained by its own legal mandate and could not publish its reports, and instead only reported directly to the Minister for Home Affairs and prison authorities. Furthermore, the Board stated that it did not possess powers to refer complaints of ill-treatment to relevant external bodies, nor did it have access to any Magisterial Inquiry Reports concerning prisoner issues.<sup>194</sup>

The CPT this recommended to the Maltese government to *“ensure that the NPM has the necessary powers for its proper functioning; including the appropriate resources, access to all relevant documentation concerning ill-treatment allegations and the power to refer complaints of ill-treatment to relevant external bodies. The CPT also recommends that efforts should be made by the authorities to ensure that the members of the NPM are equipped with a range of appropriate skills. Further, it recommends that the authorities publish the NPM’s Annual Reports.”*

## 18. Access to remedy

### a. Legal remedies

No specific remedies are available to detainees with regards to conditions in prison. Therefore, general remedies apply. In this regard, in the case [Abdilla v. Malta](#)<sup>195</sup>, the European Court of Human Rights claimed that the applicant did not have an effective remedy to complain about the ventilation, lighting and sanitary conditions of the cell at the Corradino Correctional Facility, where he was serving his prison sentence. Therefore, the Court recommended the Maltese Government to introduce a proper administrative or judicial remedy capable of ensuring the *“timely determination of such complaints, and where necessary, to prevent the continuation of the situation”*.

The Prisons Regulations set up an Appeals Tribunal to review disciplinary cases decided by the Director for punishment and to review cases for non-award of remission<sup>196</sup>. The disciplinary cases that may be reviewed relate to the removal of privileges, cellular confinement, reassignment of work and forfeiture of remission, amongst others. Furthermore, any prisoner may make a request or complaint to the Director of Prisons, to the Corradino Correctional Facility Monitoring Board, to the Minister for Home Affairs, or to petition the President of Malta, under confidential cover<sup>197</sup>. The Regulation stipulates that the request, complaint or petition of a prisoner should be dealt with and replied to without undue delay, without however providing for a remedy in cases of a breach.

However, in general, a person claiming a breach of fundamental rights as a resulting from a violation of the prison standards under the Maltese Constitution, the European Convention on Fundamental Rights and the

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<sup>192</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 104.

<sup>193</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 104.

<sup>194</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 13.

<sup>195</sup> European Court of Human Rights (ECtHR), *Abdilla v. Malta*, No. 36199/15, 17 July 2018, 71.

<sup>196</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 79.

<sup>197</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 18.

Charter, if applicable, can seek redress and have access to constitutional remedies in the Maltese Civil Court, First Hall.<sup>198</sup>

A complaint can also be filed with the Office of the Ombudsman who has the power to investigate administrative actions taken on by authorities working in correctional facilities.<sup>199</sup> Should the Ombudsman's investigation demonstrate that the complaint is justified, s/he may recommend adequate redress for the complainant.<sup>200</sup> However, the Ombudsman's recommendations are not binding and s/he cannot overwrite the decisions of public authorities in order to oblige them to comply with his/her final decision or remedy suggested.<sup>201</sup>

#### b. Legal assistance

Unconvicted prisoners shall be given facilities to contact a legal adviser of their choice and to apply, where necessary, for free legal aid.<sup>202</sup> A prisoner may correspond with an advocate or legal procurator for the purpose of obtaining legal advice on matters other than those referred to in sub-regulation.<sup>203</sup>

A prisoner who is a party to any legal or judicial proceedings may correspond with his legal adviser in connection with those proceedings. This correspondence shall not be read or stopped under Regulation 51(1), unless there is reason to suspect by the Director that there is correspondence unrelated to the proceedings.<sup>204</sup>

The issue of effective access to legal representation for detainees was raised in the case of [Feilazoo v. Malta](#).<sup>205</sup> The applicant claimed that his right to a petition before the Court had been hindered due to interference by the prison authorities with his communication and irregularities in his representation by a lawyer appointed under the domestic legal aid system. On the irregularities in the provision of legal aid, the Court reiterated its case law on Article 6 and the circumstances that indicate that legal aid was “*practical and effective*.” In the present case, the Court did not examine the quality of the advice offered but noted that the appointed lawyer did not maintain confidentiality in her communication with the applicant and abandoned her mandate without informing him and without an official court-ordered revocation of her appointment.<sup>206</sup>

#### c. Request and complaints

According to Regulation 17(1), any complaint made by a prisoner shall be recorded by the prison officer to whom it is made and promptly passed on to the Director.<sup>207</sup> The complaint must be heard in a timely manner, requiring the Director to see prisoners who have asked to meet and take cognisance of any request or complaint made to him.<sup>208</sup>

Furthermore, when a prisoner has asked to see The Corradino Correctional Facility Monitoring Board, the Director must ensure that the Secretary of the Board is informed of the request within a reasonable time.<sup>209</sup>

Prison officers in direct contact with prisoners, shall, at their request, supply prisoners with an appropriate form approved by the Director for the purpose of making requests, complaints or petitions. Prisoners may submit a request, complaint or petition in any other proper written form or verbally.<sup>210</sup>

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<sup>198</sup> [Constitution of Malta](#), Article. 46 (1), 21 September 1964

<sup>199</sup> [Ombudsman Act](#), Chapter 385 of the Laws of Malta, Article 13 (1).

<sup>200</sup> [Ombudsman's Mandate](#), official website of the Parliamentary Ombudsman, last accessed on 20<sup>th</sup> April 2024.

<sup>201</sup> [Ombudsman Act](#), Chapter 385 of the Laws of Malta, Article 22(4)

<sup>202</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 5(3).

<sup>203</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 54(4).

<sup>204</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 51(1).

<sup>205</sup> European Court of Human Rights (ECtHR), [Feilazoo v. Malta](#), No. 6865/19 11 March 2021.

<sup>206</sup> European Court of Human Rights (ECtHR), [Feilazoo v. Malta](#), No. 6865/19 11 March 2021.

<sup>207</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 17(1).

<sup>208</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 17(2).

<sup>209</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 17(3).

<sup>210</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation Reg. 17(4).

No information is available in relation to whether different standards apply to different detention regimes.<sup>211</sup>

#### d. Independent authority

If a detainee requests, their complaint may be heard and examined by the Corradino Correctional Facility Monitoring Board. The prisoners shall be asked if they have any complaints to make with regard to their treatment in the prison and any prisoner wishing to make a complaint shall be heard in such part of the prison as the Board may deem fit.<sup>212</sup>

The Board shall keep a record of all complaints made to it by prisoners and its decision thereon, and if it deems necessary, take evidence of the complainant and of such prison officer and other prisoners or other persons as the Board may deem relevant.<sup>213</sup> Unless it is evidently frivolous or groundless, every request or complaint shall be dealt with and replied to without undue delay. It shall also be the duty of the Board to hear and decide, in line with regulation 108, on any complaints or issues relating to conditions of detention brought to its attention during the course of visits or inspections.<sup>214</sup>

The Board shall also decide on complaints and requests made by prisoners relating to the conditions of their detention within two months from the date on which they received the request or complaint and after consulting the Director in respect of the said claims and complaints.<sup>215</sup>

#### e. NPM assessment

The Prisons Regulations obliges the Corradino Correctional Facility Monitoring Board send their annual reports to the Minister of Justice and Home Affairs who in turn must lay it in Parliament within a month<sup>216</sup>. However, in practice these no such reports have ever been lay on the table of the Houses of Parliament and thus the reports are not made public. There is no coordinated and compiled NPM annual report in Malta.

The CPT recommended to that the necessary steps be taken to ensure that prisoners are formally entitled to appeal to an independent authority against any disciplinary sanctions imposed, irrespective of their duration and/or severity.<sup>217</sup>

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<sup>211</sup> Email sent to the NPM and the Commissioner for Inmate Welfare and Development, awaiting response.

<sup>212</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 106 (3).

<sup>213</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 106 (5).

<sup>214</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 106 (5).

<sup>215</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 108 (6).

<sup>216</sup> [Prisons Regulations](#), Subsidiary Legislation 260.03, Regulation 116(1).

<sup>217</sup> Council of Europe, CPT (2016), [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 \(CPT\)](#), Strasbourg, Council of Europe, 25 October 2016, page 40.

## Part II: National case-law

European Court of Human Rights (ECtHR), [Fenech v. Malta](#), No. 19090/20, 1<sup>st</sup> March 2022.

<b>Thematic area</b>	<p><b>Cells</b></p> <p>I) Cell space</p> <p>II) Video surveillance</p> <p><b>Hygiene and sanitary conditions</b></p> <p><b>Solitary confinement</b></p>
<b>Decision date</b>	1 <sup>st</sup> March 2022.
<b>Reference details</b>	European Court of Human Rights (ECtHR), <a href="#">Fenech v. Malta</a> , No. 19090/20, 1 <sup>st</sup> March 2022.
<b>Key facts of the case</b>	<p>The applicant is detained at the Corradino Correctional Facility.</p> <p>The applicant claims he endured abusive and unsanitary conditions, namely, solitary confinement adequate clothing, bedding, or hygiene facilities.</p> <p>The applicant claimed he was restricted to 60 minutes out of his cell daily, had no access to water or books at certain times, and limited exercise.</p> <p>The applicant claimed that the facility used surveillance tools, namely, the interception of telephone calls or documents brought to the prison by his legal counsel, and use of CCTV, during the applicants' legal meetings. The applicant also claimed that he faced deprivation of family visits. The applicant claimed heightened health risks at the prison.</p>
<b>Main reasoning/argumentation</b>	<p>Art 3 (substantive) - Positive obligations</p> <p>Adequate and proportionate measures during Covid-19 pandemic protecting health of detained applicant, lacking a kidney, and limiting spread of virus in the prison: Not shown that applicant within category of most vulnerable prisoners requiring separation from others.</p> <p>Art 3 (substantive) - Conditions of detention not amounting to inhuman or degrading treatment: Limitations imposed during exceptional and unforeseeable public health emergency on important health grounds, affecting all prison detainees and society at large. Alternative measures in place ensuring contact with family during suspension of visits.</p> <p>Art 2 (substantive) - Life - Applicability of Art 2 in certain Covid-19 related cases not excluded but assessed on an individual case basis: Applicant's failure to substantiate real and imminent risk to his life from potential Covid-19 infection due to any acts or omissions by the State.</p>
<b>Key issues (concepts, interpretations) clarified by the case</b>	<p>The Court clarified that the first 35 days of confinement were based on assessment by the medical officer, due to the particular condition of the applicant, including drug use and possible suicide ideation. Whilst, the Court questioned the lack of outdoor activity and access to books, such did not reach the level of suffering to amount to inhuman and degrading treatment. Furthermore, whilst the Court found that the constant surveillance with CCTV specifically the fact that the toilet was unshielded, extremely problematic it found that such issues fall more appropriately, if not exclusively, under Article 8 of the ECHR.</p>
<b>Results (sanctions) and key consequences or implications of the case</b>	<p>The Court found that there had been:</p> <ol style="list-style-type: none"> <li>1. no violation of Article 3 of the Convention in relation to the period from 30 November 2019 to 3 January 2020.</li> <li>2. no violation of Article 3 of the Convention in relation to the period from 4 January 2020 onwards.</li> <li>3. no violation of Article 2 of the Convention in relation to the State's positive obligation to preserve the health and well-being of the applicant.</li> </ol>
<b>Key quotation in original language and translated into English with reference details</b>	<ol style="list-style-type: none"> <li>1. Paras 46-47. <i>"The Court observes that it has held that placing a person under permanent video surveillance whilst in detention – which already entails a considerable limitation on a person's privacy – has to be regarded as a serious interference with the individual's right to respect for his or her privacy, as an element of the notion of "private life", and thus brings Article 8 of the Convention into play (see Van der Graaf v. the Netherlands (dec.), no. 8704/03, 1 June 2004, and Vasilică Mocanu v. Romania, no. 43545/13, § 36, 6 December 2016). Similarly, the Court has held that, while the surveillance of communication in the visitation area in prison may legitimately be done for security reasons, a systemic surveillance</i></li> </ol>



*and recording of communication for other reasons represents an interference with the right to respect for private life and correspondence under Article 8 of the Convention...*

*47. In this connection the Court notes that the applicant's complaints in this respect, as elaborated in his observations, constitute autonomous complaints under Article 8 of the Convention, and thus should have been raised before the constitutional jurisdictions which are effective remedies for the purposes of that provision ... in the circumstances of the present case, it would be contrary to the principle of subsidiarity to assess the case under Article 3, as stands before it, that is, including the above-mentioned issues falling more appropriately, if not exclusively, under Article 8."*

2. Para 98. *"The Court also observes that according to the plans submitted to the Court, the bathroom within the dormitory consisted of an area of around 3 sq.m. The dormitory also contained three bunk beds, a regular six-person table and a fridge. Thus, with reference to the methodology and the principles cited-above (at paragraphs 89 and 90), it is clear that even assuming that the dormitory measured 30 sq.m. including the bathroom, hosted six people all throughout, and that the yard adjacent to the dormitory (to which the applicant had access all day) was to be excluded from the surface area, the applicant still had available an individual sleeping place and 4.5 sq.m. of personal space and thus could move around normally (given the limited furniture)."*<sup>218</sup>

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<sup>218</sup> European Court of Human Rights (ECtHR), [Fenech v. Malta](#), no. 19090/20, 1<sup>st</sup> March 2022, para. 92.

<b>Thematic area</b>	<b>Contact with the Outside Word</b> (i) Correspondence <b>Access to Remedy</b>
<b>Decision date</b>	11 <sup>th</sup> March 2021.
<b>Reference details</b>	European Court of Human Rights (ECtHR), <a href="#">Feilazoo v. Malta</a> , No. 6865/19, 11 <sup>th</sup> March 2021.
<b>Key facts of the case</b>	<p>The applicant, a Nigerian national, was imprisoned at Corradino Correctional Facility and further to that at Safi immigration detention pending deportation. His detention lasted approximately fourteen months.</p> <p>In relation to the proceedings before the Court, he alleged that he had not had the opportunity to correspond with the Court without interference by the prison authorities at the Corradino Correctional Facility, had been denied access to materials intended to substantiate his application and that the legal aid system was ineffective.</p>
<b>Main reasoning/argumentation</b>	<p>The applicant lodged his application to the ECtHR unrepresented. Throughout the course of proceedings, the applicant claimed that his correspondence with the ECtHR was intercepted, opened and copied by the prison authorities. The applicant claimed that photos of his injuries were removed and that he was refused access to his prison medical file.</p> <p>Furthermore, the applicant claimed that his rights to petition the ECtHR had been hindered due the irregularities in his representation by a lawyer appointed under the domestic legal aid system. He was appointed a legal aid representative who did not submit any observations or any other correspondence. In consequence, the President of the Section to which the case was allocated decided that the applicant’s legal representative from the legal aid office in Malta should no longer represent or assist the applicant and that the applicant be granted legal aid by the ECtHR. The applicant was invited to engage the services of a lawyer of his choice, which he did, and the new legal representative filed the relevant submissions on his behalf.</p>
<b>Key issues (concepts, interpretations) clarified by the case</b>	<p>Interference with Court-applicant correspondence and ineffective legal representation through legal aid system for Court proceedings. The ECtHR noted that Prison Regulation 18 provides for complaints to internationally recognised human rights bodies to be made under confidential cover and thus found such interference to have breached Article 34 of the ECHR. The Court reiterated that it is important to respect the confidentiality of its correspondence since it may concern allegations against prison authorities or prison officials.</p> <p>On the irregularities in the provision of legal aid, the Court reiterated its case law on Article 6 and the circumstances that indicate that legal aid was “<i>practical and effective.</i>” In the present case, the Court did not examine the quality of the advice offered but noted that the appointed lawyer did not maintain confidentiality in her communication with the applicant and abandoned her mandate without informing him and without an official court-ordered revocation of her appointment.</p>
<b>Results (sanctions) and key consequences or implications of the case</b>	<p>Art 34 - Hinder the exercise of the right of application: Interference with correspondence between Court and applicant through prison authorities, and ineffective legal representation through legal aid system for proceedings before the Court during his time at the Corradino Correctional Facility.</p> <p>Art 3 (substantive) - Degrading treatment: Inadequate conditions of detention, particularly given excessively stringent and long period of <i>de facto</i> isolation, and exposure of applicant to health-risk through unnecessary placement with new arrivals in Covid-19 quarantine.</p> <p>Art 5 § 1 - unlawful detention: Grounds for applicant’s detention not valid throughout whole period, given later lack of prospect of deportation. Lack of active and diligent steps by authorities with a view to deporting the applicant during detention period.</p>
<b>Key quotation in original language and translated into English with reference details</b>	<ol style="list-style-type: none"> <li>1. Conditions of detention at the Safi Barracks: “<i>the State must ensure that a person is detained in conditions which are compatible with respect for human dignity and that the manner and method of the execution of the measure do</i></li> </ol>



	<p><i>not subject the individual to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention.”</i><sup>219</sup></p> <p>2. Correspondence with the Court: <i>“The Court reiterates that the practice of intercepting, opening and reading prisoners’ letters amounts to an interference with the right to respect for correspondence. It is of the utmost importance for the effective operation of the system of individual petition guaranteed under Article 34 of the Convention that applicants or potential applicants should be able to communicate freely with the Convention organs without being subjected to any form of pressure from the authorities to withdraw or modify their complaints.”</i><sup>220</sup></p> <p>3. Domestic legal aid representation: <i>“In the light of the above, the Court is of the view that the applicant was put in a position in which his efforts to exercise his right of individual petition before this Court by way of legal representation appointed under the domestic legal aid system failed as a result of the State’s hindrance.”</i><sup>221</sup></p>
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<sup>219</sup> European Court of Human Rights (ECtHR), [Feilazoo v. Malta](#), No. 6865/19 11 March 2021, para 81.

<sup>220</sup> European Court of Human Rights (ECtHR), [Feilazoo v. Malta](#), No. 6865/19 11 March 2021, para 117.

<sup>221</sup> European Court of Human Rights (ECtHR), [Feilazoo v. Malta](#), No. 6865/19 11 March 2021, para 132.